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DATE: December 20, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Results and Rescission, In Part, of Antidumping Duty New Shipper Reviews, 2014-2015: Multilayered Wood Flooring from the People's Republic of China

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SUMMARY

In response to requests from two interested parties, the Department of Commerce ("Department") is conducting two new shipper reviews ("NSR") of the antidumping duty order on multilayered wood flooring ("MLWF") from the People's Republic of China ("PRC"). These reviews cover two exporters of subject merchandise, Jiangsu Keri Wood Co., Ltd. ("Keri Wood") and Zhejiang Simite Wooden Co., Ltd. ("Simite Wooden"). The period of review ("POR") is December 1, 2014, through November 30, 2015.

As discussed below, we preliminarily determine that Simite Wooden did not make a *bona fide* sale during the POR, as required by section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended ("the Act").[1] Therefore, we are preliminarily rescinding the NSR with respect to Simite Wooden. We preliminarily find that Keri Wood has not made sales of subject merchandise at less than normal value ("NV").

BACKGROUND

On December 8, 2011, the Department published in the *Federal Register* an antidumping duty order on MLWF from the PRC.[2] On December 31, 2015, pursuant to section 751(a)(2)(B)(i) of the Act, and 19 CFR 351.214(b), Keri Wood and Simite Wooden submitted timely requests for

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[1] On February 24, 2016, the President of the United States signed into law the Trade Facilitation and Trade Enforcement Act of2015, Pub. Law 114-125 (Feb. 24, 20 16), which made amendments to section 75l(a)(2)(B) of the Act. These amendments apply to this determination.
[2] *See Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011).

NSRs. Their requests were made in December 2015, which is the annual anniversary month of the order. On January 15, 2016, the Department obtained U.S. Customs and Border Protection ("CBP") data for the Harmonized Tariff Schedule of the United States ("HTSUS") numbers included in the "Scope of the Order" section below.[3] On January 27, 2016, the Department initiated these NSRs for Keri Wood and Simite Wooden in order to determine whether imports into the United States of MLWF from the PRC are being sold below NV.[4] On February 1, 2016, the Department also issued antidumping questionnaires to Keri Wood and Simite Wooden. On February 25, 2016, the Department obtained from CBP entry documentation regarding MLWF for these reviews.[5] Between February 2016 and October 2016, the Department received timely questionnaire and supplemental responses from Keri Wood and Simite Wooden.

On June 23, 2016, the Department extended the time period for issuing the preliminary results of these reviews by 120 days, until November 20, 2016.[6] On November 15, 2016, the Department aligned these NSRs with the fourth administrative review of MLWF from the PRC.[7] On November 20, 2014, the Department extended the preliminary results until December 20, 2016, to align with the fourth administrative review of this proceeding.[8]

SCOPE OF THE ORDER

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s). Veneer is referred to as a ply when assembled in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.*, "engineered wood flooring" or "plywood flooring." Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

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[3] *See* Memorandum to the File from Maisha Cryor, Enforcement and Compliance, Office IV, through Robert Bolling, Program Manager, Enforcement & Compliance, Office IV, regarding "U.S. Customs and Border Protection Data; Customs Query Results for Jiangsu Keri Wood Co., Ltd." (January 15, 2016); *see also* Memorandum to the File from Maisha Cryor, Enforcement and Compliance, Office IV, through Robert Bolling, Program Manager, Enforcement & Compliance, Office IV, regarding "U.S. Customs and Border Protection Data; Customs Query Results for Zhejiang Simite Wooden Co., Ltd."(January 15, 2016).

[4] *See Multilayered Wood Flooring from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 81 FR 4612 (January 27, 2016) ("*Initiation Notice*").

[5] *See* Memorandum to Abdelali Elouaradia, Office 4, from Wendy Frankel, Director, Customs Liaison Unit, regarding "Request for U.S. Entry Documents – Multilayered Wood Flooring from the People's Republic of China (A-570-970)" (February 25, 2016).

[6] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Maisha Cryor, Office IV, Antidumping and Countervailing Duty Operations, entitled, "Multilayered Wood Flooring from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Reviews" dated June 23, 2016.

[7] *See* Memorandum to the File, regarding "Alignment of the New Shipper Reviews of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China with the Concurrent Administrative Review of Multilayered Wood Flooring from the People's Republic of China" (November 15, 2016).

[8] *See* Memorandum to the File, regarding "Extension of Deadline for the Preliminary Results of the New Shipper Reviews of Multilayered Wood Flooring from the People's Republic of China" (November 20, 2016).

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.*, without a finally finished surface to protect the face veneer from wear and tear) or "prefinished" (*i.e.*, a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard ("HDF"), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.*, circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product.

Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States ("HTSUS"): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140;

4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

DISCUSSION OF THE METHODOLOGY

Bona Fide Sale Analysis

Pursuant to section 751(a)(2)(B)(iv) of the Act, any weighted average dumping margin determined in a NSR must be based solely on *bona fide* sales during the POR. Where a review is based on a single sale, exclusion of that sale as non-*bona fide* necessarily must end the review.[9]

To determine whether a sale in a NSR is *bona fide*, the Department considers, such factors as:

> (I) the prices of such sales; (II) whether such sales were made in commercial quantities; (III) the timing of such sales; (IV) the expenses arising from such sales; (V) whether the subject merchandise involved in such sales was resold in the United States at a profit; (VI) whether such sales were made on an arms-length basis; and (VII) any other factor {it} determines to be relevant as to whether such sales are, or are not, likely to be typical of those the exporter or producer will make after completion of the review.[10]

In examining the totality of the circumstances, the Department looks to whether the transaction is "commercially unreasonable" or "atypical of normal business practices."[11]

Although some *bona fide* issues may share commonalities across various Department cases, the Department examines the *bona fide* nature of a sale on a case-by-case basis, and the analysis may vary with the facts surrounding each sale.[12] In *TTPC*, the U.S. Court of International Trade ("CIT") affirmed the Department's practice of considering that "any factor which indicates that the sale under consideration is not likely to be typical of those which the producer will make in the future is relevant,"[13] and found that "the weight given to each factor investigated will depend on the circumstances surrounding the sale."[14] Further, in *New Donghua*, the CIT affirmed the

[9] *See Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1249 (CIT 2005) (*TTPC*).
[10] Section 751(a)(2)(B)(iv) of the Act.
[11] *See Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1339 (CIT 2005) (*New Donghua*), citing *Windmill Int'l Pte., Ltd. v. United States*, 193 F. Supp. 2d 1303, 1313 (CIT 2002); *see also TTPC*, 366 F. Supp. 2d at 1249-50.
[12] *See New Donghua*, 374 F. Supp. 2d at 1340, n.5, citing *TTPC*, 366 F. Supp. 2d at 1260, and *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304 (July 11, 2003), and accompanying Issues and Decision Memorandum at Comment 2.
[13] *See TTPC*, 366 F. Supp. 2d at 1250.
[14] *Id.* at 1263.

Department's practice of evaluating the circumstances surrounding a sale in a NSR so that a respondent does not unfairly benefit from an atypical sale and obtain a lower dumping margin than the producer's usual commercial practice would dictate.[15] Thus, a respondent is on notice that it is unlikely to establish the *bona fides* of a sale merely by claiming to have sold in a manner representative of its future commercial practice.[16]

Based on the totality of the circumstances surrounding the sales under review, we preliminarily determine that the sale made by Simite Wooden during the POR was not a *bona fide* commercial transaction and cannot be used to calculate a weighted-average dumping margin. Specifically, the atypical price, when viewed together with other circumstances surrounding the sale, call into question whether the sale is indicative of normal commercial practices. Because the *bona fide* sales analysis involves business proprietary information, a full discussion of our preliminary analysis is set forth in the *Bona Fide* Sales Analysis Memorandum. [17] Because we preliminarily find that Simite Wooden's single POR sale is not a *bona fide* sale, we cannot rely on this sale to calculate a dumping margin. Given the determination that Simite Wooden did not make a *bona fide* sale during the POR, there is no sale upon which we can base this review and, therefore, the Department is preliminarily rescinding the review with respect to Simite Wooden.[18]

For Keri Wood, based on our analysis of the factors described above, we preliminarily find that Keri Wood's U.S. sale is a *bona fide* transaction for purposes of the NSR. Because the *bona fide* sales analysis also involves business proprietary information, a full discussion of our preliminary analysis is set forth in the *Bona Fide* Sales Analysis Memorandum. [19]

Non-Market Economy Country Status

In antidumping duty proceedings conducted by the Department involving the PRC, the PRC has been treated as a nonmarket economy ("NME") country.[20] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a nonmarket economy ("NME") country shall remain in effect until revoked by the administering authority. As such, the Department continues to treat the PRC as an NME in this proceeding. Accordingly, we calculated NV using the factors of production ("FOP") methodology in accordance with section 773(c) of the Act, which applies to NME countries.

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[15] *See New Donghua*, 374 F. Supp. 2d at 1339.
[16] *Id.*
[17] *See* Memoranda to Abdelali Elouaradia, Director, Office IV, Antidumping and Countervailing Duty Operations, from Maisha Cryor, International Trade Analyst, Office IV, Antidumping and Countervailing Duty Operations entitled "Antidumping Duty New Shipper Review of Multilayered Wood Flooring from the People's Republic of China: Preliminary *Bona Fide* Sale Analysis for Zhejiang Simite Wooden Co., Ltd., dated concurrently with and hereby adopted by this memorandum.
[18] *See, e.g., TTPC*, 366 F. Supp. 2d at 1249.
[19] *See* Memoranda to Abdelali Elouaradia, Director, Office IV, Antidumping and Countervailing Duty Operations, from Maisha Cryor, International Trade Analyst, Office IV, Antidumping and Countervailing Duty Operations entitled "Antidumping Duty New Shipper Review of Multilayered Wood Flooring from the People's Republic of China: Preliminary *Bona Fide* Sale Analysis for Jiansgu Keri Wood Co., Ltd., dated concurrently with and hereby adopted by this memorandum.
[20] *See e.g. Certain New Pneumatic Off-the-Road Tires from the People's Republic of China; 2012-2013: Final Results of Antidumping Duty Administrative Review*, 80 FR 20,197, and accompanying Issues and Decision Memorandum at Comment 1 (April 15, 2015).

Separate Rates

In antidumping duty proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate.[21] In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME reviews.[22] It is the Department's policy to assign all exporters of subject merchandise in an NME country a single NME-wide rate unless an exporter can affirmatively demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[23] Exporters can demonstrate this independence through evidence of the absence of both *de jure* and *de facto* governmental control over export activities.[24] The Department analyzes each entity's export independence under a test first articulated in *Sparklers* and as further developed in *Silicon Carbide*.[25] The Department received complete responses to the antidumping duty questionnaire from Keri Wood which contained information pertaining to its eligibility for a separate rate.

Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses, (2) any legislative enactments decentralizing control of companies, and (3) other formal measures by the government decentralizing control of companies.[26]

The evidence provided by Keri Wood supports a preliminary finding of an absence of *de jure* government control based on the following: (1) an absence of restrictive stipulations associated with Keri Wood's business and export licenses; (2) legislative enactments decentralizing control of companies; and (3) formal measures by the government decentralizing control of companies.[27]

Absence of *De Facto* Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices ("EP") 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

[21] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, available at http://ia.ita.doc.gov/policy/bull05-1.pdf.
[22] *See Initiation Notice*, 81 FR at 4613.
[23] *See* Policy Bulletin 05.1.
[24] *Id*.
[25] *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*"); *see also 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*").
[26] *See Sparklers*, 56 FR at 20589.
[27] *See* Letter to the Department from Keri Wood regarding "Multilayered Wood Flooring from the People's Republic of China: Section A Questionnaire Response," dated February 29, 2016 at 2-15 ("Section A Response").

decisions regarding disposition of profits or financing of losses.[28] 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 governmental control, which would preclude the Department from assigning the respondents separate rates.[29]

The evidence provided by Keri Wood supports a preliminary finding of *de facto* absence of government control based on the criteria outlined above.[30] Specifically, Keri Wood provided evidence of the following: (1) it establishes its own export prices; (2) it negotiates contracts without guidance from any government entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans.[31]

Given that the Department finds that Keri Wood operates free of *de jure* and *de facto* governmental control, we preliminarily determine that it satisfies the criteria for a separate rate.

Surrogate Country

When the Department investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's 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 an FOP, the Department shall utilize, to the extent possible, the prices or costs of the FOP 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.[32] The Department determined that Bulgaria, Romania, Ecuador, Mexico, South Africa, and Thailand are countries with *per capita* gross national incomes that are comparable to the PRC.[33] As discussed below, the Department also has determined that all of these countries are significant producers of comparable merchandise.

On May 10, 2016, Simite Wooden submitted its comments regarding surrogate country selection.[34] Simite Wooden maintains that Thailand should be selected as the surrogate country in these NSRs because Thailand provides reliable data.[35] On May 23, 2016, Keri Wood submitted its comments regarding surrogate country selection wherein it also maintains that

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[28] *See Silicon Carbide*, 59 FR at 22587; *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).
[29]*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 2254,22545 (May 8, 1995).*
[30] *See* Section A Response at 2-15.
[31] *Id*.
[32] *See* Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin 04.1").
[33] *See* the Department's Letter to All Interested Parties, regarding "2014-2015 New Shipper Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information" (April 5, 2016) ("Request for Surrogate Country Comments").
[34] *See* Letter from Simite Wooden to the Department, regarding "Multilayered Wood Flooring from the People's Republic of China; A-570-970; Surrogate Values for the Preliminary Results" (May 10, 2016) ("Simite Wooden surrogate value submission").
[35] *Id.*

Thailand should be selected as the surrogate country in these NSRs.[36] No party filed rebuttal surrogate country comments or information.

Economic Comparability

Pursuant to section 773(c)(4) of the Act, the Office of Policy memorandum identified Bulgaria, Romania, Ecuador, Mexico, South Africa, and Thailand at the same level of economic development as the PRC.[37] Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data, or are unsuitable for use for other reasons, we will rely on data from one of these countries. Therefore, we consider all six countries as having met this prong of the surrogate country selection criteria.

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. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin 04.1 for guidance on defining comparable merchandise.[38] Policy Bulletin 04.1 states that "{t}he terms 'comparable level of economic development,' 'comparable merchandise,' and 'significant producer' are not defined in the statute." Policy Bulletin 04.1 further states that "{i}n all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[39] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[40] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[41] "In cases where the identical merchandise is not produced, the team must determine if other merchandise that is comparable is produced. How the team does

[36] *See* Letter from Keri Wood to the Department, regarding "Multilayered Wood Flooring from the People's Republic of China: Comments Regarding Surrogate Value Selection" (May 23, 2016) ("Keri Wood surrogate value submission").
[37] *See* Request for Surrogate Country Comment at Attachment 1. Section 773(c)(4)(A) of the Act is silent with respect to how or on what basis the Department may make this determination, but it is the Department's long standing practice to use per capita gross national income ("GNI") data reported in the World Bank's World Development Report. *See, e.g.*, *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Review; 2011–2012*, 79 FR 19053 (April 7, 2014) ("Ninth AR Final") and accompanying Issues and Decision Memorandum at Comment I.A.
[38] *See* Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin 04.1"), available at http://enforcement.trade.gov/policy/index.html.
[39] *Id*.
[40] Policy Bulletin 04.1 also states that "{i}f 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." *See id.*, at n.6.
[41] *See Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 65674 (December 15, 1997), and accompanying Issues and Decision Memorandum at Comment 1 ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

this depends on the subject merchandise."[42] In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis.

However, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.[43]

In addition, with respect to whether a country is a significant producer of comparable merchandise, the Department's practice is to consider the following:

> The extent to which a country is a *significant* producer should not be judged against the NME country's production level or the comparative production of the five or six countries on OP's surrogate country list. Instead, a judgment should be made consistent with the characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics). Since these characteristics are specific to the merchandise in question, the standard for 'significant producer' will vary from case to case.[44]

While the Department may compare production quantities of the comparable merchandise from each potential surrogate country in relation to world production, a review of the record did not reveal production quantities of comparable merchandise from each potential surrogate country. Accordingly, the Department was unable to obtain the comparable merchandise production quantities of the potential surrogate countries. The Department next sought evidence of production of comparable merchandise in the form of export data, under the assumption that exporters of comparable merchandise are also significant producers. The Department obtained export data from the Global Trade Atlas ("GTA") for the countries that the Department determined were economically comparable to the PRC during this POR, *i.e.*, Bulgaria, Romania, Ecuador, Mexico, South Africa, and Thailand for the Harmonized Tariff Schedule ("HTS") sub-headings listed in the scope of the antidumping duty order on multilayered wood flooring from the PRC (*i.e.*, 4412, 4418, and 9801).[45]

Based on a review of the GTA export data referenced above, the Department finds that Bulgaria, Romania, Ecuador, Mexico, South Africa, and Thailand are all significant producers of comparable merchandise.[46] Because none of these potential surrogate countries have been definitively disqualified through the above analysis, the Department looks to the availability of SV data to determine the most appropriate surrogate country.

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[42] *See* Policy Bulletin 04.1.
[43] *Id*.
[44] *Id*.
[45] *See* Memorandum to the File from Maisha Cryor, International Trade Compliance Analyst, Enforcement and Compliance, Office IV, through Robert Bolling, Program Manager, Enforcement & Compliance, Office IV, regarding "Surrogate Value Memorandum for the Preliminary Results of New Shipper Reviews of Multilayered Wood Flooring from the People's Republic of China" at Attachment VI (December 20, 2016) ("Preliminary Results Surrogate Value Memo").
[46] *Id*.

Data Availability

The Policy Bulletin states that, if more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, "then the country with the best factors data is selected as the primary surrogate country." [47] . Importantly, Policy Bulletin 04.1 explains further that "data quality is a critical consideration affecting surrogate country selection" and that "a country that perfectly meets the requirements of economic comparability and significant producer is not of must use as a primary surrogate if crucial factor price data from that country are inadequate or unavailable."[48]

When evaluating surrogate value ("SV") data, the Department considers several factors including whether the SV is publicly available, contemporaneous with the POR, represents a broad-market average, from an approved surrogate country, tax and duty-exclusive, and specific to the input.[49] There is no hierarchy among these criteria. The Department's preference is to satisfy the breadth of the aforementioned selection criteria.[50] 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.[51] Additionally, pursuant to 19 CFR 351.408(c)(2), the Department has a preference of valuing all FOPs in a single surrogate country.

Keri Wood and Simite Wooden were the only parties to file SV comments and information. [52] No rebuttal comments or information were submitted. Thus, the record indicates that Thailand provides the best opportunity to use quality, publicly available data to value FOP. Relying upon Thailand as the primary surrogate country would allow the Department to use contemporaneous publicly available GTA import data to value each and every direct material, and packing inputs for the POR months. Thailand's GTA import data are publicly-available, contemporaneous with the period of review, tax and duty free, and reflect a broad market average.[53]

Accordingly, based on record evidence, the Department has preliminarily determined to select Thailand as the surrogate country on the basis that: (1) it is at a comparable level of economic development to the PRC, pursuant to 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from Thailand that the Department can use to value all of Keri Wood's FOPs.[54]

Date of Sale

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[47] *See* Policy Bulletin 04.1.
[48] *Id*.
[49] *Id*.
[50] *See 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) *("Sixth Mushrooms AR"),* and accompanying Issues and Decision Memorandum at Comment 1**;** *see also Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April22, 2002), and accompanying Issues and Decision Memorandum at Comment 2.
[51] *Id.*
[52] See Simite Wooden surrogate value submission; *see also* Keri Wood surrogate value submission.
[53] *See* Preliminary Results Surrogate Value Memo.
[54] *See id*.

In identifying the date of sale of the subject merchandise, 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 ordinary course of business." In *Allied Tube*, the CIT noted that a "party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisf{y}' the Department that 'a different date better reflects the date on which the exporter or producer establishes the material terms of sale.'"[55] Additionally, the Department may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.[56] The material terms of sale normally include the price, quantity, delivery terms and payment terms of the sale.[57] Consistent with our regulatory presumption for invoice date, Keri Wood reported that the terms of sale did not change after the invoice date.[58] Accordingly, the Department preliminarily determines to use the invoice date as the date of sale.

Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (the average-to-average method) unless the Department determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.[59]

In certain investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[60] The Department finds the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an

[55] *See Allied Tube & Conduit Corp. v. United States* 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) ("*Allied Tube*").
[56] *See* 19 CFR 351.401(i); *see also Allied Tube*, 132 F. Supp. 2d at 1090-1092.
[57] *See, e.g., Carbon and Alloy Steel Wire Rod From Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying Issue and Decision Memorandum at Comment 1; *Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.
[58] *See* Letter to the Department regarding "Multilayered Wood Flooring from the People's Republic of China: Sections C & D Questionnaire Response," dated March 16, 2016 at 10 ("Section C & D Response").
[59] *See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.
[60] *See Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) and accompanying Issues and Decision Memorandum at Comment 3; *see also Hardwood and Decorative Plywood From the People's Republic of China: Antidumping Duty Investigation*, 78 FR 25946 (May 3, 2013), unchanged in *Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and accompanying Issues and Decision Memorandum at Comment 3.

alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the 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. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (*i.e.*, city name, zip code, *etc.*) 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 being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. The Cohen's *d* coefficient evaluates the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. 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. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant 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 EPs 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, we examine 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 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, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative 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 margin 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 margin moves across the *de minimis* threshold.

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

Results of the Differential Pricing Analysis

In the instant review, because there is only one sale, we do not have enough sales data to establish usable comparison and test groups. Accordingly, the Department finds that these circumstances do not support consideration of an alternative to the average-to-average method.

Fair Value Comparisons

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1), in order to determine whether Keri Wood's sale of MLWF to the United States was made at less than NV, we compared the EP to NV, as described in the "U.S. Price" and "Normal Value" sections below. In these preliminary results, the Department applied the average-to-average comparison methodology adopted in the *Final Modification for Reviews*.[61]

[61] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) ("Final Modification for Reviews").

U.S. Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we used EP for the U.S. sale of Keri Wood because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation, and because CEP was not otherwise warranted.

We based the EP on prices to unaffiliated purchasers in the United States, as applicable. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for movement expenses, domestic inland freight and brokerage & handling, as applicable.[62]

Value-Added Tax

In 2012, the Department announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any un-refunded (herein "irrecoverable") value-added tax ("VAT") in certain NME countries in accordance with section 772(c)(2)(B) of the Act.[63] 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.[64] 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.[65]

The Department's methodology, as explained above and applied in this review, incorporates two basic steps: (1) determining the amount (or rate) of the irrecoverable VAT tax on subject merchandise; and (2) reducing U.S. price by the amount (or rate) determined in step one. Information placed on the record of this review by Keri Wood indicates that, according to the PRC VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is 9 percent.[66] For the purposes of these preliminary results, for Keri Wood, we removed from U.S. price the difference between the VAT rate and the rebate rate (*i.e.*, eight percent), which is the irrecoverable VAT as defined under PRC tax law and regulation.[67]

Normal Value

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[62] *See* Keri Wood's preliminary results analysis memorandum, issued concurrently with this memorandum.
[63] *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, 36482-84 (June 19, 2012) ("*Methodological Change*").
[64] *Id*. at 36483; *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.
[65] *Methodological Change*, 77 FR at 36483.
[66] *See* C & D Response at 28.
[67] *Id.* at Exhibit SC-2.

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the Department finds that the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. When determining NV in a NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. This methodology ensures that the Department's calculations are as accurate as possible.[68]

Section 773(c)(1) of the Act provides that the Department will value the FOPs in NME cases using the best available information regarding the value of such factors in an ME country or countries considered to be appropriate by the administering authority. Section 773(c)(4) of the Act requires that when valuing the FOPs, the Department utilize, to the extent possible, the prices or costs of the FOPs in one or more ME countries that are: (1) at a comparable level of economic development, and (2) significant producers of comparable merchandise.[69] As stated above, the Department preliminarily determined to select Thailand as the surrogate country.

We calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The 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.[70] Keri Wood reported that all of the subject merchandise that it sold to the United States during the POR was self-produced.[71] The Department used the FOPs reported by Keri Wood for materials, energy, labor, and packing.

Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on FOPs reported by Keri Wood for the POR. To calculate NV, the Department multiplied the reported per-unit factor consumption quantities by publicly available SVs, except as noted below. 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.[72] The Department adjusted input prices by including freight costs to make them delivered prices, as appropriate. Specifically, the Department added to the Thai import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the U.S.

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[68] *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 *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).

[69] *See* section 773(c)(4) of the Act.

[70] *See* section 773(c)(3) of the Act.

[71] *See* C & D Response at 34.

[72] *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 the accompanying Issues and Decision Memorandum at Comment 2.

Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States,* 117 F.3d 1401, 1407-08 (Fed. Cir. 1997). A detailed description of all SVs used to value Keri Wood's reported FOPs may be found in the Preliminary Results Surrogate Value Memo.

For the preliminary results, we used data from the Thai import statistics in GTA and other publicly available Thai sources in order to calculate SVs for Keri Wood's FOPs (*i.e.*, direct materials and packing materials) and certain movement expenses. The record shows Thai import statistics obtained through GTA are contemporaneous with the POR, product-specific, representative of a broad market average, publicly available and duty and tax-exclusive.[73]

Furthermore, with regard to Thai import-based SVs, in accordance with the legislative history of the Omnibus Trade and Competitiveness Act of 1988 and longstanding agency practice, the Department disregarded prices that it has reason to believe or suspect may be subsidized.[74] In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[75] 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 POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from India, Indonesia, South Korea and Thailand in calculating the Thai import-based SVs. Additionally, consistent with our practice, we disregarded prices from NME countries.[76] Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.[77]

Pursuant to amended 19 CFR 351.408(c)(1), for all proceedings initiated after September 3, 2013, when a respondent sources inputs from an ME supplier and paid for the inputs in ME currency in meaningful quantities, the Department uses the actual price paid by the respondent to value those inputs, if substantially all of the factor, by total volume, is purchased from the ME

[73] *See id.*
[74] *See* Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.
[75] *See 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; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand,* 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.
[76] *See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 9591, 9600 (March 5, 2009), unchanged in *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009) and *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order*, 74 FR 46971 (September 14, 2009).
[77] *See id.*

supplier.[78] In accordance with the amended regulation, substantially all is defined to be 85 percent or more of the total volume purchased of the factor.[79] Alternatively, when the volume of an NME firm's purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the ME purchase price with an appropriate SV, according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.[80] When a firm has made ME input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold. However, Keri Wood reported that it did not purchase any material from market economy suppliers during the POR.[81]

To calculate the labor input, we based our calculation on the methodology outlined by the Department in *Labor Methodologies*.[82] In *Labor Methodologies*, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.[83] Additionally, the Department determined that Chapter 6A: Labor Cost in Manufacturing, from the International Labour Organization ("ILO") Yearbook of Labour Statistics ("Yearbook"), as compared to Chapter 5B data of the ILO Yearbook, is the preferred source where another source is not more appropriate.[84]

In these preliminary results, the Department calculated the labor input using 2014 data from published by Thailand's National Statistics Office (the "NSO data").[85] Although the NSO data are not from the ILO, the Department finds that this fact does not preclude the Department from using this source for valuing labor. In *Labor Methodologies,* the Department decided to change the use of the ILO Chapter 6A data from the use of ILO Chapter 5B data on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.[86] The Department did not, however, preclude all other sources for evaluating labor costs in NME antidumping proceedings. Rather, consistent with section 773(c)(1) of the Act, we continue to follow our practice of selecting the "best available information" to determine SVs for inputs, such as labor. Moreover, the NSO data are more contemporaneous than the ILO Chapter 6A data from Thailand Thus, we find that the NSO data are the best available information for valuing labor for this segment of the proceeding because it is specific to the industry being examined, a broad-market average, closely contemporaneous with the POR, and covers the entire industry. Additionally, the NSO data are industry-specific, and reflect all costs related to labor, including wages, benefits, housing, and training. For these preliminary results, we have calculated the wage rate as 82.57 Baht/hour. For more details regarding the wage rate

[78] *See Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013).
[79] *Id.*
[80] *Id.*
[81] *See* C & D Response at 37.
[82] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) ("*Labor Methodologies*").
[83] *Id.*, at 36093.
[84] *Id.*
[85] *See* Preliminary Results Surrogate Value Memo.
[86] *See Labor Methodologies*, 76 FR at 36093.

calculation methodology, see the Preliminary Results Surrogate Value Memo.

When choosing surrogate financial statements from which we derive the financial ratio, the Department considers the availability of contemporaneous financial statements, comparability to the respondent's experience, and whether the data are publicly available.[87] 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. 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.[88]

With respect to financial statements, the record contains two sets of financial statements for the following companies: Suksawad Plywood Thai. Co. Ltd ("Suksawad Plywood") [89] and Neotech Plywood Co., Ltd. ("Neotech"), [90] fiscal year ending ("FYE") 12/31/2014. We note that the financial statement from Suksawad is unusable because the company's business is listed as the "trade of wood" and thus there is no production or manufacturing of comparable merchandise.[91] The remaining set of financial statements, Neotech FYE 12/31/2014, is contemporaneous with this POR, is for a producer of comparable merchandise *i.e.*, plywood, contains no evidence of countervailable subsidies, and contain no qualified opinions. Accordingly, we have used Neotech's financial statement for the calculation of surrogate financial ratios.

The Department determined the best available information for valuing truck freight to be from the World Bank's report, Doing Business 2016: Thailand.[92] This World Bank report gathers information concerning the distance and cost to transport products in a 20-foot container from the periurban area (*i.e.*, Bangkok's Industrial Park Area) of the economy's largest business city (Bangkok) to the country's major port.[93] In *Prestressed Concrete*, the Department determined that there are two major ports in Thailand (Port of Bangkok (44.33 km from port to Bangkok Industrial Area); and Laem Chabang Port (110 km from port to Bangkok Industrial Area)).[94] Therefore, consistent with the Department's decision in *Prestressed Concrete*, we used the average distance of the two major ports (*i.e.*, 77.16 km) to calculate inland freight.[95] We

[87] *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.
[88] *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 and 19 CFR 351.408(c)(4).
[89] *See* Letter from Keri Wood to the Department regarding "Multilayered Wood Flooring from the People's Republic of China: Submission of Factual Information, dated October 20, 2016 ("Keri Wood Factual Information).
[90] *See* Keri Wood surrogate value submission at Exhibit 5.
[91] *See* Keri Wood Factual Information.
[92] *See* Preliminary Results Surrogate Value Memo ("Doing Business").
[93] *See* Doing Business at 72.
[94] *See Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire from the People's Republic of China*, 79 FR 25572 (May 5, 2014), and accompanying Issues and Decision Memorandum at Comment 4 ("*Prestressed Concrete*").
[95] *See id.*; Preliminary Results Surrogate Value Memo.

calculated a per-kilogram/per-kilometer surrogate inland freight rate based on using the full capacity of a 20-foot container as reported in the World Bank report.[96]

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Thailand.[97] The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand that is published in the World Bank's Doing Business 2016: Thailand.[98]

We valued electricity and water using an average price of energy to various customers as published by the Thai Board of Investment[99]

For a complete listing of all the inputs and a detailed discussion about our SV selections, *see* Preliminary Results Surrogate Value Memo.

Currency Conversion

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rate in effect on the date of Keri Wood's U.S. sale as certified by the Federal Reserve Bank.

Section 777A(f) of the Act

In applying section 777A(f) of the Act, the Department examined: (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.[100] For a subsidy meeting these criteria, the statute requires the Department to reduce the antidumping duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.[101] Because Keri Wood did not submit information to support an adjustment, the Department is preliminarily not making adjustments pursuant to section 777A(f) of the Act to the antidumping duty cash deposit rate found for Keri Wood in this NSR.

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[96] *Id*.
[97] *Id.* at Exhibit 5.
[98] *Id.* at Exhibit 6.
[99] *Id.* at Exhibit 7.
[100] *See* section 777A(f)(1)(A)-(C) of the Act.
[101] *See* section 777A(f)(1)-(2) of the Act.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒ ☐

AGREE DISAGREE

12/20/2016

X 

Signed by: PAUL PIQUADO

Paul Piquado
Assistant Secretary
for Enforcement and Compliance