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December 5, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Diamond Sawblades and Parts Thereof from the People's Republic of China: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review; 2014-2015

I. SUMMARY

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (the PRC) covering the period of review (POR) November 1, 2014, through October 31, 2015. The Department preliminarily determines that, during the POR, certain manufacturers/exporters covered by this review made sales of subject merchandise at less than normal value (NV). If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless extended, we intend to issue the final results within 120 days from the date of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

On November 4, 2009, the Department published in the *Federal Register* an antidumping duty order on diamond sawblades from the PRC.[1] On November 3, 2015, the Department published in the *Federal Register* a notice of opportunity to request an administrative review of the order.[2]

Based on timely requests for an administrative review, the Department initiated an administrative review on January 7, 2016.[3] On February 5, 2016, we selected Husqvarna (Hebei) Co., Ltd.

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[1] *See Diamond Sawblades and Parts Thereof From the People's Republic of China and the Republic of Korea: Antidumping Duty Orders*, 74 FR 57145 (November 4, 2009).
[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 67706 (November 3, 2015).

(Husqvarna) and Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd. (a member of the Jiangsu Fengtai Single Entity)[4] for individual examination in this review.[5] Based on timely withdrawals of requests for review, on April 22, 2016, the Department rescinded this review, in part, for Husqvarna.[6] On April 27, 2016, we selected Bosun Tools Co., Ltd. (Bosun) for individual examination in this review.[7]

III. SCOPE OF THE ORDER

The products covered by the order are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of the order are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of the order. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of the order. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of the order.

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[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 736 (January 7, 2016) (*Initiation Notice*).

[4] We refer to the Jiangsu Fengtai Single Entity as a single entity pursuant to 19 CFR 351.401(f)(1). *See Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 75854 (December 4, 2015) (*5th Review Prelim*) and accompanying Preliminary Decision Memorandum (AR5 Preliminary Decision Memorandum) at 4-6, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 38673 (June 14, 2016) (*5th Review Final*). *See also* the December 5, 2016, Memorandum placing on the record of this review the Memorandum entitled "Diamond Sawblades and Parts Thereof from the People's Republic of China - Collapsing of Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd. and Affiliated Producers" dated November 30, 2015 (Collapsing Memorandum) (where we collapsed the individual members of the Jiangsu Fengtai Single Entity: Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd., Jiangsu Fengtai Tools Co., Ltd., and Jiangsu Fengtai Sawing Industry Co., Ltd.). The Department inadvertently referred to the company Jiangsu Fengtai Sawing Industry Co., Ltd. as "Jiangsu Sawing Co., Ltd." in the *5th Review Prelim* and "Fengtai Sawing" in the AR5 Preliminary Decision Memorandum and in the Collapsing Memorandum. However, these references are to the same company, Jiangsu Fengtai Sawing Industry Co., Ltd.

[5] *See* the Memorandum entitled, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Selection of Respondents for Individual Examination," dated February 5, 2016 (Respondent Selection Memorandum I).

[6] *See Diamond Sawblades and Parts Thereof From the People's Republic of China: Rescission of Antidumping Duty Administrative Review in Part; 2014-2015*, 81 FR 23676 (April 22, 2016), and CBP message number 6130304 dated May 9, 2016, available at http://adcvd.cbp.dhs.gov/adcvdweb/ad_cvd_msgs/21277.

[7] *See* the Memorandum entitled, " Diamond Sawblades and Parts Thereof from the People's Republic of China: Selection of an Additional Respondent for Individual Examination in the 2014-2015 Antidumping Duty Administrative Review," dated April 27, 2016 (Respondent Selection Memorandum II).

Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the order. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of the order. Merchandise subject to the order is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, the Department included the 6804.21.00.00 HTSUS classification number to the customs case reference file, pursuant to a request by CBP.[8] The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

IV. PRELIMINARY DETERMINATION OF NO SHIPMENTS

The following five companies that received separate rates in previous segments of the proceeding and are subject to this review reported that they did not have any exports of subject merchandise during the POR:

Danyang City Ou Di Ma Tools Co., Ltd.
Danyang Tsunda Diamond Tools Co., Ltd.
Qingdao Hyosung Diamond Tools Co., Ltd.
Qingdao Shinhan Diamond Industrial Co., Ltd.
Shanghai Starcraft Tools Company Limited[9]

CBP data for the POR indicated that these companies had no shipments.[10] Additionally, we requested that CBP report any contrary information.[11] To date, CBP has not responded to our inquiry with any contrary information and we have not received any evidence that these companies had any shipments of the subject merchandise sold to the United States during the POR.[12] Consistent with the Department's assessment practice, we are completing the review with respect to these companies and will issue appropriate instructions to CBP based on the final results of the review.[13]

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[8] *See Diamond Sawblades and Parts Thereof From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 76128, 76130 (December 6, 2011).
[9] *See* the February 11, 2016, no-shipment letters from Danyang City Ou Di Ma Tools Co., Ltd., Qingdao Hyosung Diamond Tools Co., Ltd., and Shanghai Starcraft Tools Company Limited, the February 12, 2016, no-shipment letter from Qingdao Shinhan Diamond Industrial Co., Ltd., and the April 1, 2016, letter correcting the separate rate certification and certifying no shipment from Danyang Tsunda Diamond Tools Co., Ltd.
[10] *See* the CBP data attached to the letter to all interested parties dated January 15, 2016.
[11] *See* CBP message numbers 6294301, 6294302, 6294305, 6294306, and 6294307 dated October 20, 2016, available at http://adcvd.cbp.dhs.gov/adcvdweb/.
[12] CBP only responds to the Department's inquiry when there are records of shipments from the company in question. *See, e.g.*, *Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Flat Products From Brazil: Notice of Rescission of Antidumping Duty Administrative Review*, 75 FR 65453, 65454 (October 25,2010).
[13] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

V. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country Status

The Department considers the PRC to be an NME country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority.[14] None of the parties to this proceeding has contested NME treatment for the PRC. Therefore, for the preliminary results of this review, we treated the PRC as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

B. Separate Rates

There is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.[15] In the *Initiation Notice*, we notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.[16] It is our policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, we analyze each exporting entity in an NME country under the test established in *Sparklers*,[17] as amplified by *Silicon Carbide*.[18] However, if we determine that a company is wholly foreign-owned or located in a market economy (ME), then a separate rate analysis is not necessary to determine whether it is independent from government control.[19]

The Department continues to evaluate its practice with regard to the separate rates analysis in light of this proceeding and its determinations therein.[20] In particular, in litigation involving this

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[14] *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).

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

[16] *See Initiation Notice*, 81 FR at 737.

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

[18] *See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585, 22586-89 (May 2, 1994) (*Silicon Carbide*).

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

[20] *See* Final Results of Redetermination pursuant to *Advanced Technology & Materials Co., Ltd., et al. v. United States,* 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), and available at http://enforcement.trade.gov/remands/12-147.pdf, *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*,

proceeding, U.S. Court of International Trade (CIT) found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity exercised control over the respondent exporter.[21] Following the CIT's reasoning, in recent proceedings, we have concluded that where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the respondent is not eligible for a separate rate.[22] Otherwise, we will analyze the impact of government ownership within the context of the *de facto* criteria as established above. This may include control over, for example, the selection of board members and management, key factors in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with our normal separate rate practice, any ability to control, or possess an interest in controlling, the operations of the company (including the selection of board members, management, and the profit distribution of the company) by a government entity is subject to the Department's rebuttable presumption that all companies within the NME country are subject to government control.

In this administrative review, 24 companies submitted separate rate information. The remaining companies under review did not provide either a separate rate application (SRA) or separate rate certification (SRC), as applicable. As a result, we are treating these PRC exporters as part of the PRC-wide entity.[23]

1. Separate Rate Respondents

a. Wholly Foreign-Owned

Weihai Xiangguang Mechanical Industrial Co., Ltd. (Weihai) reported that it is wholly-owned by a ME company located in a ME country.[24] Therefore, a separate rates analysis is not necessary

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Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). *See also Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memorandum at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum at Comment 1.

[21] *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).

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

[23] *See* the PRC-Wide Entity section, *infra*.

[24] *See* Weihai's separate rate certification dated February 8, 2016.

to determine whether its export activities are independent from government control.[25] Accordingly, we preliminarily granted separate rate status to Weihai.

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

The following respondents seeking a separate rate stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies:

Bosun Tools Co., Ltd.
Chengdu Huifeng Diamond Tools Co., Ltd.
Danyang Hantronic Import & Export Co., Ltd.
Danyang Huachang Diamond Tools Manufacturing Co., Ltd.
Danyang Like Tools Manufacturing Co., Ltd.
Danyang NYCL Tools Manufacturing Co., Ltd.
Danyang Weiwang Tools Manufacturing Co., Ltd.
Guilin Tebon Superhard Material Co., Ltd.
Hangzhou Deer King Industrial and Trading Co., Ltd.
Hangzhou Kingburg Import & Export Co., Ltd.
Huzhou Gu's Import & Export Co., Ltd.[26]
Jiangsu Fengtai Single Entity
Jiangsu Inter-China Group Corporation
Jiangsu Youhe Tool Manufacturer Co., Ltd.
Qingyuan Shangtai Diamond Tools Co., Ltd.
Quanzhou Zhongzhi Diamond Tool Co., Ltd.
Rizhao Hein Saw Co., Ltd.
Saint-Gobain Abrasives (Shanghai) Co., Ltd.
Shanghai Jingquan Industrial Trade Co., Ltd.
Sino Tools Co., Ltd.
Wuhan Wanbang Laser Diamond Tools Co., Ltd.[27]
Xiamen ZL Diamond Technology Co., Ltd.
Zhejiang Wanli Tools Group Co., Ltd.

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[25] *See, e.g., Petroleum Wax Candles,* 72 FR at 52356; *see also Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001), unchanged in *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review*, 66 FR 27063 (May 16, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China*, 64 FR 71104 (December 20, 1999).

[26] Huzhou Gu's Import & Export Co., Ltd., uses the name Huzhou Gu's Imp. & Exp. Co., Ltd., interchangeably. *See 5th Review Prelim* and accompanying Preliminary Decision Memorandum at 8, n.44, unchanged in *5th Review Final*.

[27] Wuhan Wanbang Laser Diamond Tools Co., Ltd., is the successor-in-interest to Wuhan Wanbang Laser Diamond Tools Co. *See Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review*, 81 FR 20618 (April 8, 2016).

In accordance with our practice, we analyzed whether these respondents seeking a separate rate have demonstrated the absence of *de jure* and *de facto* governmental control over their respective export activities.

2. Absence of *De Jure* Control

We consider the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[28]

The evidence provided by the above-listed companies supports a preliminary finding of *de jure* absence of government control[29] based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of the companies.[30]

3. Absence of *De Facto* Control

Typically we consider four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices (EPs) are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[31]

We determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of government control over export activities which would preclude us from assigning separate rates. For each of the above-listed companies, we determine that the evidence on the record[32] supports a preliminary finding of *de facto* absence of government control based on record statements and supporting documentation showing the following: (1) the respondent sets its own EPs independent of the government and without the approval of a government authority; (2) the respondent has the authority to negotiate and sign

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[28] *See Sparklers*, 56 FR at 20589.
[29] *See* Bosun's section A response dated May 25, 2016, and the Jiangsu Fengtai Single Entity's section A response dated March 7, 2016. For all other respondents listed above, *see* their separate rate applications and certifications filed between February 2, 2016, and February 16, 2016. *See also* Chengdu Huifeng Diamond Tools Co., Ltd.'s supplemental response dated October 18, 2016, and supplemental responses of Danyang Hantronic Import & Export Co., Ltd., Danyang Huachang Diamond Tools Manufacturing Co., Ltd., Danyang Like Tools Manufacturing Co., Ltd., Sino Tools Co., Ltd., and Wuhan Wanbang Laser Diamond Tools Co., Ltd. dated October 21, 2016.
[30] *See*, *e.g.*, *5th Review Prelim* and accompanying Preliminary Decision Memorandum at 9, unchanged in *5th Review Final* for the list of the *de jure* criteria.
[31] *See Silicon Carbide*, 59 FR at 22586-87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).
[32] *See* footnote 29, *supra*.

contracts and other agreements; (3) the respondent has autonomy from the government regarding the selection of management; and (4) the respondent retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses.[33]

4. Separate Rate for Eligible Non-Selected Respondents

In accordance with section 777A(c)(2)(B) of the Act, we selected Bosun and Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd. a member of the Jiangsu Fengtai Single Entity, for individual examination because we did not have the resources to examine all companies for which a review was requested.[34]

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, we have used section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not examine in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference that we do not calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Accordingly, our usual practice has been to average the rates for the selected companies, excluding zero, *de minimis*, and rates based entirely on facts available.[35] In this administrative review, the preliminary margin for Bosun is the only margin that is not zero, *de minimis*, or based entirely on facts available.[36] Therefore, we assigned the preliminary margin for Bosun to the non-selected respondents eligible for a separate rate. We also determine the Jiangsu Fengtai Single Entity to be eligible for a separate rate, although as discussed further below, its margin is based on total adverse facts available (AFA).

5. PRC-Wide Entity

Upon the initiation of this review, we provided an opportunity for all companies listed in the *Initiation Notice* that wish to qualify for separate rate status in this review to complete, as appropriate, either an SRA or SRC.[37] We preliminarily find that five companies listed in the *Initiation Notice* are part of the PRC-wide entity because they did not submit an SRA, SRC, or no-shipment letter. These five companies that are considered to be part of the PRC-wide entity are ASHINE Diamond Tools Co., Ltd., Hebei XMF Tools Group Co., Ltd., Henan Huanghe Whirlwind Co., Ltd., Henan Huanghe Whirlwind International Co., Ltd., and Pujiang Talent Diamond Tools Co., Ltd.

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[33] *See*, *e.g.*, *5th Review Prelim* and accompanying Preliminary Decision Memorandum at 9-10, unchanged in *5th Review Final* for the list of the *de facto* criteria.
[34] *See* Respondent Selection Memorandum I.
[35] *See*, *e.g.*, *Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 76 FR 64318 (October 18, 2011), and accompanying Issues and Decision Memorandum at Comment 11.
[36] *See* the Application of Facts Available and Adverse Inferences section, *infra*, for our preliminary decision on the Jiangsu Fengtai Single Entity.
[37] *See Initiation Notice*, 81 FR at 737 ("All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below.").

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this review.[38] Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review, and the entity's rate of 82.05 percent is not subject to change.[39]

C. Surrogate Country

In antidumping proceedings involving NME countries, pursuant to section 773(c)(1) of the Act, we generally base NV on the value of the NME producer's FOP, valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, we use, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[40]

We determined that Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand are countries whose *per capita* gross national incomes (GNI) are at the same level of economic development as the PRC.[41] On February 24, 2016, we requested comments from interested parties regarding the selection of a surrogate country and surrogate values (SVs).[42] In response, the petitioner and the Jiangsu Fengtai Single Entity recommended Thailand as the primary surrogate country.[43]

1. Same Level of Economic Development

As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.[44]

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[38] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013).
[39] *See Diamond Sawblades and Parts Thereof From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 32344, 32345 (June 8, 2015).
[40] *See* Enforcement and Compliance Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin) available at http://enforcement.trade.gov/policy/index.html.
[41] *See* the Memorandum entitled, "Request for a List of Surrogate Countries for the Administrative Review of the Antidumping Duty Order on Diamnd (*sic*) Sawblades and Parts Thereof ('DSBs') from the People's Republic of China ('China')," dated February 22, 2016 (Policy Memorandum).
[42] *See* the Letter to all interested parties dated February 24, 2016.
[43] *See* the surrogate value comments from the petitioner, Bosun, and the Jiangsu Fengtai Single Entity dated May 18, 2016. The petitioner in this administrative review is Diamond Sawblades Manufacturers' Coalition.
[44] *See* Policy Memorandum.

As stated above, we determined that Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand are each at the same level of economic development as the PRC in terms of *per capita* GNI during the POR.[45] Therefore, we consider all six countries as having met this prong of the surrogate country selection criteria.

2. Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, we look to other sources such as the Enforcement and Compliance Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (Policy Bulletin 04.1), for guidance on defining comparable merchandise. The Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[46] If identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[47] Further, when selecting a surrogate country, the statute requires us to consider the comparability of the merchandise, not the comparability of the industry.[48]

The statute grants us discretion to examine various data sources for determining the best available information.[49] Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[50] it does not preclude reliance on additional or alternative metrics. In this review, because production data of comparable merchandise are not available, we first analyzed exports of comparable merchandise from the six potential surrogate countries as a proxy for production data. In this review, we preliminarily determine that merchandise described under HTS code 8202.39 ("Circular Saw Blades Of Base Metal With Working Part Of Material Other Than Steel, And Parts") is identical or comparable to the merchandise covered by this review. Because world production data was not available, we analyzed exports under HTS code 8202.39. This analysis shows that Thailand exported significant quantities of diamond sawblades during the POR under HTS code 8202.39.[51] Next we considered the availability of SV data.

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[45] *Id.*
[46] *See* Policy Bulletin 04.1, which is available on the Enforcement and Compliance website at http://enforcement.trade.gov/policy/bull04-1.html.
[47] The Policy Bulletin also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise," at note 6.
[48] *See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 62 FR 65674, 65676 (December 15, 1997) ("Thus, to impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").
[49] *See* section 773(c) of the Act. *See also Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).
[50] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).
[51] *See* the Memorandum to the File entitled, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Surrogate Values for the Preliminary Results of Review," dated concurrently with this Preliminary Decision Memorandum (Preliminary SV Memo), at Exhibit 1 for the GTA export quantity data.

3. Data Considerations

When evaluating SV data, we consider several factors including whether the SV is publicly available, contemporaneous with the POR, representative of a broad-market average, from an approved surrogate country, tax- and duty-exclusive, and specific to the input.[52] There is no hierarchy among these criteria. It is our practice to consider carefully the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.[53]

For Thailand, we are able to obtain the required SVs for direct materials, packing materials, byproducts, and certain energy inputs from GTA import data.[54] Labor data for Thailand are available from the National Statistical Office of the Thai government (NSO) and is industry specific.[55] Publicly available data from Thailand provide for calculations of inland truck freight, domestic brokerage and handling (B&H), and financial ratios. Therefore, for these preliminary results we selected Thailand as the primary surrogate country for valuing FOPs.

VI. 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 statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the 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 antidumping and countervailing duty law, including amendments to section 776(b) and (c) of the Act and the addition of section 776(d) of the Act.[56] The amendments to section 776 of the Act are applicable

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[52] *See* Policy Bulletin 04.1.

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

[54] *See* Preliminary SV Memo at Exhibit 2.

[55] *Id. See also* the petitioner's SV comments dated May 18, 2016, at Exhibit 5.

[56] *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*

to all determinations made on or after August 6, 2015, and, therefore, apply to this review.[57]

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) of the Act 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.[58]

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that 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.[59]

Finally, under the new section 776(d) of the Act, when applying an adverse inference, the Department may use any dumping margin from any segment of the proceeding under the applicable antidumping order.[60] The TPEA also makes clear that when selecting an AFA margin, the Department is not required to (1) estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or (2) demonstrate that the dumping margin reflects an "alleged commercial reality" of the interested party.[61]

A. Use of Facts Available

The Department preliminarily finds that the use of facts available is warranted because the Jiangsu Fengtai Single Entity withheld information requested by the Department, failed to provide the requested information by the deadlines, and significantly impeded this proceeding by providing only questionable and unreliable information. As discussed below, the Jiangsu Fengtai Single Entity did not provide responsive documents to our supplemental questionnaires. Specifically, we requested in a supplemental questionnaire that the Jiangsu Fengtai Single Entity: (1) explain why, for the same product code, the control number reported in this review was different from the control number in the prior review; and (2) provide documentation that demonstrated the change in physical characteristics that led to the change in the reported control number.[62] In response, the Jiangsu Fengtai Single Entity attributed the control number

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Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015) (*Application Notice*).

[57] *See Application 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.

[58] *See also* 19 CFR 351.308(c).

[59] *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act (SAA), H.R.Rep. No. 103-316, at 870 (1994), as reprinted in 1994 U.S.C.C.A.N. 4040, 4199.

[60] *See* section 776(d)(1) of the Act; TPEA, section 502(3).

[61] *See* section 776(d)(3) of the Act; TPEA, section 502(3).

[62] *See* the Department's sections A-D supplemental questionnaire dated July 26, 2016, at Question 17.

differences, in part, to changes to product specifications negotiated and agreed upon with the customer, and provided as support, *inter alia*, e-mail correspondence dated 2016 that it claims was exchanged between the Jiangsu Fengtai Single Entity and one of its U.S. customers agreeing to changes to product specifications in the products sold during the POR.[63] In a second supplemental questionnaire, we asked the Jiangsu Fengtai Single Entity to provide a detailed description with supporting documentation of the process undertaken when the specification of a product changes, including how often this occurs in the normal course of business and how this is tracked in its normal books and records.[64] We also asked that the respondent provide documentation to support its statement that customers agreed to and/or directed changes to product specifications and demonstrate that such changes affected the products sold during the POR.[65] In response, the Jiangsu Fengtai Single Entity provided additional e-mail chains predating the POR but it did not respond to our requests for documents demonstrating that such changes to the specifications affected the products sold during the POR. Specifically, none of the e-mails provided in either supplemental response demonstrate that the e-mail communications were between the Jiangsu Fengtai Single Entity and its U.S. customers, *e.g.*, the e-mails do not show the name of the customer, the location of the customer, and/or product of the customer.[66] Moreover, none of them show that (1) the Jiangsu Fengtai Single Entity's claimed specification changes were specific to the POR or (2) that these e-mails pertain to diamond sawblades that the Jiangsu Fengtai Single Entity sold to the United States during the POR. As discussed below, the Jiangsu Fengtai Single Entity did provide one e-mail chain with a product list and diagrams attached, as well as a product specification table attached to another e-mail, but it did not provide any other information which would demonstrate that the product specifications for products sold during the previous POR were changed for the same products sold in the current POR at the direction of the customers' specific instructions.

Moreover, the e-mail chain with a product list and diagrams attached appears altered, and thus, is unreliable. This e-mail chain is exactly the same as the e-mail chain reported in the first supplemental response with the exception of the number of the year: 2016 in the second supplemental response and 2014 in the first supplemental response.[67] Therefore, it appears that at least one of these two nearly identical e-mail chains may have been altered or fabricated.

The Jiangsu Fengtai Single Entity also failed to explain why it was unable to provide the requested information. Although the Jiangsu Fengtai Single Entity responded to portions of the Department's questionnaires, the Jiangsu Fengtai Single Entity withheld certain requested information, failed to provide such information in a timely manner or in the form or manner requested by the Department, and significantly impeded the proceeding. Given that the Jiangsu Fengtai Single Entity reported that products with the same product codes being sold to the same customers with the only difference being the control numbers, and where the control numbers reflect different physical characteristics, it is unclear on the record why the same product codes from the prior review are being reported, in this review, with different control numbers (*i.e.*,

[63] *See* the Jiangsu Fengtai Single Entity's first section D supplemental response dated September 2, 2016 (1SDQR) at 2-3 and Exhibit S-24.
[64] *See* the Department's second supplemental questionnaire dated October 12, 2016, at Question 9.
[65] *Id.*
[66] *See* 1SDQR at Exhibit S-24, and 2SQR at Exhibit S2-15.
[67] *See* 1SDQR at 2-3 and Exhibit S-24 and the Jiangsu Fengtai Single Entity's second section D supplemental response dated November 3, 2016 (2SDQR) at 2-6 and Exhibit S2-15.

different physical characteristics), despite two requests by the Department. Moreover, with respect to the missing information, no documents were filed indicating any difficulty providing the information, nor was there a request to allow the information to be submitted in an alternate form, pursuant to section 782(d). In light of the Jiangsu Fengtai Single Entity's failure to provide responsive documents to our requests for information and the submission of what appears to be falsified information, we find the Jiangsu Fengtai Single Entity's databases unreliable overall. Therefore the Department preliminarily determines that the use of facts available is warranted in determining the rate of the Jiangsu Fengtai Single Entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.[68]

B. Application of Facts Available with an Adverse Inference

Section 776(b) of the Act provides that in selecting from among the facts otherwise available, the Department 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. Despite two requests by the Department, the Jiangsu Fengtai Single Entity failed to submit documents demonstrating that product specifications were negotiated and changed pursuant to customers' requests. For instance, the submitted e-mail correspondence failed to link the name and location of customers and/or products sold to the customers. As discussed above, in response to our requests for information, the Jiangsu Fengtai Single Entity submitted a questionable e-mail chain, and failed to provide information to justify the control number differences between the last review and this review for the same product types. The combination of the Jiangsu Fengtai Single Entity's inability to demonstrate that product specifications were changed at the request of specific customers, as it claimed, and what appears to be an altered e-mail chain warrants the preliminary application of an adverse inference. Under these circumstances, we find it reasonable to conclude that the Jiangsu Fengtai Single Entity failed to cooperate to the best of its ability to comply with our requests for information.[69] Therefore, we preliminarily find that an adverse inference is warranted in selecting from among the facts otherwise available with respect to the Jiangsu Fengtai Single Entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).[70]

C. Selection of the AFA Rate

In applying an adverse inference, the Department may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.[71] In selecting an AFA rate, the Department selects a rate that

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[68] *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).

[69] *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.")).

[70] *See Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

[71] *See* section 776(b) of the Act.

is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[72] Under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding,[73] and 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.[74] The highest margin applied in a separate segment of this proceeding and currently in effect is the PRC-wide rate of 82.05 percent. Accordingly, we preliminarily determine that the AFA rate is the PRC-wide rate of 82.05 percent[75] for purposes of this review. Pursuant to the TPEA,[76] this rate does not need to be corroborated because it is from a previous segment of this proceeding. Our decision to apply this AFA rate to the Jiangsu Fengtai Single Entity does not affect its separate rate eligibility .

VII. FAIR VALUE COMPARISONS

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Bosun's sales of the subject merchandise from the PRC to the United States were made at less than normal value, the Department compared the constructed export prices (CEPs) to the normal value as described in the Constructed Export Price Sales and Normal Value sections of this memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), we calculate weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, we examine whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern our examination of this question in the context of administrative reviews, we nevertheless find that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.[77]

In recent investigations and the last completed review of this order, we applied a "differential pricing" analysis for determining whether application of A-T method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.[78]

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[72] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1 (SAA) at 870.
[73] *See* section 776(c)(2) of the Act; TPEA, section 502.
[74] *See* section 776(d)(1)-(2) of the Act; TPEA, section 502(3).
[75] *See Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Results of Review and Amended Final Results of the Antidumping Duty Administrative Review*, 81 FR 2843 (January 19, 2016). This rate is the PRC-wide rate for the preliminary results of this review.
[76] *See* section 776(c)(2) of the Act; TPEA, section 502
[77] *See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012).
[78] *See*, *e.g.*, *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*,

We find that the differential pricing analysis used in these proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. We 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 A-A method in calculating weighted-average dumping margins for respondents.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip codes) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR 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 we use 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 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

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80 FR 61362 (October 13, 2015), and 5th *Review Prelim* and accompanying Preliminary Decision Memorandum at 15-16, unchanged in 5th *Review Final*.

of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, we test 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 A-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-A 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 A-A 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 A-A method and the appropriate alternative method move across the *de minimis* threshold.

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

B. Results of the Differential Pricing Analysis

For Bosun, based on the results of the differential pricing analysis, we preliminarily find that 59.9 percent of the value of U.S. sales pass the Cohen's *d* test[79] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that the A-A method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the A-A method and when calculated using an alternative comparison method based on applying the A-T method to those U.S. sales which passed the Cohen's *d* test and the A-A method to those U.S. sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, we are applying the A-T method to those U.S. sales which passed the Cohen's *d* test and the A-A method to those U.S. sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Bosun.[80]

[79] *See* the Bosun preliminary analysis memorandum dated concurrently with this Preliminary Decision Memorandum at 2.
[80] In these preliminary results, we applied the weighted-average dumping margin calculation method adopted in *Final Modification*.

C. U.S. Price

For the price to the United States, we used EP or CEP as defined in sections 772(a) and (b) of the Act, as appropriate.

1. Constructed Export Price Sales

For Bosun's U.S. sales, we based U.S. price on CEP, in accordance with section 772(b) of the Act, because sales were made on behalf of the PRC-based exporter by a U.S. affiliate to unaffiliated customers in the United States. For these sales, 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 foreign movement expenses, international movement expenses, or U.S. movement expenses, in accordance with section 772(c)(2)(A) of the Act. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by PRC service providers or paid in renminbi, the Department valued these services using SVs.[81] For those expenses that were provided by an ME provider and paid for in an ME currency, we used the reported expense.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States. We deducted, where appropriate, commissions, inventory carrying costs, credit expenses, warranty expenses, and indirect selling expenses.[82] Finally, we deducted CEP profit from U.S. price, in accordance with sections 772(d)(3) and 772(f) of the Act.

2. Revenue Caps

Bosun received freight revenues from customers for certain U.S. sales. We treat such revenues as an offset to the specific expenses for which they were intended to compensate.[83] Accordingly, we used its freight revenues as offsets to corresponding freight expenses by capping the freight revenues with the corresponding freight expenses.

3. Value-Added Tax

In 2012, we announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any irrecoverable value-added tax (VAT) in certain NMEs in accordance with section 772(c)(2)(B) of the Act.[84] Information placed on the record of this

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[81] *See* the "Factor Valuations" section, *infra*, for further discussion.

[82] For a detailed description of all adjustments made to U.S. price for each company, *see* the Bosun analysis memorandum dated concurrently with this Preliminary Decision Memorandum due to the proprietary nature of certain adjustments to U.S. price.

[83] *See Certain Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 46584 (August 11, 2008), and accompanying Issues and Decision Memorandum at Comment 7 and *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857 (February 11, 2009), and accompanying Issues and Decision Memorandum at Comment 6.

[84] *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, 36484 (June 19, 2012). *See also Fushun*

review demonstrates that the VAT rate during the POR was 17 percent and that there was a VAT rebate rate of nine percent applicable to exports of the merchandise under consideration.[85] In order to calculate a price net of VAT, we adjusted Bosun's net price for the irrecoverable VAT.[86]

D. Normal Value

Section 773(c)(1) of the Act provides that we shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. We base NV on the 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.

E. Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by interested parties for the POR. We used Thai import data and other publicly available Thai sources in order to calculate SVs for their FOPs. To calculate NV, we multiplied the reported per-unit FOP quantities by publicly available SVs. Our practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.[87]

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

Furthermore, with regard to the Thai import-based SVs, we disregarded import prices that we have reason to believe or suspect may be subsidized.[88] We have reason to believe or suspect that prices of inputs from India, Indonesia, and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-industry-

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Jinly Petrochemical Carbon Co., Ltd. v. United States, Court No. 14-00287, 2016 Ct. Intl. Trade LEXIS 25, at *36-37, 2016 WL 1170876, at *9-11 (Ct. Int'l Trade Mar. 23, 2016), which upheld the deduction of irrevocable VAT.

[85] *See* Bosun's section C response dated July 1, 2016, at Exhibits C-6 and C-7.

[86] *See 5th Review Final* and accompanying Issues and Decision Memorandum at Comment 2 for our reasons for deducting irrecoverable VAT from the U.S. price. *See also* the Bosun preliminary analysis memorandum.

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

[88] *See* section 773(c) of the Act, as amended in section 505 of the Trade Preferences Extension Act of 2015, and *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).

specific export subsidies.[89] Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an "unspecified" country from the average value because we could not be certain that they were not from either an NME country or a country with general export subsidies.[90] Therefore, we have not used prices from these countries either in calculating the Thai import-based SVs or in calculating ME input values.

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs that were produced in ME countries by an ME supplier in meaningful quantities (*i.e.*, not insignificant quantities) and pays in an ME currency, we use the actual price paid by the respondent to value those inputs, except when prices may have been distorted by findings of dumping and/or subsidization.[91] Bosun did not report such inputs.

We used Thai Import Statistics from the GTA to value the raw material, certain energy inputs, and packing material inputs that Bosun used to produce subject merchandise during the POR, except where listed below.

We valued electricity using the data from the Thai Provincial Electricity Authority, a government agency.[92]

We valued the freight-in cost of raw materials using the World Bank Group's *Doing Business Thailand 2016* (*Doing Business*).[93] The value for truck freight in *Doing Business* is publicly available and contemporaneous with the POR because the data in *Doing Business* are current as of June 1, 2015, which is within the POR.[94]

We valued B&H using the information in *Doing Business*.[95] This source provides a price list based on a survey case study of the procedural requirements necessary to export a standardized cargo of goods by ocean transit from Thailand. We calculated the cost per kilogram by dividing the World Bank's average B&H expense by 15 metric tons, which is the weight of the 20-foot full container load used in *Doing Business*.[96] Because data reported in this source were current

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

[90] *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005).

[91] *See*, *e.g.*, *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997).

[92] *See* the petitioner's SV comments dated May 18, 2016, at Exhibit 4, and Preliminary SV Memo at 10 and Exhibit 2, "Surrogate Value" tab.

[93] *See* the petitioner's SV comments dated May 18, 2016, at Exhibit 8.

[94] *Id*.

[95] *See* the petitioner's SV comments dated May 18, 2016, at Exhibit 7.

[96] *Id*.

as of June 1, 2015, and contemporaneous with the POR, we did not inflate the SV for domestic B&H expenses.

We valued the ocean-freight expense for the subject merchandise from the port of export to the U.S. port of disembarkation using publicly available data collected from http://rates.descartes.com.[97] We obtained historical freight rates (from multiple ME freight providers) in effect during the fifteenth day of each second month for each quarter of the POR for shipments of saws and blades for each combination of port of origin/discharge reported by Bosun in this review. We averaged the rates to obtain a single POR-average freight rate. We valued international air freight using a rate obtained from DHL Hong Kong.[98] We valued marine insurance using a rate the petitioner obtained from PAF Shipping Insurance at http://www.grw-products.com/onlinerates.htm.[99] Because the rate is a percentage of the value of the shipment, we did not inflate or deflate the rate.[100]

In NME antidumping duty proceedings, the Department prefers to value labor solely based on data from the primary surrogate country.[101] To value labor cost we calculated an hourly labor rate using industry-specific data for the primary surrogate country, Thailand.[102] We valued labor using manufacturing-specific data from the quarterly-specific POR data (fourth quarters of 2014 and first, second, and third quarters of 2015) from the Government of Thailand, National Statistical Office, Labor Force Survey of Whole Kingdom, (NSO Data).[103]

Bosun reported cores that they purchased from unaffiliated NME suppliers.[104] There are no appropriate HTS codes or other data source that we can rely on to value cores directly.[105] Because of this unique circumstance, we valued cores that Bosun purchased from unaffiliated NME suppliers by adding the SVs for steel, labor, and electricity that they used to produce cores itself to approximate the value of cores that they purchased.[106] For cores purchased from NME suppliers, Bosun provided the quantities of the steel, labor hours, and electricity based on the

[97] *See* the Bosun preliminary analysis memorandum for the data collected from this website.
[98] *See* Preliminary SV Memo at 11 and Exhibit 3.
[99] *See* the petitioner's SV comments dated November 7, 2016, at Exhibit 4. *See also* Preliminary SV Memo at 12 and Exhibit 2.
[100] *See* Preliminary SV Memo at Exhibit 2, "Surrogate Value" tab.
[101] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing The Factor of Production: Labor*, 76 FR 36092 (June 21, 2011).
[102] *See* the petitioner's SV comments dated May 18, 2016, at Exhibit 5.
[103] *Id.*
[104] *See*, *e.g.,* Bosun.s section D response dated July 1, 2016, at 11.
[105] The petitioner requested that we value cores using the GTA statistics for HTS subheading 8202.31.10000. *See* the petitioner's SV comments dated July 16, 2015, at Exhibit 3. We did not use the GTA statistics for this HTS subheading to value cores because we find that the products covered by this Thai HTS subheading are different from the cores used in the production of diamond sawblades. *See 5th Review Final* and accompanying Issues and Decision Memorandum at Comment 12.
[106] *See* the Bosun preliminary analysis memorandum. The CIT has affirmed this practice in this proceeding. *See* Final Remand Redetermination pursuant to *Diamond Sawblades Manufacturers Coalition v. United States*, Court No. 13-00241, slip op. 14-112 (Ct. Int'l Trade September 23, 2014), dated May 18, 2015, and available at http://enforcement.trade.gov/remands/14-112.pdf, *aff'd*, *Diamond Sawblades Manufacturers' Coalition v. United States*, Court No. 13-00241, slip op. 2015-116 (October 21, 2015). The CIT has also recognized the Department's practice in some cases of assigning SVs to the FOPs going into the production of an intermediate input to value the intermediate input. *See Anshan Iron & Steel Co. v. United States*, 27 CIT 1234, 1238-41 (2003).

cores that it self-produced. Then we applied the SVs for steel, labor, and electricity to the reported steel quantity, labor hours, and electricity consumption, respectively, to calculate the SV for each of the three underlying inputs (*i.e.* steel, labor, and electricity). Then we added these three SVs to calculate the SV for the cores Bosun purchased from NME suppliers. For the valuation of purchased cores, we used Thai Import Statistics from the GTA to value steel, but we used the NSO data for labor and the Thai Provincial Electricity Authority data for electricity, as explained above.

To value factory overhead, selling, general and administrative expenses, and profit, we used the 2014 financial statements from K.M. & A.A. Co., Ltd. (KM), a manufacturer of comparable merchandise in Thailand.[107] The KM financial statements are the only financial statements on the record of this review that are contemporaneous with the POR and sufficiently detailed.

VIII. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the Enforcement and Compliance's website at http://enforcement.trade.gov/exchange/index.html.

X. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒ ☐

Agree Disagree

12/5/2016

X 

Signed by: PAUL PIQUADO

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

[107] *See* the petitioner's SV comments dated May 18, 2016, at Exhibits 11A, 11B, and 11C.