A-570-028
Administrative Review
POR: 2/1/2016 – 7/31/2017
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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 Results of the 2016-2017 Antidumping Duty Administrative Review of Hydrofluorocarbon Blends from the People's Republic of China

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SUMMARY

In response to requests from interested parties, the Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on hydrofluorocarbon blends (HFCs) from the People's Republic of China (China) for the period of review (POR) February 1, 2016, through July 31, 2017. We preliminarily find that sales of subject merchandise have been made at prices below normal value (NV) for one of the mandatory respondents in this review, T.T. International Co., Ltd. (TTI), and that TTI qualifies for a separate rate. Further, we find that three companies not selected for individual examination qualify for a separate rate and will receive the rate applied to TTI.[1]

We also preliminarily find that six companies, including the other mandatory respondent, Weitron International Refrigeration Equipment (Kunshan) Co., Ltd. (Weitron), did not qualify for separate rates,[2] and, therefore, we preliminarily find these companies to be part of the China-wide entity.

[1] These companies are: Jinhua Yonghe Fluorochemical Co., Ltd. (Jinhua Yonghe), Shandong Huaan New Material Co., Ltd. (Shandong Huaan); and Zhejiang Sanmei Chemical Industry Co. Ltd. (AKA Zhejiang Sanmei Chemical Ind. Co. Ltd.) (Zhejiang Sanmei).

[2] These companies are: Arkema Daikin Advanced Fluorochemicals (Changsu) Co., Ltd. (Arkema); Dongyang Weihua Refrigerants Co., Ltd. (Dongyang); Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. (Sinochem Taicang); Weitron; Zhejiang Lantian Environmental Protection Fluoro Material Co. Ltd. (Zhejiang Lantian); and Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd. (Zhejiang Quzhou).

Finally, we preliminary find that two companies, Daikin Fluorochemicals (China) Co., Ltd. (Daikin) and Zhejiang Yonghe Refrigerant Co., Ltd (Zhejiang Yonghe), made no shipments of subject merchandise during the POR.

Background

On August 19, 2016, Commerce published in the *Federal Register* the antidumping duty order on HFCs from China.[3] On August 1, 2017, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the AD order on HFCs from China for the period February 1, 2016, through July 31, 2017.[4] Also in August 2017, Commerce received timely requests from interested parties, pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), (2), and (3), to conduct an administrative review of the AD order on HFCs from China.

In October 2017, Commerce published a notice of initiation of administrative review with respect to 12 companies.[5] In the *Initiation Notice*, Commerce indicated that, in the event that we limited the number of respondents selected for individual examination in accordance with section 777A(c)(2) of the Act, we would select mandatory respondents for individual examination based upon U.S. Customs and Border Protection (CBP) entry data.[6]

In November 2017, we received a separate rate application (SRA) from Shandong Huaan,[7] as well as separate rate certifications (SRCs) from Jinghua Yonghe, TTI, Weitron, and Zhejiang Sanmei.[8] Also in November, we received no shipment certifications from Daikin and Zhejiang

[3] *See Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order*, 81 FR 55436 (August 19, 2016).

[4] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 82 FR 35754 (August 1, 2017).

[5] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 48051 (October 16, 2017) (*Initiation Notice*). The 12 companies listed in the *Initiation Notice* are: 1) Arkema; 2) Daikin; 3) Dongyang; 4) Jinhua Yonghe; 5) Shandong Huaan; 6) Sinochem Taicang; 7) TTI; 8) Weitron; 9) Zhejiang Lantian; 10) Zhejiang Quzhou; 11) Zhejiang Sanmei; and 12) Zhejiang Yonghe.

[6] *See Initiation Notice*, 82 FR at 48051 and 48052.

[7] *See* Shandong Huaan's November 9, 2017 Separate Rate Application (Shandong Huaan SRA).

[8] *See* Jinhua Yonghe's November 9, 2017 Separate Rate Certification (Jinhua Yonghe's SRC submission); TTI's November 14, 2017 Separate Rate Certification (TTI's SRC submission); Weitron's November 15, 2017 Separate Rate Certification (Weitron's SRC submission); and Zhejiang Sanmei's November 15, 2017 Separate Rate Certification (Zhejiang Sanmei's SRC submission).

Yonghe.[9] In December we placed on the record CBP entry data related to entries of subject merchandise during the POR; these entry data did not contradict the no shipment claims.[10]

In December 2017, after considering the large number of potential respondents involved in this administrative review, and the resources available to Commerce, we determined that it was not practicable to examine all exporters of subject merchandise for which an administrative review was initiated.[11] As a result, pursuant to section 777A(c)(2)(B) of the Act, we determined that we could reasonably individually examine the two exporters accounting for the largest volume of entries of HFCs from China during the POR. These companies were TTI and Weitron. Accordingly, we issued the non-market economy (NME) AD questionnaire to each of these companies.

In January 2018, we received a response to section A of the questionnaire (*i.e.*, the section regarding general information) from TTI.[12] Also in January 2018, Weitron notified Commerce that it did not intend to respond to the questionnaire.[13] On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through January 22, 2018.[14]

In February and March 2018, we received a response to sections C and D of the questionnaire (*i.e.*, the sections regarding U.S. sales and factors of production (FOPs), respectively) from TTI.[15] In March 2018, we received comments on the selection of the appropriate surrogate country to be used in this segment of the proceeding, as well as comments on the selection of surrogate values (SVs), from the petitioners[16] and TTI.[17]

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[9] *See* Zhejiang Yonghe's Letter, "No Shipment Letter for Zhejiang Yonghe in the Administrative Review of the Antidumping Order on Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China," dated November 15, 2017 (Zhejiang Yonghe No Shipment Certification); and Daikin Fluorochemicals' Letter, "Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: No Shipment Certification," dated November 15, 2017 (Daikin No Shipment Certification).

[10] *See* Memorandum, "First Administrative Review of the Antidumping Duty Order on Hydrofluorocarbon Blends from the People's Republic of China: Placing CBP Data on the Record," dated December 20, 2017. *See also* Memorandum, "Hydrofluorocarbon Blends from China (A-570-028)," dated February 6, 2018 (CBP No Shipment Memo).

[11] *See* Memorandum, "Selection of Respondents for Individual Review," dated December 15, 2017.

[12] *See* TTI's January 19, 2018 Section A Questionnaire Response (TTI January 19, 2018 AQR).

[13] *See* Weitron's Letter, "Weitron's Notice of Not Responding to Questionnaire in the Administrative Review of the Antidumping Order on Hydrofluorocarbon Blends from the People's Republic of China, dated January 16, 2018.

[14] *See* Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

[15] *See* TTI's February 8, 2018 Section C Questionnaire Response (TTI February 8, 2018 CQR); and TTI's March 1, 2018 Section D Questionnaire Response (TTI March 1, 2018 DQR).

[16] The petitioners in this case are the American HFC Coalition and its individual members and District Lodge 154 of the International Association of Machinists and Aerospace Workers.

[17] *See* Petitioners' Letter, "Hydrofluorocarbon Blends from the People's Republic of China: Initial Surrogate Country Comments," dated March 5, 2018 (Petitioners' Surrogate Country Comments); TTI's Letter, "Hydrofluorocarbon Blends from the People's Republic of China, POR1; Comments on Surrogate Country

In April 2018, we extended the time period to issue the preliminary results in the instant review by 120 days, to September 4, 2018.[18]

In July and August 2018, we issued supplemental sales and FOP questionnaires to TTI and a supplemental questionnaire to Shandong Huaan regarding its separate rates claim.[19] We received responses to these supplemental questionnaires in August 2018.[20] We also received additional SV comments from the petitioners and TTI in this month.[21]

We are conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Order

The products subject to this order are HFC blends. HFC blends covered by the scope are R-404A, a zeotropic mixture consisting of 52 percent 1,1,1 Trifluoroethane, 44 percent Pentafluoroethane, and 4 percent 1,1,1,2-Tetrafluoroethane; R-407A, a zeotropic mixture of 20 percent Difluoromethane, 40 percent Pentafluoroethane, and 40 percent 1,1,1,2-Tetrafluoroethane; R-407C, a zeotropic mixture of 23 percent Difluoromethane, 25 percent Pentafluoroethane, and 52 percent 1,1,1,2-Tetrafluoroethane; R-410A, a zeotropic mixture of 50 percent Difluoromethane and 50 percent Pentafluoroethane; and R-507A, an azeotropic mixture of 50 percent Pentafluoroethane and 50 percent 1,1,1-Trifluoroethane also known as R-507. The foregoing percentages are nominal percentages by weight. Actual percentages of single component refrigerants by weight may vary by plus or minus two percent points from the nominal percentage identified above.

Selection," dated March 5, 2018 (TTI's Surrogate Country Comments); Petitioners' Letter, "2016-2017 Administrative Review: Hydrofluorocarbon Blends from the People's Republic of China: Initial Surrogate Value Data," dated March 20, 2018 (Petitioners' Initial SV Comments); TTI's Letter, "Hydrofluorocarbon Blends from the People's Republic of China; Initial Surrogate Value Comments," dated March 20, 2018 (TTI's Initial SV Comments); Petitioners' Letter, "2016-2017 Administrative Review: Hydrofluorocarbon Blends from the People's Republic of China: Rebuttal to TTI's Surrogate Value Submission," dated March 30, 2018 (Petitioners' Rebuttal Comments).

[18] *See* Memorandum, "Hydrofluorocarbon Blends from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated April 13, 2018.

[19] *See* Commerce's Letters, "First Administrative Review of the Antidumping Duty Order on Hydrofluorocarbon Blends from the People's Republic of China," dated July 13, 2018; First Administrative Review of the Antidumping Duty Order on Hydrofluorocarbon Blends from the People's Republic of China," dated July 27, 2018; and "First Administrative Review of the Antidumping Duty Order on Hydrofluorocarbon Blends from the People's Republic of China: Separate Rates Application Questions," dated August 6, 2018.

[20] *See* TTI's August 3, 2018 Supplemental Section A and C Questionnaire Response (TTI August 3, 2018 SACQR); TTI's August 17, 2018 Supplemental Section D Questionnaire Response (TTI August 20, 2018 SDQR); and Shandong Huaan's August 20, 2018 Supplemental SRA Response (Shandong Huaan August 20, 2018 SRAQR).

[21] *See* Petitioners' Letter, "2016-2017 Administrative Review: Hydrofluorocarbon Blends from the People's Republic of China: Preliminary Determination Comments," dated August 6, 2018 (Petitioners' Pre-Prelim Comments); and *see* TTI's letter, "Hydrofluorocarbon Blends from the People's Republic of China; Second Surrogate Value Comments," dated August 6, 2018 (TTI Second SV Comments).

Any blend that includes an HFC component other than R-32, R-125, R-143a, or R-134a is excluded from the scope of this order.

Excluded from this order are blends of refrigerant chemicals that include products other than HFCs, such as blends including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), hydrocarbons (HCs), or hydrofluoroolefins (HFOs).

Also excluded from this order are patented HFC blends, including, but not limited to, ISCEON® blends, including MO99™ (R-438A), MO79 (R-422A), MO59 (R-417A), MO49Plus™ (R-437A) and MO29™ (R-4 22D), Genetron® Performax™ LT (R-407F), Choice® R-421A, and Choice® R-421B.

HFC blends covered by the scope of this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3824.78.0020 and 3824.78.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

DISCUSSION OF THE METHODOLOGY

Preliminary Determination of No Shipments

In the *Initiation Notice*, we instructed producers or exporters named in the notice that had no exports, sales, or entries of subject merchandise during the POR to notify Commerce of this fact within 30 days of publication of the notice.[22] In November 2017, Daikin and Zhejiang Yonghe filed no shipment certifications indicating that they had no exports, sales, or entries of subject merchandise to the United States during the POR.[23] We subsequently received no information from CBP contradicting the no shipment claims made by these two companies.[24] Because the evidence on the record indicates that these companies did not export subject merchandise to the United States during the POR, we preliminary determine that they had no reviewable transactions during the POR.

Thus, based on the no shipment claims submitted by Daikin and Zhejiang Yonghe and our analysis of the information on the record, we preliminarily determine that Daikin and Zhejiang Yonghe had no shipments of subject merchandise during the POR. However, we find that, consistent with our practice in NME cases,[25] it is appropriate not to rescind the review for these companies in these circumstances, but rather to complete the review. In accordance with Commerce's practice, entries of subject merchandise from China from Daikin and Zhejiang

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[22] *See Initiation Notice*, 82 FR at 48051.

[23] *See* Daikin No Shipment Certification and Zhejiang Yonghe No Shipment Certification.

[24] *See* CBP No Shipment Memo.

[25] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011) (*NME AD Assessment*).

Yonghe during the POR will be liquidated at the China-wide rate.[26]

Non-Market Economy Country Status

Commerce considers China to be an NME country.[27] In accordance with section 771(18)(C)(i) of the Act, a determination that a country is an NME country shall remain in effect until revoked by the administering authority. Further, no party submitted a request to reconsider China's NME status as part of this administrative review. Therefore, we continue to treat China as an NME country for purposes of these preliminary results.

Separate Rates

In NME proceedings, there is a rebuttable presumption that companies are subject to government control and, thus, should be assessed a single antidumping duty rate.[28] In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in an NME proceeding.[29] It is Commerce's policy to assign exporters of the subject merchandise from an NME country a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, Commerce analyzes each exporting entity in a NME country under the test established in *Sparklers*,[30] as amplified by *Silicon Carbide*.[31] However, if Commerce determines that a company is wholly foreign-owned, then consideration of the *de jure* and *de facto* criteria is not necessary to determine whether it is independent from government control.[32]

[26] For a full discussion of this practice, *see NME AD Assessment*.

[27] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017 (China NME Status Memo)), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

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

[29] *See Initiation Notice*, 82 FR at 35750.

[30] *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*).

[31] *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*).

[32] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007) (*Candles from China*).

Under the separate rates test, Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.[33]

Further, Commerce typically considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and, (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.[34]

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades from China* AD proceeding, and Commerce's determinations therein.[35] In particular, we note that in litigation involving the *Diamond Sawblades* proceeding, the Court of International Trade (CIT) found Commerce's existing separate rates analysis deficient in the circumstances of that proceeding, in which a government-controlled entity had significant ownership in the respondent exporter.[36] We have concluded that, where a government entity holds a majority ownership share, either directly or indirectly, in an exporter, the majority ownership holding in and of itself means that the government exercises or has the potential to exercise control over the company's operations generally, which may include control over, for

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

[34] *See Silicon Carbide*, 59 FR at 22586-89; *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).

[35] *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). *See also Advanced Technology & Materials Co., Ltd. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology*), affirmed in *Advanced Technology & Materials Co., Ltd. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013). 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 Memorandum at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

[36] *See, e.g., Advanced Technology*, 885 F. Supp. 2d, at 1349 ("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).

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 that a majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company. Accordingly, we have considered the level of government ownership, where necessary.

Separate Rate Recipients

In accordance with our practice, Commerce analyzed whether Arkema, Dongyang, Jinhua Yonghe, Shandong Huaan, Sinochem Taicang, TTI, Weitron, Zhejiang Lantian, Zhejiang Quzhou, and Zhejiang Sanmei demonstrated the absence of *de jure* and *de facto* governmental control over their respective export activities. In the instant review, we preliminarily find that Jinhua Yonghe, Shandong Huaan, TTI, and Zhejiang Sanmei have provided sufficient evidence to demonstrate the absence of Chinese Government control; thus, we preliminarily find that those companies are entitled to a separate rate in this review. However, as discussed below, we preliminarily find Arkema, Donyang, Sinochem Taicang, Zhejiang Lantian, Weitron, and Zhejiang Quzhou have not demonstrated an entitlement to a separate rate.

1) Wholly China-Owned Companies and Joint Ventures

Jinhua Yonghe, Shandong Huaan, TTI, and Zhejiang Sanmei stated that they are either Chinese joint-stock limited companies or are wholly Chinese-owned companies.[37] In accordance with our practice, Commerce analyzed whether these companies demonstrated the absence of *de jure* and *de facto* governmental control over their respective export activities.

a) Absence of *De Jure* Control

The evidence provided by Jinhua Yonghe, Shandong Huaan, TTI, and Zhejiang Sanmei supports a preliminary finding of an absence of *de jure* government control based on the following: (1) there is an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies;[38] and (3) there are formal measures by the government decentralizing control of the companies.[39]

[37] *See* Jinhua Yonghe's SRC at 2 and Exhibit 3; Shandong Huaan's SRA at 9; TTI's SRC at 2 and Exhibit 4; and Zhejiang Sanmei's SRC at 2 and Exhibit 2.

[38] *See* Jinhua Yonghe's SRC at 5-6; Shandong Huaan's SRA at 8-11; TTI's SRC at 6; and Zhejiang Sanmei's SRC at 4-5.

[39] *Id*.

b) Absence of *De Facto* Control

The evidence provided by Jinhua Yonghe, Shandong Huaan,[40] TTI, and Zhejiang Sanmei supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that the companies: (1) set their own export prices independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding the disposition of profits or financing of losses.[41]

Therefore, the evidence placed on the record of this review by Jinhua Yonghe, Shandong Huaan, TTI, and Zhejiang Sanmei demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers*, *Silicon Carbide*, and *Diamond Sawblades*. Accordingly, Commerce preliminarily grants a separate rate to Jinhua Yonghe, Shandong Huaan, TTI, and Zhejiang Sanmei.

<u>Companies Not Receiving a Separate Rate</u>

a) Weitron

In the *Initiation Notice*, we stated that "for exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents."[42]

Weitron claimed in its SRC that it is wholly foreign-owned.[43] However, Weitron failed to respond to Commerce's questionnaire. As a result of Weitron's failure to respond to this questionnaire, we were unable to obtain all information needed to make a separate rate determination. Further, we were unable to conduct verification of Weitron's responses. Therefore, we find that Weitron is not eligible for a separate rate, and also that it will be treated as part of the China-wide entity in accordance with Commerce's practice.[44]

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[40] *See* Memorandum, "Hydrofluorocarbon Blends and Components Thereof, from the People's Republic of China 2016-2017 Administrative Review; Shandong Huaan Separate Rate Analysis," dated September 4, 2018 for additional information regarding Shandong Huaan's separate rate analysis.

[41] *See* Jinhua Yonghe's SRC at 6-7; Shandong Huaan's SRA at 11-21; TTI's SRC at 6-7; and Zhejiang Sanmei's SRC at 5-6.

[42] *See Initiation Notice*, 82 FR at 48053.

[43] *See* Weitron's SRC at 2.

[44] *See 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) (*HFCs LTFV Final*).

b) Companies That Did Not File Separate Rate Applications

Five companies did not timely file an SRA or SRC, as appropriate.[45] Because these companies did not establish in this administrative review that they are eligible, or continue to be eligible, for a separate rate, they will be treated as part of the China-wide entity, in accordance with Commerce's practice.

Separate Rate Assigned to Non-Selected Companies

The statute and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be applied to respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when determining the weighted-average dumping margin for separate-rate respondents which we did not examine individually in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference that we not calculate an all-others rate using rates for individually-examined respondents which are zero, *de minimis*, or based entirely on facts available. Accordingly, Commerce's usual practice in determining the weighted-average dumping margin for separate-rate respondents not selected for individual examination has been to average the weighted-average dumping margins for the examined, separate rate companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.[46]

For these preliminary results, we calculated a weighted-average dumping margin that is not *de minimis* for TTI, the sole company for which we calculated a weighted-average dumping margin. Therefore, consistent with Commerce's practice,[47] we determine that the dumping margin to be assigned to Jinhua Yonghe, Shandong Huaan, and Zhejiang Sanmei—the separate rate respondents not individually examined—should be the weighted-average dumping margin calculated for the mandatory respondent, TTI.

The China-Wide Entity

For the reasons detailed above, Commerce preliminarily determines that Arkema, Donyang, Sinochem Taicang, Weitron, Zhejiang Lantian, and Zhejiang Quzhou have not demonstrated that

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[45] These companies are: 1) Arkema, 2) Dongyang, 3) Sinochem Taicang, 4) Zhejiang Lantian, and 5) Zhejiang Quzhou.

[46] *See Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (CIT 2008) (affirming Commerce's determination to assign a 4.22 percent dumping margin to the separate rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent); *see also Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656, 36660 (July 24, 2009) (*Kitchen Racks Final*).

[47] *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews,* 79 FR 4328 (January 27, 2014).

they are eligible for separate rates. Accordingly, Commerce preliminarily determines these companies to be properly considered part of the China-wide entity.

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[48] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the China-wide entity. Because no party requested a review of the China-wide entity for this POR, the China-wide entity is not under review and the China-wide entity's rate is not subject to change. Therefore, if our determination is unchanged in the final results, entries from each of the six above-noted companies will be liquidated at the rate previously established for the China-wide entity (*i.e.*, 216.37 percent).[49]

Surrogate Country

When Commerce is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate market economy (ME) country or countries considered to be appropriate by Commerce. 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: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[50] As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because they (a) either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons.[51] Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at the same level of economic development, Commerce generally relies on per capita gross national income (GNI) data from the World Bank's *World Development Report*.[52] Further, Commerce normally values all FOPs in a single surrogate country.[53]

In this review, Commerce determined that Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand are countries at the same level of economic development as China, based on per capita

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

[49] *See HFCs LTFV Final*, 81 FR at 42316, where Commerce established the rate of 216.37 percent for the China-wide entity.

[50] *See* Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004).

[51] *Id*.

[52] *Id*.

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

GNI.[54] The sources of the SVs we have used in this review are discussed under the "Normal Value" section below.

With respect to Commerce's selection of a surrogate country, the petitioners argued that we should select Mexico as the primary surrogate country, consistent with its decision in the less-than-fair-value (LTFV) investigation.[55] The petitioners note that Mexico is not only comparable in terms of economic development with China, but it is also a significant producer of refrigerants.[56] In contrast, TTI argued that it may be more appropriate to use Brazil as the surrogate country because Brazil is on Commerce's surrogate country list and there are published data on imports of raw materials into Brazil.[57] However, TTI did not submit SV data for Brazil for all of its FOPs.

Commerce preliminarily selects Mexico as the surrogate country on the grounds that: (1) it is at the same level of economic development as China; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from Mexico that we can use to value the FOPs.[58] Specifically, regarding significant production, Global Trade Atlas (GTA) data demonstrate that Mexico not only exported a significant volume of comparable merchandise during the POR, but Mexico's export volume of such merchandise was higher than the exports from other potential surrogate countries.[59] With respect to reliable data to value FOPs, the record contains import data for Mexico sourced from GTA, and Mexican data for labor, certain transportation services, and financial ratios. The Mexican data are country-wide, publicly available, non-export, tax-exclusive, product-specific, representative of broad market averages, and generally contemporaneous with the POR. Accordingly, we have calculated NV using Mexican import data to value TTI's FOPs.

Date of Sale

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, Commerce normally will use the date of the invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business. Additionally, Commerce may use may use a date other than the date of the invoice if it is satisfied that a different date better reflects the date on which the exporter or producer

[54] *See* Memorandum, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Hydrofluorocarbon Blends (HFCBs) from the People's Republic of China (Surrogate Country List)," dated November 20, 2017.

[55] *See* Petitioners' Surrogate Country Comments at 1-2.

[56] *See* Petitioners' Surrogate Country Comments at 2.

[57] *See* TTI's Surrogate Country Comments at 2.

[58] *See* Memorandum, "Surrogate Value Memorandum for the Preliminary Results," dated September 4, 2018 (Surrogate Value Memo); *see also* the "Factor Valuations" section of this memorandum, below.

[59] *See* Petitioners' Surrogate Country Comments at Exhibit 1.

establishes the material terms.[60] Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.[61]

TTI reported invoice date as the U.S. date of sale.[62] However, we used the earlier of invoice date or shipment date as the date of sale for TTI, in accordance with our regulation and practice.[63]

Normal Value Comparisons

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether sales of the subject merchandise made by TTI to the United States were at prices below NV, we compared TTI's export price (EP) to NV, as described below.

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average EPs (or constructed export prices (CEPs)) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average normal values 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. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.[64]

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.[65] Commerce finds that

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

[61] *See Low Melt Polyester Staple Fiber from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 83 FR 29094 (June 22, 2018) and accompanying IDM at Comment 2.

[62] *See* TTI February 8, 2018 CQR, at 15-16.

[63] *See*, *e.g.*, *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007), and accompanying IDM at Comment 11; *see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2 and 19 CFR 351.401(i).

[64] *See Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying IDM at Comment 1.

[65] *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,

the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. 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 these preliminary results examines whether there exists a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, state) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP or CEP and normal value for the individual dumping margins.

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

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the

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2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 these preliminary results, including arguments for modifying the group definitions used in this proceeding.[66]

For TTI, based on the results of the differential pricing analysis, the Department preliminarily finds that 33.4 percent of the value of U.S. sales pass the Cohen's *d* test,[67] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's

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

[67] *See* Memorandum, "Analysis for the Preliminary Results of the Administrative Review of Hydrofluorocarbon Blends from the People's Republic of China Memo for T.T. International Co., Ltd." dated September 4 at 1-2.

d test. Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for TTI.

Export Price

A. Irrecoverable Value-Added Tax (VAT)

Commerce's practice in NME cases is to adjust EP or CEP for the amount of irrecoverable VAT, in accordance with section 772(c)(2)(B) of the Act.[68] Commerce explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, Commerce will reduce the respondent's EP and CEP prices accordingly by the amount of the tax, duty, or charge paid, but not rebated.[69] Where the irrecoverable VAT is a fixed percentage of CEP or EP, Commerce explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. CEP or EP downward by this same percentage.[70]

Commerce's methodology, as explained above and applied in this review, involves two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one. Information placed on the record of this review by TTI indicates that, according to the Chinese VAT schedule, the standard VAT refund rate for TTI is 13 percent, while the VAT paid rate is 17 percent, leading to an irrecoverable VAT rate of four percent.[71] For the purposes of these preliminary results, we removed from U.S. price the difference between the rates (*i.e.*, four percent), which is the irrecoverable VAT as defined under Chinese tax law and regulation.[72]

B. TTI

We used EP methodology for sales made by TTI, in accordance with section 772(a) of the Act, because the merchandise under consideration was first sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States, prior to importation, and CEP methodology was not otherwise warranted.[73]

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

[69] *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 IDM at Comment 5.A.

[70] *See Methodological Change*, 77 FR 36481.

[71] Export documentation provided by TTI in its questionnaire responses, shows the irrecoverable portion of the VAT paid by TTI to the Chinese government. *See* TTI's February 8, 2018 Section C IQR at 40 and Exhibit C-5.

[72] TTI reported the four percent irrecoverable VAT in its sales database for certain sales; we applied this amount to TTI's "free on board" export prices for all sales, consistent with our final determination. *See HFCs LTFV Final* IDM at Comment 18.

[73] *See* TTI February 8, 2018 CQR; and TTI March 1, 2018 DQR.

We based EP on delivered prices to unaffiliated purchasers in the United States or to unaffiliated purchasers who shipped the merchandise to the United States. We made deductions, as appropriate, from the reported U.S. price for movement expenses for TTI (*i.e.*, foreign inland freight, foreign brokerage and handling,[74] international freight,[75] marine insurance, U.S. inland freight, and other U.S. freight expenses).[76] In instances where these expenses were incurred from a Chinese company, we valued these expenses using the SV methodology described in the "Factor Valuations" section of this memorandum, below.

Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine NV using an 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 the 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.[77] 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.[78]

Factor Valuations

In accordance with section 773(c) of the Act, Commerce calculated NV based on FOP data reported by TTI. To calculate NV, Commerce multiplied the reported per-unit factor-consumption rates by publicly-available SVs. When selecting the SVs, Commerce considered, among other factors, the quality, specificity, and contemporaneity of the data.[79] As appropriate,

[74] In its August 3, 2018, response, TTI stated that stated that its suppliers pay domestic brokerage and handling charges on the reported U.S. sales. Therefore, we are using the SV for domestic brokerage and handling charges for these expenses. *See* TTI August 3, 2018 SACQR at 6.

[75] TTI reported that it used a freight forwarder to arrange freight services from a market economy supplier. However, TTI was unable to establish a link between payments to the market economy carrier through the market economy ocean freight carrier's China agent. *See* TTI August 3, 2018 SACQR at 6-7. Therefore, in accordance with Commerce's practice, we have used a surrogate value for TTI's ocean freight for EP sales. *See*, *e.g.*, *Wire Decking from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 32905 (June 10, 2010), and accompanying IDM at Comment 6 and *HFCs LTFV Final* IDM at Comment 21.

[76] *See* section 772(c)(2)(A) of the Act.

[77] *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).

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

[79] *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 IDM at Comment 9.

Commerce adjusted input prices by including freight costs to make them delivered prices. Specifically, Commerce added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.[80] A detailed description of all SVs used for TTI can be found in the Preliminary SV Memo.[81]

For the preliminary determination, Commerce used Mexican import data, as published by GTA, and other publicly-available sources from Mexico to calculate SVs for TTI's FOPs. In accordance with section 773(c)(1) of the Act, Commerce applied the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are (1) non-export average values, (2) contemporaneous with, or closest in time to, the POR, (3) product-specific, and (4) tax-exclusive.[82] The record shows that Mexico import data obtained through GTA, as well as data from other Mexican sources, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POR.[83] In those instances where Commerce could not obtain information contemporaneous with the POR with which to value FOPs, Commerce adjusted the surrogate values using, where appropriate, Mexico's producer price index as published in the International Monetary Fund's (IMF's) International Financial Statistics.

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.[84] In this regard, Commerce has previously found that it is appropriate to disregard such prices from India, Indonesia, the Republic of Korea (Korea), and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[85] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these

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

[81] *See* Memorandum, "First Administrative Review of the Antidumping Duty Order on Hydrofluorocarbon Blends from the People's Republic of China: Surrogate Value Memorandum for the Preliminary Results," dated September 4, 2018 (Preliminary SV Memo).

[82] *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).

[83] *See* Preliminary SV Memo.

[84] *See* Trade Preferences Extension Act of 2015 (TPEA) (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 TPEA Application Dates*, 80 FR at 46795.

[85] *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 IDM at 7-19; *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying IDM at 1; *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying IDM at 4; and *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying IDM at IV.

countries at the time of the POR, Commerce finds that it is reasonable to infer that all exporters from India, Indonesia, Korea, and Thailand may have benefitted from these subsidies. Therefore, Commerce has not used prices from those countries in calculating Mexican import-based SVs.

Additionally, Commerce disregarded data from NME countries when calculating Mexican import-based per-unit SVs.[86] Commerce also excluded from the calculation of Mexican import-based per-unit SVs imports labeled as originating from an "unidentified" country because Commerce could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.[87]

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, Commerce will weight-average the actual prices paid for the ME portion and the SV for the NME portion by their respective quantities.

TTI purchased certain inputs that are produced in ME countries, from ME suppliers and paid for in an ME currency.[88] Commerce valued those inputs in accordance with 19 CFR 351.408(c).[89] Commerce used Mexican import statistics from GTA to value the remaining raw materials, by-products, packing materials, and certain energy inputs, except as listed below.

In NME AD proceedings, Commerce prefers to value labor solely based on data from the primary surrogate country.[90] In *Labor Methodologies*, Commerce determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, Commerce determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing from the International Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook). We used this source in this administrative review.[91]

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[86] *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).

[87] *Id*.

[88] *See* TTI March 1, 2018 DQR at 16-18.

[89] *See* Preliminary SV Memo.

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

[91] *See* Preliminary SV Memo.

We valued electricity using data from the website of the International Energy Agency, which contains pricing data contemporaneous with the POR for electricity rates in Mexico. These electricity rates represent publicly available, broad-market averages.[92]

We valued water using data from Mexico's National Commission for Water published in *Water Statistics in Mexico 2016*. The rates are for water for industrial users in select cities in Mexico. Because these rates were based on 2016 data, we did not inflate them.[93]

We valued truck freight expenses using data from the World Bank's *Doing Business 2018: Mexico* publication. We also valued brokerage and handling expenses using this data source, which provided a price list of export procedures necessary to export a standardized cargo of goods in Mexico. We did not inflate these prices because they are contemporaneous with the POR.[94]

We valued ocean freight using information published by Maersk Line.[95] We did not inflate this value because it is contemporaneous with the POR.

The record contains two financial statements from Mexico: CYDSA SAB de CV (CYDSA); and Mexichem SAB de CV (Mexichem). However, no interested party provided a translation of Mexichem's financial statements,[96] and therefore, we have not considered them for the purposes of this preliminary results. Further, using record information, we determined that CYDSA produces merchandise comparable to HFC blends.[97] Therefore, we calculated the surrogate financial ratios using data from the financial statements of CYDSA.

<u>By-Products</u>

Commerce looks to several factors in order to determine which joint products are to be considered co-products and which are to be considered by-products.[98] Among these factors are the following: 1) how the company records and allocates costs in the ordinary course of business, in accordance with its home country generally accepted accounting principles; 2) the significance of each product relative to the other joint products; 3) whether the product is an unavoidable consequence of producing another product; 4) whether management intentionally controls production of the product; and 5) whether the product requires significant further processing after the split-off point. No single factor is dispositive in our determination. Rather,

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[92] *Id*.

[93] *Id*.

[94] *Id*.

[95] *Id*.

[96] *See* TTI's Initial SV Comments at Exhibit 7.

[97] *See* Petitioners' Initial SV Comments at Exhibit 10.

[98] *See*, *e.g.*, *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 101 (January 2, 2014), and accompanying IDM at Comment 5.

we consider each factor in light of all of the facts and circumstances surrounding the case.

The information provided by TTI regarding its reported by-products hydrochloric acid (HCL) and hydrogen fluoride (HF) indicates that it is appropriate to treat HCL and HF as by-products for purposes of the preliminary determination. Specifically, TTI stated that: 1) it (or its unaffiliated suppliers) record the sales value as "other income"; 2) the relative sales value of HCL and HF is less than the value of the joint product; 3) HCL and HF are produced as an unavoidable consequence of the production process; 4) management does not intentionally control the production of HCL and HF; and 5) HCL and HF do not require further processing before they are sold.[99] Therefore, based on this information, we are treating the HCL and HF reported by TTI as by-products in our preliminary results margin calculations, consistent with our treatment of them in *HFCs LTFV Final*.

Currency Conversion

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

Verification

As provided in section 782(i)(3) of the Act and 19 CFR 351.307(b)(1)(iv), we intend to verify the information upon which we will rely in determining our final results of review with respect to TTI.

[99] *See* TTI August 20, 2018 SDQR.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒	☐
Agree	Disagree

8/31/2018

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