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International Trade Administration
Washington, D.C. 20230

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Investigation
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DATE: February 25, 2019

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 Director
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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

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I. SUMMARY

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

II. BACKGROUND

On June 20, 2018, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) Petition concerning imports of steel racks from the People's Republic of China (China), filed in proper form on behalf of the Coalition of Fair Rack Imports (the petitioner).[1] The AD Petition was accompanied by a countervailing duty (CVD) Petition concerning imports of steel racks from China. Commerce published the notice of initiation of this investigation on July 17, 2018.[2] On August 15, 2018, the International Trade Commission (ITC) preliminarily determined that there is a reasonable

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[1] *See* the petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Steel Racks from the People's Republic of China," dated June 20, 2018 (the Petition). *See* Volume I of the Petition, at 1-3.
[2] *See Steel Racks from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 83 FR 33195 (July 17, 2018) (*Initiation Notice*).

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indication that an industry in the United States is materially injured by reason of imports of steel racks from China.[3]

In July, August, and September 2018, we selected mandatory respondents to individually examine in this investigation and subsequently issued Commerce's AD questionnaire to those respondents. While certain mandatory respondents did not respond to Commerce's questionnaire,[4] others did respond to the questionnaire and supplemental questionnaires from October 2018 to February 2019.[5] The petitioner timely submitted comments with respect to Nanjing Dongsheng Shelf Manufacturing Co., Ltd.'s (Nanjing Dongsheng) questionnaire and supplemental questionnaire responses.[6]

Between August 16, 2018 and August 23, 2018, Commerce received timely separate rate applications (SRAs) from thirty-eight companies.[7] Commerce issued supplemental SRA questionnaires to, and received responses to those supplemental questionnaires from, certain separate rate applicants during the period September through December 2018.[8]

Between October 23, 2018, and January 28, 2019, Commerce received comments on the selection of the primary surrogate country and surrogate values (SVs) from the petitioner and Nanjing Dongsheng.[9]

In the *Initiation Notice*, Commerce notified interested parties that it was providing them with an opportunity to comment on the scope of the investigation and to comment on the appropriate physical

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[3] *See Steel Racks from China, Investigation Nos. 701-TA-608 and 731-TA-1420 (Preliminary)*, 83 FR 40552 (August 15, 2018) (*ITC Preliminary Determination*).

[4] *See* "The China-Wide Entity" section of this memorandum for details.

[5] *See* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China-Section A Questionnaire Response," dated November 7, 2018 (ND Section A Response); *see* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China-Section C Questionnaire Response," dated November 13, 2018 (ND Section C Response); *see* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China-Section D Questionnaire Response," dated November 19, 2018 (ND Section D Response); *see* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China-Section A Questionnaire Response," dated November 7, 2018 (ND Section A Response); *see* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China-Supplemental Section A Questionnaire Response," dated November 29, 2018 (ND Supplemental Section A Response); *see* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China-Supplemental Section C Questionnaire Response," dated December 6, 2018 (ND Supplemental Section C Response); *see* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China-Supplemental Section D Questionnaire Response," dated December 17, 2018 (ND Supplemental Section D Response); *see* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China – Dongsheng Supplemental Section C Questionnaire Response," dated February 6, 2019 (ND Second Supplemental Section C Response); *see* letter from Xiamen PDF, re: "Steel Racks from the People's Republic of China - Section A Questionnaire Response," dated October 15, 2018; *see* letter from Zhangzhou URB, re: "Steel Racks from the People's Republic of China - Section A Questionnaire Response," dated October 15, 2018; *see* letter from Xiamen PDF and Zhangzhou URB, re: "Steel Racks from the People's Republic of China - Section C & D Questionnaire Response," dated October 22, 2018; *see* letter from Xiamen PDF, re: "Steel Racks from the People's Republic of China – Supplemental Questionnaire Response," dated November 26, 2018; *see* letter from Zhangzhou URB, re: "Steel Racks from the People's Republic of China – Supplemental Questionnaire Response," dated November 26, 2018.

[6] *See* letter from petitioner, re: "Certain Steel Racks from the People's Republic of China: Comments on Dongsheng Section A and C Response," dated November 27, 2018.

[7] *See* the "Separate Rates" section of this memorandum for details.

[8] *Id*.

[9] *See* the "Surrogate Country and Surrogate Value Comments" section of this memorandum for details.

characteristics of steel racks to be reported in response to Commerce's AD Questionnaire.[10] In August 2018, interested parties submitted comments on product characteristics.[11] From August through December 2018, interested parties submitted scope comments.[12]

Between December 20, 2018 and January 28, 2019, the petitioner and Nanjing Dongsheng submitted comments for consideration in the preliminary determination.[13]

On October 24, 2018, Commerce postponed the preliminary determination of this investigation until January 19, 2019.[14] Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[15] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary determination is now February 25, 2019.

Commerce is conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is October 1, 2017, through March 31, 2018. This period corresponds to the two most recently completed fiscal quarters as of the month preceding the month in which the petition was filed, which was June 2018.[16]

IV. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

On December 10, 2018, pursuant to 19 CFR 351.210(b)(2)(ii), Nanjing Dongsheng requested that Commerce postpone its final determination, and requested that Commerce extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[17] On December 17, 2018, the petitioner requested

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[10] *See Initiation Notice*, 83 FR at 33196-97.
[11] *See* letter from the petitioner, re: "Steel Racks from the People's Republic of China: Comments on Product Characteristics," dated August 27, 2018; *see* letter from Tangshan Apollo, re: "Steel Racks and Parts Thereof from the People's Republic of China: Product Characteristic Comments," dated August 27, 2018; *see* letter from the petitioner, re: "Steel Racks from the People's Republic of China: Rebuttal Comments on Product Characteristics," dated August 31, 2018; *see* letter from Tangshan Apollo, re: "Steel Racks and Parts Thereof from the People's Republic of China: Rebuttal Product Characteristic Comments," dated August 31, 2018; *see* also memorandum to the File, re: "Steel Racks and Parts Thereof from the People's Republic of China: Product Characteristics," dated September 11, 2018.
[12] *See* the "Scope Comments" section of this memorandum for details.
[13] *See* Petitioner's Pre-Prelim Comments, Nanjing Dongsheng Pre-Prelim Comments, and Petitioner's Second Pre-Prelim Comments.
[14] *See Steel Racks and Parts Thereof from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 83 FR 53606 (October 24, 2018).
[15] *See* memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.
[16] *See* 19 CFR 351.204(b)
[17] *See* Letter from Nanjing Dongsheng, "Steel Racks from the People's Republic of China – Request for Extension of Final

that Commerce postpone the final determination in the event that Commerce makes a negative preliminary determination.[18] 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,[19] and 3) no compelling reasons for denial exist, we are granting respondent's request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*. In this regard, the aforementioned respondent submitted a request to extend the provisional measures,[20] and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

V. SCOPE COMMENTS

In the *Initiation Notice*, Commerce notified interested parties that it was providing them with an opportunity to comment on the scope of the investigation.[21] Numerous interested parties commented on the scope from August through December 2018. In their comments on the scope, interested parties generally expressed concerns that the scope was too broad and covered products that the petitioner never indicated it intended to cover, such as garment/clothing racks, shoe racks, other light-duty retail racks, shelving, or display units, tire racks, bike racks, and other consumer/household racks such as firewood racks. Many of the commenters requested that their products be excluded from the scope or that Commerce confirm that their products are not covered by the scope.

After initiation of this investigation, the petitioner proposed revisions to the scope. Many of the proposed revisions addressed comments from interested parties. Those revisions include additional descriptions of specific characteristics of subject steel racks (such as dimensions of load bearing members, and yield strength), additional descriptions of excluded components of boltless steel shelving, and exclusions for wall-mounted racks, ceiling mounted racks, scaffolding, tubular racks (including garment and drying racks), portable tier racks, and various rack accessories.

After considering interested parties' comments and the petitioner's revisions to the scope, we have preliminarily made certain revisions to the scope. For a full discussion of all scope comments and Commerce's preliminary decision, *see* Scope Memorandum.[22]

VI. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is steel racks and parts thereof, assembled, to any extent, or unassembled, including but not limited to, vertical components (*e.g.,* uprights, posts, or

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Determination and Provisional Measures," dated December 10, 2018, ("Nanjing Dongsheng Extension Request").
[18] *See* Letter from Petitioner, "Steel Racks from the People's Republic of China: Petitioner's Request to Extend the Deadline for the Final Determination," dated December 17,2018.
[19] *See* Memorandum, re: "Less-Than-Fair-Value Investigation of Steel Racks and Parts Thereof from the People's Republic of China: Selection of Additional Respondent," dated October 9, 2018 (Third Respondent Selection Memorandum).
[20] *See* 19 CFR 351.210(e)(2); *see also* Nanjing Dongsheng Extension Request.
[21] *See Initiation Notice*, 83 FR at 33196.
[22] *See* memorandum, "Steel Racks from the People's Republic of China: Preliminary Scope Decision," dated concurrently with this memorandum (Scope Memorandum).

columns), horizontal or diagonal components (*e.g.,* arms or beams), braces, frames, locking devices (*e.g.*, end plates and beam connectors), and accessories (including, but not limited to, rails, skid channels, skid rails, drum/coil beds, fork clearance bars, pallet supports, row spacers, and wall ties).

Subject steel racks and parts thereof are made of steel, including, but not limited to, cold and/or hot-formed steel, regardless of the type of steel used to produce the components and may, or may not, include locking tabs, slots, or bolted, clamped, or welded connections. Subject steel racks have the following physical characteristics:

(1) Each steel vertical and horizontal load bearing member (*e.g.,* arms, beams, posts, and columns) is composed of steel that is at least 0.044 inches thick;
(2) Each steel vertical and horizontal load bearing member (*e.g.,* arms, beams, posts, and columns) is composed of steel that has a yield strength equal to or greater than 36,000 pounds per square inch;
(3) The width of each steel vertical load bearing member (*e.g.,* posts and columns) exceeds two inches; and
(4) The overall depth of each steel roll-formed horizontal load bearing member (*e.g.,* beams) exceeds two inches.

In the case of steel horizontal load bearing members other than roll-formed (*e.g.,* structural beams, Z-beams, or cantilever arms), only the criteria in subparagraphs (1) and (2) apply to these horizontal load bearing members. The depth limitation in subparagraph (4) does not apply to steel horizontal load bearing members that are not roll-formed.

Steel rack components can be assembled into structures of various dimensions and configurations by welding, bolting, clipping, or with the use of devices such as clips, end plates, and beam connectors, including, but not limited to the following configurations: 1) racks with upright frames perpendicular to the aisles that are independently adjustable, with positive-locking beams parallel to the aisle spanning the upright frames with braces; and 2) cantilever racks with vertical components parallel to the aisle and cantilever beams or arms connected to the vertical components perpendicular to the aisle. Steel racks may be referred to as pallet racks, storage racks, stacker racks, retail racks, pick modules, selective racks, or cantilever racks and may incorporate moving components and be referred to as pallet-flow racks, carton-flow racks, push-back racks, movable-shelf racks, drive-in racks, and drive-through racks. While steel racks may be made to ANSI MH16.l or ANSI MH16.3 standards, all steel racks and parts thereof meeting the description set out herein are covered by the scope of this investigation, whether or not produced according to a particular standard.

The scope includes all steel racks and parts thereof meeting the description above, regardless of

(1) other dimensions, weight, or load rating;
(2) vertical components or frame type (including structural, roll-form, or other);
(3) horizontal support or beam/brace type (including but not limited to structural, roll-form, slotted, unslotted, Z-beam, C-beam, L-beam, step beam, and cantilever beam);
(4) number of supports;
(5) number of levels;
(6) surface coating, if any (including but not limited to paint, epoxy, powder coating, zinc, or other metallic coatings);

(7) rack shape (including but not limited to rectangular, square, corner, and cantilever);
(8) the method by which the vertical and horizontal supports connect (including but not limited to locking tabs or slots, bolting, clamping, and welding); and
(9) whether or not the steel rack has moving components (including but not limited to rails, wheels, rollers, tracks, channels, carts, and conveyors).

Subject merchandise includes merchandise matching the above description that has been finished or packaged in a third country. Finishing includes, but is not limited to, coating, painting, or assembly, including attaching the merchandise to another product, or any other finishing or assembly operation that would not remove the merchandise from the scope of the investigation if performed in the country of manufacture of the steel racks and parts thereof. Packaging includes packaging the merchandise with or without another product or any other packaging operation that would not remove the merchandise from the scope of the investigation if performed in the country of manufacture of the steel racks and parts thereof.

Steel racks and parts thereof are included in the scope of this investigation whether or not imported attached to, or included with, other parts or accessories such as wire decking, nuts, and bolts. If steel racks and parts thereof are imported attached to, or included with, such non-subject merchandise, only the steel racks and parts thereof are included in the scope.

The scope of this investigation does not cover: 1) decks, *i.e.*, shelving that sits on or fits into the horizontal supports to provide the horizontal storage surface of the steel racks; 2) wire shelving units, *i.e.*, units made from wire that incorporate both a wire deck and wire horizontal supports (taking the place of the horizontal beams and braces) into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts to create a finished unit; 3) pins, nuts, bolts, washers, and clips used as connecting devices; and 4) non-steel components.

Specifically excluded from the scope of this investigation are any products covered by Commerce's existing antidumping and countervailing duty orders on boltless steel shelving units prepackaged for sale from the People's Republic of China. *See Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Antidumping Duty Order*, 80 Fed. Reg. 63,741 (October 21, 2017); *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 Fed. Reg. 63,745 (October 21, 2017).

Also excluded from the scope of this investigation are bulk-packed parts or components of boltless steel shelving units that were specifically excluded from the scope of the Boltless Steel Shelving Orders because such bulk-packed parts or components do not contain the steel vertical supports (*i.e.*, uprights and posts) and steel horizontal supports (*i.e.*, beams, braces) packaged together for assembly into a completed boltless steel shelving unit.

Such excluded components of boltless steel shelving are defined as:

(1) boltless horizontal supports (beams, braces) that have each of the following characteristics: (a) a length of 95 inches or less, (b) made from steel that has a thickness of 0.068 inches or less, and (c) a weight capacity that does not exceed 2500 lbs per pair of beams for beams that are 78" or shorter, a

weight capacity that does not exceed 2200 lbs per pair of beams for beams that are over 78” long but not longer than 90”, and/or a weight capacity that does not exceed 1800 lbs per pair of beams for beams that are longer than 90”;
(2) shelf supports that mate with the aforementioned horizontal supports; and
(3) boltless vertical supports (upright welded frames and posts) that have each of the following characteristics: (a) a length of 95 inches or less, (b) with no face that exceeds 2.90 inches wide, and (c) made from steel that has a thickness of 0.065 inches or less.

Excluded from the scope of this investigation are: (1) wall-mounted shelving and racks, defined as shelving and racks that suspend all of the load from the wall, and do not stand on, or transfer load to, the floor; (2) ceiling-mounted shelving and racks, defined as shelving and racks that suspend all of the load from the ceiling and do not stand on, or transfer load to, the floor; and (3) wall/ceiling mounted shelving and racks, defined as shelving and racks that suspend the load from the ceiling and the wall and do not stand on, or transfer load to, the floor. The addition of a wall or ceiling bracket or other device to attach otherwise subject merchandise to a wall or ceiling does not meet the terms of this exclusion.

Also excluded from the scope of this investigation is scaffolding that complies with ANSI/ASSE A10.8 - 2011 – Scaffolding Safety Requirements, CAN/CSA S269.2-M87 (Reaffirmed 2003) – Access Scaffolding for Construction Purposes, and/or Occupational Safety and Health Administration regulations at 29 C.F.R. Part 1926 subpart L – Scaffolds.

Also excluded from the scope of this investigation are tubular racks such as garment racks and drying racks, *i.e.*, racks in which the load bearing vertical and horizontal steel members consist solely of: (1) round tubes that are no more than two inches in diameter; (2) round rods that are no more than two inches in diameter; (3) other tubular shapes that have both an overall height of no more than two inches and an overall width of no more than two inches; and/or (4) wire.

Also excluded from the scope of this investigation are portable tier racks. Portable tier racks must meet each of the following criteria to qualify for this exclusion:

(1) They are freestanding, portable assemblies with a fully welded base and four freely inserted and easily removable corner posts;
(2) They are assembled without the use of bolts, braces, anchors, brackets, clips, attachments, or connectors;
(3) One assembly may be stacked on top of another without applying any additional load to the product being stored on each assembly, but individual portable tier racks are not securely attached to one another to provide interaction or interdependence; and
(4) The assemblies have no mechanism (*e.g.,* a welded foot plate with bolt holes) for anchoring the assembly to the ground.

Also excluded from the scope of this investigation are accessories that are independently bolted to the floor and not attached to the rack system itself, *i.e.*, column protectors, corner guards, bollards, and end row and end of aisle protectors.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheadings: 7326.90.8688, 9403.20.0080, and 9403.90.8041. Subject merchandise may also enter under subheadings 7308.90.3000, 7308.90.6000, 7308.90.9590, and 9403.20.0090. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

VII. SELECTION OF RESPONDENTS

Section 777A(c)(l) of the Act directs Commerce to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives Commerce discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted-average dumping margin determinations because of the large number of exporters and producers of subject merchandise during the POI. Pursuant to section 777A(c)(2) of the Act, Commerce may limit its examination to: (A) a sample of exporters, producers or types of products that Commerce determines is statistically valid based on the information available to Commerce at the time of selection; or (B) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that Commerce determines can reasonably be examined.

In selecting respondents in this AD investigation, Commerce found that, because of the large number of exporters and producers of subject merchandise during the POI and its limited resources, it was most appropriate to select respondents that account for the largest volume of the subject merchandise that can reasonably be examined, pursuant to section 777A(c)(2)(B) of the Act. Thus, in the *Initiation Notice*, Commerce noted that it intended to select respondents based on responses to quantity and value (Q&V) Questionnaires.[23]

On July 11, 2018, we issued quantity and value questionnaires to the 93 known Chinese exporters and producers of steel racks identified in the Petition.[24] Sixty-one exporters/producers received the Q&V Questionnaire.[25] Additionally, we posted the Q&V Questionnaire, along with filing instructions, on Enforcement and Compliance's website[26] and invited parties who did not receive a Q&V Questionnaire from Commerce to file a response to the Q&V Questionnaire by the applicable deadline if they wished to be included in the pool of companies from which Commerce would select mandatory respondents.[27] Commerce received timely filed Q&V Questionnaire responses from 44 exporters and producers of the merchandise under consideration (including 31 companies not named in the Petition).[28] Commerce did not receive Q&V questionnaire responses from the remaining 48 companies that received Q&V Questionnaires.

In the Initial Respondent Selection Memorandum, pursuant to section 777A(c)(2)(B) of the Act, we limited the number of respondents selected for individual examination to the three producers and exporters accounting for the largest volume of exports of steel racks from China to the United States

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[23] *See Initiation Notice*, 83 FR at 33199.
[24] *See* Memorandum to the File, re: "Antidumping Duty Investigation of Steel Racks and Parts Thereof from the People's Republic of China: Quantity and Value Questionnaires," dated July 16, 2018 ("Q&V Questionnaire").
[25] *See* Memorandum to the File, re: "Antidumping Duty Investigation of Steel Racks from the People's Republic of China: Delivery of Quantity and Value Questionnaires," dated August 15, 2018 (Delivery Status Memo).
[26] *See* http://trade.gov/enforcement/news.asp.
[27] *See Initiation Notice*, 83 FR at 33199.
[28] *See* Memorandum, re: "Less-Than-Fair-Value Investigation of Steel Racks from the People's Republic of China: Respondent Selection, dated August 16, 2018, (Initial Respondent Selection Memorandum).

during the POI that could be reasonably examined. Specifically, we determined that Commerce had the resources to individually examine Jiangsu Kingmore Storage Equipment Manufacturing Co., Ltd. (Jiangsu Kingmore), Nanjing Huade Storage Equipment Manufacturing Co., Ltd. (Nanjing Huade), and Tangshan Apollo Energy Equipment Company, Ltd. (Tangshan Apollo) as mandatory respondents.[29] After Jiangsu Kingmore and Nanjing Huade indicated they would not participate in the proceeding, on September 5, 2018, we selected Xiamen PDF Co., Ltd. (Xiamen PDF) and Zhangzhou URB Fabricating Co., Ltd. (Zhangzhou URB) as mandatory respondents for individual examination.[30] After Tangshan Apollo did not file its response to Commerce's AD questionnaire, on October 9, 2018, we selected Nanjing Dongsheng[31] as an additional mandatory respondent to be individually examined in this investigation.[32]

VIII. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country

Commerce considers China to be a non-market economy (NME) country.[33] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Further, no party submitted a request to reconsider China's NME status as part of this investigation. Therefore, we continue to treat China as an NME country for purposes of this preliminary determination.

B. Surrogate Country and Surrogate Value Comments

When Commerce is investigating 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 (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by Commerce. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce shall utilize, "to the extent possible, the prices or costs of {FOPs} in one or more ME countries that are— (A) at a level of economic development comparable to that of the {NME} country; and (B) significant producers of comparable merchandise."[34] As a general rule, Commerce selects a surrogate country that is at the level of economic development of the NME unless it is determined that none of those countries 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 based on other reasons. Surrogate countries that are not at the level of economic

[29] *See* Initial Respondent Selection Memorandum.
[30] *See* Memorandum, "Less-Than-Fair-Value Investigation of Steel Racks from the People's Republic of China: Selection of Additional Respondents," dated September 5, 2018 (Second Respondent Selection Memorandum).
[31] While Nanjing Dongsheng requested voluntary respondent treatment, it was ultimately selected as a mandatory respondent.
[32] *See* Third Respondent Selection Memorandum.
[33] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017) (China NME Status Memo), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).
[34] For a description of our practice *see* Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1) available on Commerce's website at http://enforcement.trade.gov/policy/bull04-1.html.

development of the NME country, but that are still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.[35] To determine which countries are at the level of economic development of the NME, Commerce generally relies on per capita gross national income ("GNI") data from the World Bank's World Development Report.[36] Further, Commerce normally values all FOPs in a single surrogate country.[37]

On October 16, 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 SV information.[38] Specifically, Commerce identified Brazil, Kazakhstan, Malaysia, Mexico, Romania and Russia as countries that are at the same level of economic development as China, based on per capita 2017 GNI data.[39] From October 2018 through January 2019, Commerce received surrogate country and surrogate value comments from interested parties.[40]

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[35] *See* Letter from Howard Smith, Program Manager, AD/CVD Operations, Office IV, Enforcement and Compliance to All Interested Parties "Less Than Fair Value Investigation of Iron Mechanical Transfer Drive Components from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," dated February 11, 2016 ("Surrogate Country Memorandum").
[36] *Id*.
[37] *See* 19 CFR 351.408(c)(2).
[38] *See* Commerce Letter re: "Antidumping Duty Investigation of Steel Racks from the People's Republic of China: Request for Surrogate Country Comments and Information," dated October 16, 2018. See also Memorandum to the File, re: "Antidumping Duty Investigation of Steel Racks from the People's Republic of China: Submission of Comments Regarding Surrogate Country Selection," dated October 31, 2018; *see also* Commerce Letter, re: "Antidumping Duty Investigation of Steel Racks from the People's Republic of China: Opportunity to Submit Surrogate Value Comments and Information," dated October 31, 2018; *see also* Memorandum to the File, re: Antidumping Duty Investigation of Steel Racks from the People's Republic of China: Submission of Comments Regarding Surrogate Country Selection," dated November 13, 2018.
[39] *See* Commerce Letter re: "Antidumping Duty Investigation of Steel Racks from the People's Republic of China: Request for Surrogate Country Comments and Information," dated October 16, 2018, at Attachment I (containing Office of Policy Memorandum identifying these countries) (Surrogate Country List to Parties).
[40] *See* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China - Comments on the Surrogate Country List," dated October 23, 2018 (Nanjing Dongsheng Surrogate Country Comments); *see also* letter from the petitioner, re: Steel Racks from the People's Republic of China: Rebuttal Comments regarding the Surrogate Country List," dated October 26, 2018 (Petitioner Surrogate Country Comments); *see also* letter from the petitioner, re: "Steel Racks from the People's Republic of China: Comments on Surrogate Country Selection," dated November 26, 2018 (Petitioner's Second Surrogate Country Comments); *see also* letter from the petitioner, re: "Steel Racks from the People's Republic of China: Factual Information to Value Factors of Production," dated November 26, 2018 (Petitioner's First SV Submission); *see also* letter from the petitioner, re: "Steel Racks from the People's Republic of China: Rebuttal Comments on Surrogate Country Selection," dated November 30, 2018 (Petitioner's Third Surrogate Country Comments); *see also* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China – Comments on the Surrogate Country Selection and Preliminary SV Submission," dated November 26, 2018 (ND First SV Submission); see also letter from the petitioner, re: "Steel Racks from the People's Republic of China: Surrogate Value Rebuttal Comments," dated December 6, 2018 (Petitioner's Second SV Submission); *see also* letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China - Second Surrogate Value Submission, dated December 12, 2018 (ND Second SV Submission); *see also* letter from the petitioner, re: "Steel Racks from the People's Republic of China: Pre-Preliminary Surrogate Value Comments," dated December 17, 2018 (Petitioner's Third SV Submission); see also letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China Final Surrogate Value Submission," dated December 17, 2018 (ND Third SV Submission); *see also* letter from the petitioner, re: "Steel Racks from the People's Republic of China: Petitioner's Pre-Preliminary Comments," dated December 20, 2018 (Petitioner's Pre-Prelim Comments); *see also* letter from the petitioner, re: "Steel Racks from the People's Republic of China: Rebuttal Comments on Dongsheng's 30-day SV Submission," dated December 20, 2018 (Petitioner's Fourth Surrogate Country Submission); see also letter from Nanjing Dongsheng, re: "Steel Racks from the People's Republic of China Pre-Preliminary Comments," dated December 20, 2018 (Nanjing Dongsheng Pre-Prelim

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, the applicable statute does not expressly define the phrase "level of economic development comparable" or what methodology Commerce must use in evaluating the criterion. 19 CFR 351.408(b) states that in determining whether a country is at a level of economic development comparable to the NME country, Commerce will place primary emphasis on per capita GDP as the measure of economic comparability.[41] The 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."[42] 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.

Consistent with its practice and section 773(c)(4) of the Act, and as stated above, Commerce identified Brazil, Kazakhstan, Malaysia, Mexico, Romania and Russia as countries at the level of economic development of China, based on GNI data published in the World Bank Development Indicators database.[43] The countries identified are not ranked and are considered equivalent in terms of economic comparability.

2. Significant Producer of Comparable Merchandise

While the statute does not define "significant" or "comparable," Commerce's practice is to evaluate whether production is significant based on characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics) and to determine whether merchandise is comparable on a case-by-case basis.[44] Where there is no production information, Commerce has relied upon export data from potential surrogate countries to make its determination of whether a country is a significant producer of comparable merchandise. With respect to comparability of merchandise, in all cases, if identical merchandise is produced in a country, the country qualifies as a producer of comparable merchandise. Where there is no evidence of production of identical merchandise in a potential surrogate country, Commerce has determined whether merchandise is comparable to the subject merchandise on the basis of similarities in physical form and the extent of processing or on the basis of production factors (physical and non-physical) and factor

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Comments); *see also* letter from the petitioner, re: "Steel Racks from the People's Republic of China: Response to Dongsheng's Pre-Preliminary Comments," dated January 29, 2019 (Petitioner's Second Pre-Prelim Comments).

[41] Commerce uses per capita GNI as a proxy for per capita GDP. GNI is GDP plus net receipt of primary income (compensation of employees and property income) from nonresident sources.

[42] *See Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014) (*Brother Fastener*).

[43] *Id*.

[44] *See Xanthan Gum from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2252 (January 10, 2013) and accompanying Preliminary Decision Memorandum at 4-7, unchanged in *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013).

intensities. Since these characteristics are specific to the merchandise in question, the standard for "significant producer" will vary from case to case.[45]

A comparison of production quantities of the comparable merchandise from each potential surrogate country in relation to world production was not possible because the record does not contain production quantities of comparable merchandise from each potential surrogate country. Thus, we sought evidence of production of comparable merchandise in the form of exports of comparable merchandise from the six potential surrogate countries identified above, as a proxy for production data. Export data is one of the sources of data Commerce will consider in determining whether a country is a significant producer of comparable merchandise. The record contains UN Comtrade data for Brazil, Kazakhstan, Malaysia, Mexico, Romania and Russia for the six-digit Harmonized Tariff Schedule (HTS) sub-headings listed in the scope of this antidumping duty investigation (*i.e.* 732690, 940320, and 940390), which cover the merchandise under consideration.[46] Based on these data, Commerce has determined that Brazil, Kazakhstan, Malaysia, Mexico, Romania and Russia are significant producers of comparable merchandise. We next examined SV data availability.

3. Data Availability

Commerce considers several factors when evaluating SV data, including whether the SVs are publicly available, contemporaneous with the period under consideration, broad-market averages, tax and duty-exclusive, and specific to the inputs being valued.[47] There is no hierarchy among these criteria.[48] Commerce's preference is to satisfy the breadth of these aforementioned selection factors.[49]

As an initial matter, Brazil and Romania are the only potential surrogate countries for which we have complete SV data on the record.[50] Hence, we examined the quality of those data to determine whether one surrogate source was preferable over the other. Both sets of SVs are publicly available, contemporaneous with the POI, and generally include tax-exclusive broad market average prices. However, for most inputs, the Romania SVs are more specific to the inputs used by Nanjing Dongsheng than the Brazil SVs. Additionally, the Romania SVs for steel inputs are more detailed than those from Brazil (*i.e.*, the Romanian import values are at an eight-digit HTS level rather than the six-digit level for Brazil). Further, the Brazilian SV data are reported on a free-on-board (FOB) basis, while the Romanian are reported on a cost, insurance and freight (CIF) basis. Commerce prefers to rely on SVs reported on a

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[45] *See* Policy Bulletin at 1-2; *see also*, *e.g.*, *Hardwood and Decorative Plywood from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and the accompanying Issues and Decision Memorandum at Comment 7.
[46] *See* Nanjing Dongsheng Surrogate Country Comments.
[47] *See*, *e.g.*, *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews*, 2010-2011, 78 FR 17350 (March 21, 2013) ("*Frozen Fish Fillets March 2013*"), and accompanying Issues and Decision Memorandum at Comment I(C).
[48] *See, e.g., Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1.
[49] *See Frozen Fish Fillets March 2013*, 78 FR at 17350, and accompanying Issues and Decision Memorandum at Comment I(C).
[50] *See* generally Petitioner's First SV Submission, Petitioner's Second SV Submission, and Petitioner's Third SV Submission; see also generally ND Second SV Submission and ND Third SV Submission. The record also contains incomplete SV data from Kazakhstan. *See* ND First SV Submission.

CIF basis because they include the costs associated with purchasing these inputs from foreign exporters, including brokerage and handling, marine insurance, and international freight because this is the price that is most representative of a domestic price for the input in the surrogate country.[51] The petitioner failed to include the costs necessary to calculate a CIF adjustment from the Brazilian FOB data (*i.e.*, a public source for the international freight SV and marine insurance). In addition, we find the surrogate financial statements for one of the Romanian companies to be preferable to those submitted by the petitioner for the Brazilian company.[52] Given the above factors, we have preliminarily selected Romania as the primary surrogate country for this investigation. Romania is at the same level of economic development as China, is a significant producer of comparable merchandise, and generally has reliable and usable SV data. A detailed description of the SVs selected by Commerce is provided below in the "Normal Value" section of this memorandum.

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.[53] In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in this LTFV investigation.[54] The process requires exporters to submit an SRA[55] and to demonstrate an absence of both *de jure* and *de facto* government control over their export activities.

Commerce's policy is to assign all exporters of merchandise under consideration that are in an NME country a single rate unless an exporter can demonstrate that it is sufficiently independent from government control so as to be entitled to a separate rate.[56] Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent from government control under a test established in *Sparklers*[57] and further developed in *Silicon Carbide*.[58] According to this separate rate test, Commerce will assign a separate rate to a respondent in an NME proceeding if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, however, Commerce determines that a company is wholly foreign-owned, then a separate

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[51] For a description of our practice *see* Department Policy Bulletin No. 10.2, "Inclusion of International Freight Costs When Import Prices Constitute Normal Value," dated November 1, 2010 (Policy Bulletin 10.2) at 2, stating "when the import statistics of the surrogate country do not include such {CIF} costs, {Commerce} has added surrogate values for international freight and foreign brokerage and handling charges to the calculation of normal value," available on Commerce's website at https://enforcement.trade.gov/policy/PB-10.2.pdf. *See also* Wooden Bedroom Furniture from the People's Republic of China: Final Results and Final Rescission in Part, 75 FR 50992 (August 18, 2010) and accompanying Issues and Decision Memorandum at Comment 16.
[52] *See infra* page 30 – Financial Ratios.
[53] *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).
[54] *See Initiation Notice*, 83 FR at 33199.
[55] *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.
[56] *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*").
[57] *Id*.
[58] *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*").

rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

Commerce continues to evaluate its practice with regard to separate rates analysis in light of the diamond sawblades from China AD proceeding, and its determinations therein.[59] In particular, in litigation involving the diamond sawblades from China proceeding, the U.S. Court of International Trade (CIT) found Commerce's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.[60] Following the CIT's reasoning, in recent proceedings, we have concluded that where a government entity holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority ownership holding in and of itself means that the government exercises, or has the potential to exercise, control over the company's operations generally.[61] 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.

In the *Initiation Notice*, we stated that SRAs would be due 30 days after publication of the notice, *i.e.*, August 16, 2018.[62] As noted above, Commerce received timely filed SRAs from 38 companies.[63] In

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[59] *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.

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

[61] *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.

[62] *See Initiation Notice* 83 FR at 33199; *see also Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

[63] Those companies are: (1) Ateel Display Industries (Xiamen) Co., Ltd. (Ateel Display); (2) CTC Universal (Zhangzhou) Industrial Co., Ltd. (CTC Universal); (3) David Metal Craft Manufactory Ltd. (David Metal); (4) Guangdong Wireking Housewares and Hardware Co., Ltd. (Guangdong Wireking); (5) Hebei Minmetals Co., Ltd. (Hebei Minmetals); (6) i-Lift

addition to filing an SRA, Nanjing Dongsheng submitted responses to section A of the NME AD questionnaire, in which it submitted information pertaining to its eligibility for a separate rate.

1. Separate Rate Analysis

Commerce is preliminarily granting the following 32 companies a separate rate, as explained below:

(1) Ateel Display;
(2) CTC Universal;
(3) David Metal;
(4) Guangdong Wireking;
(5) Hebei Minmetals;
(6) i-Lift;
(7) Jiangsu Nova;
(8) Johnson Metal;
(9) Master Trust;
(10) Nanjing Dongsheng;
(11) Nanjing Ironstone;
(12) Nanjing Kingmore;
(13) Ningbo Beilun;
(14) Ningbo Xinguang;
(15) Qingdao Rockstone;
(16) Redman Corporation;
(17) Redman Import & Export;
(18) Suzhou Sunshine;
(19) Tianjin Master Logistics;
(20) Waken Display;
(21) Xiamen Aifeimetal;
(22) Xiamen Baihuide;

Equipment Ltd. (i-Lift); (7) Jiangsu Kingmore; (8) Jiangsu Nova Intelligent Logistics Equipment Co., Ltd. (Jiangsu Nova); (9) Johnson (Suzhou) Metal Products Co., Ltd. (Johnson Metal); (10) Master Trust (Xiamen) Import and Export Co., Ltd. (Master Trust); (11) Nanjing Dongsheng; (12) Nanjing Inform Storage Equipment (Group) Co., Ltd. (Nanjing Inform); (13) Nanjing Ironstone Storage Equipment Co., Ltd. (Nanjing Ironstone); (14) Nanjing Kingmore Logistics Equipment Manufacturing Co., Ltd. (Nanjing Kingmore); (15) Ningbo Beilun Songyi Warehouse Equipment Manufacturing Co., Ltd. (Ningbo Beilun); (16) Ningbo Xinguang Rack Co., Ltd. (Ningbo Xinguang); (17) Qingdao Rockstone Logistics Appliance Co., Ltd. (Qingdao Rockstone); (18) Redman Corporation (Redman Corporation); (19) Redman Import & Export Limited (Redman Import & Export); (20) Redman USA, Inc. (Redman USA); (21) Suzhou (China) Sunshine Hardware & Equipment Imp. & Exp. Co. Ltd. (Suzhou Sunshine); (22) Tangshan Apollo; (23) Tianjin Master Logistics Equipment Co., Ltd. (Tianjin Master Logistics); (24) Waken Display System Co., Ltd. (Waken Display); (25) Xiamen Aifeimetal Manufacturing Co., Ltd. (Xiamen Aifeimetal); (26) Xiamen Baihuide Manufacturing Co., Ltd. (Xiamen Baihuide); (27) Xiamen Ever Glory Fixtures Co., Ltd. (Xiamen Ever Glory); (28) Xiamen Golden Trust Industry & Trade Co., Ltd. (Golden Trust); (29) Xiamen Kingfull Imp and Exp Co., Ltd. (Xiamen Kingfull); (30) Xiamen LianHong Industry and Trade Co., Ltd. (LianHong Industry); (31) Xiamen Luckyroc Industry Co., Ltd. (Xiamen Luckyroc); (32) Xiamen Meitoushan Metal Product Co., Ltd. (Xiamen Meitoushan); (33) Xiamen PDF; (34) Xiamen Power Metal Display Co., Ltd. (Xiamen Power); (35) Xiamen XinHuiYuan Industrial & Trade Co., Ltd. (Xiamen XinHuiYuan); (36) Xiamen Yiree Display Fixtures Co., Ltd (Yiree Display); (37) Zhangjiagang Better Display Co., Ltd. (Zhangjiagang Better Display); and (38) Zhangzhou URB.

(23) Xiamen Ever Glory;
(24) Golden Trust;
(25) Xiamen Kingfull;
(26) LianHong Industry;
(27) Xiamen Luckyroc;
(28) Xiamen Meitoushan;
(29) Xiamen Power;
(30) Xiamen XinHuiYuan;
(31) Yiree Display; and
(32) Zhangjiagang Better Display

a) Wholly-Foreign Owned

CTC Universal, Guangdong Wireking, Johnson Metal, and Waken Display reported that they are wholly-owned by ME companies located outside of China.[64] Therefore, a separate rate analysis is not necessary to determine whether their export activities are independent from government control.[65] Accordingly, Commerce is preliminarily granting separate rate status to CTC Universal, Guangdong Wireking, Johnson Metal, and Waken Display.

b) Absence of *De Jure* Control

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) 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.[66]

The evidence provided by the Chinese-owned companies listed in section C below supports a preliminary finding of an absence of *de jure* government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.[67]

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[64] *See* CTC Universal SRA, Guangdong Wireking SRA, Johnson Metal SRA, and Waken Display SRA.
[65] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007); *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001), unchanged in *Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review*, 66 FR 27063 (May 16, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104 (December 20, 1999).
[66] *See Sparklers*, 56 FR at 20589.
[67] *See e.g.* ND Section A Response.

c) 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 prices are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.[68] 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 the 28 Chinese-owned companies listed below, including Nanjing Dongsheng, 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 prices independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.[69]

Therefore, the evidence placed on the record of this investigation by the above-mentioned separate rate applicants – with the exception of Jiangsu Kingmore, Nanjing Huade, Tangshan Apollo, Xiamen PDF, and Zhangzhou URB – 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 the 28 separate rate applicants identified below, including Nanjing Dongsheng.

(1) Ateel Display;
(2) David Metal;
(3) Hebei Minmetals;
(4) i-Lift;
(5) Jiangsu Nova;
(6) Master Trust;
(7) Nanjing Dongsheng;
(8) Nanjing Ironstone;
(9) Nanjing Kingmore;
(10) Ningbo Beilun;
(11) Ningbo Xinguang;
(12) Qingdao Rockstone;
(13) Redman Corporation;
(14) Redman Import & Export;
(15) Suzhou Sunshine;
(16) Tianjin Master Logistics;

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[68] *See Silicon Carbide*, 59 FR at 22586-87; *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).
[69] *See* e.g. ND Section A Response.

(17) Xiamen Aifeimetal;
(18) Xiamen Baihuide;
(19) Xiamen Ever Glory;
(20) Golden Trust;
(21) Xiamen Kingfull;
(22) LianHong Industry;
(23) Xiamen Luckyroc;
(24) Xiamen Meitoushan;
(25) Xiamen Power;
(26) Xiamen XinHuiYuan;
(27) Yiree Display; and
(28) Zhangjiagang Better Display;

d) Companies Not Receiving a Separate Rate

We have not granted a separate rate to the following companies:

1. Jiangsu Kingmore;
2. Nanjing Huade;
3. Nanjing Inform
4. Redman USA;
5. Tangshan Apollo;
6. Xiamen PDF; and
7. Zhangzhou URB

As noted above, Jiangsu Kingmore, Nanjing Huade and Tangshan Apollo were selected as mandatory respondents. On August 30, 2018, Jiangsu Kingmore notified Commerce it would not respond to the AD questionnaire.[70] On August 24, 2018, Nanjing Huade notified Commerce it would not respond to the AD questionnaire.[71] On September 16, 2018, Tangshan Apollo attempted to file its response to Section A of the AD questionnaire; however, Commerce rejected the submission from the record because it contained a number of filing deficiencies.[72] Although Commerce provided Tangshan Apollo with an opportunity to correct and refile its incorrectly filed response to Section A of Commerce's AD questionnaire,[73] Tangshan Apollo did not refile its response to Section A of the questionnaire or file its responses to Sections C and D of the questionnaire.

In the *Initiation Notice*, Commerce explained that exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be considered for separate-rate status only if they timely respond to all parts of Commerce's AD questionnaire as mandatory respondents.[74] Jiangsu Kingmore, Nanjing Huade, and Tangshan Apollo failed to respond to Commerce's AD

[70] *See* letter from Jiangsu Kingmore, re: "Notice of Non-Participation in Investigation: Steel Racks from the People's Republic of China," dated August 30, 2018.
[71] *See* letter from Nanjing Huade, re: "Steel Racks from the People's Republic of China – Notice of Intent Not to Participate," dated August 24, 2018.
[72] *See* Letter, "Steel Racks from the People's Republic of China: Response to Extension Request and Filing Deficiencies."
[73] *See* letter, "Antidumping Duty Investigation of Steel Racks from the People's Republic of China: Response to Extension Request and Filing Deficiencies," dated September 20, 2018.
[74] *See Initiation Notice*, 83 FR 33199.

questionnaire. Moreover, although Jiangsu Kingmore and Tangshan Apollo filed SRAs, neither company continued to participate in the investigation. Therefore, we cannot rely on the separate-rate information submitted by these companies because the information cannot be verified. For the foregoing reasons, we preliminarily determine that Jiangsu Kingmore, Nanjing Huade and Tangshan Apollo have not established that they are eligible for separate-rate status.

As indicated above, Xiamen PDF and Zhangzhou URB provided SRAs. However, after Xiamen PDF and Zhangshou URB were selected as mandatory respondents, they responded to the AD questionnaire by reporting that, based on the petitioner's proposed scope revisions, they had no sales of subject merchandise to the United States during the POI.[75] As explained in the Scope Memorandum, we have preliminarily adopted the petitioner's revisions to the scope. Based on those revisions, the record indicates that Xiamen PDF and Zhangzhou URB did not export subject merchandise to the United States during the POI. Thus, we determine that there is no basis for granting Xiamen PDF and Zhangzhou URB separate rate status.

With respect to Redman USA, its SRA indicates that it is a wholly-owned subsidiary of Redman Corporation, and that Redman USA is an importer of merchandise under consideration. It is Commerce's practice to not grant separate rate status to U.S. importers.[76] Therefore, we have not granted Redman USA a separate rate. With respect to Nanjing Inform, its SRA was rejected because it contained filing deficiencies which Nanjing Inform did not correct.[77] Therefore, we have not granted Nanjing Inform a separate rate.

Because Jiangsu Kingmore, Nanjing Huade, Nanjing Inform, Tangshan Apollo, Xiamen PDF and Zhangzhou URB have not been granted separate rate status, we have preliminarily determined to treat these companies as part of the China-wide entity. *See* "The China-Wide Entity" section, below.

D. Dumping Margin for the Separate Rate Companies Not Individually Examined

Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate rate respondents which we did not individually examine. Section 735(c)(5)(A) of the Act indicates that we are not to calculate an all-others rate using rates which are zero, *de minimis* or based entirely on facts available. Accordingly, Commerce's usual practice has been to average the weighted-average dumping margins for the individually-examined companies, excluding rates that are zero, *de minimis*, or based

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[75] *See* letter from Xiamen PDF, re: "Steel Racks from the People's Republic of China - Section A Questionnaire Response," dated October 15, 2018; *see* letter from Zhangzhou URB, re: "Steel Racks from the People's Republic of China - Section A Questionnaire Response," dated October 15, 2018; *see* letter from Xiamen PDF and Zhangzhou URB, re: "Steel Racks from the People's Republic of China - Section C & D Questionnaire Response," dated October 22, 2018; *see* letter from Xiamen PDF, re: "Steel Racks from the People's Republic of China – Supplemental Questionnaire Response," dated November 26, 2018; *see* letter from Zhangzhou URB, re: "Steel Racks from the People's Republic of China – Supplemental Questionnaire Response," dated November 26, 2018; *see* letter from Xiamen PDF and Zhangzhou URB, re: "Steel Racks from the People's Republic of China Request for Extension," dated September 20, 2018.
[76] *See* Department of Commerce Separate Rate Application for the People's Republic of China, at 2 ("the Department will limit its consideration of separate-rate applications to firms that exported the merchandise to the United States"), *available at* https://enforcement.trade.gov/nme/sep-rate-files/app-20150323/prc-sr-app-20150323.pdf.
[77] *See* letter to Nanjing Inform, dated September 24, 2018.

entirely on facts available, in calculating the separate rate.[78] Section 735(c)(5)(B) of the Act also provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the all-others rate, including "averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated." In this investigation, we calculated a rate for the one mandatory respondent found to be eligible for a separate rate that is not zero, *de minimis*, or based entirely on facts available. Therefore, we assigned this rate to the separate rate applicants not individually examined.

E. Combination Rates

Consistent with the *Initiation Notice*, we calculated combination rates for respondents that are eligible for a separate rate in this investigation.[79] This practice is described in Policy Bulletin 05.1.

F. The China-Wide Entity

As discussed above, Jiangsu Kingmore, Nanjing Huade, Tangshan Apollo, Xiamen PDF, and Zhangzhou URB failed to establish entitlement to a separate rate. Because these companies have not demonstrated that they are eligible for separate rate status, Commerce considers them part of the China-wide entity. Further, the record indicates there are other Chinese exporters and/or producers of the merchandise under consideration during the POI that did not respond to Commerce's requests for information. Specifically, as noted in the "Selection of Respondents" section, above, Commerce did not receive timely responses to its Q&V questionnaire from certain Chinese exporters and/or producers of merchandise under consideration that were named in the Petition and to whom Commerce issued Q&V questionnaires. 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, therefore, Commerce considers them to be part of the China-wide entity. Furthermore, as explained below, we preliminarily are determining the China-wide rate on the basis of adverse facts available (AFA).

G. 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 AD 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

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[78] *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.
[79] *See Initiation Notice* 83 FR at 33199.

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 so doing, Commerce is not required to determine, or make any adjustments to, a weighted average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.[80] Further, section 776(b)(2) 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.

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that 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.[81]

The Act, in section 776(d)(3) also makes clear that when selecting an AFA margin, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an "alleged commercial reality" of the interested party.

1. Use of Facts Available

Commerce preliminarily finds that the China-wide entity, which includes certain Chinese producers and/or exporters that did not respond to Commerce's requests for information, withheld information requested by Commerce and significantly impeded this proceeding by not submitting the requested information. Specifically, companies within the China-wide entity failed to respond to Commerce's request for Q&V information.[82] Additionally, Jiangsu Kingmore, Nanjing Huade, and Tangshan Apollo, which were selected as mandatory respondents and are part of the China-wide entity, did not respond to the AD Questionnaire.

As a result, Commerce preliminarily finds that necessary information is not available on the record, and that the China-wide entity withheld information requested by Commerce, failed to provide information by the specified deadlines, and significantly impeded the proceeding. Therefore, Commerce preliminarily determines that the use of facts available is warranted in determining the rate of the China-wide entity, pursuant to section 776(a)(1) and (a)(2)(A)-(C) of the Act.

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[80] *See* Section 776(b)(1)(B) of the Act.
[81] *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act ("SAA"), H.R.Rep. No. 103-316, at 870 (1994), *as reprinted in* 1994 U.S.C.C.A.N. 4040, 4199.
[82] *See* Delivery Status Memo.

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 Jiangsu Kingmore, Nanjing Huade, and Tangshan Apollo's failure to participate in this investigation and the failure of certain other 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 failed to cooperate to the best of its ability to comply with Commerce's request for information.[83] 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).[84]

3. Selection and 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.[85] The SAA clarifies that "corroborate" means that Commerce will satisfy itself that the secondary information to be used has probative value,[86] although under the Act, Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.[87] To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used, although under the Act, 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.[88] Finally, under

[83] *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 in which it is reasonable to conclude that less than full cooperation has been shown")); *see also SolarWorld Americas, Inc. v. United States*, 234 F. Supp. 3d 1286, 1299-1300 (CIT 2017) (Commerce assesses the extent to which the China-wide entity, as a whole, cooperates to the best of its ability), *aff'd*, 910 F.3d 1216 (Fed. Cir. 2018).
[84] *Id.* at 1382-83.
[85] *See* SAA at 870.
[86] *Id.*; *see also* 19 CFR 351.308(d).
[87] *See* section 776(c)(2) of the Act.
[88] *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*

section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.[89]

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. Commerce finds that the highest Petition margin was greater than the highest calculated margin for the cooperating mandatory respondent. In order to determine the probative value of the margins in the petition for use as AFA for purposes of this preliminary determination, we compared the petition margins to the margins we calculated for the participating individually examined respondent. We determined that the petition margin of 144.50 percent is reliable and relevant because it is within the range of the transaction-specific margins on the record for the participating individually examined respondent.[90] Thus, the highest petition margin has probative value. Accordingly, we have corroborated the petition margin to the extent practicable within the meaning of section 776(c) of the Act.

H. Date of Sale

In identifying the date of sale of the merchandise under consideration, 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" unless a different date better reflects the date on which the material terms of sale (*e.g.*, price and quantity) are established.[91] Nanjing Dongsheng reported that it does not record a date on its commercial invoice in its normal course of business.[92] Nanjing Dongsheng reported that for U.S. sales, it normally issues the commercial invoice on the same day as the PRC Custom Export Declaration.[93] Given this sequence of events, and because there is no date on the commercial invoice, but there is a date on the PRC Custom Export Declaration, Nanjing Dongsheng reported this date as the date of sale. Commerce has preliminarily treated the date of the PRC Export Declaration as the date of sale.

I. Fair Value Comparisons

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Nanjing Dongsheng's sales of the subject merchandise to the United States were made at less than NV, Commerce compared export price (EP) to NV as described in the "Export Price" and "Normal Value" sections below.

Duty Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997).

[89] *See* section 776(d)(1)-(2) of the Act.

[90] *See* Department Memorandum, "Corroboration of the Adverse Facts Available Rate for the Preliminary Determination in the Antidumping Duty Investigation of Certain Steel Racks from the People's Republic of China," dated concurrently with this memorandum.

[91] *See*, *e.g.*, *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.

[92] *See* ND Section A Response at 19.

[93] *See* ND Supplemental Section C Response at 5.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates individual dumping margins by comparing weighted-average NVs to weighted-average EPs (the average-to-average ("A-A") method) unless Commerce determines that another method is appropriate in a particular situation. In AD investigations, Commerce examines whether to compare weighted-average NVs to the EPs of individual transactions (the average-to-transaction ("A-T") method) as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act.

In numerous AD investigations and reviews, Commerce has applied a "differential pricing" analysis to determine whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[94] Commerce finds that the differential pricing analysis used in recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and based on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs for comparable merchandise that differs significantly among purchasers, regions, or time periods. When we find such a pattern the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers (*e.g.*, reported consolidated customer codes, reported destination codes (*i.e.*, zip codes)); regions (*e.g.*, based upon standard definitions published by the U.S. Census Bureau), time periods (*e.g.*, quarters within the POI being examined based upon the reported date of sale), and comparable merchandise, which are defined by the parameters within the respondent's reported data fields. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP and NV for 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* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of

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[94] *See*, *e.g.*, *Hardwood and Decorative Plywood from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and accompanying Issues and Decisions Memorandum at Comment 5; *Certain Activated Carbon from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 26748 (May 8, 2013), unchanged in *Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 70533 (November 26, 2013) and accompanying Issues and Decisions Memorandum at Comments 2-4.

the total sales quantity of the comparable merchandise. The Cohen's *d* coefficient evaluates the extent to which the net prices to a particular purchaser, region, or time period differ significantly from the net prices of all other sales of comparable merchandise. One of three fixed thresholds defined by the Cohen's *d* test can quantify the extent of these differences: small, medium, or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales are considered to have passed the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A 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 A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A 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, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative 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 A-A method only. If the difference between the two calculations is meaningful, this demonstrates that the A-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A meaningful difference in the weighted-average dumping margins occurs if: (1) there is a 25 percent relative change in the weighted average dumping margin between the A-A method and the appropriate alternative method where both rates are above the *de minimis* threshold or (2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described approach used in this preliminary determination, including arguments for modifying the group definitions used in this investigation.

2. Results of the Differential Pricing Analysis

For Nanjing Dongsheng, Commerce finds that 18.2 percent of its export sales pass the Cohen's *d* test, which does not confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods.[95] Thus, for this preliminary determination,

[95] *See* Preliminary Analysis Memorandum.

Commerce is applying the A-A method for all U.S. sales to calculate the weighted-average dumping margin for Dongsheng.[96]

J. Export Price

We calculated EPs, as defined in sections 772(a) of the Act, based on the packed ex-works (EXW) prices to unaffiliated purchasers in, or for exportation to, the United States. Thus, we made no deductions for movement expenses (*i.e.*, foreign inland freight, and foreign brokerage and handling) in accordance with section 772(c)(2)(A) of the Act.

Although the petitioner claims that Nanjing Dongsheng is affiliated with its U.S. customer via a close supplier relationship as defined by section 19 CFR 351.102(3) of Commerce's regulations, we have preliminarily found that the record evidence does not indicate that Nanjing Dongsheng is affiliated with its U.S. customer. For further discussion, *see* the Preliminary Analysis Memorandum.

1. Value Added Tax (VAT)

Commerce's methodology with respect to the calculation of EP and constructed export price (CEP) is to include an adjustment of any irrecoverable VAT in certain NME countries in accordance with section 772(c)(2)(B) of the Act.[97] Commerce explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, Commerce will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.[98] The amount of irrecoverable VAT is a liability calculated based on the standard VAT rate and the refund rate specific to the exported good. 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.[99]

Commerce's methodology, as explained above and applied in this investigation, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this investigation by Nanjing Dongsheng indicates that, according to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for the merchandise under consideration is nine percent, and that the EP prices include irrecoverable VAT.[100] Consistent with Commerce's standard methodology, for purposes of this preliminary determination, we deducted from U.S. price the product of the export sales value multiplied

[96] In this preliminary determination, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average export prices with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.
[97] *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).
[98] *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.
[99] *Id*.
[100] *See* Dongsheng Section C Response at 39 and 40 and Exhibit C-3.

by the difference between those standard rates (*i.e.*, eight percent), consistent with the definition of irrecoverable VAT under Chinese tax law and regulation.

K. Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine NV using a FOP methodology if the merchandise is exported from an NME and information does not permit the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. Commerce bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under Commerce's normal methodologies.[101] Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), we calculated NV in this investigation based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.[102]

L. Factor Valuation Methodology

To calculate the cost of FOPs, we multiplied the reported per-unit consumption rates for inputs, including materials, labor, and energy, by publicly available SVs. In accordance with section 773(c)(1) of the Act, we used the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are: (1) broad market averages, (2) product-specific, (3) tax-exclusive, non-export average values, and (4) contemporaneous with, or closest in time to, the POI.[103] As appropriate, we adjusted FOP costs by including freight costs to make them delivered values. Specifically, we added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.[104] A detailed description of the SVs used can be found in the Preliminary SV Memorandum.[105]

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[101] *See*, *e.g.*, *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006).
[102] *See* section 773(c)(3)(A)-(D) of the Act.
[103] *See*, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).
[104] *See, e.g., Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).
[105] *See* Memorandum re: "Preliminary Determination of the Antidumping Duty Investigation of Steel Racks from the People's Republic of China: Surrogate Value Memorandum," dated concurrently with this memorandum ("Preliminary SV Memorandum").

1. Direct and Packing Materials

We valued direct and packing materials using Romania import data, as published by Eurostat, and other publicly available Romania sources from Eurostat. Romania Eurostat import data, as well as data from other Romania sources from Eurostat, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POI.[106]

We disregarded certain Romania import data when calculating SVs. Specifically, pursuant to section 773(c)(5) of the Act and Commerce's long-standing practice, we disregarded certain import values for which there was a reason to believe or suspect the source data may comprise subsidized prices.[107] In this regard, Commerce has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because Commerce has determined that these countries maintain broadly available, non-industry specific export subsidies.[108] 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, we find that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, we have not used prices from those countries in calculating the Romanian import-based SVs. Additionally, when calculating Romania import-based per-unit SVs, we disregarded data from NME countries[109] and imports labeled as originating from an "unidentified" country because we could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.[110]

2. Energy

We valued electricity using Eurostat's Romania electricity rates. We valued water using data from Romania's National Public Utility Regulation Authority. We did not inflate or deflate the energy rates because they are contemporaneous with the POI.

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[106] *See* Preliminary SV Memorandum.

[107] *See* section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (June 29, 2015) (amending section 773(c)(5) of the Act to permit Commerce to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values).

[108] *See, e.g., Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying Issues and Decision Memorandum at 7-19; *see also 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; *see also Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying Issues and Decision Memorandum at 4; *see also 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.

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

[110] *Id*.

3. Movement Expenses

As appropriate, we added freight costs to SVs. Specifically, we added surrogate inland truck freight costs to import values used as SVs. We calculated surrogate inland truck freight costs using data from *Doing Business 2017: Romania*, a container weight of 15 metric tons, and the average inland freight distance from Romania manufacturing plants to the Romania-Hungary border.[111] Because the data in *Doing Business 2017: Romania*, were current as of June 1, 2016,[112] which is prior to the beginning of the POI, we adjusted the surrogate truck freight rate for inflation using the Wholesale Price Index.[113]

4. Labor

In *Labor Methodologies*,[114] Commerce determined that the best methodology to value labor is to use industry-specific labor rates from the primary surrogate country. Additionally, Commerce determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics. However, this does not mean that other sources for labor rates may not be considered by Commerce.[115]

ILO Yearbook of Labor Statistics labor data are not on the record of this investigation. Therefore, we valued labor using monthly manufacturing data for the "manufacture of fabricated metal products, except machinery and equipment" from the Romanian National Statistics Institute (*i.e.*, Institutul National de Statistica (INS)).[116] We found that INS data are the best available information on the record for valuing labor because they provide a broad-market average and are more specific to the relevant industry than other information on the record.[117] Because the data are contemporaneous with the POI, there is no need to adjust the labor rate for inflation.

5. Financial Ratios

According to 19 CFR 351.408(c)(4), Commerce is directed to value overhead, selling, general and administrative (SG&A) expenses, and profit using non-proprietary information gathered from producers of merchandise that is identical or comparable to the merchandise under consideration in the surrogate country. Commerce's preference is to derive surrogate overhead expenses, SG&A expenses, and profit using financial statements covering a period that is contemporaneous with the POI,[118] that show a profit, from companies with a production experience similar to respondents' production experience, and that

[111] *See* Preliminary SV Memorandum.
[112] *Id*.
[113] *Id*.
[114] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) ("*Labor Methodologies*").
[115] *See Steel Wire Garment Hangers from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 65616 (November 5, 2014) and Issues and Decision Memorandum at 11.
[116] See Preliminary SV Memorandum.
[117] *Id*.
[118] *See Frozen Fish Fillets March 2013.*

are not distorted or otherwise unreliable, such as financial statements that indicate the company received subsidies.[119]

The record contains the audited financial statements of three companies: Metisa S.A. (Metisa), a Brazilian company which produces a broad range of products including agricultural equipment, tools, railway parts, and truck accessories, using raw materials and production processes comparable to those used by producers of steel racks for the year ending December 2017; Compa S.A. Sibiu (Compa), a Romanian company which produces automobile components, tools, air conditioning and industrial equipment, and welded metal structure using inputs and production processes including those comparable to processes used by producers of steel racks, for the year ending December 2017; and Altur S.A. (Altur), a Romanian company which produces automobile components using aluminum and steel sheet relying, in part, on a casting process, for the year ending December 2017.

The surrogate financial statements on the record cover a period that is contemporaneous with the POI, they are complete and include notes and an auditor's report; they are for non-integrated companies; they show a profit before taxes; and they do not show that the companies received countervailable subsidies. While none of the three companies for which we have financial statements produce merchandise that is identical to steel racks, Compa and Metisa consume some of the same material inputs and rely on some of the same production processes as those used to produce steel racks, while Altur engages in casting aluminum products (the subject merchandise is made of steel). Additionally, while Compa's financial statements are unconsolidated, Metisa's statements are consolidated, and include operational expenses for a subsidiary engaged in the reforestation of exotic trees. Therefore, Commerce has valued factory overhead, SG&A and profit using Compa's 2017 financial statements.[120]

IX. CURRENCY CONVERSION

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

X. ADJUSTMENT UNDER SECTION 777A(f) OF THE ACT

In applying section 777A(f) of the Act in this investigation, we examined: (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

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[119] *See Hand Trucks and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*; 2010-2011, 78 FR 28801 (May 16, 2013) and accompanying Issues and Decision Memorandum at Comment 2; *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review*, 78 FR 5414 (January 25, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

[120] *See* Preliminary Surrogate Value Memorandum; *see, e.g., Notice of Final Determination of Sales At Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate from Ukraine*, 66 FR 38632 (July 25, 2001), and accompanying Issues and Decision Memorandum at Comment 4; *see, e.g., Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 83 FR 35616 (July 27, 2018), and accompanying Issues and Decision Memorandum at Comment 10.

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.[121] For a subsidy meeting these criteria, the statute requires Commerce to reduce the AD duties by the estimated amount of the increase in the weighted average dumping margin subject to a specified cap.[122] 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.[123]

Commerce examined whether Nanjing Dongsheng demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacture ("COM"); and (2) a cost-to-price link, *e.g.*, respondent's prices changed as a result of changes in the COM.[124]

As a result of our analysis, Commerce is preliminarily not making any adjustments to the calculation of the cash deposit rate for antidumping duties for Nanjing Dongsheng and companies that are not being individually examined but preliminarily are being granted separate-rate status in this investigation, pursuant to section 777A(f) of the Act, in the manner described below.

While countervailable subsidies have been provided with respect to racks, we have not found a general decrease in the U.S. average import price during the relevant period. Section 777A(f) of the Act requires Commerce to determine whether such countervailable subsidies have been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period. To make this determination, we normally examine the preliminary report issued by the ITC.[125] We examined the imported subject merchandise price trends contained in the preliminary report issued by the ITC, in which the ITC concluded that "domestic steel rack prices were mostly steady during January 2015-March 2018, with increased fluctuation and small price increases in 2017 and the first quarter of 2018."[126] In particular, the ITC preliminary report shows an upward movement in prices during the POI. Based on this information, Commerce preliminarily finds that import prices of the class or kind of merchandise at issue during that relevant period increased. Based on these data, we do not find a general decrease in the U.S. average import price during the relevant period. Thus, we preliminarily

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[121] *See* sections 777A(f)(1)(A)-(C) of the Act.
[122] *See* sections 777A(f)(1)-(2) of the Act.
[123] *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), and accompanying Issues and Decision Memorandum at Comment 15.
[124] *See* Memorandum, re: "Antidumping Duty Investigation of Steel Racks from the People's Republic of China: Double Remedy Questionnaire," dated October 16, 2018.
[125] *See, e.g., Forged Steel Fittings from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 83 FR 22948 (May 17, 2018), and accompanying Preliminary Decision Memorandum at "IX. Adjustment Under Section 777A(f) of the Act," unchanged in *Forged Steel Fittings from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 50339 (October 5, 2018).
[126] *See ITC Preliminary Determination* at page V-8, tables V-3, V-4, V-5, and V-6.

find that the requirement under section 777A(f)(1)(B) of the Act has not been met, and hence we did not make an adjustment under section 777A(f) of the Act.

XI. ADJUSTMENT FOR COUNTERVAILABLE EXPORT SUBSIDIES

In an AD investigation with a companion CVD investigation, Commerce adjusts the AD cash deposit rate for each respondent by the export subsidies found for each respective respondent in the CVD 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."[127] However, Commerce did not preliminarily find countervailable export subsidies in the companion CVD investigation.[128] Thus, we find there is no basis for adjusting the cash deposit rates in this preliminary AD determination for export subsidies.

XII. VERIFICATION

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

XIII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

☒ ☐

Agree Disagree

2/25/2019

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

[127] *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.
[128] *See Certain Steel Racks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 83 FR 62297 (December 3, 2018), (*Steel Racks CVD Preliminary Determination*), and accompanying Preliminary Decision Memorandum.