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Investigation
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May 7, 2018

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
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Less-Than-Fair-Value Investigation of Forged Steel Fittings from
the People's Republic of China

I. SUMMARY

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

II. BACKGROUND

On October 5, 2017, Commerce received an antidumping duty (AD) petition covering imports of forged steel fittings from China,¹ which was filed in proper form by Bonney Forge Corporation and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) (collectively, the petitioners). Commerce initiated this investigation on October 25, 2017.²

¹ See Letter to the Secretary of Commerce re: "Petitions for the Imposition of Antidumping and Countervailing Duties: Forged Steel Fittings from the People's Republic of China, Italy, and Taiwan," dated October 5, 2017 (the Petition).

² See *Forged Steel Fittings from the People's Republic of China, Italy, and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 50614 (November 1, 2017) (*Initiation Notice*).



In the *Initiation Notice*, Commerce notified parties of the application process by which producers and exporters may obtain separate rate status in a non-market economy (NME) LTFV investigation. The process requires exporters to submit a separate rate application (SRA)³ and to demonstrate an absence of both *de jure* and *de facto* government control over their export activities.

In the “Respondent Selection” section of the *Initiation Notice*, Commerce stated that, in accordance with its standard practice for respondent selection in cases involving NME countries,⁴ it intended to issue a quantity and value (Q&V) questionnaire to each potential respondent and base respondent selection on the responses received.⁵ In the Petition, the petitioners identified 14 producers or exporters of the subject merchandise.⁶ Commerce issued Q&V questionnaires on October 26, 2017, to the 14 producers or exporters named in the Petition⁷ and posted the Q&V questionnaire, along with filing instructions, on Enforcement and Compliance’s website (<http://trade.gov/enforcement/news.asp>).

Also in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of forged steel fittings to be reported in response to Commerce’s AD questionnaire.⁸ Commerce received a number of scope comments on the record of this investigation, as well as on the records of the companion forged steel fitting investigations involving Italy and Taiwan. On March 7, 2018, Commerce issued a Preliminary Scope Decision Memorandum which included certain preliminary revisions to the scope based on the scope comments received (*see* Scope Comments Section IV below).⁹

On November 14, 2017, the petitioners submitted comments to Commerce regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes.¹⁰ On November 25, 2017, M.E.G.A. S.p.A. (MEGA), an Italian producer and exporter of subject merchandise, filed rebuttal comments regarding the petitioners’ comments on physical characteristics of the merchandise.¹¹ Based on the comments received, Commerce developed a questionnaire to be issued to the mandatory respondents which contained the product characteristics for this and the companion AD investigations.¹²

³ 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>.

⁴ In the *Initiation Notice*, we stated that the presumption of NME status for China has not been revoked by Commerce and, therefore, remains in effect for purposes of the initiation of this investigation. See *Initiation Notice*, 82 FR at 50617.

⁵ *Id.* at 50618.

⁶ See the Petition at Volume I, Exhibit I-3.

⁷ See Memorandum, “Quantity and Value Questionnaire,” dated November 1, 2017.

⁸ See *Initiation Notice*, 82 FR at 50615.

⁹ For further discussion of these comments, see Memorandum to the File, “Certain Forged Steel Fittings from People’s Republic of China, Italy, and Taiwan: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated March 7, 2018 (Preliminary Scope Decision Memorandum).

¹⁰ See the petitioners’ Letter re: Comments on Product Characteristics, dated November 14, 2017.

¹¹ See M.E.G.A S.p.A. Letter re: Reply Comments on Product Matching Characteristics, dated November 24, 2017.

¹² See Commerce Letter to Both-Well re: Antidumping Duty Questionnaire, dated December 11, 2017, and Letter to Jiangsu Haida Pipe Fittings Group Company Ltd. re: Antidumping Duty Questionnaire, dated December 28, 2017.

On November 28, 2017, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of forged steel fittings from China.¹³

On January 10, 2018, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation.¹⁴ Based on the request, and pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), on February 2, 2018, Commerce published in the *Federal Register* a postponement of the preliminary determination by 50 days until no later than May 3, 2018. On January 23, 2018, Commerce tolled the deadline for the preliminary determination until May 7, 2018, due to the partial shutdown of the Federal Government from January 20, 2018, through January 22, 2018.¹⁵

On March 18, 2018, Both-Well (Taizhou) Steel Fittings, Co., Ltd. (Both-Well) requested that Commerce postpone the final determination, and that provisional measures be extended.¹⁶ On April 11, 2018, the petitioners filed comments regarding the preliminary determination.¹⁷ On April 18, the petitioners requested, in the event of a negative preliminary determination in this investigation, that Commerce postpone the final determination up to 135 days after the date of the publication of the preliminary determination.¹⁸ On April 24, 2018, the petitioners filed comments regarding Both-Well's re-submission of a Bulgarian financial statement.¹⁹ On May 2, 2018, Both-Well filed comments rebutting the petitioners' April 24, 2018, comments regarding the re-submitted Bulgarian financial statements.²⁰ On May 2, 2018, Haida filed comments regarding the preliminary determination.²¹

We are conducting this investigation in accordance with section 733(b) of the Act.

¹³ See *Forged Steel Fittings from the China, Italy, and Taiwan; Determinations*, 82 FR 56049 (November 27, 2017).

¹⁴ See Letter from the petitioners, "Request to Extend Deadlines for Preliminary Determinations," dated January 10, 2018.

¹⁵ See Memorandum for the Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

¹⁶ See Letter from Both-Well, "Forged Steel Fittings from China: Antidumping," dated March 18, 2018.

¹⁷ See Letter from the petitioners, "Pre-Preliminary Comments," dated April 11, 2018 (Petitioners' Pre-Preliminary Comments).

¹⁸ See Letters from the petitioners, "Request to Extend Final Determination," dated April 18, 2018; and "Request to Extend Final Determination, Acknowledgement of Gap in CVD Provisional Measures," dated April 19, 2018.

¹⁹ See Letter from the petitioners, "Comments on Both-Well's Financial Statement Submission," dated April 24, 2018. Commerce is unable to consider these comments for the preliminary determination because they were filed too close to the preliminary determination deadline to be fully analyzed.

²⁰ See Letter from Both-Well, "Antidumping," dated May 2, 2018. Commerce is unable to consider these comments for the preliminary determination because they were filed too close to the preliminary determination deadline to be fully analyzed.

²¹ See Letter from Haida, "Pre-Preliminary Comments," dated May 2, 2018. Commerce is unable to consider these comments for the preliminary determination because they were filed too close to the preliminary determination deadline to be fully analyzed.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2017, through September 30, 2017. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was October 2017.²²

IV. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,²³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, *i.e.*, scope.²⁴ Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*. Based on our analysis of these comments, we made certain preliminary revisions to the scope, as reflected in Appendix I of the accompanying *Federal Register* notice. For a summary of the scope comments and rebuttal responses submitted to the record, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum and the Second Preliminary Scope Decision Memorandum.²⁵

V. SCOPE OF THE INVESTIGATION

For a full description of the scope of this investigation, *see* this investigation's accompanying *Federal Register* notice at Appendix I.

VI. SELECTION OF RESPONDENTS

We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on responses to a Q&V questionnaire to be sent to each potential respondent named in the Petition.²⁶ On October 26, 2017, Commerce issued a Q&V questionnaire to the 14 companies that the petitioners identified as potential producers or exporters of forged steel fittings from China.²⁷ Also on October 26, 2017, we received a letter from Jiangsu Haida Pipe Fittings Group Company Ltd. (Haida) requesting that if it was not selected as a mandatory respondent for individual examination, it then be treated as a voluntary respondent, pursuant to section 782(a) of the Act and 19 CFR 351.204(d).²⁸ In addition, Commerce posted the Q&V questionnaire on its website and, in the *Initiation Notice*, invited parties that did not receive a Q&V questionnaire from Commerce to file a response to the Q&V questionnaire by the applicable deadline. Of the 14 companies identified in the Petition, the Q&V questionnaire was successfully delivered to eleven of

²² See 19 CFR 351.204(b)(1).

²³ See *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

²⁴ See *Initiation Notice*, 82 FR at 50615.

²⁵ See Preliminary Scope Decision Memorandum and Memorandum to the File, "Second Preliminary Scope Decision Memorandum," dated concurrently with this memorandum (Second Preliminary Scope Decision Memorandum).

²⁶ See *Initiation Notice*, 82 FR at 50618.

²⁷ See the Petition at Volume I, Exhibit I-3; *see also* Commerce's Letter re; "Quantity and Value Questionnaire for the Antidumping Duty Investigation of Forged Steel Fittings from People's Republic of China," dated October 26, 2017; and Memorandum to the File, "Quantity and Value Questionnaire Delivery Confirmation," dated November 13, 2017 (Q&V Delivery Confirmation Memo).

²⁸ See Jiangsu Haida Letter, "Forged Steel Fittings from the People's Republic of China: Haida Request for Voluntary Respondent Treatment," dated October 26, 2017.

the companies;²⁹ two of the companies did not receive the Q&V questionnaire because they were undeliverable;³⁰ and one of the companies refused the Q&V questionnaire upon delivery.³¹ Of the 14 companies identified in the Petition, seven provided properly filed Q&V questionnaire responses. Commerce also received timely-filed Q&V responses from an additional 18 producers or exporters not named in the Petition. Commerce rejected one untimely-filed Q&V questionnaire response.³² Seven of the Q&V questionnaire responses from producers or exporters not named in the Petition reported no sales of the merchandise under consideration, as identified in the scope of the investigation, during the POI.

On December 6, 2017, based on responses to the Q&V questionnaires, we selected Both-Well (Taizhou) Steel Fittings Co., Ltd. (Both-Well) and WWF Manufacturing (Suzhou) Co., Ltd. (WWF Suzhou) for individual examination as mandatory respondents in this LTFV investigation.³³ On December 7, 2017, WWF Suzhou requested that Commerce rescind its selection as a mandatory respondent claiming that it does not have sales of the products intended to be covered by this investigation.³⁴ On December 8, 2017, Commerce issued a letter to WWF Suzhou requesting additional information in support of its claim that the products it produced, exported and sold in the United States during the POI are not covered by the scope of the investigation.³⁵

On December 11, 2017, Commerce issued its AD NME questionnaire to Both-Well.³⁶ On this same date, the petitioners submitted a letter to Commerce agreeing with WWF Suzhou that it should no longer be considered as a mandatory respondent.³⁷ The petitioners stated, in their November 28, 2017, submission, that they agreed with WWF Suzhou that the products it claims to produce/sell, hydraulic fittings, are not within the scope of investigation. On December 13, 2017, WWF Suzhou responded to Commerce's request for information.³⁸ Based on the representations made in WWF Suzhou's December 7, 2017, letter, as well as the additional information provided in its December 13, 2017, submission, Commerce did not require WWF Suzhou to respond to the AD questionnaire.³⁹ On December 21, 2017, Haida withdrew its request for voluntary respondent treatment.⁴⁰ On December 28, 2017, Commerce issued a second respondent selection memorandum⁴¹ and the AD NME questionnaire to Haida.⁴² On

²⁹ See Q&V Delivery Confirmation Memo at 2 and Attachment I.

³⁰ *Id.*, at 2 and Attachment II.

³¹ *Id.*, at 2 and Attachment III.

³² See Letter to Gaoyou Huaxing Petroleum Pipe Manufacture Co. Ltd., "Antidumping Duty Investigation of Forged Steel Fittings from the People's Republic of China: Rejection of Untimely Filed Quantity and Value Questionnaire Response," dated November 16, 2017.

³³ See Memorandum, "Respondent Selection," dated December 6, 2017 (Respondent Selection Memo).

³⁴ See WWF Suzhou's Letter, "December 6, 2017 Respondent Selection Memorandum; Forged Steel Fittings from the People's Republic of China, Italy and Taiwan," dated December 7, 2017.

³⁵ See Commerce's Letter, "Antidumping Duty Investigation of Forged Steel Fittings from the People's Republic of China: Request for Additional Information," dated December 8, 2017.

³⁶ See Commerce Questionnaire, dated December 11, 2017, issued to Both-Well.

³⁷ See the petitioner's letter, "Forged Steel Fittings from the People's Republic of China: Comments on WWF's Request to be Excluded as Mandatory Respondent," dated December 11, 2017.

³⁸ See WWF Suzhou's Letter, "Response to Commerce Request Dated December 8, 2017," dated December 13, 2017.

³⁹ See Commerce's Letter, "No Requirement to Respond to Questionnaire at this Time," dated December 15, 2017.

⁴⁰ See Jiangsu Haida Letter, "Withdrawal of Request for Voluntary Respondent Treatment," dated December 21, 2017.

⁴¹ See Memorandum, "Selection of Additional Mandatory Respondent," dated December 28, 2017.

⁴² See Commerce Questionnaire, dated December 28, 2017, issued to Jiangsu Haida.

December 22, 2017, and January 2, 2018, Commerce issued additional questionnaires to Both-Well and Haida, respectively, regarding a potential adjustment to antidumping duties to address any “double remedy” demonstrated to result from the concurrent application of AD and countervailing duties to imports from NME countries.

Between January and February 2018, Both-Well and Haida submitted timely filed questionnaire responses. In March and April 2018, Commerce issued supplemental questionnaires to both respondents, and the petitioners submitted comments regarding Both-Well’s and Haida’s questionnaire responses.

VII. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country

Commerce considers China to be an NME country.⁴³ 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 Commerce. None of the parties to this proceeding have contested such treatment. Therefore, we continue to treat China as an NME country for purposes of this preliminary determination.

B. Surrogate Country and Surrogate Value Comments

When Commerce is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer’s factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by Commerce. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce shall utilize, “to the extent possible, the prices or costs of {FOPs} in one or more ME countries that are — (A) at a level of economic development comparable to that of the {NME} country; and (B) significant producers of comparable merchandise.”⁴⁴ As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available surrogate value (SV) data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.⁴⁵ To determine which countries are at the same level of economic development, Commerce generally relies on per capita gross

⁴³ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People’s Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum to Gary Taverman, “China’s Status as a Non-Market Economy,” dated October 26, 2017), unchanged in *Certain Aluminum Foil From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

⁴⁴ See Commerce Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1) available on Commerce’s website at <http://enforcement.trade.gov/policy/bull04-1.html>.

⁴⁵ See Letter to All Interested Parties, “Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information,” dated December 22, 2017 (Surrogate Country Comment Letter).

national income (GNI) data from the World Bank's World Development Report.⁴⁶ Further, Commerce normally values all FOPs in a single surrogate country.⁴⁷

On December 12, 2017, Commerce identified Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand as countries that are at the same level of economic development as China based on per capita 2016 GNI data.⁴⁸ On December 22, 2017, Commerce issued a letter to interested parties soliciting comments on the list of potential surrogate countries and the selection of the primary surrogate country, and provided deadlines for submitting SV information for consideration in the preliminary determination.⁴⁹ On January 26, 2018, Haida submitted SVs based on Mexican data.⁵⁰

On February 12, 2018, Commerce received timely-filed comments on surrogate country selection from the petitioners, Both-Well, and Haida.⁵¹ The petitioners recommended that Brazil be used as the surrogate country, and provided information indicating that there is: (1) significant production of merchandise comparable to forged steel fittings;⁵² (2) available and reliable data for the FOPs identified by the respondents;⁵³ and (3) available and reliable financial statements for the production of comparable merchandise.⁵⁴ Both-Well argued that Romania, Bulgaria, and Thailand are the same level of economic development as China, and may be significant producers of comparable merchandise. Both-Well provided a list of producers of comparable merchandise from these countries. Haida recommended that Mexico be used as the surrogate country in this investigation, because it is at the same level of economic development as China, and is a significant producer of the subject merchandise. In addition, Haida argued that Mexico has reliable pricing data for the relevant FOPs, and noted that the petitioners had already put information on the record that shows that Mexico is the appropriate surrogate country in this investigation.

On February 22, 2018, the petitioners and Haida submitted timely-filed rebuttal comments on surrogate country selection.⁵⁵ The petitioners claimed that neither Both-Well nor Haida provided sufficient information in support of their surrogate country recommendations. The petitioners stated that they were unable to find producers of identical or closely comparable merchandise in Mexico with publicly available financial statements. While the petitioners believed that the financial statements of Ternium, S.A. are the best available statements for Mexico, they argued that Tupy S.A. in Brazil produces more comparable merchandise than Ternium S.A.⁵⁶ In addition, the petitioners believed that the Mexican import data provided by Global Trade Atlas

⁴⁶ *Id.*

⁴⁷ See 19 CFR 351.408(c)(2).

⁴⁸ See Surrogate Country Comment Letter.

⁴⁹ *Id.*

⁵⁰ See Haida's Letter, "Comments on Surrogate Values," dated January 26, 2018.

⁵¹ See the petitioners' Letter, "Comments on Surrogate Country" (Petitioners' SC Comments); Both-Well's Letter, "Forged Steel Fittings from China: Antidumping"; and Haida's Letter, "Comments on Surrogate Countries," dated February 12, 2018.

⁵² See the Petitioners' SC Comments, at 1, and Exhibit 1.

⁵³ *Id.*, at 2.

⁵⁴ *Id.*, at 2, Exhibit 2 and 3.

⁵⁵ See the petitioners' Letter, "Surrogate Country Rebuttal Comments" (Petitioners' SC Rebuttal Comments); and Haida's Letter, "Rebuttal Comments on Surrogate Country (Haida SC Rebuttal Comments)," dated February 22, 2018.

⁵⁶ See Petitioners' SC Rebuttal Comments, at 2-3.

(GTA) contains a data entry error and, therefore, may not be reliable.⁵⁷ Haida argued that the petitioners have not explained why Brazil is a better surrogate country than Mexico in this investigation, or demonstrated that Brazil has significant production of comparable merchandise. Haida asserted that its data demonstrates that Mexico is a significant producer of comparable merchandise. Haida added that, by contrast, the petitioners have merely asserted that Brazil is a significant producer of comparable merchandise, but did not provide any reliable data to show that Brazil exported comparable merchandise under the relevant HTSUS subheadings. Haida alleged that: (1) the trade association cited by the petitioners to support their assertion that Brazil is a significant producer of merchandise comparable to forged steel fittings, may not be representative of the industry in Brazil; (2) the petitioners' cited data do not include Brazilian exports of comparable merchandise; (3) the trade association data are contemporaneous with the POI; and (4) the company list from the trade association may contain companies that are not producers of comparable merchandise.⁵⁸

On March 5, 2018, Haida stated that it previously explained that Mexico is at a level of economic development comparable to that of China, and is also a significant producer of comparable merchandise. Haida also noted that the petitioners offered no evidence to demonstrate that any other country is a significant producer of the merchandise under consideration. On March 5, 2018, the petitioners submitted SV data stating that Brazil is the most appropriate surrogate country, based on the factors identified by Commerce. Also on March 5, 2018, Both-Well submitted SV data for Bulgaria, arguing that Bulgaria has excellent quality publicly available SVs for all inputs, and does not offer broad government subsidies.⁵⁹

On March 12, 2018, Both-Well and Haida submitted rebuttal comments.⁶⁰ In its rebuttal to Petitioners' SV Comments, Haida argued that the financial statements of Tupy S.A. are not appropriate, because a large portion of its production consists of products that are not comparable to the subject merchandise, and it is Commerce's practice to reject surrogate data from countries offering generally available subsidies. Both-Well also argued that the SVs of Brazil are not appropriate for use in this investigation. Both-Well claimed that the Brazilian import data do not correctly reflect the value of the raw material and packing material inputs, and Brazil does not have a set of qualified financial statements from a producer of a comparable product. Furthermore, Both-Well argued that, unlike the Brazilian import data, the Bulgarian import data are specific to the chemical composition and dimension of the round bar, the major input in the production of forged steel fittings, consumed by Both-Well.

1. Economic Comparability

For this investigation, as noted above, Commerce determines that Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand, are countries at the same level of economic development

⁵⁷ *Id.*, at 3-6.

⁵⁸ See Haida SC Rebuttal Comments, at 3

⁵⁹ See the petitioners' Letter, "Petitioner's Surrogate Value Comments" (Petitioners' SV Comments); Both-Well's Letter, "Forged Steel Fittings from China: Antidumping" (Both-Well SV Comments); and Haida's Letter, "Second Surrogate Value Comments" (Haida SV Comments), each dated March 5, 2018. See also the petitioner's Letter, "Final Surrogate Value Comments," dated April 9, 2018, and Both-Well's Letters, "Forged Steel Fittings from China: Antidumping," dated April 5 and 9, 2018.

⁶⁰ See Both-Well's Letter, "Forged Steel Fittings from China: Antidumping"; and Haida's Letter, "Rebuttal Comments on Surrogate Values," dated March 12, 2018.

as China, based on per capita GNI.⁶¹ No party provided evidence or argument to undermine this determination.

2. *Significant Producer of Comparable Merchandise*

Section 773(c)(4)(B) of the Act requires Commerce to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor Commerce's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, Commerce looks to other sources such as a policy bulletin for guidance on defining comparable merchandise. Policy Bulletin 04.1 states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."⁶² Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.⁶³ Further, when selecting a surrogate country, the statute requires Commerce to consider the comparability of the merchandise, not the comparability of the industry.⁶⁴ "In cases where the identical merchandise is not produced, Commerce must determine if other merchandise that is comparable is produced. How Commerce does this depends on the subject merchandise."⁶⁵ In this regard, Commerce 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.⁶⁶

Further, the statute grants Commerce discretion to examine various data sources for determining the best available information.⁶⁷ Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter," it does not preclude reliance on additional or alternative metrics.⁶⁸ Policy Bulletin 04.1 provides that the "extent to which a country is a *significant* producer should not be judged against the NME country's production level" or those countries on the surrogate country list, but rather "a

⁶¹ For further discussion, *see* Memorandum, "Less-Than-Fair-Value Investigation of Forged Steel Fittings from the People's Republic of China: Surrogate Values for the Preliminary Determination," dated concurrently with this document (Preliminary SV Memorandum).

⁶² *See* Policy Bulletin 04.1) at 2.

⁶³ Policy Bulletin 04.1 also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.* at note 6.

⁶⁴ *See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

⁶⁵ *See* Policy Bulletin 04.1 at 2.

⁶⁶ *Id.*, at 3.

⁶⁷ *See* section 773(c) of the Act; *see also Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

⁶⁸ *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).

judgment should be made consistent with the characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics).”⁶⁹

Following our practice, Commerce considered whether all the potential surrogate countries have significant exports of comparable merchandise, as defined by the HTS subheadings listed in the scope of the investigation.⁷⁰ We reviewed the interested parties’ comments regarding significant production of comparable merchandise in Brazil, Bulgaria, and Mexico. No interested parties provided any production data with respect to Romania, South Africa or Thailand. To evaluate the evidence provided by interested parties regarding significant production in Brazil, Bulgaria, and Mexico, we examined export data from GTA for the six-digit level HTS codes listed in the description of the scope of this investigation.⁷¹ In reviewing these export data, Commerce preliminarily determines that none of the total export volumes from Brazil, Bulgaria, Mexico are insignificant and that interested parties have satisfied the significant production requirement under section 773(c)(4)(B) of the Act. Accordingly, Commerce finds that, based on the evidence provided by interested parties, Brazil, Bulgaria, and Mexico are significant producers of comparable merchandise (*i.e.*, exported merchandise under the six-digit basket HTS codes included in the scope), and therefore, satisfy the second criterion of section 773(c)(4) of the Act.^{72, 73}

3. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, then Commerce selects the primary surrogate country based on data availability and reliability.⁷⁴ When evaluating SV data, Commerce considers several factors, including whether the SVs are publicly available, contemporaneous with the POI, representative of a broad-market average, tax- and duty-exclusive, and specific to the inputs being valued.⁷⁵ There is no hierarchy among these criteria.⁷⁶ Commerce’s preference is to satisfy the breadth of the aforementioned selection criteria.⁷⁷ Moreover, it is Commerce’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.⁷⁸ Commerce must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes

⁶⁹ See Policy Bulletin 04.1 (emphasis in original).

⁷⁰ See *Certain Uncoated Paper from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 81 FR 3112 (January 20, 2016), and accompanying Issues and Decision Memorandum at Comment 1.

⁷¹ See Preliminary SV Memorandum, at Attachment 2.

⁷² See Policy Bulletin 04.1.

⁷³ See Preliminary SV Memorandum at Attachment 2.

⁷⁴ See Policy Bulletin 04.1.

⁷⁵ *Id.*

⁷⁶ See, e.g., *Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) (*Mushrooms AR6*), and accompanying Issues and Decision Memorandum at Comment 1.

⁷⁷ See, e.g., *Administrative Review of Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940, 51943 (August 19, 2011), and accompanying Issues and Decision Memorandum at Comment 2.

⁷⁸ See *Mushrooms AR6* at Comment 1; see also *Freshwater Crawfish Tail Meat from the People’s Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

the “best” available SV for each input.⁷⁹ Additionally, pursuant to 19 CFR 351.408(c)(2), Commerce has a preference of valuing all FOPs in a single surrogate country.

The petitioners filed SV comments and data for Brazil.⁸⁰ Both-Well submitted SV comments and data for Bulgaria, and Haida submitted SV comments and data for Mexico.⁸¹ After reviewing the comments and data, we note that the record contains complete SV data from Brazil, Bulgaria, and Mexico for the FOPs (materials, labor, and energy) required to construct a NV. As no interested parties provided any comments or data for Romania, South Africa, and Thailand, we have disqualified these countries from consideration as the surrogate country.

In reviewing the data from Brazil, Bulgaria, and Mexico, Commerce evaluated whether the import data are specific to the inputs, contemporaneous, and tax- and duty-exclusive, and represent a broad market average, with specific focus on the main input used to produce subject merchandise: round bar. The record demonstrates that while the import data for round bar for all three countries are specific at the six-digit level of the HTS codes, we find that import data for round bar from Bulgaria are more specific at the eight-digit level of the HTS codes. Thus, unlike the Brazilian and Mexican data, the Bulgarian data provide HTS codes for each of the specific types of round bar used by Both-Well. We find that the level of specificity with respect to round bar types is the prevailing factor in selecting the primary surrogate country in this case. Accordingly, Commerce preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Bulgaria as the primary surrogate country because Bulgaria is: (1) at the same level of economic development as China; (2) a significant producer of merchandise comparable to the subject merchandise such that can be determined from the information available; and (3) provides the best useable data and information with which to value FOPs, with the exception of surrogate financial ratios, as discussed below. Therefore, Commerce has selected Bulgaria as the primary surrogate country.

With respect to the surrogate financial ratios necessary to calculate a NV, parties placed Bulgarian, Brazilian, and Mexican financial statements on the record. As discussed in additional detail in the Preliminary SV Memorandum, we find that the Brazilian financial statements constitute the best available information for calculating surrogate financial ratios and, therefore, we relied on the Brazilian financial statements of Tupy S.A., a producer of comparable merchandise, to calculate the surrogate financial ratios for Both-Well.⁸²

C. Separate Rates

In proceedings involving NME countries, Commerce 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.⁸³ Commerce’s policy is to assign all exporters of subject merchandise that are in an NME country this single rate unless an exporter

⁷⁹ See, e.g., *Mushrooms AR6* at Comment 1.

⁸⁰ See Petitioners’ SV Comments.

⁸¹ See Both-Well SV Comments and Haida SV Comments.

⁸² See Preliminary SV Memorandum for a detailed discussion of the surrogate financial ratios.

⁸³ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).

can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.⁸⁴ Commerce analyzes whether each entity exporting the subject merchandise is sufficiently independent under a test established in *Sparklers*⁸⁵ and further developed in *Silicon Carbide*.⁸⁶ According to this separate rate test, Commerce 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, Commerce determines that a company is wholly foreign-owned by individuals or companies located in a ME, then an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether its export activities are independent from the NME government control.^{87, 88}

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from China AD proceeding, and its determinations therein.⁸⁹ In particular, in litigation involving the diamond sawblades from China proceeding, the CIT found Commerce's existing separate rates analysis deficient in the circumstances of that proceeding, in which a government-owned and controlled entity had significant ownership in the respondent exporter.⁹⁰ Following the Court's reasoning, in recent proceedings, we have concluded that where a government entity holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority ownership holding in and of itself means that the government

⁸⁴ 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*).

⁸⁵ *Id.*

⁸⁶ 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*).

⁸⁷ See, generally, Commerce's Separate Rate Application for China AD proceedings, available at: <https://enforcement.trade.gov/nme/sep-rate-files/app-20150323/prc-sr-app-20150323.pdf>, at page 3.

⁸⁸ See, e.g., *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, 9284 (February 20, 2008), unchanged in *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sale at Less than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008).

⁸⁹ 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.

⁹⁰ 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).

exercises, or has the potential to exercise, control over the company's operations generally.⁹¹ This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect a majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profit distribution of the company.

A. *Separate Rate Recipients*

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

- 1) Jining Dingguan Precision Parts Manufacturing Co., Ltd.
- 2) Ningbo Long Teng Metal Manufacturing Co., Ltd.
- 3) Ningbo Save Technology Co., Ltd.
- 4) Yuyao Wanlei Pipe Fitting Manufacturing Co., Ltd.
- 5) Qingdao Bestflow Industrial Co., Ltd.
- 6) Jinan Mech Piping Technology Co., Ltd.
- 7) Dalian Guangming Pipe Fittings Co., Ltd.
- 8) Jiangsu Forged Pipe Fittings Co., Ltd.
- 9) Xin Yi International Trade Co., Limited
- 10) Yingkou Guangming Pipeline Industry Co., Ltd.
- 11) Both-Well (Taizhou) Steel Fittings Co., Ltd.
- 12) Eaton Hydraulics (Luzhou) Co., Ltd.
- 13) Eaton Hydraulics (Ningbo) Co., Ltd.
- 14) Lianfa Stainless Steel Pipes & Valves (Qingyun) Co., Ltd.
- 15) Q.C. Witness International Co., Ltd.

a. *Absence of De Jure Control*

For the non-wholly foreign-owned applicants,⁹² Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.⁹³

⁹¹ 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.

⁹² (1) Jining Dingguan Precision Parts Manufacturing Co., Ltd.; (2) Ningbo Long Teng Metal Manufacturing Co., Ltd.; (3) Ningbo Save Technology Co., Ltd.; (4) Yuyao Wanlei Pipe Fitting Manufacturing Co., Ltd.; (5) Qingdao Bestflow Industrial Co., Ltd.; (6) Jinan Mech Piping Technology Co., Ltd.; (7) Dalian Guangming Pipe Fittings Co., Ltd.; (8) Jiangsu Forged Pipe Fittings Co., Ltd.; (9) Xin Yi International Trade Co., Limited; (10) Yingkou Guangming Pipeline Industry Co., Ltd.

⁹³ See *Sparklers*, 56 FR at 20589.

The evidence provided by these companies supports a preliminary finding of an absence of *de jure* government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.⁹⁴

b. Absence of *De Facto* Control

Typically, Commerce considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.⁹⁵ Commerce has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of government control which would preclude Commerce from assigning separate rates.

The evidence provided by the above-named 15 companies supports a preliminary finding of an absence of *de facto* government control, based on record statements and supporting documentation showing that the companies: (1) set their own export prices independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.⁹⁶

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

⁹⁴ See Jining Dingguan Precision Parts Manufacturing Co., Ltd.'s SRA, dated November 24, 2017; Ningbo Long Teng Metal Manufacturing Co., Ltd.'s SRA, dated November 24, 2017; Ningbo Save Technology Co., Ltd.'s SRA, dated November 24, 2017; Yuyao Wanlei Pipe Fitting Manufacturing Co., Ltd.'s SRA, dated November 24, 2017; Qingdao Bestflow Industrial Co., Ltd.'s SRA, dated December 5, 2017; Jinan Mech Piping Technology Co., Ltd.'s SRA, dated December 8, 2017; Dalian Guangming Pipe Fittings Co., Ltd.'s SRA, dated December 8, 2017; Jiangsu Forged Pipe Fittings Co., Ltd.'s SRA, dated December 8, 2017; Xin Yi International Trade Co., Limited's SRA, dated December 8, 2017; and Yingkou Guangming Pipeline Industry Co., Ltd.'s SRA, dated December 8, 2017.

⁹⁵ See *Silicon Carbide*, 59 FR at 22586-87; *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

⁹⁶ See Jining Dingguan Precision Parts Manufacturing Co., Ltd.'s SRA, dated November 24, 2017; Ningbo Long Teng Metal Manufacturing Co., Ltd.'s SRA, dated November 24, 2017; Ningbo Save Technology Co., Ltd.'s SRA, dated November 24, 2017; Yuyao Wanlei Pipe Fitting Manufacturing Co., Ltd.'s SRA, dated November 24, 2017; Qingdao Bestflow Industrial Co., Ltd.'s SRA, dated December 5, 2017; Jinan Mech Piping Technology Co., Ltd.'s SRA, dated December 8, 2017; Dalian Guangming Pipe Fittings Co., Ltd.'s SRA, dated December 8, 2017; Jiangsu Forged Pipe Fittings Co., Ltd.'s SRA, dated December 8, 2017; Xin Yi International Trade Co., Limited's SRA, dated December 8, 2017; and Yingkou Guangming Pipeline Industry Co., Ltd.'s SRA, dated December 8, 2017.

c. Wholly Market-Economy Owned Firms

Five companies demonstrated in their SRAs that they are wholly owned by companies or individuals located in an ME country.⁹⁷ Therefore, as there is no Chinese ownership of these companies, and because Commerce has no evidence indicating that the companies are under the control of the Chinese government, further analyses of the *de jure* and *de facto* criteria are not necessary to determine whether they are independent from government control of their export activities.⁹⁸ Therefore, we preliminarily determine that these companies are eligible for a separate rate.

B. *Margin for the Separate Rate Companies*

The statute and Commerce's regulations do not address the establishment of an estimated weighted-average dumping margin to be applied to individual respondents not selected for individual examination in an NME proceeding when Commerce limits its examination pursuant to section 777A(c)(2) of the Act. Normally, Commerce's practice is to assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available, using as guidance section 735(c)(5)(A) of the Act.⁹⁹ However, pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all respondents individually examined are zero, *de minimis* or determined based entirely under section 776 of the Act, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for non-examined companies eligible for a separate rate.¹⁰⁰

As stated above, pursuant to section 735(c)(5)(A) of the Act, Commerce's practice is to assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available. In this proceeding, Commerce calculated a single rate that is not zero, *de minimis* or based entirely on facts available. Pursuant to section 735(c)(5)(A) of the Act, when only one weighted-average dumping margin for the individually

⁹⁷ See Both-Well's SRA, dated December 1, 2017, at 10-12 and Exhibits SRA3a and SRA3b; Eaton Hydraulics (Luzhou) Co., Ltd.'s SRA, dated December 8, 2017, at 10-13 and Exhibits 6 and 7; Eaton Hydraulics (Ningbo) Co., Ltd.'s SRA, dated December 8, 2017, at 9; Lianfa Stainless Steel Pipes & Valves (Qingyun) Co., Ltd.'s SRA, dated December 8, 2017, at 9 and Exhibit 4; and Q.C. Witness International Co., Ltd.'s SRA, dated December 1, 2017, at SRA-9-SRA-10 and Exhibits 3-5.

⁹⁸ See, e.g., *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001), unchanged in *Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review*, 66 FR 27063 (May 16, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104-05 (December 20, 1999).

⁹⁹ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

¹⁰⁰ See the Statement of Administrative Action, H.R. Rep. No. 103-316, Vol. 1 (1994) (SAA) at 870-873. See also section 735(c)(5)(B) of the Act.

investigated respondents is not zero, *de minimis* or based on total facts available, the separate rate will be equal to that single non-*de minimis* rate.¹⁰¹ Thus, consistent with our practice, we are assigning the rate for Both-Well, the sole mandatory respondent for which we preliminarily calculated a weighted-average margin, as the rate for non-individually examined companies that have preliminarily qualified for a separate rate.¹⁰² This long-standing practice is also Court-affirmed.¹⁰³

D. Combination Rates

In the *Initiation Notice*, Commerce stated that it would calculate “combination” rates (*i.e.*, a rate for each producer and exporter combination) for the respondents that are eligible for a separate rate in this investigation.¹⁰⁴ This practice is described in Policy Bulletin 05.1.

E. Affiliation and Single Entity

As indicated above, Commerce selected Haida as one of the mandatory respondents in this investigation. In its responses to the AD NME questionnaire, Haida reported that it is affiliated with two companies: a reseller of subject merchandise¹⁰⁵ and a producer of subject merchandise.¹⁰⁶ Based on the evidence on the record in this investigation, including information submitted by Haida in its questionnaire responses which we are relying on for the limited purpose of determining affiliation and collapsing, Commerce preliminarily finds Haida affiliated with Yancheng L&W International Co., Ltd. (L&W), a reseller of subject merchandise and

¹⁰¹ See, e.g., *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 80 FR 51779, 51780 (August 26, 2015).

¹⁰² See, e.g., *Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 42314, 42316 (June 29, 2016) (“Under section 735(c)(5)(A) of the Act, the rate for all other companies that have not been individually examined is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely on the basis of facts available. In this final determination, Commerce has calculated a rate for TTI that is not zero, *de minimis*, or based entirely on facts available. Therefore, Commerce has assigned to the companies that have not been individually examined, but have demonstrated their eligibility for a separate rate, a margin of 101.82 percent, which is the rate for TTI.”); *Certain Corrosion-Resistant Steel Products From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316, 35317 (June 2, 2016) (“In this final determination, we calculated a weighted-average dumping margin for Yieh Phui (the only cooperating mandatory respondent) which is not zero, *de minimis*, or based entirely on facts available. Accordingly, we determine to use Yieh Phui’s weighted-average dumping margin as the margin for the separate rate companies.”); *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 60627, 60627 (October 7, 2015) unchanged in *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 22578 (April 18, 2016).

¹⁰³ See, e.g., *Changzhou Wujin Fine Chemical Factory Co., Ltd., v. United States*, 942 F. Supp. 2d 1333, 1339 (CIT 2013) (*Fine Chemical*); *Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (CIT 2008) (affirming Commerce’s determination to assign a 4.22-percent dumping margin to the separate rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively).

¹⁰⁴ See *Initiation Notice*, 82 FR at 50618.

¹⁰⁵ See Haida SRA dated December 8, 2017, at 18.

¹⁰⁶ See Haida Section A Questionnaire Response (SAQR) dated January 29, 2018, at 15.

Haida Pipe Co., Ltd. (Haida Pipe), a producer of in-scope merchandise.¹⁰⁷ Further, based on the evidence presented in Haida's questionnaire responses, we preliminarily find that Haida, L&W, and Haida Pipe should be treated as a single entity for the purposes of this investigation, pursuant to 19 CFR 351.401(f).¹⁰⁸

F. China-Wide Entity

As described above, certain companies failed to respond to Commerce's Q&V questionnaire. Specifically, Commerce did not receive responses to its Q&V questionnaire from six Chinese producers or exporters of subject merchandise that were named in the Petition and to whom Commerce issued a Q&V questionnaire.¹⁰⁹ Additionally, one company, Qingdao Eathu Casting and Forging Co., Ltd., refused the Q&V questionnaire package upon delivery,¹¹⁰ and Commerce rejected an untimely-filed Q&V questionnaire response from Gaoyou Huaxing Petroleum Pipe Manufacture Co., Ltd.¹¹¹ Because these eight Chinese companies did not respond or timely respond to our request for Q&V information and, further, have not demonstrated that they are eligible for a separate rate, Commerce considers them to be part of the China-wide entity, and will receive a single estimated weighted-average dumping margin.

In addition, eight companies reported that they did not make sales of subject merchandise during the POI and, thus, are ineligible for a separate rate.^{112, 113}

Further, as discussed in detail in the Haida BPI Memo, we preliminarily find that Haida has not established its *de facto* autonomy from the Chinese government.¹¹⁴ Haida filed a separate rate application on December 8, 2017, wherein it provided to Commerce its responses to the *de jure*

¹⁰⁷ See Memorandum re: "Less-Than-Fair-Value Investigation of Forged Steel Fittings from the People's Republic of China: Preliminary Affiliation and Single Entity Determination" (Affiliation and Single Entity Memo), dated concurrently with this memorandum.

¹⁰⁸ *Id.*

¹⁰⁹ See Q&V Delivery Confirmation Memo at 2 and Attachment I; see also Respondent Selection Memo at 2. Commerce also posted a copy of the Q&V questionnaire to which it referred in the *Initiation Notice* on its website. The companies to whom Q&V questionnaires were issued that did not timely respond are: (1) Beijing Better Products International Ltd.; (2) Dalian Newshow Pipeline Industry Co.; (3) G&T Industry Holding Ltd.; (4) Shanxi Baolongda Forging Company Ltd.; (5) Shaanxi Fenry Flanges and Fittings Co., Ltd.; and (6) Shenzhen Front Valve Co., Ltd.

¹¹⁰ See Q&V Delivery Confirmation Memo at 2 and Attachment III; see also Respondent Selection Memo at 2.

¹¹¹ See Letter to Gaoyou Huaxing Petroleum Pipe Manufacture Co., Ltd., "Antidumping Duty Investigation of Forged Steel Fittings from the People's Republic of China: Rejection of Untimely Filed Quantity and Value Questionnaire Response," dated November 16, 2017.

¹¹² These companies are: (1) Dongying City Yonglijingong Petroleum Machinery Manufacturing Co., Ltd.; (2) Henan Dongfanglong Machine Manufacture Co., Ltd.; (3) SB Precision Machinery, Ltd.; (4) Shanghai W.M Tubular Industries Inc.; (5) Tianjin Amergy (Meineng) Fittings Co., Ltd.; (6) Tianjin Jingong Petroleum Special Pipe Fittings Co., Ltd.; (7) Xuzhou E&P Petroleum Equipment Co., Ltd.; and (8) WWF Suzhou.

¹¹³ See Policy Bulletin 5.1 at page 6 ("firms that produce the subject merchandise are not required to demonstrate their eligibility for separate rate status unless they also export the merchandise to the United States."). See also Commerce's NME AD Separate Rate Application, at page 2, available at: <https://enforcement.trade.gov/nme/separate-files/app-20150323/prc-sr-app-20150323.pdf> ("To be considered for separate-rate treatment, the applicant must have a relevant U.S. sale of subject merchandise to an unaffiliated purchaser...").

¹¹⁴ See "Memorandum to the File, "Forged Steel Fittings from the People's Republic of China: Business Proprietary Information Regarding Jiangsu Haida Responses," dated concurrently with this memorandum (Haida BPI Memo).

and *de facto* criteria questions.¹¹⁵ With regard to the *de jure* criteria noted above, Haida reported the Chinese government does not control its export activities and provided documentation supporting this claim.¹¹⁶

With regard to the *de facto* criteria noted above, Haida reported that it: 1) sets its own prices without governments approval;¹¹⁷ 2) negotiates and signs export contracts and conducts independent price negotiations;¹¹⁸ and 3) and selects management independent of government control.¹¹⁹ However, as discussed in further detail in the Haida BPI Memo, we find that Haida has failed to provide sufficient documentation relating to the fourth criterion, *i.e.*, that it retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.¹²⁰

Consequently, we find that the single entity comprising Haida, L&W, and Haida Pipe should be treated as part of the China-wide entity.

G. Application of Facts Available and Adverse Inferences

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

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

Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the

¹¹⁵ See Haida's Separate Rate Application, dated December 8, 2017 (Haida SRA). Haida's affiliate, L&W, filed a separate rate application on December 5, 2017 (L&W SRA). As noted above, we are treating Haida, L&W, and Haida Pipe as a single entity pursuant to 19 CFR 351.401(f).

¹¹⁶ See Haida SRA at 6-9 and Exhibit 2. See also L&W SRA at 8-12 (addressing the *de jure* criteria).

¹¹⁷ See Haida SRA at 13.

¹¹⁸ *Id.*, at 13 and Exhibit 7.

¹¹⁹ *Id.*, at 14 and Exhibit 8.

¹²⁰ See also L&W SRA at 12-19 (addressing the *de facto* criteria). Because Commerce's practice is to treat all companies within a single entity as one, pursuant to 19 CFR 351.401(f)(1), and our determination with regard to the single entity includes denial of a separate rate, we have not granted an individual separate rate for L&W, as it is part of the Haida single entity.

request for information.¹²¹ Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.¹²²

Under section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins. Section 776(d) of the Act also makes clear that when selecting an AFA margin, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.¹²³

1. *Application of Facts Available*

A. Companies Not Responsive to Commerce’s Request for Information

Based on the record evidence, Commerce preliminarily finds that the China-wide entity (which includes the eight Chinese producers or exporters identified above who either failed to respond or failed to timely respond to the Q&V questionnaire), failed to provide necessary information, withheld information requested by Commerce, failed to provide information in a timely manner, and/or significantly impeded this proceeding by not submitting the requested information. Accordingly, Commerce preliminarily determines that use of facts available is warranted in determining the estimated weighted-average dumping margin for the China-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.¹²⁴

B. Haida Single Entity

As noted above, Commerce preliminarily determined that the single entity comprising Haida, Haida Pipe, and L&W are part of the China-wide entity. In addition, based on the information submitted on the record, we find that the application of facts available is warranted pursuant to section 776(a)(2)(C) and (D) of the Act. Specifically, as discussed in greater detail in the Haida BPI Memo, we find that Haida, one of the two mandatory respondents, has failed to maintain accurate and reliable books and records in the normal course of business, which has resulted in a failure to provide a reliable cost reconciliation, and therefore has significantly impeded the proceeding. For these same reasons, we find that Haida has provided information on the record which cannot be verified.

2. *Application of Facts Available with an Adverse Inference*

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

¹²¹ See section 776(b)(1)(B) of the Act.

¹²² See also 19 CFR 351.308(c).

¹²³ See section 776(d)(1)-(2) of the Act.

¹²⁴ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986, 4991 (January 31, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

Commerce finds that the non-responsive companies to which we issued a Q&V questionnaire failed to submit the requested information and, further, did not provide documentation indicating that these companies were having difficulty providing the information, nor did they request to submit the information in an alternate form. Thus, this constitutes circumstances under which it is reasonable to conclude that these companies, as part of the China-wide entity, have failed to cooperate by not acting to the best of their ability.¹²⁵

Furthermore, as discussed in greater detail in the Haida BPI Memo, application of facts available with an adverse inference is warranted because we find that Haida has failed to cooperate to the best of its ability. The Federal Circuit has explained that the “best of its ability” standard under section 776(b) “requires the respondent to do the maximum it is able to do” and “does not condone inattentiveness, carelessness, or inadequate record keeping.”¹²⁶ The standard presumes that parties are familiar with the rules and regulations governing the sales of goods from other countries into the United States “and requires that {parties}, to avoid a risk of an adverse inference determination in responding to Commerce’s inquiries...take reasonable steps to keep and maintain full and complete records documenting the information that a reasonable {party} should anticipate being called upon to produce.”¹²⁷ Commerce has previously found that failure to provide a reliable cost reconciliation warrants use of total AFA.¹²⁸ Additionally, the Court has recognized that, because cost information is essential for multiple calculations, “cost information is a vital part of {the Department’s} dumping analysis.”¹²⁹ Here, we find that Haida has failed to maintain accurate and reliable books and records in the normal course of business, which has further resulted in a failure to provide a reliable cost reconciliation. Thus, we find that these are “circumstances {under} which it reasonable to conclude that less than full cooperation has been shown.”¹³⁰ Therefore, we preliminarily find it appropriate to apply an adverse inference pursuant to 776(b) of the Act in this instance, consistent with our practice.¹³¹ Based on the foregoing, we are relying entirely upon facts otherwise available with an adverse inference to determine the dumping margin for the China-wide entity, including the Haida single entity, in this investigation.

¹²⁵ See *Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (*Nippon 2003*) (noting that Commerce need not show intentional conduct existed on the part of the respondent, but merely that a “failure to cooperate to the best of a respondent’s ability” existed (*i.e.*, information was not provided “under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.”)).

¹²⁶ *Id.* at 1382.

¹²⁷ *Id.*

¹²⁸ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Prestressed Concrete Steel Wire Strand from Mexico*, 68 FR 68350 (December 8, 2003) and accompanying Issues and Decision Memorandum at Comment 6 (noting that “the Department’s practice has been to reject a respondent’s submitted information in total when flawed and unreliable cost data renders any price-to-price comparison impossible”); see also *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006) (*Lined Paper from India*) and accompanying Issues and Decision Memorandum at Comment 14.

¹²⁹ See *Mukand, Ltd. v. United States*, Court No. 11-00401, Slip Op. 13-41 (CIT March 25, 2013), at 15, *aff’d*, *Mukand Ltd. v. United States*, 767 F.3d 1300 (Fed. Cir. 2014) (*Mukand*).

¹³⁰ *Nippon 2003*, 337 F.3d at 1383.

¹³¹ See, e.g., *Italy Flanges*. See also *Lined Paper from India*, 71 FR 45012, and accompanying Issues and Decision Memorandum at Comment 14.

3. *Selection and Corroboration of the AFA rate*

When applying facts otherwise available, section 776(c) of the Act provides that, where Commerce relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation, the final determination concerning the subject merchandise, or any previous segment under section 751 of the Act concerning the subject merchandise.¹³² The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information to be used has probative value.¹³³ To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used,¹³⁴ although under section 776(d)(3)(B) of the Act, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.

The AFA rate that Commerce has preliminarily used for the China-wide entity is the highest (and only) dumping margin alleged in the Petition, and, thus, is secondary information subject to the corroboration requirement. In order to determine the probative value of the dumping margin alleged in the petition for assigning an AFA rate, we examined the information on the record. When we compared the petition dumping margin of 142.72 percent to the range of individual, transaction-specific dumping margins for Both-Well, we found transaction-specific margins at or above the petition rate.¹³⁵ Therefore, we find that the rate alleged in the Petition is within the range of transaction-specific margins calculated for this preliminary determination. Accordingly, we preliminarily find the 142.72 percent rate to be both reliable and relevant and, thus, that it has probative value.

H. Date of Sale

Section 351.401(i) of Commerce’s regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the producer or exporter’s records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the producer or exporter establishes the material terms of sale.¹³⁶ In addition, Commerce has a long-standing practice of finding that,

¹³² See SAA at 870.

¹³³ See SAA at 870; see also 19 CFR 351.308(d).

¹³⁴ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

¹³⁵ See Memorandum, “Preliminary Determination Margin Calculation for Both-Well (Taizhou) Steel Fittings Co., Ltd. (Both-Well),” dated concurrently with this memorandum (Both-Well Preliminary Calculation Memo).

¹³⁶ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (*Allied Tube*) (quoting 19 CFR 351.401(i)).

where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.¹³⁷

The Court of International Trade (CIT) has stated that a “party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to ‘satisfy’ Commerce that a different date better reflects the date on which the producer or exporter establishes the material terms of sale.”¹³⁸ The date of sale is generally the date on which the parties establish the material terms of the sale,¹³⁹ which normally include the price, quantity, delivery terms and payment terms.¹⁴⁰

Both-Well reported invoice date as the date of sale for its U.S. sales and demonstrated that the substantive terms of sale occurred on that date.¹⁴¹ In accordance with 19 CFR 351.401(i), Commerce preliminarily used the invoice date as the date of sale for all Both-Well’s sales of subject merchandise made during the POI.

I. Fair Value Comparisons

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

I. Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEPs)) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In recent investigations, Commerce 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.¹⁴² Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of

¹³⁷ See, e.g., *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 36881 (June 8, 2016), and accompanying Preliminary Decision Memorandum at Section VII, unchanged in *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 81 FR 75030 (October 28, 2016).

¹³⁸ See *Allied Tube*, 132 F. Supp. 2d at 1090 (brackets and citation omitted).

¹³⁹ See 19 CFR 351.401(i).

¹⁴⁰ See *USEC Inc. v. United States*, 31 CIT 1049, 1055 (CIT 2007).

¹⁴¹ See Both-Well’s January 10, 2018, Section A Questionnaire Response, at A-8.

¹⁴² 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); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

examining whether to apply an alternative comparison method in this investigation. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions and time periods 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 (CUSCODU) as Both-Well did not report consolidated customer codes in its U.S. sales data. Regions are defined using the reported destination code (*i.e.*, zip code (DESTU)) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of investigation based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that Commerce uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

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

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method,

and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

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

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.¹⁴³

2. Results of the Differential Pricing Analysis

For Both-Well, based on the results of the differential pricing analysis, Commerce preliminarily finds that 57.50 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁴⁴ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for this preliminary determination, Commerce is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Both-Well.

¹⁴³ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 16-1789 (Fed. Cir. July 12, 2017) recently affirmed much of the Department's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

¹⁴⁴ See Both-Well Preliminary Calculation Memo.

J. Export Price

In accordance with section 772(a) of the Act, Commerce defined the U.S. price of subject merchandise based on EP for all sales reported by Both-Well. Commerce calculated EP based on the prices at which subject merchandise was sold to unaffiliated purchasers in the United States.

In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price for foreign inland freight and brokerage and handling using SVs, as applicable.¹⁴⁵ The petitioners argue that Commerce must account for additional ME expenses incurred on sales made by Both-Well's affiliate, Both-Well Steel Fittings Co., Ltd., located in Taiwan.¹⁴⁶ However, we have not made such an adjustment because in an NME proceeding, Commerce's practice is to not make circumstance of sale adjustments because the off-setting adjustments to NV are not normally possible.¹⁴⁷ In an NME proceeding, selling expenses are already accounted for in the selling, general and administrative (SG&A) expenses reflected in the SG&A ratio calculated using surrogate financial statements.

K. Value-Added Tax (VAT)

In 2012, Commerce announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any irrecoverable VAT in certain NME countries in accordance with section 772(c)(2)(B) of the Act.¹⁴⁸ Commerce 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, Commerce will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.¹⁴⁹ Where the irrecoverable VAT is a fixed percentage of EP or CEP, Commerce 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.¹⁵⁰

Commerce's methodology, as explained above and applied in this investigation, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise, and (2) reduce U.S. price by the amount determined in step (1). Information placed on the record of this

¹⁴⁵ *Id.*

¹⁴⁶ See Petitioners' Pre-Preliminary Comments at 20-21.

¹⁴⁷ See *Xanthan Gum from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 82 FR 11428 (February 27, 2017); *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008); and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments*, 2013-2014, 81 FR 39905 (June 20, 2016).

¹⁴⁸ 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) (*VAT Methodological Change*).

¹⁴⁹ *Id.*; see also *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 2011-2012, 79 FR 4875 (January 30, 2014), and accompanying Issues and Decision Memorandum at Comment 5.A.

¹⁵⁰ *Id.*

investigation by Both-Well indicates that according to China's VAT schedule, the standard VAT levy is 17 percent and the recovery rate for the subject merchandise is 9 percent.¹⁵¹

Irrecoverable VAT is: (1) the free-on-board (FOB) value of the exported good, applied to the difference between (2) the standard VAT levy rate; and (3) the VAT rebate rate applicable to exported goods.¹⁵² The first variable, export value, is unique to each respondent and sale, while the rates in (2) and (3), as well as the formula for determining irrecoverable VAT, are each explicitly set forth in Chinese law and regulations.¹⁵³

Irrecoverable VAT, as defined in Chinese law, is a net VAT burden that arises solely from, and is specific to, exports. It is VAT paid on inputs and raw materials (used in the production of exports) that is non-refundable and, therefore, is a cost.¹⁵⁴ We have consistently stated that irrecoverable VAT is, therefore, an "export tax, duty, or other charge imposed" on exportation of the subject merchandise to the United States.¹⁵⁵ The statute does not define the terms "export tax, duty, or other charge imposed" on the exportation of subject merchandise. We find it reasonable to interpret these terms as encompassing irrecoverable VAT because the irrecoverable VAT is a cost that arises as a result of export sales. It is set forth in Chinese law and, therefore, can be "imposed" by the exporting country on exportation of subject merchandise.¹⁵⁶ Further, an adjustment for irrecoverable VAT achieves what is called for under section 772(c)(2)(B) of the Act, as it reduces the gross U.S. price charged to the customer to a tax-neutral net price received by the seller. This deduction is consistent with our longstanding policy, which is consistent with the intent of the statute, that dumping margin calculations be tax-neutral.

Accordingly, consistent with Commerce's standard methodology and based on record information, for purposes of this preliminary determination, we removed from U.S. price the amount of irrecoverable VAT calculated based on the difference between the above-specified standard rates (*i.e.*, 8 percent) applied to the U.S. export sales value, consistent with the definition of irrecoverable VAT under Chinese tax law and regulation.

L. Normal Value

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

¹⁵¹ See Both-Well's Section C and D Questionnaire Response, dated February 5, 2018, at C-36-C-37 (CDQR), at 36.

¹⁵² See *1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 82 FR 14876 (March 23, 2017) (HEDP), and accompanying Issues and Decision Memorandum at Comment 17; see also *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) (Steel Rail Tie Wire), and accompanying Issues and Decision Memorandum at Comment 1, n.35.

¹⁵³ See HEDP at Comment 17; see also Steel Rail Tie Wire at Comment 1, n.36.

¹⁵⁴ See *Small Diameter Graphite Electrodes from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 57508 (September 25, 2014), and accompanying Issues and Decision Memorandum at Comment 7.

¹⁵⁵ See, *e.g.*, HEDP at Comment 17; *Frontseating Service Valves from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 71385 (December 2, 2014) and accompanying Issues and Decision Memorandum at Comment 5.

¹⁵⁶ See Both-Well's CDQR at Exhibit C-2a, containing the "Interim Regulations of the People's Republic of China on Value-added Tax; see also *VAT Methodological Change*, 77 FR at 36483, and *Notice of Final Rule, Antidumping Duties, Countervailing Duties*, 62 FR 27296 (May 19, 1997) (citing the SAA).

the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. Commerce bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price-based NVs and the calculation of production costs invalid under Commerce's normal methodologies.¹⁵⁷ Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), Commerce calculated NV based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.¹⁵⁸

M. Factor Valuation Methodology

In accordance with section 773(c) of the Act, Commerce calculated NV based on FOP data reported by Both-Well. To calculate NV, Commerce multiplied the reported per-unit factor-consumption rates by publicly available SVs. When selecting the SVs, Commerce considered, among other factors, the quality, specificity, and contemporaneity of the data.¹⁵⁹ As appropriate, Commerce adjusted input prices by including freight costs to make them delivered prices. Specifically, Commerce added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.¹⁶⁰ A detailed description of SVs used for the respondent can be found in the Preliminary SV Memorandum.¹⁶¹

For the preliminary determination, consistent with its primary surrogate country determination above, Commerce is using Bulgarian import data, as published by GTA, and other publicly available sources from Bulgaria to calculate SVs for Both-Well's FOPs. In accordance with section 773(c)(1) of the Act, Commerce applied the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are: (1) tax-exclusive, non-export average values; (2) contemporaneous with, or closest in time to, the POI; (3) product-specific; and (4) broad-market averages.¹⁶² The record shows that Bulgarian import data obtained through GTA, as well as data from other Bulgarian sources, are broad-market averages, product-specific, tax-exclusive, and generally contemporaneous with the POI.¹⁶³

¹⁵⁷ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006).

¹⁵⁸ See section 773(c)(3)(A)-(D) of the Act.

¹⁵⁹ See, e.g., *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum at Comment 9.

¹⁶⁰ See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

¹⁶¹ See Preliminary SV Memorandum.

¹⁶² See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004) (*Vietnam Shrimp*), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

¹⁶³ See Preliminary SV Memorandum.

Commerce continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be dumped or subsidized.¹⁶⁴ In this regard, Commerce has previously found that it is appropriate to disregard such prices from India, Indonesia, Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.¹⁶⁵ Based on the existence of these subsidy programs that were generally available to all producers and exporters in these countries at the time of the POI, Commerce finds that it is reasonable to infer that all exporters from India, Indonesia, the Korea and Thailand may have benefitted from these subsidies. Therefore, Commerce has not used prices from those countries in calculating the Bulgarian import-based SVs. Commerce also excluded from the calculation of the import-based per-unit SV imports labeled as originating from an “unidentified” country because Commerce could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.¹⁶⁶

Commerce used Bulgarian import statistics from GTA and other publicly available sources from Bulgaria to value raw materials, packing materials, and energy inputs. We valued truck freight expenses using average truck rates from the World Bank’s report, *Doing Business 2018: Bulgaria (Doing Business)*.¹⁶⁷ This World Bank report gathers information concerning the distance and cost to transport a containerized shipment weighing 15 metric tons from the peri-urban area of the economy’s largest business city to the country’s major port/land border crossing.¹⁶⁸ We calculated a per-kilogram/per-kilometer surrogate inland freight rate based on the methodology used by the World Bank.¹⁶⁹

In AD NME proceedings, Commerce prefers to value labor solely based on data from the primary surrogate country.¹⁷⁰ For this preliminary determination, pursuant to *Labor Methodologies*, Commerce determined that the best available information to value the labor input is industry-specific labor rates from the primary surrogate country, Bulgaria. Accordingly, we valued labor using labor rates from the Labor Cost in Manufacturing from the International Labor Organization Yearbook of Labor Statistics, Chapter 6A, Sub-Classification, “Manufacture of fabricated metal products, except machinery and equipment.” We inflated the 2007 labor data using the Producer Price Index to make it contemporaneous with the POI.

¹⁶⁴ See Section 505 of the Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015) (amending Section 773(c)(5) of the Act to permit Commerce to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values); see also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793, 46795 (August 6, 2015).

¹⁶⁵ See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying Issues and Decision Memorandum at 7-19; *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; *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying Issues and Decision Memorandum at 4; and *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum at IV.

¹⁶⁶ See, e.g., *Vietnam Shrimp*, 69 FR at 42682-42683.

¹⁶⁷ See Preliminary SV Memorandum at Attachment 7; see also Both-Well SV Comments at SV-7a, SV-7b.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

Commerce'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.¹⁷¹ Moreover, for valuing factory overhead, SG&A expenses and profit, Commerce normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.¹⁷² In addition, the CIT has held that in the selection of surrogate producers, Commerce may consider how closely the surrogate producers approximate the NME producer's experience.¹⁷³

As discussed in more detail above under "Surrogate Country and Surrogate Value Comments," to value factory overhead, SG&A expenses, and profit, Commerce relied on the 2017 financial statements of Tupy S.A., a Brazilian producer of comparable merchandise.¹⁷⁴

Commerce's practice is to grant the respondents an offset to the reported FOPs for a by-product generated during the production of the subject merchandise if evidence is provided that such by-product has commercial value.¹⁷⁵ We valued Both-Well's claimed by-product offsets using Bulgarian import statistics.¹⁷⁶

VIII. CURRENCY CONVERSION

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

IX. ADJUSTMENT UNDER SECTION 777A(f) OF THE ACT

In applying section 777A(f) of the Act, Commerce 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 Commerce 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.¹⁷⁷ For a

¹⁷¹ 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.

¹⁷² 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).

¹⁷³ See *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-54 (CIT 2002); see also *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁷⁴ For more information on the surrogate financial ratios calculations, see the Preliminary SV Memorandum.

¹⁷⁵ See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 54897 (September 19, 2005), and accompanying Issues and Decision Memorandum at Scrap Offset.

¹⁷⁶ See Preliminary SV Memorandum.

¹⁷⁷ See section 777A(f)(1)(A)-(C) of the Act.

subsidy meeting these criteria, the statute requires Commerce to reduce the antidumping duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.¹⁷⁸

Since Commerce started conducting analyses under section 777A(f) of the Act, Commerce has continued to refine its practice in applying this section of the law. Commerce examined whether the respondent demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacturing (COM); and (2) a cost-to-price link, *e.g.*, respondent's prices changed due to changes in the COM.¹⁷⁹ A finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.¹⁸⁰

Both-Well submitted a double remedy questionnaire response.¹⁸¹ Both-Well reported in its DRQR that it benefitted from the following programs, preliminarily found to be countervailable in the companion CVD investigation,¹⁸² that have an impact on its COM: Import Tariff and VAT Exemptions on Imported Equipment for Encouraged Industries; Provision of Special Bar Quality (SBQ) for less than adequate remuneration (LTAR); and Provision of Electricity for LTAR.¹⁸³

Pursuant to section 777A(f)(2) of the Act, in investigations, we normally examine the preliminary report issued by the ITC¹⁸⁴ to determine whether prices of the subject merchandise increased or decreased during the POI. In this case, however, pricing data for subject imports from China are not available for the entire POI. The available data are incomplete and, therefore, inconclusive with respect to price trends.¹⁸⁵

¹⁷⁸ See section 777A(f)(1)-(2) of the Act.

¹⁷⁹ See, *e.g.*, *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 36876 (June 8, 2016), and accompanying Preliminary Decision Memorandum at 36; *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 75 (January 4, 2016), and accompanying Preliminary Decision Memorandum at 25-26.

¹⁸⁰ See *Drawn Stainless Steel Sinks From the People's Republic of China: Antidumping Duty Investigation*, 77 FR 60673 (October 4, 2012), and accompanying Preliminary Decision Memorandum at section "Adjustment Under Section 777A(f) of the Act"; *Drawn Stainless Steel Sinks From the People's Republic of China: Investigation, Final Determination*, 78 FR 78 FR 13019 (February 26, 2013) and accompanying Issues and Decision Memorandum at Comment 1 ("Sinks from the PRC Final Determination"); *Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; In Part and Postponement of Final Determination*, 80 FR 4250 (January 27, 2015), and accompanying Preliminary Decision Memorandum at section "Adjustment Under Section 777A(f) of the Act" unchanged in *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 FR 34893 (June 18, 2015), and accompanying Issues and Decision Memorandum.

¹⁸¹ See Both-Well's Double Remedies Questionnaire Response, dated January 12, 2018 (DRQR).

¹⁸² See *Forged Steel Fittings from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 11170 (March 14, 2018), and accompanying Preliminary Decision Memorandum (*Forged Steel Fittings from China CVD Prelim Determination*) at 23-26.

¹⁸³ See DRQR at 8-9.

¹⁸⁴ See *Forged Steel Fittings from China, Italy, and Taiwan*, Investigation Nos. 701-TA-589 and 731-TA-1394-1396 (Preliminary), U.S. International Trade Commission, Publication 4743 (November 2017).

¹⁸⁵ *Id.*, at 21 and V-5.

Furthermore, we find that Both-Well did not provide sufficient evidence that the above-referenced subsidies had an impact on its COM, nor did it demonstrate a decrease in prices due to changes in its COM.¹⁸⁶ Accordingly, we preliminarily determine that Both-Well's questionnaire response did not indicate a subsidies-to-cost linkage and a cost-to-price linkage. Therefore, Commerce finds that there is no basis to make an adjustment for Both-Well, pursuant to section 777(A)(f) of the Act.

X. ADJUSTMENTS TO CASH DEPOSIT RATES FOR EXPORT SUBSIDIES

Pursuant to section 772(c)(1)(C) of the Act, Commerce normally makes adjustments for subsidies that are export contingent. Commerce is making no adjustments to the antidumping cash deposit rates in the instant investigation because Commerce has made no findings in the companion CVD investigation that any of the programs preliminarily found to be countervailable are export contingent.¹⁸⁷

XI. VERIFICATION

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

XII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

☒

Agree

☐

Disagree

5/7/2018

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

¹⁸⁶ See Both-Well Preliminary Calculation Memo.

¹⁸⁷ See *Forged Steel Fittings from China CVD Prelim Determination*.