



A-570-912

AR: 9/01/15 - 8/31/16

NSR: 9/1/15 – 8/31/16

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October 2, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of the
Antidumping Duty Administrative Review and Preliminary
Rescission of New Shipper Review: Certain New Pneumatic Off-
the-Road Tires from the People's Republic of China; 2015-2016

I. SUMMARY

The Department of Commerce (Department) received requests for an administrative review (AR) and a new shipper review (NSR) of the antidumping duty (AD) order on certain new pneumatic off-the-road tires (OTR tires) from the People's Republic of China (PRC) in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) for the AR and NSR is September 1, 2015, through August 31, 2016. The NSR concerns a request for review submitted by Carlstar.¹ The AR covers the following exporters of subject merchandise:

1. Cheng Shin Rubber Industry Ltd. (Cheng Shin)
2. Guizhou Tyre Co., Ltd and Guizhou Tyre Import and Export Co., Ltd. (GTC)²

¹ The NSR was requested by Carlstar Group LLC (formerly dba CTP Transportation Products) (Carlstar Group), a U.S. producer, importer and seller of subject merchandise concerning merchandise produced by Carlisle (Meizhou) Rubber Manufacturing Co., Ltd. (Carlisle Meizhou), its affiliated producer of OTR tires from the PRC, and exported by CTP Distribution (HK) Limited (CTP HK), an affiliated trading company located in Hong Kong (collectively, Carlstar).

² The Department previously collapsed GTC and Guizhou Tyre Import and Export Corporation (GTCIE), into a single entity in the initial investigation, see *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China; Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9283 (February 20, 2008), unchanged in *Certain New Pneumatic Off-The-Road Tires from the People's*



3. Qingdao Milestone Tyres Co. Ltd. (Milestone)
4. Qingdao Qihang Tyre Co. Ltd. (Qihang)
5. Shandong Zhentai Group Co., Ltd. (Zhentai)
6. Weihai Zhongwei Rubber Co., Ltd. (Zhongwei)

The Department previously rescinded the review with respect to Weifang Jintongda Tyre Co., Ltd. (Jintongda), Trelleborg Wheel Systems (Xingtai) Co., Ltd. (TWS), and Zhongce Rubber Group Company Limited (Zhongce).³ With respect to the remaining six companies, the Department preliminarily determines that mandatory respondent Zhongwei demonstrated eligibility for a separate rate and made sales of subject merchandise at prices below normal value (NV) during the POR. The Department finds that mandatory respondent GTC, as well as separate rate applicant Cheng Shin and non-responsive respondent Milestone, failed to demonstrate eligibility for a separate rate and, thus, have been included in the PRC-wide entity. Finally, the Department finds that separate rate applicants Qihang and Zhentai are eligible for a separate rate.

The Department also preliminarily determines to rescind the new shipper review for Carlstar, as the record demonstrates that the request for review was not timely filed within one year of the date subject merchandise produced and exported by Carlstar or its predecessor was first entered into the United States, consistent with 19 CFR 351.214.

If we adopt these preliminary results in the final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess AD duties on all appropriate entries of subject merchandise during the POR in accordance with 19 CFR 351.212(b)(1). We invite interested parties to comment on these preliminary results. Unless otherwise extended, we intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

II. BACKGROUND

On September 8, 2016, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on OTR tires from the PRC for the period of September 1, 2015, through August 31, 2016.⁴ On September 20, 2016, the Department received a request for a NSR from Carlstar.⁵ On November 3, 2016, the Department initiated a NSR for Carlstar.⁶ On November 9, 2016, the Department initiated a review of nine exporters of subject

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). This decision is unchallenged in the instant review; thus, the Department continues to treat GTC and GTCIE as a single entity (collectively, GTC).

³ See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review; 2015–2016*, 82 FR16438 (April 4, 2017) (*Notice of Partial Rescission*).

⁴ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 81 FR 62096 (September 8, 2016) (*Opportunity Notice*).

⁵ See letter from Carlstar, “New Pneumatic Off-The-Road Tires from the People’s Republic of China Entry of Appearance and Request for New Shipper Review,” dated September 20, 2016 (NSR Request).

⁶ See *Initiation of Antidumping Duty New Shipper Review*, 81 FR 76560 (November 3, 2016) (*NSR Initiation*).

merchandise.⁷ On March 2, 2017, the Department aligned the NSR with the AR.⁸ On April 4, 2017, the Department rescinded the review with respect to three exporters upon which the review was initiated.⁹ On May 17, 2017, the Department extended the time limit for the preliminary results of review by 120 days, pursuant to section 751(a)(3)(A) of the Act, to October 2, 2017.¹⁰

On December 28, 2016, pursuant to section 777A(c)(2) of the Act, the Department determined that it was not practicable to examine each of the companies for which the Department initiated an administrative review. Thus, in accordance with section 777A(c)(2)(B) of the Act, the Department initially selected the two companies accounting for the largest volume of exports during the POR as mandatory respondents: GTC and Milestone.¹¹ On December 30, 2016, the Department issued AD questionnaires to GTC and Milestone. Milestone failed to submit responses to the Department's AD questionnaires by the stated deadlines and did not request extensions of time for submission of information. Therefore, on February 17, 2017, the Department issued a memorandum selecting an additional mandatory respondent, specifically, the next largest exporter by volume, for review – Zhongwei.¹²

Between November 2016 and August 2017, in both the administrative review and new shipper review, the Department issued, and respondents timely responded to, the initial and supplemental questionnaires.

The Department conducted a verification of Zhongwei's questionnaire responses at Zhongwei's factory from August 21 through August 25, 2017, in Weihai, Shandong Province, PRC. The Department conducted a verification of Carlisle Meizhou's questionnaire responses at Carlisle Meizhou's factory in Meizhou, Guangdong Province, PRC, from August 28 through August 30, 2017, and

⁷ See *Initiation of Antidumping and Countervailing Duty Administrative Review*, 81 FR 78778 (November 9, 2016) (*Initiation Notice*). Though ten exporters were listed in this notice, as noted above, GTC and GTCIE are treated as a single entity for purposes of this proceeding.

⁸ See memorandum from the Department, "Waiver of Time Limits for New Shipper Review and Align with Concurrent Administrative Review," (March 2, 2017) (Alignment Memo).

⁹ See *Notice of Partial Rescission*.

¹⁰ See memorandum to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Extension of Deadline for Preliminary Results of 2015-2016 Antidumping Duty Administrative Review and New Shipper Review," dated May 17, 2017.

¹¹ See memorandum to Eric Greynolds, Acting Director, Office III, "2014-2015 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Respondent Selection," dated December 28, 2016 (RSM).

¹² See memorandum to Erin Begnal, Director, Office III, "2015-2016 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Selection of Additional Mandatory Respondent," dated February 7, 2017 (Additional RSM).

at its U.S. affiliate Carlstar Group, from September 13 through September 14, 2017, in Franklin, Tennessee.¹³

III. SCOPE OF THE ORDER

The products covered by the order are new pneumatic tires designed for off-the-road and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed for use include, but are not limited to: (1) agricultural and forestry vehicles and equipment, including agricultural tractors,¹⁴ combine harvesters,¹⁵ agricultural high clearance sprayers,¹⁶ industrial tractors,¹⁷ log-skidders,¹⁸ agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders,¹⁹ (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,²⁰ front end loaders,²¹ dozers,²² lift trucks, straddle carriers,²³ graders,²⁴ mobile cranes,²⁵ compactors; and (3) industrial vehicles and

¹³ See memorandum to the file, “Verification of the Questionnaire Responses of Weihai Zhongwei Tyre Co., Ltd. in the 2015-2016 Antidumping Duty Administrative Review of Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China,” dated concurrently with this memorandum (Zhongwei Verification Report); memorandum to the file, “Verification of the Questionnaire Responses of the Carlstar Group LLC, Carlisle (Meizhou) Rubber Manufacturing Co., Ltd., and CTP Distribution (HK) Limited in the Antidumping New Shipper Review of New Pneumatic Off-The-Road Tires from the People’s Republic of China” dated concurrently with this memorandum (Carlstar PRC Verification Report); and memorandum to the file “Verification of the Questionnaire Responses of Carlstar Group LLC in the Antidumping Review of New Pneumatic Off-The-Road Tires from the People’s Republic of China,” dated concurrently with this memorandum (Carlstar CEP Verification Report).

¹⁴ Agricultural tractors are dual-axle vehicles that typically are designed to pull farming equipment in the field and that may have front tires of a different size than the rear tires.

¹⁵ Combine harvesters are used to harvest crops such as corn or wheat.

¹⁶ Agricultural sprayers are used to irrigate agricultural fields

¹⁷ Industrial tractors are dual-axle vehicles that typically are designed to pull industrial equipment and that may have front tires of a different size than the rear tires.

¹⁸ A log-skidder has a grappling lift arm that is used to grasp, lift and move trees that have been cut down to a truck or trailer for transport to a mill or other destination.

¹⁹ Skid-steer loaders are four-wheel drive vehicles with the left-side drive wheels independent of the right-side drive wheels and lift arms that lie alongside the driver with the major pivot points behind the driver’s shoulders. Skid-steer loaders are used in agricultural, construction and industrial settings.

²⁰ Haul trucks, which may be either rigid frame or articulated (*i.e.*, able to bend in the middle) are typically used in mines, quarries and construction sites to haul soil, aggregate, mined ore, or debris.

²¹ Front loaders have lift arms in front of the vehicle. They can scrape material from one location to another, carry material in their buckets, or load material into a truck or trailer.

²² A dozer is a large four-wheeled vehicle with a dozer blade that is used to push large quantities of soil, sand, rubble, *etc.*, typically around construction sites. They can also be used to perform “rough grading” in road construction.

²³ A straddle carrier is a rigid frame, engine-powered machine that is used to load and offload containers from container vessels and load them onto (or off of) tractor trailers.

²⁴ A grader is a vehicle with a large blade used to create a flat surface. Graders are typically used to perform “finish grading.” Graders are commonly used in maintenance of unpaved roads and road construction to prepare the base course on to which asphalt or other paving material will be laid.

²⁵ *I.e.*, “on-site” mobile cranes designed for off-highway use.

equipment, including smooth floor, industrial, mining, counterbalanced lift trucks, industrial and mining vehicles other than smooth floor, skid-steers/mini-loaders, and smooth floor off-the-road counterbalanced lift trucks. The foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings. Such vehicles and equipment, and the descriptions contained in the footnotes are illustrative of the types of vehicles and equipment that use certain OTR tires, but are not necessarily all-inclusive. While the physical characteristics of certain OTR tires will vary depending on the specific applications and conditions for which the tires are designed (*e.g.*, tread pattern and depth), all of the tires within the scope have in common that they are designed for off-road and off-highway use. Except as discussed below, OTR tires included in the scope of the order range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type²⁶ or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Specifically excluded from the scope are new pneumatic tires designed, manufactured and offered for sale primarily for on-highway or on-road use, including passenger cars, race cars, station wagons, sport utility vehicles, minivans, mobile homes, motorcycles, bicycles, on-road or on-highway trailers, light trucks, and trucks and buses. Such tires generally have in common that the symbol “DOT” must appear on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Such excluded tires may also have the following designations that are used by the Tire and Rim Association:

Prefix letter designations:

- P - Identifies a tire intended primarily for service on passenger cars;
- LT - Identifies a tire intended primarily for service on light trucks; and,
- ST - Identifies a special tire for trailers in highway service.

Suffix letter designations:

- TR - Identifies a tire for service on trucks, buses, and other vehicles with rims having specified rim diameter of nominal plus 0.156” or plus 0.250”;
- MH - Identifies tires for Mobile Homes;
- HC - Identifies a heavy duty tire designated for use on “HC” 15” tapered rims used on trucks, buses, and other vehicles. This suffix is intended to differentiate among tires for light trucks, and other vehicles or other services, which use a similar designation.
- Example: 8R17.5 LT, 8R17.5 HC;

²⁶ While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (*e.g.*, sold with or separately from subject merchandise).

- LT - Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service; and
- MC - Identifies tires and rims for motorcycles.

The following types of tires are also excluded from the scope: pneumatic tires that are not new, including recycled or retreaded tires and used tires; non-pneumatic tires, including solid rubber tires; tires of a kind designed for use on aircraft, all-terrain vehicles, and vehicles for turf, lawn and garden, golf and trailer applications. Also, excluded from the scope are radial and bias tires of a kind designed for use in mining and construction vehicles and equipment that have a rim diameter equal to or exceeding 39 inches. Such tires may be distinguished from other tires of similar size by the number of plies that the construction and mining tires contain (minimum of 16) and the weight of such tires (minimum 1500 pounds).

IV. PRELIMINARY DETERMINATION TO RESCIND THE NEW SHIPPER REVIEW

In accordance with 19 CFR 351.214(c), an exporter or producer may request a new shipper review within one year of the date on which subject merchandise was first entered, or withdrawn from warehouse, for consumption, or, if the exporter or producer cannot establish the date of the first entry, then the date on which it first shipped the merchandise for export to the United States.

At the time of the *NSR Initiation*, the Department noted concerns with certain information contained in the CBP entry data, and indicated that continuation of the new shipper review would be contingent upon confirmation of the information reported in the review request.²⁷ Parties then commented on certain information in this proprietary dataset.²⁸ Furthermore, in Carlstar's responses to the Department's initial and supplemental questionnaires, Carlstar detailed various changes resulting from American Industrial Partner's (AIP) acquisition of Carlstar's predecessor.²⁹ Accordingly, in order to evaluate Carlstar's eligibility to request a new shipper review, it is first necessary to establish whether the Carlstar Companies and, specifically, Carlisle Meizhou and CTP HK, are successors-in-interest to their pre-acquisition counterparts owned by the Carlisle Group.

In determining whether a change in a company results in new company that is not a successor to the pre-change company for purposes of applying the antidumping duty law, the Department

²⁷ See *NSR Initiation*.

²⁸ See letter from the petitioners, "New Pneumatic Off-The-Road Tires from China (A-570-912), New Shipper Review (Carlstar Group): Petitioners' Comments and Clarifying Information to Carlstar and CBP Information," dated November 2, 2016 (Petitioners' CBP comments). See also letter from Carlstar, "New Pneumatic Off-The-Road Tires from the People's Republic of China Comments on CBP Data for New Shipper Review," dated November 2, 2016 (Carlstar's CBP Comments).

²⁹ See letter from Carlstar, "New Pneumatic Off-The-Road Tires from the People's Republic of China Section A Questionnaire Response," dated November 28, 2016 (Carlstar AQR); letter from Carlstar, "New Pneumatic Off-The-Road Tires from the People's Republic of China Supplemental Section A Questionnaire Response," dated February 22, 2017 (Carlstar SAQR); and letter from Carlstar, "New Pneumatic Off-The-Road Tires from the People's Republic of China Carlisle (Meizhou) Verification Exhibits," dated September 21, 2017 (Carlstar CEP Exhibits) at Exhibit 1.

examines a number of factors including, but not limited to, changes in management, production facilities, supplier relationships, and customer base.³⁰ Although no single or even several of these factors will necessarily provide a dispositive indication of succession, generally the Department will consider a company to be a successor if its resulting operation is not materially dissimilar to that of its predecessor.³¹ Thus, if the “totality of circumstances” demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash-deposit rate of its predecessor.³²

The record demonstrates that on October 20, 2013, CTP Transportation Products Holdings LLC,³³ purchased Carlisle Transportation Products³⁴ from the Carlisle Companies Incorporated. The record indicates that, after completion of the sale, Carlstar appointed a new board of directors for Carlisle Meizhou and CTP HK. However, the day to day operations, company name, the bulk of the employees, and the management at the Carlisle Meizhou factory remained consistent throughout the change in ownership (with the exception of a new General Manager appointed well after the acquisition). Further, for each of the three other criteria (*i.e.*, production facilities, supplier relationships, and customer base) that the Department generally examines in making a successor-in-interest determination, the record does not show any significant changes between the pre- and post-acquisition companies. Therefore, based on the totality of the information on the record, the Department preliminarily determines that, while Carlisle Meizhou’s management and Board of Directors have changed, its production facilities, customer base, suppliers and day-to-day operations remain unchanged from the predecessor company. Accordingly, we find that the operations of the successor are not materially dissimilar from those of its predecessor. Therefore, based on our analysis of the information on the record, we preliminarily determine that Carlisle Meizhou and its parent company CTP HK, are the successors-in-interest to the predecessor Carlisle Meizhou and its parent company Carlisle (Asia-Pacific). Because a more in-depth discussion of this analysis requires reference to information that is proprietary, please refer to the NSR Preliminary Rescission Memorandum for a more fulsome discussion.

As noted above, in accordance with 19 CFR 351.214(c), an exporter or producer may request a new shipper review within one year of the date on which subject merchandise was first entered, or withdrawn from warehouse, for consumption, or, if the exporter or producer cannot establish the date of the first entry, then the date on which it first shipped the merchandise for export to the United States. Because we preliminarily find that Carlstar is the successor-in-interest to the

³⁰ See, *e.g.*, *Ball Bearings and Parts Thereof from France: Final Results of Changed –Circumstances Review*, 75 FR 34688 (June 18, 2010), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

³¹ See, *e.g.*, *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979 (March 1, 1999).

³² See *Id.* at 9980; see also *Brass Sheet and Strip from Canada: Final Results of Administrative Review*, 57 FR 20461 (May 13, 1992), and IDM at Comment 1.

³³ CTP Transportation Products Holdings LLC later changed its name to Carlstar Holdings LLC.

³⁴ The sale between Carlisle Companies Incorporated and CTP Transportation Products limited included the following companies: Carlisle Transportation Products; Carlisle Canada, Carlisle International BY, Carlisle Tire & Wheel Europe BY, Carlisle Asia Pacific Limited, and Carlisle (Meizhou) Rubber Products Co., Ltd (collectively referred to as Carlisle Transportation Products).

former Carlisle companies, a review of CBP entry information on the record demonstrates that Carlstar's request for review was not timely filed within one year of the date specified in 19 CFR 351.214(c). The Department has rescinded prior reviews due to a requesting company's failure to satisfy the regulatory requirements under 19 CFR 351.214(c). For example, the 2014 NSR of the AD order on small diameter graphite electrodes from the PRC was rescinded because the company under review did not request a new shipper review within the timeline required by 19 CFR 351.214(c).³⁵ Therefore, we are preliminarily rescinding the NSR and are not calculating a dumping margin for Carlstar. In addition, because Carlstar did not request an administrative review of itself, we have no basis to review Carlstar in the context of the 2015-2016 administrative review of the AD Order.

V. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country

The Department considers the PRC to be a non-market economy (NME) country.³⁶ 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 these preliminary results.

B. Surrogate Country and Surrogate Value Data

On March 1, 2017, the Department sent interested parties a letter inviting comments on the concurrently released list of six potential surrogate countries and primary surrogate country selection, as well as surrogate value (SV) data.³⁷ On March 27, 2017, GTC and the petitioners³⁸ provided comments on the surrogate country selection criteria for the countries listed on the Surrogate Country List. In the instant case, no party has disagreed with the selection of Thailand for surrogate country.³⁹

³⁵ See *Small Diameter Graphite Electrodes from the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Review; 2014*, 80 FR 62516 (October 16, 2015), and accompanying Issues and Decision Memorandum at 7.

³⁶ 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).

³⁷ See letter from the Department, "2015-2016 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated March 1, 2017. (The letter contained a memorandum from Carole Showers, Director, Office of Policy, Enforcement and Compliance, to Mandy Mallott, Analyst, Office III, Enforcement and Compliance, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Certain Pneumatic Off-the-Road Tires from the People's Republic of China ("China")," dated February 1, 2017 (Surrogate Country List)).

³⁸ Titan Tire Corporation (Titan) and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (the USW), (collectively, the petitioners).

³⁹ See, e.g., letter from the petitioners, "Certain New Pneumatic Off-The-Road Tires from China (A-570-912): Petitioners' Surrogate Country Selection Comments," dated March 27, 2017 (Petitioners' Surrogate Country

On April 20, 2017, GTC and the petitioners each provided information and comments on the selection of surrogate values.⁴⁰ On September 5, 2017, Zhongwei submitted proposed surrogate values.⁴¹ GTC provided additional SV information on the record, including rebuttal information.⁴²

C. Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market-economy (ME) country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.⁴³ Reading sections 773(c)(1) and (c)(4) of the Act in concert, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data.⁴⁴ In this review, the Department determined that Mexico, Romania, Bulgaria, South Africa, Brazil, and Thailand are countries whose per capita gross national incomes (GNI) are comparable to the PRC in terms of economic development.⁴⁵ The sources of the SVs we used in this administrative review are discussed under the "Factor Valuations" section below.

The petitioners submit that the Department should select Thailand as the primary surrogate country, noting that Thailand is a significant producer of comparable merchandise at a level of economic development similar to the PRC.⁴⁶ They also note that Thailand provides publicly available information to value all costs relevant to this review and, of the potential surrogates on the Surrogate Country List that produce OTR tires, Thailand's GNI is closest to that of the PRC.⁴⁷ Additionally, the petitioners assert that:

- (1) Thailand is a net exporter of OTR tires; and

Comments); and letter from GTC, "GTC Surrogate Country Submission: New Pneumatic Off the-Road Tires from the People's Republic of China (A-570-912)," dated March 27, 2017 (GTC Surrogate Country Comments).

⁴⁰ See letter from the petitioners, "Administrative Review of the Antidumping Duty Order on New Pneumatic Off-The-Road Tires from China (A-570-912): Petitioners' First Surrogate Value Submission," dated April 20, 2017 (Petitioners SV Comments); and letter from GTC, "GTC's Surrogate Value Comments: Certain New Pneumatic Off the-Road Tires from China 2015-2016," dated April 20, 2017 (GTC SV Comments).

⁴¹ See letter from Zhongwei, "Submission of Surrogate Values - Off-the-Road Tires from the People's Republic of China," dated September 5, 2017.

⁴² See letter from GTC, "GTC's Rebuttal Surrogate Value Comments Certain New Pneumatic Off-the-Road Tires from China 2015 - 2016," dated May 1, 2017 (GTC Rebuttal SV Comments).

⁴³ See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (*Policy Bulletin*).

⁴⁴ *Id.*

⁴⁵ See Surrogate Country List.

⁴⁶ See Petitioners' Surrogate Country Comments.

⁴⁷ *Id.*

- (2) Thailand provides SVs for all inputs, including multiple sources from which to value rubber.⁴⁸

In its comments on surrogate country selection, GTC agreed that Thailand is an appropriate choice as the primary surrogate country.⁴⁹ Zhongwei did not provide comment on selection of the primary surrogate country.

1. Economic Comparability

Consistent with its practice, and section 773(c)(4) of the Act, and as stated above and in the Surrogate Country List, the Department identified Mexico, Romania, Bulgaria, South Africa, Brazil, and Thailand as countries at the same level of economic development as the PRC based on GNI data published in the World Bank Development Indicators database.⁵⁰ The Department does not rank the countries identified, and it considers all six countries identified as equivalent in terms of economic comparability. Accordingly, unless we find that all of these countries are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data, or are unsuitable for use for other reasons, or we find that another equally comparable country is an appropriate surrogate, we will rely on data from one of these countries.⁵¹ Therefore, we consider all six countries identified in the Surrogate Country List to have met this prong of the surrogate country selection criteria.

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 the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."⁵² Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.⁵³ Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the

⁴⁸ *Id.*

⁴⁹ See GTC Surrogate Country Comments.

⁵⁰ See Surrogate Country List.

⁵¹ See *Certain Steel Wheels from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 76 FR 67703, 67708 (November 2, 2011), unchanged in *Certain Steel Wheels from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances*, 77 FR 17021 (March 23, 2012).

⁵² See *Policy Bulletin* at 2.

⁵³ The *Policy Bulletin* also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.* at note 6.

industry.⁵⁴ “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.”⁵⁵ 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.⁵⁶

One factor that the Department considers in determining whether a country is a significant producer of comparable merchandise, is whether the country is an exporter of comparable merchandise. Thus, in this case, because production data of comparable merchandise was not available, we analyzed exports of comparable merchandise from the six countries found to be economically comparable as a proxy for production data. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, the Department examines which countries on the surrogate country list exported merchandise comparable to the merchandise under consideration. Information on the record indicates that all countries listed on the Surrogate Country List are exporters of merchandise covered by Harmonized Tariff Schedule (HTS) categories identified in the scope of this administrative review.⁵⁷ Accordingly, the Department preliminarily finds that Mexico, Romania, Bulgaria, South Africa, Brazil, and Thailand meet the significant producer of comparable merchandise prong of the surrogate country selection criteria.

3. Data Availability

When evaluating SV data, the Department considers several factors including whether the SVs are publicly available, contemporaneous with the period under consideration, broad-market averages, tax and duty-exclusive, and specific to the inputs being valued.⁵⁸ The Department’s preference is to satisfy the breadth of these aforementioned selection factors. There is no hierarchy among these criteria. 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.⁵⁹

⁵⁴ See *Sebacic Acid from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65676 (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.”).

⁵⁵ See Policy Bulletin at 2.

⁵⁶ *Id.* at 3.

⁵⁷ See Petitioners’ Surrogate Country Comments at Attachment 2.

⁵⁸ See, *e.g.*, *First Administrative Review of Certain Polyester Staple Fiber from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010) and accompanying Issues and Decision Memorandum at Comment 1.

⁵⁹ 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; and *Freshwater Crawfish Tail Meat from the People’s Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial*

Parties have placed data on the record from Thailand, and the record lacks surrogate value information from any other source country. Further, the Department finds that the Thai data are the best available data for valuing FOPs because we have complete, publicly-available, contemporaneous, product-specific Thai data that are generally tax-exclusive and representative of broad market averages for each input used by the respondent to produce the subject merchandise during the POR. In addition, the Thai surrogate financial statements on the record include publicly-available statements for companies which produce identical merchandise. Therefore, because complete surrogate value information which satisfies the factors for surrogate value selection is available from Thailand, the Department preliminarily determines that the Thai data are the best available surrogate value data.

4. Selection of Surrogate Country

Given the above facts, the Department selects Thailand as the primary surrogate country for this administrative review. Thailand is at the same level of economic development of the PRC, is a significant producer of comparable merchandise, and provides reliable and usable SV data. The Department will provide a detailed description of the SVs selected in the “Normal Value” section of this notice.

D. 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.⁶⁰ In the *Initiation Notice* and the *NSR Initiation*, the Department notified parties of the application process by which exporters may obtain separate rate status in this review.⁶¹ The process requires exporters to submit a separate rate application (SRA)⁶² or certification (SRC) and to demonstrate an absence of both *de jure* and *de facto* government control over their export activities.

The Department’s policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently

Rescission of Antidumping Duty Administrative Review, 67 FR 19546 (April 22, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

⁶⁰ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People’s Republic of China*, 71 FR 53079, 53082 (September 8, 2006) (*Lined Paper*); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People’s Republic of China*, 71 FR 29303, 29307 (May 22, 2006) (*Sawblades*); and *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).

⁶¹ See *Initiation Notice*, 81 FR 78778 at 78779; and *NSR Initiation*, 81 FR 76560.

⁶² 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>.

independent so as to be entitled to a separate rate.⁶³ The Department analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*⁶⁴ and further developed in *Silicon Carbide*.⁶⁵ 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.⁶⁶

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades* AD proceeding, and its determinations therein.⁶⁷ In particular, in litigation involving the underlying *Diamond Sawblades* proceeding, the Court of International Trade (CIT) found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity exercised control over the respondent exporter.⁶⁸ Following the Court's reasoning, in recent proceedings, we have concluded that where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the respondent is

⁶³ 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*).

⁶⁴ *Id.*

⁶⁵ 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*).

⁶⁶ See, e.g., *Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011*, 78 FR 9493 (February 6, 2013), and accompanying Decision Memorandum at 9, unchanged in final results, 78 FR 35249 (June 12, 2013); and *Certain Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9284 (February 20, 2008), unchanged in final affirmative determination, 73 FR 40485 (July 15, 2013).

⁶⁷ See *Final Results of Redetermination pursuant to Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), and available at <http://enforcement.trade.gov/remands/12-147.pdf>, *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). See also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memorandum at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum at Comment 1 (collectively, *Diamond Sawblades*).

⁶⁸ See, e.g., *Advanced Technology I*, 885 F. Supp. 2d at 1349 (CIT 2012) ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); *Id.*, at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor *de jure* 'separation' that Commerce concludes.") (footnotes omitted); *Id.*, at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); *Id.* at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

not eligible for a separate rate.⁶⁹ Otherwise, we will analyze the impact of government ownership within the context of the *de facto* criteria as established above. This may include control over, for example, the selection of board members and management, key factors in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with our normal separate rate practice, any ability to control, or possess an interest in controlling, the operations of the company (including the selection of board members, management, and the profit distribution of the company) by a government entity is subject to the Department's rebuttable presumption that all companies within the NME country are subject to government control.

In the *Initiation Notice* we stated that SRAs in the administrative review would be due 30 days after publication of the notice, *i.e.*, Friday, December 9, 2016.⁷⁰ The Department received timely filed SRAs, SRCs, and/or Section A responses from four of the nine respondents upon which we initiated a review and of which had entries of subject merchandise during the POR:

1. Zhongwei⁷¹
2. GTC and GTCIE⁷²
3. Qihang⁷³ and
4. Zhentai⁷⁴

Jintongda, TWS China, and Zhongce timely requested their companies be withdrawn from the review⁷⁵ and the Department rescinded the instant administrative review with respect to these three companies on April 4, 2017.⁷⁶ As discussed above, Milestone failed to submit a timely response to the Department's questionnaire. The remaining respondent, Cheng Shin, did not submit a response or certification to the Department's separate rate questionnaire and thus did not demonstrate eligibility for a separate-rate. As a result of their failure to respond, Milestone

⁶⁹ See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying Preliminary Decision Memorandum at 5-9.

⁷⁰ See *Initiation Notice*, 80 FR 78778 at 78779.

⁷¹ See letter from Zhongwei, "Section A Questionnaire Response: New Pneumatic Off-the-Road Tires from the People's Republic of China," dated March 24, 2017 (Zhongwei AQR).

⁷² See letter from GTC, "Section A Questionnaire Response Certain New Pneumatic Off-the-Road Tires from China," dated February 7, 2017 (GTC AQR).

⁷³ Qingdao Qihang Tyre Co. Ltd. (Qihang) submitted a timely filed SRC. See letter from Qihang, "Certain New Pneumatic Of-The-Road Tires from the People's Republic of China: Qingdao Qihang Tyre Co. Ltd. – AR 15-16 Separate Rate Certification," dated November 25, 2016 (Qihang SRC).

⁷⁴ Shandong Zhentai Group Co., Ltd. submitted a timely filed SRA. See letter from Zhentai, "Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Separate Rate Application - Shandong Zhentai Group Co., Ltd.," dated November 29, 2016 (Zhentai SRA).

⁷⁵ See letter from TWS China, "Antidumping Duty Administrative Review of New Pneumatic Off-The-Road Tires from the People's Republic of China: Withdrawal of Request for Administrative Review of Trelleborg Wheel Systems (Xingtai) Co., Ltd.," dated February 7, 2016; letter from Zhongce, "New Pneumatic Off-the-Road Tires from the People's Republic of China: Withdrawal of Request for Administrative Review – 2015-16 Review Period," dated December 13, 2016; and letter from Jintongda, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China -Withdrawal of Request for Administrative Review," dated November 24, 2016.

⁷⁶ See *Notice of Partial Rescission*.

and Cheng Shin are preliminarily included as part of the PRC-wide entity and subject to the PRC-wide rate, as discussed below.

Carlstar⁷⁷ provided a Section A response on the record of the NSR.

Separate Rate Analysis

a. Wholly Foreign Owned

None of the respondent parties in the administrative review reported being wholly-foreign owned by a company located in a ME country. Carlstar, the company subject to the NSR, is wholly-foreign owned by a company located in a ME country.⁷⁸ However, as a result of the Department's preliminary rescission of the new shipper review with respect to Carlstar, and because Carlstar did not submit a separate rate application in the administrative review, we have not further analyzed Carlstar's eligibility for a separate rate.

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

Zhongwei, GTC, Qihang, and Zhentai variously stated that they are joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies.⁷⁹ Therefore, these respondents must demonstrate an absence of both *de jure* and *de facto* governmental control over export activities, as appropriate, to qualify for a separate rate.

Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate:

- (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses;
- (2) any legislative enactments decentralizing control of companies; and
- (3) other formal measures by the government decentralizing control of companies.⁸⁰

The evidence provided by Zhongwei, GTC, Qihang, and Zhentai supports a preliminary finding of absence of *de jure* governmental control for each company 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 companies.⁸¹

⁷⁷ See Carlstar AQR.

⁷⁸ *Id.*

⁷⁹ See Zhongwei AQR, GTC AQR, Qihang SRC, and Zhentai SRA.

⁸⁰ See *Sparklers*, 56 FR at 20589.

⁸¹ See Zhongwei AQR, GTC AQR, Qihang SRC and Zhentai SRA.

Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions:

- (1) whether the export prices (EP) are set by or are subject to the approval of a government agency;
- (2) whether the respondent has authority to negotiate and sign contracts and other agreements;
- (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and
- (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.⁸²

The Department determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control, which would preclude the Department from granting a separate rate.⁸³

The evidence provided by Zhongwei, Qihang, and Zhentai supports a preliminary finding of *de facto* absence of government control based on the following: 1) the companies set their own EPs independent of the government and without the approval of a government authority; 2) the companies have authority to negotiate and sign contracts and other agreements; 3) the companies have autonomy from the government in making decisions regarding the selection of management; and 4) the companies retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.⁸⁴

Therefore, the evidence placed on the record by Zhongwei, Qihang, and Zhentai 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 Zhongwei, Qihang, and Zhentai.⁸⁵

c. Companies Not Receiving a Separate Rate

The Department has not granted a separate rate to the following separate rate applicants:

1. GTC

⁸² See *Silicon Carbide*, 59 FR at 22586-87; and *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).

⁸³ See memorandum to the file, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Zhongwei Preliminary Separate Rate Determination," dated concurrently with this memorandum (Zhongwei Separate Rate Memorandum).

⁸⁴ See Zhongwei AQR, Qihang SRC, and Zhentai SRA.

⁸⁵ See Zhongwei Separate Rate Memorandum for further discussion.

2. Cheng Shin
3. Milestone

We preliminarily determine that GTC did not rebut the presumption of *de facto government* control over the company's selection of the board of directors, management, and profit distribution. Because a full analysis of the Department's denial of a separate rate for GTC requires a discussion of business proprietary information, see the Department's GTC Separate Rate Memorandum for a full discussion of this issue.⁸⁶

We preliminarily determine that Cheng Shin did not file a timely response or certification to the Department's separate rate questionnaire and thus did not demonstrate eligibility for separate-rate status. We also preliminarily determine that, although Milestone submitted a timely SRA, once selected as a mandatory respondent, it failed to file the required Section A response.⁸⁷ As stated in the *Initiation Notice*, for exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.⁸⁸ Thus, we find that Milestone is not eligible for a separate rate.

Therefore, we preliminarily find GTC, Cheng Shin, and Milestone to be part of the PRC-wide entity and subject to the PRC-wide rate.⁸⁹

E. Margin for the Companies Individually Examined

As discussed above, the Department selected Zhongwei as a mandatory respondent in this administrative review and found this respondent eligible for a separate rate. Therefore, Zhongwei is receiving a separate rate for these preliminary results based on an individual weighted-average dumping margin calculated from its own sales and production data, pursuant to section 777A(c) of the Act.

F. Margin for the Separate Rate Companies Not Individually Examined

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not examine in an administrative review. Section 735(c)(5)(A) of the Act establishes a preference to avoid using rates which are zero, *de minimis*, or based entirely on

⁸⁶ See memorandum to the file, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: GTC Preliminary Separate Rate Determination," dated concurrently with this memorandum (GTC Separate Rate Memorandum).

⁸⁷ *Id.* The Department requires information on a number of factors including ownership and control to determine eligibility for a separate rate.

⁸⁸ See *Initiation Notice*, 81 FR at 78780.

⁸⁹ See "Margin for Companies Not Receiving a Separate Rate" section, below.

facts available (FA) in calculating an all others rate. Accordingly, the Department's usual practice has been to average the weighted-average dumping margins for the companies selected for individual examination in the annual review, excluding rates that are zero, *de minimis*, or based entirely on FA.⁹⁰ We may use "any reasonable method" for assigning the rate to non-selected respondents. One method that section 735(c)(5)(B) of the Act contemplates as a possible method is "averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated."

In this review and consistent with our practice, we preliminarily calculated a weighted-average dumping margin for Zhongwei that is above *de minimis* and not based entirely on FA. Therefore, we preliminarily assign to Qihang and Zhentai a margin of 4.54 percent (*i.e.*, the margin calculated for Zhongwei) as the separate rate for this review.

G. Margin for Companies Not Receiving a Separate Rate

1. PRC-Wide Entity

Upon initiation of the administrative review, we provided the opportunity for all companies for which the Department initiated a review to complete either the separate-rate application or certification.⁹¹ In NME proceedings, "'rates' may consist of a single dumping margin applicable to all exporters and producers."⁹² As explained above in the "Separate Rates" section, all companies within the PRC are considered to be subject to government control unless they are able to demonstrate an absence of government control with respect to their export activities. Such companies are assigned a single antidumping duty rate distinct from the separate rate(s) determined for companies that are found to be independent of government control with respect to their export activities.

The Department's policy regarding conditional review of the PRC-wide entity applies to this review.⁹³ Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review, and the entity's rate is not subject to change. As such, the PRC-wide rate from the previous review (*i.e.*, the seventh administrative review) remains unchanged, and the PRC-wide entity is receiving a margin of 105.31 percent.⁹⁴ Because Cheng Shin, Milestone, and GTC have not demonstrated that they are eligible for separate rate status, the Department finds that they have not rebutted the presumption of government control and, therefore, are part of the PRC-wide entity. Further,

⁹⁰ See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

⁹¹ The separate-rate application and certification are available at: <http://enforcement.trade.gov/nme/nme-sep-rate.html>.

⁹² See 19 CFR 351.107(d).

⁹³ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013).

⁹⁴ See, *e.g.*, *id.*; and *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 20197, 20199 (April 8, 2015).

because we have preliminarily rescinded the new shipper review with respect to Carlstar, if we proceed to final rescission of the new shipper review, we will instruct CBP to liquidate any suspended entries for Carlstar at the rate entered (*i.e.*, the PRC-wide rate).

H. Date of Sale

The Department's regulations at 19 CFR 351.401(i) state as follows:

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. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁹⁵

19 CFR 351.401(i) states that the Department will use the date of invoice, as recorded in the producer or exporter's records kept in the ordinary course of business, as the date of sale. However, the regulations permit the Department to use a different date if it better reflects the date on which the exporter or producer establishes the material terms of sale.⁹⁶ Zhongwei indicated the earlier of invoice date or shipment date as the date of sale in accordance with the time when the material terms of the sale are fixed.⁹⁷

I. Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Zhongwei's sales of OTR tires to the United States were made at less than NV, we compared Zhongwei's EP sales to NV, as described in the "U.S. Price" and "Normal Value" sections, below.

1. Determination of Comparison Method

⁹⁵ See 19 CFR 351.401(i); *see also* Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (upholding the Department's rebuttable presumption that invoice date is the appropriate date of sale).

⁹⁶ The Department's regulations state that it normally will use the invoice date as the date of sale unless a better date reflects the date on which the material terms of sale are established. *See* 19 CFR 351.401(i); *see also* Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, 64 FR 38756, 38768 (July 19, 1999) (stating that "the Department considers the date of sale to be the date on which all substantive terms of sale are agreed upon by the parties"). However, the Department has made it its practice to use the date of shipment as the date of sale when the date of invoice is after the date of shipment, because, normally, once merchandise is shipped to the customer, the material terms of sale have been established. *See Carbon and Alloy Steel Wire Rod from Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

⁹⁷ *See* letter from Zhongwei, "Supplemental Section C Questionnaire Response: New Pneumatic Off-the-Road Tires from the People's Republic of China," dated July 11, 2017 (Zhongwei SCQR) at 3-4. *See also* Zhongwei Verification Report.

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (or constructed export prices) 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. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.⁹⁸

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.⁹⁹ 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 administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes. 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 review 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

⁹⁸ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and accompanying Issues and Decision Memorandum at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014).

⁹⁹ See, *e.g.*, *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair*, 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); *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

Department uses in making comparisons between export price (or constructed export price) and normal value 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.

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 these preliminary results, including arguments for modifying the group definitions used in this proceeding.¹⁰⁰

2. Results of the Differential Pricing Analysis

For Zhongwei, based on the results of the differential pricing analysis, the Department preliminarily finds that 43.4 percent of Zhongwei's export sales pass the Cohen's *d* test, thus confirming the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. As such, the Department finds that these results support consideration of an alternative comparison method to the average-to-average method. However, the Department preliminarily determines that the average-to-average method can appropriately account for such differences because there is no significant difference between the weighted average dumping margins calculated under the average-to-average and the mixed alternative comparison methods.¹⁰¹ Therefore, the Department did not consider an alternative comparison method to the average-to-average method, and no additional argument to the contrary has been placed on the record. Accordingly, the Department preliminarily determined to use the average-to-average method to calculate the weighted-average dumping margin for Zhongwei.¹⁰²

J. Export Price

Pursuant to section 772(a) of the Act, the EP is "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. The Department considers the U.S. prices of certain sales by the respondent companies to be EPs in accordance with section 772(a) of the Act because they were the prices at which the subject merchandise was first sold before the date of importation by the exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States. We calculated EPs based on the sales price to the unaffiliated purchaser(s) in the United States.

¹⁰⁰ The Department's differential pricing methodology has largely been upheld in *Apex v. United States*, 862 F.3d 1337 (July 12, 2017).

¹⁰¹ See Zhongwei's Preliminary Analysis Memo.

¹⁰² In these preliminary results, the Department applied to Zhongwei the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average EPs and/or CEPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the sales price for various PRC expenses such as foreign inland freight, brokerage and handling, and international movement costs. Where such expenses were provided by PRC service providers or paid for in renminbi (RMB), we based those charges on surrogate values from Thailand.¹⁰³ For those expenses that were provided by an ME provider and paid for in an ME currency, the Department used the reported expense. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price, see Zhongwei's Preliminary Analysis Memorandum.

K. Value-Added Tax

The Department's recent practice in NME cases is to adjust EP or CEP for the amount of any unrefunded, (herein "irrecoverable") value-added tax (VAT) in certain non-market economies in accordance with section 772(c)(2)(B) of the Act.¹⁰⁴ In changing the practice, 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.¹⁰⁵ 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.¹⁰⁶

In an initial questionnaire, the Department instructed respondents to report VAT on the subject merchandise sold to the United States during the POR and to identify which taxes are unrefunded upon export.¹⁰⁷ According to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is 9 percent.¹⁰⁸ Zhongwei reported some inputs were imported through a bonded warehouse, and it did not pay VAT on these purchases.¹⁰⁹ The PRC government adjusted the export rebate rate given to Zhongwei for its exports of subject

¹⁰³ See "Factor Valuation" section below and memorandum from the Department, "2015-2016 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Results Surrogate Value Memorandum," date concurrently with this memorandum (Preliminary SV Memo) for further discussion of surrogate value selection.

¹⁰⁴ 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).

¹⁰⁵ *Id.*; and *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.

¹⁰⁶ *Id.*

¹⁰⁷ See, e.g., the Department's initial questionnaires, "2015-2016 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Questionnaire," dated December 16, 2016, and for Zhongwei, dated February 21, 2017 (Initial Questionnaire).

¹⁰⁸ See, e.g., letter from Zhongwei, "Section A Questionnaire Response: New Pneumatic Off-the-Road Tires from the People's Republic of China," dated April 13, 2017 (Zhongwei CDQR) at C-37-42 and Exhibits C-5 to C-12. Though the title of the letter indicates this is the Section A response, Zhongwei had already submitted its Section A response and this submission was actually its initial Sections C and D response.

¹⁰⁹ See Zhongwei CDQR at C-39-42; Zhongwei Verification Report.

merchandise to account for these inputs.¹¹⁰ We asked Zhongwei to explain in detail, and provide worksheets demonstrating, how it calculated the amount reported as VAT TAXU, and to reconcile this amount to actual VAT returns accompanied by a detailed narrative explanation that describes the calculations.¹¹¹ For each VAT or rebate value reported in the calculations, we requested that Zhongwei provide documentation and citations to the laws and regulations governing the tax or deduction. The Department verified that the values and percentages used in the calculations were assessed on Zhongwei under the provided legal authorities.¹¹² We verified the information provided by Zhongwei and determined that the adjustment to the standard rebate rate of 9 percent was adequately supported.¹¹³ Therefore, we used the figures provided in the VAT TAXU column of Zhongwei's U.S. sales database. See Zhongwei's Preliminary Analysis Memo.

The Department's methodology, as explained above and applied in this review, 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. For the purpose of these preliminary results, we removed from U.S. price the irrecoverable VAT amount reported as VAT TAXU, consistent with the Department's longstanding policy and the intent of the statute, that dumping comparisons be tax-neutral.¹¹⁴

L. Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(e) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. The Department's questionnaire requires that a respondent provide information regarding the weighted-average FOPs across all of the company's plants and/or suppliers that produce the merchandise under consideration, not just the

¹¹⁰ *Id.*

¹¹¹ *Id.* See also letter from Zhongwei, "Verification Exhibits Off-the-Road Tires from the People's Republic of China," dated September 6, 2017 (Zhongwei Verification Exhibits) at VE-18 for detailed narrative description and reconciliation of VAT receipts.

¹¹² *Id.*

¹¹³ See Zhongwei Verification Report.

¹¹⁴ See *Methodological Change*, (citing *Antidumping Duties; Countervailing Duties*, 62 FR27296, 27369 (May 19, 1997) and Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. I 03-316, vol. I, 827, reprinted in 1994 U.S.C.A.N. 3773, 4172); see also *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2011-2012*, 78 FR 78333 (December 26, 2013) and accompanying Preliminary Decision Memorandum at Issue 9, unchanged in Final Results.

FOPs from a single plant or supplier.¹¹⁵ This methodology ensures that the Department's calculations are as accurate as possible.¹¹⁶

The Department calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). Under section 773(c)(3) of the Act, FOPs used by Zhongwei in the production of OTR Tires 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. The Department based NV on the respondent company's reported FOPs for materials, energy, and labor.

M. Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by Zhongwei, the Department calculated NV based on the FOPs it reported for the POR. The Department used Thai import data and other publicly available Thai sources in order to calculate SVs for the FOPs. To calculate NV, the Department multiplied Zhongwei's reported per-unit FOP quantities by publicly available SVs.¹¹⁷ The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.¹¹⁸

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

Furthermore, with regard to the Thai import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized.¹¹⁹ We have reason to believe or suspect that prices of inputs from Indonesia, India, and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-

¹¹⁵ See Initial Questionnaire at Section D.

¹¹⁶ See, e.g., *Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire from the People's Republic of China*, 79 FR 25572 (May 5, 2014) and accompanying Issues and Decision Memorandum at Comment 7.

¹¹⁷ See Preliminary SV Memo.

¹¹⁸ See, e.g., *Electrolytic Manganese Dioxide from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008) and accompanying Issues and Decision Memorandum at Comment 2.

¹¹⁹ See Section 505 of Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015) (TPEA). 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) (*Application Notice*).

industry-specific export subsidies.¹²⁰ Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an “unspecified” country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.¹²¹ Therefore, we have not used prices from these countries either in calculating the Thai import-based SVs or in calculating ME input values.

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities (*i.e.*, 85 percent or more), and pays in an ME currency, the Department uses the actual price paid by the respondent to value those inputs, if substantially all of the factor, by total volume, is purchased from the market economy supplier.¹²² In accordance with the regulation, substantially all is defined to be 85 percent or more of the total volume purchased of the factor.¹²³ Alternatively, when the volume of an NME firm’s purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight average the ME purchase price with an appropriate SV, according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.¹²⁴ When a firm has made ME input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold.¹²⁵

Information reported by Zhongwei demonstrates that certain inputs were sourced from a ME country and paid for in ME currencies below the 85 percent threshold for other inputs.¹²⁶ Accordingly, the Department implemented its ME purchase methodology (outlined above) to value Zhongwei’s ME purchases, as appropriate, and applied freight expenses to the ME prices of the inputs where necessary.¹²⁷ The information reported by Zhongwei also demonstrates that certain inputs were purchased from countries which maintain broadly available, non-industry-

¹²⁰ See, *e.g.*, *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.; and *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.

¹²¹ See, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People’s Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People’s Republic of China*, 70 FR 24502 (May 10, 2005).

¹²² See *Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013) (*Market Economy Inputs*).

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ See Zhongwei CDQR at Exhibit D-8.

¹²⁷ See Preliminary SV Memo.

specific export subsidies; thus, consistent with our practice and the statute, we have not used the actual price paid for these inputs (or portion of inputs) and instead valued them using an SV.¹²⁸

For the preliminary results, the Department used Thai Import Statistics from Global Trade Atlas (GTA) to value raw materials, byproducts, packing inputs, and certain energy inputs that respondent companies used to produce subject merchandise during the POR, except as listed below.¹²⁹ Parties placed data from GTA for Thailand on the record for the aforementioned items, and GTA is a source that is regularly used by the Department because the data therein meet the Department's SV criteria. The record shows that data in the Thai import statistics, as well as those from the other sources, are contemporaneous with the POR, product-specific, representative of a broad market average, and duty and tax-exclusive.¹³⁰

The Department valued natural rubber inputs using the average of daily prices of natural rubber during the POR, as reported by the Rubber Research Institute of Thailand (RRIT) and recorded by the Associate of Natural Rubber Producing Countries (ANRPC).¹³¹ This source is (1) publicly available, (2) in the primary surrogate country, (3) spans the POR, and (4) is representative of a broad market average, and duty and tax-exclusive. The ANRPC compiles the prices of natural rubber from Kuala Lumpur, Bangkok, Kottayam, and Malaysia on a daily basis. The prices for Thailand are the country-wide "Official Noon Price," on a free on board basis, as reported by the RRIT and Department of Agriculture for natural rubber of grade RSS3.

We valued electricity and water using values from the *Cost of Doing Business in Thailand* report issued by the Thailand Board of Investment.¹³² We valued steam using data published in the 2015 annual report of Glow Energy Public Company Limited, a Thai company that supplies electricity, steam, and water for industrial use, contained therein.¹³³

We valued brokerage and handling (B&H) using information in the World Bank's *Doing Business 2017: Thailand* report. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand and the data gathered and reported is contemporaneous with the POR.¹³⁴

We valued truck freight using data published in the World Bank's *Doing Business 2017: Thailand* for inland transportation and handling relating to importing and exporting a standardized cargo of goods.¹³⁵ This report gathers information concerning the distance and cost to transport products in a 20-foot container weighing 15 metric tons from the largest city in Thailand (Bangkok) to the Laem Chabang port 129 kilometers away. Because this data used in the report is current as of June 2016, it is contemporaneous with the POR; thus, we did not inflate this value. In addition, because the value was denominated in USD, no currency

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

conversion was required. We divided the \$147 value reported by the average distance and that result by 15,000 kilograms (for the 15 ton container) to get a truck freight SV. We calculated a truck freight cost of .000076 USD per kilogram, per kilometer.¹³⁶

In *Labor Methodologies*, the Department determined that the best methodology to value labor is to use industry-specific labor rates from the primary surrogate country.¹³⁷ Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A from the International Labor Organization's (ILO) Yearbook of Labor Statistics (ILO Yearbook).¹³⁸ The Department does not, however, preclude all other sources from evaluation of labor costs.¹³⁹ Rather, we continue to follow our practice of selecting the best available information to determine SVs for inputs such as labor. In this case, we valued labor using data reported by the Thailand National Statistics Office *Labor Force Survey of Whole Kingdom Quarter 4 2015 – Quarter 3, 2016*, which is specific to manufacturing and contemporaneous with or closest in time to the POR from the labor sources available on the record.¹⁴⁰

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.¹⁴¹ 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.¹⁴² 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.¹⁴³ To value SG&A and profit, we used information from the financial statements of Thai OTR tire producers S.R. Tyres Co. Ltd. (S.R. Tyres) and Hwa Fong Rubber Ind. Co., Ltd. (Hwa Fong) for the year ending December 31, 2014. Both are producers of identical merchandise.¹⁴⁴ From these Thai financial statements we were able to determine factory overhead as a percentage of the total raw materials, labor, and energy

¹³⁶ *Id.*

¹³⁷ See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing The Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

¹³⁸ In *Labor Methodologies*, the Department decided to change to the use of ILO Chapter 6A data from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs. The Department did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings.

¹³⁹ See *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 75854 (December 4, 2015) and Issues and Decision Memorandum at 22-23, unchanged in the final determination.

¹⁴⁰ See Preliminary SV Memo.

¹⁴¹ 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.

¹⁴² 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).

¹⁴³ See *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-1254 (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.

¹⁴⁴ See Preliminary SV Memo for a discussion on the selection of financial statements.

(ML&E) costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A.

N. Currency Conversion

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

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

VI. **Adjustment Under Section 777A(f) of the Act**

In applying section 777A(f) of the Act in this administrative review, 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.¹⁴⁵ 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.¹⁴⁶

In order to examine the effects of concurrent countervailable subsidies in calculating antidumping margins for Zhongwei, the Department provided Zhongwei with an opportunity to submit information with respect to subsidies relevant to its eligibility for an adjustment to the calculated weighted-average dumping margin. Zhongwei provided a response to this questionnaire, reporting eight potential programs for adjustment.¹⁴⁷ Zhongwei demonstrated that the less than adequate remuneration (LTAR) programs for natural rubber, nylon cord, and carbon black impacted its cost of manufacture.¹⁴⁸ We preliminarily determine that Zhongwei's questionnaire responses indicate a subsidies-to-cost linkage for these LTAR programs. Zhongwei provided information indicating that the price at which it sells subject merchandise to its customers is impacted by the cost of raw materials and energy.¹⁴⁹ Thus, Zhongwei's questionnaire responses indicate a cost-to-price linkage for the provision of natural rubber, nylon cord, and carbon black for LTAR. Based on the foregoing, we are making an adjustment to the

¹⁴⁵ See section 777A(f)(1)(A)-(C) of the Act.

¹⁴⁶ See section 777A(f)(1)-(2) of the Act.

¹⁴⁷ See Zhongwei CDQR at Appendix X; memorandum to the file, "2015-2016 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Analysis of the Preliminary Results Margin Calculation for Weihai Zhongwei Rubber Co., Ltd.," dated concurrently with this memorandum (Zhongwei Analysis Memo).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

Zhongwei's dumping margin under section 777A(f) of the Act.

In the CVD investigation, the Department determined program-specific rates of subsidized natural rubber, nylon cord, and carbon black.¹⁵⁰ Thus, the Department has the necessary information from the prior CVD proceeding to make the adjustment in this proceeding in the manner described above for purposes of these preliminary results.¹⁵¹

VII. Recommendation

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

10/2/2017

X



Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

¹⁵⁰ See *Certain New Pneumatic Off-the-Road Tires: Final Results of Countervailing Duty Administrative Review*; 2014, 82 FR 18285 (April 18, 2017) and accompanying Issues and Decision Memorandum; Zhongwei Double Remedies Memo.

¹⁵¹ See Zhongwei's Preliminary Analysis Memo.