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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 Preliminary Results of the
Antidumping Duty Administrative Review: Certain New
Pneumatic Off-the-Road Tires from the People's Republic of
China; 2016-2017

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review (AR) of the antidumping duty (AD) order on certain new pneumatic off-the-road tires (OTR tires) from the People's Republic of China (China) in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) for the AR is September 1, 2016, through August 31, 2017.

Commerce initiated the instant AR on three exporters of OTR tires: Maxon Int'l Co., Limited (Maxon), Tianjin Leviathan International Trade Co., Ltd. (Leviathan), and Weihai Zhongwei Rubber Co., Ltd. (Zhongwei).¹ Commerce previously rescinded the review with respect to Maxon and Leviathan.² With respect to Zhongwei, Commerce preliminarily determines that it demonstrated eligibility for a separate rate and made sales of subject merchandise at prices below normal value (NV) during the POR. If we adopt these preliminary results in the final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR in accordance with 19 CFR

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Review*, 82 FR 52268 (November 13, 2017) (*Initiation Notice*).

² See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review; 2016–2017*, 83 FR 11682 (March 16, 2018) (*Notice of Partial Rescission*).



351.212(b)(1). We invite interested parties to comment on these preliminary results. Unless otherwise extended, we intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

II. BACKGROUND

On September 1, 2017, Commerce published a notice of opportunity to request an administrative review of the AD order on OTR tires from China for the period September 1, 2016, through August 31, 2017.³ On September 25, 2017, Commerce received a request for an AR from Maxon.⁴ On September 26, 2017, Commerce received a request from Leviathan for an AR.⁵ On October 2, 2017, Commerce received separate requests from Zhongwei and importer Super Grip Corporation (Super Grip) for an AR of Zhongwei.⁶ On November 17, 2017, Commerce initiated a review of three exporters of subject merchandise.⁷ On March 16, 2018, pursuant to Leviathan's and Maxon's timely withdrawals of their review requests,⁸ Commerce rescinded the review with respect to these two exporters.⁹ On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018.¹⁰ On June 4, 2018, Commerce extended the time limit for the preliminary results of the review by 120 days, pursuant to section 751(a)(3)(A) of the Act, to October 3, 2018.¹¹

Between January and August 2018, Commerce issued, and Zhongwei timely responded to the initial and supplemental questionnaires.

III. SCOPE OF THE ORDER

The products covered by the order are new pneumatic tires designed for off-the-road and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 41595 (September 1, 2017).

⁴ See Maxon's letter, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China Request for Administrative Review," dated September 26, 2017.

⁵ See Leviathan's letter, "New Pneumatic Off-the-Road Tires from the PRC: Request for Antidumping Administrative Review," dated September 26, 2017.

⁶ See Zhongwei's letter, "New Pneumatic Off-The-Road Tires People s Republic of China Request for Administrative Review" dated October 2, 2017, and letter from Super Grip, "New Pneumatic Off-The-Road Tires People s Republic of China Request for Administrative Review," dated October 2, 2017.

⁷ See *Initiation Notice*.

⁸ See Leviathan's letter, "New Pneumatic Off-the-Road Tires from the PRC: Withdrawal of Request for Review for Tianjin Leviathan International Trade Co., Ltd." dated January 12, 2018, and Maxon's letter, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China - Withdrawal of Request for Administrative Review," dated January 19, 2018.

⁹ See *Notice of Partial Rescission*.

¹⁰ 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.

¹¹ See memorandum, "New Pneumatic Off-The-Road Tires from the People's Republic of China: Extension of Deadline for Preliminary Results of the 2016-2017 Antidumping Duty Administrative Review," dated June 4, 2018.

tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed for use include, but are not limited to: (1) agricultural and forestry vehicles and equipment, including agricultural tractors,¹² combine harvesters,¹³ agricultural high clearance sprayers,¹⁴ industrial tractors,¹⁵ log-skidders,¹⁶ agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;¹⁷ (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame haul trucks,¹⁸ front-end loaders,¹⁹ dozers,²⁰ lift trucks, straddle carriers,²¹ graders,²² mobile cranes,²³ compactors; and (3) industrial vehicles and equipment, including smooth floor, industrial, mining, counterbalanced lift trucks, industrial and mining vehicles other than smooth floor, skid-steers/mini-loaders, and smooth floor off-the-road counterbalanced lift trucks. The foregoing list of vehicles and equipment generally have in common that they are used for hauling, towing, lifting, and/or loading a wide variety of equipment and materials in agricultural, construction and industrial settings. Such vehicles and equipment, and the descriptions contained in the footnotes are illustrative of the types of vehicles and equipment that use certain OTR tires but are not necessarily all-inclusive. While the physical characteristics of certain OTR tires will vary depending on the specific applications and conditions for which the tires are designed (*e.g.*, tread pattern and depth), all of the tires within the scope have in common that they are designed for off-road and off-highway use. Except as discussed below, OTR tires included in the scope of the order range in size (rim diameter) generally but not exclusively from 8 inches to 54 inches. The tires may be either tube-type²⁴ or tubeless, radial or non-radial, and intended for sale either to original equipment manufacturers or the replacement market. The subject merchandise is currently classifiable under Harmonized

¹² Agricultural tractors are dual-axle vehicles that typically are designed to pull farming equipment in the field and that may have front tires of a different size than the rear tires.

¹³ Combine harvesters are used to harvest crops such as corn or wheat.

¹⁴ Agricultural sprayers are used to irrigate agricultural fields

¹⁵ Industrial tractors are dual-axle vehicles that typically are designed to pull industrial equipment, and that may have front tires of a different size than the rear tires.

¹⁶ A log-skidder has a grappling lift arm that is used to grasp, lift and move trees that have been cut down to a truck or trailer for transport to a mill or other destination.

¹⁷ Skid-steer loaders are four-wheel drive vehicles with the left-side drive wheels independent of the right-side drive wheels and lift arms that lie alongside the driver with the major pivot points behind the driver's shoulders. Skid-steer loaders are used in agricultural, construction and industrial settings.

¹⁸ Haul trucks, which may be either rigid frame or articulated (*i.e.*, able to bend in the middle) are typically used in mines, quarries and construction sites to haul soil, aggregate, mined ore, or debris.

¹⁹ Front loaders have lift arms in front of the vehicle. They can scrape material from one location to another, carry material in their buckets, or load material into a truck or trailer.

²⁰ A dozer is a large four-wheeled vehicle with a dozer blade that is used to push large quantities of soil, sand, rubble, *etc.*, typically around construction sites. They can also be used to perform "rough grading" in road construction.

²¹ A straddle carrier is a rigid frame, engine-powered machine that is used to load and offload containers from container vessels and load them onto (or off of) tractor trailers.

²² A grader is a vehicle with a large blade used to create a flat surface. Graders are typically used to perform "finish grading." Graders are commonly used in maintenance of unpaved roads and road construction to prepare the base course on to which asphalt or other paving material will be laid.

²³ *I.e.*, "on-site" mobile cranes designed for off-highway use.

²⁴ While tube-type tires are subject to the scope of this proceeding, tubes and flaps are not subject merchandise and therefore are not covered by the scope of this proceeding, regardless of the manner in which they are sold (*e.g.*, sold with or separately from subject merchandise).

Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50, 4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00, 4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, and 4011.94.80.00. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

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

Prefix letter designations:

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

Suffix letter designations:

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

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

IV. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country

Commerce considers China to be a non-market economy (NME) country.²⁵ 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, for purposes of these preliminary results, we continue to treat China as an NME country and apply our current NME methodology in accordance with section 773(c) of the Act.

B. Surrogate Country and Surrogate Value Data

On February 25, 2018, Commerce sent interested parties a letter inviting comments on the concurrently released list of six potential surrogate countries and primary surrogate country selection, as well as surrogate value (SV) data.²⁶ No interested party to the proceeding provided information or comment with respect to the selection of surrogate country or the selection of appropriate SVs to value reported factors of production (FOPs). Accordingly, consistent with 19 CFR 351.301(c)(4), which states that Commerce may place factual information on the record of the proceeding at any time, Commerce placed relevant information on the record for use in selecting an appropriate primary surrogate country and valuing the FOPs.²⁷ Pursuant to 19 CFR 351.301(c)(4), interested parties may submit rebuttal factual information by October 15, 2018.

C. 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.²⁸ Reading sections 773(c)(1) and (c)(4) of the Act in concert, it is

²⁵ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum to Gary Taverman, "China's Status as a Non-Market Economy," dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

²⁶ See Commerce's letter, "2016-2017 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated February 15, 2018 (SCSV Memo). (The letter contained a memorandum, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires (OTR Tires) from the People's Republic of China (China)," dated January 18, 2018 (Surrogate Country List)).

²⁷ See memorandum, "2016-2017 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Surrogate Values," dated concurrently with this memorandum (Preliminary SV Memo).

²⁸ See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (*Policy Bulletin*).

Commerce's practice to select an appropriate surrogate country based on the availability and reliability of data.²⁹ In this review, Commerce determined that Mexico, Romania, Bulgaria, South Africa, Brazil, and Thailand are countries whose per capita gross national incomes (GNI) are comparable to China in terms of economic development.³⁰ We discuss the sources of the SVs used in this administrative review under the "Factor Valuations" section below.

1. Economic Comparability

Consistent with its practice, and section 773(c)(4) of the Act, and as stated above and in the Surrogate Country List, Commerce identified Mexico, Romania, Bulgaria, South Africa, Brazil, and Thailand as countries at the same level of economic development as China based on GNI data published in the World Bank Development Indicators database.³¹ Commerce does not rank the countries identified, and it considers all six countries identified as equivalent in terms of economic comparability. Accordingly, unless we find that all of these countries are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data, or are unsuitable for use for other reasons, or we find that another equally comparable country is an appropriate surrogate, we will rely on data from one of these countries.³² Therefore, we consider all six countries identified in the Surrogate Country List to have met this prong of the surrogate country selection criteria.

2. Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor Commerce's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, Commerce looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."³³ Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.³⁴ Further, when selecting a surrogate country, the statute requires Commerce to

²⁹ *Id.*

³⁰ See Surrogate Country List.

³¹ *Id.*

³² See *Certain Steel Wheels from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 76 FR 67703, 67708 (November 2, 2011), unchanged in *Certain Steel Wheels from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances*, 77 FR 17021 (March 23, 2012).

³³ See *Policy Bulletin* at 2.

³⁴ The *Policy Bulletin* also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.* at note 6.

consider the comparability of the merchandise, not the comparability of the industry.³⁵ “In cases where the identical merchandise is not produced, Commerce must determine if other merchandise that is comparable is produced. How Commerce does this depends on the subject merchandise.”³⁶ In this regard, Commerce recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.³⁷

One factor that Commerce considers in determining whether a country is a significant producer of comparable merchandise is whether the country is an exporter of comparable merchandise. In this case, because production data of comparable merchandise was not available, we analyzed exports of comparable merchandise from the six countries found to be economically comparable as a proxy for production data. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, Commerce examines which countries on the surrogate country list exported merchandise comparable to the merchandise under consideration. As no party provided this export data to the record, Commerce placed relevant information on the record for the purpose of this analysis, which indicates that all countries listed on the Surrogate Country List are exporters of merchandise covered by Harmonized Tariff Schedule (HTS) categories identified in the scope of this administrative review.³⁸ Accordingly, Commerce preliminarily finds that Mexico, Romania, Bulgaria, South Africa, Brazil, and Thailand meet the significant producer of comparable merchandise prong of the surrogate country selection criteria.

3. Data Availability

When evaluating SV data, Commerce considers several factors including whether the SVs are publicly available, contemporaneous with the period under consideration, broad-market averages, tax and duty-exclusive, and specific to the inputs being valued.³⁹ Commerce’s preference is to satisfy the breadth of these aforementioned selection factors. There is no hierarchy among these criteria. It is Commerce’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.⁴⁰

³⁵ See *Sebacic Acid from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65676 (December 15, 1997) (“{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.”).

³⁶ See Policy Bulletin at 2.

³⁷ *Id.* at 3.

³⁸ See Preliminary SV Memo.

³⁹ See, *e.g.*, *First Administrative Review of Certain Polyester Staple Fiber from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010) and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁰ See *Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) (*Sixth Mushrooms AR*), and

We note that Commerce has selected Thailand as the appropriate surrogate country in each of the previous three administrative reviews, including in the prior 2015-2016 review in which Zhongwei participated as a mandatory respondent and did not contest the selection of Thailand as the primary surrogate country.⁴¹ In each prior review where Thailand was determined to be economically comparable and a significant producer of comparable merchandise, Commerce determined that Thai data sources were publicly-available, contemporaneous, product-specific, generally tax-exclusive and representative of broad market averages for each input used by the respondent to produce the subject merchandise during the POR. As such, because we have again determined Thailand to be economically comparable to China and a significant producer of merchandise comparable to OTR tires for the instant POR, as discussed above, we have determined it is reasonable to source contemporaneous SV data from the appropriate Thai sources used in prior reviews, and have placed on the record a complete set of surrogates to value reported FOPs from Thai sources in the instant AR.⁴² In addition, publicly-available surrogate financial statements from Thai companies are available to allow for appropriate valuation of financial ratios.⁴³ Therefore, because complete surrogate value information is available from Thailand, and no party argued for the selection of, nor submitted information from any other potential surrogate country, Commerce preliminarily determines that Thailand provides the best available surrogate value data.

4. Selection of Surrogate Country

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

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

⁴¹ See *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014*, 81 FR 23272 (April 20, 2016), and accompanying Issues and Decision Memorandum (AR6 *Final Results*); *Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014*, 82 FR 18733 (April 21, 2017), and accompanying Issues and Decision Memorandum (AR7 *Final Results*); and *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2015–2016*, 83 FR 16829 (April 17, 2018), and accompanying Issues and Decision Memorandum (AR8 *Final Results*). We note that, though there have been various issues regarding selection of specific values, parties have generally agreed that Thailand is the most appropriate surrogate country with superior data availability.

⁴² See memorandum, “2016-2017 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Preliminary Results Surrogate Value Memorandum,” dated concurrently with this memorandum at 1-2 (SV Memorandum).

⁴³ *Id.*

D. Separate Rates

In proceedings involving NME countries, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.⁴⁴ In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in this review.⁴⁵ The process requires exporters to submit a separate rate application (SRA) or certification (SRC) and to demonstrate an absence of both *de jure* and *de facto* government control over their export activities.⁴⁶

Commerce's policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.⁴⁷ Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*⁴⁸ and further developed in *Silicon Carbide*.⁴⁹ According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, however, Commerce determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether that company is independent of government control and eligible for a separate rate.⁵⁰

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades* AD proceeding, and its determinations therein.⁵¹ In particular, in

⁴⁴ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006) (*Lined Paper*); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006) (*Sawblades*); and *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).

⁴⁵ See *Initiation Notice* 82 FR 52268 at 52269

⁴⁶ See Policy Bulletin 05.1: *Separate Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries* (April 5, 2005) (Policy Bulletin 05.1), available at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

⁴⁷ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

⁴⁸ *Id.*

⁴⁹ 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*).

⁵⁰ See, e.g., *Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*; 2011, 78 FR 9493 (February 6, 2013), and accompanying Decision Memorandum at 9, unchanged in final results, 78 FR 35249 (June 12, 2013); and *Certain Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9284 (February 20, 2008), unchanged in final affirmative determination, 73 FR 40485 (July 15, 2013).

⁵¹ See *Final Results of Redetermination pursuant to Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), and available at <http://enforcement.trade.gov/remands/12-147.pdf>, *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*,

litigation involving the underlying *Diamond Sawblades* proceeding, the Court of International Trade (CIT) found Commerce's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity exercised control over the respondent exporter.⁵² Following the Court's reasoning, in recent proceedings, we have concluded that where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the respondent is not eligible for a separate rate.⁵³ Otherwise, we will analyze the impact of government ownership within the context of the *de facto* criteria as established above. This may include control over, for example, the selection of board members and management, key factors in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with our normal separate rate practice, any ability to control, or possess an interest in controlling, the operations of the company (including the selection of board members, management, and the profit distribution of the company) by a government entity is subject to Commerce's rebuttable presumption that all companies within the NME country are subject to government control.

In the *Initiation Notice*, we stated that SRAs in the administrative review would be due 30 days after publication of the notice, *i.e.*, December 13, 2017.⁵⁴ Because Zhongwei is a mandatory respondent, Commerce received a timely filed Section A response from Zhongwei, in lieu of an SRA or SRC.⁵⁵

Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). See also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memorandum at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum at Comment 1 (collectively, *Diamond Sawblades*).

⁵² See, *e.g.*, *Advanced Technology I*, 885 F. Supp. 2d at 1349 (CIT 2012) ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); *Id.*, at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor *de jure* 'separation' that Commerce concludes.") (footnotes omitted); *Id.*, at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); *Id.* at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over the nomination.") (footnotes omitted).

⁵³ See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying Preliminary Decision Memorandum at 5-9.

⁵⁴ See *Initiation Notice*, 80 FR 78778 at 78779.

⁵⁵ See Zhongwei's March 24, 2017 Section A Questionnaire Response (Zhongwei AQR).

Separate Rate Analysis

a. Wholly Foreign Owned

Zhongwei did not report being wholly-foreign owned by a company located in an ME country.

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

Zhongwei stated that it is a wholly Chinese-owned company.⁵⁶ Therefore, Zhongwei must demonstrate an absence of both *de jure* and *de facto* governmental control over export activities, as appropriate, to qualify for a separate rate.

Absence of De Jure Control

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) any legislative enactments decentralizing control of companies; and
- (3) other formal measures by the government decentralizing control of companies.⁵⁷

The evidence provided by Zhongwei supports a preliminary finding of absence of *de jure* governmental control based on the following: 1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; 2) the existence of applicable legislative enactments decentralizing control of the companies; and 3) the implementation of formal measures by the government decentralizing control of companies.⁵⁸

Absence of De Facto Control

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

- (1) whether the export prices (EP) are set by or are subject to the approval of a government agency;
- (2) whether the respondent has authority to negotiate and sign contracts and other agreements;

⁵⁶ See Zhongwei AQR.

⁵⁷ See *Sparklers*, 56 FR at 20589.

⁵⁸ See Zhongwei AQR.

- (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.⁵⁹

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

The evidence provided by Zhongwei, supports a preliminary finding of *de facto* absence of government control based on the following: 1) the company sets its EPs independent of the government and without the approval of a government authority; 2) the company has authority to negotiate and sign contracts and other agreements; 3) the company has autonomy from the government in making decisions regarding the selection of management; and 4) the company retains the proceeds of their export sales and makes independent decisions regarding disposition of profits or financing of losses.⁶⁰

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

E. Date of Sale

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

In identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁶¹

19 CFR 351.401(i) states that Commerce will use the date of invoice, as recorded in the producer or exporter's records kept in the ordinary course of business, as the date of sale. However, the regulations permit Commerce to use a different date if it better reflects the date on which the

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

⁶⁰ See Zhongwei AQR at A-12-13.

⁶¹ See 19 CFR 351.401(i); see also *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (upholding Commerce's rebuttable presumption that invoice date is the appropriate date of sale).

exporter or producer establishes the material terms of sale.⁶² Zhongwei indicated the invoice date as the date of sale in accordance with the time when the material terms of the sale are fixed.⁶³

F. Comparisons to Normal Value

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

1. *Determination of Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*i.e.*, the average-to-average method) unless Commerce 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 export prices (or constructed export prices) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern 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 numerous 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 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.

⁶² Commerce's regulations state that it normally will use the invoice date as the date of sale unless a better date reflects the date on which the material terms of sale are established. See 19 CFR 351.401(i); see also *Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil*, 64 FR 38756, 38768 (July 19, 1999) (stating that "Commerce considers the date of sale to be the date on which all substantive terms of sale are agreed upon by the parties"). However, Commerce has made it its practice to use the date of shipment as the date of sale when the date of the invoice is after the date of shipment, because, normally, once merchandise is shipped to the customer, the material terms of sale have been established. See *Carbon and Alloy Steel Wire Rod from Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

⁶³ See Zhongwei's March 6, 2018 Section C Questionnaire Response (Zhongwei CQR) at C-17-18.

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 the accompanying IDM at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 1322 (CIT 2014), *aff'd*, 862 F.3d 1337 (Fed. Cir. 2017).

⁶⁵ See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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

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

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

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

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, 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.

2. Results of the Differential Pricing Analysis

For Zhongwei, based on the results of the differential pricing analysis, we preliminarily find that 42.7 percent of the value of Zhongwei's sales pass the Cohen's *d* test, thus confirming the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods.⁶⁶ As such, we preliminarily determine that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to those sales identified as passing the Cohen's *d* test and applying the average-to-average method to those sales identified as not passing the Cohen's *d* test (*i.e.*, the mixed alternative comparison method) to all U.S. sales. Thus, for these preliminary results, we are applying the mixed

⁶⁶ See memorandum, "2016-2017 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Analysis of the Preliminary Results Margin Calculation for Weihai Zhongwei Rubber Co., Ltd., dated concurrently with this memorandum (Zhongwei's Preliminary Analysis Memo).

alternative comparison method to all U.S. sales to calculate the weighted-average dumping margin for Zhongwei.⁶⁷

G. Export Price

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

In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the sales price for various Chinese expenses such as foreign inland freight, brokerage and handling, and international movement costs. Where Chinese service providers provided such expenses, or such services were paid for in renminbi (RMB), we based those charges on surrogate values from Thailand.⁶⁸ Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price, see Zhongwei’s Preliminary Analysis Memo.

H. Value-Added Tax

Commerce’s recent practice in NME cases is to adjust EP (or the constructed export price (CEP)) for the amount of any unrefunded, (herein irrecoverable) value-added tax (VAT) in certain non-market economies in accordance with section 772(c)(2)(B) of the Act.⁶⁹ In changing the practice, Commerce explained that when an NME government imposes an export tax, duty, or other charges 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.⁷⁰ Where the irrecoverable VAT is a fixed percentage of EP or CEP, Commerce explained that the final step in

⁶⁷ *Id.* In these preliminary results, Commerce applied to Zhongwei the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, Commerce compared monthly weighted-average EPs and/or CEPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

⁶⁸ See “Factor Valuation” section below and Preliminary SV Memo for further discussion of surrogate value selection.

⁶⁹ 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).

⁷⁰ *Id.*; and *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014) and accompanying Issues and Decision Memorandum at Comment 5.A.

arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.⁷¹

Value-added tax (VAT) is an indirect, *ad valorem* consumption tax imposed on the purchase (sale) of goods. It is levied on the purchase (sale) price of the good, *i.e.*, it is paid by the buyer and collected by the seller. For example, if the purchase price is \$100 and the VAT rate is 15%, the buyer pays \$115 to the seller, \$100 for the good and \$15 in VAT. VAT is typically imposed at every stage of production. Thus, under a typical VAT system, firms (1) pay VAT on their purchases of production inputs and raw materials (“input VAT”) as well as (2) collect VAT on sales of their output (“output VAT”).

Firms calculate input VAT and output VAT for tax purposes on a company-wide (not transaction-specific) basis, *i.e.*, in the case of input VAT, on the basis of all input purchases regardless of whether used in the production of goods for export or domestic consumption, and in the case of output VAT, on the basis of all sales to all markets, foreign and domestic. Thus, a firm might pay the equivalent of \$60 million in total input VAT across all input purchases and collect \$100 million in total output VAT across all sales. In this situation, however, the firm would remit to the government only \$40 million of the \$100 million in output VAT collected on its sales because of a \$60 million credit for input VAT paid that the firm can claim against output VAT.⁷² As result, the firm bears no “VAT burden (cost)”: the firm through the credit is refunded or recovers all of the \$60 million in input VAT it paid, and the \$40 million remittance to the government is simply a transfer to the government of VAT paid by (collected from) the buyer with the firm acting only as an intermediary. Thus, the cost of output VAT falls on the buyer or the good, not on the firm.

This would describe the situation under Chinese law except that producers in China, in most cases, do not recover (*i.e.*, are not refunded) the total input VAT they paid. Instead, Chinese tax law requires a reduction in or offset to the input VAT that can be credited against output VAT. This formula for this reduction/offset is provided in Article 5 of the 2012 Chinese government tax regulation, *Notice of the Ministry of Finance and the State Administration of Taxation on VAT and Consumption Tax Policies for Exported Goods and Labor Services (2012 VAT Notice)*.⁷³

$$\text{Reduction/Offset} = (P - c) \times (T_1 - T_2),$$

where,

P = (VAT-free) FOB value of export sales;

c = value of bonded (duty- and VAT-free) imports of inputs used in the production of goods for export;

⁷¹ *Id.*

⁷² The credit if not exhausted in the current period can be carried forward.

⁷³ See memorandum, “Antidumping Duty Administrative Review: Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China; 2016-2017,” dated concurrently with this memorandum (Placing the *Notice of the Ministry of Finance and the State Administration of Taxation on VAT and Consumption Tax Policies for Exported Goods and Labor Services*, Article 5 (Ministry of Finance, State Administration of Taxation, (2012) No. 39, dated May 25, 2012) on the record of this proceeding).

T_1 = VAT rate; and

T_2 = refund rate specific to the export good.

Using the example above, if $P = \$200$ million, $c = 0$, $T_1 = 17\%$ and $T_2 = 10\%$, then the reduction/offset = $(\$200 \text{ million} - \$0) \times (17\% - 10\%) = \$200 \text{ million} \times 7\% = \14 million .

Chinese law then requires that the firm in this example calculate creditable input VAT by subtracting the \$14 million from total input VAT, as specified in Article 5.1(1) of the 2012 VAT Notice:

$$\text{Creditable input VAT} = \text{Total input VAT} - \text{Reduction/Offset}$$

Using again the example above, the firm can credit only $\$60 \text{ million} - \$14 \text{ million} = \$46 \text{ million}$ of the \$60 million in input VAT against output VAT. Since the \$14 million is not creditable (legally recoverable), it is not refunded to the firm. Thus, the firm incurs a cost equal to \$14 million, which is calculated on the basis of FOB export value at the *ad valorem* rate of $T_1 - T_2$. This cost therefore functions as an “export tax, duty, or other charge” because the firm does not incur it but for exportation of the subject merchandise, and under Chinese law must be recorded as a cost of exported goods.⁷⁴ It is for this “export tax, duty, or other charge” that Commerce makes a downward adjustment to U.S. price under section 772(c) of the Act.⁷⁵

It is important to note that under Chinese law, the reduction/offset described above is defined in terms of, and applies to, total (company-wide) input VAT across purchases of all inputs, whether used in the production of goods for export or domestic consumption. The reduction/offset does not distinguish the VAT treatment of export sales from the VAT treatment of domestic sales from an input VAT recovery standpoint for the simple reason that such treatment under Chinese law applies to the company as a whole, not specific markets or sales. At the same time, however, the reduction/offset is calculated on the basis of the FOB value of exported goods, so it can be thought of as a tax on the company (*i.e.*, a reduction in the input VAT credit) that the company would not incur but for the export sales it makes, a tax fully allocable to export sales because the firm under Chinese law must book it as cost of exported goods.

The VAT treatment under Chinese law of exports of goods described above concerns only export sales that are not subject to output VAT, the situation where the firm collects no VAT from the buyer, which applies to most exports from China. However, the 2012 VAT Notice provides for a limited exception in which export sales of certain goods are, under Chinese law, deemed

⁷⁴ Article 5(3) of the 2012 VAT Notice states: “Where the tax refund rate is lower than the applicable tax rate, the corresponding differential sum calculated shall be included into the cost of exported goods and services.”

⁷⁵ Because the \$14 million is the amount of input VAT that is not refunded to the firm, it is sometimes referred to as “irrecoverable input VAT.” However, that phrase is perhaps misleading because the \$14 million is not a fraction or percentage of the VAT the firm paid on purchases of inputs used in the production of exports. If that were the case, the value of production inputs, not FOB export value, would appear somewhere in the formula in Article 5 of the 2012 VAT Notice as the tax basis for the calculation. The value of production inputs does not appear in the formula. Instead, as explained above, the \$14 million is simply a cost imposed on firms that is tied to export sales, as evidenced by the formula’s reliance on the FOB export value as the tax basis for the calculation. The \$14 million is a reduction in or offset to what is essentially a tax credit, and it is calculated based on and is proportional to the value of a company’s export sales. Thus, “irrecoverable input VAT” is in fact, despite its name, an export tax within the meaning of section 772(c) of the Act.

domestic sales for tax purposes and are thus subject to output VAT at the full rate.⁷⁶ The formulas discussed above from Article 5 of the 2012 VAT Notice do not apply to firms that export these goods, and there is therefore no reduction in or offset to their creditable input VAT. For these firms creditable input VAT = total input VAT, *i.e.*, these firms recover all of their input VAT. At the same time, export sales of these firms are subject to an explicit output VAT at the full rate, T_1 .⁷⁷ Commerce must therefore deduct this tax from U.S. price⁷⁸ under section 772(c) of the Act to ensure tax-neutral dumping margin calculations.⁷⁹

As such, in the initial questionnaire, Commerce instructed Zhongwei to report VAT on the subject merchandise sold to the United States during the POR and to identify which taxes are unrefunded upon export.⁸⁰ According to the Chinese VAT schedule, the standard VAT levy is 17 percent, and the rebate rate for subject merchandise is 9 percent.⁸¹ Zhongwei reported it imported some inputs through a bonded warehouse, and it did not pay VAT on these purchases.⁸² The Chinese government adjusted the export rebate rate given to Zhongwei for its exports of subject merchandise to account for these inputs and, thus, Zhongwei reported an adjustment to the standard rebate rate of 9 percent.⁸³ However, for purposes of these preliminary results, we removed from U.S. price the difference between the rates (*i.e.*, eight percent), which is the irrecoverable VAT as defined under Chinese tax law and regulation, rather than relying on Zhongwei's reported VATXU.⁸⁴

I. Normal Value

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

⁷⁶ See 2012 VAT Notice, Article 7. For these goods, the VAT refund rate on export is zero.

⁷⁷ See 2012 VAT Notice, Article 7.2(1).

⁷⁸ Commerce will divide the VAT-inclusive export price by $(1 + T)$, where T is the applicable VAT rate.

⁷⁹ Pursuant to sections 772(c) and 773(c) of the Act, the calculation of normal value based on factors of production in NME antidumping cases is calculated on a VAT-exclusive basis, so U.S. price must also be calculated on a VAT-exclusive basis to ensure tax neutrality.

⁸⁰ See, *e.g.*, Commerce's initial questionnaires, "2016-2017 Administrative Review of the Antidumping Duty Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Questionnaire," dated January 3, 2018 (Initial Questionnaire).

⁸¹ See, *e.g.*, Zhongwei CQR at C-37 and Exhibits C-7 through C-11.

⁸² *Id.* at C-36

⁸³ *Id.*

⁸⁴ See Zhongwei's Preliminary Analysis Memo for further discussion.

single plant or supplier.⁸⁵ This methodology ensures that Commerce's calculations are as accurate as possible.⁸⁶

Commerce calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). Under section 773(c)(3) of the Act, FOPs used by Zhongwei in the production of OTR Tires include but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. Commerce based NV on Zhongwei's reported FOPs for materials, energy, and labor.

J. Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by Zhongwei, Commerce calculated NV based on the FOPs it reported for the POR. Commerce used Thai import data and other publicly-available Thai sources to calculate SVs for the FOPs. To calculate NV, Commerce multiplied Zhongwei's reported per-unit FOP quantities by publicly available SVs.⁸⁷ Commerce's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.⁸⁸

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

Furthermore, with regard to the Thai import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized.⁸⁹ We have reason to believe or suspect that prices of inputs from Indonesia, India, and South Korea may contain subsidies because we have found in other proceedings that these countries maintain broadly available, non-industry-

⁸⁵ See Initial Questionnaire at Section D.

⁸⁶ See, e.g., *Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire from the People's Republic of China*, 79 FR 25572 (May 5, 2014) and accompanying Issues and Decision Memorandum at Comment 7.

⁸⁷ See Preliminary SV Memo.

⁸⁸ See, e.g., *Electrolytic Manganese Dioxide from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008) and accompanying Issues and Decision Memorandum at Comment 2.

⁸⁹ See Section 505 of the Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015) (TPEA). See also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015) (Application Notice).

specific export subsidies.⁹⁰ Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an “unspecified” country from the average value, because Commerce could not be certain that they were not from either an NME country or a country with general export subsidies.⁹¹ Therefore, we have not used prices from these countries either in calculating the Thai import-based SVs or in calculating ME input values.

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities (*i.e.*, 85 percent or more), and pays in an ME currency, Commerce uses the actual price paid by the respondent to value those inputs, if substantially all of the factor, by total volume, is purchased from the market economy supplier.⁹² In accordance with the regulation, substantially all is defined to be 85 percent or more of the total volume purchased of the factor.⁹³ Alternatively, when the volume of an NME firm’s purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid, and there is no reason to disregard the prices, Commerce will weight average the ME purchase price with an appropriate SV, according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.⁹⁴ When a firm has made ME input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, Commerce will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold.⁹⁵

Information reported by Zhongwei demonstrates that certain inputs were sourced from an ME country and paid for in ME currencies, but were not purchased in significant quantities and remain below the 85 percent threshold of the total volume purchased of the factor.⁹⁶ Accordingly, Commerce implemented its ME purchase methodology (outlined above) to value Zhongwei’s ME purchases, as appropriate, and applied freight expenses to the ME prices of the inputs where necessary.⁹⁷ The information reported by Zhongwei also demonstrates that it purchased inputs from countries which maintain broadly available, non-industry-specific export

⁹⁰ See, *e.g.*, *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.; and *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying Issues and Decision Memorandum at 1.

⁹¹ See, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People’s Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People’s Republic of China*, 70 FR 24502 (May 10, 2005).

⁹² See *Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013) (*Market Economy Inputs*).

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ See Zhongwei DQR at Exhibit D-5, and Zhongwei’s August 3, 2018 Supplemental Section D Questionnaire Response (Zhongwei SDQR) at Exhibit SD-8.

⁹⁷ See Preliminary SV Memo.

subsidies; thus, consistent with our practice and the statute, we have not used the actual price paid for these inputs (or a portion of inputs) and instead valued them utilizing an SV.⁹⁸

Because no party, including Zhongwei, provided specific information on the record to value FOPs, as discussed above, Commerce placed contemporaneous information from Thai sources on the record to value each input in question.⁹⁹ As Zhongwei participated in the prior review, wherein Commerce was able to find appropriate surrogates to value each reported FOP from sources available in that proceeding, and Zhongwei reported nearly identical FOPs in the instant proceeding, Commerce has used the same source as was used previously to value Zhongwei's inputs.

Specifically, for the preliminary results, Commerce used Thai import statistics from Global Trade Atlas (GTA) to value raw materials, byproducts, packing inputs, and certain energy inputs that Zhongwei used to produce subject merchandise during the POR, except as listed below.¹⁰⁰

Commerce valued natural rubber inputs using the average of daily prices of natural rubber during the POR, as reported by the Rubber Research Institute of Thailand (RRIT) and recorded by the Associate of Natural Rubber Producing Countries (ANRPC).¹⁰¹ This source is (1) publicly available, (2) in the primary surrogate country, (3) spans the POR, and (4) is representative of a broad market average, and duty and tax-exclusive. The ANRPC compiles the prices of natural rubber from Kuala Lumpur, Bangkok, Kottayam, and Malaysia on a daily basis. The prices for Thailand are the country-wide "Official Noon Price," on a free-on-board basis, as reported by the RRIT and Department of Agriculture for natural rubber of grade RSS3.

We valued electricity and water using values from the *Cost of Doing Business in Thailand* report issued by the Thailand Board of Investment.¹⁰² We valued steam using data published in the 2018 annual report of Glow Energy Public Company Limited, a Thai company that supplies electricity, steam, and water for industrial use, contained therein.¹⁰³

We valued brokerage and handling (B&H) using information in the World Bank's *Doing Business 2018: Thailand* report. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand and the data gathered and reported is contemporaneous with the POR.¹⁰⁴

We valued truck freight using data published in the World Bank's *Doing Business 2018: Thailand* for inland transportation and handling relating to importing and exporting a standardized cargo of goods.¹⁰⁵ This report gathers information concerning the distance and costs to transport products in a 20-foot container weighing 15 metric tons from the largest city in

⁹⁸ *Id.*

⁹⁹ See Preliminary SV Memo at Attachment II.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

Thailand (Bangkok) to the Laem Chabang port 129 kilometers away. Because this data used in the report is current as of June 2017, it is contemporaneous with the POR. In addition, because the value was denominated in USD, no currency conversion was required. We divided the \$147 value reported by the distance to Laem Chabang port (129 km) as listed in the World Bank's *Doing Business 2018: Thailand* report, and that result by 15,000 kilograms (for the 15-ton container) to get a truck freight SV. We calculated a truck freight cost of .000076 USD per kilogram, per kilometer.¹⁰⁶

We valued labor using contemporaneous Thai data from Thailand National Statistical Office (NSO) for all manufacturing sectors.¹⁰⁷

Pursuant to 19 CFR 351.408(c)(4), Commerce values overhead, selling, general and administrative (SG&A) expenses, and profit using publicly available information gathered from producers of identical or comparable merchandise in the surrogate country. To value overhead, SG&A, and profit, we have used the 2017 financial statement of Goodyear (Thailand) Company Limited (Goodyear).¹⁰⁸ We note that the company manufactures comparable merchandise (*e.g.* motor vehicle tires), and its 2017 financials are contemporaneous with the POR. Therefore, we have preliminarily used the 2017 financial statements of Goodyear to value factory overhead, selling, general, and administrative expenses, and profit.¹⁰⁹

L. 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. These exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.

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

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

In applying section 777A(f) of the Act, Commerce examines: (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise; (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period; and (3) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.¹¹⁰ For a subsidy meeting these criteria, the statute requires Commerce to reduce the dumping margin by

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *See* section 777A(f)(1)(A)-(C) of the Act.

the estimated amount of the increase in the weighted-average dumping margin due to a countervailable subsidy, subject to a specified cap.¹¹¹ In conducting this analysis, Commerce has not concluded that concurrent application of NME dumping duties and countervailing duties (CVDs) necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

For purposes of our analysis under sections 777A(f)(1)(A) and (f)(1)(C) of the Act, Commerce requested firm-specific information from Zhongwei.¹¹² The information sought included information regarding whether countervailed subsidies were received during the relevant period, information on costs, and information regarding Zhongwei's pricing policies and practices. Additionally, Zhongwei was required to provide documentary support for the information provided. Zhongwei submitted a response to Commerce's firm-specific double remedies questionnaire.¹¹³ The response included information concerning countervailable subsidies received during the relevant period, as well as information regarding its costs and pricing policies and practices.

Even though Zhongwei is not a mandatory respondent in the companion CVD administrative review, it reported receiving countervailable subsidies for the provisions of carbon black, nylon cord, rubber, and electricity for LTAR, as well as an export credit insurance premium subsidy and discounted loans for export-oriented enterprises.¹¹⁴ Zhongwei also provided monthly POR costs for its purchases of carbon black, nylon cord, synthetic rubber, natural rubber, and electricity.¹¹⁵

In accordance with section 777A(f)(1)(A) of the Act, Commerce examined whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise.

Zhongwei provided information regarding its monthly costs for the POR associated with its purchases of carbon black, nylon cord, synthetic rubber, natural rubber, and electricity.¹¹⁶ Because Commerce found the provision of carbon black, nylon cord, synthetic rubber, natural rubber, and electricity for LTAR to be countervailable with respect to the class or kind of merchandise under consideration in the most recently completed CVD administrative review,

¹¹¹ See Section 777A(f)(1)-(2) of the Act.

¹¹² See Commerce letter, "Antidumping Duty Administrative Review of the Antidumping Order on Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Double Remedy Questionnaire," dated January 3, 2018.

¹¹³ See Zhongwei March 9, 2018 Double Remedies Questionnaire Response (Zhongwei DR Response).

¹¹⁴ *Id.* at 5. Because export credit insurance premium subsidy and discounted loans for export-oriented enterprises programs appear to be export subsidies, we did not make an adjustment pursuant to section 777A(f)(1)(A) of the Act. However, we did make an adjustment for export subsidies pursuant to section 772(c)(1)(C) of the Act. See "Export Subsidy Adjustment" section below.

¹¹⁵ *Id.* at Exhibits DR-1 through DR-6.

¹¹⁶ *Id.*

Commerce preliminarily finds that the requirement of section 777A(f)(1)(A) of the Act has been met.

Additionally, in accordance with section 777A(f)(1)(C) of the Act, Commerce examined whether Zhongwei demonstrated: (1) a subsidies-to-cost link, *i.e.*, a subsidy effect on the cost of manufacturing (COM) the merchandise under consideration; and (2) a cost-to-price link, *i.e.*, respondent's prices were dependent on changes in the COM. With respect to the subsidies-to-cost link, in the Double Remedies Questionnaire Response, Zhongwei reported that it consumed carbon black, nylon cord, synthetic rubber, natural rubber, and electricity in the production of subject merchandise and that it received subsidies for these inputs.¹¹⁷

Zhongwei provided information indicating that the subsidy programs affected its COM. Specifically, it provided information showing its input costs and the effects of those costs on its COM in the form of internal communications among its accounting, management and sales personnel.¹¹⁸ In addition, Zhongwei states that it identifies and monitors the cost fluctuations of these raw materials.¹¹⁹ Thus, Commerce preliminarily concludes that Zhongwei established a subsidies-to-cost link because subsidies for the provision of carbon black, nylon cord, synthetic and natural rubber, and electricity for LTAR impact Zhongwei's costs for producing subject merchandise.

For the cost-to-price link, Commerce examined whether Zhongwei demonstrated that changes in costs affected, or are taken into consideration, when setting prices. Zhongwei stated that the company will adjust the sales price of the subject tires when the raw material costs change substantially.¹²⁰ In addition, Zhongwei reports that its accounting department reports significant cost changes to the general manager.¹²¹ The general manager, in turn, considers the price changes and then instructs the sales department to conduct market research and price negotiations with the U.S. customer.¹²²

Based on the above, Commerce finds that Zhongwei provided adequate information to establish a link between subsidies (the provision of carbon black, nylon cord, synthetic rubber, natural rubber, and electricity for LTAR), costs, and prices. Therefore, Commerce is adjusting Zhongwei's U.S. price for a pass-through adjustment for domestic subsidies in its calculation of the dumping margin for Zhongwei. As noted previously, Zhongwei is not a mandatory respondent in the companion CVD administrative review. As a result, for these preliminary results, we will use the calculated domestic subsidy pass-through rate based on subsidy rates for the non-reviewed entities from the most recently completed CVD administrative review final results.¹²³

¹¹⁷ *Id.*

¹¹⁸ *Id.* X-2 through X-3 and Exhibit DR-2 through DR-3.

¹¹⁹ *Id.* at X-2, X-3, and X-6.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ See memorandum, "Certain New Pneumatic Off-the-Road Tires from the People's Republic of China" dated concurrently with the instant memorandum (Double Remedy Calculation Memorandum).

Export Subsidy Adjustment

Pursuant to section 772(c)(1)(C) of the Act, Commerce increases the U.S. price by the amount of any countervailing duty imposed to offset an export subsidy. We adjusted Zhongwei's U.S. net price by increasing it by the export subsidy rate calculated in the most recently completed CVD administrative review for the non-reviewed entities.¹²⁴

¹²⁴ See Preliminary SV Memo; see *also* Double Remedy Calculation Memorandum.

VI. Recommendation

We recommend applying the above methodology for these preliminary results.



Agree

Disagree

10/3/2018

X

Gary Taverman

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