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June 15, 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 Antidumping Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China

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I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that common alloy aluminum sheet (aluminum sheet) from the People's Republic of China (China) is being, or is 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 December 4, 2017, Commerce self-initiated a LTFV investigation, under section 732(a) of the Act, to determine whether aluminum sheet from China is being, or is likely to be, sold in the United States at LTFV.[1]

[1] *See Common Alloy Aluminum Sheet from the People's Republic of China: Initiation of Less-Than-Fair-Value and Countervailing Duty Investigations*, 82 FR 57214 (December 4, 2017) (*Initiation Notice*).

We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on responses to quantity and value (Q&V) questionnaires to be sent to known producers and exporters of merchandise subject to the investigation.[2] On December 12, 2017, we issued Q&V questionnaires directly to certain companies identified publicly as producers/exporters of merchandise under investigation.[3] In addition, we posted the Q&V questionnaire on our 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.[4] Between December 13, 2017, and December 22, 2017, we received timely filed Q&V questionnaire responses from 32 companies. On January 17, 2018, based on the responses to the Q&V questionnaires, we selected Henan Mingtai Al Industrial Co., Ltd. (Henan Mingtai), Nanjie Resources Co., Limited (Nanjie), and Zhejiang GKO Aluminium Stock Co., Ltd. (GKO Aluminium) for individual examination as mandatory respondents in this AD investigation.[5]

In the *Initiation Notice*, we also notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy (NME) LTFV investigations.[6] Between December 28, 2017, and January 5, 2018, we timely received separate rate applications (SRAs) from 27 companies.[7] Between March 30, 2018, and June 6, 2018, we issued supplemental SRA questionnaires to seven companies, to which we received timely responses.

On December 18, 2017, the Aluminum Association Common Alloy Sheet Trade Enforcement Working Group and its individual members (collectively, the Domestic Industry) submitted comments to Commerce regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes.[8] On January 17 and 24, 2018, Commerce officials discussed product characteristics with the Domestic Industry.[9] No other interested parties submitted comments on product characteristics. Between December 18, 2017, and

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[2] *See Initiation Notice*, 82 FR at 57217.
[3] *See* Memorandum, "FedEx Receipts for Quantity and Value (Q&V) Questionnaires," dated December 15, 2017.
[4] *See* Letter, "Antidumping Duty Investigation of Certain Aluminum Sheet from the People's Republic of China: Quantity and Value Questionnaire," dated December 8, 2017.
[5] *See* Memorandum, "Antidumping Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China: Respondent Selection," dated January 17, 2018 (Respondent Selection Memorandum).
[6] *See Initiation Notice,* 82 FR at 57217.
[7] We timely received SRAs from the following companies: Alcha International Holdings Limited; Alnan Aluminium Inc.; Alumax Composite Material (Jiangyin) Co. Ltd.; Chalco Ruimin Co., Ltd.; CHALCO-SWA Cold Rolling Co., Ltd.; Granges Aluminum Shanghai Co., Ltd.; Henan Founder Beyond Industry Co., Ltd.; Henan Mingtai Al Industrial Co., Ltd.; Huafon Nikkei Aluminum Corporation; Jiangsu Alcha Aluminium Co., Ltd; Jiangsu Lidao New Material Co., Ltd.; Jiangyin Litai Ornamental Materials Co., Ltd.; Jiangyin New Alumax Composite Material Co. Ltd.; Luoyang Wanji Aluminium Processing Co., Ltd.; Nanjie Resources Co., Limited; Shandong Fuhai Industrial Co., Ltd.; Tianjin Zhongwang Aluminium Co., Ltd.; Wanji Global (Singapore) PTE. LTD.; Xiamen Xiashun Aluminum Foil Co., Ltd; Yantai Jintai International Trade Co., Ltd.; Yinbang Clad Material Co., Ltd.; Yong Jie New Material Co., Ltd.; Zhejiang GKO Aluminium Stock Co., Ltd.; Zhejiang GKO New Materials Co., Ltd.; Zhejiang Yongjie Aluminum Co., Ltd.; Zhengzhou Mingtai Industry Co., Ltd.; and Zhengzhou Silverstone Limited.
[8] *See* Domestic Industry's December 18, 2017 Product Characteristic Comments.
[9] *See* Memorandum, "Antidumping Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China," dated February 2, 2018.

March 26, 2018, we received comments and rebuttal comments concerning the scope of the investigation.[10]

On January 19, 2018, Commerce issued its antidumping (AD) NME questionnaires to Henan Mingtai, Nanjie, and GKO Aluminium. On February 12, 2018, GKO Aluminium notified Commerce that it would not be participating in the investigation.[11] On February 12, 2018, we received a response to Section A of the AD questionnaire from Nanjie, Yong Jie New Material Co., Ltd. (Yong Jie New Material), and Zhejiang Yongjie Aluminum Co., Ltd. (Yongjie Aluminum) (collectively, Yongjie Companies).[12] On February 16, 2018, Henan Mingtai and Zhengzhou Mingtai Industry Co., Ltd. (Zhengzhou Mingtai) (collectively, Mingtai) responded to Section A of the AD questionnaire.[13] On March 8, 2018, Mingtai and the Yongjie Companies responded to Sections C – D of Commerce's AD questionnaire.[14] Between March 30, 2018 and May 29, 2018, we issued supplemental questionnaires to Mingtai and the Yongjie Companies, to which they responded between April 16, 2018 and June 7, 2018.

Between April 2, 2018, and May 29, 2018, the Domestic Industry, Mingtai, and the Yongjie Companies timely submitted comments and factual information related to surrogate country and surrogate value selection.[15]

Commerce exercised its discretion to toll deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. The revised deadline for the final results of this review became February 6, 2018.[16] On March 29, 2018, pursuant to section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1), Commerce postponed the preliminary determination by 50 days.[17] On April 13, 2018, we clarified that the postponed preliminary results deadline is June 15, 2018.[18]

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[10] *See* "Scope Comments" section, below.
[11] *See* GKO Aluminium's February 12, 2018 Notice of Non-Participation.
[12] *See* Yongjie Companies' February 12, 2018 Section A Questionnaire Response (Yongjie Companies' February 12, 2018 AQR).
[13] *See* Mingtai's February 16, 2018 Section A Questionnaire Response (Mingtai February 16, 2018 AQR).
[14] *See* Yangjie Companies' March 8, 2018 Section CD Questionnaire Response (Yongjie Companies' March 8, 2018 CQR and Yongjie Companies' March 8, 2018 DQR); *see also* Mingtai's March 8, 2018 Section CD Questionnaire Response (Mingtai March 8, 2018 CDQR).
[15] *See* Domestic Industry's April 2, 2018 Surrogate Country Comments; Mingtai and Yangjie Comapnies April 2, 2018 Surrogate Country Comments; the Domestic Industry's April 16, 2018 Rebuttal Surrogate Country Comments; Mingtai's and Yangjie Companies' April 9, 2018 Surrogate Value Comments; the Domestic Industry's April 9, 2018 Surrogate Value Comments; Mingtai's and Yangjie Companies' May 16, 2018 Second Surrogate Value Comments; the Domestic Industry's May 16, 2018 Second Surrogate Value Comments; the Domestic Industry's May 29, 2018 Second Rebuttal Surrogate Value Comments.
[16] *See* Memorandum, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.
[17] *See Common Alloy Aluminum Sheet from the People's Republic of China: Postponement of Preliminary Determination of the Less-Than-Fair-Value Investigation*, 83 FR 14262 (April 3, 2018).
[18] *See* Memorandum, "Less-Than-Fair-Value Investigation of Common Alloy Aluminum Sheet from the People's Republic of China: Correction of the Preliminary Determination Deadline," dated April 13, 2018.

On January 22, 2018, 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 aluminum sheet from China.[19]

Commerce is conducting this investigation in accordance with section 731 of the Act.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2017, through September 30, 2017. This period corresponds to the two most recently completed fiscal quarters prior to the month of initiation of the investigation, which was December 2017.[20]

IV. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

Section 733(e)(1) of the Act provides that Commerce will preliminarily determine that critical circumstances exist in an LTFV investigation if there is a reasonable basis to believe or suspect that: (A) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, Commerce must issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist, no later than the date of the preliminary determination.

As such, and for the reasons explained below, we are preliminarily determining that critical circumstances do not exist for Mingtai. In addition, we preliminarily determine that critical circumstances do exist for the Yongjie Companies, GKO Aluminium, the companies eligible for a separate rate, and the China-wide entity.

A History of Dumping and Material Injury

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous AD orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to imports of subject merchandise.[21] No parties have made any claims regarding completed AD proceedings for aluminum sheet from China, and we are not aware of the

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[19] *See Common Alloy Aluminum Sheet from China*, 83 FR 3024 (January 22, 2018).
[20] *See* 19 CFR 351.204(b)(1).
[21] *See, e.g.*, *Certain Oil Country Tubular Goods from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117, 59120 (November 17, 2009) unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).

existence of any active AD orders on aluminum sheet from China in other countries. As a result, Commerce does not find that there is a history of injurious dumping of aluminum sheet from the PRC pursuant to section 733(e)(1)(A)(i) of the Act.

Knowledge that Exporters Were Dumping and That There Was Likely To Be Material Injury By Reason of Such Sales

Commerce generally bases its decision with respect to knowledge on the weighted-average dumping margins calculated in the preliminary determination and the ITC's preliminary injury determination.[22] Commerce normally considers margins of 25 percent or more for export price (EP) sales and 15 percent or more for constructed export price (CEP) sales sufficient to impute importer knowledge of sales at LTFV.[23] Mingtai had only EP sales to the United States during the POI. The weighted-average dumping margin calculated for Mingtai and the separate rate respondents exceeds the threshold margin sufficient to impute knowledge of dumping (*i.e.*, 25 percent for EP sales). Moreover, for the reasons discussed below, we have preliminarily determined a dumping rate of 167.16 percent exists for GKO Aluminium, the Yongjie Companies, and the China-wide entity. This rate for GKO Aluminium, the Yongjie Companies, and the China-wide entity exceeds both the 25 percent threshold for EP sales and the 15 percent threshold for CEP sales. Therefore, we are preliminarily imputing knowledge of sales at LTFV to importers of subject merchandise from GKO Aluminium, Mingtai, the Yongjie Companies, the companies eligible for a separate rate, and the China-wide entity.

Finally, because the ITC preliminarily found a reasonable indication that an industry in the United States is materially injured by imports of aluminum sheet from China, Commerce has determined that importers knew or should have known that there was likely to be material injury by reason of sales of aluminum sheets at LTFV by GKO Aluminium, Mingtai, the Yongjie Companies, the companies eligible for a separate rate, and the China-wide entity.

Massive Imports of the Subject Merchandise Over a Relatively Short Period

Pursuant to section 733(e)(1)(B) of the Act, as well as 19 CFR 351.206(h), Commerce will not consider imports to be massive unless imports during a relatively short period (comparison period) have increased by at least 15 percent over imports in an immediately preceding period of comparable duration (base period). Commerce normally considers the comparison period to begin on the date that the proceeding began (*i.e.*, the date the petition was filed) and to end at least three months later.[24] Furthermore, Commerce may consider the comparison period to begin at an earlier time if it finds that importers, exporters, or foreign producers had a reason to believe that proceedings were likely before the petition was filed.[25] In addition, Commerce expands the periods as more data are available. In this investigation, the Domestic Industry has made no

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[22] *See*, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers from Mexico*, 77 FR 17422, 17425 (March 26, 2012).
[23] *Id.*
[24] *See* 19 CFR 351.206(i). Since Commerce typically uses monthly import/shipment data in its analysis, if a petition is filed in the first half of the month, Commerce's practice has been to consider the month in which the petition was filed as part of the comparison period.
[25] *Id*.

allegation that importers, exporters, or foreign producers had a reason to believe that proceedings were likely before the proceeding began, nor is there any record evidence to support such a finding. Therefore, we have relied on periods before and after the publication of the initiation of the investigation in December 2017 in determining whether imports have been massive. We used the periods September 2017 through November 2017 compared with December 2017 through February 2018 for Mingtai and separate rate companies. For GKO Aluminium, the Yongjie Companies, and the China-wide entity, our determination of massive imports over a relatively short period was based on facts otherwise available with an adverse inference, as described below.

Mingtai provided its shipment data from September 2017 through February 2018.[26] After analyzing the data submitted, we determine imports from Mingtai were not massive (*i.e.*, increased by less than 15 percent between the base and comparison periods) over a relatively short period of time within the context of 19 CFR 351.206(h).[27]

To determine whether the non-selected separate rate respondents have massive imports, it is Commerce's practice to rely upon GTA import statistics specific to the merchandise covered by the scope of the investigation less the mandatory respondents' reported shipment data.[28] In so doing, in this case, we found that these imports were massive as well. From this data, it is clear that there was an increase in imports of more than 15 percent during a "relatively short period" of time, in accordance with 19 CFR 351.206(h) and (i). Therefore, we preliminarily find there to be massive imports for the companies eligible for a separate rate, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(c)(2)(i).

In determining whether imports of the subject merchandise have been "massive" for the Yongjie Companies, GKO Aluminium, and the China-wide entity, we make our preliminary determination with respect to whether or not there were massive imports based on facts otherwise available, with an adverse inference, because we are preliminarily determining that the Yongjie Companies, GKO Aluminium, and the China-wide entity have failed to cooperate by not acting to the best of their ability to comply with requests for information, as explained below. Thus, as facts otherwise available with an adverse inference[29] we are finding that imports from the Yongjie Companies, GKO Aluminium and the China-wide entity were "massive" over a "relatively short period."

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[26] Commerce's long-standing practice in critical circumstances determinations is to examine the longest period for which information is available up to the date of the preliminary determination. *See, e.g., Certain Steel Wheels from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances*, 77 FR 17021 (March 23, 2012) (*Certain Steel Wheels Final Determination*), and accompanying Issues and Decision Memorandum at Comment 6.
[27] *See* Memorandum, "Preliminary Affirmative Determination of Critical Circumstances," dated August 24, 2016.
[28] *See, e.g., Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination*, 81 FR 5098 (February 1, 2016) and accompanying Preliminary Decision Memorandum at "Critical Circumstances", unchanged in *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 (June 29, 2016).
[29] *See* "Application of Adverse Facts Available" and "Adverse Inferences," below.

Determination of Critical Circumstances

Following the analysis above, we preliminarily determine that critical circumstances exist for GKO Aluminium, the Yongjie Companies, the companies eligible for a separate rate, and the China-wide entity in accordance with sections 773(e) and 776(a) and (b) of the Act and 19 CFR 351.206.

V. SCOPE COMMENTS

In accordance with the preamble to Commerce's regulations,[30] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).[31] We received scope comments from interested parties between December 18 and December 20, 2017.[32] We received rebuttal scope comments from the Domestic Industry on January 3, 2018.[33] Between March 2 and March 26, 2018, we received additional scope comments from interested parties,[34] and on March 14, 2018, we received additional rebuttal scope comments from the Domestic Industry.[35] Based on the comments received, for purposes of this preliminary determination, we are not modifying the scope language as it appeared in the *Initiation Notice*.[36]

VI. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is aluminum common alloy sheet (common alloy sheet), which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy sheet within the scope of this investigation includes both not clad aluminum sheet, as well as multi-alloy, clad aluminum sheet. With respect to not clad aluminum sheet, common alloy sheet is manufactured from a 1XXX-, 3XXX-, or 5XXX-series alloy as designated by the Aluminum Association. With respect to multi-alloy, clad aluminum sheet, common alloy sheet is produced from a 3XXX-series core, to which cladding layers are applied to either one or both sides of the core.

Common alloy sheet may be made to ASTM specification B209-14, but can also be made to other specifications. Regardless of specification, however, all common alloy sheet meeting the scope description is included in the scope. Subject merchandise includes common alloy sheet that has been further processed in a third country, including but not limited to annealing,

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[30] *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).
[31] *See Initiation Notice*, 82 FR at 57215.
[32] *See* Metal Composite Building Materials and Products Branch of China's December 18, 2017 Scope Comments; The Beer Institute's December 18, 2017 Scope Comments; The Truck Trailer Manufacturers Association's December 18, 2017 Scope Comments; and MAHLE Behr USA Inc., MAHLE Behr Troy Inc. and MAHLE Behr Charleston Inc.'s December 18, 2017 Scope Comments; Can Manufactures Institute's December 20, 2017 Scope Comments.
[33] *See* Domestic Industry's January 3, 2018 Scope Rebuttal Comments.
[34] *See* FUJIFILM Manufacturing U.S.A., Inc. and FUJIFILM Holdings America Corporation (collectively, FUJIFILM) March 2, 2018 Scope Exclusion Comments; *see also* FUJIFILM's March 26, 2018 Rebuttal Factual Information.
[35] *See* Domestic Industry's March 14, 2018 Rebuttal Scope Comments.
[36] *See* Memorandum, "Common Alloy Aluminum Sheet from the People's Republic of China: Scope Comments Preliminary Decision Memorandum," dated June 20, 2018.

tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the common alloy sheet.

Excluded from the scope of this investigation is aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, lids of such cans, or tabs used to open such cans. Aluminum can stock is produced to gauges that range from 0.200 mm to 0.292 mm, and has an H-19, H-41, H-48, or H-391 temper. In addition, aluminum can stock has a lubricant applied to the flat surfaces of the can stock to facilitate its movement through machines used in the manufacture of beverage cans. Aluminum can stock is properly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7606.12.3045 and 7606.12.3055.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set for the above.

Common alloy sheet is currently classifiable under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080. Further, merchandise that falls within the scope of this investigation may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3030, 7606.91.3060, 7606.91.6040, 7606.92.3060, 7606.92.6040, 7607.11.9090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

VII. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on May 14, 2018, respondents Mingtai and the Yongjie Companies requested that Commerce postpone the final determination and extend provisional measures from four months to six months.[37] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because: (1) our preliminary determination is affirmative, (2) the requesting respondents, Mingtai and the Yongjie Companies, account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination by 60 days, and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

VIII. DISCUSSION OF THE METHODOLOGY

A. <u>Non-Market Economy Country</u>

Commerce considers China to be an NME country.[38] 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

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[37] *See* Mingtai's and Yongjie Companies' May 14, 2018 Request to Postpone Final Determination.
[38] *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

until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of this preliminary determination

B. Surrogate Country and Surrogate Values

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."[39] As a general rule, Commerce selects a surrogate country that is at the same level of economic development of the NME unless it is determined that none of the countries are viable options because they either (a) 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 level of economic development of 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.[40] To determine which countries are at the same level of economic development of the NME country, Commerce generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.[41] Further, Commerce normally values all FOPs in a single surrogate country.[42]

On March 16, 2018, we identified Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand as countries that are at the same level of economic development of China based on per capita 2016 GNI data. On the same date, we issued a letter to interested parties soliciting comments on the list of potential surrogate countries and the selection of the primary surrogate country, as well as providing deadlines for submitting SV information for consideration in the preliminary determination.[43]

On April 2, 2018, the Domestic Industry, Mingtai, and the Yongjie Companies timely submitted comments on the proposed list of surrogate countries. Mingtai and the Yongjie Companies argued that Bulgaria and Thailand are economically comparable to China, significant producers of comparable merchandise, and that appropriate surrogate value data are available for Bulgaria and Thailand.[44] The Domestic Industry argued that South Africa is economically comparable to

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50858, 50861 (November 2, 2017) and accompanying decision memorandum, *China's Status as a Non-Market Economy*.

[39] *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.

[40] *See* Commerce Letter, "Investigation of Certain Aluminum Sheet from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated March 16, 2018 (Surrogate Country Letter).

[41] *Id.*

[42] *See* 19 CFR 351.408(c)(2).

[43] *See* Surrogate Country Letter, at Attachment 1.

[44] *See* Mingtai's and Yangjie Companies' April 2, 2018 Surrogate Country Comments.

China, a significant producer of comparable merchandise, and that appropriate surrogate value data are available for South Africa.[45]

On April 9, 2018, the Domestic Industry, Mingtai, and the Yongjie Companies placed on the record surrogate value information and comments regarding Bulgaria, Thailand, and South Africa.[46] On April 16, 2018, the Domestic Industry placed on the record rebuttal surrogate value information and comments.[47] On May 16, 2018, the Domestic Industry, Mingtai, and the Yongjie Companies placed additional surrogate value comments on the record.[48] On May 29, 2018, the Domestic Industry submitted rebuttal surrogate value comments.[49]

1. Economic Comparability

Section 773(c)(4) of the Act states that Commerce "shall utilize, to the extent possible, the prices or costs of {FOPs} in one or more market economy countries that are… at a level of economic development comparable to that of the {NME} country." The applicable statute does not expressly define the phrase "level of economic development comparable" or what methodology Commerce must use in evaluating this criterion. The U.S. Court of International Trade (CIT) has found the use of per capita GNI to be a "consistent, transparent, and objective metric to identify and compare a country's level of economic development" and "a reasonable interpretation of the statute."[50]

For this investigation, as noted above, we determine that Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand are countries at the same level of economic development as China, based on per capita gross national economic income.[51]

2. Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce, to the extent possible, 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. To determine whether the above-referenced countries are significant producers of comparable merchandise, Commerce's practice is to examine which countries on the surrogate country list exported merchandise comparable to the merchandise under consideration. Information on the record indicates that Bulgaria, Thailand, and South Africa were net exporters during the POI of merchandise covered by HTS categories identified in the scope of this investigation, *i.e.*, identical merchandise.[52] The record also contains export data showing that

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[45] *See* the Domestic Industry's April 2, 2018 Surrogate Country Comments.
[46] *See* Mingtai's and Yangjie Companies' April 9, 2018 Surrogate Value Comments; *see also* the Domestic Industry's April 9, 2018 Surrogate Value Comments.
[47] *See* the Domestic Industry's April 16, 2018 Rebuttal Surrogate Value Comments.
[48] *See* Mingtai's and Yangjie Companies' May 16, 2018 Second Surrogate Value Comments; *see also* the Domestic Industry's May 16, 2018 Second Surrogate Value Comments.
[49] *See* the Domestic Industry's May 29, 2018 Second Rebuttal Surrogate Value Comments.
[50] *See Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).
[51] *See* Surrogate Country Letter, at Attachment 1.
[52] *See* the Domestic Industry's April 2, 2018 Surrogate Country Comments; *see also* Mingtai's and Yangjie Companies' April 2, 2018 Surrogate Country Comments.

Bulgaria, Thailand, and South Africa are producers of comparable merchandise.[53] Accordingly, we preliminarily find that Bulgaria, Thailand, and South Africa have met the significant producer of comparable merchandise prong of the surrogate country selection criteria.

3. Data Availability

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. There is no hierarchy among these criteria.[54] It is Commerce's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[55]

The Domestic Industry, Mingtai, and the Yongjie Companies have placed data on the record from Bulgaria, Thailand, and South Africa.[56] No parties placed SV information on the record for Brazil, Mexico, or Romania, or argued that these countries be selected as the surrogate country. As a result, we have not considered Brazil, Mexico, or Romania for surrogate country selection purposes.

We preliminarily find that the South African data are the best available data for valuing the relevant FOPs because the record contains complete, publicly available, contemporaneous, and specific South African data which represent a broad market average, and which are tax and duty exclusive, for the vast majority of inputs used by the respondents to produce subject merchandise during the POI.[57] In addition, the South African surrogate financial statements on the record are publicly available statements for a company which produces identical merchandise.[58] The record also contains publicly available surrogate value data representing a broad market average, which are tax and duty exclusive, from Bulgaria and Thailand;[59] however, we find that the Bulgarian financial statements on the record are not contemporaneous with the POI and are not the original, official Bulgarian-language versions, but, rather, unofficial, English-language translations.[60] Additionally, we find that the Thai financial statements on the record show evidence of subsidies previously found by Commerce to be countervailable.[61] On the other hand, the record contains

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[53] *Id.*
[54] *See*, *e.g.*, *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1.
[55] *See* Policy Bulletin 04.1.
[56] *See* Mingtai's and Yangjie Companies' April 9, 2018 Surrogate Value Comments; *see also* the Domestic Industry's April 9, 2018 Surrogate Value Comments; *see also* Mingtai's and Yangjie Companies' May 16, 2018 Second Surrogate Value Comments; *see also* The Domestic Industry's May 16, 2018 Second Surrogate Value Comments.
[57] *See* Memorandum, "Common Alloy Aluminum Sheet from the People's Republic of China: Surrogate Values for the Preliminary Results," dated concurrently with this memorandum (Preliminary SV Memorandum).
[58] *See* the Domestic Industry's April 9, 2018 Surrogate Value Comments at Exhibit ZA-7.
[59] *See* Mingtai's and Yangjie Companies' April 9, 2018 Surrogate Value Comments; *see also* Mingtai's and Yangjie Companies' May 16, 2018 Second Surrogate Value Comments.
[60] *See* Mingtai's and Yangjie Companies' April 9, 2018 Surrogate Value Comments at Exhibit SV-6.
[61] *See* Mingtai's and Yangjie Companies' May 16, 2018 Second Surrogate Value Comments at Exhibit SV2-7; *see also*, *e.g.*, *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's*

South African financial statements from a producer of comparable merchandise, which are complete, fully translated, and contemporaneous to the POI, and do not contain evidence of subsidies previously found to be countervailable.[62]

Based on the foregoing, we find that South Africa best meets our criteria for a surrogate country given the completeness and contemporaneity of the data, including the financial statements. Therefore, we preliminarily determine, pursuant to section 773(c)(4) of the Act, that it is appropriate to use South Africa as the primary surrogate country because South Africa is: (1) at the level of economic development of China; (2) a significant producer of merchandise comparable to the merchandise under consideration; and (3) the source of the best available data on the record for valuing FOPs, including the complete, fully translated financial statements of a producer of comparable merchandise that is also contemporaneous to the POI. An explanation of the SVs upon which we are preliminarily relying can be found in the "Normal Value" section of this memorandum.

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.[63] Commerce's policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[64] Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*[65] and further developed in *Silicon Carbide*.[66] 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, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part, 77 FR 63791 (October 17, 2012), and accompanying Issues and Decision Memorandum, at Comment 2.

[62] *See* the Domestic Industry's April 9, 2018 Surrogate Value Comments at Exhibit ZA-7.

[63] *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).

[64] *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*).

[65] *Id.*

[66] *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*).

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.[67] 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 case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.[68] Following the Court's reasoning, in recent proceedings, we have concluded that where a government holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority holding in and of itself means that the government exercises, or has the potential to exercise, control over the company's operations generally.[69] 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 any 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 profitability of the company.

In the *Initiation Notice*, we stated that exporters and producers desiring a separate rate must submit both a separate rate application (SRA) and a response to Commerce's quantity and value (Q&V) questionnaire.[70] We also stated that the deadline for submission of SRAs would be 30 days after publication of the initiation notice, *i.e.*, January 3, 2018.[71] We subsequently extended

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[67] *See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China* (May 6, 2013) in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), affirmed in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd* Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). This remand redetermination is on the Enforcement and Compliance website at http://enforcement.trade.gov/remands/12-147.pdf; *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 Memo 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.

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

[69] *See Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying Preliminary Decision Memorandum at 5-9; unchanged in *Carbon and Certain Alloy Steel Wire Rod 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*, 79 FR 68860 (November 19, 2014).

[70] *See Initiation Notice*, 82 FR at 57217.

[71] *Id.*

the deadline to file an SRA until January 5, 2018.[72] Between December 28, 2017, and January 5, 2018, 27 companies applied for separate rate status.[73] As explained in detail below, we preliminarily determine that 11 companies are not eligible for a separate rate, and are part of the China-wide entity.

Five companies provided evidence that they are wholly foreign-owned: Alumax Composite Material (Jiangyin) Co. Ltd.; Granges Aluminum Shanghai Co., Ltd.; Jiangyin Litai Ornamental Materials Co., Ltd.; Tianjin Zhongwang Aluminium Co., Ltd.; and Xiamen Xiashun Aluminum Foil Co., Ltd.[74] Because these five companies are wholly foreign-owned, and we have no evidence indicating that these companies are under the control of the Chinese government, an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether they are independent from government control. Accordingly, we preliminarily grant a separate rate to Alumax Composite Material (Jiangyin) Co. Ltd.; Granges Aluminum Shanghai Co., Ltd.; Jiangyin Litai Ornamental Materials Co., Ltd.; Tianjin Zhongwang Aluminium Co., Ltd.; and Xiamen Xiashun Aluminum Foil Co., Ltd.

1. *Absence of* De Jure *Control*

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 companies; and (3) other formal measures by the government decentralizing control over export activities of companies.[75]

The evidence provided by Alcha International Holdings Limited; Henan Founder Beyond Industry Co., Ltd.; Henan Mingtai; Huafon Nikkei Aluminum Corporation; Jiangsu Lidao New Material Co., Ltd.; Jiangyin New Alumax Composite Material Co. Ltd.; Shandong Fuhai Industrial Co., Ltd.; Yantai Jintai International Trade Co., Ltd.; Yinbang Clad Material Co., Ltd.;

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[72] *See* Commerce Letter, "Common Alloy Aluminum Sheet from the People's Republic of China – Extension of Deadline for Submission of Separate Rate Applications," dated December 28, 2017.

[73] We timely received SRAs from the following companies: Alcha International Holdings Limited; Alnan Aluminium Inc.; Alumax Composite Material (Jiangyin) Co. Ltd.; Chalco Ruimin Co., Ltd.; CHALCO-SWA Cold Rolling Co., Ltd.; Granges Aluminum Shanghai Co., Ltd.; Henan Founder Beyond Industry Co., Ltd.; Henan Mingtai Al Industrial Co., Ltd.; Huafon Nikkei Aluminum Corporation; Jiangsu Alcha Aluminium Co., Ltd; Jiangsu Lidao New Material Co., Ltd.; Jiangyin Litai Ornamental Materials Co., Ltd.; Jiangyin New Alumax Composite Material Co. Ltd.; Luoyang Wanji Aluminium Processing Co., Ltd.; Nanjie Resources Co., Limited; Shandong Fuhai Industrial Co., Ltd.; Tianjin Zhongwang Aluminium Co., Ltd.; Wanji Global (Singapore) PTE. LTD.; Xiamen Xiashun Aluminum Foil Co., Ltd; Yantai Jintai International Trade Co., Ltd.; Yinbang Clad Material Co., Ltd.; Yong Jie New Material Co., Ltd.; Zhejiang GKO Aluminium Stock Co., Ltd.; Zhejiang GKO New Materials Co., Ltd.; Zhejiang Yongjie Aluminum Co., Ltd.; Zhengzhou Mingtai Industry Co., Ltd.; and Zhengzhou Silverstone Limited.

[74] *See* Alumax Composite Material (Jiangyin) Co. Ltd.'s January 5, 2018 Separate Rate Application and Alumax Composite Material (Jiangyin) Co. Ltd.'s June 8, 2018 Separate Rate Application Supplemental Questionnaire Response; Granges Aluminum Shanghai Co., Ltd.'s December 28, 2017 Separate Rate Application; Jiangyin Litai Ornamental Materials Co., Ltd.'s December 28, 2017 Separate Rate Application; Tianjin Zhongwang Aluminium Co., Ltd.'s January 5, 2018 Separate Rate Application; and Xiamen Xiashun Aluminum Foil Co., Ltd.'s January 5, 2018 Separate Rate Application.

[75] *See Sparklers*, 56 FR at 20589.

Zhengzhou Mingtai; and Zhengzhou Silverstone Limited 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 exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control over export activities of companies; and (3) the implementation of formal measures by the government decentralizing control over export activities of companies.[76]

2. *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 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.[77] Commerce has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude Commerce from assigning separate rates.

The evidence provided by Alcha International Holdings Limited; Henan Founder Beyond Industry Co., Ltd.; Henan Mingtai; Huafon Nikkei Aluminum Corporation; Jiangsu Lidao New Material Co., Ltd.; Jiangyin New Alumax Composite Material Co. Ltd.; Shandong Fuhai Industrial Co., Ltd.; Yantai Jintai International Trade Co., Ltd.; Yinbang Clad Material Co., Ltd.; Zhengzhou Mingtai; and Zhengzhou Silverstone Limited supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that both companies: (1) set their own 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 the disposition of profits or financing of losses.[78]

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[76] *See* Alcha International Holdings Limited's January 5, 2018 Separate Rate Application and Alcha International Holdings Limited's April 11, 2018 Separate Rate Application Supplemental Questionnaire Response; Henan Founder Beyond Industry Co., Ltd.'s January 3, 2018 Separate Rate Application; Henan Mingtai's January 5, 2018 Separate Rate Application; Huafon Nikkei Aluminum Corporation's January 5, 2018 Separate Rate Application; Jiangsu Lidao New Material Co., Ltd.'s January 5, 2018 Separate Rate Application and Jiangsu Lidao New Material Co., Ltd.'s June 8, 2018 Separate Rate Application Supplemental Questionnaire Response; Jiangyin New Alumax Composite Material Co. Ltd.'s January 5, 2018 Separate Rate Application and Jiangyin New Alumax Composite Material Co. Ltd.'s June 8, 2018 Separate Rate Application Supplemental Questionnaire Response; Shandong Fuhai Industrial Co., Ltd.'s January 5, 2018 Separate Rate Application; Yantai Jintai International Trade Co., Ltd.'s January 5, 2018 Separate Rate Application and Yantai Jintai International Trade Co., Ltd.'s May 11, 2018 Separate Rate Application Supplemental Questionnaire Response; Yinbang Clad Material Co., Ltd.'s January 5, 2018 Separate Rate Application; Zhengzhou Mingtai's January 5, 2018 Separate Rate Application; and Zhengzhou Silverstone Limited's January 5, 2018 Separate Rate Application and Zhengzhou Silverstone Limited's June 8, 2018 Separate Rate Application Supplemental Questionnaire Response.

[77] *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).

[78] *See* footnote 76, above.

Based on the foregoing, we preliminarily determine that the evidence placed on the record of this investigation by Alcha International Holdings Limited; Henan Founder Beyond Industry Co., Ltd.; Henan Mingtai; Huafon Nikkei Aluminum Corporation; Jiangsu Lidao New Material Co., Ltd.; Jiangyin New Alumax Composite Material Co. Ltd.; Shandong Fuhai Industrial Co., Ltd.; Yantai Jintai International Trade Co., Ltd.; Yinbang Clad Material Co., Ltd.; Zhengzhou Mingtai; and Zhengzhou Silverstone Limited 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.

3. *Companies Not Eligible for a Separate Rate*

We preliminarily determine that the following companies failed to demonstrate an absence of both *de jure* and *de facto* government control: Alnan Aluminium Inc.; Chalco Ruimin Co., Ltd.; CHALCO-SWA Cold Rolling Co., Ltd.; Luoyang Wanji Aluminium Processing Co., Ltd.; and Wanji Global (Singapore) PTE. LTD.[79] For each of these companies, evidence on the record shows majority ownership by a government entity. Specifically, these companies failed to demonstrate autonomy from the government in making decisions regarding the selection of management.[80]

Nanjie, Yong Jie New Material, and Yongjie Aluminum (*i.e.*, the Yongjie Companies) each filed an SRA.[81] However, as explained below in the section "Application of Facts Available and Adverse Inferences," we preliminarily determine that the application of adverse facts available is appropriate for the Yongjie Companies, because we find that they failed to cooperate by not acting to the best of their ability to comply with a request for information. Because we have found that the application of adverse facts available is warranted with respect to the Yongjie Companies, we preliminarily determine that they are not eligible for a separate rate.

In addition, GKO Aluminium filed an SRA.[82] However, after being selected as a mandatory respondent in this investigation, GKO Aluminium informed Commerce that it would not participate in this proceeding. Accordingly, as discussed below in the section "Application of Facts Available and Adverse Inferences," we preliminarily determine that the application of adverse facts available is appropriate for GKO Aluminium because we find that it failed to cooperate by not acting to the best of its ability to comply with a request for information. Thus, we preliminarily find that GKO Aluminium is not eligible for a separate rate.

Zhejiang GKO New Materials Co., Ltd. also filed an SRA.[83] Zhejiang GKO New Materials Co., Ltd. reported in its SRA that the subject merchandise it sold during the POI was supplied, in part, by its parent company, GKO Aluminium. As stated above, we preliminarily determine that it is

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[79] *See* Alnan Aluminium Inc.'s January 5, 2018 Separate Rate Application; Chalco Ruimin Co., Ltd.'s January 8, 2018 Separate Rate Application; CHALCO-SWA Cold Rolling Co., Ltd.'s January 8, 2018 Separate Rate Application; Luoyang Wanji Aluminium Processing Co., Ltd.'s January 5, 2018 Separate Rate Application; and Wanji Global (Singapore) PTE. LTD.'s January 5, 2018 Separate Rate Application.
[80] *See Sparklers*, 56 FR at 20589.
[81] *See* Yangjie Companies' January 5, 2018 Separate Rate Application; Yong Jie New Material's January 5, 2018 Separate Rate Application; and Yongjie Aluminum's January 5, 2018 Separate Rate Application.
[82] *See* GKO Aluminium's January 5, 2018 Separate Rate Application.
[83] *See* Zhejiang GKO New Materials Co., Ltd's January 5, 2018 Separate Rate Application.

appropriate to apply adverse facts available to GKO Aluminium, and that GKO Aluminium is not eligible for a separate rate. Because GKO Aluminium is Zhejiang GKO New Materials Co., Ltd.'s parent company and one of its suppliers of subject merchandise, and because we preliminarily determine that GKO Aluminum is not eligible for a separate rate, we also preliminarily determine that Zhejiang GKO New Materials Co., Ltd. is not eligible for a separate rate.

Lastly, Jiangsu Alcha Aluminium Co., Ltd (Jiangsu Alcha) submitted an SRA.[84] In its SRA, Jiangsu Alcha stated that it produced the subject merchandise that was exported to the United States through its wholly-owned subsidiary, Alcha International Holdings Limited. As a producer, and not an exporter, Jiangsu Alcha is not eligible for a separate rate. As such, we preliminarily determine not to grant a separate rate to Jiangsu Alcha.[85]

D. Combination Rates

In the *Initiation Notice*, we stated we would calculate combination rates for respondents that are eligible for a separate rate in this investigation.[86] This practice is described in Policy Bulletin 05.1.[87]

E. Collapsing and Affiliation

We have considered the evidence on the record and preliminarily determine that affiliation exists with respect to the following companies during the POI: (1) Henan Mingtai Al Industrial Co., Ltd. (Henan Mingtai) and Zhengzhou Mingtai Industry Co., Ltd. (Zhengzhou Mingtai);[88] and (2) Nanjie Resources Co., Limited (Nanjie), Yong Jie New Material Co., Ltd. (Yong Jie New Material), and Zhejiang Yongjie Aluminum Co., Ltd (Yongjie Aluminum).[89]

Section 771(33) of the Act provides that the following persons shall be considered to be "affiliated" or "affiliated persons":

> (A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;
> (B) Any officer or director of an organization and such organization;
> (C) Partners;
> (D) Employer and employee;

[84] *See* Letter from Jiangsu Alcha, "Common Alloy Aluminum Sheet from the People's Republic of China: Jiangsu Alcha Separate Rate Application," dated January 5, 2018.
[85] Alcha International Holdings Limited, an exporter, applied for a separate rate and identified Jiangsu Alcha as its producer; we find that this exporter-producer combination is eligible for a separate rate.
[86] *See Initiation Notice.*
[87] *See Policy Bulletin 05.1.*
[88] *See* Memorandum, "Common Alloy Aluminum Sheet from the People's Republic of China: Preliminary Affiliation and Collapsing Memorandum for Henan Mingtai Al Industrial Co., Ltd. and Zhengzhou Mingtai Industry Co., Ltd.," dated June 15, 2018 (Mingtai Affiliation and Collapsing Memorandum).
[89] *See* Memorandum, "Common Alloy Aluminum Sheet from the People's Republic of China: Preliminary Affiliation and Collapsing Memorandum for Nanjie Resources Co., Limited; Yong Jie New Material Co., Ltd.; and Zhejiang Yongjie Aluminum Co., Ltd.," dated June 18, 2018 (Yongjie Companies Affiliation and Collapsing Memorandum).

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization;
(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; or,
(G) Any person who controls any other person and such other person.

The Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreement Act states the following:

> The traditional focus on control through stock ownership fails to address adequately modern business arrangements, which often find one firm 'operationally in a position to exercise restraint or direction' over another in the absence of an equity relationship. A company may be in a position to exercise restraint or direction, for example, through corporate or family groupings, franchise or joint venture agreements, debt financing, or close supplier relationships in which the supplier or buyer becomes reliant upon the other.[90]

Section 351.102(b)(3) of Commerce's regulations defines affiliated persons and affiliated parties as having the same meaning as in section 771(33) of the Act. In determining whether control over another person exists, within the meaning of section 771(33) of the Act, Commerce considers the following factors, among others: corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. The regulation directs Commerce not to find that control exists on the basis of these factors unless the relationship has "the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product." The regulation also directs Commerce to consider the temporal aspect of a relationship in determining whether control exists; normally, temporary circumstances will not suffice as evidence of control.

19 CFR 351.401(f), which outlines the criteria for treating affiliated producers as a single entity for purposes of AD proceedings, states the following:

> (1) In general. In an antidumping proceeding under this part, the Secretary will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production.
> (2) Significant potential for manipulation, in identifying a significant potential for the manipulation of price or production, the factors the Secretary may consider include:
> (i) The level of common ownership;
> (ii) The extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and

[90] *See* SAA, H.R. Doc. No. 316, Vol. 1, 103d Cong., 2d Sess. (1994) at 838.

> (iii) Whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.[91]

Based on the evidence on the record, we preliminarily find that Nanjie is affiliated with Yong Jie New Material within the meaning of section 771(33)(E) of the Act, based on Yong Jie New Material's ownership of five percent or more of Nanjie.[92] We also preliminarily find that Yongjie Aluminum and Yong Jie New Material are affiliated with one another within the meaning of section 771(33)(E) of the Act, based on Yong Jie New Material's ownership of five percent or more of Yongjie Aluminum.[93] Finally, we preliminarily find that Nanjie and Yongjie Aluminum are affiliated under section 771(33)(F) of the Act because they are under the common control of Yong Jie New Material.[94] Furthermore, we have preliminarily treated Nanjie, Yongjie Aluminum, and Yong Jie New Material as a single entity, pursuant to 19 CFR 351.401(f). We preliminarily find that these companies have production facilities for similar or identical products, and that a significant potential for manipulation of price or production exists, based on common ownership, shared managers and/or board members, and intertwined operations.[95]

Additionally, based on evidence on the record, we preliminarily find that Henan Mingtai is affiliated with Zhengzhou Mingtai within the meaning of section 771(33)(E) of the Act based on Henan Mingtai's direct or indirect ownership of five percent or more of Zhengzhou Mingtai.[96] Furthermore, we have preliminarily treated Henan Mingtai and Zhengzhou Mingtai as a single entity, pursuant to 19 CFR 351.401(f). We preliminarily find that both of these companies have production facilities for similar or identical products, and that a significant potential for manipulation of price or production exists, based on common ownership, shared managers and/or board members, and intertwined operations.[97]

China-Wide Entity

The record indicates there are China exporters and/or producers of the merchandise under consideration during the POI that did not respond to Commerce's requests for information. Specifically, Commerce did not receive timely responses to its Q&V questionnaire or SRAs from numerous Chinese exporters and/or producers of merchandise under consideration that were identified publicly in the initiation memorandum and to whom Commerce issued Q&V questionnaires.[98] Because non-responsive Chinese companies have not demonstrated that they are eligible for separate-rate status, we consider them to be part of the China-wide entity. Furthermore, as explained below, we are preliminarily determining the China-wide rate on the basis of adverse facts available (AFA).

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[91] *See* 19 CFR 351.401(f).
[92] *See* Yongjie Companies February 16, 2018 AQR at 14 and Exhibit A-4. *See also* Yongjie Companies Affiliation and Collapsing Memorandum.
[93] *Id.*
[94] *Id.*
[95] *See* Yongjie Companies Affiliation and Collapsing Memorandum.
[96] *See* Mingtai February 16, 2018 AQR at Exhibit A-2.
[97] *Id.*; *see also* Mingtai Affiliation and Collapsing Memorandum for additional business proprietary details.
[98] *See* Memorandum, "FedEx Receipts for Quantity and Value (Q&V) Questionnaires," dated December 15, 2017.

F. 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 so doing, and under the Trade Preferences Extension Act of 2015 (TPEA),[99] 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 request for information. 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.[100]

When using 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 or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.[101] The SAA clarifies that "corroborate" means that Commerce will satisfy itself that the secondary information to be used has probative value,[102] although, under the TPEA, Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.[103] To corroborate secondary information,

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[99] On June 29, 2015, the TPEA made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act. *See* TPEA, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The amendments to section 776 of the Act are applicable to all determinations made on or after August 6, 2015. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). The text of the TPEA may be found at https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.
[100] *See also* 19 CFR 351.308(c).
[101] *See* SAA at 870.
[102] *Id.*; *see also* 19 CFR 351.308(d).
[103] *See* section 776(c)(2) of the Act; TPEA, section 502(2).

Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used, although, under the TPEA, 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.[104]

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. The TPEA 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.

1. Use of Facts Available

The Yongjie Companies

We find that the use of facts available is appropriate to determine the margin applied to the Yongjie Companies. Pursuant to section 773 of the Act, to accurately calculate normal value, Commerce needs accurate cost data and accurate FOPs. Therefore, it is critical for Commerce to be able to determine, early in the proceeding, accurate FOPs to allow parties to comment on surrogate values, which are necessary for an NME antidumping calculation. Additionally, Commerce has stated in previous cases that the cost reconciliation is an integral part of Commerce's examination of a respondent, which is why we require respondents to complete a cost reconciliation in the standard non-market economy (NME) questionnaire.[105]

However, based on the information reported in its responses, we find that the Yongjie Companies did not provide Commerce with accurate FOPs or cost data. Specifically, we find that the Yongjie Companies' May 30, 2018 supplemental questionnaire response provided substantially different data and responses to Commerce's questions than did the Yongjie Companies' initial and first supplemental questionnaire responses. For example, in its initial section D response, the Yongjie Companies stated that for Yong Jie New Material, "aluminum ingots and aluminum scraps … are smelted and cast in the furnace … then alloys may be added … then poured into the holding furnace for refining, slagging-off and sampling, and then cast to form the cast rolled coil."[106] At Yongjie Aluminum, the production process likewise involves the smelting and casting of aluminum ingots and scrap in the furnace, the addition of alloys, and

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[104] *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).

[105] *See Certain Biaxial Integral Geogrid Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 82 FR 3284 (January 11, 2017), and accompanying Issues and Decision Memorandum at Comments 3 (*Biaxial Integral Geogrid China Final*).

[106] *See* Yongjie Companies' March 8, 2018 DQR at Part B, page 3.

"then being poured into the holding furnace for refining, slagging-off and sampling, and then cast to form the slab ingot."[107] The slab ingots are then hot rolled, after which they are cut to form the finished product, undergo further hot-rolling, or undergo cold-rolling.[108] The Yongjie Companies also stated in the section D response that both aluminum scrap and ash are reintroduced into production and constitute a large portion of input of raw material in the cast rolling workshop (Yongjie New Material) or smelting and casting workshop (Yongjie Aluminum).[109] Additionally, in its worksheets included as part of its initial Section D response summarizing Yong Jie New Material's and Yongjie Aluminum's FOP inputs, the Yongjie Companies reported large amounts of aluminum scrap as a raw material input.[110] The Yongjie Companies reiterated this information in the first supplemental questionnaire response for section D, thus establishing the importance of aluminum scrap in its production of aluminum sheet.[111]

However, in our last supplemental questionnaire (*i.e.*, second supplemental questionnaire for section D), we requested that the Yongjie Companies demonstrate that their consumption of purchased goods was sufficient to produce enough aluminum sheet and aluminum scrap as reported.[112] In its response, the Yongjie Companies explained that there was an error in its reported aluminum scrap and that its total input of aluminum scrap was more than the total generated during the POI.[113] Whereas the Yongjie Companies had originally reported large amounts of "run-around scrap" as a production input, the Yongjie Companies revised their responses to replace "run-around scrap" with a wholly new, previously unreported FOP (*i.e.,* cast-rolled coils) and other primary aluminum production inputs.[114] Additionally, the Yongjie Companies' revised cost data did not reconcile to the company's books and records kept in the normal course of business.[115]

As a result of these substantial discrepancies, we find the record lacks a reliable set of FOP inputs for purpose of section 773 of the Act. In particular, as noted below, the new FOP data are not reconciled to company's financial statements. In addition, we find that the Yongjie Companies withheld certain FOP data that was requested and failed to provide such information within the deadlines established, or in the form or manner requested by Commerce, in that the Yongjie Companies waited until their May 30, 2018, supplemental questionnaire response to identify significant FOPs, including cast-rolled coils and other primary aluminum production inputs. At such a late stage (*i.e.*, approximately two weeks prior to the fully postponed preliminary determination), we can no longer further investigate the problems in the new FOP information.

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[107] *Id.* at Part A, page 3.
[108] *Id.*
[109] *Id.*, at Part B, page 13 and Part A, page 13.
[110] *Id.*, at Part B, Exhibit D-15 and Part A, Exhibit D-15.
[111] *See* Yongjie Companies' May 10, 2018 Supplemental Questionnaire Response, at 8, 10-11, and 13.
[112] *See* Letter to Yongjie Companies, "Common Alloy Aluminum Sheet from the People's Republic of China: Third Supplemental Questionnaire for Nanjie Resources Co., Limited," dated May 17, 2018.
[113] *See* Yongjie Companies' May 30, 2018 Supplemental Questionnaire Response (Yongjie Companies' May 30, 2018 SQR), at 14.
[114] *Id.*, at 14 and 15.
[115] *Compare* Yongjie Companies' March 8, 2018 DQR at Part B, Exhibit D-14 and Part A, Exhibit D-14 to Yongjie Companies' May 30, 2018 SQR at Appendices SD-3.1 through SD-10.2.

Moreover, the Yongjie Companies significantly impeded the proceeding by requiring multiple questionnaires to address the basic threshold issue of determining what raw material inputs were used in their production process, and what quantities were consumed. Additionally, the cost information reported in the Yongjie Companies' May 30, 2018 supplemental questionnaire response does not reconcile to its reported books and records, another integral part of Commerce's examination.[116] It is crucial for Commerce to receive accurate information within sufficient time during the proceeding, in order to determine the appropriate surrogate values for the normal value calculation and to have sufficient time to fully analyze the reported information. By initially reporting "run-around scrap" and then later revising its responses to replace that scrap with aluminum coil and other primary aluminum production inputs, and failing to reconcile its cost data despite multiple opportunities to do so, the Yongjie Companies significantly impeded Commerce's ability to determine whether the FOPs were calculated correctly, or to determine which surrogate values are most appropriate to use in the calculation of normal value under section 773 of the Act. The Yongjie Companies' failure to respond to Commerce's repeated requests for accurate cost data and FOP data pertaining to its production process, and its failure to reconcile the data it did report, impeded our ability to fully analyze that information.

Additionally, we find that the Yongjie Companies' failure to reconcile its reported cost data results in necessary information, *i.e.*, accurate and reliable data, being missing from the record of this investigation, such that the record lacks the necessary information to accurately determine the Yongjie Companies' FOPs for purposes of section 773 of the Act. Furthermore, the Yongjie Companies significantly impeded the proceeding by failing to accurately report its production process and cost information. Thus, we find that the Yongjie Companies significantly impeded Commerce's ability to calculate an accurate dumping margin under section 773 of the Act. Additionally, we find the application of facts otherwise available is appropriate because "the missing information is core to the antidumping analysis and leaves little room for the substitution of partial facts without undue difficulty."[117] Based on the foregoing, we preliminarily determine that application of facts available, pursuant to section 776(a)(1), (2)(A) and (C) of the Act, is warranted for the Yongjie Companies.

GKO Aluminium

On January 18, 2018, we selected GKO Aluminium as a mandatory respondent, and on January 19, 2018, we issued Commerce's AD questionnaire to GKO Aluminium. On February 12, 2018, GKO Aluminium notified Commerce of its non-participation and that it was unable to respond to Commerce's AD questionnaire due that day.[118] As a result of its non-participation, we preliminarily find that GKO Aluminium failed to provide necessary information, withheld information requested by Commerce, and significantly impeded this proceeding by not submitting the requested information. Accordingly, we preliminarily determine that the use of

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[116] *Id.*, at Appendix SD-3.1, SD-7, and SD-10.2.
[117] *See Mukand Ltd. v. United States*, 767 F. 3d 1300, 1308 (Fed. Cir. 2014) (*Mukand*) (citing *Shanghai Taoen Int'l Co. v. United States*, 360 F. Supp. 2d 1339, 1348 n. 13 (Ct. Int'l Trade 2005)).
[118] *See* GKO Aluminium's February 12, 2018 Notice of Non-Participation.

facts available is warranted in determining the rate for GKO Aluminium, pursuant to sections 776(a)(1), (a)(2)(A) and (a)(2)(C) of the Act.[119]

China-Wide Entity

We issued our request for Q&V information to 30 potential Chinese producers/exporters of aluminum sheet. We received 18 timely filed Q&V responses from companies to which we issued a Q&V questionnaire.[120] As a result of non-responses, we preliminarily find that the China-wide entity, which includes Chinese exporters and/or producers that did not respond to Commerce's requests for information, failed to provide necessary information, withheld information requested by Commerce, and significantly impeded this proceeding by not submitting the requested information. Moreover, where certain Chinese exporters and/or producers did not respond to Commerce's Q&V questionnaire, section 782(d) of the Act is inapplicable. Accordingly, we preliminarily determine that use of facts available is warranted in determining the rate for the China-wide entity, pursuant to sections 776(a)(1), (a)(2)(A) and (a)(2)(C) of the Act.[121]

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.

The Yongjie Companies

We find that application of facts available with an adverse inference is warranted for the Yongie Companies because we find it 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."[122] 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

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[119] *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).
[120] *See* Memorandum, "Antidumping Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China: Respondent Selection," dated January 17, 2018.
[121] *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).
[122] *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."))

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."[123] Commerce has previously found that failure to provide a reliable cost reconciliation warrants use of total AFA.[124] Additionally, the Court has recognized that, because cost information is essential for multiple calculations, "cost information is a vital part of {Commerce's} dumping analysis."[125]

In this instance, we provided the Yongjie Companies with multiple opportunities to remedy and explain the deficiencies in its reporting by issuing two supplemental questionnaires related to its FOPs. In response to the supplemental questionnaires, the Yongjie Companies repeatedly submitted conflicting and incomplete information regarding its aluminum sheet production, which has significantly impeded Commerce's ability to determine the accuracy of the Yongjie Companies' reported FOP information. Because of the conflicting information provided in the Yongjie Companies' questionnaire responses, we find that the Yongjie Companies: (1) failed to identify all factors of production used in its production process from the outset of this proceeding; (2) failed to reconcile the factors of production and consumption to the companies' books and records; and (3) submitted a significantly revised section D response only two weeks before the fully postponed preliminary determination. Thus, we find that each of these failures demonstrate "circumstances {under} which it reasonable to conclude that less than full cooperation has been shown."[126] Therefore, we preliminarily find an adverse inference is warranted in selecting from among the facts otherwise available with respect to the Yongjie Companies, pursuant to 776(b) of the Act in this instance. Based on the foregoing, we are preliminarily relying entirely upon facts available based upon an adverse inference to determine the dumping margin for the Yongjie Companies in this investigation.

GKO Aluminium

GKO Aluminium notified Commerce of its non-participation and its inability to respond to Commerce's AD questionnaire in its February 12, 2018 letter. As a result, we find that GKO Aluminium failed to submit the requested information. Further, it did not request an extension of time to respond or request to submit the information in an alternate form. Thus, we find that GKO Aluminium's non-responsiveness constitutes circumstances under which it is reasonable to conclude that it failed to cooperate by not acting to the best of its ability.[127] Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise

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[123] *Id*., at 1382.
[124] *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 "{Commerce}'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.
[125] *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*).
[126] *See Nippon 2003*, at 1383.
[127] *See Nippon 2003,* at 1373 and 1383.

available with respect to GKO Aluminium in accordance with section 776(b) of the Act and 19 CFR 351.308(a).[128]

China-Wide Entity

We find 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 they were having difficulty providing the information, nor did they request to submit the information in an alternate form. We find that, by not providing a response or not attempting to respond to our requests for information these companies, as part of the China-wide entity, have failed to cooperate by not acting to the best of their ability.[129] Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to China-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).[130]

3. Selection and Corroboration of the AFA rate

In applying an adverse inference, Commerce may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.[131] In selecting an AFA rate, Commerce selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[132] In an investigation, Commerce's practice with respect to the assignment of an AFA rate is to select the higher of: (1) the highest dumping margin alleged in the petition; or (2) the highest calculated dumping margin of any respondent in the investigation.[133]

To determine the rate that Commerce has preliminarily used for the Yongjie Companies, GKO Aluminium, and the China-wide entity, we first examined whether the highest margin in the initiation of the investigation (*i.e.*, 59.72 percent) was less than or equal to the highest calculated margin, and determined that the highest calculated margin of 167.16 percent was the higher of the two. Because this rate is a calculated rate based on a mandatory respondent's data in this segment of the proceeding, it does not constitute secondary information and, therefore, it does not need to be corroborated. Thus, for this preliminary determination, as facts available based on an adverse inference, we have assigned to the Yongjie Companies, GKO Aluminium, and the China-wide entity a dumping margin of 167.16 percent, which is the highest calculated rate in this proceeding.

[128] *Id.* at 1382.
[129] *Id.* at 1373 and 1383.
[130] *Id.* at 1382.
[131] *See* section 776(b) of the Act
[132] *See* SAA at 870
[133] *See, e.g., Certain Uncoated Paper from Indonesia: Final Determination of Sales at Less Than Fair Value*, 81 FR 3101 (January 20, 2016).

G. Date of Sale

In identifying the date of sale of the merchandise under consideration, Commerce will normally, in accordance with 19 CFR 351.401(i), "use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business" unless a different date better reflects the date on which the material terms of sale (*e.g.*, price and quantity) are established.[134] For Mingtai, we preliminarily determine that the invoice date best reflects the date on which the material terms of sale are established.[135] Therefore, in accordance with Commerce's established practice, we used the earlier of invoice date or shipment date as the date of sale for Mingtai for the purposes of this preliminary determination.

H. Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Mingtai's sales of the subject merchandise from China to the United States were made at less than NV, we compared the EP to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

1. *Export Price*

Mingtai reported that all U.S. sales during the POI were EP in accordance with section 772(a) of the Act.[136] Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted...." We preliminarily determine that Mingtai's sales are EP sales because all of Mingtai's sales to the United States were made to unaffiliated customers. Accordingly, we based EP on prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, and U.S. movement expenses, in accordance with section 772(c)(2)(A) of the Act. We based movement expenses on SVs if the expense was paid to an NME company in Chinese renminbi.[137]

2. *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.[138] Commerce explained that when an NME

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[134] *See*, *e.g.*, *Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.
[135] *See* Memorandum, "Antidumping Investigation of Common Alloy Aluminum Sheet from the People's Republic of China (China): Mingtai Analysis Memorandum for the Preliminary Results," dated concurrently with this memorandum (Mingtai Preliminary Analysis Memorandum).
[136] *See*, *e.g.*, Mingtai March 8, 2018 CDQR at C-23, C-24, and Exhibit C-1.
[137] For details regarding the SVs used for movement expenses, *see* Preliminary SV Memorandum.
[138] *See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In*

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.[139] 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.[140]

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 one. Information placed on the record of this investigation by Mingtai indicates that according to the China VAT schedule, the standard VAT levy is 17 percent, and the rebate rate for the merchandise under consideration is 13 percent.[141] Consistent with Commerce's standard methodology, for purposes of this preliminary determination, we removed from U.S. price the amount calculated based on the difference between those standard rates (*i.e.*, 4 percent) applied to the export sales value, consistent with the definition of irrecoverable VAT under Chinese tax law and regulations.[142]

I. 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 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 comparisons and the calculation of production costs invalid under Commerce's normal methodologies.[143] Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), we 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.[144]

J. Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by Mingtai. To calculate NV, we multiplied the reported per-unit factor-consumption rates by

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Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481 (June 19, 2012).

[139] *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.

[140] *Id.*

[141] *See* Mingtai March 8, 2018 CDQR, at C-28 – C-29 and Exhibits C-3 and C-4.

[142] *Id.*, at Exhibit C-3.

[143] *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).

[144] *See* section 773(c)(3)(A)-(D) of the Act.

publicly available SVs. When selecting the SVs, we considered, among other factors, the quality, specificity, and contemporaneity of the data.[145] As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we 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.[146] A detailed description of SVs used for the respondent can be found in the Preliminary SV Memorandum.[147]

For the preliminary determination, we are using South African import data, as published by the Global Trade Atlas (GTA), and other publicly available sources from South Africa to calculate SVs for the respondents' FOPs. In accordance with section 773(c)(1) of the Act, we applied the best available information for valuing FOPs by selecting, to the extent practicable, SVs that are (1) non-export average values, (2) contemporaneous with, or closest in time to, the POI, (3) product-specific, and (4) tax-exclusive.[148] The record shows that South African import data obtained through GTA, as well as data from other South African sources, are broad market averages, product-specific, tax-exclusive, and contemporaneous with the POI.[149] South African GTA SVs are reported on an FOB basis; thus, some movement expenses must be added to calculate CIF values.

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.[150] In this regard, Commerce has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[151] Based on the existence of these subsidy

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[145] *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.
[146] *See Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).
[147] *See* Preliminary SV Memorandum.
[148] *See*, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).
[149] *See* Preliminary SV Memorandum.
[150] *See* Section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (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).
[151] *See*, *e.g.*, *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying Issues and Decision Memorandum at 7-19; *see also Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying Issues and Decision Memorandum at 1; *see also Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying Issues and Decision Memorandum at 4; *see also Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum at IV.

programs that were generally available to all exporters and producers in these countries at the time of the POI, we find that it is reasonable to infer that all exporters from India, Indonesia, South Korea, and Thailand may have benefitted from these subsidies. Therefore, we have not used prices from those countries in calculating South African import-based SVs.

Additionally, we disregarded data from NME countries when calculating South African import-based per-unit SVs.[152] We also excluded from the calculation of South African import-based per-unit SV imports labeled as originating from an "unidentified" country because we could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.[153]

Pursuant to 19 CFR 351.408(c)(1), where a factor is produced in one or more ME countries, purchased from one or more ME suppliers and paid for in an ME currency, Commerce normally will use the prices paid to the ME suppliers if substantially all (*i.e*., 85 percent or more) of the total volume of the factor is purchased from the ME suppliers. In those instances where less than substantially all of the total volume of the factor is produced in one or more ME countries and purchased from one or more ME suppliers, we will weight-average the actual prices paid for the ME portion and the SV for the NME portion by their respective quantities.[154]

We used South African import statistics from GTA to value raw materials, by-products, packing materials, and certain energy inputs.

In NME AD proceedings, Commerce prefers to value labor solely based on data from the primary surrogate country.[155] In *Labor Methodologies*, Commerce determined that the best methodology to value labor is to use industry-specific labor rates from the primary surrogate country. Accordingly, we determined that best data source for industry-specific labor rate is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics.[156] We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Rather, we continue to follow our practice of selecting the "best information available" to determine SVs for inputs such as labor. In this investigation, we find that the ILO data on the record from South Africa are the best available information for valuing labor for this investigation because they are industry-specific and represent the closest labor valuation to the industry in question from the primary surrogate country.[157]

We used the electricity rates from Eskom, a South African electricity public utility, to value electricity. We used tariff rates for water usage from the City of Johannesburg to value water.

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[152] *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005).
[153] *Id*.
[154] *See Use of Market Economy Input Prices in Nonmarket Economy Proceedings; Final Rule*, 78 FR 46799 (August 2, 2013).
[155] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).
[156] *Id*.
[157] *See* Preliminary SV Memorandum.

We valued truck freight using data published in *Doing Business 2018: South Africa* by the World Bank and used a calculation methodology based on a standard container weight.[158]

For international movement expenses, we used *Doing Business USA 2018: USA* for U.S. inland freight and U.S. brokerage and handling. For ocean freight we used pricing information from Maersk Line in South Africa. We used insurance rates published by P.A.F. Insurance for international shipment that are specific to the commodity category "General Merchandise" to value marine insurance.[159]

Additionally, we valued brokerage and handling expenses from *Doing Business 2018: South Africa* using a price list of export procedures necessary to export a standardized cargo of goods in South Africa. This is compiled based on a survey case study of the procedural requirements for transporting a standard shipment of goods by ocean transport in South Africa.[160] The reported prices were contemporaneous with the POI.

Commerce's criteria for choosing surrogate financial statements from which the financial ratios are derived are the availability of contemporaneous financial statements, comparability with the respondent's experience, and publicly available information.[161] Moreover, for valuing factory overhead, selling, general, and administrative (SG&A) expenses and profit, Commerce normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.[162] 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.[163] Accordingly, to value factory overhead, SG&A expenses, and profit, we used the 2017 financial statements on the record from Hulamin, which are publicly available, contemporaneous, and are comparable to the respondents' experience as a producer of subject merchandise.[164]

[158] *Id*.
[159] *Id*.
[160] *Id*.
[161] *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.
[162] *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).
[163] *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.
[164] *See* Preliminary SV Memorandum.

K. 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 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.[165] Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. 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 requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For Mingtai, purchasers are based on the reported customer codes.[166] Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI 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

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

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.

For Mingtai, based on the results of the differential pricing analysis, we preliminarily find that 68.9 percent of the value of U.S. sales pass the Cohen's *d* test,[167] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, we are applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Mingtai.

IX. 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.

X. 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.[168] For a subsidy meeting these criteria, the statute requires Commerce to reduce the AD cash deposit rate by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.[169]

Since Commerce has relatively recently started conducting an analysis under section 777A(f) of the Act, Commerce is continuing to refine its practice in applying this section of the law. We intend to solicit information to determine whether respondents can demonstrate: (1) a subsidies-to-cost-link, *e.g.*, subsidy impact on cost of manufacture (COM); and (2) a cost-to-price link, *e.g.*, respondent's prices change as a result of changes in the COM.

XI. ADJUSTMENT FOR COUNTERVAILABLE EXPORT SUBSIDIES

In AD investigations where there is a concurrent countervailing duty (CVD) investigation, it is Commerce's normal practice to calculate the cash deposit rate for each respondent by adjusting the respondent's weighted-average dumping margin to account for export subsidies found for each respective respondent in the concurrent countervailing duty investigation. Doing so is in accordance with section 772(c)(1)(C) of the Act, which states that U.S. price "shall be increased

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[167] *See* Mingtai Preliminary Analysis Memorandum.
[168] *See* section 777A(f)(1)(A)-(C) of the Act.
[169] *See* section 777A(f)(1)-(2) of the Act.

by the amount of any countervailing duty imposed on the subject merchandise… to offset an export subsidy."[170] Commerce determined in the preliminary determination of the companion CVD investigation that Mingtai did not benefit from an export subsidy. Therefore, for Mingtai, we find that no export subsidy adjustment to the cash deposit rate is warranted.[171] With respect to the separate rate companies, we find that no export subsidy adjustment to the cash deposit rate is warranted because the export subsidy rate included in the CVD all-others rate, to which the separate rate companies are subject in the companion CVD proceeding, were determined by facts otherwise available selected based upon an adverse inference.[172] For GKO Aluminium, the Yongjie Companies, and the China-wide entity, which preliminarily received a facts available margin, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, we have not adjusted the China-wide entity's AD cash deposit rate because the rates in the companion CVD proceeding were determined based upon an adverse inference.[173]

XII. DISCLOSURE AND PUBLIC COMMENT

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement. Case briefs may be submitted to Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[174]

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[175] This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.[176] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

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[170] *See Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 38076, 38077 (July 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.
[171] *See* Mingtai Preliminary Analysis Memorandum.
[172] *See Common Alloy Aluminum Sheet from the People's Republic of China: Preliminary Affirmative Countervailing Duty (CVD) Determination, Alignment of Final CVD Determination With Final Antidumping Duty Determination, and Preliminary CVD Determination of Critical Circumstances*, 83 FR 17651 (April 23, 2018) (*Aluminum Sheet CVD Preliminary Determination*), and accompanying Preliminary Decision Memorandum.
[173] *See, e.g.*, *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 Issues and Decision Memorandum at 35; *see also Aluminum Sheet CVD Preliminary Determination* and accompanying Preliminary Decision Memorandum.
[174] *See* 19 CFR 351.309.
[175] *See* 19 CFR 351.309(c)(2) and (d)(2).
[176] *See* 19 CFR 351.310(c).

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.[177] Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.[178]

XIII. VERIFICATION

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

XIV. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

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Agree Disagree

6/15/2018

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

[177] *See* 19 CFR 351.303(b)(2)(i).
[178] *See* 19 CFR 351.303(b)(1).