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

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

SUBJECT: Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Cast Iron Soil Pipe from the People's Republic of China

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I. SUMMARY

The Department of Commerce (Commerce) finds that cast iron soil pipe (soil pipe) 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 735 of the Tariff Act of 1930, as amended (the Act). Below is the complete list of the issues in this investigation for which we received comments from interested parties:

Comment 1: Incorporation of Minor Corrections
Comment 2: Surrogate Value for Pig Iron
Comment 3: Surrogate Value for Plastic Strips
Comment 4: Surrogate Value for Plywood Boards
Comment 5: Ocean Freight Adjustment
Comment 6: Surrogate Value for Asphalt Paint
Comment 7: Aberrational Surrogate Values
Comment 8: Non-Refundable Value-Added Tax (VAT)

II. BACKGROUND

A. Case History

On August 31, 2018, Commerce published its *Preliminary Determination* for this investigation.[1] We invited interested parties to comment. On September 27, 2018, the Cast Iron Soil Pipe Institute (the petitioner) requested a hearing.[2] On October 11, 2018, we received pre-verification comments from the petitioner.[3] We conducted verification of the questionnaire responses of Yucheng Jiangxian Economic Development Zone HengTong Casting Co., Ltd. (HengTong) on October 15-19, 2018.[4]

On December 6, 2018, the petitioner and Hengtong filed case briefs.[5] On December 11, 2018, Commerce rejected HengTong's case brief because it contained untimely filed new factual information and gave HengTong an opportunity to re-file its case brief removing such information.[6] On December 12, 2018, the petitioner filed its rebuttal brief.[7] On December 13, HengTong filed its revised case brief.[8] On December 21, 2018, the petitioner withdrew its request for a hearing.[9]

B. Period of Investigation

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

III. CHINA-WIDE RATE

In the *Preliminary Determination*, because the China-wide entity did not respond to Commerce's requests for information, we found that it failed to provide necessary information, withheld information requested by Commerce, failed to provide information in a timely manner, and

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[1] *See Cast Iron Soil Pipe from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 83 FR 44567 (August 31, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).
[2] *See* The Petitioner's Letter, "Cast Iron Soil Pipe from the People's Republic of China: Request for a Hearing," dated September 27, 2018.
[3] *See* The Petitioner's Letter, "Cast Iron Soil Pipe from the People's Republic of China: Pre-Verification Comments," dated October 11, 2018 (The Petitioner's Pre-Verification Comments).
[4] *See* Memoranda, "Verification of the Questionnaire Responses of Yucheng Jiangxian Economic Development Zone HengTong Casting Co., Ltd. (HengTong)," dated November 21, 2018, (Verification Report).
[5] *See* The Petitioner's Letter, "Cast Iron Soil Pipe from the People's Republic of China: Petitioner's Case Brief"; and HengTong's Letter, "Cast Iron Soil Pipe from the People's Republic of China: Submission of Administrative Case Brief" (HengTong's Case Brief) (rejected), all dated December 6, 2018.
[6] *See* Commerce Memorandum, "Antidumping Duty Investigation of Cast Iron Soil Pipe from the People's Republic of China: Rejection of Unsolicited New Factual Information in Case Brief," dated December 11, 2018.
[7] *See* The Petitioner's Letter, "Cast Iron Soil Pipe from the People's Republic of China: Petitioner's Rebuttal Brief" (The Petitioner's Rebuttal Brief) dated December 12, 2018.
[8] *See* HengTong's Letter, "Cast Iron Soil Pipe from the People's Republic of China: Submission of Administrative Case Brief" (HengTong's Case Brief) (revised), dated December 13, 2018.
[9] *See* The Petitioner's Letter, "Cast Iron Soil Pipe from the People's Republic of China: Withdrawal of Request for Hearing," dated December 21, 2018.

significantly impeded this proceeding by not submitting the requested information.[10] We further determined that, because Sibo International Limited (Sibo) and the non-responsive companies had not demonstrated their eligibility for separate rate status, they are also part of the China-wide entity.[11] Finally, we preliminarily assigned a China-wide rate based on facts available, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act, applying an adverse inference, pursuant to 776(b) of the Act.

No parties commented on this preliminary finding, and we continue to find that the China-wide entity failed to cooperate to the best of its ability in responding to Commerce's requests for information. Therefore, for the final determination, we continue to apply adverse facts available (AFA) to the China-wide entity.

In selecting the AFA rate for the China-wide entity, Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[12] Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition; or, (b) the highest calculated dumping margin of any respondent in the investigation.[13]

To determine the appropriate rate for the China-wide entity based on AFA, Commerce examined whether the highest petition margin was less than or equal to the highest calculated margin for any respondent, and determined that the highest calculated margin of 235.93 percent was the higher of the two. Therefore, for purposes of this final determination, we assigned the China-wide entity, as AFA, a dumping margin of 235.93 percent. Because this rate was a calculated rate, based on a mandatory respondent's data in this segment of the proceeding, it does not constitute secondary information and, therefore, there is no need to corroborate it.

IV. SEPARATE RATES

Commerce preliminarily determined that the following companies were eligible for a separate rate: Dalian Lino F.T.Z. Co., Ltd.; Dalian Metal I/E Co., Ltd. ; Dinggin Hardware (Dalian) Co., Ltd.; Hebei Metals & Engineering Products Trading Co., Ltd.; HengTong; Kingway Pipe Co., Ltd.; Qinshui Shunshida Casting Co., Ltd.; Shanxi Chen Xin Da Castings & Forgings Co., Ltd.; Shanxi Xuanshi Industrial Group Co., Ltd.; Shanxi Zhongrui Tianyue Trading Co., Ltd.; Terrifour (Dalian) Trading Co., Ltd.; Wuan City Feixiang Metal Product Co., Ltd.; and Zezhou Golden Autumn Foundry Co., Ltd.[14] No parties commented on this preliminary finding, and with the exception of Sibo, the facts have not changed with respect to these companies. Therefore, with the exception of Sibo, we continue to grant separate rates to those companies

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[10] *See Preliminary Determination* and accompanying PDM at 11.
[11] *Id*.
[12] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (SAA) at 870.
[13] *See, e.g., Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17436, 17438 (March 26, 2012); *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 31, 2000) and accompanying Issues and Decision Memorandum (IDM).
[14] *See Preliminary Determination* and accompanying PDM at 7-11.

requesting separate rates in this final determination.

Thus, consistent with our practice, we are assigning the sole mandatory respondent's rate as the rate for non-individually examined companies that have qualified for a separate rate.[15] This long-standing practice is also Court-affirmed.[16]

V. SCOPE COMMENTS

Although HengTong requested an exclusion for epoxy coated soil pipe from the scope of the antidumping duty and countervailing duty (CVD) investigations, we found in the *Preliminary Determination* that the plain language of the scope covers soil pipe regardless of the surface finish.[17] No party commented on our preliminary scope finding and, thus, for the final determination, we have left the scope language unchanged from the *Preliminary Determination*.

VI. ADJUSTMENTS FOR COUNTERVAILABLE EXPORT SUBSIDIES

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion CVD proceeding when CVD provisional measures are in effect. Accordingly, where Commerce makes an affirmative determination for domestic subsidy pass-through or export subsidies, Commerce offsets the calculated estimated weighted-average dumping margin by the appropriate rate(s). In the companion CVD proceeding, we have not made an affirmative determination for domestic subsidy pass-through or export subsidies.

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[15] *See*, *e.g.*, *Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 42314, 42316 (June 29, 2016) ("Under section 735(c)(5)(A) of the Act, the rate for all other companies that have not been individually examined is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely on the basis of facts available. In this final determination, {Commerce} has calculated a rate for TTI that is not zero, *de minimis*, or based entirely on facts available. Therefore, {Commerce} has assigned to the companies that have not been individually examined, but have demonstrated their eligibility for a separate rate, a margin of 101.82 percent, which is the rate for TTI."); *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, 35317 (June 2, 2016) ("In this final determination, we calculated a weighted-average dumping margin for Yieh Phui (the only cooperating mandatory respondent) which is not zero, *de minimis*, or based entirely on facts available. Accordingly, we determine to use Yieh Phui's weighted-average dumping margin as the margin for the separate rate companies."); *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 60627, 60627 (October 7, 2015) *unchanged* in *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 22578 (April 18, 2016).

[16] *See*, *e.g.*, *Changzhou Wujin Fine Chemical Factory Co., Ltd., v. United States*, 942 F. Supp. 2d 1333, 1339 (CIT 2013); *Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (CIT 2008) (affirming Commerce's decision to assign a 4.22 percent dumping margin to the separate rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively).

[17] *See* Commerce Memorandum, "Cast Iron Soil Pipe from People's Republic of China: Preliminary Scope Comment Decision Memorandum," dated August 24, 2018.

Therefore, we are not adjusting the estimated weighted-average dumping margin for these subsidies.

VII. CHANGES SINCE THE PRELIMINARY DETERMINATION

Based on our analysis of the comments submitted by interested parties and our findings at verification, we made the following changes to the *Preliminary Determination*.[18]

- We based the final margin calculations on revised databases submitted by HengTong, reflecting the minor corrections accepted at verification.[19]
- We revised the surrogate value for asphalt paint based on a Harmonized Tariff Schedule (HTS) number that is more specific to the input used in production by HengTong. *See* Comment 6.
- We revised the calculation of Non-refundable Value-Added Tax. *See* Comment 8.
- We revised the dumping margin assigned to the China-wide entity. *See* Section III above.
- We revised the dumping margin assigned to the separate rate companies. *See* Section IV above.

VIII. DISCUSSION OF ISSUES

Comment 1: Incorporation of Minor Corrections

***HengTong's Comments*:**

- Commerce should incorporate the revised factors of production (FOP) database presented to Commerce as minor corrections prior to the beginning of HengTong's verification.
- The initial FOP database contained calculated FOPs for pre-coated sand, asphalt paint and epoxy paint, but incorrectly applied the FOPs to all products, even though certain products did not incorporate such inputs.
- The revised FOP database correctly applied the accurate FOPs only to those products that incorporated those inputs.

The Petitioner's Comments

- The petitioner did not comment on this issue.

Commerce Position:

We agree with HengTong and have incorporated HengTong's minor corrections for the final determination.[20]

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[18] *See* Commerce Memorandum, "Final Determination Margin Calculation for HengTong Casting Co., Ltd.," dated concurrently with this memorandum (Final Calc Memo).

[19] *See* HengTong's Letter, "Cast Iron Soil Pipe from the People's Republic of China: Submission of Pre-Verification Corrections," dated October 18, 2018.

[20] *See* Final Calc Memo.

Comment 2: Surrogate Value for Pig Iron

***HengTong's Comments*:**

- In the *Preliminary Determination*, Commerce valued HengTong's pig iron FOPs with the average unit value (AUV) under the four-digit South African HTS number 7201.
- Even though the HTS number that HengTong used during the POI (HTS 7201.10) falls under this provision, HTS number 7201 is overly broad and encompasses overwhelmingly imports of pig iron not specific to HengTong, *i.e.*, includes imports of higher phosphorus and/or manganese content pig iron.
- Although the record contains South African HTS number 7201.10 that is specific to HengTong's experience, this HTS category pertains to the importation of only 1 kg of merchandise.
- Consequently, given the non-specific nature of the surrogate value used by Commerce in the *Preliminary Determination*, and given the shortcomings of the HTS number that is specific to HengTong, HengTong suggests that Commerce open the record for the purpose of obtaining an acceptable surrogate value for pig iron.
- As such, HengTong notes that the chemical composition and the physical characteristics of pig iron and the ferrous cast iron scrap produced by HengTong's production of the subject merchandise are essentially the same.
- Therefore, HengTong suggests that Commerce open the record for the limited purpose to obtain the surrogate value of pig iron based upon South African POI imports of cast iron scrap.
- In the alternative, Commerce may open the record to find an appropriate surrogate value for HengTong's pig iron inputs from historical imports into South Africa (or any of the other countries on the surrogate country list) under HTS number 7201.10.

The Petitioner's Comments

- Reopening the record after the deadlines for submitting surrogate value information have passed would completely subvert Commerce's process for gathering and analyzing surrogate value information.
- Commerce should not reopen the record, as HengTong was provided two separate opportunities to submit more appropriate or more specific surrogate value information to value its pig iron FOP, but failed to do so.
- In addition, HengTong had an opportunity to submit information to rebut, clarify, or correct the petitioner's data regarding South African imports under HTS number 7201, *i.e.*, to show that the value used was aberrational and/or not specific, but failed to do so.
- Moreover, Commerce has rejected attempts by parties to submit additional surrogate value information beyond the agency's regulatory deadlines.[21]
- In addition, obtaining an untimely surrogate value based on cast iron scrap would clearly be less specific to HengTong's pig iron input than a surrogate value based on imports of pig iron.
- Even though HengTong claims that HTS number 7201 may not be specific, Commerce's specificity preference is limited to surrogate value information that is already "on the

[21] *See, e.g., Tianjin Wanhua Co. v. United States*, 253 F. Supp. 3d 1318, 1326 (CIT 2017); *Zhejiang Sanhua Co. v. United States*, 61 F. Supp. 3d 1350, 1357 (CIT 2015).

record" of the investigation and does not extend to other potential surrogate value information that the parties have failed to place on the record.

- If HengTong believed there was surrogate value information that was more specific to its pig iron input, it could have and should have placed such information on the record at the appropriate time.
- Accordingly, Commerce should continue to value pig iron using South African imports under HTS 7201 in the final determination.

Commerce Position:
We agree with the petitioner. All parties were provided two separate opportunities to submit surrogate value information in this investigation, as well as additional opportunities to rebut surrogate value information placed on the record by other parties. On July 20, 2018, HengTong submitted comments regarding the surrogate value information that should be used to value its FOPs.[22] In its comments, HengTong proposed that South African import data obtained from Global Trade Atlas (GTA) be used to value all of its raw material and packing inputs.[23] HengTong specifically proposed that South African imports under HTS 7201.10 be used to value its pig iron input.[24] However, HengTong did not submit actual import data under this HTS number, but, rather, simply suggested that imports under this number be used to value pig iron.[25] Based on data obtained by Commerce for the *Preliminary Determination*, the data was for 1 kg of imports.[26]

On July 20, 2018, the petitioner also submitted surrogate value information, including South African imports under HTS 7201 to value pig iron.[27] HengTong did not submit any information to rebut, clarify, or correct the petitioner's data (used in the *Preliminary Determination*) by the July 25, 2018, deadline. Thus, if there were any information to show that petitioner's proposed surrogate value for pig iron was aberrational or not specific to HengTong's pig iron input, this would have been the appropriate time to submit such information.

Subsequently, HengTong filed additional timely affirmative surrogate value information 30 days prior to the due date for the preliminary determination.[28] Thus, if HengTong believed that there were any problems with using the information that was already on the record to value its pig iron input, HengTong could have used this opportunity to submit an alternative basis to value pig iron. However, HengTong's 2nd SV Submission of additional surrogate value information was limited to packing materials and asphalt paint.[29] It did not submit any alternative sources to value pig iron or any information regarding its pig iron input.

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[22] *See* HengTong's Letter, "Cast Iron Soil Pipe from China: Submission of Surrogate Value Information," dated July 20, 2018 (HengTong's 1st SV Submission).
[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] S*ee* Commerce Memorandum, "Less-Than-Fair-Value Investigation of Cast Iron Soil Pipe from the People's Republic of China: Surrogate Values for the Preliminary Determination," dated August 24, 2018, (Prelim SV Memo) at 3 and Attachment 1.
[27] *See* The Petitioner's Letter, "Cast Iron Soil Pipe from China: Submission of Surrogate Value Information" dated July 20, 2018 (The Petitioner's 1st SV Submission).
[28] *See* HengTong's Letter, "Cast Iron Soil Pipe from China: Submission of Additional Surrogate Value Information" dated July 25, 2018 (HengTong's 2nd SV Submission).
[29] *Id.* at 2.

Furthermore, HengTong argued that its proposed value for its pig iron input, HTS 7201.10, is more specific to its pig iron input than HTS 7201. However, apparently after discovering that the data for its proposal of HTS 7201.10 reflected just one kg of merchandise and was valued at 39 times that of HTS 7201, HengTong now advocates opening the record to obtain a surrogate value for pig iron based on South African imports of cast iron scrap. A surrogate value based on cast iron scrap would clearly be less specific to HengTong's pig iron input than either of the two surrogate values currently on the record, which are based on imports of pig iron.

In evaluating the two surrogate values for pig iron that are on the record, Commerce considered that 7201.10, the only value HengTong submitted, is somewhat more specific to the pig iron input, but is based on only one kilogram, with a resulting per unit value 39 times higher than the alternative value. However, when weighing HengTong's value against the value provided by petitioners, with regard to HengTong's argument that HTS 7201 is not sufficiently specific, it is true that Commerce has a long-standing preference for using surrogate value information that is more specific to the input being valued.[30] However, the 7201.10 value has fatal flaws that outweigh an added degree of greater specificity in that it is based on only an aberrational one kilogram and has an aberrational value 39 times higher. Moreover, the comparison is properly between only 7201 and 7201.10, and HengTong's reliance on Commerce's preference for greater specificity is limited to surrogate value information that is already "on the record" of the investigation and does not extend to other potential surrogate value information that the parties have failed to place on the record, despite having been mentioned in case briefs.[31] As a result, we have continued to use 7201 to value pig iron.

Finally, regarding HengTong's request to open the record, we find that it had ample opportunity to file an appropriate surrogate value to value its pig iron FOP. In addition, HengTong also had an opportunity to submit information to rebut, clarify or correct, the use of HTS 7201 or to submit benchmarking information to establish that HTS 7201 was aberrational. Here, as in *Tianjin Wanhua*, reopening the record after the relevant deadlines to obtain additional information to value HengTong's pig iron input would completely subvert Commerce's process for gathering and analyzing surrogate value information, would result in an unworkable situation, and would merely reward HengTong for its earlier lack of diligence in meeting the relevant deadlines. Accordingly, we find that it is not necessary to reopen the record, as HengTong failed to submit such information when it had the opportunity to do so.

Comment 3: Surrogate Value for Plastic Strips

***HengTong's Comments*:**

- In the *Preliminary Determination*, Commerce used a surrogate value for plastic strip based upon South African HTS 3920.99 "Of other plastics."

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[30] *See Dorbest Ltd. v. United States*, 755 F. Supp. 2d 1291, 1303 (CIT 2011).

[31] *See, e.g.*, *An Giang Fisheries Imp. & Exp. Joint Stock Co. v. United States*, 179 F. Supp. 3d 1256, 1282 (CIT 2016) (stating that Commerce preferred "the most specific of the available … HTS categories *on the record*" (emphasis added)); *Peer Bearing Company-Changshan v. United States*, 804 F. Supp. 2d 1337, 1350 (CIT 2011) (stating that Commerce prefers data that are "the most specific *on the record* to the input in question" (emphasis added)).

- This HTS provision covers plastic strips other than the common plastics identified under subchapters 3920.10-3920.94, including polymers of ethylene (HTS 3920.10), and is not specific to the plastic strip used by HengTong.
- Commerce should instead use South African HTS 3923.90 ("Articles for the conveyance or packaging of goods; stoppers, lids caps and other closures of plastics: Other"), as this HTS number is specific to the plastic strips used by HengTong.
- Furthermore, in *Cast Iron Soil Pipe Fittings*[32] case, Commerce used South African HTS 3923.90 to value the plastic strips used to pack the merchandise in that case.

The Petitioner's Comments

- HengTong argues that HTS 3923.90 is more specific to the type of plastic strips it uses for packaging, but HengTong provides no factual basis for this claim.
- HengTong had an opportunity to submit any factual information regarding the type of plastic strips it uses for packaging, but it failed to do so.
- Commerce should, therefore, reject HengTong's unfounded assertions and continue to use imports under South African HTS 3920.99 to value plastic strips in the final determination.

Commerce Position:

We agree with the petitioner. In the *Preliminary Determination*, Commerce valued HengTong's plastic strips for packing using imports under South African HTS 3920.99.[33] HengTong argues that a different HTS number is more specific to the type of plastic strips it uses for packaging. However, HengTong does not point to any information on the record to support its claim. HengTong had two opportunities to submit factual information rebutting the use of the surrogate value used in the *Preliminary Determination*, including any factual information regarding the type of plastic strips it uses for packaging, but it failed to do so. Thus, Commerce will continue to use imports under South African HTS 3920.99 to value plastic strips in the final determination.

Comment 4: Surrogate Value for Plywood Boards

***HengTong's Comments*:**

- In the *Preliminary Determination*, Commerce used a surrogate value for plywood boards based upon South African HTS 4412.31 (plywood boards of wood plies less than 6mm, with at least one outer ply of tropical hardwood).
- This HTS number is not specific to the plywood boards used by HengTong to pack the subject merchandise.
- Commerce should select South African HTS 4412.39 (plywood boards of wood plies less than 6mm, with outer plies of coniferous wood) as this HTS number is specific to the plywood boards strips used by HengTong.

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[32] *See Cast Iron Soil Pipe Fittings from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances, in Part*, 83 FR 33205 (July 17, 2018) (*Cast Iron Soil Pipe Fittings*).

[33] S*ee* Commerce Memorandum, "Less-Than-Fair-Value Investigation of Cast Iron Soil Pipe from the People's Republic of China: Surrogate Values for the Preliminary Determination," dated August 24, 2018 (Prelim SV Memo) at 3 and Attachment 1.

- Furthermore, it is apparent that the surrogate value under HTS 4412.31 is 22 times more expensive that plywood boards under HTS 4412.39.

The Petitioner's Comments

- HengTong argues that HTS 4412.39 is more specific to the type of plywood boards it uses for packaging, but HengTong provides no factual basis for this claim.
- HengTong had an opportunity to submit any factual information regarding the type of plywood boards it uses for packaging, but it failed to do so.
- Commerce should, therefore, reject HengTong's unfounded assertions and continue to use imports under South African HTS 4412.31 to value plywood boards in the final determination.

Commerce Position:

We agree with the petitioner. In the *Preliminary Determination*, Commerce valued HengTong's plywood boards for packing using imports under South African HTS 4412.31.[34] HengTong argues that a different HTS number is more specific to the type of plywood boards it uses for packaging. HengTong does not point to any information on the record to support its claim. HengTong had two opportunities to submit factual information rebutting the use of the value used in the *Preliminary Determination*, including any factual information regarding the type of plywood boards it uses for packaging, but it failed to do so. Thus, Commerce will continue to use imports under South African HTS 4412.31 to value plywood boards in the final determination.

Comment 5: Ocean Freight Adjustment

***HengTong's Comments*:**

- In the *Preliminary Determination*, Commerce adjusted the surrogate values for raw material and packing from an FOB to a CIF reporting basis.
- It is apparent from the calculations that the adjustment was made on the basis of containerized freight.
- However, the adjustment is not specific to, and does not reflect, freight charges for freight that is made in bulk shipments, such as pig iron and metallurgical coke.

The Petitioner's Comments

- In *OCTG from China AR1*,[35] the CIT upheld Commerce's rejection of arguments regarding surrogate values based on bulk versus containerized shipments where there is no evidence on the record, regarding how a respondent's materials were shipped.[36]
- Furthermore, HengTong did not provide Commerce with any surrogate value information for ocean freight based on bulk rates.

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[34] S*ee* Prelim SV Memo at 3 and Attachment 1.

[35] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 74644 (December 17, 2012) and accompanying Issues and Decision Memorandum at Comment 3.

[36] *See Am. Tubular Prods., LLC v. United States*, CIT Court No. 13-00029, Slip Op. 14-116, 2014.

- Therefore, Commerce should reject HengTong's arguments and continue to apply the same CIF adjustment in its final determination.

Commerce Position:
We agree with the petitioner, in part. The surrogate values we preliminarily used to value ocean freight represented the best information on the record. The surrogate freight rates we used to calculate ocean freight in the *Preliminary Determination* derived from Freightos, an online provider of market-economy freight quotes.[37] We added international freight expenses to the cost of each material input, on an FOB basis, to determine total material costs on a landed (CIF) basis.[38] HengTong does not dispute this practice, but instead claims that the international freight expense used in the *Prelininary Determination* is for containerized freight and does not apply to bulk freight, which it claims is how pig iron and metallurgical coke are shipped. However, HengTong does not point to any information on the record to support its claim that pig iron and metallurgical coke are shipped in bulk. Moreover, HengTong did not provide Commerce with any surrogate value information for ocean freight based on bulk rates. HengTong had two opportunities to submit factual information rebutting the use of the value used in the *Prelimianry Determination*, including any factual information regarding the proper type of ocean freight to use on certain FOPs, but it failed to do so.

The statute directs Commerce to value the FOPs "based on the available information regarding the values of such factors in a market economy country."[39] As the international freight rates used in the *Preliminary Determination* are the only information available on the administrative record to value the relevant freight costs in the market-economy surrogate country, we find the rates are the best available information on the record. We, therefore, have used the same rates for the final determination as we used in the *Preliminary Determination*.

Comment 6: Surrogate Value for Asphalt Paint

***HengTong's Comments*:**
- In the *Preliminary Determination*, Commerce used a surrogate value for asphalt paint based upon South African HTS 3208.90 for polymer-based paints and varnishes.
- However, HengTong used an asphalt (bituminous-based) paint coating for those soil pipe products that did not incorporate an epoxy coating.
- In the recently completed investigation on *Cast Iron Soil Pipe Fittings*, Commerce addressed the same issue and found that that South African HTS 2715.00 was more specific to the asphalt paint input used to produce the subject merchandise.[40]
- Thus, Commerce should select South African HTS 2715.00 bituminous-based mixtures for the final determination.

[37] *Id.* at 4.
[38] *See* Commerce Memorandum, "Preliminary Determination Margin Calculation for HengTong Casting Co., Ltd.," dated August 24, 2018 (Prelim Calc Memo) at 3 and 5.
[39] *See Downhole Pipe & Equipment L.P. v. United States*, 776 F. 3d. 1369, 1375 (CAFC 2015), citing to 19 U.S.C. 1677(c)(1)(B).
[40] *See Cast Iron Soil Pipe Fittings from the People's Republic of China: Final Determination of Sales at Less than Fair Value and Final Determination of Critical Circumstances, in Part*, 83 FR 33205 (July 17, 2018) and accompanying IDM at Comment 11.

The Petitioner's Comments

- The petitioner did not comment on this issue.

Commerce Position:
We agree with HengTong that the appropriate surrogate value for asphalt paint is HTS category 2715.00, rather that the polymer-based paint used in the *Preliminary Determination*. Therefore, for the final determination, we valued asphalt paint using the HTS category 2715.00 (bituminous mixtures based on natural asphalt, natural bitumen, petroleum bitumen, mineral tar or mineral tar pitch).[41]

Comment 7: Aberrational Surrogate Values

***HengTong's Comments*:**

- Given the below, for purposes of the final determination, Commerce must replace the surrogates used for ferrous scrap, pig iron and ocean freight with alternative surrogates that are not aberrational or distortive.

  <u>*Pig Iron*</u>

- In the *Preliminary Determination*, Commerce used a surrogate value based upon South African import statistics under the four-digit HTS number 7201 equal to 12.44 SAR/kg or approximately $900/kg.
- This value is more specific to manganese alloy pig iron, and overstates the general market value of non-alloy pig iron (as used by HengTong), as published in metal market publications, by at least 100 percent.
- Thus, not only is this surrogate value not specific to the type of pig iron used by HengTong, but it is also aberrational.

  <u>*Ferrous Scrap*</u>

- In the *Preliminary Determination*, Commerce used a surrogate value based upon South African import statistics under the six-digit HTS number 7204.41 equal to 13.17 SAR.
- The total volume of imports that entered South Africa during the POI is based upon a miniscule sample size of only 122 kg valued at 1607 SAR (approximately $115), and thus, cannot be considered a broad-based average. Moreover, due to the small sample size, it is highly susceptible to distortion.
- Furthermore, in the recently completed *Cast Iron Soil Pipe Fittings*, Commerce selected a surrogate value for steel scrap, from the same HTS number, with a surrogate value equal to 1.7 SAR.
- Thus, the surrogate value from this review is aberrational as it over eight times greater than the surrogate value selected by Commerce in *Cast Iron Soil Pipe Fittings* for the six-month period immediately prior to this POI.

  <u>*Ocean Freight*</u>

[41] S*ee* Commerce Memorandum, "Less-Than-Fair-Value Investigation of Cast Iron Soil Pipe from the People's Republic of China: Surrogate Values for the Final Determination," dated concurrently with this document (Final SV Memo).

- In the *Preliminary Determination*, Commerce selected a surrogate to value the ocean freight adjustment that was added to South African import statistics to account for the fact that they were reported on an FOB, rather a landed cost, basis.
- That adjustment in this investigation was $0.2177/kg or approximately 3.05 SAR/per kg.
- In the recently completed investigation of *Cast Iron Soil Pipe Fittings*, Commerce selected a surrogate to value ocean freight equal to $0.1592 SAR per kg.
- The surrogate value from this investigation is aberrational, as it is 19 times greater than the surrogate value selected by Commerce in the earlier investigation for the six-month period immediately prior to this POI.

The Petitioner's Comments

- The surrogate values for pig iron, ferrous scrap and international freight used in *Cast Iron Soil Pipe Fittings* are not on the record of this investigation.
- HengTong has also not placed any information on the record regarding prices for pig iron "published in metal market publications."
- HengTong had the opportunity to put such information on the record either as affirmative surrogate values or to rebut or clarify the surrogate value data identified by the petitioner, but failed to do so.
- Under Commerce's practice, the fact that a surrogate value appears on the low/high end of a range of values is not in and of itself sufficient to demonstrate that a value is aberrational.
- Furthermore, it is Commerce's practice to analyze differences between data/benchmarks on the record for other countries or for South Africa for multiple years to determine if values are aberrational.
- Here, HengTong has only alleged differences between surrogate values in the instant POI and the prior six-month period used in a different proceeding.
- HengTong had the ability to submit benchmark data to rebut and clarify the petitioner's own surrogate value information, but failed to do so.
- As HengTong has failed to demonstrate that the surrogate values used in the *Preliminary Determination* are aberrational, Commerce should, therefore, continue to use these surrogate values in its final determination.

Commerce Position:

We agree with the petitioner. When determining whether prices are aberrational, Commerce first must have the data to be evaluated on the record. Moreover, we have found that the existence of higher prices or lower values, for example, alone do not necessarily indicate that the prices are distorted or misrepresentative and, thus, it is not a sufficient basis upon which to exclude a particular surrogate value.[42] With respect to the three surrogate values above, HengTong made comparisons of record data to non-record data. For example, HengTong points to data in the recently completed *Cast Iron Soil Pipe Fittings* as a potential benchmark in its arguments. However, those data are not on the record of this proceeding. In addition, HengTong points to some "metal market publications" that are also not on the record of this investigation. Thus,

[42] *See, e.g.*, *Vinh Hoan Corporation et al. v. United States*, Consol. Court No. 13-00156, Slip Op. 16-53 (May 26, 2016); *see also Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012-2013*, 80 FR 13332 (March 13, 2015) and accompanying IDM at Comment 5.

HengTong had ample opportunities to place surrogate value benchmark information on the record, but failed to do so. Therefore, Commerce finds that the values to which HengTong refers to discredit the surrogate values used for purposes of the *Preliminary Determination* are absent from the recordand, accordingly, we continue using the preliminary surrogate values for the final determination.

Comment 8: Non-Refundable Value-Added Tax (VAT)

The Petitioner's Comments

- Commerce incorrectly relied upon Heng Tong's reported VAT tax (VATTAXU) field in the *Preliminary Determination,* as HengTong stated in its questionnaire response that it reported an alternative formula. [43]
- Heng Tong's reported formula results in a diminished and inaccurate VATTAXU value and, thus, Commerce should adhere to its established methodology and recalculate VATTAXU.

***HengTong's Comments*:**

- HengTong did not comment on this issue.

Commerce Position:

We agree with the petitioner and will follow our established practice of multiplying the FOB price (here that is reported as GRSUPRU) times the VAT rate less the VAT refund rate (*i.e.*, 17-9=8 percent).[44]

[43] *See* HengTong's Letter, "Cast Iron Soil Pipe from China: Submission of Section C Response of HengTong Casting,"dated June 15, 2018, at 35.

[44] *See*, *e.g.*, *Cast Iron Soil Pipe Fittings Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination and Extension of Provisional Measures*, 83 FR 7145 (February 20, 2018), unchanged in *Cast Iron Soil Pipe Fittings From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances, in Part*, 83 FR 33205 (July 17, 2018).

IX. Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final determination of the investigation and the final dumping margins in the *Federal Register* and will notify the U.S. International Trade Commission of our determination.

☒	☐
Agree	Disagree

2/22/2019

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