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

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Less-Than-Fair-Value Investigation of Large Diameter Welded
Pipe from the People's Republic of China

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that large diameter welded pipe (welded pipe) 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 margin is shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

II. BACKGROUND

On January 17, 2018, Commerce received an antidumping duty (AD) petition covering imports of welded pipe from China, filed in proper form on behalf of American Cast Iron Pipe Company, Berg Steel Pipe Corp., Berg Spiral Pipe Corp., Dura-Bond Industries, Skyline Steel, and Stupp Corporation (the petitioners).¹ Commerce initiated this investigation on February 9, 2018.² In the *Initiation Notice*, Commerce notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy (NME) LTFV investigations. The process requires exporters to submit a separate rate application (SRA) and to

¹ See Petitioners' Letter, "Large Diameter Welded Pipe from Canada, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Petition for Imposition of Antidumping and Countervailing Duties," dated January 17, 2018 (Petition).

² See *Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 7154 (February 20, 2018) (*Initiation Notice*).



demonstrate an absence of both *de jure* and *de facto* government control over their export activities.³

We stated in the *Initiation Notice* that the petitioners identified 157 producers and/or exporters as accounting for the majority of exports of welded pipe to the United States from China. After considering the large number of producers and exporters identified in the petition, and considering the resources that would need to be utilized to mail quantity and value (Q&V) questionnaires to all of those companies, Commerce determined that it lacked sufficient administrative resources to mail Q&V questionnaires to all 157 identified producers and exporters.⁴ Therefore, we determined to limit the number of Q&V questionnaires that we would send out to exporters and producers based on U.S. Customs and Border Protection (CBP) data for imports meeting the description of the scope of the investigation.⁵ Accordingly, Commerce sent Q&V questionnaires based on the producers and exporters that were identified in the Petition and that also appeared in the CBP data.

On February 21, 2018, Commerce issued Q&V questionnaires to HeBei HaiQianWei Steel Pipe Co., Ltd., Panyu Chu king Steel Pipe (Zhuhai) Co., Ltd, Jiangsu Yulong Steel Pipe Co., Ltd. (Jiangsusheng), Panyu Chu Kong Steel Pipe (Lianyungang) Co., Ltd, Zhejiang Chankong Steel Pipe Co., Ltd, Huludao City Steel Pipe Industrial Co., Ltd. / HFW Mills, and Jiangsu Yulong Steel Pipe Co., Ltd. (Taizhou).⁶ These seven companies were identified by the petitioners and CBP data as potential producers/exporters of welded pipe from China.⁷ In addition, Commerce posted the Q&V questionnaire on its website and, in the *Initiation Notice*, invited parties who did not receive a Q&V questionnaire to file a response to the Q&V questionnaire by the applicable deadline. Commerce confirmed via FedEx tracking that five companies received the questionnaire, and two companies refused it.⁸ Commerce did not receive any Q&V questionnaire responses from any of the producers/exporters of subject merchandise by the deadline.

Also in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of welded pipe to be reported in response to Commerce's AD questionnaire.⁹ In March 2018, SeAH Steel Corporation (SeAH), a Korean producer of welded pipe, and the petitioners submitted scope comments and rebuttal comments, respectively.¹⁰ In the same month, Borusan Istikbal Ticaret

³ *Id.* 83 FR at 7160; *see also* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, April 5, 2005 (Policy Bulletin 05.1), available at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

⁴ *See Initiation Notice*, 83 FR at 7159.

⁵ *Id.* In the *Initiation Notice*, we also stated that the presumption of NME status for China has not been revoked by Commerce and, therefore, remains in effect for purposes of the initiation of this investigation. *See Initiation Notice*, 83 FR at 7158.

⁶ *See* Memorandum, "Quantity and Value Questionnaires Delivery Confirmation," dated March 1, 2018 (Q&V Delivery Confirmation). Commerce issued Q&V questionnaires to Jiangsu Yulong Steel Pipe Co., Ltd. (Jiangsusheng) and Jiangsu Yulong Steel Pipe Co., Ltd. (Taizhou), because the Petition identified these as separate companies.

⁷ *Id.*

⁸ *Id.* Jiangsusheng received the questionnaire, and Taizhou refused the questionnaire.

⁹ *See Initiation Notice*, 83 FR at 7155-56.

¹⁰ *See* SeAH's Letter, "Antidumping Duty Investigation of Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey and Countervailing Duty Investigations of Large Diameter Welded Pipe from China, India, Korea, and Turkey – Scope Comments," dated March 1, 2018; and Petitioners' Letter, "Large

T.A.S. (Borusan), Corinth Pipeworks Pipe Industry S.A. (Corinth), a Greek producer of welded pipe, EVRAZ Inc. NA (EVRAZ), a Canadian producer of welded pipe, the petitioners, and SeAH submitted comments regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes;¹¹ these same parties also submitted rebuttal comments.¹²

On March 6, 2018, the U.S. International Trade Commission preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of welded pipe from the China.¹³

On May 23, 2018, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation, from an initial deadline of June 29, 2018, to August 20, 2018.¹⁴ Based on the request, and pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), on June 15, 2018, Commerce published in the *Federal Register* a postponement of the preliminary determination by 50 days until no later than August 20, 2018.¹⁵

Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey: Scope Rebuttal Comments,” dated March 12, 2018.

¹¹ See Borusan’s Letter, “Certain Large Diameter Welded Pipe from Canada, Greece, India, China, Korea, and Turkey, Case Nos. A-122-863, A-484-803, A-533-881, A-570-077, A-580-897, and A-489-833: Comments on Product Characteristics and Model Matching Hierarchy,” dated March 1, 2018; Corinth’s Letter, “Antidumping Investigations of Large Diameter Welded Pipe from Canada, Greece, India, the People’s Republic of China, the Republic of Korea, and the Republic of Turkey – CPW’s Comments regarding Product Characteristics for Purposes of Model Matching,” dated March 1, 2018; EVRAZ’s Letter, “Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey: EVRAZ’s Comments on the Model Match Methodology,” dated March 1, 2018; Petitioners’ Letter, “Large Diameter Welded Pipe from Canada, Greece, India, the People’s Republic of China, the Republic of Korea, and the Republic of Turkey: Petitioners’ Comments on Model Match Criteria,” dated March 1, 2018; and SeAH’s Letter, “Antidumping Duty Investigations of Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey – Comments on Product-Matching Criteria,” dated March 1, 2018.

¹² See Borusan’s Letter, “Certain Large Diameter Welded Pipe from Canada, Greece, India, China, Korea, and Turkey, Case Nos. A-122-863, A-484-803, A-533-881, A-570-077, A-580-897, and A-489-833: Rebuttal Comments on Product Characteristics and Model Matching Hierarchy,” dated March 12, 2018; Corinth’s Letter, “Antidumping Investigations of Large Diameter Welded Pipe from Canada, Greece, India, the People’s Republic of China, the Republic of Korea, and the Republic of Turkey – CPW’s Rebuttal Comments on Product Characteristics for Purposes of Model Matching,” dated March 12, 2018; EVRAZ’s Letter, “Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey: EVRAZ’s Rebuttal Comments on the Model Matching Methodology,” dated March 12, 2018; Petitioners’ Letter, “Large Diameter Welded Pipe from Canada, Greece, India, the People’s Republic of China, the Republic of Korea, and the Republic of Turkey: Petitioners’ Rebuttal Comments on Model Match Criteria,” dated March 12, 2018; and SeAH’s Letter, “Antidumping Duty Investigations of Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey – Comments on Product-Matching Criteria,” dated March 12, 2018.

¹³ See *Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey Determinations*, 83 FR 10748 (March 12, 2018).

¹⁴ See Petitioners’ Letter, “Large Diameter Welded Pipe from Canada, Greece, India, the People’s Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,” dated May 23, 2018.

¹⁵ See *Large Diameter Welded Pipe from India: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 83 FR 27953 (June 15, 2018).

On July 30, 2018, the petitioners submitted comments that Commerce considered in making its preliminary determination.¹⁶ We are conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2017, through December 31, 2017. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was January 2018.¹⁷

IV. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,¹⁸ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, *i.e.*, scope.¹⁹ Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*. Based on our analysis of these comments, Commerce made certain preliminary revisions to the scope, which are reflected in Appendix I of the *Federal Register* notice that this preliminary decision memorandum accompanies. For a summary of the scope comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.²⁰

V. DISCUSSION OF METHODOLOGY

A. Non-Market Economy Country

Commerce considers China to be an NME country.²¹ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat China as an NME country for purposes of this preliminary determination.

B. China-Wide Entity

We did not receive any responses to our Q&V questionnaire nor any SRAs from Chinese exporters and/or producers of subject merchandise.²² Because these companies did not respond

¹⁶ See the Petitioners' Letter, "Pre-Preliminary Determination Comments," dated July 30, 2018.

¹⁷ See 19 CFR 351.204(b)(1).

¹⁸ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹⁹ See *Initiation Notice*, 83 FR at 7155.

²⁰ See Memorandum, "Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations," dated June 19, 2018 (Preliminary Scope Decision Memorandum).

²¹ See *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018), and accompanying Issues and Decision Memorandum at Comment 1; *see also Certain Steel Nails from the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2010-2011*, 78 FR 16651, 16652 (March 18, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

²² See Q&V Delivery Confirmation.

to our requests for information, they are considered to be to be part of the China-wide entity, which has preliminarily been assigned a rate based entirely on adverse facts available (AFA).

C. Application of Facts Available and Adverse Inferences

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

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

Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.²³ 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.²⁴

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.²⁵ The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information to be used has probative value,²⁶ although Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.²⁷ To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used.²⁸

²³ See section 776(b)(1)(B) of the Act.

²⁴ See also 19 CFR 351.308(c).

²⁵ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. 1, 103d Cong. at 870 (1994) (SAA).

²⁶ *Id.*; see also 19 CFR 351.308(d).

²⁷ See section 776(c)(2) of the Act.

²⁸ 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*

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. 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.²⁹

1. *Application of Facts Available*

As noted above, all of the companies who received, or refused, the Q&V questionnaire failed to respond to Commerce’s requests for information. Further, because none of these companies demonstrated that they were eligible for a separate rate, we preliminarily find them to be a part of the China-wide entity. Thus, we find that the China-wide entity failed to provide necessary information, withheld information requested by Commerce, and significantly impeded this proceeding by not submitting the requested information. Accordingly, Commerce preliminarily determines that the use of facts available is warranted in determining the rate for the China-wide entity, pursuant to sections 776(a)(1) and 776(a)(2)(A)-(C) of the Act.³⁰

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. Commerce finds that the China-wide entity’s failure to respond to Commerce’s Q&V questionnaire constitute circumstances under which it is reasonable to conclude that the China-wide entity has failed to cooperate by not acting to the best of its ability to comply with Commerce’s request for information.³¹

Moreover, the China-wide entity failed to file documents indicating that it was having difficulty providing the information, nor did it request to submit the information in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to the China-wide entity, in accordance with section 776(b) of the Act and 19 CFR 351.308(a).³²

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).

²⁹ See section 776(d)(1)-(2) of the Act.

³⁰ 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).

³¹ *Id.*

³² See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

3. Selection and Corroboration of the AFA Rate

When using facts otherwise available, section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.³³ 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.³⁴ Further, Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.³⁵

Finally, under the new section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding when applying an adverse inference, including the highest of such margins.³⁶ In addition, 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; neither is Commerce required to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.³⁷

In selecting a rate for the China-wide entity based on AFA, Commerce’s practice is to select 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.³⁸ Specifically, it is Commerce’s practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition, or (b) the highest calculated dumping margin of any respondent in the investigation.³⁹ There are no calculated margins in this investigation. Therefore, in applying AFA, Commerce has preliminarily assigned to the China-wide entity the rate of 132.63 percent, which is the highest dumping margin alleged in the Petition. The dumping margin for the China-wide entity applies to all entries of the merchandise under investigation. Because the AFA rate that Commerce used is from the Petition, it is secondary information subject to the corroboration requirement. The petitioners’ methodology for calculating the export price (EP) and normal value (NV) in the Petition is discussed in the *Initiation Notice* and the China AD Initiation Checklist.⁴⁰ We determined that the highest petition margin of 132.63 percent is reliable where,

³³ See also 19 CFR 351.308(d).

³⁴ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, attached to H.R. No. 103-316, vol. 1 at 870 (1994), reprinted in 1994 U.S.C.C.A.N. 37773, 4163.

³⁵ See section 776(c)(2) of the Act.

³⁶ See section 776(d)(1)-(2) of the Act.

³⁷ See section 776(d)(3) of the Act.

³⁸ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose from Finland*, 69 FR 77216 (December 27, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose from Finland*, 70 FR 28279 (May 17, 2005).

³⁹ See, e.g., *Certain Stilbenic Optical Brightening Agents from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17436, 17438 (March 26, 2012); *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People’s Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum.

⁴⁰ See *Initiation Notice*; See also Antidumping Duty Investigation Initiation Checklist: Large Diameter Welded Pipe from the People’s Republic of China, dated February 9, 2018 (China AD Initiation Checklist).

to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis.⁴¹

To corroborate the 132.63 percent petition rate for purposes of this preliminary determination, Commerce first reviewed its pre-initiation analysis of the reliability of the information in the Petition. During our pre-initiation analysis, we examined: (1) the information used as the basis for EP and NV in the petition; (2) the calculations used to derive the alleged margin; and (3) information from various independent sources provided either in the Petition or in supplements to the Petition.⁴² We also issued, and received responses to, several supplemental questionnaires requesting clarifications and revisions of information contained in the Petition.

Based on our examination of the information, as discussed in detail in the China AD Initiation Checklist, we consider the petitioners' EP and NV calculations, as revised and clarified in response to Commerce's supplemental questionnaires, to be reliable.⁴³ In addition, we obtained no other information that would make us question the validity of the sources of information or the validity of information supporting the U.S. price or NV calculations provided in the Petition. Because we confirmed the accuracy and validity of the information underlying the derivation of the margin in the Petition by examining source documents, as well as publicly available information, and via multiple supplemental questionnaires,⁴⁴ we preliminarily determine that this petition rate is reliable for the purposes of assigning an AFA rate as the China-wide rate in this investigation.

In making a determination as to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. The petition rate is relevant because it is based on a price quote for the merchandise under consideration and surrogate values that are contemporaneous with the POI. In addition, no information has been placed on the record that discredits this information. As such, we find the highest petition rate of 132.63 percent relevant to the China-wide entity. Furthermore, as there are no respondents in this investigation for which we are calculating a separate dumping margin, we relied upon the rates found in the Petition, which represent the only information regarding the merchandise under consideration reasonably at Commerce's disposal.

Accordingly, Commerce has corroborated the AFA rate of 132.63 percent to the extent practicable within the meaning of section 776(c) of the Act.

VI. 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

⁴¹ *Id.*

⁴² *Id.*; see also letter from the petitioners to Commerce, regarding "Response to the Department's January 23, 2018 Supplemental Questions Regarding Volume VIII of the Petition for the Imposition of Antidumping and Countervailing Duties," dated January 25, 2018; letter from the petitioners to Commerce, regarding "Response to the Department's January 29, 2018 Supplemental Questions Regarding Volume VIII of the Petition for the Imposition of Antidumping and Countervailing Duties," dated January 29, 2018.

⁴³ *Id.*

⁴⁴ *Id.*

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.⁴⁵ For a subsidy meeting these criteria, the statute requires Commerce to reduce the antidumping duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.⁴⁶ Because there has been no demonstration on the record that an adjustment for domestic subsidies is warranted, Commerce is not making any such adjustment to the rate being assigned to the China-wide entity.

VII. ADJUSTMENTS TO CASH DEPOSIT RATES FOR EXPORT SUBSIDIES

Pursuant to section 772(c)(1)(C) of the Act, Commerce normally makes adjustments for countervailable export subsidies. Commerce is making no adjustments to the China-wide entity's antidumping cash deposit rate in the instant investigation because Commerce has made no findings in the companion CVD investigation that any of the programs are export contingent subsidies. While certain programs in the companion CVD investigation were alleged to be export contingent subsidies, as a result of non-cooperation by certain mandatory respondents, Commerce's preliminary determination that the alleged programs were countervailable subsidies was based on facts available with adverse inferences.⁴⁷

In relying on facts available with adverse inferences, Commerce did not preliminarily determine that the subsidies in question were export subsidies. As such, Commerce finds that, without a determination in the companion CVD investigation that a program is an export subsidy, it is not appropriate to make an offset to the cash deposit rates in this AD investigation pursuant to section 772(c)(1)(C) of the Act.⁴⁸ Accordingly, consistent with our recent practice,⁴⁹ we will not apply the export subsidy offset to the cash deposit rates assigned to the China-wide entity, as reflected in the accompanying *Federal Register* notice.

⁴⁵ See section 777A(f)(1)(A)-(C) of the Act.

⁴⁶ See section 777A(f)(1)-(2) of the Act.

⁴⁷ See *Large Diameter Welded Pipe from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination*, 83 FR 30695 (June 29, 2018).

⁴⁸ See, e.g., *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures*, 81 FR 36867 (June 8, 2016) and accompanying Preliminary Decision Memorandum at page 13, unchanged in *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Final Affirmative Determination of Sales at Less Than Fair Value*, 81 FR 75028 (October 28, 2016).

⁴⁹ *Id.*

VIII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree

8/20/2018

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