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**DATE:** December 18, 2018

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

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

**SUBJECT:** Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Steel Propane Cylinders from the People's Republic of China

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## I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that steel propane cylinders 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).

## II. BACKGROUND

On May 22, 2018, Commerce received an antidumping duty (AD) petition concerning imports of steel propane cylinders from China,[1] which was filed in proper form by Worthington Industries and Manchester Tank & Equipment Co. (collectively, the petitioners). Commerce initiated this investigation on June 11, 2018.[2]

[1] *See* Petitioners' letter, "Petitions for the Imposition of Antidumping Duties Against the People's Republic of China, Taiwan, and Thailand and Countervailing Duties Against the People's Republic of China on Steel Propane Cylinders," dated, filed May 22, 2018 (the Petitions). *See also* Petitioners' letter, "Steel Propane Cylinders from the People's Republic of China, Taiwan, and Thailand: Confidential Foreign Market Research Report," dated May 23, 2018 (Thailand Market Research Report).
[2] *See Steel Propane Cylinders from the People's Republic of China, Taiwan, and Thailand: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 28196 (June 18, 2018) (*Initiation Notice*).

In the *Initiation Notice*, Commerce notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy (NME) investigations.[3] The process requires exporters and producers to submit a separate rate application (SRA)[4] that demonstrates an absence of both *de jure* and *de facto* government control over their export activities. In the *Initiation Notice*, Commerce stated that SRAs would be due 30 days after publication of the notice, specifically, July 18, 2018.[5] Commerce received timely SRAs from three applicants, including both mandatory respondents, as discussed in the "Separate Rates" section, below.

Also in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of steel propane cylinders to be reported in response to Commerce's AD questionnaire.[6] On July 6, 2018, the petitioners and Shandong Huanri Group Co. Ltd. (Huanri) submitted comments to Commerce regarding the physical characteristics of the subject merchandise to be used for reporting purposes.[7] On July 16, 2018, the petitioners and SMPC filed rebuttal comments.[8] On July 12, 2018, the petitioners and Sahamitr Pressure Containers, Plc. (SMPC) submitted comments on the scope.[9] On July 23, 2018, the petitioners and SMPC submitted rebuttal scope comments.[10]

Furthermore, in the "Respondent Selection" section of the *Initiation Notice* Commerce stated its intent to base the selection of respondents for individual examination on responses to quantity and value (Q&V) questionnaires. On June 13, 2018, Commerce issued Q&V questionnaires electronically *via* ACCESS.[11] Commerce issued *via* mail the Q&V questionnaire to 10

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[3] *See Initiation Notice*, 83 FR at 28201.
[4] *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.
[5] *See Initiation Notice*, 83 FR at 28201.
[6] *Id.* at 28197-28198.
[7] *See* the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China and Thailand – Petitioners' Comments on Important Product Characteristics and Product Matching Hierarchy," dated July 6, 2018; and Huanri's letter, "Steel Propane Cylinders from the People's Republic of China - Comments on Product Matching Characteristics," dated July 6, 2018.
[8] *See* the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China and Thailand - Petitioners' Rebuttal to Respondents' Product Matching Comments," dated July 16, 2018, and SMPC's letter, "Antidumping Duty Investigations of Steel Propane Cylinders from Thailand and the People's Republic of China: Rebuttal Comments on AD Questionnaire Product-Matching Characteristics," dated July 16, 2018 (accompanied by SMPC's letter, "Antidumping Duty Investigations of Steel Propane Cylinders from Thailand and the People's Republic of China: Correction of Two Minor Typographical Errors Contained in July 16, 2018 Rebuttal Model-Match Comments," dated July 17, 2018.
[9] SMPC is an interested party in the Thai investigation. *See* Petitioners' letter, "Steel Propane Cylinders from the People's Republic of China and Thailand - Proposed Revision to Scope Language," dated July 12, 2018 (Petitioners Scope Comments); *see also* SMPC's letter, "Antidumping Duty Investigation of Steel Propane Cylinders from Thailand and the People's Republic of China: Comments on the Scope of the Investigations," dated July 12, 2018 (SMPC Scope Comments).
[10] *See* Petitioners' letter, "Steel Propane Cylinders from the People's Republic of China and Thailand – Petitioners' Rebuttal Scope Comments to Sahamitr Pressure Container Plc.," dated July 23, 2018 (Petitioners Rebuttal Scope Comments); *see also* SMPC's letter, "Steel Propane Cylinders from Thailand and the People's Republic of China: Rebuttal Comments on the Scope of the Investigation," dated July 23, 2018 (SMPC Rebuttal Scope Comments).
[11] Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).

companies identified by the petitioners as producers/exporters. Additionally, Commerce posted the Q&V questionnaire on its website, inviting parties that did not receive a Q&V questionnaire by mail to file a Q&V response.

On July 12, 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 propane cylinders from China.[12]

On July 13, 2018, based on responses to Q&V questionnaires, Commerce selected the two exporters accounting for the largest volume of steel propane cylinders during the period of investigation (POI) for individual examination: Huanri and TPA Metals and Machinery (DG) Co. Ltd. (TPA Metals).[13] On July 16, 2018, Commerce issued the AD questionnaire to Huanri and TPA Metals. Because TPA Metals did not submit an entry of appearance (EOA), Commerce sent both an electronic copy and physical copy of the questionnaire to the email and mailing addresses listed on the record with respect to the respondent.[14] The physical copy of the questionnaire was delivered on July 20, 2018.[15] However, TPA Metals subsequently failed to submit a response, request an extension, or otherwise communicate with Commerce regarding submission of a timely questionnaire response. On July 26, 2018, after analyzing the comments and rebuttals from the interested parties regarding physical characteristics of the merchandise, Commerce determined the physical characteristics to use in the investigation.[16] On August 9, 2018, Commerce selected Hong Kong GSBF Company Limited (GSBF) as an additional mandatory respondent in the investigation.[17]

On August 30, 2018, Commerce placed on the record a list of potential surrogate countries and invited interested parties to comment on the selection of the primary surrogate country and to provide surrogate value (SV) information.[18] On August 13, 2018, Commerce received comments on the list of potential surrogate countries from the petitioners, and Huanri and GSBF (collectively, the respondents).[19] On October 11, 2018, Commerce received comments on the selection of the surrogate country from the petitioners and the respondents.[20] On October 18,

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[12] *See Steel Propane Cylinders from China; Determinations*, 83 FR 32329 (July 12, 2018) (*ITC Preliminary Determination*).
[13] *See* Memorandum, "Antidumping Duty Investigation of Steel Propane Cylinders from the People's Republic of China, Respondent Selection," dated July 13, 2018 (Respondent Selection Memo).
[14] *See* Memorandum, "Correspondence with TPA Metals and Machinery (DG) Co. Ltd Regarding the Initial Questionnaire," dated July 17, 2018.
[15] *See* Memorandum, "Proof of Delivery of Initial Questionnaire" dated August 8, 2018.
[16] *See* Commerce's letter, "Physical Characteristics for the Antidumping Duty Investigation of Steel Propane Cylinders from the People's Republic of China," dated July 26, 2018.
[17] *See* Memorandum, "Antidumping Duty Investigation of Steel Propane Cylinders from the People's Republic of China: Selection of Additional Mandatory Respondent," dated August 9, 2018.
[18] *See* Memorandum, "Antidumping Duty Investigation of Steel Propane Cylinders from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated August 30, 2018 (Surrogate Country Memorandum).
[19] *See* the petitioners' letter, "Steel Propane Cylinders from China – Petitioners' Comments on the List of Potential Surrogate Countries," dated September 13, 2018 (Petitioners' Surrogate Country Comments); and the respondents' letter, "Steel Propane Cylinders from the People's Republic of China – Comments on the Surrogate Country List," dated September 13, 2018 (Respondents' Surrogate Country Comments).
[20] *See* the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China – Petitioners' Comments on Surrogate Country Selection," dated October 11, 2018 (Petitioners' Surrogate-Country Selection Comments); and

2018, the petitioners and respondents submitted preliminary surrogate value information.[21] On November 1, 2018, Commerce received surrogate value rebuttal information from the petitioners and respondents.[22] On November 19, 2018, Commerce received final surrogate value submissions from the petitioners and respondents.[23] On November 29, 2018, the petitioners and respondents submitted their final rebuttal comments regarding surrogate values.[24]

Commerce issued the initial AD questionnaire to Huanri and GSBF on July 16, 2018, and August 10, 2018, respectively.[25] Huanri and GSBF submitted timely responses to the AD Questionnaire (sections A through D) from August 13, 2018 through September 28, 2018.[26] We issued supplemental questionnaires to each company and received timely responses to these supplemental questionnaires from October 15, 2018, through December 7, 2018.[27]

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the respondents' letter, "Steel Propane Cylinders from the People's Republic of China - Comments on Surrogate Country Selection," dated October 11, 2018 (Respondents' Surrogate-Country Selection Comments).

[21] *See* the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China – Petitioners' Submission of Surrogate Values," dated October 18, 2018 (Petitioners' SV Submission); and the respondents' letter, "Steel Propane Cylinders from the People's Republic of China – Preliminary Surrogate Value Submission," dated October 18, 2018 (Respondents' SV Submission).

[22] *See* the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China – Petitioners' Submission of Rebuttal Information Regarding Respondents' Surrogate Values," dated November 1, 2018 (Petitioners' SV Rebuttal); and the respondents' letter, "Steel Propane Cylinders from the People's Republic of China – Rebuttal Surrogate Value Submission," dated November 1, 2018 (Respondents' SV Rebuttal).

[23] *See* the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China – Petitioners' Final Surrogate Value Submission 30 Days Before the Preliminary Determination," dated November 19, 2018 (Petitioners' Final SV Comments); and respondents' letter, "Steel Propane Cylinders from the People's Republic of China – Final Surrogate Value Submission," dated November 19, 2018 (Respondents' Final SV Comments).

[24] *See* the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China – Petitioners' Final Surrogate Value Rebuttal Submission," dated November 29, 2018 (Petitioners' Final SV Rebuttal); and respondents' letter, "Steel Propane Cylinders from the People's Republic of China – Final Rebuttal Surrogate Value Submission & Pre-Preliminary Comments," dated November 29, 2018 (Respondents' Final SV Rebuttal and Pre-Prelim Comments).

[25] *See* Commerce's letters to Huanri and GSBF, "Request for Information: Antidumping Duty Investigation," dated July 16, 2018 and August 10, 2018, respectively (AD Questionnaire).

[26] *See* Huanri's letter, "Steel Propane Cylinders from the People's Republic of China - Section A Questionnaire Response," dated August 13, 2018 (Huanri's AQR); Huanri's letter, "Steel Propane Cylinders from the People's Republic of China - Section C and D Questionnaire Response," dated September 6, 2018 (Huanri's CDQR). *See also* GSBF's letter, "Steel Propane Cylinders from the People's Republic of China - Section A Questionnaire Response," dated September 7, 2018 (GSBF's AQR); GSBF's letter, "Steel Propane Cylinders from the People's Republic of China - Section C Questionnaire Response," dated September 21, 2018 (GSBF's CQR); GSBF's letter, "Steel Propane Cylinders from the People's Republic of China - Section D Questionnaire Response," dated September 28, 2018 (GSBF's DQR).

[27] *See* Huanri's letter, "Steel Propane Cylinders from the People's Republic of China – First Supplemental Questionnaire for the Section A Questionnaire Response," dated October 15, 2018 (Huanri's SAQR); Huanri's letter, "Steel Propane Cylinders from the People's Republic of China – Second Supplemental Questionnaire Response (Sections C & D)," dated November 1, 2018 (Huanri's SCDQR); Huanri's letter, "Steel Propane Cylinders from the People's Republic of China – Third Supplemental Questionnaire Response (Section A)," dated November 9, 2018 (Huanri's 2SAQR); Huanri's letter, "Steel Propane Cylinders from the People's Republic of China – Fourth Supplemental Questionnaire Response (Sections C & D and Preliminary Surrogate Value Submission)," dated November 29, 2018 (Huanri's 2SCDQR); *See also* GSBF's letter, "Steel Propane Cylinders from the People's Republic of China – Supplemental Section A Questionnaire Response," dated November 13, 2018 (GSBF's SAQR); GSBF's letter, "Steel Propane Cylinders from the People's Republic of China – Supplemental Section C Questionnaire Response," dated November 20, 2018 (GSBF's SCQR); GSBF's letter, "Steel Propane Cylinders from the People's Republic of China – Supplemental DOT Standards and FOPs Questionnaire Response," dated December 4, 2018 (GSBF's FOP QR); GSBF's letter, "Steel Propane Cylinders from the People's Republic of

On October 1, 2018, the petitioners submitted a timely request to postpone the preliminary determination in this investigation.[28] On October 15, 2018, Commerce published in the *Federal Register* the notice of postponement of the deadline for the preliminary determination, in accordance with section 703(c)(l)(A) of the Act and 19 CFR 351.205(e), until no later than 190 days after the initiation of the investigation, *i.e.*, December 18, 2018.[29]

On November 29, 2018, the respondents submitted comments in advance of Commerce's preliminary determination.[30] The petitioners provided pre-preliminary comments on December 7, 2018.[31]

We are conducting this investigation in accordance with section 733(b) of the Act.

## III. PERIOD OF INVESTIGATION

The POI is October 1, 2017, through March 31, 2018. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was May 2018.[32]

## IV. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

On December 7, 2018, in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), the respondents requested that, if the preliminary determination in the above-referenced investigation is affirmative, Commerce postpone the final determination and the provisional measures by the corresponding period of extension (*e.g.*, by an additional 60 days), which represents a period not to exceed six months, in accordance with 19 CFR 351.210(b)(2)(ii).[33]

On December 14, 2018, and December 17, 2018, the petitioners provided their support for the respondents' request to extend the final determination of this investigation.[34]

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China – Supplemental Section D Questionnaire Response," dated December 7, 2018 (GSBF's SDQR).

[28] *See* the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China – Petitioners' Request to Extend the Preliminary Antidumping Duty Determination," dated October 1, 2018.

[29] *See Steel Propane Cylinders from the People's Republic of China and Thailand: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 83 FR 51927 (October 15, 2018).

[30] *See* Respondents' Final SV Rebuttal and Pre-Prelim Comments.

[31] *See* the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China – Petitioners' Pre-Preliminary Determination Comments," dated December 7, 2018 (Petitioners' Pre-Preliminary Comments); the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China – Petitioners' Pre-Preliminary Determination Comments Regarding GSBF," dated December 7, 2018 (Petitioners' Pre-Preliminary GSBF Comments).

[32] *See* 19 CFR 351.204(b)(1).

[33] *See* respondents' letter, "Steel Propane Cylinders from the People's Republic of China – Request for Extension of Final Determination," dated December 7, 2018.

[34] *See* the petitioners' letter, "Steel Propane Cylinders from the People's Republic of China -- Petitioners' Concur In the Request of GSBF to Extend the Antidumping Duty Final Determination," dated December 14, 2018. *See also* the petitioner's letter, "Steel Propane Cylinders from the People's Republic of China and Thailand -- Petitioners' Concur In the Request of the Respondents to Extend the Antidumping Duty Final Determination," dated December 17, 2018.

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative, (2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request. Thus, we are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*, and we are extending provisional measures from four months to a period not to exceed six months.

## V. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,[35] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).[36] The petitioners and SMPC commented on the scope of the steel propane cylinders investigation, as published in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[37] We have evaluated the scope comments filed by the interested parties, and we have determined to revise the first sentence of the scope as follows to indicate that it covers steel cylinders for compressed or liquefied propane or other gases:[38]

> The merchandise covered by these petitions is steel cylinders for compressed or liquefied propane ***or other gases*** (Steel Propane Cylinders) meeting the requirements of, or produced to meet the requirements of, U.S. Department of Transportation (USDOT) Specifications 4B, 4BA, or 4BW, or Transport Canada Specification 4BM, 4BAM, or 4BWM, or United Nations pressure receptacle standard ISO 4706 ***and otherwise meeting the description provided below***.[39]

The remainder of the scope language remains unchanged from the *Initiation Notice*. For the complete scope, *see* Appendix I of the accompanying preliminary determination *Federal Register* notice. In the Preliminary Scope Decision Memorandum, we set a separate briefing schedule on scope issues for interested parties. Should we receive comments submitted in the scope case and rebuttal briefs on the Preliminary Scope Decision Memorandum, we will issue a final scope decision on the records of the steel propane cylinders investigations after considering any such comments.[40]

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[35] *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).
[36] *See Initiation Notice*, 83 FR at 28197.
[37] *See* Memorandum, "Steel Propane Cylinders from the People's Republic of China (China) and Thailand: Scope Decision Memorandum for the Preliminary Antidumping Duty (AD) and Countervailing Duty (CVD) Determinations," dated concurrently with this memorandum (Preliminary Scope Decision Memorandum).
[38] *Id*. at 6-7.
[39] The bolded/italicized text identifies the sections of the scope revised as a result of the Preliminary Scope Decision Memorandum.
[40] *See* the Preliminary Scope Decision Memorandum at 8-9.

## VI. DISCUSSION OF THE METHODOLOGY

### *A) Non-Market Economy Country*

Commerce considers China to be an NME country.[41] 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 Commerce. Therefore, we continue to treat China as an NME country for purposes of this preliminary determination.

### *B) Surrogate Country*

Generally, when Commerce investigates imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOP), valued using a surrogate market economy (ME) country or countries that Commerce considers economically comparable and a significant producer of comparable merchandise. Specifically, section 773(c)(4) of the Act states that Commerce shall utilize, to the extent possible, in valuing the FOPs, 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.[42]

Commerce determined that Brazil, Kazakhstan, Malaysia, Mexico, Romania, and Russia are countries at the same level of economic development as China based on *per capita* gross national income (GNI).[43] The sources of the SVs we used in this investigation are discussed in the "Normal Value" section below.

The petitioners submit that Commerce should select Malaysia as the primary surrogate country, noting that Malaysia has the second-highest export volume of comparable merchandise out of the potential surrogate countries.[44] They also note that due to strong domestic demand, Malaysia is not a net exporter of the subject merchandise, but argue that domestic producers primarily serve the national market, which does not detract from its comparability.[45]

The respondents submit that Commerce should select Mexico as the primary surrogate country for this investigation, noting that Mexico is the only significant net exporter of the subject merchandise, reliable Mexican data is typically available, and Mexican surrogate values have been submitted on the record for both respondents.[46] If Commerce should not select Mexico, the respondents put forth Romania as a reliable alternative, noting that Romania has also been

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[41] *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, *China's Status as a Non-Market Economy*.
[42] *See* Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1).
[43] *See* Surrogate Country Memorandum.
[44] *See* Petitioners' Surrogate-Country Selection Comments.
[45] *Id.*
[46] *See* Respondents' Surrogate-Country Selection Comments; *see also* Respondents' Final SV Rebuttal and Pre-Prelim Comments.

selected as a surrogate country in past proceedings and has better quality surrogate data than Malaysia.[47]

### *1. Economic Comparability*

Section 773(c)(4) of the Act states that Commerce "shall utilize, to the extent possible, the prices or costs of {FOPs} in one or more market economy countries that are… at a level of economic development comparable to that of the {NME} country." However, section 773(c)(1) of the Act is silent with respect to how Commerce may determine that a country is at a comparable level of economic development as the NME country or what methodology Commerce must use in evaluating this criterion. The U.S. Court of International Trade (CIT) has found the use of *per capita* GNI to be a "consistent, transparent, and objective metric to identify and compare a country's level of economic development" and "a reasonable interpretation of the statute."[48]

Unless it is determined that none of the countries identified above are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons, we will rely on data from one of these countries.

In this investigation, Commerce finds that Brazil, Kazakhstan, Malaysia, Mexico, Romania, and Russia are all at the same level of economic development as China, based on *per capita* gross national economic income.[49]

In the Surrogate Country Memorandum, we invited parties to comment on the list as a starting point for surrogate country selection pursuant to 773(c)(4) of the Act, and to propose for consideration other countries that are at a level of economic development comparable to China. In response, both the petitioners and respondents submitted comments requesting that Commerce consider Thailand as economically comparable and, thus, a potential surrogate country and, additionally, respondents requested that Commerce further consider Bulgaria as a potential surrogate.[50] However, we note that the *per capita* GNI for both Bulgaria and Thailand falls below that of any country indicated on the list and, thus, each rests outside the band of economic comparability identified by the Office of Policy to be representative of countries at the same level of economic development as that of China. Accordingly, we do not find that Thailand or Bulgaria are at the same level of economic development as that of China and, as no party provided subsequent surrogate value data nor further argued for the selection of either country as the primary surrogate past the initial comment stage, we will not consider Thailand or Bulgaria in selecting the primary surrogate country in this investigation.

### *2. Significant Producers of Identical or Comparable Merchandise*

Section 773(c)(4)(B) of the Act requires Commerce, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute

[47] *Id.*
[48] *See Jiaxing Brother Fastener Co. v. United States, 9*61 F. Supp. 2d 1323, 1329 (CIT 2014).
[49] *See* Surrogate Country Request at Attachment.
[50] *See* Petitioners' Surrogate Country Comments at 3 and Respondents' Surrogate Country Comments at 2-4.

nor Commerce's regulations provide further guidance on what may be considered comparable merchandise. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, Commerce's has in other proceedings examined which countries on the surrogate country list exported merchandise comparable to the subject merchandise. The record contains export data showing that Brazil, Kazakhstan, Malaysia, Mexico, Romania, and Russia are producers of comparable merchandise.[51] Accordingly, we preliminarily find that Brazil, Kazakhstan, Malaysia, Mexico, Romania, and Russia have met the significant producer of comparable merchandise prong of the surrogate country selection criteria.

Throughout various relevant submissions, the respondents assert that the relative volume of Mexican exports (it is the largest exporter among the potential surrogate countries) supports the selection of Mexico on the basis of this criteria over the other potential surrogates with usable data on the record (*i.e.*, Malaysia and Romania, which are net importers of comparable merchandise, according to the same trade data).[52] The petitioners rebut that HTS 7311.00 (Containers For Compressed Or Liquefied Gas Of Iron Or Steel) is a broader-basket category inclusive of both subject merchandise and non-subject containers and note that more specific trade data on the record suggests that Mexico is no larger of a producer or exporter of identical merchandise than Romania or Malaysia (and that the relatively large export statistics in that category may be distorted by exports of significantly larger kinds of non-subject cylinder), and that other supplementary material suggests that Malaysia is, indeed, a significant producer of propane cylinders for domestic consumption.[53] Regardless, we find that, as stated above, export data on the record demonstrates that Malaysia, Mexico, and Romania are producers of comparable merchandise and thus cannot be excluded on this basis, a point that no party contests, and, moreover, that sufficient record evidence is available to determine that both Malaysia and Mexico are producers of identical merchandise.

### *3. Data Availability*

When evaluating SV data, Commerce considers several factors including whether the SV data is publicly available, contemporaneous with the POI, representative of broad-market averages, tax and duty-exclusive, and specific to the input.[54] There is no hierarchy among these criteria. Commerce carefully considers the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.[55]

[51] *See* Respondents' Surrogate Country Comments at Attachment 4.
[52] *See, generally,* Respondents' Surrogate Country Comments; Respondents' Surrogate-Country Selection Comments; Respondents' SV Submission; Respondents' SV Rebuttal; Respondents' Final SV Comments; Respondents' Final SV Rebuttal and Pre-Prelim Comments.
[53] *See, generally,* Petitioners' Surrogate Country Comments; Petitioners' Surrogate-Country Selection Comments; Petitioners' SV Submission; Petitioners' SV Rebuttal; Petitioners' Final SV Comments; Petitioners' Final SV Rebuttal.
[54] *See, e.g.*, *Certain Activated Carbon from the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review*, 77 FR 67337 (November 9, 2012), and accompanying Issues and Decision Memorandum at 8.
[55] *See* Policy Bulletin 04.1.

The petitioners, GSBF, and Huanri placed fulsome datasets on the record from Malaysia, Mexico, and Romania.[56] No parties placed SV information on the record for Brazil, Kazakhstan, or Russia or argued that these countries should be selected as the surrogate country. Thus, Commerce has not considered Brazil, Kazakhstan, or Russia for surrogate country selection purposes in this investigation.

Commerce preliminarily finds that, given the totality of circumstances in consideration of all data submitted, and on the record, the Malaysia data represent the best available data for valuing the relevant FOPs because the data are publicly available, contemporaneous, represent a broad market average, and are tax and duty exclusive, and specific for the majority of inputs used by the respondents to produce subject merchandise during the POI.[57] Specifically, as discussed further, below, and in the Preliminary SV Memorandum, the selection of Malaysia allows surrogate financial ratios to be derived from financial statements of producers of identical merchandise, whereas Mexico offers only a single financial statement from a comparable producer and Romania does not offer financial statements from manufacturers of products we consider comparable to subject merchandise. Thus, we preliminarily determine that the Malaysian financial statements on the record are the best available information with respect to the calculation of surrogate financial ratios.

The respondents obtained Romanian import statistics from Eurostat for all required material inputs.[58] In addition, they provided financial statements from: 1) Altur SA, a producer of castings made of aluminum alloys and pistons for motor vehicles, tractors, trucks, aluminum casting for the electrotechnical industry; and, 2) Compa Sibiu, which manufactures other parts and accessories for motor vehicles and motor vehicle engines.[59] However, we preliminarily determine that neither are producers of merchandise comparable to subject merchandise.[60]

Respondents derived the Mexican SVs for material inputs using import statistics from SIAVI and UN COMTRADE.[61] In addition, respondents provided surrogate financial statements from only one company, Grupo Industrial Saltillo, a conglomerate that designs, produces, and markets products for the auto parts, construction and housewares sectors, the most similar of which is hot-water heaters and large boilers/tanks (and, thus, reflects comparable, not identical, production in that segment). Therefore, since we have financial statements from producers of

[56] *See, generally,* Petitioners' SV Submission; Respondents' SV Submission; Petitioners' SV Rebuttal; Respondents' SV Rebuttal; Petitioners' Final SV Comments; Respondents' Final SV Comments; Petitioners' Final SV Rebuttal; Respondents' Final SV Rebuttal and Pre-Prelim Comments.
[57] *See* Memorandum, "Propane Tanks from the People's Republic of China: Preliminary Factors Valuation Memorandum," dated concurrently with this memorandum (Preliminary SV Memorandum). As further discussed in the Preliminary SV Memorandum, because neither the petitioners nor the respondents submitted data using Commerce's preferred Global Trade Atlas (GTA) source in providing import data to the record for potential surrogates (instead providing info from Trade Data Monitor for Malaysia and SIAVI and UN COMTRADE for Mexico), we have downloaded data for the identical HTS subcategories to corroborate the Malaysian data submitted, and used the GTA data for the purposes of this preliminary determination.
[58] *See* Respondents' Final SV Comments at Exhibit SV2-8 - 9.
[59] *Id.* at Exhibit SV2-11 - 12.
[60] *Id.*; *see also* Petitioners' Surrogate-Country Selection Comments, at 3.
[61] *See* Respondents' SV Submission, at Exhibit SV-1, SV-3.

identical merchandise from Malaysia, we find that the Mexico financial statement is not the best available information on the record to value the financial ratios of the respondents.[62]

The petitioners provided Malaysian import statistics from the Trade Data Monitor (TDM), which is sourced from the Malaysian Department of Statistics.[63] However, because TDM is a private, subscription-based, database, we are unable to corroborate the data submitted and preliminarily decline to use the TDM data as the source of SVs for the purposes of this investigation. Rather, for the preliminary determination, we have obtained Malaysian import statistics under the same HTS categories submitted by the petitioners from the Global Trade Atlas (GTA), which is a source that is regularly used by Commerce because the data therein meet Commerce's SV criteria.[64] Additionally, the petitioners provided a number of financial statements for Malaysian companies that produce identical or comparable merchandise.[65] One of these financial statements is from a producer of identical merchandise, Siraga. While the respondents note concerns that Siraga's business operations are more focused on the servicing, and not production, aspect of the propane industry, we find that Siraga is a producer of identical merchandise, in addition to being a servicer.[66] The respondents also submitted a financial statement of KKB Group, a producer of identical merchandise.[67] The petitioners note that only the consolidated financial statements of the KKB Group are available for use, not the stand-alone financial statements of the company, and thus pull in the 40 percent stake in an affiliate whose operations involve refurbishing of tanks and, as such, the statement reflects more servicing/refurbishing income and expenses than those of Siraga (which respondents oppose for the same reason).[68] As discussed in greater detail in the Preliminary SV Memorandum, we have taken parties' concerns into consideration, but preliminarily determine that both the KKB and Siraga statements represent the experience of producers of identical merchandise and thus are suitable for use in calculating surrogate financial ratios.

Based on the foregoing, we find that Malaysia best meets our criteria for a surrogate country, given the completeness and contemporaneity of the data, including contemporaneous financial statement data from two producers of identical merchandise. Therefore, Commerce preliminarily determines that, pursuant to section 773(c)(4) of the Act, it is appropriate to use Malaysia as the primary surrogate country. Malaysia is: (1) at the same level of economic development of China; (2) a significant producer of merchandise comparable to the subject merchandise; and (3) offers the best available data for valuing FOPs. An explanation of the SVs upon which Commerce is preliminarily relying can be found in the "Normal Value" section of this memorandum.

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[62] *Id.* at Exhibit SV-10 - 12.
[63] *See, generally*, Petitioners' SV Submission. As discussed in the Preliminary SV Memorandum, Commerce has instead utilized import data sourced from GTA, our preferred source of import statistics.
[64] *See* Preliminary SV Memorandum for further discussion.
[65] *See* Petitioners' Final SV Comments, at Exhibit 4.
[66] *See* Respondents' Final SV Rebuttal and Pre-Prelim Comments, at 9-11.
[67] *See* Respondents' Final SV Comments at Exhibit SV2-7.
[68] *See* Petitioners' Final SV Rebuttal, at 11.

*C) Separate Rates*

In proceedings involving NME countries, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.[69] 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.[70] Commerce analyzes whether each entity exporting the subject merchandise is sufficiently independent under a test established in *Sparklers*[71] and further developed in *Silicon Carbide*.[72] 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 Commerce determines that a company is wholly foreign-owned, the separate rate analysis is not necessary to determine whether that company is independent from government control and therefore eligible for a separate rate.

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from the China AD proceeding, and its determinations therein.[73] In particular, in litigation involving the diamond sawblades from China proceeding, the CIT found Commerce's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.[74] Following the Court's reasoning, in recent proceedings, we have concluded that where a government holds a majority ownership share, directly or indirectly, in the respondent

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[69] *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).
[70] *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*).
[71] *Id.*
[72] *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*).
[73] *See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China* (May 6, 2013) in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), affirmed in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd* Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). This remand redetermination is on the Enforcement and Compliance website at http://enforcement.trade.gov/remands/12-147.pdf; *see also Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memo at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014) and accompanying Issues and Decision Memorandum at Comment 1.
[74] *See, e.g., Advanced Technology I*, 885 F. Supp. 2d at 1349 ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); and 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); and 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."); and 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).

exporter, the majority holding *per se* means that the government exercises, or has the potential to exercise, control over the company's operations generally.[75] This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company.

### *1. Separate Rate Recipients*

Commerce preliminary determines that Huanri,[76] GSBF,[77] and Jiaxing Pressure Vessel Factory (Pressure Vessel)[78] are eligible for a separate rate, as explained below.

GSBF reported that it is a Hong Kong-owned company.[79] Therefore, because Commerce has no evidence indicating that this company is under the control of the Chinese government, further analyses of the *de jure* and *de facto* criteria are not necessary to determine whether GSBF is independent from government control of its export activities. Thus, we preliminarily determine that GSBF is eligible for a separate rate.

Pressure Vessel and Huanri provided evidence that they are either Chinese limited liability companies or wholly Chinese-owned companies;[80] accordingly, we analyzed whether each of these companies demonstrated an absence of *de jure* and *de facto* government control over their respective export activities.

#### *a. Absence of De Jure Control*

Commerce considers the following *de jure* criteria when determining whether an individual company will receive a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.[81]

[75] *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).
[76] *See* letter from Huanri, "Steel Propane Cylinders from the People's Republic of China – Separate Rate Application," dated July 18, 2018 (Huanri's SRA).
[77] *See* letter from GSBF, "Steel Propane Cylinders from the People's Republic of China – Separate Rate Application," dated July 18, 2018 (GSBF's SRA).
[78] *See* letter from Pressure Vessel, "Steel Propane Cylinders from the People's Republic of China – Separate Rate Application," dated July 18, 2018 (Pressure Vessel's SRA).
[79] *See* GSBF's SRA at 7.
[80] *See* Huanri's SRA at 9; Pressure Vessel's SRA at 7.
[81] *See Sparklers*, 56 FR at 20589.

The evidence provided by Huanri and Pressure Vessel supports a preliminary finding of an absence of *de jure* government control for both companies 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 over export activities of companies.[82]

*b. Absence of De Facto Control*

Typically, Commerce considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices (EPs) are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.[83] Commerce has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control, which would preclude Commerce from assigning separate rates.

The evidence provided by Huanri and Pressure Vessel[84] supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that the companies: (1) set their own EPs independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

Therefore, the evidence placed on the record of this investigation by Huanri and Pressure Vessel demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, Commerce preliminarily grants separate rates to each of these companies.

*c. Margin for the Separate Rate Companies*

Normally, Commerce's practice is to assign to separate rate entities that were not individually examined a rate equal to the average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on adverse facts available (AFA).[85] However, because we calculated a rate for the two individually investigated

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[82] *See, generally,* Huanri's SRA and Pressure Vessel's SRA.
[83] *See Silicon Carbide*, 59 FR at 22586-87; *see also 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).
[84] *See* Huanri's SRA at 15-17 and Exhibit 8; Pressure Vessel's SRA at 7, 12-15.
[85] This practice is guided by section 735(c)(5)(A) of the Act, which describes how to calculate the "all others" rate in market economy investigations. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair*

respondents in this investigation that are not zero, *de minimis*, or based entirely on facts available, we cannot apply the weighted-average margin using the actual net U.S. sales values and antidumping duty amounts of GSBF and Huanri to the separate-rate company because doing so would indirectly disclose business-proprietary information to both of these companies. Alternatively, we have previously applied the simple average of the margins we determined for the selected companies.[86] In order to strike a balance between our duty to safeguard parties' business proprietary information and our attempt to adhere to the guidance set forth in section 735(c)(5)(A) of the Act, we calculated a weighted-average margin for non-selected separate rate respondent using the publicly available, ranged total U.S. sales values of the selected respondents, compared the resulting public, weighted-average margin to the simple average of the antidumping duty margins, and used the amount which is closer to the actual weighted average margin of the selected respondents as the margin for the non-selected respondents.[87] Therefore, we preliminarily assign Pressure Vessel, the only non-individually examined company in this investigation, a rate of 33.86 percent, which is equal to the weighted average of the rates calculated for the mandatory respondents based on their publicly available, ranged U.S. sales values and dumping margins.[88]

*D) Combination Rates*

In the *Initiation Notice*, Commerce stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.[89] This practice is described in Policy Bulletin 05.1.

*E) The China-wide Entity*

The record indicates that there were other Chinese exporters and/or producers of the subject merchandise during the POI that did not respond to Commerce's requests for information. Specifically, Commerce did not receive timely responses to its Q&V questionnaire from four Chinese exporters and/or producers of subject merchandise that were named in the Petition and to whom Commerce issued Q&V questionnaires.[90] TPA Metals, which did respond to the Q&V questionnaire and was initially selected as a mandatory respondent in this investigation, failed to respond to Commerce's initial questionnaire, and was thus deemed non-responsive. Because non-responsive Chinese companies have not demonstrated that they are eligible for separate rate status, Commerce finds that they have not rebutted the presumption of government control and, thus, Commerce considers them to be part of the China-wide entity. Furthermore, as explained below, we are preliminarily determining the China-wide rate on the basis of AFA. We have preliminarily assigned the China-wide entity a dumping margin of 108.60 percent.

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*Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

[86] *See e.g., Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008).

[87] *See, e.g., Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53662 (September 1, 2010)*, and the accompanying Issues and Decision Memorandum at Comment 1.

[88] *See* memorandum, "Steel Propane Cylinders from the People's Republic of China – Calculation of Preliminary Dumping Margin for Separate Rate Recipients," dated concurrently with this memorandum.

[89] *See Initiation Notice*, 83 FR at 28201.

[90] *See* Respondent Selection Memorandum at 2.

### *F) Application of Facts Available and Adverse Inferences*

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

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

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

#### *1. Use of Facts Available*

Commerce preliminarily finds that the use of facts available is appropriate for the China-wide entity, which includes certain Chinese exporters and/or producers that did not respond to Commerce's requests for information, failed to provide necessary information, withheld information requested by Commerce, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information. Accordingly, Commerce preliminarily determines that use of facts available is warranted in determining the rate of the China-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.[91]

#### *2. Application of Facts Available with an Adverse Inference*

Section 776(b) of the Act provides that in selecting from among the facts otherwise available, Commerce may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Commerce finds that the China-wide entity's lack of participation, including the failure of certain

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[91] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986, 4991 (January 31, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

parts of the China-wide entity to submit Q&V information, constitutes circumstances under which it is reasonable to conclude that the China-wide entity as a whole failed to cooperate to the best of its ability to comply with Commerce's request for information.[92]

With respect to the missing information, no documents were filed indicating any difficulty providing the information, nor was there a request to allow the information to be submitted in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from among the facts otherwise available with respect to the China-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).[93]

*3. Selection of the AFA rate*

In applying an adverse inference, Commerce may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.[94] In selecting an AFA rate, Commerce selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[95] In an investigation, Commerce's practice with respect to the assignment of an AFA rate is to select the higher of (1) the highest dumping margin alleged in the petition or (2) the highest calculated dumping margin of any respondent in the investigation.[96] As discussed immediately below, we preliminarily apply the highest dumping margin alleged in the petition (*i.e.*, 108.60 percent) as the AFA rate for and the China-wide entity (which includes TPA, as well as all other companies which did not respond to Commerce's request for Q&V information: *i.e.*, Hubei Daly LPG Cylinder Manufacturer Co. Ltd., Taishan Machinery Factory Ltd., Wuyi Xilinde Machinery Manufacture Co., Ltd., and Zhejiang Jucheng Steel Cylinder Co., Ltd.).

*4. Corroboration of the AFA Rate*

When using facts otherwise available, section 776(c) of the Act provides that, where Commerce relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the Petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.[97] The SAA clarifies that "corroborate" means that Commerce will satisfy itself that the secondary information to be used has probative value,[98] although Commerce is not required to corroborate any dumping margin applied in a separate

[92] *See Nippon Steel Corporation v. United States,* 337 F.3d 1373, 1383 (Fed. Cir. 2003) (noting that the Department need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (*i.e.*, information was not provided "under circumstances where it is reasonable to conclude that less than full cooperation has been shown)).
[93] *Id.*, 337 F.3d 1373, 1382-83.
[94] *See* section 776(b) of the Act.
[95] *See* the Statement of Administrative Action, H.R. Rep. No. 103-316, Vol. 1 (1994) (SAA) at 870.
[96] *See, e.g., Certain Uncoated Paper from Indonesia: Final Determination of Sales at Less Than Fair Value,* 81 FR 3101 (January 20, 2016).
[97] *See* SAA at 870.
[98] *Id.*; *see also* 19 CFR 351.308(d).

segment of the same proceeding.[99] To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used, although 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.[100] Finally, under section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins.[101]

With respect to the investigation covering steel propane cylinders from China, the highest dumping margin in the petition is 108.60 percent.[102] In order to determine the probative value of the dumping margin alleged in the petition for assigning an AFA rate, we examined the information on the record. When we compared the petition dumping margin of 108.60 percent to the transaction-specific dumping margins for the mandatory respondents, we found that we could not corroborate the highest petition dumping margin using the transaction-specific dumping margins calculated for GSBF and Huanri. We next compared the normal values and U.S. prices used to calculate the highest dumping margin alleged in the petition (*i.e.*, 108.60 percent) with the NVs and U.S. prices calculated for the respondents. We determined the petition values were within the range of the values calculated for the respondents and, indeed, similar NVs are calculated for certain transactions and lower U.S. prices for other transactions in the preliminary margin calculations for the respondents than those used to calculate the highest petition rate. Therefore, we determine that the U.S. price and NV components of the calculation of the highest margin calculated in the petition can be corroborated with information obtained from the respondents.[103]

In sum, Commerce corroborated the AFA rate of 108.60 percent to the extent practicable within the meaning of section 776(c) of the Act. As the 108.60 percent rate is both reliable and relevant, we determine that it has probative value, and thus, it has been corroborated to the extent practicable, pursuant to section 776(c) of the Act. Thus, we preliminarily assigned this AFA rate to the China-wide entity. The China-wide rate applies to all entries of subject merchandise except for entries from GSBF, Huanri, and Pressure Vessel.

### *G) Date of Sale*

In identifying the date of sale of the subject merchandise, Commerce will normally, in accordance with 19 CFR 351.401(i), "use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." The date of sale is generally the date

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[99] *See* section 776(c)(2) of the Act.
[100] *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).
[101] *See* section 776(d)(1)-(2) of the Act.
[102] *See Initiation Notice*, 83 FR at 28200.
[103] *See* Memorandum, "Steel Propane Cylinders from the People's Republic of China – Corroboration Memorandum," dated concurrently with this memorandum.

on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms.[104] Additionally, Commerce may use a date other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.[105] In this investigation, GSBF reported the earlier of shipment date or invoice date as the date of sale, since GSBF issued invoices for certain sales during the POI after the shipment date.[106] Huanri selected the invoice date as the date of sale, with the exception of sales in which Huanri issued the invoice several days after the date of shipment, in which case we used the date of shipment as the date of sale.[107] Commerce's normal practice is to rely on the earlier of shipment or invoice date as the date of sale.[108] Therefore, we preliminarily determined to use the earlier of invoice date or shipment date as the date of sale for Huanri and GSBF.

### *H) Comparisons to Fair Value*

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

#### *1. Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.[109]

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[104] *See, e.g., 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 Issue and Decision Memorandum at Comment 1; *Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.
[105] *See* 19 CFR 351.401(i); *see also Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).
[106] *See* GSBF's CQR at 14; and GSBF's SCQR at 2.
[107] *See* Huanri's CDQR at C-12.
[108] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Brazil*, 67 FR 62134 (Oct. 3, 2002); *Lightweight Thermal Paper From Germany: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 34719 (June 18, 2014), and accompanying Issues and Decision Memorandum at Comment 2; and *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007) (*Thai Shrimp Final AD Administrative Review*), and accompanying Issues and Decision Memorandum at Comment 11.
[109] *See Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012) and accompanying Issues and Decision Memorandum at Comment 1. *See also Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

In recent investigations, Commerce applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.[110] 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. 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 CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e*., zip code, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean, *i.e.*, weighted-average price, of a test group and the mean, *i.e.*, weighted-average price, of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular 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.

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[110] *See, e.g.*, *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *see also 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).

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 under the "mixed method." If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage, *i.e.*, the Cohen's *d* test and the ratio test, demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this segment of the proceeding.[111]

### 2. *Results of the Differential Pricing Analysis*

#### a. *GSBF*

For GSBF, based on the results of the differential pricing analysis, Commerce preliminarily finds that zero percent of the value of U.S. sales pass the Cohen's d test,[112] and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an

[111] The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F.3d 1322 (Fed. Cir. July 12, 2017) affirmed much of Commerce's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.
[112] *See* GSBF's Preliminary Analysis Memorandum.

alternative to the average-to-average method. Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for GSBF.

*b. Huanri*

For Huanri, based on the results of the differential pricing analysis, Commerce preliminarily finds that 99.7 percent of the value of U.S. sales pass the Cohen's *d* test,[113] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. However, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Huanri.

*I) Export Price*

In accordance with section 772(a) of the Act, Commerce defined the U.S. price of subject merchandise based on the EP of all the sales reported by Huanri and GSBF. Commerce calculated the EP based on the prices at which subject merchandise was sold to unaffiliated purchasers in the United States.

We calculated EP based on packed prices to unaffiliated customers in the United States. We deducted discounts, where appropriate, and rebates, as appropriate, from the starting prices reported. Commerce made deductions, as appropriate, from the reported U.S. price for movement expenses (*i.e.*, domestic, and foreign inland freight, domestic and foreign brokerage, and handling), in accordance with section 772(c)(2)(A) of the Act.[114] We based movement expenses on surrogate values where the service was purchased from a Chinese company.[115]

*J) Value-Added Tax*

In 2012, Commerce announced a change of methodology with respect to the calculation of EP and constructed export price (CEP) to include an adjustment of any un-refunded (herein "irrecoverable") value-added tax (VAT) in certain NME countries in accordance with section 772(c)(2)(B) of the Act.[116] Commerce explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, Commerce will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but

[113] *See* Huanri's Preliminary Analysis Memorandum.
[114] *See* section 772(c)(2)(A) of the Act.
[115] *See* "Factor Valuation Methodology" section below.
[116] *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).

not rebated.[117] Where the irrecoverable VAT is a fixed percentage of EP or CEP, Commerce explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.[118]

Commerce determined the irrecoverable VAT on subject merchandise, and then reduced U.S. price by the amount determined in step one. Information placed on the record of this investigation by Huanri and GSBF indicates that according to the Chinese VAT schedule, the standard VAT levy applicable to the subject merchandise is 17 percent and the applicable rebate rate is 13 percent.[119] For the purposes of this preliminary determination, therefore, we applied the difference between the rates (*i.e.*, four percent) to the U.S. export sales value, which is the irrecoverable VAT as defined under Chinese tax law and regulation, as reported by Huanri and GSBF.[120]

### *K) 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 the respondents provide information regarding the weighted-average FOPs on a CONNUM-specific basis, using actual quantities, or develop a reasonable methodology, across all of the companies' plants and suppliers that produce the subject merchandise, not just the FOPs from a single plant or supplier.[121] This methodology ensures that Commerce's calculations are as accurate as possible.[122]

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 the respondents in the production of steel propane cylinders 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 the respondents' reported FOPs for materials, energy, and labor.

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[117] *Id.*; *see also Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014) and accompanying Issues and Decision Memorandum at Comment 5.A.
[118] *Id.*
[119] *See* Huanri's CDQR at C-29 and GSBF's CQR at 43.
[120] *Id.*
[121] *See* the Department's AD Questionnaire at Section D and D-2.
[122] *See, e.g.*, *Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings from the People's Republic of China*, 68 FR 61395 (October 28, 2003), and accompanying Issues and Decision Memorandum at Comment 19.

### *L) Factor Valuation Methodology*

In accordance with section 773(c) of the Act, for subject merchandise produced by the respondents, Commerce calculated NV based on the FOPs they reported for the POI. Commerce used Malaysian import data and other publicly available Malaysian sources, except for labor as discussed below, in order to calculate SVs. To calculate NV, Commerce multiplied the reported per-unit FOP quantities by the input-specific SVs calculated by Commerce. 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.[123]

As appropriate, Commerce adjusted input prices by including freight costs to render them delivered prices. Specifically, Commerce added to Malaysian 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, exchange rates, and taxes, and converted all applicable FOPs to a per-kilogram basis.

Furthermore, with regard to the Malaysian import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized.[124] We have reason to believe or suspect that prices of inputs from India, Indonesia, Thailand, and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.[125] Based on the existence of the subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, Commerce finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea, and Thailand may have benefitted from these subsidies. 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

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[123] *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.

[124] *See* section 773(c)(5) of the Act, as amended in section 505 of the TPEA to permit the Department to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values; *see also, Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).

[125] *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.; *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; *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum at IV.

export subsidies.[126] Therefore, we have not used prices from these countries either in calculating the Malaysian 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, that are produced in an ME 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.[127] In accordance with the regulation, substantially all is defined to be 85 percent or more of the total volume purchased of the factor.[128] 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.[129] 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.[130]

Information reported by Huanri 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.[131] Accordingly, Commerce implemented its ME purchase methodology (outlined above) to value Huanri's ME purchases, as appropriate, and applied freight expenses to the ME prices of the inputs where necessary.[132] The information reported by Huanri also demonstrates that it purchased inputs from countries which maintain broadly available, non-industry-specific export 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.[133]

To value SVs for direct material inputs, by-products, packing inputs, and certain utility/energy inputs, the petitioners placed Malaysian import statistics for relevant HTS subcategories on the record obtained from TDM.[134] However, as stated above, because TDM is a private, subscription-based, database, we are unable to corroborate the data submitted and preliminarily decline to use the TDM data as the source of SVs for the purposes of this investigation. Rather, for the preliminary determination, we have obtained Malaysian import statistics under the same

[126] *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75300 (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).
[127] *See Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013) (*Market Economy Inputs*).
[128] *Id*.
[129] *Id*.
[130] *Id.*
[131] *See* Huanri CDQR at Exhibit D-5, and Huanri's SCDQR at Exhibit SD-8.
[132] *See* Preliminary SV Memorandum.
[133] *Id*.
[134] *See, generally*, Petitioners' SV Submission.

HTS categories submitted by the petitioners from the Global Trade Atlas (GTA), which is a source that is regularly used by Commerce because the data therein meet Commerce's SV criteria.[135] Commerce used Malaysian import statistics from GTA to value raw materials, by-products, packing materials, and certain energy inputs, except as listed below.

In NME AD proceedings, Commerce prefers to value labor solely based on data from the primary surrogate country.[136] However, in this instant case, the petitioners submitted information found on a website link from an unfamiliar source, tradingeconomics.com, which lacked necessary information regarding the source of the underlying wage data and is thus unusable.[137] Because there is no usable wage information from the primary surrogate country on the record from which to value labor FOPs, we have preliminarily used the wage data from Mexico.[138] In *Labor Methodologies*, Commerce determined that the best methodology to value labor is to use industry-specific labor rates from the primary surrogate country.[139] In this case, the respondents provided detailed industry-specific wage information (monthly wages for the manufacture of thick gauge metal tanks) from an official Mexican government source, the National Institute of Statistic and Geography's (NISG) *Annual Survey of the Manufacturing Industry; 2016*.[140] As this represents the most-specific information on the record in this proceeding from which to value labor inputs, Commerce calculated the surrogate labor value using total labor data for the POI reported by the Mexican NISG's 2016 survey, in accordance with section 773(c)(4) of the Act. Because these labor rates were based on 2016 data, we inflated them using the Mexican consumer price index to be contemporaneous with the POI.[141]

With respect to electricity, we used a value derived as the average tariff published by the following sources: (1) Tenaga Nasional Berhad (TNB), the main electricity power generator and supplier in Peninsular Malaysia; (2) Sabah Electricity Sdn. Bhd., the main electricity power generator and supplier for the Sabah region of Malaysia; and (3) Sarawak Energy Berhad, the primary electricity power generator and supplier in the Sarawak region of Malaysia.[142]

For water, we relied on the average of all regional tariffs published by the Malaysian National Water Services Commission (SPAN).[143]

We valued truck freight expenses and foreign brokerage and handling expenses using data from the World Bank's *Doing Business 2018 – Malaysia*.[144]

For respondents reporting non-market international freight costs during the POI we used publicly-available international freight values based on available MAERSK freight quotes for (1)

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[135] *See* Preliminary SV Memorandum for further discussion.
[136] *See Use of Market Economy Input Prices in Nonmarket Economy Proceedings; Final Rule*, 78 FR 46799 (August 2, 2013).
[137] *See* Petitioners' Preliminary SV Submission at Exhibit 4.
[138] *See* Respondents' Preliminary SV Submission at Exhibit 5.
[139] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).
[140] *See* Respondents' SV Submission at Exhibit SV-5
[141] *Id.* at SV-1
[142] *See* Petitioners' SV Submission at 4, Exhibit 3-A.
[143] *Id.* at 4, Exhibit 3-D.
[144] *Id.* at 5, Exhibit 6-AB.

China to West Coast USA routings and (2) China to East Coast USA routings, and allocated over a standard 20-foot container, as provided by the petitioners.[145]

We valued insurance rates published by PAF Insurance for international shipments that are specific to the commodity category "General Merchandise."[146]

Parties provided financial statements for eleven producers in Malaysia.[147] As discussed above, we disregarded the financial statements of all producers other than Siraga IEM Sdn. Bhd and KKB Group, which are producers of identical merchandise, either because the producers were insolvent and/or not profitable, produced comparable and not identical merchandise, and/or the statements were not contemporaneous.[148]

## VII. CURRENCY CONVERSION

We 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.

## VIII. ADJUSTMENT FOR COUNTERVAILABLE EXPORT SUBSIDIES

In AD investigations where there is a concurrent countervailing duty (CVD) investigation, it is Commerce's normal practice to calculate the cash deposit rate for each respondent by adjusting the respondent's weighted-average dumping margin to account for export subsidies found for each respective respondent in the concurrent countervailing duty investigation. Doing so is in accordance with section 772(c)(1)(C) of the Act, which states that U.S. price "shall be increased by the amount of any countervailing duty imposed on the subject merchandise… to offset an export subsidy."[149]

Commerce determined in the preliminary determination of the companion CVD investigation that Huanri benefitted from certain subsidy programs contingent on exports totaling 0.98 percent.[150] With respect to GSBF (which was not selected as a mandatory respondent in the companion proceeding) and the separate rate company (*i.e.*, Pressure Vessel), we find that the same export subsidy adjustment of 0.98 percent is warranted because this is the export subsidy rate included in the CVD all-others rate, to which the separate rate companies are subject in the companion CVD proceeding.[151] For the China-wide entity, which preliminarily received an AFA margin, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, Commerce has adjusted the China-wide entity's AD cash deposit rate by the lowest

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[145] *Id.* at 5, Exhibit 6-C.
[146] *Id.* at 6, Exhibit 6-D.
[147] *See, generally*, Petitioners' Final SV Comments; Respondents' Final SV Comments.
[148] *See* Preliminary SV Memorandum for further discussion.
[149] *See Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 38076, 38077 (July 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.
[150] *See Steel Propane Cylinders from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 54086 (October 26, 2018) and accompanying Preliminary Decision Memorandum.
[151] *Id.* For a full explanation of the calculation of the export contingent subsidies, *see* Huanri's Preliminary Analysis Memorandum.

export subsidy rate determined for any party in the companion CVD proceeding,[152] which is the 0.98 percent rate applicable to all companies previously discussed.

## IX. 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.[153] For a subsidy meeting these criteria, the statute requires Commerce to reduce the dumping margin by the estimated amount of the increase in the weighted-average dumping margin due to a countervailable subsidy, subject to a specified cap.[154] In conducting this analysis, Commerce has not concluded that concurrent application of NME dumping duties and countervailing duties 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.[155]

For purposes of our analysis under sections 777A(f)(1)(A) and (f)(1)(C) of the Act, Commerce requested firm-specific information from the mandatory respondents as part of the initial antidumping questionnaire.[156] The information sought included information regarding whether countervailable subsidies were received during the relevant period, information on costs, and information regarding the respondents' pricing policies and practices. Additionally, the respondents were required to provide documentary support for the information provided. GSBF and Huanri submitted responses to Commerce's firm-specific double remedies questionnaire.[157] The responses received from GSBF and Huanri included information concerning countervailable

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[152] *See, e.g.*, *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; in Part and Postponement of Final Determination*, 80 FR 4250 (January 27, 2015), and accompanying Issues and Decision Memorandum at 35.

[153] *See* section 777A(f)(1)(A)-(C) of the Act.

[154] *See* section 777A(f)(1)-(2) of the Act.

[155] *See, e.g.*, *Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; In Part and Postponement of Final Determination*, 80 FR 4250 (January 27, 2015), and accompanying Preliminary Decision Memorandum at section "Adjustment Under Section 777A(f) of the Act" unchanged in *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires 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*, 80 FR 34893 (June 18, 2015), and accompanying Issues and Decision Memorandum.

[156] *See* Commerce's letters to Huanri and GSBF, "Antidumping Duty Investigation of Steel Propane Tanks from the People's Republic of China: Double Remedies Questionnaire," both dated December 10, 2018.

[157] *See* Huanri's letter, "Steel Propane Cylinders from the People's Republic of China – Double Remedies Questionnaire Response," dated December 14, 2018 (Huanri's Double Remedies Response); GSBF's letter, "Steel Propane Cylinders from the People's Republic of China – Double Remedies Questionnaire Response," dated December 14, 2018 (GSBF's Double Remedies Response).

subsidies received during the relevant period, as well as information regarding their costs and pricing policies and practices.

Huanri is a mandatory respondent in the companion CVD investigation and reported receiving countervailable subsidies for the provision of electricity, and hot-rolled steel.[158] Further, even though GSBF is not a mandatory respondent in the companion CVD investigation, it also reported receiving countervailable subsidies for the provision of electricity, and hot-rolled steel.[159] GSBF and Huanri also provided monthly POI costs for their purchases of electricity, and hot-rolled steel.[160]

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. Because Commerce found the provision of electricity, and hot-rolled steel for less than adequate remuneration (LTAR) to be countervailable with respect to the class or kind of merchandise in the companion CVD investigation,[161] 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 GSBF and Huanri demonstrated: (1) a subsidies-to-cost link, *i.e.*, a subsidy effect on the cost of manufacturing (COM) of the merchandise; 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 their double remedies questionnaire responses, GSBF and Huanri reported that they consumed electricity, and hot-rolled steel in the production of subject merchandise.[162]

GSBF and Huanri provided information indicating that the subsidy programs affected their COM. Specifically, GSBF and Huanri state that they identify and monitor the cost fluctuations of these raw materials.[163] Thus, Commerce preliminarily concludes that GSBF and Huanri established a subsidies-to-cost link because subsidies for the provision of electricity, and hot-rolled steel for LTAR impact their costs for producing subject merchandise.

For the cost-to-price link, Commerce examined whether GSBF and Huanri demonstrated that changes in costs affected prices or are taken into consideration when setting prices. GSBF and Huanri stated that they adjust the sales price of the subject steel cylinders when the raw material costs change substantially.[164] In addition, GSBF and Huanri report that their procurement departments report significant cost changes to management, the sales department and finance department, which will discuss and determine whether the revenue can cover the current costs.[165]

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[158] *See* Huanri's Double Remedies Response at 4.
[159] *See* GSBF's Double Remedies Response at 3-4.
[160] *See* GSBF's Double Remedies Response at Exhibit DR-3 and Exhibit DR-4; Huanri's Double Remedies Response at Exhibit DR-3 and Exhibit DR-4.
[161] *See Steel Propane Cylinders from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 54086, (October 26, 2018) and accompanying PDM.
[162] *See, generally,* Huanri's Double Remedies Response and GSBF's Double Remedies Response.
[163] *See* GSBF's Double Remedies Response at 2; Huanri's Double Remedies Response at 2.
[164] *See* GSBF's Double Remedies Response at 2; Huanri's Double Remedies Response at 2-3.
[165] *See* GSBF's Double Remedies Response at 2-3, Huanri's Double Remedies Response at 3.

Based on the above, we find that GSBF and Huanri provided adequate information to establish a link between subsidies (*i.e.*, the provision of electricity, and hot-rolled steel for LTAR), costs, and prices. Because GSBF's and Huanri's double remedy responses indicate that factors other than the cost of the inputs for LTAR impact prices to customers (*e.g.*, prevailing market price for the merchandise and expected profit), we have preliminarily applied a documented ratio of cost-price changes for the relevant manufacturing sector as a whole, which is based on data provided by Bloomberg, as the estimate of the extent of subsidy pass-through.[166] Therefore, we are adjusting GSBF's and Huanri's U.S. price for a pass-through adjustment for domestic subsidies in the calculation of the cash deposit rates for GSBF and Huanri. Because Huanri is a mandatory respondent in the companion CVD investigation, we have used its own calculated subsidy rates for electricity and hot-rolled steel for LTAR, multiplied by the pass-through rate obtained from Bloomberg, in order to obtain the amount of subsidy passed through and deducted from the calculated dumping margin. For GSBF, we used the subsidy rates applied to the all-other companies in the companion CVD investigation (*i.e.*, Huanri's subsidy rates), multiplied by the pass-through rate obtained from Bloomberg, in order to obtain the amount of subsidy passed through and deducted from the calculated dumping margin. Additionally, because GSBF and Huanri are eligible for a domestic pass-through adjustment, we made a domestic pass-through adjustment for the non-selected separate rate respondents using the same domestic pass-through adjustment rates applied to GSBF and Huanri, which is consistent with section 777A(f)(2) of the Act.[167] For the China-wide entity, we used the lowest domestic pass-through adjustment rate determined for any party in this investigation as the adjustment to the AD cash deposit rate.[168]

## X. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information used to calculate the dumping margins for Huanri and GSBF and upon which we will rely in making our final determination.

## XI. U.S. INTERNATIONAL TRADE COMMISSION NOTIFICATION

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of boltless steel shelving, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

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[166] *See* Memorandum, "Steel Propane Cylinders from the People's Republic of China: Double Remedies Calculation," dated concurrently with this memorandum (Double Remedies Calculation).

[167] *See Aluminum Extrusions from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 32347 (June 8, 2015), and accompanying PDM at 34, unchanged in *Aluminum Extrusions from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 75060, 75063 (December 1, 2015).

[168] *See Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 75 (January 4, 2016), and accompanying PDM at 25-26, unchanged in *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316, 35318 (June 2, 2016).

As further discussed in the accompanying *Federal Register* notice, we will make our final determination no later than 75 days after the date of publication of this preliminary determination, pursuant to section 735(a)(1) of the Act.

## XII. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

| ☒ | ☐ |
|---|---|
| Agree | Disagree |

12/18/2018

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