



A-570-051  
Investigation  
**Public Document**  
E&C/ OV: RMM, AB

June 16, 2017

**MEMORANDUM TO:** Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

**FROM:** Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Determination in the  
Antidumping Duty Investigation of Certain Hardwood Plywood  
Products from the People's Republic of China

---

## I. SUMMARY

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

## II. BACKGROUND

On November 18, 2016, the Department received an antidumping duty (AD) petition covering imports of hardwood plywood from the PRC, which was filed in proper form by the Coalition for Fair Trade in Hardwood Plywood and its individual members: Columbia Forest Products, Commonwealth Plywood Inc., Murphy Plywood, Roseburg Forest Products Co., States Industries, Inc., and Timber Products Company (collectively, the petitioners).<sup>1</sup> The Department initiated this investigation on December 8, 2016.<sup>2</sup>

In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy (NME) LTFV

---

<sup>1</sup> See "Certain Hardwood Plywood Products from the People's Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties," dated November 18, 2016 (Petition).

<sup>2</sup> See *Certain Hardwood Plywood Products from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 91125 (December 16, 2016) (*Initiation Notice*).

investigations.<sup>3</sup> The process requires exporters to submit a separate rate application (SRA)<sup>4</sup> and to demonstrate an absence of both *de jure* and *de facto* government control over their export activities. In the *Initiation Notice*, we stated that SRAs would be due 30 days after publication of the notice, which was on January 16, 2017.<sup>5</sup> Concurrently, the Department selected Shandong Dongfang Bayley Wood Co., Ltd. (Bayley) and Linyi Chengen Import and Export Co., Ltd. (Chengen) as mandatory respondents and issued the non-market economy antidumping questionnaire to the mandatory respondents.<sup>6</sup> Both Bayley and Chengen submitted timely Section A responses.<sup>7</sup>

Additionally, in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the appropriate physical characteristics of hardwood plywood to be reported in response to the Department's AD questionnaire.<sup>8</sup> On December 22, 2016, the petitioners, Bayley, and Richmond International Forest Products (Richmond) submitted comments to the Department regarding the physical characteristics of the subject merchandise to be used for reporting purposes.<sup>9</sup> On December 28, 2016, the petitioners filed rebuttal comments regarding the physical characteristics of the subject merchandise.<sup>10</sup>

On January 3, 2016, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is threatened with material injured by reason of imports of hardwood plywood from the PRC.<sup>11</sup> On March 6, 2017, and pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), the Department published in the *Federal Register* a postponement of the preliminary determination by 50 days until no later than June 16, 2017.<sup>12</sup> The Department is conducting this investigation in accordance with section 733(b) of the Act.

---

<sup>3</sup> See *Initiation Notice*, 81 FR at 91129.

<sup>4</sup> See Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, April 5, 2005 (Policy Bulletin 05.1), available at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>5</sup> See *Initiation Notice*, 81 FR at 91129.

<sup>6</sup> See Memorandum, "Respondent Selection," dated January 9, 2017 (Respondent Selection Memo); See Memorandum, "Deselection of Xuzhou Eastern International Trading Co., Ltd. as a Mandatory Respondent and Selection of Replacement Mandatory Respondent," dated January 13, 2017; See Department Letter re: Questionnaire, dated January 9, 2017; Department Letter re: Questionnaire, dated January 13, 2017.

<sup>7</sup> See Bayley's February 13, 2017 Section A Questionnaire Response (Bayley February 13, 2017 AQR); Chengen's February 13, 2017 Section A Questionnaire Response (Chengen February 13, 2017 AQR).

<sup>8</sup> See *Initiation Notice*, 81 FR at 91127.

<sup>9</sup> See Letter to the Department re: Comments on Physical Characteristics, dated December 22, 2016; Letter to the Department re: Comments on Product Matching Criteria, dated December 22, 2016; Letter to the Department re: Physical Characteristics Comments, dated December 22, 2016.

<sup>10</sup> See Letter to the Department re: Responses to Comments on Physical Characteristics, dated December 28, 2016.

<sup>11</sup> See *Hardwood Plywood from China*, 82 FR 2393 (January 9, 2017).

<sup>12</sup> See *Certain Hardwood Plywood Products from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 82 FR 12538 (March 6, 2017).

### III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2016, through September 30, 2016. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was November 2016.<sup>13</sup>

### IV. SCOPE COMMENTS

In accordance with the *Preamble* to the Department's regulations,<sup>14</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).<sup>15</sup> Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*<sup>16</sup> and in the *CVD Preliminary Determination*.<sup>17</sup> For a summary of the product coverage comments and rebuttal responses submitted on the record of this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum and Additional Scope Decision Memorandum.<sup>18</sup>

### V. SELECTION OF RESPONDENTS

Section 777A(c)(1) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted-average dumping margin determinations because of the large number of exporters and producers involved in the investigation.

We stated in the *Initiation Notice* that in the event respondent selection became necessary, we intended to base our selection of mandatory respondents on responses to quantity and value (Q&V) questionnaires to be sent to each potential respondent named in the Petition.<sup>19</sup> On December 9, 2016, the Department issued Q&V questionnaires to the 121 companies that the petitioners identified as potential producers/exporters of hardwood plywood from the PRC with complete

---

<sup>13</sup> See 19 CFR 351.204(b)(1).

<sup>14</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>15</sup> See *Initiation Notice*, 81 FR at 91126.

<sup>16</sup> *Id.* at 91130-31.

<sup>17</sup> See *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 82 FR 19022, 10294-25 (April 25, 2017) (*CVD Preliminary Determination*).

<sup>18</sup> See Memorandum, "Certain Hardwood Plywood Products from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated April 17, 2017 (Preliminary Scope Memorandum); Memorandum, "Certain Hardwood Plywood Products from the People's Republic of China: Additional Scope Comments Preliminary Decision Memorandum and Extension of Deadlines for Scope Case Briefs and Scope Rebuttal Briefs," dated concurrently with this document (Additional Scope Decision Memorandum).

<sup>19</sup> See *Initiation Notice*, 81 FR at 91129.

contact information.<sup>20</sup> In addition, the Department posted the Q&V questionnaire on its website and, in the *Initiation Notice*, invited parties that did not receive a Q&V questionnaire from the Department to file a response to the Q&V questionnaire by the applicable deadline. 73 of the Q&V questionnaires were successfully delivered to the addressees; however, 48 producers/exporters of subject merchandise did not receive Q&V questionnaires.<sup>21</sup> For further information, please refer to the “PRC-wide Entity” section, below. On or before December 22, 2016, the Department received timely filed Q&V questionnaire responses from 89 exporters/producers. On January 9, 2017, based on the responses to the Q&V questionnaires, we selected Bayley and Xuzhou Eastern International Trading Co., Ltd. (Xuzhou Eastern) for individual examination as mandatory respondents in this AD investigation.<sup>22</sup> On January 13, 2017, the Department issued a memorandum deselecting Xuzhou Eastern and selecting Chengen as a replacement mandatory respondent, based on Xuzhou Eastern’s corrected Q&V response.<sup>23</sup> After the selection of mandatory respondents, seven companies filed requests for treatment as voluntary respondents.<sup>24</sup> On April 5, 2017, the Department issued a memorandum in which it declined to select a voluntary respondent.<sup>25</sup>

On January 9, 2017, and January 13, 2017, the Department issued its AD NME questionnaires to Bayley and Chengen, respectively.<sup>26</sup> Between February and May 2017, Bayley and Chengen submitted timely, properly filed questionnaire responses. Additionally, between February and May 2017, the Department issued supplemental questionnaires to Bayley and Chengen. During the same time frame, the petitioners submitted comments regarding Bayley and Chengen’s respective questionnaire responses.

## **VI. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES, IN PART**

On March 22, 2017, the petitioners alleged that critical circumstances exist with respect to imports of the subject merchandise, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1).<sup>27</sup> On March 30, 2017, and April 6, 2017, the petitioners supplemented their critical circumstances allegation.<sup>28</sup> In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding of whether there is a

---

<sup>20</sup> See Petition at Exhibit I-5; see also Department Letter re: Quantity and Value Questionnaire for the Antidumping Duty Investigation of Certain Hardwood Plywood Products from the People's Republic of China, dated December 9, 2016), and Memorandum, “Quantity and Value Questionnaire Delivery Confirmation,” dated December 30, 2016 (Q&V Delivery Confirmation Memo).

<sup>21</sup> See Q&V Delivery Confirmation Memo at 1 and Attachments I-III.

<sup>22</sup> See Memorandum, “Respondent Selection,” dated January 9, 2017 (Respondent Selection Memo).

<sup>23</sup> See Memorandum, “Deselection of Xuzhou Eastern International Trading Co., Ltd. as a Mandatory Respondent and Selection of Replacement Mandatory Respondent,” dated January 13, 2017.

<sup>24</sup> See Memorandum, “Selection of Voluntary Respondent,” dated April 4, 2017.

<sup>25</sup> *Id.*

<sup>26</sup> See Department Letter re: Questionnaire, dated January 9, 2017; Department Letter re: Questionnaire, dated January 13, 2017.

<sup>27</sup> See Letter to the Department re: Critical Circumstances Allegation, dated March 22, 2017 (Critical Circumstances Allegation).

<sup>28</sup> See Letter to the Department re: Supplemental Critical Circumstances Submission, dated March 30, 2017; Letter to the Department re: Second Supplemental Critical Circumstances Submission, dated April 6, 2017 (Critical Circumstances Second Supplement).

reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination.

### *Legal Framework*

Section 733(e)(1) of the Act provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether critical circumstances exist in a LTFV investigation if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been “massive imports” of the subject merchandise over a relatively short period. Further, 19 CFR 351.206(h)(1) provides that, in determining whether imports of the subject merchandise have been “massive,” the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports.

In addition, 19 CFR 351.206(h)(2) provides that, “{i}n general, unless the imports during the ‘relatively short period’ have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports ‘massive.’” Under 19 CFR 351.206(i), the Department defines “relatively short period” generally as the period starting on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.<sup>29</sup> This section of the regulations further provides that, if the Department “finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely,” then the Department may consider a period of not less than three months from that earlier time.<sup>30</sup>

### *Critical Circumstances Allegation*

The petitioners allege that section 733(e)(1)(A) of the Act is met by virtue of the dumping margins alleged in the Petition, which could be as high as 114.72 percent and, thus, exceed the 25 margin percent threshold for export sales and the 15 percent threshold for constructed export sales that the Department uses to impute knowledge of dumping.<sup>31</sup> The petitioners further argue that importers of hardwood plywood have been on notice that dumped imports are likely to cause injury since the ITC’s preliminary affirmative injury finding.<sup>32</sup>

The petitioners argue that, regarding section 733(e)(1)(B), which examines whether there have been “massive imports of the subject merchandise over a relatively short period,” the Department should use the minimum three-month base and comparison periods for shipment data of a base

---

<sup>29</sup> See 19 CFR 351.206(i); *see also* *Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations*, Policy Bulletin 98.4, 63 FR 55364 (Oct. 15, 1998) (“Commerce has traditionally compared the three-month period immediately after initiation with the three-month period immediately preceding initiation to determine whether there has been at least a 15 percent increase in imports of-the subject merchandise”).

<sup>30</sup> See 19 CFR 351.206(i).

<sup>31</sup> See Critical Circumstances Allegation at 5-6.

<sup>32</sup> *Id.*, at 6, citing ITC Preliminary Affirmative Injury Determination.

period from September 2016 to November 2016 and a comparison period from December 2016 to February 2017, as provided under 19 CFR 351.206(i).<sup>33</sup> The petitioners allege that import statistics released by the ITC indicate shipments of subject merchandise during the comparison period increased significantly in terms of volume (26.6 percent) between the base period and the comparison period, and as a result, exceeded the threshold for “massive” imports from the PRC of hardwood plywood, as provided under 19 FR 351.206(h) and (i).<sup>34</sup>

### *Rebuttal Comments*

We received comments from Bayley and Chengen rebutting the critical circumstances allegations of the petitioners.<sup>35</sup> In their comments, the respondents argue that the Petition fails to show that hardwood plywood from the PRC is being sold for less than fair value, that the petitioners wrongly assume that the respondents purchase veneers for the production of hardwood plywood, and that the petitioners provide no evidence of the respondents’ knowledge of material injury and sales of hardwood plywood at less than fair value.<sup>36</sup> The Department also received rebuttal comments from Taraca Pacific, Inc., Liberty Woods International, Inc., Concannon Corp., Canusa Wood Products Ltd., Patriot Timber Products, Inc., Northwest Hardwood, Inc., and McCorry and Company, Limited, all importers of subject merchandise.<sup>37</sup> These comments state that there is no history of dumping and material injury and that the petitioners failed to support their allegation with quality data.<sup>38</sup> The Department also received arguments from other interested parties arguing that any increase in post-Petition shipping volumes could be explained by seasonal construction.<sup>39</sup>

### *Analysis*

The Department’s normal practice in determining whether critical circumstances exist pursuant to the statutory criteria under section 733(e) of the Act has been to examine evidence available to the Department, such as: (1) the evidence presented in the petitioners’ critical circumstances allegation; (2) import statistics released by the ITC; and (3) shipment information submitted to the Department by the respondents selected for individual examination.<sup>40</sup>

---

<sup>33</sup> See Critical Circumstances Second Supplement at 2-3.

<sup>34</sup> *Id.*, at 3.

<sup>35</sup> See Respondents Letter to the Department re: Rebuttal to Petitioner’s Critical Circumstances Allegations, dated April 3, 2017.

<sup>36</sup> *Id.*

<sup>37</sup> See Importers Letter to the Department re: Response to Petitioners’ Critical Circumstances Allegation, dated March 31, 2017.

<sup>38</sup> *Id.*

<sup>39</sup> See Interested Parties Letter to the Department re: Rebuttal Comments on Mandatory Respondents’ Critical Circumstances Data Submissions of May 15, 2017, dated May 22, 2017.

<sup>40</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China*, 73 FR 31970, 31972-73 (June 5, 2008) (*Carbon Steel Pipe Final Determination*); see also *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People’s Republic of China*, 74 FR 2049, 2052-53 (January 14, 2009) (*SDGE Final Determination*).

In order to determine whether there is a history of dumping pursuant to 733(e)(1)(A)(i) of the Act, the Department generally considers current or previous AD duty orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to import of subject merchandise.<sup>41</sup> There have been no previous orders on hardwood plywood in the United States, and the Department is not aware of the existence of any active AD orders on hardwood plywood from the PRC in other countries. As a result, the Department does not find that there is a history of injurious dumping of hardwood plywood from the PRC pursuant to section 733(e)(1)(A)(i) of the Act.

In determining whether an importer knew or should have known that the exporter was selling subject merchandise at LTFV and that there was likely to be material injury by reason of such sales, the Department must rely on the facts before it at the time the determination is made. The Department generally bases its decision with respect to knowledge on the margins calculated in the preliminary determination and the ITC's preliminary injury determination.

The Department normally considers margins of 25 percent or more for export price (EP) sales and 15 percent or more for constructed export sales sufficient to impute importer knowledge of sales at LTFV.<sup>42</sup> In this investigation, Bayley and Chengen reported only EP sales. Chengen's preliminary margin is *de minimis*. Further, we are assigning a rate of 114.72 percent for the PRC-Wide entity, of which Bayley and certain separate rate respondents are a part (*see* "PRC-wide Entity" section, below), and a rate of 57.36 percent for the companies determined to be eligible for a separate rate. Because the preliminary margin for Chengen does not exceed the threshold sufficient to impute knowledge of dumping, we preliminarily find, with respect to Chengen, that there is not a reasonable basis to believe or suspect that importers knew or should have known that Chengen was selling subject merchandise at LTFV.<sup>43</sup> Accordingly, for Chengen, because the statutory criteria of section 733(e)(1)(A) of the Act has not been satisfied, we did not examine whether imports from Chengen were massive over a relatively short period, pursuant to section 733(e)(1)(B) of the Act.<sup>44</sup>

With respect to the PRC-wide entity and as noted below, the Department is applying an adverse inference based on as failure to cooperate. Accordingly, we have based our determination on

---

<sup>41</sup> See, e.g., *Certain Oil Country Tubular Goods from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117, 59120 (November 17, 2009), unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).

<sup>42</sup> See, e.g., *Carbon and Alloy Steel Wire Rod from Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Preliminary Determination of Critical Circumstances*, 67 FR 6224, 6225 (February 11, 2002) (*Steel Wire Rod Prelim*), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Moldova*, 67 FR 55790 (August 30, 2002) (*Steel Wire Rod Final*); *Affirmative Preliminary Determination of Critical Circumstances: Magnesium Metal from the People's Republic of China*, 69 FR 59187 (October 4, 2004) (*Magnesium Metal Prelim*), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal from the People's Republic of China*, 70 FR 9037 (February 24, 2005) (*Magnesium Metal Final*).

<sup>43</sup> See, e.g., *Steel Wire Rod Prelim*, 67 FR 6224, 6225, unchanged in *Steel Wire Rod Final*, 67 FR 55790; *Magnesium Metal Prelim*, 70 FR 5606, 5607, unchanged *Magnesium Metal Final*, 70 FR 9037.

<sup>44</sup> *Id.*

whether there were massive imports with respect to the PRC-wide entity on adverse facts available (AFA), in accordance with section 776(b) of the Act. Because the AFA rate exceeds the threshold sufficient to impute knowledge of dumping, it provides a sufficient basis for imputing knowledge of sales of hardwood plywood at LTFV to the importers.

In determining whether an importer knew or should have known that there was likely to be material injury caused by reason of such imports, the Department normally will look to the preliminary injury determination of the ITC.<sup>45</sup> If the ITC finds a reasonable indication of material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports. Here, the ITC found that there is a “reasonable indication” of material injury to the domestic industry by reason of the imported subject merchandise.<sup>46</sup> Therefore, the ITC’s preliminary injury determination in this investigation is sufficient to impute knowledge.

In determining whether imports of the subject merchandise were “massive,” the Department normally will examine the volume and value of the imports, seasonal trends, and the share of domestic consumption accounted for by the imports.<sup>47</sup> In determining whether there are “massive imports” over a “relatively short period,” pursuant to section 733(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the Petition (*i.e.*, the “base period”) to a comparable period of at least three months following the filing of the Petition (*i.e.*, the “comparison period”). If the Department finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.<sup>48</sup> Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.<sup>49</sup>

It is the Department’s practice to conduct its massive imports analysis based on the experience of investigated companies, using the reported monthly shipment data for the base and comparison periods.<sup>50</sup> However, as noted above, the PRC-wide entity failed to cooperate to the best of their ability. Therefore, the Department preliminarily determines that the use of facts otherwise available with an adverse inference is warranted. Accordingly, we preliminarily find that there were massive imports of merchandise from Bayley and the PRC-wide entity, pursuant to our practice. As such, we have preliminarily determined that critical circumstances exist for the PRC-wide entity.

---

<sup>45</sup> See, e.g., *Carbon and Alloy Steel Wire Rod from Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Preliminary Determination of Critical Circumstances*, 67 FR 6224, 6225 (February 11, 2002), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Moldova*, 67 FR 55790; *Affirmative Preliminary Determination of Critical Circumstances: Magnesium Metal from the People’s Republic of China*, 70 FR 5606, 5607 (February 3, 2005), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal from the People’s Republic of China*, 70 FR 9037.

<sup>46</sup> See ITC Preliminary Affirmative Injury Determination.

<sup>47</sup> See 19 CFR 351.206(h)(1).

<sup>48</sup> See 19 CFR 351.206(i).

<sup>49</sup> *Id.*

<sup>50</sup> See, e.g., *Carbon Steel Pipe Final Determination*, 73 FR at 31972-73; *SDGE Final Determination*, 74 FR at 2052-53.



For the non-individually investigated companies, we relied upon Global Trade Atlas import statistics of subject merchandise, less the mandatory respondents' reported shipment data, to determine if imports in the post-Petition period for the subject merchandise were massive. These data demonstrate that there was an increase in imports of less than 15 percent during a "relatively short period" of time, in accordance with 19 CFR 351.206(h) and (i). Therefore, we preliminarily find that there were not massive imports for the non-individually examined separate rate entities, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(c)(2)(i).

With respect to the arguments regarding seasonality, it is unnecessary to undergo this analysis, as the Department has preliminarily determined that critical circumstances do not exist for Chengen or the non-individually investigated companies, and the preliminary determination for Bayley and the PRC-wide entity was based on an adverse inference.

## VIII. SCOPE OF THE INVESTIGATION

Pursuant to the product coverage comments and rebuttal responses submitted during this investigation, the Department is preliminarily modifying the scope as it appeared in the *Initiation Notice* and in the *CVD Preliminary Determination*.<sup>51</sup> For additional information regarding the Department's preliminary scope modifications, see the Preliminary Scope Decision Memorandum and Additional Scope Decision Memorandum. For a full description of the scope of this investigation, see this investigation's accompanying *Federal Register* notice at Appendix I.

## IX. DISCUSSION OF THE METHODOLOGY

### A. Non-Market Economy Country

The Department considers the PRC to be an NME country.<sup>52</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

### B. Surrogate Country and Surrogate Value Comments

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by the Department. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, "to the extent possible, the prices or costs of {FOPs} in one or more ME countries that are — (A) at a level of economic

---

<sup>51</sup> See *Initiation Notice* at 91130-31 and *CVD Preliminary Determination* at 10294-25.

<sup>52</sup> 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).

development comparable to that of the {NME} country; and (B) significant producers of comparable merchandise.”<sup>53</sup> 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 surrogate value (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.<sup>54</sup> To determine which countries are at the same level of economic development, the Department generally relies on per capita gross national income (GNI) data from the World Bank’s World Development Report.<sup>55</sup> Further, the Department normally values all FOPs in a single surrogate country.<sup>56</sup>

On January 31, 2017, the Department identified Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand as countries that are at the same level of economic development as the PRC based on per capita 2015 GNI data.<sup>57</sup> On February 1, 2017, the Department issued a letter to interested parties soliciting comments on the list of potential surrogate countries and the selection of the primary surrogate country, as well as providing deadlines for submitting SV information for consideration in the preliminary determination.<sup>58</sup>

On March 17, 2017, the Department received timely comments on surrogate country selection from mandatory respondents, Bayley and Chengen,<sup>59</sup> and the petitioners.<sup>60</sup> The respondents suggested that Bulgaria or Romania should serve as the surrogate country,<sup>61</sup> and the petitioners did not take a position.<sup>62</sup> On April 10, 2017, Bayley and Chengen submitted SV data related to Bulgaria and Romania,<sup>63</sup> and the petitioners submitted SV data related to Romania.<sup>64</sup> On April 17, 2017, Bayley and Chengen,<sup>65</sup> and the petitioners<sup>66</sup> submitted timely rebuttal SV comments.

---

<sup>53</sup> See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1) available on the Department’s website at <http://enforcement.trade.gov/policy/bull04-1.html>.

<sup>54</sup> See Letter to All Interested Parties “Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information,” (February 1, 2017) (Surrogate Country Comment Letter).

<sup>55</sup> *Id.*

<sup>56</sup> See 19 CFR 351.408(c)(2).

<sup>57</sup> See Surrogate Country Comment Letter at Attachment 1.

<sup>58</sup> *Id.*

<sup>59</sup> See Respondents Letter to the Department re: Hardwood Plywood Products from the People’s Republic of China: Comments on Surrogate Country Selection, dated March 17, 2017 (Respondents’ Surrogate Country Letter).

<sup>60</sup> See Petitioners Letter to the Department re: Certain Hardwood Plywood Products from the People’s Republic of China: Comments on Surrogate Country List, dated March 17, 2017 (Petitioners’ Surrogate Country Letter).

<sup>61</sup> See Respondents’ Surrogate Country Letter at 2.

<sup>62</sup> See Petitioners’ Surrogate Country Letter at 2.

<sup>63</sup> See Respondents Letter to the Department re: Hardwood Plywood Products from the People’s Republic of China: Surrogate Values for Preliminary Results, dated April 10, 2017 (Respondents’ SV Comments).

<sup>64</sup> See Petitioners Letter to the Department re: Hardwood Plywood Products from the People’s Republic of China: Submission of Surrogate Values, dated April 10, 2017 (Petitioners’ SV Comments).

<sup>65</sup> See Letter to the Department re: Hardwood Plywood Products from the People’s Republic of China: Rebuttal Surrogate Values for Preliminary Results, dated April 17, 2017 (Respondents’ Rebuttal SV Comments).

<sup>66</sup> See Letter to the Department re: Hardwood Plywood Products from the People’s Republic of China: Comments on Surrogate Values, dated April 17, 2017 (Petitioners’ Rebuttal SV Comments).

Additionally, on May 17, 2017, mandatory respondents, Bayley and Chengen, and Xuzhou Jiangyang Wood Industries Co., Ltd. and Xuzhou Jiangheng Wood Products Co., Ltd. (collectively, Jiangyang) submitted additional SV data related to Romania.<sup>67</sup> On May 17, 2017, Bayley and Chengen submitted additional SV information related to Romania.<sup>68</sup> On May 17, 2017, the petitioners submitted additional SV data related to Thailand.<sup>69</sup> On May 22, 2017, Bayley, Chengen, and Jiangyang submitted an objection to the petitioners' submission of SV data related to Thailand.<sup>70</sup> On May 30, 2017, Bayley, Chengen, and Jiangyang submitted rebuttal SV comments,<sup>71</sup> and the petitioners submitted rebuttal SV comments.<sup>72</sup>

The petitioners argue that the Department should select Thailand as the surrogate country because Thailand offers a full range of surrogate values that pertain to every input used by the respondents in the production of subject merchandise, demonstrate a diversity in production within Thailand, and are demonstrably nonaberrational.<sup>73</sup> The petitioners argue that the tropical hardwood produced in Thailand is subject to this investigation.<sup>74</sup> The petitioners state that at least 10 percent of the merchandise exported out of China has been identified as being tropical, and an additional 25 percent of the hardwood exported out of China has been identified as having a face veneer that was not birch.<sup>75</sup> The petitioners state there are two useable Thai financial statements from actual producers of hardwood plywood.<sup>76</sup> The petitioners argue that the Department should value the respondents' production experience utilizing its intermediate inputs methodology and utilize the Thai surrogate values for veneers.<sup>77</sup> The petitioners argue that, alternatively, should the Department, instead, rely upon logs as the primary input, the Department should utilize the Thai surrogate values for logs, provided that the Department makes one revision to surrogate value data to correct the Thai import statistics for imports of one month of wood log data from Cameroon.<sup>78</sup>

---

<sup>67</sup> See Respondents and Jiangyang Letter to the Department re: Hardwood Plywood Products from the People's Republic of China: Final Surrogate Value Submission, dated May 17, 2017 (Respondents' Additional SV Comments).

<sup>68</sup> See Respondents Letter to the Department re: Hardwood Plywood Products from the People's Republic of China: Final SV Submission- Part II- BPI Researcher Statement, dated May 17, 2017.

<sup>69</sup> See Petitioners Letter to the Department re: Hardwood Plywood Products from the People's Republic of China: Submission of New Factual Information and Surrogate Values, dated May 17, 2017 (Petitioners' Additional SV Comments).

<sup>70</sup> See Respondent and Jiangyang Letter to the Department re: Hardwood Plywood Products from the People's Republic of China: Objection to Consideration of Thailand as a Surrogate Country, dated May 22, 2017.

<sup>71</sup> See Respondents and Jiangyang Letter to the Department re: Hardwood Plywood Products from the People's Republic of China: Final Rebuttal Surrogate Value Submission, dated May 30, 2017 (Respondents' Rebuttal to Additional SV Comments).

<sup>72</sup> See Letter to the Department re: Hardwood Plywood Products from the People's Republic of China: Submission of Factual Information to Rebut, Clarify, or Correct, dated May 30, 2017 (Petitioners' Rebuttal to Additional SV Comments).

<sup>73</sup> See Letter to the Department re: Pre-Preliminary Comments, dated May 30, 2017 (Petitioners' Pre-Prelim Comments) at 41.

<sup>74</sup> *Id.*, at 40.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*, at 42.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

The respondents argue that Thailand is not a suitable surrogate country because Thailand only produces tropical plywood.<sup>79</sup> The respondents state that, unlike the tropical plywood produced in Thailand, they produce and export non-coniferous, non-tropical plywood to the United States.<sup>80</sup> The respondents state they do not produce tropical plywood, and only six percent of China's plywood production is tropical plywood.<sup>81</sup> The respondents argue that Thailand does not produce or export plywood produced from the type of wood consumed by the respondents and is thus, not a significant producer and is not a reliable surrogate country.<sup>82</sup> Further, the respondents argue that the Thai tariff schedule is not detailed for the wood species used by the respondents.<sup>83</sup> The respondents state that for poplar and birch, the primary woods used by the respondents, the petitioners have suggested HTS numbers for these inputs that are in basket "other" categories.<sup>84</sup> The respondents state that the two Thai financial statements on the record for Thai plywood companies are from 2015 and not contemporaneous with the POI, and do not demonstrate that the Thai plywood production is comparable to the respondents' plywood production.<sup>85</sup>

The respondents argue that the Department should select Romania as the surrogate country because Romania is the most significant producer of plywood compared to the other countries for which there is surrogate value data on the record, and the only suggested surrogate country that produces the most comparable plywood, which is non-coniferous, non-tropical plywood.<sup>86</sup> The respondents state that eighty-five percent of Romania's plywood production is non-coniferous, non-tropical plywood, and is, thus, more comparable to the respondent's hardwood plywood.<sup>87</sup> Further, the respondents argue that Romania also sources the most specific and reliable surrogate values for the primary wood inputs by species.<sup>88</sup> The respondents argue that the petitioners acknowledge in their initial SV submission, in which they urged the Department to select Romania as the primary surrogate country, that the Romanian financial statements are from a Romanian producer of merchandise of beech plywood, which is merchandise subject to this investigation.<sup>89</sup> The respondents argue that the Romanian financial statements are the only contemporaneous financial statements on the record. The respondents argue that, consistent with precedent giving primacy to specificity, the Department should select Romania as the primary surrogate country in this investigation.<sup>90</sup>

The petitioners argue that the mandatory respondents have not accurately reported their consumption of logs and thus, using surrogate values for logs from Romania or Bulgaria is

---

<sup>79</sup> See Letter to the Department re: Rebuttal Pre-Preliminary Comments, dated June 2, 2017 (Respondents' Rebuttal Pre-Prelim Comments) at 17-19; Respondents' Rebuttal SC Comments at 3-4.

<sup>80</sup> See Respondents' Rebuttal SC Comments at 3-4.

<sup>81</sup> *Id.*, at 4.

<sup>82</sup> *Id.*

<sup>83</sup> See Respondents' Rebuttal Pre-Prelim Comments at 18-19.

<sup>84</sup> *Id.*, at 19.

<sup>85</sup> See Respondents' Rebuttal to Additional SV Comments at 2; Respondents' Rebuttal Pre-Prelim Comments at 20.

<sup>86</sup> See Respondents' Rebuttal to Additional SV Comments at 18.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*, at 19.

<sup>89</sup> *Id.*, at 20.

<sup>90</sup> *Id.*, at 3.

inappropriate.<sup>91</sup> The petitioners also argue that the log data from Romania and Bulgaria are unsuitable for use in this proceeding because the data are aberrationally low based on comparisons to U.S. export prices, West African export prices to Asia, domestic Brazilian prices, and price forecasts in Switzerland.<sup>92</sup>

The respondents argue that the petitioners have incorrectly submitted Romanian import statistics for veneers to value their log inputs.<sup>93</sup> The respondents argue that they consume logs in the production of the hardwood plywood, not veneer sheets, and that they have filed extensive production and warehouse records and financial ledgers to support their consumption of wood logs.<sup>94</sup> Further, the respondents argue that wood logs are classified specifically in the Romanian HTS by wood species, but the wood species for the Romanian veneer HTS classification is unknown and not reliable.<sup>95</sup> The respondents argue that the Romanian wood log prices are reliable and consistent with other countries, and that the petitioners' arguments that the log prices are aberrantly low and distortive of cost lack merit and substantial evidentiary support on the record.<sup>96</sup>

### *1. Economic Comparability*

For this investigation, as noted above, the Department determines that Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand, are countries at the same level of economic development as the PRC, based on per capita gross national economic income.<sup>97, 98</sup>

### *2. Significant Producer of Comparable Merchandise*

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as a policy bulletin for guidance on defining comparable merchandise. Policy Bulletin 04.1 states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."<sup>99</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in

---

<sup>91</sup> See Petitioners' Rebuttal SV Comments at 3.

<sup>92</sup> *Id.* at 3-76

<sup>93</sup> See Respondents' Rebuttal SV Comments at 1-2.

<sup>94</sup> *Id.*

<sup>95</sup> See Respondents' Pre-Prelim Comments at 15-16.

<sup>96</sup> *Id.*

<sup>97</sup> See Surrogate Country Comment Memo at Attachment 1.

<sup>98</sup> For further discussion, see Memorandum, "Antidumping Duty Investigation of Certain Hardwood Plywood Products from the People's Republic of China: Surrogate Values for the Preliminary Determination," dated concurrently with this document (Preliminary SV Memorandum).

<sup>99</sup> See Enforcement and Compliance's Policy Bulletin No. 04.1, regarding, "Non-Market Economy Surrogate Country Selection Process," (March 1, 2004) (Policy Bulletin 04.1) at 2, available on the Department's Web site at <http://enforcement.trade.gov/policy/bull04-1.pdf>.

selecting a surrogate country.<sup>100</sup> Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.<sup>101</sup> “In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced. How the Department does this depends on the subject merchandise.”<sup>102</sup> In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.<sup>103</sup>

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.<sup>104</sup> Moreover, while the legislative history provides that the term “significant producer” includes any country that is a significant “net exporter,” it does not preclude reliance on additional or alternative metrics.<sup>105</sup> Policy Bulletin 04.1 provides that the “extent to which a country is a *significant* producer should not be judged against the NME country’s production level” or those countries on the surrogate country list, but rather “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).”<sup>106</sup>

Following our practice, the Department considered whether all of the potential surrogate countries have significant exports of comparable merchandise, as defined by the HTS subheadings listed in the scope of the investigation.<sup>107</sup> We obtained export data using the Global Trade Atlas (GTA) for the six-digit level HTS codes listed in the description of the scope of this investigation. The countries reported the following total export volumes for the POI: (1) Brazil (3,613,598 m<sup>3</sup>); 2) Bulgaria (24,782 m<sup>3</sup>); (3) Mexico (585,188 kg); 4) Romania (72,762 m<sup>3</sup>); 5) South Africa (4,856,561 kg); and 6) Thailand (209,292 kg).<sup>108</sup> After reviewing this export data, the Department preliminarily determines that none of the total export volumes from Brazil,

---

<sup>100</sup> Policy Bulletin 04.1 also states that “if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise.” *Id.* at note 6.

<sup>101</sup> See *Sebacic Acid from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) (“{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.”).

<sup>102</sup> See Policy Bulletin 04.1 at 2.

<sup>103</sup> *Id.* at 3.

<sup>104</sup> See section 773(c) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

<sup>105</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).

<sup>106</sup> See Policy Bulletin 04.1 (emphasis in original).

<sup>107</sup> See *Certain Uncoated Paper from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 81 FR 3112 (January 20, 2016), and accompanying Issues and Decision Memorandum at Comment 1 (*Uncoated Paper from the PRC*).

<sup>108</sup> See Preliminary SV Memorandum.

Bulgaria, Mexico, Romania, South Africa, and Thailand are insignificant.<sup>109</sup> Accordingly, the Department finds that Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand are significant producers of comparable merchandise (*i.e.*, exported merchandise under the six-digit basket HTS codes included in the scope), and therefore, satisfy the second criterion of section 773(c)(4) of the Act.<sup>110, 111</sup>

### 3. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, the Department selects the primary surrogate country based on data availability and reliability.<sup>112</sup> When evaluating SV data, the Department considers several factors, including whether the SVs are publicly available, contemporaneous with the POI, representative of a broad-market average, tax and duty-exclusive, and specific to the inputs being valued.<sup>113</sup> There is no hierarchy among these criteria.<sup>114</sup> The Department's preference is to satisfy the breadth of the aforementioned selection criteria.<sup>115</sup> Moreover, 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 of valuing the FOPs.<sup>116</sup> The Department must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the "best" available SV for each input.<sup>117</sup> Additionally, pursuant to 19 CFR 351.408(c)(2), the Department has a preference of valuing all FOPs in a single surrogate country.

Interested parties filed SV comments and information, as well as rebuttal comments.<sup>118</sup> As a result of those submissions, the record of this investigation contains specific, contemporaneous, and tax and duty exclusive high-quality data that represent a broad market average from Bulgaria, Romania, and Thailand to value all FOPs.

---

<sup>109</sup> *Id.*

<sup>110</sup> See Policy Bulletin 04.1.

<sup>111</sup> For further discussion, please see the Preliminary SV Memorandum.

<sup>112</sup> See Policy Bulletin 04.1.

<sup>113</sup> *Id.*

<sup>114</sup> See, e.g., *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>115</sup> See, e.g., *Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940, 51943 (August 19, 2011), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>116</sup> 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 (April 22, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>117</sup> See, e.g., *Sixth Mushrooms AR* at Comment 1.

<sup>118</sup> See Respondents' SV Comments, Petitioners' SV Comments, Respondents' Rebuttal SV Comments, Petitioners' Rebuttal SV Comments, Respondents' Additional SV Comments, Petitioners' Additional SV Comments, Respondents' Rebuttal to Additional SV Comments, and Petitioners' Rebuttal to Additional SV Comments.

As explained below and in more detail in the Preliminary SV Memorandum, data considerations lead the Department to select Romania preliminarily, rather than Bulgaria or Thailand, as the most appropriate primary surrogate country. Romania has publicly available and reliable data with which to value all of Chengen's FOPs that are, in certain instances, more specific than available data from Bulgaria or Thailand.<sup>119</sup> Notably, the Romanian financial statements are the only statements on the record that are contemporaneous and for an integrated producer of identical merchandise. Therefore, we find that the record contains useable financial statements from Romania, as set forth below in the "Factor Valuations" section of this memorandum.<sup>120</sup> Furthermore, the information on the record indicates that Romania is a producer of identical merchandise, whereas Bulgaria and Thailand are producers of only comparable of merchandise.<sup>121</sup>

Accordingly, the Department preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Romania as the primary surrogate country because Romania is: (1) at the same level of economic development as the PRC; and (2) a significant producer of merchandise identical to the subject merchandise such that can be determined from the information available. Additionally, Romania has publicly available and reliable data with which to value all the FOPs because of complete SVs and useable financial statements submitted in this review. As discussed in more detail above, there are no contemporaneous surrogate financial statements on the record for Bulgaria or Thailand. Therefore, the Department has calculated NV using Romanian SV data to value Chengen's FOPs.<sup>122</sup>

We note that the petitioners argued that the Department should depart from its normal practice and apply the intermediate input methodology and value core and face veneers, rather than logs.<sup>123</sup> In response, Chengen argued against the use of such methodology.<sup>124</sup> The Department's general practice for integrated firms is to value all factors used in each stage of production, and we have not found sufficient cause to deviate from this practice.<sup>125</sup> Based on Chengen's questionnaire responses and supporting documentation, as well as the responses to the Department's supplemental questionnaires regarding this issue, Chengen demonstrated it is an integrated producer which begins its manufacture of hardwood plywood with the purchase of logs.<sup>126</sup> Chengen reported the quantity of logs purchased and consumed during the POI and provided documentation which supported the reported figures.<sup>127</sup> Because Chengen's log consumption figures are in its normal books and records, these data can be verified.<sup>128</sup> Moreover, Chengen indicated that it reported all inputs consumed in the production of veneers.

---

<sup>119</sup> See Preliminary SV Memorandum.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> See, e.g., Letter to the Department re: Pre-Preliminary Comments, dated May 30, 2017 at 15.

<sup>124</sup> See, e.g., Letter to the Department re: Pre-Preliminary Comments, dated May 17, 2017 at 1.

<sup>125</sup> See *Certain Steel Nails from the People's Republic of China: Final Results of the First Antidumping Duty Administrative Review*, 76 FR 16379 (March 23, 2011) and accompanying Issues and Decision Memorandum at Comment 18.

<sup>126</sup> See, generally, Chengen's February 28, 2017 Section D Questionnaire Response (Chengen February 28, 2017 DQR)

<sup>127</sup> See, generally, Chengen February 28, 2017 DQR; see also Chengen's April 17, 2017 Supplemental Section D Questionnaire Response (Chengen April 17, 2017 SDQR) at 10-15 and Exhibit SQ5-19.

<sup>128</sup> See Chengen April 17, 2017 SDQR at 10-15.



At this time, the Department does not find the record meets the limited exceptions for applying the intermediate input methodology.

We further note that in making this preliminary determination, the Department relied upon the surrogate country and SV submissions filed by interested parties, as well as the documentation Chengen submitted to support its wood log consumption. The Department will continue to evaluate its preliminary surrogate country decision and surrogate value selections, as well as the preliminary decision not to apply the intermediate input methodology, pending additional information that may become available in this investigation.

### C. Separate Rates

In proceedings involving NME countries, the Department maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.<sup>129</sup> The Department's policy is to assign all exporters of subject merchandise that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.<sup>130</sup> The Department analyzes whether each entity exporting the subject merchandise is sufficiently independent under a test established in *Sparklers*<sup>131</sup> and further developed in *Silicon Carbide*.<sup>132</sup> According to this separate rate test, the Department will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, however, the Department determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

#### A. Separate Rate Recipients

The Department preliminary determines that the following exporters are eligible to receive a separate rate, as explained below:

- 1) Anhui Hoda Wood Co., Ltd.
- 2) Celtic Co., Ltd.
- 3) China Friend Limited
- 4) Cosco Star International Co., Ltd.
- 5) Deqing China Africa Foreign Trade Port Co., Ltd.
- 6) Feixian Jinde Wood Factory
- 7) Feixian Longteng Wood Co., Ltd.
- 8) G.D. Enterprise Limited
- 9) Golder International Trade Co., Ltd
- 10) Happy Wood Industrial Group Co., Ltd.

---

<sup>129</sup> See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).

<sup>130</sup> See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

<sup>131</sup> *Id.*

<sup>132</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

- 11) Henan Hongda Woodcraft Industry Co., Ltd.
- 12) Highland Industries Inc.
- 13) Huainan Mengping Import and Export Co., Ltd.
- 14) Jiangsu High Hope Arser Co., Ltd.
- 15) Jiangsu Qianjiuren International Trading Co., Ltd.
- 16) Jiangsu Shengyang Industrial Joint Stock Co., Ltd.
- 17) Jiangsu Top Point International Co., Ltd.
- 18) Jiashan Dalin Wood Industry Co., Ltd.
- 19) Jiaxing Gsun Imp. & Exp. Co., Ltd.
- 20) Jiaxing Hengtong Wood Co., Ltd.
- 21) Jiaxing Kaochuan Woodwork Co., Ltd.
- 22) Leadwood Industrial Corp.
- 23) Lianyungang Yuantai International Trade Co., Ltd.
- 24) Linyi Chengen Import and Export Co., Ltd.
- 25) Linyi City Dongfang Fukai Wood Industry Co., Ltd.
- 26) Linyi City Dongfang Jinxin Economic and Trade Co., Ltd.
- 27) Linyi City Shenrui International Trade Co., Ltd.
- 28) Linyi Dahua Wood Co., Ltd.
- 29) Linyi Evergreen Wood Co., Ltd.
- 30) Linyi Glary Plywood Co., Ltd.
- 31) Linyi Hengsheng Wood Industry Co., Ltd.
- 32) Linyi Huasheng Yongbin Wood Co., Ltd.
- 33) Linyi Jiahe Wood Industry Co., Ltd.
- 34) Linyi Linhai Wood Co., Ltd.
- 35) Linyi Mingzhu Wood Co., Ltd.
- 36) Linyi Sanfortune Wood Co., Ltd.
- 37) Linyi Tian He Wooden Industry Co., Ltd.
- 38) Pingyi Jinniu Wood Co., Ltd.
- 39) Pizhou Dayun Export & Import Co.
- 40) Pizhou Jin Sheng Yuan International Corp. Ltd.
- 41) Qingdao Good Faith Import and Export Co., Ltd.
- 42) Qingdao Top P&Q International Corp.
- 43) Shandong Huaxin Jiasheng Wood Co., Ltd.
- 44) Shandong Huiyu International Trade Co. Ltd.
- 45) Shandong Jinluda International Trade Co., Ltd.
- 46) Shandong Johnson Trading Co., Ltd.
- 47) Shandong Qishan International Trading Co., Ltd.
- 48) Shandong Semanqi Import & Export Co., Ltd.
- 49) Shandong Shengdi International Trading Co., Ltd.
- 50) Shanghai Brightwood Trading Co., Ltd.
- 51) Shanghai Futuwood Trading Co., Ltd.
- 52) Shanghai Luli Trading Co., Ltd.
- 53) Shanghai S&M
- 54) Smart Gift International
- 55) Suining Pengxiang Wood Co., Ltd.
- 56) Sumec International Trading Co., Ltd.
- 57) Suqian Hopeway International Trade Co., Ltd.

- 58) Suzhou Dongsheng Wood Co., Ltd.
- 59) Suzhou Fengshuwan Import and Exports Trade Co., Ltd.
- 60) Suzhou Oriental Dragon Import and Export Co., Ltd.
- 61) Xuzhou Amish Import & Export Trade Co., Ltd.
- 62) Xuzhou Andefu Wood Co., Ltd.
- 63) Xuzhou Baoqi Wood Product Co., Ltd.
- 64) Xuzhou Dilun Wood Co. Ltd.
- 65) Xuzhou DNT Commercial Co., Ltd.
- 66) Xuzhou Eastern Huatai International Trading Co., Ltd.
- 67) Xuzhou Hansun Import & Export Co. Ltd.
- 68) Xuzhou Jiangheng Wood Products Co., Ltd.
- 69) Xuzhou Jiangyang Wood Industries Co., Ltd.
- 70) Xuzhou Longyuan Wood Industry Co., Ltd.
- 71) Xuzhou Maker's Mark Building Materials Co., Ltd.
- 72) Xuzhou Pinlin International Trade Co., Ltd.
- 73) Xuzhou Shenghe Wood Co. Ltd.
- 74) Xuzhou Shengping Imp and Exp Co., Ltd.
- 75) Xuzhou Shuiwanxing Trading Co., Ltd.
- 76) Xuzhou Shuner Import & Export Trade Co. Ltd.
- 77) Xuzhou Tianshan Wood Co., Ltd.
- 78) Xuzhou Timber International Trade Co., Ltd.
- 79) Yangzhou Hanov International Co., Ltd.
- 80) Yishui Zelin Wood Made Co., Ltd.
- 81) Zhejiang Dehua TB Import & Export Co., Ltd.

a. Wholly Foreign-Owned Applicants

Five companies—China Friend Limited, Cosco Star International Co., Ltd., G.D. Enterprise Limited, Jiaxing Kaochuan Woodwork Co., Ltd., and Smart Gift International—demonstrated in their separate rate applications that they were wholly-owned by companies located in a market-economy (ME). Therefore, as there is no PRC ownership of these five companies, and because the Department has no evidence indicating that these companies are under the control of the PRC government, further analyses of the *de jure* and *de facto* criteria are not necessary to determine whether they are independent from government control of their export activities.<sup>133</sup> Therefore, we preliminarily determine that these five companies are preliminarily eligible for separate rates.

b. 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

---

<sup>133</sup> See, e.g., *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, 71104-05 (December 20, 1999).

with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.<sup>134</sup>

The evidence provided by the other 76 companies listed above supports a preliminary finding of an absence of *de jure* government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.

c. 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 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 the disposition of profits or financing of losses.<sup>135</sup> The Department has 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 which would preclude the Department from assigning separate rates.

The evidence provided by the above 76 companies listed above (other than the five wholly foreign-owned companies discussed above) supports a preliminary finding of an absence of *de facto* government control, based on record statements and supporting documentation showing that the companies: (1) set their own EPs independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

Therefore, the evidence placed on the record of this investigation by these companies demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, the Department preliminarily grants separate rates to these companies.

B. Companies that are Part of the PRC-Wide Entity

Three companies—Jiangsu Hanbao Building Material Co., Ltd. (Jiangsu Hanbao), Qingdao King Sports Products Technology Co., Ltd. (Qingdao King), and Shanghai Sunshine—filed separate rate applications but subsequently failed to provide responses to supplemental questionnaires to

---

<sup>134</sup> See *Sparklers*, 56 FR at 20589.

<sup>135</sup> See *Silicon Carbide*, 59 FR at 22586-87; *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

establish their eligibility for a separate rate. Hence, the Department preliminarily determines to treat these companies as part of the PRC-wide entity.

With respect to Jiangsu Hanbao, on January 26, 2017, we issued a supplemental questionnaire pertaining to its SRA submission.<sup>136</sup> Jiangsu Hanbao did not file a response, nor did it timely file a request for an extension. The Department issued a supplemental questionnaire pertaining to Qingdao King's SRA submission on April 6, 2017.<sup>137</sup> The company did not file a response, nor did it timely file a request for an extension. With respect to Shanghai Sunshine, on May 31, 2017, the Department issued a supplemental questionnaire pertaining to the company's SRA submission.<sup>138</sup> Shanghai Sunshine did not file a response, nor did it timely file a request for an extension.

As discussed below, the Department is applying AFA to Bayley based on the company's failure to cooperate to the best of its ability. Specifically, Bayley failed to disclose properly information regarding four affiliated companies. Because the record does not contain complete information regarding the ownership and management of the company, the Department was precluded from conducting a full analysis of the company's corporate structure. Based on this failure to provide information, Bayley was not able to demonstrate that it is sufficiently independent from government control over its export activities. Therefore, we preliminarily determine that Bayley is part of the PRC-wide entity, subject to the PRC-wide rate.

#### Margin for the Separate Rate Companies

Normally, the Department's practice is to assign to separate rate entities that were not individually examined a rate equal to the average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on AFA, in accordance with section 735(c)(5)(A) of the Act.<sup>139</sup> Where the estimated dumping margins for all exporters and producers individually investigated are zero or *de minimis* margins or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the rate for exporters and producers not individually examined.<sup>140</sup> In this case, because there are no rates other than *de minimis* or those based on AFA, we have determined to take a simple average of the AFA and the *de minimis* rate calculated for Chengen as a reasonable method for purposes of determining the rate assigned to the companies preliminarily found eligible for a separate rate. This methodology is consistent with the Department's practice.<sup>141</sup>

---

<sup>136</sup> See Department Letter re: Separate Rate Application, dated January 26, 2017.

<sup>137</sup> See Department Letter re: Separate Rate Application, dated April 6, 2017.

<sup>138</sup> See Department Letter re: Separate Rate Application, dated May 31, 2017.

<sup>139</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

<sup>140</sup> See the Statement of Administrative Action, H.R. Rep. No. 103-316, Vol. 1 (1994) (SAA) at 870-873.

<sup>141</sup> See *1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 10545 (March 11, 2009); *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination; Light-Walled Rectangular Pipe and Tube from the*

## Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation.<sup>142</sup> This practice is described in Policy Bulletin 05.1.

## Affiliation

Based on the evidence on the record in this investigation, including information submitted by Chengen in its questionnaire responses, the Department preliminarily finds affiliation between Chengen and the producer of the subject merchandise, Linyi Dongfangjuxin Wood Co. (Dongfangjuxin), pursuant to section 771(33)(A) and (F) of the Act.<sup>143</sup>

## The PRC-wide Entity

As described above, certain companies failed to respond to the Department's Q&V questionnaire. Specifically, the Department did not receive timely responses to its Q&V questionnaire from 62 PRC exporters and/or producers of subject merchandise that were named in the Petition and to whom the Department issued Q&V questionnaires.<sup>144</sup> Because non-responsive PRC companies have not demonstrated that they are eligible for separate rate status, the Department considers them to be part of the PRC-wide entity. Furthermore, as explained below, we preliminarily determine to calculate the PRC-wide rate on the basis of AFA.

---

*Republic of Korea*, 73 FR 5794, 5800 (January 31, 2008) (*Preliminary Determination of Light-Walled Pipe*), unchanged in *Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from the Republic of Korea*, 73 FR 35655 (June 24, 2008) (*Final Determination of Light-Walled Pipe*).

<sup>142</sup> See *Initiation Notice* at 91129.

<sup>143</sup> For a detailed discussion of this issue, see Memorandum, "Antidumping Duty Investigation of Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Determination of Affiliation for Linyi Chengen Import and Export Co., Ltd. and Linyi Dongfangjuxin Wood Co., Ltd.," dated concurrently with this memorandum.

<sup>144</sup> See Respondent Selection Memo at 2. The Department also posted a copy of the Q&V questionnaire to which it referred in the *Initiation Notice* on its website. The companies to whom Q&V questionnaires were issued that did not timely respond are: Anji Qichen Bamboo Industry Co. Ltd, Deqing Shengqiang Wood Co., Guangxi Sunway Cen. Xi Artificial B, Guangxi Sunway Forest Products Ind., Hebei Tongli Wood., Heze Fulin Wood Products Co., Jiashan Minghong Wood Industry Co., Jiaxing Brilliant Import & Export C, Jiaxing Kaochuan Woodwork Co., Keens Products, Kunming Alston Ast Wood Products Co, Langfang Baomujie Wood Co., Larkcop International Co., Linyi Cathay Pacific Wood Factory, Linyi Celtic Wood Co., Linyi Dongri Plywood Co., Linyi Hongma, Linyi Jinhua Wood Co., Linyi Kai Yi Arts & Crafts Co., Linyi Laiyi Timber Industry Co., Linyi Lianyi Wood Co., Linyi Raya Commerce, Linyi Yutai Wood Co., Lishui Liancheng Pencil Manufacturi, Mol Consolidation Service, Ningbo Asia Pulp and Paper, Ningbo Zhonghua Paper, Qiangsheng Wood Co., Qingdao Liansheng International Tra, Qufu Shengda Wood Co., Shandong Fengtai Wood Co., Shandong Hongyang Fire Resistant, Shandong Xingang Group, Shandong Xingang Group, Shenghe Wood Company Ltd., Shouguang Evergreen Im & Ex Co. Ltd, Shouguang Taizhong Wood Co., Siyang Jiayuan Woodindustry Co. Ltd, Siyang Senda Wood Industry Co., Sunshine Decorative Materials Co Lt, Sunshine Decorative Materials Co Lt, Suqian Bairun Wood Industry Co., Suqian Foreign Trade Co., Suqian Sulu Wood Industry Co., Suzhou Dong He Wood Co., Tianjin Canex, Tianjin Zhanye Metal Products Co., Xuzhou Fuyuan Wood Co., Xuzhou Hongwei Wood Co., Xuzhou Ruilin Timber Co., Xuzhou Shenghe Wood Products, Xuzhou Tianshan Wood Co., Xuzhou Woodhi Trading Co. Ltd., Xuzhou Yishun Brightwood Co. Ltd., Xuzhou Zhongda Bld. Materials Co., Xuzhou Zhongyuan Wood Co., Yixing Lion-King Timber Industry Co, Zhejiang Xinyuan Bamboo Products Co., Zhejiang Deqing Shengqiang Wood Co., Zhejiang Fuerjia Wooden Company, Zhejiang Jufeng Wood Co., and Zhejiang Yongyu Bamboo Joint-Stock.

#### D. Application of Facts Available and Adverse Inferences

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

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

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.<sup>145</sup> The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.<sup>146</sup>

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.<sup>147</sup> Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.<sup>148</sup>

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

---

<sup>145</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015) (TPEA). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

<sup>146</sup> *Id.*, 80 FR at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>147</sup> See section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).

<sup>148</sup> See also 19 CFR 351.308(c).

highest of such margins. The TPEA also makes clear that when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.<sup>149</sup>

#### 1. *Application of AFA: PRC-Wide Entity*

The Department preliminarily finds that the PRC-wide entity did not respond to the Department’s requests for information, failed to provide necessary information, withheld information requested by the Department, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information. Moreover, because the PRC-wide entity failed to provide any information, section 782(d) of the Act is inapplicable. Accordingly, the Department preliminarily determines that use of facts available is warranted in determining the rate of the PRC-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.<sup>150</sup>

Section 776(b) of the Act provides that the Department, in selecting from among the facts otherwise available, may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The Department finds that the PRC-wide entity’s failure to provide the requested information constitutes circumstances under which it is reasonable to conclude that the PRC-wide entity did not cooperate to the best of its ability.<sup>151</sup> The PRC-wide entity neither filed documents indicating that it was having difficulty providing the information, nor did it request to submit the information in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to the PRC-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).<sup>152</sup>

#### 2. *Application of AFA: Non-Responsive Companies to the Q&V Questionnaire*

As noted in the “Selection of Respondents” section above, the Department issued 121 Q&V questionnaires to companies with complete contact information identified in the Petition.<sup>153</sup> Sixty-two companies that we confirmed had questionnaires delivered to them did not respond to our request for information.<sup>154</sup> Accordingly, we preliminary determine that the 62 non-responsive companies withheld necessary information that was requested of them, failed to provide information within the deadlines established, and significantly impeded this proceeding.

---

<sup>149</sup> See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

<sup>150</sup> 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).

<sup>151</sup> 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.”)).

<sup>152</sup> See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

<sup>153</sup> See Respondent Selection Memorandum at 1.

<sup>154</sup> See Q&V Delivery Confirmation Memo at 2.



Thus, the Department will rely on facts otherwise available in making our preliminary determination with respect to these companies, pursuant to sections 776(a)(2)(A)-(C) of the Act. Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not responding to the Q&V questionnaire, each of these companies did not cooperate to the best of their ability to comply with the requests for information in this investigation. Accordingly, we preliminarily find that use of AFA is warranted to ensure that these companies (the “non-responsive companies”) do not obtain a more favorable result by failing to cooperate than if they had fully complied with our requests for information.

### 3. *Application of AFA: Bayley*

The Department preliminary finds that, because Bayley did not report its affiliation with certain companies, the application of AFA is appropriate with respect to this failure to fully disclose all of its affiliations as instructed by the Department’s questionnaires.

In the Department’s initial questionnaire, we requested that Bayley report *all* affiliated companies within the meaning of the relevant statutory and regulatory provisions.<sup>155</sup> Bayley initially reported that it was majority-owned by Person B, and that it was partially-owned by Person A.<sup>156</sup> Bayley further reported that Persons A and B are husband and wife, respectively, and that Person C is the father of Person B (and father-in-law of Person A).<sup>157</sup> Bayley additionally reported that it was affiliated with Linyi Yinhe Panel Factory (Yinhe Panel) (wholly-owned by Person B) via shareholding, and/or common management.<sup>158</sup>

Bayley also initially reported three additional affiliated companies via shareholding, and/or common management:<sup>159</sup> Company A (produces and sells machinery used in the production of subject merchandise) (partially-owned by Person A (who is also a partial owner of Bayley Wood) and majority-owned by Person C),<sup>160</sup> Company B (not yet in operation during the POI),<sup>161</sup> and Company C (forestry products company, selling logs) (partially-owned by Person A).<sup>162</sup>

#### a. *Affiliation with Shelter*

Record evidence demonstrates that Bayley failed to disclose information necessary to conduct this investigation, including additional potentially affiliated companies. On March 20, 2017, the petitioners filed comments which provided additional information that there are yet other

---

<sup>155</sup> See generally Questionnaire at A-12 through A-14; Separate Rate Application at Section E.

<sup>156</sup> See Bayley February 13, 2017 AQR.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> See Bayley February 13, 2017 AQR. The names of certain companies and individuals relevant to this discussion are business proprietary information (BPI) and are referenced herein in a public manner. For the actual names of these parties, see the BPI version of the memorandum “Business Proprietary Information Referenced in the Preliminary Decision Memorandum,” dated concurrently with this document (BPI Memo).

<sup>160</sup> See Bayley February 13, 2017 Section A at Exhibit A-2.

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

affiliated companies that Bayley has failed to disclose.<sup>163</sup> The petitioners have provided information indicating that Bayley's operations, as well as those of other Chinese hardwood plywood producers, are being directed and controlled by a U.S. company, Shelter Forest International Acquisition, Inc. (SFIA, or Shelter), as discussed in further detail below.

In their submission, the petitioners placed information from the prior antidumping duty investigation involving hardwood plywood from the PRC (hereinafter referred to as Plywood I) on the record of this investigation. In Plywood I, a company named Yinhe Machinery Chemical Limited applied for, and was granted, a separate rate.<sup>164</sup> The record evidence indicates, and Bayley does not dispute, that this is the same company as Company A.<sup>165</sup> This company also shares the same phone and fax numbers with Bayley and Yinhe Panel.<sup>166</sup> In Plywood I, a U.S. company named Shelter Forest International, Inc. (SFII) requested that it be "collapsed" with three Chinese producers/exporters, one of which was Company A. As a basis for its collapsing argument, SFII argued that it maintained complete operational control of its Chinese plywood suppliers, claiming:

'... each of these three Chinese producer-exporters are, in fact, part of Shelter's family of 'TigerPLY mills.' Each of these mills ha{s} concluded an agreement with Shelter that gives Shelter complete operational control over all of the mill's production and sales.' Shelter further argued that it 'actually coordinates the production and sales of these three mills on a day-to-day basis.'<sup>167</sup>

In addition, SFII submitted a sworn declaration from its president providing additional details about its extensive control, direction, and coordination over its Chinese plywood mills.<sup>168</sup>

In addition to the materials provided from the Plywood I investigation, the Petitioners' Affiliation Comments also contained Internet cached copies of two Shelter promotional brochures – one of which was issued in May 2015, and one of which was issued in December 2015, for distribution in 2016.<sup>169</sup> The information contained therein indicates that the relationship between Shelter and its associated Chinese producers, including Bayley, has only

---

<sup>163</sup> See Petitioners Letter to the Department re: Petitioners' Comments on Bayley's Questionnaire Responses, dated March 20, 2017 (The Petitioners' Affiliation Comments).

<sup>164</sup> See the Petitioners' Affiliation Comments at 7 and Exhibit 4; see also Letter to the Department re: Rebuttal to Petitioners' March 20, 2017 Comments on Bayley's Questionnaire, dated April 3, 2017 (Bayley Affiliation Rebuttal) at 2.

<sup>165</sup> See, generally, Bayley Affiliation Rebuttal. The names of certain companies and individuals relevant to this discussion are business proprietary information (BPI) and are referenced herein in a public manner. For the actual names of these parties, see the BPI version of the memorandum "Business Proprietary Information Referenced in the Preliminary Decision Memorandum," dated concurrently with this document (BPI Memo). The shared identity of Company A and Yinhe Machinery Chemical Limited was made public in the companion CVD case. See *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination with Final Antidumping Duty Determination*, 82 FR 19022 (April 25, 2017) and accompanying Issues and Decision Memorandum (*Plywood CVD PDM*) at 27.

<sup>166</sup> See the Petitioners' Affiliation Comments at 7 and Exhibit 4; see also Bayley's January 13, 2017 Separate Rate Application at 5 and 17.

<sup>167</sup> See the Petitioners' Affiliation Comments Exhibit 3.

<sup>168</sup> *Id.*

<sup>169</sup> *Id.*, at Exhibits 6 and 7.

deepened since the Plywood I investigation. According to the 2016 promotional brochure, Shelter had expanded its sphere of influence to cover five mills, as opposed to three mills in 2012, and the company has created a “vertically integrated supply chain utilizing five top tier manufacturing facilities throughout China, managing the entire supply chain from manufacturing to final delivery.”<sup>170</sup> Among its supply chain, Shelter identified “Bayley Wood” as a new TigerPLY production facility, and goes into great detail about the company’s establishment.<sup>171</sup> The catalog also identifies a supply relationship with a supplier of inputs used in the production of subject merchandise, Company C, which was identified as an affiliate of Bayley by virtue of common shareholding.<sup>172</sup> Lastly, the 2016 brochure twice states that, at least as early as December 2015, Person A was now also the Vice President of Production for SFIA.<sup>173</sup>

Bayley has attempted to refute the petitioners’ Affiliation Comments. As a foundational matter, Bayley argues that the facts at issue at the time of the Plywood I investigation are not contemporaneous with the facts as they now stand. First, Bayley argues that SFIA is a materially different company than SFII that was involved in Plywood I. Bayley states that, according to its understanding, there is no relationship between SFIA and SFII, that the companies operate independently of each other, and have different ownership and management.<sup>174</sup> Further, Bayley argues that any agreements between Bayley and Shelter are not agreements that would indicate control.<sup>175</sup> Bayley concludes that any such control agreements that may have existed at the time of Plywood I would now be without any effect, as SFII was no longer a functioning entity.

Bayley further contends that the 2015 and 2016 catalogs submitted by the petitioners are promotional materials that overstated or incorrectly stated the facts and should not be relied on for an affiliation analysis. According to Bayley, these materials are intended solely for marketing purposes by the U.S. customer. In particular, Bayley states that the illustrated history of Bayley that was provided in one catalog was merely to give the impression that SFIA would have the ability to provide the subject merchandise.<sup>176</sup> Bayley also states that the catalog’s reference to Person A as SFIA’s Vice President of Production was a typographical error.<sup>177</sup> Bayley notes that neither “{Bayley} or its other affiliates have any kind of business with SFII or SFII, Inc. in the current POI and thereafter,”<sup>178</sup> and that its relationship with SFIA is one of seller/buyer.<sup>179</sup>

In addition to the comments from Bayley, the Department also received information from SFIA regarding possible affiliations.<sup>180</sup> These comments included an affidavit from Shelter’s president Mr. Ryan Loe, in which he contends that Shelter no longer has operational control of Chinese

---

<sup>170</sup> *Id.*, at Exhibit 7.

<sup>171</sup> *Id.*

<sup>172</sup> See Bayley February 13, 2017 AQR at Exhibit A-2.

<sup>173</sup> See Petitioners’ Affiliation Comments at Exhibit 7.

<sup>174</sup> See Bayley Affiliation Rebuttal at 7.

<sup>175</sup> *Id.* at 9.

<sup>176</sup> *Id.*, at 7.

<sup>177</sup> *Id.*, at 9.

<sup>178</sup> *Id.*, at 5.

<sup>179</sup> *Id.*, at 8-9.

<sup>180</sup> See Shelter Letter to the Department re: Shelter Forest’s Re-Submission of Rebuttal Factual Information, dated April 13, 2017 (Shelter Comments).

plywood mills, and instead relies on traditional buyer/seller relationships.<sup>181</sup> Mr. Loe further states that Person A has never been an officer of Shelter, and that the brochure reference to him as SFIA's Vice President of Production was a typographical error.<sup>182</sup> A "subsequent version" of the brochure was included that did not contain this language.<sup>183</sup>

Based on the facts on the record of this investigation, we find that the application of AFA is warranted in finding that there is affiliation between Bayley and Shelter that should have been reported to the Department, along with the information provided regarding the company's other affiliates. By not reporting these affiliated companies, Bayley failed to provide correct information regarding the company's total sales, and the Department is unable to rely on Bayley's reported sales information for purposes of calculating a dumping margin. The failure to provide information critical to the calculation of an accurate margin has impeded the investigation. The weight of the evidence leads us to this conclusion. The petitioners have provided ample documentation in support of their allegations, including, from Plywood I: Company A's separate rate application, Shelter's collapsing request, and two promotional brochures from Shelter. Notably, Shelter's collapsing request contains an affidavit from Mr. Ryan Loe, who at that time was identified as the president of SFII, detailing his company's relationship with its Chinese suppliers. In contrast, Bayley has provided little record evidence in support of its rebuttal to the petitioners' comments. The only relevant exhibits provided are two company registrations from the Oregon Secretary of State Corporation Division, purporting to show that SFII and SFIA were two different companies with no affiliations.<sup>184</sup> Whatever business transition and/or change of name took place is not relevant to the analysis of whether, during this POI, SFIA materially directed and controlled operations of certain Chinese hardwood plywood producers/exporters, including Bayley. In response to the Department's questionnaires, Bayley was required to report all of its affiliates.

As noted above, Bayley submitted the two companies' business registrations with the state of Oregon.<sup>185</sup> Upon closer scrutiny, we do not find this information availing, based upon a full examination of the business registration documents that are publicly available from the Oregon Secretary of State.<sup>186</sup> The corporate registrations submitted by Bayley fail to provide the attachments available on the Oregon Secretary of State's website, which make clear that in 2011, prior to Plywood I, Mr. Loe was listed as president of SFII.<sup>187</sup> As such, the record evidence that Bayley references in support of its argument is, in its full context, contrary to Bayley's statements that SFII and SFIA were in no way associated with each other. Besides being listed as president in the Oregon corporate registrations of both entities, Mr. Loe's affidavit from Plywood I,<sup>188</sup> and his identification as president in Shelter's promotional materials during the POI,<sup>189</sup> make it clear that the companies are operating as one and the same. Again, Bayley has not provided the Department with information necessary to this investigation and, by excluding

---

<sup>181</sup> *Id.*, at Attachment 1.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*, at Attachment C.

<sup>184</sup> See Bayley Affiliation Rebuttal at Exhibit 1.

<sup>185</sup> See Bayley Affiliation Rebuttal at 4-5 and Exhibit 1.

<sup>186</sup> See Memorandum "Shelter International Corporate Documents," dated concurrently with this memorandum.

<sup>187</sup> *Id.*

<sup>188</sup> See the Petitioners' Affiliation Comments at Exhibit 3.

<sup>189</sup> *Id.* at Exhibits 6 and 7.

available information, has not acted to the best of its ability.

Furthermore, we are not persuaded by Bayley's argument that Shelter's identifying of Person A as a Vice President in its company brochure in two different places was the result of two mere typographical mistakes.<sup>190</sup> Nor are we persuaded that Shelter's 2012, 2015, and 2016 brochures are materially unreliable, given the detailed descriptions of not only the extent of the company's operations, but also its personnel and products. The totality of the record evidence demonstrates a contrary conclusion.<sup>191</sup> The facts show that Shelter's 2012 company brochure (originally submitted in Plywood I and then again on the current record), and which Bayley would argue pertains to a completely different company, contains the same company phone number as the 2015 a 2016 brochures, mentions several of the same executives and managers, and continually references the TigerPLY brand and its associated mills.<sup>192</sup>

The Department is similarly not persuaded by the information provided by Shelter, as the affidavit and brochure appear contradictory in several instances and thus cannot be found reliable. An example of a contradiction is that, although Shelter's affidavit states that its agreements with its Chinese suppliers now reflect traditional customer-supplier relationships, the brochure it submitted describes the same "unique, vertically integrated supply chain...managing every facet of order fulfillment from manufacturing to final delivery" that Shelter used to demonstrate control of production in its 2012 collapsing request.<sup>193</sup> Moreover, while the affidavit notes that Person A has no "input or influence whatsoever" in Shelter's Sales of plywood, eight of 39 pages in the brochure submitted by Shelter discuss Person A, Bayley, or Bayley's reported affiliated company. This suggests a close relationship between these companies that is at odds with the relationship as portrayed in Shelter's affidavit.

Moreover, additional inconsistencies inform the Department's finding. In its questionnaire responses, Bayley disclosed an affiliated company (Company C) that produces and sells wood logs, but states that this company was not involved in the production, sale, or export of subject merchandise.<sup>194</sup> However, the brochures submitted by Shelter and the petitioners describe in detail the deep integration of Company C into Shelter's supply chain and describe the company as a primary source for Shelter's plywood products.<sup>195</sup> In addition, although Bayley states that Company C is located at too great a distance to provide inputs to Bayley for the production of subject merchandise, Bayley reported distances significantly farther away for several other suppliers of logs.<sup>196</sup> Lastly, Bayley attempts to demonstrate that Shelter's operational agreement with Company A is no longer valid by repeatedly stating that Company A is no longer involved in the production of plywood.<sup>197</sup> However, a separate rate application filed by an unrelated

---

<sup>190</sup> See Bayley Affiliation Rebuttal at 9.

<sup>191</sup> See the Petitioners' Affiliation Comments at Exhibits 3, 6, and 7.

<sup>192</sup> *Id.*

<sup>193</sup> See Shelter Comments at Attachment C; see also the Petitioners' Affiliation Comments at Exhibit 3.

<sup>194</sup> See Bayley February 13, 2017 AQR at Exhibit A-2; Bayley's March 9, 2017 Supplemental Section A Response (Bayley March 9, 2017 SAQR) at 4.

<sup>195</sup> See Shelter Comments at Attachment C; the Petitioners' Affiliation Comments at Exhibits 6 and 7.

<sup>196</sup> See Bayley March 9, 2017 SAQR at 4; see also Bayley's April 18, 2017 Supplemental Section D Response at Exhibit SQ5-18.

<sup>197</sup> See Bayley Rebuttal Comments at 5 and 6; Bayley February 13, 2017 Section A at Exhibit A-2; Bayley March 9, 2017 SAQR at 4.

company certifies that Company A was a supplier of subject merchandise during the POI.<sup>198</sup> Their apparent discrepancies raise questions regarding the reliability of Bayley's reported information.

The key to the Department's affiliation analysis, here, is the factor of control. As we have already noted, we do not consider there to be any substantial difference in the operations of SFII and SFIA. Thus, where Mr. Loe in his 2012 affidavit states that "it was critical to our business plan to begin to assume complete control over production and distribution of our hardwood plywood products,"<sup>199</sup> we find exactly the type of "control" and merging of interests contemplated in the Department's regulations regarding affiliation. Thus, our regulations make clear that the agency must look at the facts presented in each case in determining whether affiliation exists. Taken as a whole, the weight of the evidence in this investigation indicates that Shelter exerts material control over the day-to-day operations of not only Bayley, but potentially as many as four other Chinese producers/exporters of hardwood plywood,<sup>200</sup> as well as an input supplier identified by Bayley as its affiliate. Information about any of these other four producers/exporters is absent from the record of this investigation. While the Department could make conjectures about these four producers/exporters, there is nothing on the record for the Department to investigate pursuant to its authority under the Act.

#### b. Affiliation with Company D

In addition to the failure to report affiliations with Shelter, as described above, there is publicly available information from the companion countervailing duty investigation which indicates that Bayley failed to report an additional affiliate (Company D) (wholly-owned by Person C), that manufactures an input used in hardwood plywood production.<sup>201</sup> In light of the above, we find that Bayley has withheld necessary information that was requested of it, failed to provide information within the deadlines established, and significantly impeded this proceeding by not fully disclosing its affiliate relationship with Company D. Thus, the Department will rely on facts otherwise available in making our preliminary determination with respect to Bayley, pursuant to sections 776(a)(2)(A)-(C) of the Act. Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by failing to identify Company D as an affiliate, Bayley deprived the Department of the opportunity to examine affiliation between the companies. Accordingly, we find that Bayley did not cooperate to the best of its ability to comply with the requests for information in this investigation.

In sum, all of the above with regard to Bayley's affiliation with Shelter and Company D leads the Department to conclude that the application of facts available is warranted for Bayley, pursuant to sections 776(a)(2)(A)-(C) of the Act. Based on a failure to provide complete information requested by the Department about all of its affiliates, Bayley has hindered the Department's investigation by not disclosing the full extent of its affiliations, by not providing such information in a timely manner, and by significantly impeding a full examination of its and its

---

<sup>198</sup> See Suzhou Oriental Dragon Import and Export Co., Ltd.'s January 12, 2017 Separate Rate Application at Exhibit 2.

<sup>199</sup> See the Petitioners' Affiliation Comments at Exhibit 3.

<sup>200</sup> See the Petitioners' Affiliation Comments at Exhibits 3, 5, and 6.

<sup>201</sup> See *Plywood CVD PDM*.

affiliates' operations. Without complete information about a company's affiliations, the Department is unable to rely on the total sales reported by Bayley, which is information critical to the calculation of an accurate dumping margin. Bayley had several opportunities to reveal the extent and nature of its related parties and has failed to do so. Moreover, we preliminarily determine that Bayley failed to cooperate by not acting to the best of its ability to comply with our requests for information. Consequently, an adverse inference is warranted in the application of facts available pursuant to section 776(b) of the Act.

#### 4. *Selection and Corroboration of the AFA rate*

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the Petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.<sup>202</sup> The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value,<sup>203</sup> although under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.<sup>204</sup> To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used, although under the TPEA, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an "alleged commercial reality" of the interested party.<sup>205</sup> Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.<sup>206</sup>

In selecting a rate for AFA, the Department selects one that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce the respondents to provide the Department with complete and accurate information in a timely manner."<sup>207</sup> The AFA rate that the Department used is from the Petition, and, thus, is secondary information subject to the corroboration requirement. The petitioners' methodology for calculating the EP and normal value in the Petition is discussed in the Initiation Checklist and the *Initiation Notice*.<sup>208</sup> We

---

<sup>202</sup> See SAA at 870.

<sup>203</sup> See SAA at 870; see also 19 CFR 351.308(d).

<sup>204</sup> See section 776(c)(2) of the Act; TPEA, section 502(2).

<sup>205</sup> See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*; *Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*; *Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

<sup>206</sup> See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

<sup>207</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

<sup>208</sup> See *Initiation Notice*; see also Antidumping Duty Investigation Initiation Checklist: Certain Hardwood Plywood

determined that the highest Petition margin of 114.72 percent is reliable where, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis. For purposes of this preliminary determination, we also find the 114.72 percent Petition margin is reliable.<sup>209</sup>

Specifically, to corroborate the 114.72 percent Petition rate for purposes of this preliminary determination, the Department first revisited its pre-initiation analysis of the reliability of the information in the petition. During our pre-initiation analysis, we examined: (1) the information used as the basis for export price and normal value in the Petition; (2) the calculations used to derive the alleged margin; and (3) information from various independent sources provided either in the Petition or in supplements to the Petition.<sup>210</sup>

Based on our examination of the information, as discussed in detail in the Initiation Checklist, we consider the petitioners' EP and NV calculations to be reliable.<sup>211</sup> Because we obtained no other information that would make us question the validity of the sources of information or the validity of information supporting the U.S. price or NV calculations provided in the Petition, based on our examination of the aforementioned information, we preliminarily consider the EP and NV calculations from the Petition to be reliable. Because we confirmed the accuracy and validity of the information underlying the derivation of the margin in the Petition by examining source documents, as well as publicly available information, we preliminarily determine that this Petition rate is reliable for the purposes of assigning an AFA rate as the PRC-wide rate in this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. The Petition rate is relevant because it is based on a price quote for the subject merchandise and surrogate values that are contemporaneous with the POI. In addition, no verified information has been placed on the record that discredits this margin. As such, we find the highest Petition rate of 114.72 percent relevant to the PRC-wide entity. Furthermore, as there are no respondents in this investigation for which we are calculating a separate dumping margin, we relied upon the rates found in the Petition, which is the only information regarding the hardwood plywood industry reasonably at the Department's disposal.

Accordingly, the Department has corroborated the AFA rate of 114.72 percent to the extent practicable, within the meaning of section 776(c) of the Act.

#### E. Date of Sale

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is

---

Products from the People's Republic of China (PRC AD Initiation Checklist).

<sup>209</sup> *Id.*

<sup>210</sup> *Id.*

<sup>211</sup> *Id.*



satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>212</sup> The Court of International Trade (CIT) has stated that a “party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to ‘satisfy’ the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.”<sup>213</sup> The date of sale is generally the date on which the parties establish the material terms of the sale,<sup>214</sup> which normally includes the price, quantity, delivery terms and payment terms.<sup>215</sup> In addition, the Department has a long-standing practice of finding that, where the shipment date precedes the invoice data, the shipment date better reflects the data on which the material terms of sale are established.<sup>216</sup>

Chengen reported the invoice date as the date of sale for its U.S. sales and demonstrated that the substantive terms of sale occurred on the invoice date.<sup>217</sup> In light of 19 CFR 351.401(i), the Department preliminarily used the invoice date as the date of sale for all of Chengen’s sales of subject merchandise made during the POI.

#### F. Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether the respondents’ sales of the subject merchandise from the PRC to the United States were made at less than NV, the Department compared the export price (EP) to the NV as described in the “Export Price” and “Normal Value” sections of this memorandum.

##### *I. Export Price*

In accordance with section 772(a) of the Act, the Department defined the U.S. price of subject merchandise based on EP for all sales reported by Chengen. The Department calculated EP based on the prices at which subject merchandise was sold to unaffiliated purchasers in the United States. We find that all of Chengen’s sales in this investigation are EP sales.

We based EP on the sales price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, domestic brokerage and handling and billing adjustments using SVs, as applicable.<sup>218</sup>

---

<sup>212</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (*Allied Tube*) (quoting 19 CFR 351.401(i)).

<sup>213</sup> See *Allied Tube*, 132 F. Supp. 2d at 1090 (brackets and citation omitted).

<sup>214</sup> See 19 CFR 351.401(i).

<sup>215</sup> See *USEC Inc. v. United States*, 31 CIT 1049, 1055 (CIT 2007).

<sup>216</sup> See, e.g., *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 36881 (June 8, 2016), and accompanying Preliminary Decision Memorandum at Section VII.

<sup>217</sup> See Chengen February 13, 2017 AQR at 17.

<sup>218</sup> See Memorandum regarding: Chengen Preliminary Analysis, dated concurrently with this memorandum (Chengen Preliminary Analysis Memorandum).

## 2. *Value-Added Tax (VAT)*

In 2012, the Department announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any irrecoverable VAT in certain NME countries in accordance with section 772(c)(2)(B) of the Act.<sup>219</sup> 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.<sup>220</sup> 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.<sup>221</sup>

The Department's methodology, as explained above and applied in this investigation, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this investigation by Chengen indicates that according to the PRC VAT schedule, the standard VAT levy is 17 percent and the rebate rate for the subject merchandise is 9 percent.<sup>222</sup> Chengen claims that because it is an export trading company, under PRC regulations, the VAT refund of 8 percent should be based on the RMB purchase prices from its affiliated producer.<sup>223</sup> However, regardless of the provisions in PRC law specific to export trading companies, because the PRC is an NME, the Department does not rely on domestic sales prices valued in RMB. Further, Chengen's RMB purchase price from its affiliated producer is not the U.S. export sales value. Accordingly, consistent with the Department's standard methodology, for purposes of this preliminary determination, we removed from U.S. price the amount calculated based on the difference between those standard rates (*i.e.*, 8 percent) applied to the export sales value, consistent with the definition of irrecoverable VAT under PRC tax law and regulation.

## 3. *Normal Value*

Section 773(c)(1) of the Act provides that the Department shall determine NV using the FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation

---

<sup>219</sup> See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481 (June 19, 2012).

<sup>220</sup> *Id.*; see also *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014), and accompanying Issues and Decision Memorandum at Comment 5.A.

<sup>221</sup> *Id.*

<sup>222</sup> See Chengen Letter to the Department re: "Hardwood Plywood Products from the People's Republic of China: Section C Response," dated February 28, 2017 (Chengen's Section C Response) at 37.

<sup>223</sup> *Id.*

of production costs invalid under the Department's normal methodologies.<sup>224</sup> Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), the Department calculated NV based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.<sup>225</sup>

a. Factor Valuation Methodology

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by Chengen. To calculate NV, the Department multiplied the reported per-unit factor-consumption rates by publicly available SVs. When selecting the SVs, the Department considered, among other factors, the quality, specificity, and contemporaneity of the data.<sup>226</sup> As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.<sup>227</sup> A detailed description of SVs used for the respondent can be found in the Preliminary SV Memorandum.<sup>228</sup>

For the preliminary determination, the Department is using Romanian import data, as published by GTA, and other publicly available sources from Romania to calculate SVs for Chengen's FOPs. In accordance with section 773(c)(1) of the Act, the Department applied the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are: (1) tax-exclusive, non-export average values; (2) contemporaneous with, or closest in time to, the POI; (3) product-specific; and (4) broad market averages.<sup>229</sup> The record shows that Romania import data obtained through GTA, as well as data from other Romanian sources, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POI.<sup>230</sup>

---

<sup>224</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006).

<sup>225</sup> See section 773(c)(3)(A)-(D) of the Act.

<sup>226</sup> See, e.g., *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum at Comment 9.

<sup>227</sup> See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

<sup>228</sup> See Preliminary SV Memorandum.

<sup>229</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004) unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

<sup>230</sup> See Preliminary SV Memorandum.

The Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be dumped or subsidized.<sup>231</sup> 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.<sup>232</sup> Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from those countries in calculating the Romanian import-based SVs. The Department also excluded from the calculation of the import-based per-unit SV imports labeled as originating from an “unidentified” country because the Department could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.<sup>233</sup>

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

We valued truck freight expenses using average truck rates from the World Bank’s report, *Doing Business 2017: Romania (Doing Business)*.<sup>234</sup> This World Bank report gathers information concerning the distance and cost to transport a containerized shipment weighing 15 metric tons from the peri-urban area of the economy’s largest business city to the country’s major port.<sup>235</sup> We calculated a per-kilogram/per-kilometer surrogate inland freight rate of 0.000071 U.S. dollars per-kilogram/per-kilometer based on the methodology used by the World Bank.<sup>236</sup>

In NME AD proceedings, the Department prefers to value labor solely based on data from the primary surrogate country.<sup>237</sup> 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. Additionally, the Department made a determination to use Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor

---

<sup>231</sup> See Section 505 of the TPEA (amending Section 773(c)(5) of the Act to permit Department to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values); see also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793, 46795 (August 6, 2015).

<sup>232</sup> See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*; 2011-2012, 78 FR 42492 (July 16, 2013), and accompanying Issues and Decision Memorandum at 7-19; see also *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying Issues and Decision Memorandum at 1; see also *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*; 2012, 79 FR 46770 (August 11, 2014), and accompanying Issues and Decision Memorandum at 4; see also *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum at IV.

<sup>233</sup> *Id.*

<sup>234</sup> See Preliminary SV Memorandum.

<sup>235</sup> *Id.*

<sup>236</sup> *Id.*

<sup>237</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (“*Labor Methodologies*”).

Statistics as its primary source for industry-specific labor rates which reflects all costs related to labor (*i.e.*, wages, benefits, housing, training, etc.).

For these preliminary results, the Department has calculated the labor input using data from the National Institute of Statistics of Romania data for 2016.<sup>238</sup> Although the National Institute of Statistics data are not from the ILO, we find that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, we decided to change to the use of ILO Chapter 6A 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.<sup>239</sup> We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Rather, we continue to follow our practice of selecting the best available information to determine SVs for inputs such as labor.<sup>240</sup> In this case, we find that the National Institute of Statistics of Romania data for 2016 are the best available information for valuing labor because the 2016 data are contemporaneous with the POI, 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 7.29 Lei/hour.<sup>241</sup>

The Department's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.<sup>242</sup> 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.<sup>243</sup> 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.<sup>244</sup>

With respect to financial statements, the record contains one Bulgarian set of financial statements for producer Welde Bulgaria (Welde) fiscal year ending (FYE) 12/31/2015; one Romanian set of financial statements for producer, SC Sigstrat SA (Sigstrat), FYE 12/31/2016; and two sets of Thai financial statements for producers Sin Charoen Veneer & Plywood Co., Ltd. (Sin Charoen) fiscal year ending (FYE) 12/31/2015 and Phang-Nga Timber Industries Co., Ltd. (Phang-Nga)

---

<sup>238</sup> See Preliminary SV Memorandum.

<sup>239</sup> See *Labor Methodologies*, 76 FR at 36093.

<sup>240</sup> See *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33354 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 6-C; and *Drawn Stainless Steel Sinks from the People's Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

<sup>241</sup> *Id.*

<sup>242</sup> 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.

<sup>243</sup> See, e.g., *Diamond Sawblades and Parts Thereof from the People's Republic of China, Final Determination in the Antidumping Duty Investigation*, 71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 2; see also section 773(c)(4) of the Act; 19 CFR 351.408(c)(4).

<sup>244</sup> See *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-54 (CIT 2002); see also *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005), and accompanying Issues and Decision Memorandum at Comment 1.

FYE 12/31/2015.<sup>245</sup> We note that the Thai financial statements for Sin Charoen and Phang-Nga are not contemporaneous with this POI and do not indicate production of comparable merchandise and are, thus, not the best available information for valuing Chengen's financial ratios.<sup>246</sup> Additionally, the Bulgarian financial statements from Welde are unusable because they are not fully translated and they are not contemporaneous with this POI.<sup>247</sup> Therefore, we find that the best available information for valuing Chengen's financial ratios are the financial statements of Sigstrat.

As noted above, the Department's preference is to value all FOPs in a single surrogate country pursuant to 19 CFR 35 1.408(c)(2). Accordingly, because we have a useable financial statement from the primary surrogate country, Romania, we have preliminarily used Sigstrat's financial statement for the calculation of surrogate financial ratios.

The Department's practice is to grant the respondents an offset to the reported FOPs for by-products generated during the production of the subject merchandise if evidence is provided that such by-product has commercial value.<sup>248</sup> Also, for waste or by-products sold to unaffiliated parties, it is the Department's practice to offset NV costs with the sales revenue of the waste or byproduct.<sup>249</sup> Chengen reported one by-product, wood scrap, generated in the production of subject merchandise.<sup>250</sup> The Department's practice, as reflected in the Department's antidumping questionnaire issued to Chengen, is to grant by-product offsets "for merchandise that is either sold or reintroduced into production during the POI/POR, up to the amount of that by-product/co-product actually produced during the POI/POR."<sup>251</sup> Thus, to be eligible for an offset, a respondent needs to provide and substantiate the quantity of by-products it generated from the production of subject merchandise during the POR, as well as demonstrate that the by-product has commercial value.<sup>252</sup> Chengen provided production records demonstrating it reported recovered quantities of these by-products and that it later sold these recovered quantities.<sup>253</sup>

We note that the petitioners have argued that the Department should depart from its normal practice and apply the intermediate input methodology.<sup>254</sup> In response, Chengen has argued against the use of such methodology.<sup>255</sup> The Department's general practice for integrated firms is to value all factors used in each stage of production, and we have not found sufficient cause to

---

<sup>245</sup> See Preliminary SV Memorandum.

<sup>246</sup> *Id.*

<sup>247</sup> *Id.*

<sup>248</sup> See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 54897 (September 19, 2005), and accompanying Issues and Decision Memorandum at Scrap Offset.

<sup>249</sup> *Id.*

<sup>250</sup> See Preliminary SV Memorandum.

<sup>251</sup> See the Department's questionnaire issued to Chengen (January 13, 2017).

<sup>252</sup> See *Narrow Woven Ribbons With Woven Selvage from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 41808 (July 19, 2010) (Ribbons), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>253</sup> See Preliminary SV Memorandum.

<sup>254</sup> See, e.g., Letter to the Department re: Pre-Preliminary Comments, dated May 30, 2017 at 15.

<sup>255</sup> See, e.g., Letter to the Department re: Pre-Preliminary Comments, dated May 17, 2017 at 1.

deviate from this practice.<sup>256</sup> Chengen provided detailed responses and supporting documentation to our questionnaires, demonstrating how it is an integrated producer which begins its manufacture of hardwood plywood with the purchase of logs.<sup>257</sup> Chengen reported the quantity of logs purchased and consumed during the POI and supported that consumption with raw material ledgers that tie to inventory movement worksheets, warehouse-out slips, and accounting vouchers.<sup>258</sup> Because Chengen's log consumption figures are in its normal books and records, these data can be verified.<sup>259</sup> Moreover, Chengen has indicated that it reported all inputs consumed in the production of veneers. The Department does not find the record in this case meet the limited exceptions for applying the intermediate input methodology.

#### 4. *Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department examines whether to compare weighted-average NVs with the EPs (or CEPs of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>260</sup> The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that 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

---

<sup>256</sup> See *Certain Steel Nails from the People's Republic of China: Final Results of the First Antidumping Duty Administrative Review*, 76 FR 16379 (March 23, 2011) and accompanying Issues and Decision Memorandum at Comment 18.

<sup>257</sup> See, generally, Chengen's February 28, 2017 Section D Questionnaire Response (Chengen February 28, 2017 DQR)

<sup>258</sup> See, generally, Chengen February 28, 2017 DQR; see also Chengen's April 17, 2017 Supplemental Section D Questionnaire Response (Chengen April 17, 2017 SDQR) at 10-15 and Exhibit SQ5-19.

<sup>259</sup> See Chengen April 17, 2017 SDQR at 10-15.

<sup>260</sup> See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For Chengen, purchasers are based on the reported customer codes.<sup>261</sup> Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of investigation based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

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

---

<sup>261</sup> See Chengen’s Section C Response.



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

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

a. Results of the Differential Pricing Analysis

For Chengen, based on the results of the differential pricing analysis, the Department preliminarily finds that 12.9 percent of the value of U.S. sales pass the Cohen's *d* test.<sup>262</sup> Accordingly, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Chengen.

## **X. CURRENCY CONVERSION**

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

## **XI. EXPORT SUBSIDY ADJUSTMENT**

Pursuant to section 772(c)(1)(C) of the Act, the Department makes adjustments for countervailable export subsidies. In the companion CVD investigation, the only mandatory respondent in this investigation that was also reviewed in the CVD investigation, Bayley, was found to have not cooperated to the best of its ability, and so the Department's preliminary

---

<sup>262</sup> See Chengen Preliminary Analysis Memorandum.

determination that the alleged programs were countervailable subsidies were based on AFA.<sup>263</sup> In relying on facts available with adverse inferences, the Department did not preliminarily determine that the subsidies in question were export subsidies. Therefore, no offset to Bayley's cash deposit rate for export subsidies is necessary. With respect to Chengen, a mandatory respondent in this investigation not individually examined in the CVD investigation, and the separate-rate companies, we find that an export subsidy adjustment of 0.29 percent to the cash deposit rate is warranted because this is the export subsidy rate included in the countervailing duty "all others" rate to which the separate-rate companies are subject.<sup>264</sup> For the PRC-wide entity, which received an adverse facts available rate in this preliminary determination, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, the Department has not adjusted the PRC-wide entity's AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding, because the lowest export subsidy rate determined in the companion CVD proceeding is 0.00 percent.

## **XII. ADJUSTMENT UNDER SECTION 777A(f) OF THE ACT**

In applying section 777A(f) of the Act, the Department examines (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether the Department can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.<sup>265</sup> 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.<sup>266</sup>

Since the Department has relatively recently started conducting analyses under section 777A(f) of the Act, the Department is continuing to refine its practice in applying this section of the law. The Department examined whether the respondent demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacture (COM); and (2) a cost-to-price link, *e.g.*, respondent's prices changed as a result of changes in the COM.<sup>267</sup>

---

<sup>263</sup> See *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination with Final Antidumping Duty Determination*, 82 FR 19022 (April 25, 2017) (*CVD Preliminary Determination*), and accompanying Decision Memorandum at 25.

<sup>264</sup> See *CVD Preliminary Determination*, 82 FR at 19023.

<sup>265</sup> See section 777A(f)(1)(A)-(C) of the Act.

<sup>266</sup> See section 777A(f)(1)-(2) of the Act.

<sup>267</sup> See, *e.g.*, *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 36876 (June 8, 2016), and accompanying Preliminary Decision Memorandum at 36; *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 75 (January 4, 2016), and accompanying Preliminary Decision Memorandum at 25-26.

Both the mandatory respondents, Bayley and Chengen, each submitted double remedy questionnaire responses.<sup>268</sup> A finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

Bayley and Chengen did not establish eligibility for this adjustment because they failed to establish a subsidies-to-cost link and a cost-to-price link.<sup>269</sup> To determine whether to grant a domestic pass-through adjustment for the non-selected separate rate respondents, the Department relies on the experience of the mandatory respondents examined in this investigation. For the preliminary determination, because Bayley and Chengen did not establish eligibility for this adjustment, the Department did not make an adjustment pursuant to section 777A(f) of the Act for countervailable domestic subsidies for Bayley, Chengen or the separate rate respondents.<sup>270</sup>

### **XIII. DISCLOSURE AND PUBLIC COMMENT**

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.<sup>271</sup> Case briefs may be submitted to Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>272</sup>

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>273</sup> This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.<sup>274</sup> Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

---

<sup>268</sup> See the Department's Double Remedies Questionnaire issued to Bayley and Chengen (February 21, 2017); Bayley's Double Remedies Questionnaire Response (March 7, 2017); and Chengen's Double Remedies Questionnaire Response (March 7, 2017).

<sup>269</sup> See Bayley's Double Remedies Questionnaire Response (March 7, 2017); and Chengen's Double Remedies Questionnaire Response (March 7, 2017).

<sup>270</sup> See, e.g., *Aluminum Extrusions from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 32347 (June 8, 2015) and accompanying Preliminary Decision Memorandum at 34, unchanged in *Aluminum Extrusions from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 75060, 75063 (December 1, 2015).

<sup>271</sup> See 19 CFR 351.224(b).

<sup>272</sup> See 19 CFR 351.309.

<sup>273</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>274</sup> See 19 CFR 351.310(c).

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.<sup>275</sup> Electronically-filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.<sup>276</sup>

#### **XIV. VERIFICATION**

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

#### **XV. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

☒

\_\_\_\_\_  
Agree

☐

\_\_\_\_\_  
Disagree

6/16/2017

X *Ronald K. Lorentzen*

Signed by: RONALD LORENTZEN

\_\_\_\_\_  
Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

<sup>275</sup> See 19 CFR 351.303(b)(2)(i).

<sup>276</sup> See 19 CFR 351.303(b)(1).