A-570-090
Investigation
Public Document
E&C/Office III: KAC

DATE: April 15, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the Less Than Fair Value Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China

---

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that certain steel wheels 12 to 16.5 inches in diameter (certain steel wheels) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We also preliminarily determine that critical circumstances exist with respect to imports from the China-wide entity and for the sole participating separate rate company. The estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

II. BACKGROUND

On August 8, 2018, we received an antidumping duty (AD) petition covering imports of certain steel wheels from China, filed in proper form on behalf of Dexstar Wheel, a Division of Americana Development, Inc. (the petitioner).[1] We initiated this investigation on August 28, 2018.[2]

---

[1] *See* the petitioner's letter, "Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Imports of Certain Steel Wheels 12 – 16.5 Inches in Diameter from the People's Republic of China," dated August 8, 2018 (the Petition).
[2] *See Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Initiation of Less Than Fair-Value Investigations*, 83 FR 45095 (September 5, 2018) (*Initiation Notice*) and accompanying Initiation Checklist.

In the *Initiation Notice*, we notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy (NME) investigations.[3] The process requires exporters and producers to submit a separate rate application (SRA) that demonstrates an absence of both *de jure* and *de facto* government control over their export activities.[4] We received timely SRAs (including responses to supplemental questionnaires regarding SRAs, as relevant) from five applicants (Xiamen Sunrise Wheel Group Co., Ltd. (Sunrise), Xingmin Intelligent Transportation System Co., Ltd. (Xingmin), Zhejiang Jingu Co., Ltd. (Zhejiang Jingu), Changzhou Chungang Machinery Co., Ltd. (Chungang Machinery), and Shanghai Yata Industry Co., Ltd. (Shanghai Yata)),[5] as discussed in the "Separate Rates" section below.

Also in the *Initiation Notice*, we stated that, in the event that we conduct respondent selection, we intended to base our selection of mandatory respondents on responses to quantity and value (Q&V) questionnaires.[6] On August 30, 2018, we issued Q&V questionnaires to the 36 companies that the petitioner identified in the Petition as potential producers/exporters of certain steel wheels from China.[7] We confirmed that 27 exporters and producers of the merchandise under consideration received Q&V questionnaires, while eight exporters and producers did not. Additionally, we posted the Q&V questionnaire on our website, inviting parties that did not receive a Q&V questionnaire by mail to file a Q&V response.

On October 11, 2018, based on responses to the Q&V questionnaires, we selected the three exporters accounting for the largest volume of certain steel wheels during the period of investigation (POI) for individual examination: Sunrise, Xingmin, and Zhejiang Jingu, as the mandatory respondents in this investigation.[8]

---

[3] *See Initiation* Notice, 83 FR at 45099.
[4] *Id.*; *see also* "Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," April 5, 2005, available at http://enforcement.trade.gov/policy/bull05-1.pdf.
[5] *See* Sunrise's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Separate Rate Application," dated October 5, 2018; Xingmin's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from China; Separate Rate Application," dated October 5, 2018; Chungang Machinery's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Separate Rate Application," dated October 12, 2018; Zhejiang Jingu's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Separate Rate Application for Zhejiang Jingu Company Limited," dated October 12, 2018; and Shanghai Yata's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Separate Rate Application for Shanghai Yata Industry Co., Ltd.," dated October 12, 2018 (Shanghai Yata's SRA) (collectively, Separate Rate Applications or SRAs).
[6] *See Initiation Notice*, 83 FR at 45098.
[7] *See* memorandum, "Quantity and Value Questionnaire Delivery; Proof of Delivery of Initial Questionnaire; Undeliverable Q&V Addresses," dated October 3, 2018 (Q&V Delivery Memo).
[8] *See* memorandum, "Less Than Fair Value Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Respondent Selection," dated October 11, 2018.

On October 15, 2018, we issued the AD initial questionnaire to Sunrise, Xingmin, and Zhejiang Jingu.[9] Soon after the issuance of the Initial Questionnaire, Sunrise and Xingmin notified Commerce of the withdrawal of their participation from this investigation.[10]

On October 28, 2018, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain steel wheels from China.[11]

On November 15, 2018, Zhejiang Jingu submitted its section A questionnaire response.[12] On December 3, 2018, Zhejiang Jingu timely submitted its sections C and D questionnaire response.[13] On March 1, 2019, we issued a supplemental questionnaire to Zhejiang Jingu,[14] after which Zhejiang Jingu submitted notification of its withdrawal from participation in this investigation.[15]

On December 18, 2018, the petitioner submitted an allegation of critical circumstances.[16] Tredit Tire & Wheel Co., Inc. (Tredit), Zhejiang Jingu, and Trans Texas Tire (TTT) filed rebuttal comments to the critical circumstances allegation.[17] The petitioner filed additional comments in support of its allegation on February 13, 2019.[18] On March 21, 2019, the petitioner submitted

---

[9] *See* letters to Sunrise, Xingmin and Zhejiang Jingu, respectively, "Antidumping Duty Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Initial Questionnaire," dated October 15, 2018 (Initial Questionnaires).

[10] *See* Sunrise's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Withdrawal from Participation," dated October 17, 2018 (Sunrise's Withdrawal Letter), and Xingmin's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from China: Withdrawal from Participation," dated November 7, 2018 (Xingmin's Withdrawal Letter).

[11] *See Steel Wheels from China; Determinations*, 83 FR 49124 (September 28, 2018) (*ITC Preliminary Determination*).

[12] *See* Zhejiang Jingu's letter, "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from the People's Republic of China: Response of Zhejiang Jingu Company Limited to Section A of the Department's Questionnaire," dated November 15, 2018.

[13] *See* Zhejiang Jingu's letters, "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from the People's Republic of China: Response of Zhejiang Jingu Company Limited to Section C of the Department's Questionnaire," dated December 3, 2018; "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from the People's Republic of China: Response of Jingu to Section D of the Department's Questionnaire," dated December 3, 2018.

[14] *See* letter to Zhejiang Jingu, "Antidumping Duty Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: First Supplemental Questionnaire for the Sections A, C and D Questionnaire Responses for Zhejiang Jingu Company Limited (Zhejiang Jingu) and Shanghai Yata Industry Co., Ltd. (Shanghai Yata)," dated March 1, 2019.

[15] *See* Zhejiang Jingu's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Notice of Withdrawal from Participation," dated March 6, 2018 (Zhejiang Jingu's Withdrawal Letter).

[16] *See* the petitioner's letter, "Certain Steel Wheels 12 to 16.5 Inch in Diameter from China – Petitioner's Critical Circumstances Allegation," dated December 18, 2018.

[17] *See* Tredit's letter, "Certain Steel Wheels (12 to 16.5 Inches in Diameter from the People's Republic of China: Response to Petitioner's Critical Circumstances Allegations" dated January 29, 2018; Zhejiang Jingu's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Comments to Petitioner's Critical Circumstances Allegations," dated January 30, 2019; and TTT's letter, "TTT's Response to Dexstar's Critical Circumstances Allegations, Less-Than-Fair Value & Countervailing Duty Investigations of Certain Steel Wheels 12 to 16.5 Inch in Diameter from the People's Republic of China," dated February 1, 2019.

[18] *See* the petitioner's letter, "Certain Steel Wheels 12 to 16.5 Inch in Diameter from China – Petitioner's Additional Critical Circumstances Comments," dated February 13, 2019.

updated import data in support of its initial critical circumstances allegation.[19] The petitioner and Zhejiang Jingu also filed pre-preliminary comments for Commerce to consider when making its preliminary determination.[20]

We exercised our 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.[21] On February 6, 2019, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), we published in the *Federal Register* a postponement of the preliminary determination by 75 days, to no later than April 15, 2019.[22]

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

III. PERIOD OF INVESTIGATION

Because China is an NME country, pursuant to 19 CFR 351.204(b)(1), the POI is January 1, 2018, through June 30, 2018. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was August 2018.[23]

IV. SCOPE COMMENTS

In accordance with the preamble to Commerce's regulations,[24] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).[25] We received initial scope comments from one interested party, Tredit, on October 30, 2018.[26] We received rebuttal comments on Tredit's exclusion requests from the petitioner on November 15, 2018.[27] Between February 27, 2019, and March 28, 2019, we granted parties leave to file additional

[19] *See* the petitioner's letter, "Certain Steel Wheels 12 to 16.5 Inch in Diameter from China -Petitioner's Updated Import Data and Comments Regarding Critical Circumstances," dated March 21, 2019.
[20] *See* the petitioner's letter, "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from China: Petitioner's Preliminary Determination Comments," dated March 20, 2019 (the petitioner's Pre-Prelim Comments); *see also* Zhejiang Jingu's letter, "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from the People's Republic of China: Pre-Preliminary Determination Comments," dated March 29, 2019 (Zhejiang Jingu's Pre-Prelim Comments).
[21] *See* memorandum, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019.
[22] *See Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Postponement of the Preliminary Determination in the Less Than Fair Value Investigation*, 84 FR 2169 (February 6, 2019). If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day.
[23] *See* 19 CFR 351.204(b)(1).
[24] *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).
[25] *See Initiation Notice*, 83 FR at 45096.
[26] *See* Tredit's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Request for Leave to File Scope Comments," dated November 8, 2018.
[27] *See* the petitioner's letter," Certain Steel Wheels 12 to 16.5 Inch in Diameter from China – Petitioner's Rebuttal to Tredit's Scope Request," dated November 15, 2018.

scope comments,[28] as well as additional rebuttal scope comments.[29] Based on the comments received, for purposes of this preliminary determination, we are modifying the scope language as it appeared in the *Initiation Notice*.[30] In the Preliminary Scope Decision Memorandum, we set a separate briefing schedule on scope issues for interested parties. We will issue a final scope decision on the records of the certain steel wheels AD and countervailing duty (CVD) investigations after considering the comments submitted in the scope case and rebuttal briefs.

V. SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain steel wheels 12 to 16.5 inches in diameter from China. For a full description of the scope of this investigation, *see* this memorandum's accompanying *Federal Register* notice at Appendix I.

VI. PRELIMINARY AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES

Section 733(e)(1) of the Act provides that Commerce, upon receipt of a timely allegation of critical circumstances, will determine whether critical circumstances exist in an LTFV investigation if there is a reasonable basis to believe or suspect that: (A) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales; and (B) there have been "massive imports" of the subject merchandise over a relatively short period. In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, Commerce must

[28] *See* Polaris Industries Inc.'s letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from China (A-570-090; C-570-091) -Scope Comments," dated February 27, 2019 (Polaris Scope Comments); *see also* the petitioner's letter, "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from China: Petitioner's Request for Clarification of Country of Origin Criteria," dated March 1, 2019; *see also* the petitioner's letter, "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from China: Petitioner's Clarification of the Exclusion of Chrome Wheels," dated March 28, 2019.

[29] *See* Zhejiang Jingu's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Response to Petitioner's Request for Clarification of Scope of Investigations," dated March 11, 2019; *see also* Tredit's letter, "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from China: Response to Petitioner's Request for Clarification of Country of Origin Criteria," dated March 11, 2019; *see also* the petitioner's letter, "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from China: Petitioner's Request to Submit Additional Factual Information Relevant to Scope," dated March 22, 2019. In early April 2019, we received rebuttal comments from certain parties with respect to the petitioner's March 28, 2019 scope comments. Due to the proximity of the date which the petitioner's March 28, 2019 comments and the April rebuttal comments were received relative to the statutory deadline for the issuance of this preliminary determination, we are unable to address these comments at present, but will take them into consideration for the purposes of the final determination.

[30] *See* memorandum, ''Certain Steel Wheels from the People's Republic of China: Preliminary Scope Decision Memorandum,'' dated concurrently with this memorandum.

issue a preliminary finding of whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination.

For the reasons explained below, we are preliminarily determining that critical circumstances exist for Chungang Machinery, the sole company eligible for a separate rate, and the China-wide entity (which includes Sunrise, Xingmin, and Zhejiang Jingu as discussed below).

A History of Dumping and Material Injury

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous AD orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to imports of subject merchandise.[31] No parties have made any claims regarding completed AD proceedings for certain steel wheels from China, and we are not aware of the existence of any active AD orders on certain steel wheels in other countries. As a result, Commerce does not find that there is a history of injurious dumping of certain steel wheels from China pursuant to section 733(e)(1)(A)(i) of the Act.

Knowledge That Exporters Were Dumping and That There Was Likely To Be Material Injury By Reason of Such Sales

Commerce generally bases its decision with respect to knowledge on the weighted-average dumping margins calculated in the preliminary determination and the ITC's preliminary injury determination.[32] Commerce normally considers margins of 25 percent or more for export price (EP) sales and 15 percent or more for constructed export price (CEP) sales sufficient to impute importer knowledge of sales at LTFV.[33] As described below, we preliminarily determine that all the mandatory respondents in this investigation are part of the China-wide entity. For this reason, as explained in the "Application of Adverse Facts Available" section below, we preliminarily determine that the China-wide entity failed to cooperate by not acting to the best of its ability. Therefore, Commerce finds that an adverse inference is appropriate for the China-wide entity.[34] The preliminary rate for the China-wide entity of 44.35 percent, and of 38.27 percent for the separate rate company, exceeds the threshold sufficient to impute knowledge of dumping. Thus, the China-wide entity's rate and the separate rate company's rate each provide a sufficient basis for imputing knowledge of sales of subject merchandise at LTFV to the importers.

---

[31] *See, e.g.*, *Certain Oil Country Tubular Goods from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117, 59120 (November 17, 2009), unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).

[32] *See, e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers from Mexico*, 77 FR 17422, 17425 (March 26, 2012).

[33] *Id.*

[34] *See* section 776(b) of the Act.

Finally, because the ITC preliminarily found a reasonable indication that an industry in the United States is materially injured by imports of certain steel wheels from China, Commerce has determined that importers knew or should have known that there was likely to be material injury by reason of sales of steel wheels at LTFV by the mandatory respondents, the companies eligible for a separate rate, and the China-wide entity.[35]

Massive Imports of the Subject Merchandise Over a Relatively Short Period

Pursuant to section 733(e)(1)(B) of the Act, as well as 19 CFR 351.206(h), Commerce will not consider imports to be massive unless imports during a relatively short period (comparison period) have increased by at least 15 percent over imports in an immediately preceding period of comparable duration (base period). Commerce normally considers the comparison period to begin on the date that the proceeding began (*i.e.*, the date the Petition was filed) and to end at least three months later.[36] Furthermore, Commerce may consider the comparison period to begin at an earlier time if it finds that importers, exporters, or foreign producers had a reason to believe that proceedings were likely before the Petition was filed.[37] In addition, Commerce expands the periods as more data are available.

In this investigation, the petitioner has made no allegation that importers, exporters, or foreign producers had a reason to believe that proceedings were likely before the proceeding began, nor is there any record evidence to support such a finding. Therefore, we have relied on the largest possible periods before and after the publication of the initiation of the investigation in August 2018, in determining whether imports have been massive for the separate rate company, Chungang Machinery. We used the periods February 2018, through July 2018, compared with August 2018, through January 2019, for the separate rate company. For the China-wide entity, our determination of massive imports over a relatively short period is based on facts otherwise available with an adverse inference, as described below.

To determine whether the separate rate respondent has massive imports, it is Commerce's practice to rely upon Global Trade Atlas (GTA) import statistics specific to the merchandise covered by the scope of the investigation.[38] In so doing, we found that these imports were massive, *i.e.*, 24.99 percent. From this data, it is clear that there was an increase in imports of more than 15 percent during a "relatively short period" of time, in accordance with 19 CFR 351.206(h) and (i).[39] Therefore, we preliminarily find there to be massive imports for the

---

[35] *See ITC Preliminary Determination.*
[36] *See* 19 CFR 351.206(i). Because Commerce typically uses monthly import/shipment data in its analysis, if a petition is filed in the first half of the month, Commerce's practice has been to consider the month in which the petition was filed as part of the comparison period.
[37] *Id.*
[38] Normally, Commerce would deduct the mandatory respondents' reported shipment data. However, the mandatory respondents have withdrawn from the investigation. Therefore, the data they provided cannot be verified. Thus, to determine whether imports are massive, we have not made any deductions.
[39] *See* memorandum, "Antidumping Duty Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Monthly Shipment Data and Value Analysis for Critical Circumstances," dated concurrently with this memorandum (Critical Circumstances Memo).

companies eligible for a separate rate, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(c)(2)(i).[40]

In determining whether imports of the subject merchandise have been "massive" for the China-wide entity, we make our preliminary determination with respect to whether or not there were massive imports based on facts otherwise available, with an adverse inference, because we are preliminarily determining that the mandatory respondents are part of the China-wide entity because they have failed to cooperate by not acting to the best of their ability to comply with requests for information, as explained below. Thus, as facts otherwise available with an adverse inference, we are finding that imports from the mandatory respondents and, therefore, the China-wide entity were "massive" over a "relatively short period."

VII. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country

Commerce considers China to be an NME country.[41] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat China as an NME country for the purposes of this preliminary determination.

B. 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.[42] Commerce's policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[43] Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*[44] and further developed in *Silicon Carbide*.[45] According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto*

---

[40] The petitioner has alleged seasonality in the import data. However, because the ITC import data demonstrated that the base period compared to the comparison period imports were massive (*i.e.*, 24.99 percent), any such analysis of seasonal trends is moot.

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

[42] *See 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).

[43] *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*).

[44] *Id.*

[45] *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*).

government control over its export activities. If, however, Commerce determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades from China* AD proceeding, and its determinations therein.[46] In particular, in litigation involving the *Diamond Sawblades from China* proceeding, the Court of International Trade (CIT) found Commerce's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.[47] Following the Court's reasoning, in recent proceedings, we have concluded that where a government holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority holding in and of itself means that the government exercises, or has the potential to exercise, control over the company's operations generally.[48] 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.

---

[46] *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 (IDM) at Comment 1.

[47] *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).

[48] *See Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying Preliminary Decision Memorandum at 5-9; unchanged in *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 79 FR 68860 (November 19, 2014).

In the *Initiation Notice*, we stated that exporters and producers desiring a separate rate must submit both an SRA and a response to Commerce's Q&V questionnaire.[49] From September 26, 2018, to October 12, 2018, five companies applied for separate rate status.[50] Commerce issued supplemental questionnaires to the SRAs, and by November 5, 2018, all supplemental SRAs were submitted.[51]

As noted above, Xingmin and Sunrise withdrew participation without responding to the Initial Questionnaire. Although Zhejiang Jingu provided responses to the Initial Questionnaire, it later withdrew its participation and requested that Commerce return its BPI submissions.[52] Sections 776(a)(1) and (2) of the Act provide that if certain necessary information is not on the record or an interested party has withheld information that was requested, Commerce may apply "facts otherwise available." Because Commerce has determined that Xingmin, Sunrise, and Zhejiang Jingu did not act to the best of their ability in providing requested information, we are unable to rely on the separate rate information provided by each company.[53] Accordingly, there is no record information to support eligibility for a separate rate for any of these three mandatory respondents. Therefore, we preliminarily find that Xingmin, Sunrise, and Zhejiang Jingu each failed to demonstrate an absence of *de jure* and *de facto* government control, and, thus, are not eligible for a separate rate.

In its SRA, Shanghai Yata reported that it is a wholly-owned subsidiary of Zhejiang Jingu and that Zhejiang Jingu directly controls it through the appointment of its directors and management.[54] As discussed above, Zhejiang Jingu has not rebutted the presumption that it does not operate independently of government control and, thus, is not eligible for a separate rate. Accordingly, for these reasons, Shanghai Yata is not eligible for a separate rate.[55]

Accordingly, we evaluate the separate rate eligibility for the sole remaining participating company for which a timely SRA was submitted, Chungang Machinery, below.

---

[49] *See Initiation Notice*, 83 FR at 45095.
[50] *See* Separate Rate Applications.
[51] *See* Chungang Machinery's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from China Supplemental Questionnaire Response," dated November 5, 2018; Zhejiang Jingu's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Separate Rate Application Supplemental Questionnaire Response for Zhejiang Jingu Company Limited," dated November 5, 2018; and Shanghai Yata's letter, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Separate Rate Application Supplemental Questionnaire Response for Shanghai Yata Industry Co., Ltd.," dated November 5, 2018.
[52] *See* Commerce's letter "Antidumping and Countervailing Duty Investigations of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Removal of Zhejiang Jingu's Business Proprietary Information (BPI) from the Records," dated March 28, 2019.
[53] In addition, our instructions in the *Initiation Notice* explained that, "{e}xporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire." *See Initiation Notice*, 83 FR at 45099.
[54] *See* Shanghai Yata's SRA at 9 and 13.
[55] This is consistent with our finding in a recent case regarding the same respondent. *See Certain Steel Wheels from the People's Republic of China: Preliminary Determination of Sales at Less-Than-Fair-Value*, 83 FR 54568 (October 30, 2018) and accompanying Preliminary Decision Memorandum (PDM) at 8, unchanged in *Certain Steel Wheels from the People's Republic of China: Final Determination of Sales at Less-Than-Fair-Value*, 84 FR 11746 (March 28, 2019).

i. 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 companies; and (3) other formal measures by the government decentralizing control over export activities of companies.[56] The evidence provided by Chungang Machinery supports a preliminary finding of an absence of *de jure* government control 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 over export activities of companies; and (3) the implementation of formal measures by the government decentralizing control over export activities of companies.[57]

ii. 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.[58] 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 Chungang Machinery supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that the company: (1) sets its own prices independent of the government and without the approval of a government authority; (2) has the authority to negotiate and sign contracts and other agreements; (3) maintains autonomy from the government in making decisions regarding the selection of management; and (4) retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.[59]

Based on the foregoing, we preliminarily determine that the evidence placed on the record of this investigation by Chungang Machinery demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, Commerce preliminarily grants a separate rate to Chungang Machinery.

---

[56] *See Sparklers*, 56 FR at 20589.
[57] *See* Chungang Machinery's SRA.
[58] *See Silicon Carbide*, 59 FR at 22586-87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).
[59] *See* Chungang Machinery's SRA.

iii. Separate Rate Margin

The statute and Commerce's regulations do not address the establishment of a separate rate to be applied to individual respondents not selected for individual examination when Commerce limits its examination pursuant to section 777A(c)(2) of the Act. Normally, Commerce's practice is to assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available, using as guidance section 735(c)(5)(A) of the Act.[60] However, pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis*, or determined based entirely under section 776 of the Act, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.[61]

As stated above, pursuant to section 735(c)(5(A) of the Act, Commerce's practice is to assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available. Because we are determining the China-wide rate (of which the mandatory respondents are a part) based on adverse facts available (AFA), we look to section 753(c)(5)(B) of the Act for guidance and "any reasonable method" to determine the rate for exporters that are not being individually examined and found to be entitled to a separate rate. As "any reasonable method," we find it appropriate to assign the simple average of the Petition rates (*i.e.*, 38.27 percent) to the separate rate applicant not individually examined.[62] Thus, consistent with our normal practice,[63] we have assigned to the non-individually examined separate-rate company, Chungang Machinery, the simple average of the Petition rates, *i.e.*, 38.27 percent.[64]

---

[60] *See, e.g.*, *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

[61] *See* Statement of Administrative Action, H.R. Rep. No. 103-316, Vol. 1 (1994) (SAA) at 870-873. *See also* section 735(c)(5)(B) of the Act.

[62] *See* Initiation Checklist. Commerce revised the petitioner's calculated petition margins so that the adjusted petition margins are 44.35, 37.24, 43.12, 42.28, 37.32, 30.48, 36.11, and 35.27 percent. The simple average of these margins is 38.27 percent.

[63] *See*, *e.g.*, *Galvanized Steel Wire from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17430, 17431-32 (March 26, 2012); *Carton-Closing Staples from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 13236 (March 28, 2018) and accompanying IDM at 30.

[64] *See* Initiation Checklist at Attachment V.

C. China-Wide Entity

The record indicates that there are Chinese exporters and/or producers of certain steel wheels during the POI that did not respond to Commerce's request for information. Specifically, Commerce did not receive timely responses to its Q&V questionnaire from numerous Chinese exporters and/or producers of certain steel wheels that were named in the Petition and to whom Commerce issued Q&V questionnaires.[65] Furthermore, as indicated above, Sunrise, Xingmin, and Zhejiang Jingu withdrew from the investigation and did not to respond to our requests for information.[66] Because these companies did not respond to our requests for information, they have not demonstrated that they are eligible for a separate rate as provided in the *Initiation Notice*.[67] We, therefore, consider Sunrise, Xingmin, and Zhejiang Jingu to be part of the China-wide entity. Furthermore, as explained below, we preliminarily determine to assign the China-wide entity, which includes these companies, a rate based entirely on AFA.

D. Application of Facts Available with 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 limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.[68] Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the Petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.[69]

[65] *See* Q&V Delivery Memo.
[66] *See* Sunrise's Withdrawal Letter, Xingmin's Withdrawal Letter, and Zhejiang Jingu's Withdrawal Letter.
[67] *See Initiation Notice*, 83 FR at 45099 ("Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they timely respond to all parts of Commerce's AD questionnaire as mandatory respondents").
[68] *See* section 776(b)(1)(B) of the Act.
[69] *See also* 19 CFR 351.308(c).

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 on 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.[70] The SAA[71] clarifies that "corroborate" means that Commerce will satisfy itself that the secondary information to be used has probative value,[72] although under the Act, Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.[73] To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used.[74]

Under section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins. Further, 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.[75]

i. Application of Facts Available

As noted above, all three mandatory respondents withdrew from the investigation. Further, these companies failed to demonstrate eligibility for a rate separate from the China-wide entity, as discussed above. As discussed above, Shanghai Yata also failed to demonstrate eligibility for a rate separate from the China-wide entity. Moreover, certain producers/exporters that did not demonstrate eligibility for a separate rate refused to respond to Commerce's requests for Q&V information.[76] Thus, we find that necessary information is missing from the record, and that the China-wide entity failed to provide necessary information, withheld information requested by Commerce, and significantly impeded this proceeding by not submitting the requested information. Accordingly, Commerce preliminarily determines that the use of facts available is required in determining the rate of the China-wide entity, pursuant to sections 776(a)(1) and 776(a)(2)(A)-(C) of the Act.

[70] *See* SAA at 870.
[71] *Id.*
[72] *Id.*
[73] *See* section 776(c)(2) of the Act.
[74] *See, e.g.*, *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March, 13 1997).
[75] *See* section 776(d)(1)-(2) of the Act.
[76] *See* Q&V Delivery Memo.

ii. Application of AFA

Section 776(b) of the Act provides that Commerce, in selecting from among the facts otherwise available, may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. As noted above, the mandatory respondents withdrew from the investigation. We find that these respondents' failures, as part of the China-wide entity, to respond to our questionnaires, based on their withdrawals from the investigation, demonstrates that the China-wide entity has failed to cooperate by not acting to the best of its ability. Moreover, no party within the China-wide entity submitted documentation indicating that it was having difficulty providing the requested information, nor did any party request to submit the information in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to the China-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).[77]

iii. Selection and Corroboration of the AFA Rate

In selecting a rate for the China-wide entity based on AFA, Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[78] Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the Petition; or (b) the highest calculated dumping margin of any respondent in the investigation.[79] There are no calculated margins for a respondent in this investigation. Therefore, in applying AFA, Commerce's standard practice is to assign to the China-wide entity preliminarily the highest dumping margin alleged in the Petition (44.35 percent, in this instance). As all mandatory respondents have withdrawn from this investigation, the dumping margin for the China-wide entity applies to all entries of the merchandise under investigation, except the entries from Chungang Machinery, the sole company found to be eligible for a separate rate, as discussed above.

With respect to the AFA rate selected, the petitioner asserts that Commerce should deviate from its normal practice of selecting the highest Petition rate and calculate an alternative AFA margin that is sufficiently adverse to ensure that uncooperative parties do not obtain a more favorable result by withdrawing from the investigation and removing their BPI information from the record.[80] Specifically, the petitioner asserts that Commerce should use the highest Petition

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

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

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

[80] *See* the petitioner's letter, "Certain Steel Wheels (12 to 16.5 Inches in Diameter) from China: Petitioner's Preliminary Determination Comments," dated March 20, 2019 (Pre-Prelim Comments) at 3-4 (citing *Ammonium*

margin recalculated with "more accurate" Brazilian surrogate data and financial ratios submitted by the petitioner during the course of this investigation.[81]

Zhejiang Jingu rebuts that there is simply no precedent for the petitioner's request. Zhejiang Jingu notes that the existing practice to select an AFA rate as the higher of the highest dumping margin alleged in the Petition or the highest calculated dumping margin of a respondent in an investigation already ensures that an uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[82] Zhejiang Jingu notes that the petitioner has cited no cases supporting such a departure from Commerce's standard practice and, indeed, each of the cases relied upon for support reflect a circumstance where Commerce selected the higher of the petition or calculated rate, in accordance with standard practice.[83] Zhejiang Jingu notes that the petitioner points to instances where Commerce has used the highest control number (CONNUM)-specific rate calculated in a preliminary determination as support; however, in those cases, Commerce selected a calculated preliminary dumping margin that was higher than the petition rate, consistent with its practice.[84] Zhejiang Jingu asserts that, when no margin is

---

Sulfate From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 81 FR 78776 (November 9, 2016) (*Ammonium Sulfate*), and accompanying IDM at "Selection and Corroboration of the AFA rate," unchanged in *Ammonium Sulfate from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 82 FR 8403 (January 25, 2017); *Sodium Gluconate, Gluconic Acid, and Derivative Products From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 83 FR 31949 (July 10, 2018) (*Sodium Gluconate*), and accompanying PDM at 14 ("a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated"); *Grain-Oriented Electrical Steel From Germany, Japan, Poland, and the Russian Federation: Preliminary Determinations of Sales at Less Than Fair Value, Certain Affirmative Preliminary Determinations of Critical Circumstances, and Postponement of Russian Final Determination*, 79 FR 26941 (May 12, 2014) (*GOES*), and accompanying PDM at 8 ("the Department may employ an adverse inference 'to ensure that the party does not obtain a more favorable results by failing to cooperate than if it had cooperated fully'")).

[81] *See* Pre-Prelim Comments at 5-9.

[82] *See* Zhejiang Jingu's Pre-Prelim Comments at 2 (citing, *e.g.*, *Sodium Gluconate* and accompanying IDM at 14; *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014), and accompanying IDM at 5; *Ammonium Sulfate*, and accompanying IDM at 8).

[83] *Id.* at 4 (citing *Ammonium Sulfate*, and accompanying IDM at 8 ("{i}n an investigation, the Department's practice with respect to the assignment of an AFA rate is to select the higher of (1) the highest dumping margin alleged in the petition or (2) the highest calculated dumping margin of any respondent in the investigation"); *Sodium Gluconate*, and accompanying IDM at 14 ("Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. Specifically, it is Commerce's practice to select, as an AFA rate, the higher of (a) the highest dumping margin alleged in the petition, or (b) the highest calculated dumping margin of any respondent in the investigation") (citations omitted)). Zhejiang Jingu notes that the petitioner also cites to a separate steel wheels case as justification to depart from our practice. *See* the petitioner's Pre-Prelim Comments at 10. However, Zhejiang Jingu observes that, in that case, we also applied the highest petition rate as the AFA rate when all mandatory respondents withdrew, and no margin was calculated. *See Certain Steel Wheels from the People's Republic of China: Preliminary Determination of Sales at Less-Than-Fair-Value*, 83 FR 54568 (October 30, 2018) (selecting as AFA the highest dumping margin alleged in the petition) (unchanged in *Certain Steel Wheels from the People's Republic of China: Final Determination of Sales at Less-Than-Fair-Value*, 84 FR 11746 (March 28, 2019)).

[84] *Id.* at 4-5 (citing *Certain Tool Chests and Cabinets from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 15365 (April 10, 2018), and accompanying IDM at 6-7 (using the highest CONNUM-specific from a respondent's calculated preliminary determination margin for a respondent as AFA when it was higher than the petition rate); *Cast Iron Soil Pipe Fittings From the People's Republic of China*, 83 FR 33205 (July 17, 2018), and accompanying IDM at 9-10 (using the highest CONNUM-specific margin from a respondent's calculated preliminary determination rate)).

calculated, Commerce does not select a surrogate country, because Commerce selects the highest petition rate as AFA.[85]

We agree with Zhejiang Jingu that the petitioner has provided no justification for departing from Commerce's normal practice. Additionally, there is no precedent for the petitioner's request to re-calculate a Petition margin for purposes of the AFA rate, and the petitioner fails to justify why it would be appropriate to rely upon its proposed surrogate value data (which are not being used to calculate a margin in this proceeding) in applying an unprecedented practice in this instance. Furthermore, the petitioner fails to provide support for the presumption that the respondents' withdrawal is motivated by obtaining a "more favorable result" than that which would be achieved through continued participation (nor is there any way in which to quantify this claim). Accordingly, we find no basis for departing from our standard practice of selecting as AFA the higher of: (1) the highest dumping margin alleged in the petition; or (2) the highest calculated dumping margin of a respondent in an investigation.

When using facts otherwise available, 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 or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.[86] 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.[87]

The Trade Preferences Extension Act of 2015 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. Commerce is also not required to demonstrate that the dumping margin reflects an "alleged commercial reality" of the interested party.[88]

Because the AFA rate that Commerce used is from the Petition, it is secondary information subject to the requirement to corroborate the information, to the extent practicable. We have corroborated the dumping margin alleged in the Petition to the extent practicable. Specifically, we first revisited our pre-initiation analysis of the reliability of the information in the Petition. The petitioner's methodology for calculating the EP and normal value (NV) in the Petition is discussed in the *Initiation Notice* and the China AD Initiation Checklist.[89]

We determined that the Petition margin of 44.35 percent is reliable where, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the

---

[85] *Id.*, citing *Steel Stainless Steel Flanges from People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 13244 (March 28, 2018), and accompanying IDM at 5 ("{b}ecause Commerce preliminarily applied facts otherwise available with an adverse inference (AFA) to GJY {(the respondent)}, … and is therefore, not calculating a rate, Commerce has not selected a primary surrogate country for purposes of this Preliminary Determination.").
[86] *See also* 19 CFR 351.308(d).
[87] *See* SAA at 870.
[88] *See* section 776(d)(3) of the Act.
[89] *See Initiation Notice*; *see also* Initiation Checklist.

information in the Petition during our pre-initiation analysis.[90] To corroborate, to the extent practicable, the 44.35 percent Petition rate for purposes of this preliminary determination, Commerce first revisited its pre-initiation analysis of the reliability of the information in the Petition. During our pre-initiation analysis, we examined: (1) the information used as the basis for EP and NV in the Petition; (2) the calculations used to derive the alleged margin; and (3) information from various independent sources provided either in the Petition or in supplements to the Petition.[91]

Based on our examination of the information, as discussed in detail in the Initiation Checklist, we consider the petitioner's EP and NV calculations to be reliable.[92] In addition, we obtained no other information that would make us question the validity of the sources of information or the validity of information supporting the U.S. price or NV calculations provided in the Petition. Because we confirmed the accuracy and validity of the information underlying the derivation of the margin in the Petition by examining source documents, as well as publicly available information, we preliminarily determine that this Petition rate is reliable for the purposes of an AFA rate in this investigation.

In making a determination as to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. The Petition rate is relevant because it is based on a price quote for the merchandise under consideration and surrogate values that are contemporaneous with five months of the POI.[93] In addition, no information has been placed on the record that discredits this information. As such, we find the Petition rate of 44.35 percent relevant. Furthermore, as there are no respondents in this investigation for which we are calculating a separate dumping margin, we note that the Petition rate is the only rate available on the record of this proceeding. Accordingly, Commerce has corroborated the AFA rate of 44.35 percent to the extent practicable within the meaning of section 776(c) of the Act.

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

In applying section 777A(f) of the Act, Commerce examines: (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.[94] For a subsidy meeting these criteria, the statute requires Commerce to reduce the AD duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified

---

[90] *Id.*
[91] *Id.*
[92] *Id.*
[93] Surrogate values were calculated using data for the period December 2017 through May 2018. The POI is January 1, 2018, through June 30, 2018. However, data was not available at the time of the filing of the Petition for June 2018, so in order to calculate surrogate vales based on a six-month period, the petitioner included the December 2017 data in its surrogate value calculations.
[94] *See* section 777A(f)(1)(A)-(C) of the Act.

cap.[95] Because there has been no demonstration on the record that an adjustment for domestic subsidies is warranted, Commerce is not making any such adjustment to the rate being assigned to the China-wide entity.

IX. ADJUSTMENTS TO CASH DEPOSIT RATES FOR EXPORT SUBSIDIES

In AD investigations where there is a concurrent CVD investigation, it is Commerce's normal practice to calculate the cash deposit rate for each respondent by adjusting the respondent's weighted-average dumping margin to account for export subsidies found for each respective respondent in the concurrent 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."[96]

Commerce determined in the preliminary determination of the companion CVD investigation that certain producers/exporters subject to the all-others rate benefitted from certain subsidy programs contingent on exports totaling 0.62 percent.[97] Because Chungang Machinery is subject to the all-others rate in the companion CVD investigation, we find that an export subsidy adjustment of 0.62 percent is warranted.[98] For the China-wide entity, which includes the mandatory respondents and which preliminarily received an AFA margin, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, Commerce has adjusted the China-wide entity's AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding, which is the 0.62 percent rate applicable to all companies previously discussed.

X. VERIFICATION

Because no exporter/producer was individually examined in this investigation, verifications will not be conducted.

---

[95] *See* section 777A(f)(1)-(2) of the Act.
[96] *See Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 38076, 38077 (July 1, 2010), and accompanying IDM at Comment 1.
[97] *See Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 84 FR 5989 (February 25, 2019) and accompanying PDM.
[98] *Id.*

XI. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

☒	☐
Agree	Disagree

X

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance