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Investigation
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August 24, 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 the Preliminary Determination in the Antidumping Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain amorphous silica fabric (silica fabric) from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less-than-fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended. The estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

II. BACKGROUND

On January 20, 2016, the Department received an antidumping duty (AD) petition covering imports of silica fabric from the PRC, which was filed in proper form by Auburn Manufacturing, Inc. (Auburn) (Petitioner) covering silica fabric from the PRC.[1] The Department initiated this investigation on February 23, 2016.[2]

In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy (NME) LTFV investigations.[3] The process requires exporters to submit a separate-rate application (SRA)[4] and

[1] *See* "Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Amorphous Silica Fabric from the People's Republic of China," January 20, 2016 (Petition).
[2] *See Certain Amorphous Silica Fabric From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 8913 (February 23, 2016) (*Initiation Notice*).
[3] *Id.*, at 8916-8917.

to demonstrate an absence of both *de jure* and *de facto* government control over their export activities. In the *Initiation Notice*, we stated that SRAs would be due 30 days after publication of the notice, which fell on March 24, 2016.[5] We also stated that to be considered for separate-rate status we required parties to submit a response to the quantity and value (Q&V) questionnaire.[6] On March 22, 2016, we granted a two week extension to all parties to submit SRAs.[7]

On April 8, 2016, we received SRAs from New Fire Co., Ltd. (New Fire) and Jiangsu Jiuding New Material Co., Ltd. (Jiuding). On June 30, 2016, we issued a supplemental questionnaire to Jiuding, with a due date of July 7, 2016, which we later extended to July 12, 2016. Jiuding filed the response to the supplemental questionnaire on July 15, 2016, and we later rejected it as untimely.[8]

On March 7, 2015, Petitioner submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. No other interested parties submitted comments.

We also stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on responses to Q&V questionnaires to be sent to each potential respondent named in the Petition.[9] On February 23, 2016, the Department issued Q&V questionnaires to the 81 companies that Petitioners identified as potential producers/exporters of silica fabric from the PRC.[10] In addition, the Department posted the Q&V questionnaire on its website and, in the *Initiation Notice*, invited parties that did not receive a Q&V questionnaire from the Department to file a response to the Q&V questionnaire by the applicable deadline. On March 11, 2016, the Department received timely filed Q&V questionnaire responses from four exporters/producers. On March 30, 2016, based on the responses to the Q&V questionnaires, we selected ACIT (Pinghu) Inc. (ACIT) and Nanjing Tianyuan Fiberglass Material Co., Ltd. (Nanjing Tianyuan) for individual examination as mandatory respondents in this AD investigation. [11]

On March 31, 2016, the Department issued its AD NME questionnaires to ACIT and Nanjing Tianyuan.[12] ACIT submitted its response to Section A of the Initial Questionnaire on April 27,

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[4] For a description of the Department's practice *see* Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, April 5, 2005 (Policy Bulletin 05.1), available at http://enforcement.trade.gov/policy/bull05-1.pdf.
[5] *See Initiation Notice*, 81 FR at 8917.
[6] *Id*.
[7] *See* Memorandum from Michael J. Heaney, "Re: Filing of Separate Rate Applications for ACIT Pinghu Inc., and ACIT Shanghai (collectively ACIT), and Nanjing Tianyuan Material Co. Lt. (Nanjing Tianyuan)," dated March 22, 2016.
[8] *See* Letter from Robert James to Jiuding, dated August 2, 2016.
[9] *See Initiation Notice*, 81 FR at 8916.
[10] *See* Petition at Exhibit I-11; *see also* Letter to Interested Parties from Michael J. Heaney, "Antidumping Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Quantity and Value Questionnaire," dated February 24, 2016, and Memorandum to the File, "Antidumping Duty Investigation- Mailing of Quantity of Value Questionnaires from the People's Republic of China (PRC): Quantity and Value Questionnaire Recipients," dated February 29, 2016 (Q&V Recipients Memo).
[11] *See* Memorandum from Scot Fullerton to Christian Marsh, "Antidumping Duty Investigation of Certain Amorphous Silica Fabric from the People's Republic of China: Respondent Selection," dated March 30, 2016 (Respondent Selection Memorandum).
[12] *See* Letters from Robert James to ACIT and Nanjing Tianyuan, both dated March 31, 2016 (Initial Questionnaire).

2016.[13] Nanjing Tianyuan submitted its response to Section A of the Initial Questionnaire on April 29, 2016.[14] Both Nanjing Tianyuan and ACIT submitted their responses to Sections C and D of the Initial Questionnaire on May 18, 2016.[15] Between June and August 2016, we issued multiple supplemental questionnaires to ACIT and Nanjing Tianyuan. We received responses to these supplemental questionnaires between June and August 2016. During the same time frame, Petitioners submitted comments regarding ACIT's and Nanjing Tianyuan's questionnaire responses.

On March 11, 2016, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of silica fabric from the PRC.[16]

On June 20, 2016, and pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.205(f)(1), the Department published in the *Federal Register* a postponement of the preliminary determination by 50 days until no later than August 24, 2016.[17]

On July 13, 2016, Petitioner filed an allegation that critical circumstances exist with respect to imports of silica fabric from the PRC.[18] For a discussion of this allegation, see the "Preliminary Determination of Critical Circumstances" of this memorandum, immediately below.

The Department is conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2015, through December 31, 2015. This period corresponds to the two most recently completed fiscal quarters prior to the month of the filing of the Petition, which was January 2016.[19]

IV. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist in an LTFV investigation if there is a reasonable basis to believe or suspect that: (A) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for

[13] *See* Letter from ACIT, "Certain Amorphous Silica Fabric from the People's Republic of China: Response to Section A," dated April 27, 2016.
[14] *See* Letter from Nanjing Tianyuan, "Certain Amorphous Silica Fabric from the People's Republic of China: Section A Response," dated April 29, 2016.
[15] *See* Letter from ACIT, "Certain Amorphous Silica Fabric from the People's Republic of China: Response to Section C and D," dated May 18, 2016 (ACIT Section C response); Letter from Nanjing Tianyuan "Certain Amorphous Silica Fabric from the People's Republic of China: Section C and D Response," dated May 18, 2015 (Nanjing Tianyuan Section C response).
[16] *See Certain Amorphous Silica Fabric From China; Determinations*, 81 FR 14128 (March 16, 2016); *see also* Letter from Michael G. Anderson, Director to Deputy Assistant Secretary Marsh, dated March 14, 2016.
[17] *See Certain Amorphous Silica Fabric From the People's Republic of China: Postponement of Preliminary Determinations of the Less-Than-Fair-Value Investigation*, 81 FR 39910 (June 20, 2016).
[18] *See* Letter from Auburn Manufacturing to the Department, "Certain Amorphous Silica Fabric From the People's Republic of China: Allegation of Critical Circumstances," dated July 13, 2016.
[19] *See* 19 CFR 351.204(b)(1).

whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist, no later than the date of the preliminary determination.

As such, and for the reasons explained below, we are preliminarily determining that critical circumstances exist for ACIT, Nanjing Tianyuan, and the PRC-wide entity.

A History of Dumping and Material Injury

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, the Department generally considers current or previous AD orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to imports of subject merchandise.[20] No parties have made any claims regarding completed AD proceedings for silica fabric from the PRC, and the Department is not aware of the existence of any active AD orders on silica fabric from PRC in other countries. As a result, the Department does not find that there is a history of injurious dumping of silica fabric from the PRC pursuant to section 733(e)(1)(A)(i) of the Act.

Knowledge that Exporters Were Dumping and That There Was Likely To Be Material Injury By Reason of Such Sales

The Department generally bases its decision with respect to knowledge on the weighted-average dumping margins calculated in the preliminary determination and the ITC's preliminary injury determination.[21] The Department normally considers margins of 25 percent or more for export price (EP) sales and 15 percent or more for constructed export price (CEP) sales sufficient to impute importer knowledge of sales at LTFV.[22] ACIT had only CEP sales to the United States during the POI. The weighted-average dumping margin calculated for ACIT exceeds the threshold margin sufficient to impute knowledge of dumping (*i.e.*, 15 percent for CEP sales). Moreover, for the reasons discussed below, the Department has preliminarily determined a dumping rate of 162.47 exists for Nanjing Tianyuan and the PRC-wide entity. This rate for Nanjing Tianyuan and the PRC-wide entity exceeds both the 25 percent threshold for EP sales and the 15 percent threshold for CEP sales. Therefore, the Department is preliminarily imputing

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[20] *See, e.g., Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117, 59120 (November 17, 2009) unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).
[21] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico*, 77 FR 17422, 17425 (March 26, 2012).
[22] *Id.*

knowledge of sales at LTFV to importers of subject merchandise from ACIT, Nanjing Tianyuan, and the PRC-wide entity.

In this investigation, there are no entities other than ACIT and Nanjing Tianyuan that qualify for a separate rate. Therefore, we do not need to make a knowledge determination with respect to any entities other than ACIT, Nanjing Tianyuan, and the PRC-wide entity.

Finally, because the ITC preliminarily found a reasonable indication that an industry in the United States is materially injured by imports of silica fabric from the PRC, the Department has determined that importers knew or should have known that there was likely to be material injury by reason of sales of silica fabric at LTFV by ACIT, Nanjing Tianyuan, and the PRC-wide entity.

Massive Imports of the Subject Merchandise Over a Relatively Short Period

Pursuant to section 733(e)(1)(B) of the Act, as well as 19 CFR 351.206(h), the Department will not consider imports to be massive unless imports during a relatively short period (comparison period) have increased by at least 15 percent over imports in an immediately preceding period of comparable duration (base period). The Department normally considers the comparison period to begin on the date that the proceeding began (*i.e.*, the date the petition was filed) and to end at least three months later.[23] Furthermore, the Department may consider the comparison period to begin at an earlier time if it finds that importers, exporters, or foreign producers had a reason to believe that proceedings were likely before the petition was filed.[24] In addition, the Department expands the periods as more data are available. In this investigation, Petitioner has made no allegation that importers, exporters, or foreign producers had a reason to believe that proceedings were likely before the petition was filed, nor is there any record evidence to support such a finding. Therefore, we have relied on periods before and after the filing of the petitions in January 2016 in determining whether imports have been massive. We used the periods August 2015 through January 2016 compared with February 2016 through July 2016 for ACIT. For Nanjing Tianyuan and the PRC-wide entity, our determination of massive imports over a relatively short period was based on facts otherwise available with an adverse inference, as described below.

ACIT provided its shipment data from June 2015 through July 2016.[25] After analyzing the data submitted, we determine imports from ACIT were massive (*i.e.*, increased by more than 15 percent between the base and comparison periods) over a relatively short period of time within the context of 19 CFR 351.206(h).[26]

[23] *See* 19 CFR 351.206(i). Since the Department typically uses monthly import/shipment data in its analysis, if a petition is filed in the first half of the month, the Department's practice has been to consider the month in which the petition was filed as part of the comparison period.
[24] *Id*.
[25] The Department's long-standing practice in critical circumstances determinations is to examine the longest period for which information is available up to the date of the preliminary determination. *See, e.g., Certain Steel Wheels From the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances*, 77 FR 17021 (March 23, 2012) (*Certain Steel Wheels Final Determination*), and accompanying Issues and Decision Memorandum at Comment 6.
[26] *See* Memorandum from Fred Baker, Import Compliance Analyst, Office VI, Office of Antidumping and Countervailing Duty Enforcement, to Scot Fullerton, Director, Office VI, Office of Antidumping and Countervailing

In determining whether imports of the subject merchandise have been "massive" for Nanjing Tianyuan and the PRC-wide entity, we make our preliminary determination with respect to whether or not there were massive imports on facts otherwise available, with an adverse inference, because the Department is preliminarily determining that Nanjing Tianyuan and the PRC-wide entity have failed to cooperate by not acting to the best of their ability to comply with requests for information, as explained below. Thus, as facts otherwise available with an adverse inference[27] we are finding that imports from Nanjing Tianyuan and the PRC-wide entity were "massive imports" over a "relatively short period."

Determination of Critical Circumstances

Following the analysis above, the Department preliminarily determines that critical circumstances exist for ACIT, Nanjing Tianyuan, and the PRC-wide entity.

V. SCOPE OF THE INVESTIGATION

The product covered by this investigation is woven (whether from yarns or rovings) industrial grade amorphous silica fabric, which contains a minimum of 90 percent silica (SiO_2) by nominal weight, and a nominal width in excess of 8 inches. The investigation covers industrial grade amorphous silica fabric regardless of other materials contained in the fabric, regardless of whether in roll form or cut-to-length, regardless of weight, width (except as noted above), or length. The investigation covers industrial grade amorphous silica fabric regardless of whether the product is approved by a standards testing body (such as being Factory Mutual (FM) Approved), or regardless of whether it meets any governmental specification.

Industrial grade amorphous silica fabric may be produced in various colors. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is colored. Industrial grade amorphous silica fabric may be coated or treated with materials that include, but are not limited to, oils, vermiculite, acrylic latex compound, silicone, aluminized polyester (Mylar®) film, pressure-sensitive adhesive, or other coatings and treatments. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is coated or treated, and regardless of coating or treatment weight as a percentage of total product weight. Industrial grade amorphous silica fabric may be heat-cleaned. The investigation covers industrial grade amorphous silica fabric regardless of whether the fabric is heat-cleaned.

Industrial grade amorphous silica fabric may be imported in rolls or may be cut-to-length and then further fabricated to make welding curtains, welding blankets, welding pads, fire blankets, fire pads, or fire screens. Regardless of the name, all industrial grade amorphous silica fabric that has been further cut-to-length or cut-to-width or further finished by finishing the edges and/or adding grommets, is included within the scope of this investigation.

Subject merchandise also includes (1) any industrial grade amorphous silica fabric that has been converted into industrial grade amorphous silica fabric in China from fiberglass cloth produced in a third country; and (2) any industrial grade amorphous silica fabric that has been further

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Duty Enforcement, "Preliminary Affirmative Determination of Critical Circumstances," dated August 24, 2016.
[27] *See* "Application of Adverse Facts Available" and "Adverse Inferences," below.

processed in a third country prior to export to the United States, including but not limited to treating, coating, slitting, cutting to length, cutting to width, finishing the edges, adding grommets, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope industrial grade amorphous silica fabric.

Excluded from the scope of the investigation is amorphous silica fabric that is subjected to controlled shrinkage, which is also called "pre-shrunk" or "aerospace grade" amorphous silica fabric. In order to be excluded as a pre-shrunk or aerospace grade amorphous silica fabric, the amorphous silica fabric must meet the following exclusion criteria: (l) the amorphous silica fabric must contain a minimum of 98 percent silica (SiO_2) by nominal weight; (2) the amorphous silica fabric must have an areal shrinkage of 4 percent or less; (3) the amorphous silica fabric must contain no coatings or treatments; and (4) the amorphous silica fabric must be white in color. For purposes of this scope, "areal shrinkage" refers to the extent to which a specimen of amorphous silica fabric shrinks while subjected to heating at 1800 degrees F for 30 minutes.[28]

Also excluded from the scope are amorphous silica fabric rope and tubing (or sleeving). Amorphous silica fabric rope is a knitted or braided product made from amorphous silica yarns. Silica tubing (or sleeving) is braided into a hollow sleeve from amorphous silica yarns.

The subject imports are normally classified in subheadings 7019.59.4021, 7019.59.4096, 7019.59.9021, and 7019.59.9096 of the Harmonized Tariff Schedule of the United States (HTSUS), but may also enter under HTSUS subheadings 7019.40.4030, 7019.40.4060, 7019.40.9030, 7019.40.9060, 7019.51.9010, 7019.51.9090, 7019.52.9010, 7019.52.9021, 7019.52.9096 and 7019.90.1000. HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

VI. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country

The Department considers the PRC to be an NME country.[29] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

[28] Areal shrinkage is expressed as the following percentage:

$$\frac{\text{Fired Area, cm}^2 - \text{Initial Area, cm}^2}{\text{Initial Area, cm}^2} \times 100 = \text{Areal Shrinkage, \%}$$

[29] *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).

B. Surrogate Country and Surrogate Value Comments

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by the Department. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, "to the extent possible, the prices or costs of {FOPs} in one or more ME countries that are— (A) at a level of economic development comparable to that of the {NME} country; and (B) significant producers of comparable merchandise."[30] As a general rule, the Department selects a surrogate country that is at the level of economic development of the NME unless it is determined that none of the countries are viable options because they either (a) are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available surrogate value (SV) data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the level of economic development of the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.[31] To determine which countries are at the level of economic development of the NME country, the Department generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.[32] Further, the Department normally values all FOPs in a single surrogate country.[33]

On April 6, 2016, the Department identified Bulgaria, Ecuador, Romania, Mexico, South Africa, and Thailand, as countries that are at the level of economic development of the PRC based on per capita 2014 GNI data.[34] On April 7, 2016, the Department issued a letter to interested parties soliciting comments on the list of potential surrogate countries and the selection of the primary surrogate country, as well as providing deadlines for submitting SV information for consideration in the preliminary determination.[35]

On May 9, 2016, ACIT and Petitioner submitted timely comments on the proposed list of surrogate countries.[36] Both ACIT and Petitioner argued that Thailand is economically comparable to the PRC, a significant producer of comparable merchandise, and quality data are available for Thailand.

On July 25, 2016, ACIT placed additional factual information on the record pertaining to Romania for surrogate values, and import data for certain inputs (*i.e.*, hydrochloric acid) from

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[30] *See* Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1) available on the Department's website at http://enforcement.trade.gov/policy/bull04-1.html.
[31] *See* Letter to All Interested Parties "Revised Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," July 31, 2015 (Revised Surrogate Country Comment Letter).
[32] *Id.*
[33] *See* 19 CFR 351.408(c)(2).
[34] *See* "Certain Amorphous Silica Fabric from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," April 7, 2016 at Attachment 1.
[35] *Id*.
[36] *See* Petitioner's May 9, 2016 submission; *see also* ACIT's May 9, 2016 submission.

Romania, Bulgaria, Thailand, and Mexico. On August 4, 2016, Petitioner placed on the record rebuttal data and information.

1. Economic Comparability

Section 773(c)(4) of the Act states that the Department "shall utilize, to the extent possible, the prices or costs of {FOPs in one or more market economy countries that are . . . at a level of economic development comparable to that of the {NME} country." The applicable statute does not expressly define the phrase "level of economic development comparable" or what methodology the Department must use in evaluating this criterion. The U.S. Court of International Trade (CIT) has found the use of per capita GNI to be a "consistent, transparent, and objective metric to identify and compare a country's level of economic development" and "a reasonable interpretation of the statute."[37]

Unless it is determined that none of the countries identified above are viable options because they either (a) are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons, we will rely on data from one of these countries.

2. Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, the Department's practice is to examine which countries on the surrogate country list exported merchandise comparable to the merchandise under consideration. Information on the record indicates that Thailand was a net exporter of merchandise covered by HTS categories identified in the scope of this investigation.[38] The record also contains export data showing that Romania is a producer of comparable merchandise.[39] Accordingly, we preliminarily find that Thailand and Romania have met the significant producer of comparable merchandise prong of the surrogate country selection criteria.

3. Data Availability

When evaluating SV data, the Department considers several factors, including whether the SVs are publicly available, contemporaneous with the POI, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.[40] There is no hierarchy among these criteria.[41] 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.[42]

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[37] *See Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).
[38] *See* Petitioner's May 9, 2016 submission at 3-4, and Exhibit 1, *see also* ACIT's May 9, 2016 submission at 2-3 at Exhibit 1.
[39] *See* Petitioner's May 9, 2016 submission at Exhibit 1.
[40] *Id.*
[41] *See, e.g., Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision

Both the Petitioner and ACIT have placed data on the record from Thailand.[43] The Department finds that the Thai data are the best available data for valuing the relevant FOPs because we have complete, publicly-available, contemporaneous, specific Thai data for each input used by the respondents to produce subject merchandise during the POI. In addition, the Thai surrogate financial statements on the record include publicly-available statements for companies which produce comparable merchandise. Although the record contains information indicating that Romania is a significant producer of comparable merchandise, we are not considering Romania as a surrogate country at this time because the record does not contain complete data, including financial statements, to value all FOPs. Moreover, the record contains no financial statements for any country other than Thailand. Therefore, because complete SV information is available from Thailand, the Department preliminarily determines that Thai data are the best available SV data.

Based on the foregoing, we find that Thailand best meets our criteria for a surrogate country given the completeness of the data, including financial statement data. Therefore, the Department preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Thailand as the primary surrogate country because Thailand is (1) at the level of economic development of the PRC; (2) a significant producer of merchandise comparable to the merchandise under consideration; and (3) contains the best available data for valuing FOPs. An explanation of the SVs upon which the Department is preliminarily relying can be found in the "Normal Value" section of this memorandum.

C. Separate Rates

In proceedings involving NME countries, the Department maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.[44] The Department's policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[45] The Department analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*[46] and further developed in *Silicon Carbide*.[47] According to this separate rate test, the Department will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, however, the Department determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

Memorandum at Comment 1.
42 *See* Policy Bulletin 04.1.
43 *See* Petitioner's May 9, 2016 submission, *see also* ACIT's May 9, 2016 submission.
44 *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).
45 *See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).
46 *Id.*
47 *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*).

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from the PRC AD proceeding, and its determinations therein.[48] In particular, in litigation involving the diamond sawblades from the PRC proceeding, the CIT found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.[49] Following the Court's reasoning, in recent proceedings, we have concluded that where a government holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority holding in and of itself means that the government exercises, or has the potential to exercise, control over the company's operations generally.[50] This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company.

In the *Initiation Notice*, we stated that exporters and producers desiring a separate rate must submit an SRA and a completed Q&V response. We also stated that the due date for the SRA would be 30 days after publication of the notice, *i.e.*, March 24, 2016.[51] The Department subsequently extended the deadline to file an SRA until April 8, 2016.[52] ACIT and Nanjing

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[48] *See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China* (May 6, 2013) in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), affirmed in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd* Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). This remand redetermination is on the Enforcement and Compliance website at http://enforcement.trade.gov/remands/12-147.pdf; *see also Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013), and accompanying Preliminary Decision Memo at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014) and accompanying Issues and Decision Memorandum at Comment 1.

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

[50] *See Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying Preliminary Decision Memorandum at pages 5-9; unchanged in *Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 79 FR 68860 (November 19, 2014).

[51] *See Initiation Notice* at 8916-8917.

[52] *See* Memorandum to the File, Re: "Filing of Separate Rate Applications for ACIT Pinghu Inc. and ACIT Shanghai (collectively ACIT) and Nanjing Tianyuan Material Co., Ltd. (Nanjing Tianyuan)," dated March 22, 2016;

Tianyuan submitted responses to section A of the NME AD questionnaire, in which each company submitted information pertaining to their eligibility for a separate rate.[53] As noted above, New Fire submitted an SRA, but failed to submit a timely Q&V response. Jiuding filed both a timely Q&V response and an SRA, but failed to submit a timely response to the Department's supplemental questionnaire.

1. *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 companies; and (3) other formal measures by the government decentralizing control over export activities of companies.[54]

The evidence provided by both ACIT and Nanjing Tianyuan supports a preliminary finding of an absence of *de jure* government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control over export activities of companies; and (3) the implementation of formal measures by the government decentralizing control over export activities of companies.[55]

2. *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 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 the disposition of profits or financing of losses.[56] The Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The evidence provided by ACIT and Nanjing Tianyuan supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that both companies: (1) set their own prices independent of the government and without the approval of a government authority; (2) have the authority to

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see also Letter from Robert James dated March 23, 2016; s*ee also* Memorandum to the File, Re: "Deadline for the Filing of Separate Rate Applications (SRA's) – Amorphous Silica Fabric from the People's Republic of China," dated April 1, 2016.

[53] *See* ACIT's April 27, 2016 submission; *see also* Nanjing Tianyuan's April 29, 2016 submission.

[54] *See Sparklers*, 56 FR at 20589.

[55] *See* ACIT's April 27, 2016 submission at A-10 - A-14; *see also* Nanjing Tianyuan's April 29, 2016 submission at A-8 - A-11.

[56] *See Silicon Carbide*, 59 FR at 22586-87; *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding the disposition of profits or financing of losses.[57]

However, with respect to Nanjing Tianyuan, we also note that there is conflicting information on the record regarding the ownership of this company. We intend to seek further clarification regarding this conflicting information for our final determination. Preliminarily, we determine that the evidence placed on the record of this investigation by ACIT and Nanjing Tianyuan demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, the Department preliminarily grants separate rates to ACIT and Nanjing Tianyuan.

3. *Companies Not Receiving a Separate Rate*

As noted above, both New Fire and Jiuding failed to file timely responses to the Department's questionnaires. Therefore, they have not demonstrated entitlement to a separate rate, and will be considered part of the PRC-wide entity. No other company applied for a separate rate.

D. The PRC-wide Entity

The record indicates there are PRC exporters and/or producers of the merchandise under consideration during the POI that did not respond to the Department's requests for information. Specifically, the Department did not receive timely responses to its Q&V questionnaire or SRAs from numerous PRC exporters and/or producers of merchandise under consideration that were named in the Petition and to whom the Department issued Q&V questionnaires.[58] Because non-responsive PRC companies have not demonstrated that they are eligible for separate-rate status, the Department considers them to be part of the PRC-wide entity. Furthermore, as explained below, we are preliminarily determining the PRC-wide rate on the basis of adverse facts available (AFA).

We have preliminarily assigned the PRC-wide entity a dumping margin of 162.47 percent, which is the highest calculated weighted-average rate on the record. *See* below.

E. Application of Facts Available and Adverse Inferences

Section 776(a)(1) and (2) of the Act provides that, if necessary information is missing from the record, or if an interested party (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the AD statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

[57] *See* ACIT's April 27, 2016 submission at A-14 - A-20; *see also* Nanjing Tianyuan's April 29, 2016 submission at A-11 – A-19.
[58] *See* Q&V Recipients Memo.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.[59] The amendments to section 776 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.[60]

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

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.[61] The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value,[62] although under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.[63] To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used, although under the TPEA, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or

[59] *See* Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015) (TPEA). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).
[60] *See Applicability Notice*, 80 FR at 46794-95. The 2015 amendments may be found at https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.
[61] *See* SAA at 870.
[62] *Id*.; *see also* 19 CFR 351.308(d).
[63] *See* section 776(c)(2) of the Act; TPEA, section 502(2).

to demonstrate that the dumping margin reflects an "alleged commercial reality" of the interested party.[64]

Under section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an AD order 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.

1. Use of Facts Available

As stated above, the Department selected Nanjing Tianyuan as a mandatory respondent in this AD investigation. Nanjing Tianyuan submitted its FOP database with its section D response on May 18, 2016.[65] In the standard questionnaire the Department requested that Nanjing Tianyuan provide worksheets showing the calculation of the FOP data it reported on its FOP database.[66] In its section D response, Nanjing Tianyuan did not provide worksheets showing the calculations of the FOP data. Nor did the company provide an adequate narrative explanation of how it derived the reported FOP amounts or how those amounts reconciled with its normal books and records. Therefore, in a supplemental questionnaire issued on June 13, 2016, we again requested that Nanjing Tianyuan submit worksheets demonstrating its calculation of its FOPs (*i.e.*, direct materials, direct and indirect labor, energy, and packing labor).[67] Nanjing Tianyuan submitted its response on July 1, 2016.[68] It included numerous worksheets, but none of them demonstrated how the FOPs were calculated, and Nanjing Tianyuan again failed to provide an adequate narrative description of how the worksheets related to its reported FOPs. Therefore, in a July 27, 2016, supplemental questionnaire, the Department for a third time requested this information.[69] Nanjing Tianyuan submitted its response on August 11, 2016. In it, Nanjing Tianyuan submitted numerous new worksheets, but none of them demonstrated how it had calculated the FOPs it reported on its FOP database, and the response again failed to provide an adequate description of how these worksheets related to the reported FOPs.[70]

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

[65] *See* Letter from Nanjing Tianyuan to The Honorable Penny Pritzker, Re: "Certain Amorphous Silica Fabric from the Peoples Republic of China: Section C and D Response," dated May 18, 2016 (section D response).

[66] *See* Letter from Robert James to Nanjing Tianyuan, dated March 31, 2016, at D-7.

[67] *See* Letter from Robert James to Nanjing Tianyuan, Re: "Antidumping Investigation of Amorphous Silica Fabric from the People's Republic of China: Nanjing Tianyuan Fiberglass Material Co., Ltd.'s First Supplemental Questionnaire," dated June 13, 2016.

[68] *See* Letter from Nanjing Tianyuan to The Honorable Penny Pritzker, Re: "Certain Amorphous Silica Fabric from the Peoples Republic of China: First Supplemental Antidumping Questionnaire Response," dated July 1, 2016.

[69] *See* Letter from Robert James to Nanjing Tianyuan, Re: "Antidumping Investigation of Amorphous Silica Fabric from the People's Republic of China: Nanjing Tianyuan Fiberglass Material Co., Ltd., Second Sections C & D Supplemental Questionnaire," dated July 27, 2016.

[70] For more information, *see* Memorandum from Fred Baker to Scot Fullerton, "Re: Use of Adverse Facts Available

The Department preliminarily finds, pursuant to sections 776(a)(1), (a)(2)(A), and (a)(2)(C), that Nanjing Tianyuan failed to provide necessary information and, therefore necessary information is not on the record, withheld information requested by the Department, and significantly impeded this proceeding by not submitting the requested worksheets demonstrating the calculation of its reported FOPs. Without worksheets showing how the FOP data were calculated, we cannot confirm that they were calculated correctly, and we do not find it appropriate to calculate a margin based on this unreliable information. Furthermore, without a thorough understanding of how the FOP data were calculated, Department verifiers cannot be adequately prepared for verification. Moreover, verification is not the time for the Department to first obtain new information about how the FOP data were calculated.

With respect to the PRC-wide entity, as also stated above, we issued our request for Q&V information to 81 potential PRC producers/exporters of silica fabric. We received only three timely-filed solicited Q&V responses from companies to whom we sent a Q&V questionnaire.[71] Thus, although producers/exporters were given an opportunity to provide Q&V information, not all producers/exporters did so. We have treated these PRC producers/exporters that did not respond to the Department's Q&V letter as part of the PRC-wide entity because they do not qualify for a separate rate.[72] For a detailed discussion, *see* the "Separate Rate" section above.

The Department preliminarily finds that the PRC-wide entity, which includes the PRC exporters and/or producers that did not respond to the Department's requests for information, failed to provide necessary information and, therefore, necessary information is not available on the record, withheld information requested by the Department, and significantly impeded this proceeding by not submitting the requested information. Moreover, where certain PRC exporters and/or producers did not respond to the Department's Q&V questionnaire, section 782(d) of the Act is inapplicable. Accordingly, the Department preliminarily determines that use of facts available is warranted in determining the rate of the PRC-wide entity, pursuant to sections 776(a)(1), (a)(2)(A) and (a)(2)(C) of the Act.[73]

2. Application of Facts Available with an Adverse Inference

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for Nanjing Tianyuan Fiberglass Material Co., Ltd.," dated August 24, 2016.

[71] As explained above, one of those three, Jiuding, subsequently failed to respond in a timely manner to a supplemental questionnaire the Department issued with respect to its SRA. *See* Letter to Jiangsu Jiuding, dated August 2, 2016. Thus, we are treating Jiuding as part of the PRC-wide entity.

[72] *See, e.g., Prestressed Concrete Steel Wire Strand From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 74 FR 68232, 68236 (December 23, 2009) (*PC Strand from the PRC*), unchanged in *Prestressed Concrete Steel Wire Strand From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 28560 (May 21, 2010); *see also Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China*, 70 FR 77121, 77128 (December 29, 2005), unchanged in *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 (May 22, 2006).

[73] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam*, 68 FR 4986, 4991 (January 31, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

Section 776(b) of the Act provides that the Department, in selecting from among the facts otherwise available, may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

The Department finds that Nanjing Tianyuan's failure to submit the requested demonstration of the computation of its FOPs constitutes circumstances under which it is reasonable to conclude that Nanjing Tianyuan has failed to cooperate by not acting to the best of its ability to comply with the Department's request for information.[74]

Furthermore, the Department finds that the PRC-wide entity's failure to respond to the Department's Q&V questionnaire constitutes circumstances under which it is reasonable to conclude that the PRC-wide entity has failed to cooperate by not acting to the best of its ability to comply with the Department's request for information.[75]

Moreover, neither Nanjing Tianyuan nor the PRC-wide entity filed documents indicating that it was having difficulty providing the information, nor did it request to submit the information in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to Nanjing Tianyuan and the PRC-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).[76]

In addition to the points made above that are the basis for the application of adverse facts available with respect to Nanjian Tianyuan, we note that the record of this investigation contains two anomalous features with respect to this company.

- On July 1, 2016, Nanjing Tianyuan placed on the record a revised version of a Customs Form (CF) 7501 entry summary that it states was a correction to an earlier CF 7501.[77] This corrected entry summary exhibits some unusual features not susceptible to public summary. Furthermore, CBP has informed the Department that at this time it has no record of receiving this corrected CF 7501.[78] We intend to refer this question to CBP for follow-up.
- As mentioned above, there is conflicting information on the record regarding the ownership of Nanjing Tianyuan. Nanjing Tianyuan states it is owned by three Chinese nationals.[79] However, the record also contains the text of testimony given under oath on February 10, 2016, by an American national before the ITC claiming that he is a majority share owner of Nanjing Tianyuan,[80] and also a letter he submitted to the record of the concurrent CVD investigation, dated March 7, 2016, in which he claims to have purchased Nanjing Tianyuan

[74] *See Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (noting that the Department need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (*i.e.*, information was not provided "under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.")).
[75] *Id.*
[76] *See Nippon Steel Corp. v. United States,* 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).
[77] *See* Nanjing Tianyuan's July 1, 2016, submission at 3 and Exhibit A1-S2.
[78] *See* Memorandum to the File regarding "Entry document submitted by Nanjing Tianyuan Fiberglass Material Co., Ltd.," dated August 23, 2016.
[79] *See* Nanjing Tianyuan's April 29, 2016, section A response at A-11.
[80] *See* Petitioner's May 13, 2016, submission at Exhibit 1.

before the filing of the AD petition.[81] We intend to seek additional information on this issue prior to issuing our final determination.

3. Selection and Corroboration of the AFA rate

To determine the appropriate rate for Nanjing Tianyuan and the PRC-wide entity based on AFA, the Department first examined whether the highest petition margin was less than or equal to the highest calculated margin, and determined that the highest calculated margin of 162.47 percent was the higher of the two. Because this rate was a calculated rate, based on a mandatory respondent's data, in this segment of the proceeding, it does not constitute secondary information and, therefore, there is no need to corroborate it. Thus, for the preliminary determination, as adverse facts available, we have assigned to Nanjing Tianyuan and the PRC-wide entity a dumping margin of 162.47 percent, which is the highest calculated rate.

F. Date of Sale

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), "use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business" unless a different date better reflects the date on which the material terms of sale (*e.g.*, price and quantity) are established.[82] For ACIT, we preliminarily determine that the invoice date best reflects the date on which the material terms of sale are established.[83]

G. Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether ACIT's sales of the subject merchandise from the PRC to the United States were made at less than NV, the Department compared the CEP to the NV as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum.

1. *Constructed Export Price*

ACIT reported that all of its U.S. sales during the POI were CEP in accordance with section 772(b) of the Act. Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with producer or exporter, ..." We preliminarily determine that ACIT's sales are CEP sales because all of ACIT's sales to the United States were made to its U.S. subsidiary, which resold the merchandise to unaffiliated customers. Accordingly, we based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for

[81] *Id*., at Exhibit 2.
[82] *See, e.g., Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.
[83] *See* Memorandum from Scott Hoefke to the File, "Analysis for the Preliminary Determination of the Antidumping Duty Investigation of Amorphous Silica Fabric from the People's Republic of China: ACIT (Pinghu) Inc.," dated August 24, 2016, (ACIT Preliminary Analysis Memorandum) at 2.

foreign movement expenses, international movement expenses, and U.S. movement expenses, in accordance with section 772(c)(2)(A) of the Act. We based movement expenses on either SVs if the expense was paid to an NME company in Chinese renminbi, or actual expenses if they were paid for in an ME currency. *See* SV Memorandum for details regarding the SVs used for movement expenses.[84]

In accordance with section 772(d)(1) of the Act, we also deducted, where appropriate, those selling expenses associated with economic activities occurring in the United States. We made adjustments, where appropriate, for billing adjustments, discounts, credit expenses, further processing, inventory carrying costs, and indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit based on information included in financial statements from the surrogate country.

2. *Value-Added Tax (VAT)*

In 2012, the Department announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any irrecoverable VAT in certain NME countries in accordance with section 772(c)(2)(B) of the Act.[85] The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.[86] Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.[87]

The Department's methodology, as explained above and applied in this investigation, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this investigation by ACIT indicates that according to the PRC VAT schedule, the standard VAT levy is 17 percent and the rebate rate for the merchandise under consideration is five percent.[88] Consistent with the Department's standard methodology, for purposes of this preliminary determination, we removed from U.S. price the amount calculated based on the difference between those standard rates (*i.e.*, 12 percent) applied to the export sales value.

3. *Normal Value*

Section 773(c)(1) of the Act provides that the Department shall determine NV using the FOP methodology if the merchandise is exported from an NME and the information does not permit

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[84] *See* Memorandum from Scott Hoefke to the File, "Re: Surrogate Values Used in the Preliminary Determination of the Antidumping Duty Investigation of Amorphous Silica Fabric from the People's Republic of China," dated August 24, 2016 (SV Memorandum).
[85] *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).
[86] *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.
[87] *Id*.
[88] *See* ACIT Section C response at C-35.

the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.[89] Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), the Department calculated NV based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.[90]

a. Factor Valuation Methodology

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by ACIT. To calculate NV, the Department multiplied the reported per-unit factor-consumption rates by publicly available SVs. When selecting the SVs, the Department considered, among other factors, the quality, specificity, and contemporaneity of the data.[91] As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.[92] A detailed description of SVs used for the respondent can be found in the SV Memorandum.[93]

For the preliminary determination, the Department is using Thai import data, as published by the Global Trade Atlas (GTA), and other publicly available sources from Thailand to calculate SVs for respondents FOPs. In accordance with section 773(c)(1) of the Act, the Department applied the best available information for valuing FOPs by selecting, to the extent practicable, SVs that are (1) non-export average values, (2) contemporaneous with, or closest in time to, the POI, (3) product-specific, and (4) tax-exclusive.[94] The record shows that Thai import data obtained through GTA, as well as data from other Thai sources, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POI.[95]

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

The Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be dumped or subsidized.[96] In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, and South Korea because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[97] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, and South Korea may have benefitted from these subsidies. Therefore, the Department has not used prices from those countries in calculating Thai import-based SVs.

Additionally, the Department disregarded data from NME countries when calculating Thai import-based per-unit SVs.[98] The Department also excluded from the calculation of Thai import-based per-unit SV imports labeled as originating from an "unidentified" country because the Department could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.[99]

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

In NME AD proceedings, the Department prefers to value labor solely based on data from the primary surrogate country.[100] In *Labor Methodologies*, the Department determined that the best methodology to value labor is to use industry-specific labor rates from the primary surrogate country. Additionally, we determined that best data source for industry-specific labor rate is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics.[101] The Department did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Rather, we continue to follow our practice of selecting the "best information available" to determine SVs for inputs such as labor. Thus, we find that the National Statistic Office (NSO) data are the best available information for valuing

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[96] *See* Section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (June 29, 2015) (amending Section 773(c)(5) of the Act to permit Department to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values); *see also* 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).

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

[98] *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005).

[99] *Id*.

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

[101] *Id.*

labor for this segment of the proceeding. Specifically, the NSO data are industry-specific, and reflect all costs related to labor, including wages, benefits, housing, training, *etc*.[102]

We used the electricity and water rates from the Thailand Board of Investment to value electricity and water. We valued truck freight using data published in *Doing Business: Thailand 2015* by the World Bank and used a calculation methodology based on a 20-foot container weighing 10,000 kilograms and an average distance of 13.87 kilometers.[103]

Additionally, we valued brokerage and handling expenses from *Doing Business: Thailand* 2015 using a price list of export procedures necessary to export a standardized cargo of goods in Thailand. This is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand.[104] The reported prices were contemporaneous with the POI.

The Department's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.[105] Moreover, for valuing factory overhead, selling, general, and administrative (SG&A) expenses and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.[106] In addition, the CIT has held that in the selection of surrogate producers, the Department may consider how closely the surrogate producers approximate the NME producer's experience.[107] To value factory overhead, SG&A expenses, and profit, the Department used the 2014 financial statements on the record from Thai Toray Textile Mill Public Company Limited (Thai Toray) to value factory overhead, selling, general, and administrative expenses, and profit.[108] No other financial statements are on the record.

4. *Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with

[102] *See* SV Memorandum.
[103] *Id*.
[104] *Id*.
[105] *See, e.g., 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), and accompanying Issues and Decision Memorandum at Comment 3.
[106] *See, e.g., Diamond Sawblades and Parts Thereof from the People's Republic of China, Final Determination in the Antidumping Duty Investigation*, 71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 2; *see also* section 773(c)(4) of the Act; 19 CFR 351.408(c)(4).
[107] *See Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-54 (CIT 2002); *see also Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005), and accompanying Issues and Decision Memorandum at Comment 1
[108] *See* SV Memorandum.

section 777A(d)(l)(B) of the Act. 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)(l)(B) of the Act.[109] The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For ACIT, purchasers are based on the reported customer codes.[110] Regions are defined using the reported destination code *(i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* 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 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

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[109] *See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).
[110] *See* ACIT Section C response at C-10.

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 this preliminary determination including arguments for modifying the group definitions used in this proceeding.

a. Results of the Differential Pricing Analysis

For ACIT, based on the results of the differential pricing analysis, the Department preliminarily finds that 41.8 percent of the value of U.S. sales pass the Cohen's *d* test, [111] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time

[111] *See* ACIT Preliminary Analysis Memorandum, dated August 24, 2016.

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 this preliminary determination, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for ACIT.

VII. CURRENCY CONVERSION

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

VIII. ADJUSTMENT UNDER SECTION 777A(F) OF THE ACT

In applying section 777A(f) of the Act, the Department examines (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether the Department can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.[112] For a subsidy meeting these criteria, the statute requires the Department to reduce the AD cash deposit rate by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.[113]

Since the Department has relatively recently started conducting an analysis under section 777A(f) of the Act, the Department is continuing to refine its practice in applying this section of the law. The Department examined whether ACIT demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacture (COM); and (2) a cost-to-price link, *e.g.*, respondent's prices changed as a result of changes in the COM.

Based upon information it submitted to the Department, ACIT failed to substantiate a cost-to-price link. Consequently, we are not making an adjustment to the AD cash deposit rate for domestic pass-through subsidies for ACIT.[114]

For Nanjing Tianyuan and the PRC-wide entity, which received an AFA rate as discussed above, we would normally adjust the AD cash deposit rate by the lowest estimated domestic subsidy pass-through determined for any party in this investigation. In this case, the lowest and only adjustment is zero, and therefore, similarly, no adjustment is being made to the cash deposit rates of Nanjing Tianyuan and the PRC-wide entity pursuant to section 777A(f) of the Act.

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[112] *See* section 777A(f)(1)(A)-(C) of the Act.
[113] *See* section 777A(f)(1)-(2) of the Act.
[114] *See* ACIT's Analysis Memorandum.

IX. ADJUSTMENTS FOR COUNTERVAILABLE EXPORT SUBSIDIES

In AD investigations where there is a concurrent countervailing duty investigation, it is the Department's normal practice to calculate the cash deposit rate for each respondent by adjusting the respondent's weighted-average dumping margin to account for export subsidies found for each respective respondent in the concurrent countervailing duty investigation. Doing so is in accordance with section 772(c)(1)(C) of the Act. However, the concurrent countervailing duty investigation found no countervailable export subsidies. Therefore, we have made no adjustment to the weighted-average dumping margins for purposes of calculating the cash deposit rates.

X. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[115] Case briefs may be submitted to Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[116]

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[117] This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.[118] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.[119] Electronically-filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above. [120]

XI. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by ACIT in response to the Department's questionnaires.

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[115] *See* 19 CFR 351.224(b).
[116] *See* 19 CFR 351.309.
[117] *See* 19 CFR 351.309(c)(2) and (d)(2).
[118] *See* 19 CFR 351.310(c).
[119] *See* 19 CFR 351.303(b)(2)(i).
[120] *See* 19 CFR 351.303(b)(1).

XII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

24 AUGUST 2016
(Date)