UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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Investigation
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DATE: October 23, 2018

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

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

SUBJECT: Decision Memorandum for the Preliminary Determination of Sales at Less-Than-Fair-Value Investigation of Certain Steel Wheels from the People's Republic of China

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I. SUMMARY

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

II. BACKGROUND

On March 27, 2018, Commerce received an antidumping duty (AD) petition concerning imports of steel wheels from China, filed in proper form on behalf of Accuride Corporation and Maxion Wheels Akron LLC (collectively, the petitioners).[1] On April 24, 2018, Commerce initiated this investigation, under section 732(b) of the Act.[2]

In the Respondent Selection section of the *Initiation Notice*, Commerce stated that, in accordance with our standard practice for respondent selection in cases involving non-market economy

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[1] *See* the petitioners' March 27, 2018 Letter re: Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Imports of Certain Steel Wheels from the People's Republic of China (the Petition).
[2] *See Certain Steel Wheels from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 83 FR 17798 (April 24, 2018) (*Initiation Notice*).

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(NME) countries, we intended to issue a quantity and value (Q&V) questionnaire to each known producer or exporter of merchandise subject to the investigation, and select respondents based on the responses received. On April 27, 2018, we issued the Q&V questionnaire to all interested parties via ACCESS and our website.[3] In May 2018, we mailed the Q&V questionnaire to eighteen of thirty-two producers or exporters that were identified in the Petition and had usable addresses.[4]

On May 7, 2018, we received five Q&V responses: (1) Zhejiang Jingu Company Limited (Jingu) and Shanghai Yata Industry Company Limited (Yata), which filed a combined response and requested that Commerce use the combined quantities;[5] (2) Xiamen Topu Import & Export Co., Ltd., Sunrise International USA, Inc., Xiamen Sunrise Wheel Co., Ltd., Xiamen Sunrise Metal Co., Ltd., Xiamen Sunrise Group Co., Ltd. (collectively, Sunrise), which also filed a combined response;[6] (3) CIMAC Wheel Industries Co. Limited (CIMAC); (4) Jiaxing Stone Wheel Co., Ltd. (JSW); and (5) Xingmin Intelligent Transportation Systems (Group) (Xingmin).[7]

On June 4, 2018, we selected Sunrise and Jingu as mandatory respondents.[8] In June 2018, we issued an Initial Questionnaire and a Double Remedy Questionnaire to each mandatory respondent.[9] On June 22, 2018, Jingu withdrew its participation from this investigation and responded to none of Commerce's questionnaires.[10] During July 2018, Sunrise responded to the Initial Questionnaire and the Double Remedy Questionnaire.[11] The petitioners commented on Sunrise's questionnaire responses.[12] We issued supplemental questionnaires to, and received responses from, Sunrise from August 2018 through October 2018.[13] On September 26, 2018, the petitioners filed pre-preliminary comments with respect to Sunrise.[14] On October 4, 2018, Sunrise withdrew its participation and requested that Commerce return its business proprietary information (BPI).[15]

In the Separate Rates section of the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate-rate status in a NME LTFV

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[3] *See* https://enforcement.trade.gov/download/qvq/prc-qvq-steel-wheels-ad-initiation-042718.pdf.
[4] *See* June 26, 2018 Memorandum re: FedEx Receipts for Quantity and Value (Q&V) Questionnaires, and the Petition at Exhibit I-6 List of Chinese Producers and Exporter.
[5] *See* Jingu and Yata May 7, 2018 response.
[6] *See* May 7, 2018 Q&V response from Sunrise.
[7] *See* May 7, 2018 Q&V responses from CIMAC, JSW, and Xingmin.
[8] *See* June 4, 2018 Memorandum re: Respondent Selection (Respondent Selection Memorandum).
[9] *See* Commerce's June 5, 2018 and June 8, 2018 letters to Sunrise and Jingu (Initial Questionnaire, Double Remedy Questionnaire).
[10] *See* Jingu's June 22, 2018 Letter re: Notice of Non-Participation.
[11] *See* Sunrise's July 3, 2018 response (AQR), Sunrise's July 6, 2018 response (DRQR), Sunrise's July 26, 2018 response (CQR, DQR).
[12] *See* the petitioners' July 17, 2018 letter re: Petitioners' Deficiency Comments, Sunrise Section A; and the petitioners' August 8, 2018 letter re: Petitioners' Deficiency Comments, Sunrise Sections C and D.
[13] *See* Commerce's July 19, 2018 letter to Sunrise (ASQ), Commerce's August 7, 2018 letter to Sunrise (CDSQ), Commerce's September 13, 2018 letter to Sunrise (CDSQ2nd), Sunrise's July 31, 2018 response (ASQR), Sunrise's August 14, 2018 response (CDSQR), and Sunrise's October 1, 2018 (CDSQR2nd).
[14] *See* the petitioners' September 26, 2018 letter re: Petitioners' First Pre-Preliminary Comments.
[15] *See* Sunrise's October 4, 2018 letter re: Withdrawal from Participation.

investigation. The process requires exporters to submit a Separate Rate Application (SRA) to demonstrate an absence of both *de jure* and *de facto* government control over their export activities, and to respond the Q&V questionnaire. In May 2018, Jingu, Yata, Sunrise, CIMAC, JSW, and Xingmin each submitted an SRA.[16] In June 2018, the petitioners filed factual information to rebut the SRAs filed by JSW, Xingmin, and Jingu.[17] In July 2018 and August 2018, we issued SRA supplemental questionnaires to and received responses from JSW and Xingmin.[18]

We received no comments on the Scope of Investigation.

Regarding product characteristics, the petitioners and Sunrise submitted comments on May 7, 2018, and Jingu submitted rebuttal comments on May 17, 2018.[19] Only the petitioners provided a complete list of product characteristics. On June 27, 2018, we requested that Sunrise use the product characteristics from the petitioners' submission to respond the Initial Questionnaire.[20]

On June 21, 2018, Commerce released a list of potential surrogate countries and invited all interested parties to comment on the surrogate country list, surrogate country selection and surrogate value information.[21] On August 1, 2018, and August 6, 2018, the petitioners and Sunrise each submitted comments and rebuttal comments regarding surrogate country selection and surrogate value information.[22] On September 24, 2018, the petitioners submitted additional surrogate value information.[23] On October 2, 2018, we requested the petitioners and Sunrise to provide certain previously submitted exhibits in spreadsheet workbook format,[24] to which only the petitioners responded.

On August 8, 2018, the petitioners timely requested that Commerce postpone the preliminary determination until 190 days after the date of initiation.[25] Thereafter, pursuant to section

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[16] *See* Separate Rate Applications filed on May 31, 2018 (Jingu SRA, Yata SRA), on May 24, 2018 (CIMAC SRA, Xingmin SRA, Sunrise SRA, and on May 23, 2018 (JSW SRA)

[17] *See* the petitioners' June 6, 2018 Letter re: Petitioners' Rebuttal Factual Information, Jiaxing Separate Rate Application; the petitioners' June 7, 2018 Letter re: Petitioners' Rebuttal Factual Information, Xingmin Separate Rate Application; the petitioners' June 14, 2018 Letter re: Petitioners' Rebuttal Factual Information, Zhejiang Jingu Separate Rate Application.

[18] *See* Commerce's July 17, 2018 Letter to Xingmin and JSW re: Separate Rate Application Supplemental Questionnaire; Xingmin's July 24, 2018 Supplemental Response; JSW's August 3, 2018 Supplemental Response.

[19] *See* the petitioners' May 7, 2018 Letter re: Petitioners' Comments on Product Characteristics; Sunrise's May 7, 2018 Letter re: Comments on Product Characteristics; and Jingu's May 17, 2018 Letter re: Rebuttal Comments on Product Characteristics for the Antidumping Duty Questionnaire.

[20] *See* Commerce's June 27, 2018 Letter to Sunrise.

[21] *See* Commerce's June 21, 2018 Letter to all interested parties, re: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information.

[22] See the petitioners' August 1, 2018 Letters re: Petitioners' Comments on Surrogate Country Selection and Surrogate Values and re: Petitioners' Comments on Surrogate Values; the petitioners' August 6, 2018 Letter re: Petitioners' Rebuttal Surrogate Value Information; Sunrise's August 1, 2018 Letter re: Comments on Surrogate Country Selection and Surrogate Value Information; and Sunrise's August 6, 2018 Letter re: Rebuttal Comments on Surrogate Country Selection and Surrogate Value Information.

[23] *See* the petitioners' September 24, 2018 Letter re: Petitioners' Additional Surrogate Value Information.

[24] *See* Commerce's October 2, 2018 letters to the petitioners and Sunrise.

[25] *See* the petitioners' August 8, 2018 letter re: Petitioners' Request to Extend the Preliminary Determination.

733(c)(1)(A) of the Act and 19 CFR 351.205(e), Commerce postponed the deadline for the preliminary determination to no later than October 23, 2018.[26]

On August 15, 2018, pursuant to section 735(a)(2) of the Act, Sunrise requested that Commerce postpone the final determination and extend provisional measures from four months to six months.[27] In accordance with 19 CFR 351.210(e)(2), we are still considering this request.

On May 17, 2018, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of steel wheels from China.[28]

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2017, through December 31, 2017.

IV. SCOPE OF THE INVESTIGATION

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

V. DISCUSSION OF THE METHODOLOGY

A. Return of Sunrise's BPI

The submission of information within an antidumping proceeding is voluntary.[29] To administer the antidumping law, Commerce depends heavily upon the willingness of the parties to provide extensive BPI. As a result, there is a public interest in preserving the trust of companies subject to Commerce's proceedings that such information will have limited use and will remain largely within the control of the companies submitting such information. However, while it is Commerce's normal practice to allow parties to withdraw their BPI once it has been submitted,[30] the courts have also recognized "the inherent power of an administrative agency to protect the integrity of its own proceedings."[31] Thus, Commerce has the discretion to deny a respondent's request to withdraw BPI information from the record where it is necessary to preserve the fundamental integrity of the process and the remedial purpose of the law.[32]

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[26] *See Steel Wheels from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 83 FR 42110 (August 20, 2018).
[27] *See* Sunrise's August 15, 2018 Request to Postpone Final Determination.
[28] *See Steel Wheels from China*, 83 FR 22990 (May 17, 2018).
[29] *See* section 777 of the Act.
[30] *See Certain Tow Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 29167 (June 19, 2009), and accompanying Issues and Decision Memorandum at Comment 1 (*Tow Behind Lawn Groomers from China*).
[31] *Id.* (quoting *Alberta Gas Chemicals, Ltd. v. Celanese Corp.*, 650 F.2d 9, 12 (2d Cir. 1981)).
[32] *See Notice of Final Determination of Sales at Less Than Fair Value: Live Cattle from Canada*, 64 FR 56739, 56743 (October 21, 1999); *Tow Behind Lawn Groomers from China*, 74 FR at 29167, and accompanying Issues and Decision Memorandum at Comment 1 ("Superpower's desire to withdraw its questionnaire responses from the record would seriously undermine the effectiveness of the antidumping remedy in this case should the investigation

In practice, Commerce has normally allowed submitting parties to withdraw their BPI submissions from the administrative record.[33] In such cases, Commerce bases the company's margin on facts available, using an adverse inference where warranted.[34] It is Commerce's ability to use adverse facts available that ensures that a company will not benefit by a refusal to participate in a proceeding. Thus, application of AFA normally enables Commerce to permit withdrawal of BPI while protecting the integrity of the process. Here, we find that the use of AFA can serve this function if we allow Sunrise to remove its BPI from the record of this investigation. In particular, we find that removal of Sunrise's BPI from the record will not permit Sunrise to obtain a significantly more favorable result than if its BPI information were retained on the record. Consequently, we are granting Sunrise's request to return its BPI information and to remove it from the record of this investigation. However, consistent with our practice, we are retaining the public versions of Sunrise's filings on the record.[35]

B. Non-Market Economy Country

Commerce considers China to be an NME country.[36] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME shall remain in effect until revoked by the administering authority. Therefore, we continue to treat China as an NME for purposes of this preliminary determination

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result in an antidumping order").

[33] *See, e.g.*, *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from France*, 58 FR 6203, 6204-05 (January 27, 1993); *Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Corrosion-Resistant Carbon Steel Flat Products from Japan*, 58 FR 7103, 7104 (February 4, 1993), unchanged in *Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Corrosion-Resistant Carbon Steel Flat Products from Japan*, 58 FR 37154, 37154-55 (July 9, 1993); *Final Determination of Sales at Less Than Fair Value: Certain Small Business Telephone Systems and Subassemblies Thereof from Japan*, 54 FR 42541, 42542 (October 17, 1989); *Final Affirmative Countervailing Duty Determination: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from Israel*, 54 FR 15509, 15512 (April 28, 1989); *Tow Behind Lawn Groomers from China*, 74 FR at 29167, and accompanying Issues and Decision Memorandum at Comment 1; *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 56813, 56818 (November 3, 2009) *(Bags from Vietnam Prelim)*, unchanged in *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value*, 75 FR 16434 (April 1, 2010) (*Bags from Vietnam Final*).

[34] *See, e.g., Carbon Steel Products from France*, 58 FR at 6205.

[35] *See Bags from Vietnam Prelim*, 74 FR at 56818, unchanged in *Bags from Vietnam Final*, 75 FR at 16434.

[36] *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) and accompanying Decision Memorandum at 7 (citing Commerce's October 26, 2017 memorandum re *China's Status as a Non-Market Economy*), 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).

C. Separate-Rate Status

In proceedings involving an NME, 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.[37] In the *Initiation Notice*, Commerce notified parties of the application process by which exporters or exporter/producer combinations may obtain separate rate status in an NME proceeding.[38] Commerce's policy is to assign all exporters of subject merchandise 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.[39] Commerce analyzes whether each entity exporting the subject is sufficiently independent under a test established in *Sparklers*[40] and further developed in *Silicon Carbide*.[41] According to this separate rate test, Commerce will assign a separate rate in an NME proceeding 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 an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether that company is independent from government control and eligible for a separate rate.[42]

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades from China* proceeding, and its determinations therein.[43] In particular, in litigation involving *Diamond Sawblades from China*, 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 had significant ownership in the respondent

[37] *See*, *e.g.*, *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).
[38] *See Initiation Notice*, 83 FR at 17801.
[39] *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*).
[40] *Id.*
[41] *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*).
[42] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).
[43] *See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China* (May 6, 2013) in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), affirmed in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd* Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). This remand redetermination is available 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 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.

exporter.[44] Following the CIT's reasoning, in recent proceedings, we have concluded that where a government holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority holding in and of itself means that the government exercises, or has the potential to exercise, control over the company's operations generally.[45] This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect a majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company.

For the reasons discussed below, we preliminarily determine that Sunrise, Jingu, Yata, CIMAC, JSW and Xingmin did not demonstrate their eligibility for separate-rate status. Thus, they are part of the China-wide entity.

Sunrise
As discussed above, Sunrise withdrew its participation and requested that Commerce return its BPI submissions, including its SRA. Commerce has returned Sunrise's BPI submissions as requested; as a result, there is insufficient public information on the record to fully analyze Sunrise's separate rate request. Therefore, we preliminarily find that Sunrise failed to demonstrate an absence of government control, and, thus, is not eligible for a separate rate.[46]

Jingu
As noted above, on June 22, 2018, Jingu withdrew its participation without responding to the Initial and Double Remedy questionnaires. Accordingly, there is no record information to support its eligibility for a separate rate.[47] Therefore, we preliminarily find that Jingu failed to

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[44] *See*, *e.g.*, *Advanced Technology I*, 885 F. Supp. 2d at 1349 (CIT 2012) ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); *id*. at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {State-owned Assets Supervision and Administration Commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor de jure 'separation' that Commerce concludes.") (footnotes omitted); *id*. at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); *id*. at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).
[45] *See Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying Preliminary Decision Memorandum at 5-9; unchanged in *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 79 FR 68860 (November 19, 2014).
[46] *See* Commerce October 23, 2018 Memorandum re: Preliminary Determination on Separate-Rate Status (Preliminary SR Memo).
[47] In addition, our instructions in the *Initiation Notice* explained that, "{e}xporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire." *See Initiation Notice*, 83 FR at 17801. Jingu did not heed these instructions because it withdrew from the investigation.

demonstrate an absence of *de jure* and *de facto* government control, and, thus, is not eligible for a separate rate.[48]

Yata

In its SRA, Yata reported that it is a wholly-owned subsidiary of Jingu and that Jingu directly controls it through the appointment of its directors and management.[49] As discussed above, Jingu has not rebutted that it operates independently of government control and thus is not eligible for a separate rate. Moreover, on June 14, 2018, the petitioners submitted factual information which shows that certain of Jingu's shareholders are entities partially or wholly controlled by the government of China. Accordingly, for these reasons, Yata is not eligible for a separate rate.[50]

JSW

JSW's largest shareholder is a provincial government.[51] Its management appointment letters show that JSW does not have full autonomy from the government in making decisions regarding selection of management.[52] Given the level of government ownership and documentation showing that the government controls its management selection, we preliminarily find that JSW failed to demonstrate an absence of *de facto* government control, and thus, is not eligible for a separate rate.[53]

Xingmin

Our SRA instructs applicants to provide information with respect to all intermediate and ultimate shareholder entities (*i.e.*, not individuals).[54] Xingmin reported two shareholder entities (*i.e.*, financial companies) among a list of ten shareholders in response to our request for information and did not identify the ultimate shareholders for other shareholder entities listed in the capital verification report .[55] In our supplemental questionnaire, we again asked Xingmin to provide information regarding all shareholder entities along with supporting documentation.[56] In response, Xingmin provided the information with respect to the two financial companies that it initially reported but provided no supporting documentation.[57] Thus, despite multiple opportunities, Xingmin has not provided information with respect to its intermediate and ultimate shareholder entities, as is required by the SRA to demonstrate independence from the government. Therefore, we preliminarily find that Xingmin has not rebutted the presumption of government control and thus is not eligible for a separate rate.[58]

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[48] *See* Preliminary SR Memo.
[49] *See* Yata SRA at 14.
[50] *See* Preliminary SR Memo.
[51] *See* JSW SRA at 9-11 and Preliminary SR Memo.
[52] *See* JSW SRA at Exhibit 10 and Preliminary SR Memo.
[53] *See* Preliminary SR Memo.
[54] We ask the entity's name, contact information and whether the entity is the government or a SASAC. *See* SRA at 16 (Section IV De Facto Control, A Ownership, 1a).
[55] *See* Xingmin SRA at 10 – 11 and Exhibit 7, and Preliminary SR Memo.
[56] *See* Commerce's July 17, 2018 letter to Xingmin at Attachment, Question 1.
[57] *See* Xingmin SRA SQR and Preliminary SR Memo.
[58] *See* Preliminary SR Memorandum.

CIMAC

CIMAC reported that it is a trading company registered in Hong Kong that exported subject merchandise supplied by producers in China.[59] However, our analysis of the BPI version of CIMAC's SRA has led us to determine that it has not rebutted the presumption of government control.[60] Therefore, we have preliminarily determined that CIMAC is not eligible for a separate rate.[61] However, we intend to issue a supplemental questionnaire to CIMAC after this preliminary determination.

D. China-Wide Entity

As discussed above, Jingu and Sunrise, the two mandatory respondents, have each withdrawn their participation from this investigation. Therefore, and because they have not demonstrated their separate rate status, we have determined that they are considered to be part of the China-wide entity.[62] In addition, we have determined that Yata, JSW, Xingmin, and CIMAC, each of which filed a SRA, preliminarily have not qualified for separate-rate status, and, thus, they are part of the China-wide entity.[63] Finally, the remaining twenty-six of thirty-two producers or exporters identified in the Petition did not submit SRAs and are thus also part of the China-wide entity. As discussed below, we have preliminarily assigned the China-wide entity a rate based on AFA.

E. Application of Facts Available with Adverse Inferences

For the reasons discussed below, we preliminarily determine that the application of total adverse facts available (AFA) is appropriate with respect to the China-wide entity.

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, Commerce shall apply "facts otherwise available" if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

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

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[59] *See* CIMAC's SRA at 5, and Preliminary SR Memo.

[60] *See* the BPI version of the Preliminary SR Memo.

[61] *Id*.

[62] *See* Preliminary SR Memorandum.

[63] *Id.*

Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In so doing, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.[64] Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.[65]

Section 776(c) of the Act provides that, where Commerce relies on secondary information (such as the petition) rather than information obtained in the course of an investigation, it shall, to the extent practicable, corroborate information from independent sources that are reasonably at its disposal.[66] Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.[67] The SAA clarifies that "corroborate" means that Commerce will satisfy itself that the secondary information to be used has probative value,[68] although under the Act, Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.[69] To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used.[70]

Finally, under section 776(d) of the Act, Commerce may use a dumping margin from any completed segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins.[71] When selecting an AFA margin, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an "alleged commercial reality" of the interested party.[72]

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[64] *See* section 776(b)(1)(B) of the Act.
[65] *See also* 19 CFR 351.308(c).
[66] *See also* 19 CFR 351.308(d).
[67] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act (URAA), H.R. Doc. 103-316, at 870 (1994) (SAA).
[68] *Id.*; *see also* 19 CFR 351.308(d).
[69] *See* section 776(c)(2) of the Act.
[70] *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), *unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).
[71] See section 776(d)(1)-(2) of the Act.
[72] *See* section 776(d)(3) of the Act.

1. Application of Facts Available

Jingu withdrew its participation from this investigation and failed to respond to our Initial Questionnaire and our Double-Remedy Questionnaire.[73] In addition, Sunrise withdrew its participation from this investigation and requested that Commerce return its submitted BPI information. Commerce has returned such information. Accordingly, as discussed above, Commerce has preliminarily found that both Sunrise and Jingu are ineligible for a separate rate and are part of the China-wide entity.

Because these companies are part of the China-wide entity, we preliminarily find that necessary information is missing from the record, and that the China-wide entity has failed to provide necessary information, withheld information requested by Commerce, and significantly impeded this proceeding by not submitting the requested information, and provided information that cannot be verified. Accordingly, we preliminarily determine that the use of facts available is required in determining the rate for the China-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.

2. Application of Facts Available with an Adverse Inference

As discussed above, section 776(b) of the Act provides that Commerce, in selecting from among the facts otherwise available, may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Commerce finds that Jingu's and Sunrise's failures, as part of the China-wide entity, to respond to our questionnaires, based on their withdrawals from this investigation, demonstrates that the China-wide entity has failed to cooperate to the best of its ability in this investigation. Moreover, the China-wide entity did not submit documentation indicating that it was having difficulty providing the requested information, nor did it request to submit the information in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to determine an estimated weighted-average dumping margin for the China-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).[74]

3. Selection and Corroboration of the AFA rate

In selecting a rate for the China-wide entity based on AFA, Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[75] Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the Petition, or (b) the highest calculated dumping margin of any respondent in a

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[73] *See* Jingu's June 22, 2018 Letter re: Notice of Non-Participation and Sunrise's October 4, 2018 letter re: Withdrawal from Participation.

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

[75] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose from Finland,* 69 FR 77216, 77218 (December 27, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose from Finland*, 70 FR 28279 (May 17, 2005).

completed segment of this proceeding.[76] There are no calculated dumping margins for a respondent in this proceeding. Therefore, as AFA, Commerce has preliminarily assigned the China-wide entity the rate of 231.7 percent, which is the highest dumping margin alleged in the Petition. The estimated weighted-average dumping margin for the China-wide entity applies to all entries of the merchandise under investigation.

We have corroborated the dumping margin alleged in the Petition, to the extent practicable. Specifically, to corroborate the 231.7 percent Petition margin for purposes of this preliminary determination, Commerce first revisited its pre-initiation analysis of the reliability of the information in the Petition. During our pre-initiation analysis, we examined: (1) the information used as the basis for EP and NV in the Petition; (2) the calculations used to derive the alleged dumping margin; and (3) information from various independent sources provided either in the Petition or in supplements to the Petition.[77]

Based on our examination of this information, as discussed in detail in the Initiation Checklist, we consider the petitioner's EP and NV in the Petition to be reliable.[78] In addition, we obtained no other information that would make us question the validity of the sources of information or the validity of information supporting the U.S. price or NV provided in the Petition. Because we confirmed the accuracy and validity of the information underlying the calculation of the highest dumping margin alleged in the Petition by examining source documents, as well as publicly available information, we preliminarily determine that the highest dumping margin alleged in the Petition is reliable for the purposes of an AFA rate in this investigation.

In making a determination as to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal as to whether there are circumstances that would render a calculated dumping margin not relevant. The Petition rate is relevant because it is based on a U.S. price quote for the merchandise under consideration and the petitioners' production experience and surrogate values that are contemporaneous with POI, except for the labor rate.[79] In addition, no information has been placed on the record that discredits this information. As such, we find the Petition rate of 231.7 percent relevant. Furthermore, as there are no respondents in this investigation for which we are calculating a separate, estimated weighted-average dumping margin, we note that the Petition rate is the only rate available on the record of this proceeding.

Accordingly, Commerce has corroborated the AFA rate of 231.7 percent to the extent practicable within the meaning of section 776(c) of the Act.

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

[77] *See Initiation Notice*; *see also* Antidumping Duty Investigation Initiation Checklist: Certain Steel Wheels from the People's Republic of China, dated April 16, 2018 (Initiation Checklist).

[78] *Id*.

[79] *See* the Petition at Volume II at Exhibit II-7 (B) and the petitioners' August 1, 2018 letter re: Petitioners' Comments on Surrogate Country Selection and Surrogate Values at Exhibit 3, Attachment 6. The labor rate in the initiation is one Baht per hour higher than the contemporaneous labor rate.

VI. ADJUSTMENTS UNDER SECTION 777A(F) OF THE ACT

In applying section 777A(f)(1) of the Act, Commerce examines: (A) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (B) 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 (C) 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.[80] For a subsidy meeting these criteria, the statute requires Commerce to reduce the AD cash deposit rate by the estimated amount of the increase in the estimated weighted-average dumping margin subject to a specified cap.[81] Because there has been no demonstration on the record that an adjustment for domestic subsidies is warranted, we are making no such adjustment to the cash deposit rate being assigned to the China-wide entity.

VII. ADJUSTMENTS UNDER SECTION 772(C) OF THE ACT

Pursuant to section 772(c)(1)(C) of the Act, Commerce normally makes adjustments for countervailable export subsidies. In the companion CVD investigation, we preliminarily determined that Sunrise and the "all other" producers benefited from export subsidies.[82] Further, we preliminarily found that Jingu did not benefit from export subsidies.[83] As such, we find that may be appropriate to make an offset to the cash deposit rate for export subsidies in this LTFV investigation pursuant to section 772(c)(1)(C) of the Act.

For the China-wide entity, which is preliminarily receiving a margin based on AFA, Commerce is not able to publicly identify the Chinese exporter whose information forms the basis for the highest dumping margin alleged in the Petition. Accordingly, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, we would adjust the China-wide entity's estimated weighted-average dumping margin for export subsidies based on the lowest export subsidy rate determined for any party in the concurrent CVD proceeding.[84] For the CVD preliminary determination, the lowest export subsidy rate is zero, so in the circumstances of this

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[80] *See* section 777A(f)(1)(A)-(C) of the Act.
[81] *See* section 777A(f)(1)-(2) of the Act.
[82] *See Certain Steel Wheels from the People's Republic China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 44573 (August 31, 2018), and accompanying Decision Memorandum at 40-41 (*Steel Wheels from China CVD Prelim*).
[83] *Id*. at 17.
[84] *See, e.g., Cast Iron Soil Pipe Fittings from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances, in Part*, 83 FR 33205 (July 17, 2018), and accompanying Issues and Decision Memorandum at 7; *Fine Denier Polyester Staple Fiber from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 24740 (May 30, 2018), and accompanying Issues and Decision Memorandum at 8; *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 (November 2, 2017), and accompanying Preliminary Determination at 30, 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).

investigation no adjustment is necessary to determine the AD cash deposit rate being assigned to the China-wide entity.

VIII. VERIFICATION

Because the mandatory respondents withdrew their participation, verification of Sunrise and Jingu will not be conducted.

IX. CONCLUSION

We recommend applying the above methodology for this preliminary determination of sales at less than fair value.

☒	☐
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Agree	Disagree

10/23/2018

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