A-570-092
Investigation
POI: 01/01/2018-06/30/2018
Public Document
E&C/OIV: JDH/SMB/LA

May 28, 2019

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Mattresses 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 mattresses 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 September 18, 2018, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of mattresses from the People's Republic of China (China), filed in proper form on behalf of Corsicana Mattress Company, Elite Comfort Solutions, Future Foam Inc., FXI, Inc., Innocor, Inc., Kolcraft Enterprises Inc., Leggett & Platt, Incorporated, Serta Simmons Bedding, LLC, and Tempur Sealy International, Inc. (the petitioners).[1] Commerce published the notice of initiation of this investigation on October 17, 2018.[2]

In the *Initiation Notice*, Commerce notified the public that we would select the companies required to respond to our AD questionnaire using data collected via "quantity-and-value" (Q&V) questionnaires.[3]

[1] *See* Letter from petitioners, "Mattresses from the People's Republic of China: Antidumping Duty petition," dated September 18, 2018 (the petition).
[2] *See Mattresses from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 83 FR 52386 (October 17, 2018) (*Initiation Notice*).
[3] *See Initiation Notice*, 83 FR at 52386.

On October 10, 2018, we issued Q&V questionnaires to 54 Chinese exporters/producers of mattresses identified in the petition.[4] From October 23, 2018, through November 2, 2018, Commerce received timely Q&V responses from 40 of these companies.[5]

In November 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 mattresses from China.[6]

On December 3, 2018, we selected Healthcare Co. Ltd. (Healthcare)[7] and Zinus (Xiamen) Inc. (Zinus) as mandatory respondents to individually examine in this investigation and subsequently issued these respondents Commerce's AD questionnaire.

Between February and May 2019, Healthcare[8] and Zinus[9] submitted their responses to Commerce's original questionnaire in addition to supplemental questionnaires.

The petitioners timely submitted comments with respect to Healthcare's and Zinus' questionnaire and supplemental questionnaire responses.[10]

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[4] *See* Memorandum, "Less-Than-Fair-Value Investigation of Mattresses from the People's Republic of China: Respondent Selection," dated December 3, 2018 (Respondent Selection Memorandum); *see also* Memorandum, "Antidumping Duty Investigation of Mattresses from the People's Republic of China: Delivery of Quantity and Value Questionnaires," dated November 21, 2018 (Q&V Questionnaire Delivery Memo) at Attachment I.

[5] *See* Respondent Selection Memorandum.

[6] *See Mattresses from China*, Investigation No. 731-TA-1424 (Preliminary) (November 2018); *see also Mattresses from China*, 83 FR 55910 (November 8, 2018) (*ITC Preliminary Determination*).

[7] Nisco Co., Ltd. is an exporter of subject merchandise and affiliate of Healthcare. Both Healthcare and Nisco applied for a separate rate in this investigation. See Healthcare's February 13, 2019 Section A Questionnaire Response (Healthcare AQR).

[8] *See* Healthcare AQR; *see also* Healthcare's February 26, 2019 Section C Questionnaire Response (Healthcare CQR); Healthcare's February 26, 2019 Section D Questionnaire Response (Healthcare DQR); Healthcare's March 8, 2019 Section D Supplemental Questionnaire Response (Healthcare SDQR); Healthcare's March 19, 2019 Section A Supplemental Questionnaire Response (Healthcare SAQR), Healthcare's April 16, 2019 Section C Supplemental Questionnaire Response (Healthcare SCQR), Healthcare's April 29, 2019 Second Section D Supplemental Questionnaire Response (Healthcare SDQR2); Healthcare's May 7, 2019 Second Section C Supplemental Questionnaire Response (Healthcare SCQR2); Healthcare's May 15, 2019 Third Section C Supplemental Questionnaire Response (Healthcare SCQR3); and Healthcare's May 21, 2019 Fourth Section C Supplemental Response (Healthcare SCQR4).

[9] *See* Zinus' February 13, 2019 Section A Questionnaire Response (Zinus AQR); *see also* Zinus' February 28, 2019 Section C Questionnaire Response (Zinus CQR); Zinus' February 28, 2019 Section D Questionnaire Response (Zinus DQR); Zinus' March 8, 2019 Section D Supplemental Questionnaire Response (Zinus SDQR); Zinus' March 28, 2019 Section A Supplemental Questionnaire Response (Zinus SAQR); Zinus' April 17, 2019 Section C Supplemental Questionnaire Response (Zinus SCQR); Zinus' April 29, 2019 Second Section D Supplemental Questionnaire Response (Zinus SDQR2); and Zinus' May 21, 2019 Supplemental Questionnaire Response for Sections A, C, and D (Zinus SACDQR).

[10] *See* Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Comments on Section A Response of Healthcare," dated February 26, 2019; *see also* Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Comments on Section A Response of Zinus," dated February 26, 2019; Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Comments on Section C Response of Healthcare," dated March 15, 2019; Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Comments on Section C Response of Zinus," dated March 15, 2019; Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Comments on Section D Response of Zinus," dated March 29, 2019; Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Comments on Section D Response of Healthcare," dated March 29, 2019; Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Comments on Supplemental A Responses of Healthcare and Zinus," dated April 5, 2019; Letter from petitioners, "Mattresses from the People's Republic of China:

Between November 16, 2018 and November 27, 2019, Commerce received timely separate rate applications (SRAs) from thirty-five companies. [11] Commerce issued supplemental SRA questionnaires to certain applicants to clarify submitted information during the period of February 15, 2019, through March 11, 2019.

Between March 6, 2019, and May 13, 2019, Commerce received comments on the selection of the primary surrogate country and surrogate values (SVs) from the petitioners, Healthcare, and Zinus.[12]

In the *Initiation Notice*, Commerce notified interested parties that it was providing them with an opportunity to comment on the scope of the investigation.[13] Between November 5, 2018, and November 15, 2018, interested parties submitted comments and rebuttals on product characteristics and the scope of the investigation.[14]

In May 2019, the petitioners, Healthcare, and Zinus submitted comments (and rebuttals to such comments) for consideration in the preliminary determination.[15]The petitioners argued that both Healthcare and Zinus impeded this investigation by providing insufficient descriptions of their respective material inputs and providing vague and inconsistent responses.[16] The petitioners have contended further that there are affiliation concerns regarding certain of Healthcare's U.S. customers.[17] While neither of the mandatory respondents provided detailed descriptions of their material inputs in response to the initial questionnaire, both provided the required information in subsequent supplemental responses.

Further, Commerce has requested and collected information relating to the petitioners' concerns raised in their preliminary comments pertaining to affiliation.[18] Commerce determines that there is no record evidence to support the petitioners' claims; however, Commerce will continue to consider these arguments at verification.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure

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petitioners' Comments on Supplemental Section C Response of Healthcare," dated April 25, 2019; Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Comments on Supplemental C and D Responses of Zinus," dated May 10, 2019.

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

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

[13] *See Initiation Notice*, 83 FR at 52387.

[14] *See* the "Scope Comments" section of this memorandum for details.

[15] *See* Letter from Healthcare, "Mattresses from People's Republic of China: Healthcare's Pre-Preliminary Comments," dated May 8, 2019 ; *see also* Letter from Zinus, "Mattresses from the People's Republic of China: Zinus' Pre-Preliminary Comments," dated May 8, 2019 (Zinus' Preliminary Comments) Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Comments Concerning the Preliminary Determination," dated May 9, 2019 (petitioners' Preliminary Comments); Letter from Healthcare "Mattresses from People's Republic of China: Healthcare's Response to petitioners' Pre-Preliminary Comments," dated May 15, 2019; and Letter from Zinus, "Mattresses from the People's Republic of China: Zinus' Pre-Preliminary Rebuttal Comments," dated May 15, 2019; Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Rebuttal Comments Concerning the Preliminary Determination," dated May 16, 2019 (petitioners' Rebuttal Comments).

[16] *See* petitioners' Preliminary Comments at 4-6.

[17] *Id*. at 9-10.

[18] *See* petitioners' Preliminary Comments at 9-10.

from December 22, 2018, through the resumption of operations on January 29, 2019.[19] 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 was extended to April 8, 2019. However, on March 27, 2019, Commerce postponed the preliminary determination of this investigation until May 28, 2019.[20]

III. PERIOD OF INVESTIGATION

The period of investigation (POI) for this investigation is January 1, 2018, through June 30, 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 September 2018.[21]

IV. CRITICAL CIRCUMSTANCES

On March 15, 2019, the petitioners alleged that critical circumstances exist with respect to imports of subject merchandise.[22] On March 25, 2019, Healthcare and certain exporters argued that critical circumstances do not exist because importers did not know or have reason to know about sales at LTFV, the petitioners' incorrectly relied on only some HTS numbers in their massive imports analysis, and because there is seasonality in the mattress industry accounting for any massive imports.[23] On April 1, 2019, the petitioner submitted comments rebutting Healthcare's Critical Circumstances Response.[24] On April 10, 2019, Commerce issued questionnaires to Healthcare and Zinus requesting monthly quantity and value shipment data for the period of January 2018 through the last day of the month of the publication of the preliminary determination in this investigation.[25] Healthcare and Zinus submitted monthly quantity and value shipment data on April 17, 2019, and May 15, 2019, respectively, as requested.[26]

Commerce has considered all comments on the issue of critical circumstances and preliminarily determines that critical circumstances do not exist with respect to Healthcare and Zinus, but that critical circumstances do exist for the separate rate companies and for the China-wide entity. For Commerce's

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[19] *See* Memorandum, "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.
[20] *See Mattresses from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 84 FR 12198 (April 1, 2019).
[21] *See* 19 CFR 351.204(b).
[22] *See* Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Allegation of Critical Circumstances," March 15, 2019.
[23] *See* Letter from Healthcare, "Mattresses from People's Republic of China: Response to petitioners' Critical Circumstances Allegations," dated March 25, 2019 (Critical Circumstances Response).
[24] *See* Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Response to Healthcare's Comments on the Critical Circumstances Allegation," dated April 1, 2019.
[25] *See* Letter from Commerce, "Antidumping Duty Investigation of Mattresses from the People's Republic of China: Request for Monthly Quantity and Value Shipment Data," dated April 10, 2019, for both Healthcare and Zinus.
[26] *See* Letter from Healthcare, "Mattresses from People's Republic of China: Monthly Shipment Quantity and Value Data," dated April 17, 2019; *see also* Letter from Zinus, "Mattresses from the People's Republic of China: Response to Request for Monthly Shipment Quantity and Value Data," dated May 15, 2019.

preliminary analysis of critical circumstances, see the "Critical Circumstances Analysis Memorandum" dated concurrently with this notice.[27]

V. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

On March 29, 2019, pursuant to 19 CFR 351.210(b)(2)(ii) and 19 CFR 351.210(e)(2), Zinus 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.[28] 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,[29] 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,[30] and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

VI. 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.[31] Numerous interested parties commented on the scope from November 2018 through May 17, 2019.[32] In their comments on the scope, interested parties generally expressed concerns that the scope was too broad, as they claimed that it covered products that the petitioner never intended to cover, such as daybeds, convertible sofas, and mattress toppers. 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 a revision to the scope. The proposed revision addressed comments from interested parties. The revision includes additional descriptions of specific characteristics of subject mattresses.[33]

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[27] *See* Memorandum, "Antidumping Duty Investigation of Mattresses from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances," dated concurrently with this notice.
[28] *See* Letter from Zinus, "Mattresses from the People's Republic of China: Request for Postponement of Final Determination and Extension of Provisional Measures Period," dated March 29, 2019 (Zinus' Extension Request).
[29] *See* Respondent Selection Memorandum.
[30] *See also* Zinus' Extension Request.
[31] *See Initiation Notice*, 83 FR at 52387.
[32] *See* Letter from Healthcare, "Mattresses from the People's Republic of China: Comments on Scope and Product Characteristics," dated November 5, 2018. *See* Letter from Zinus, "Mattresses from the People's Republic of China: Scope Comments," dated November 5, 2018. *See* Letter from petitioners, "Mattresses from the People's Republic of China: Rebuttal Product Characteristics and Scope Comments," dated November 15, 2018.
[33] *See* Letter from petitioners, "Mattresses from the People's Republic of China: Response to Department's Request for Exclusion Language Regarding Mattress Toppers," dated May 17, 2019.

After considering interested parties' comments and the petitioners' proposed exclusion language, 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.[34]

VII. SCOPE OF THE INVESTIGATION

The scope of this investigation covers all types of youth and adult mattresses. The term "mattress" denotes an assembly of materials that at a minimum includes a "core," which provides the main support system of the mattress, and may consist of innersprings, foam, other resilient filling, or a combination of these materials. Mattresses may also contain (1) "upholstery," the material between the core and the top panel of the ticking on a single-sided mattress, or between the core and the top and bottom panel of the ticking on a double-sided mattress; and/or (2) "ticking," the outermost layer of fabric or other material (*e.g.*, vinyl) that encloses the core and any upholstery, also known as a cover.

The scope of this investigation is restricted to only "adult mattresses" and "youth mattresses." "Adult mattresses" have a width exceeding 35 inches, a length exceeding 72 inches, and a depth exceeding 3 inches on a nominal basis. Such mattresses are frequently described as "twin," "extra-long twin," "full," "queen," "king," or "California king" mattresses. "Youth mattresses" have a width exceeding 27 inches, a length exceeding 51 inches, and a depth exceeding 1 inch (crib mattresses have a depth of 6 inches or less from edge to edge) on a nominal basis. Such mattresses are typically described as "crib," "toddler," or "youth" mattresses. All adult and youth mattresses are included regardless of actual size description.

The scope encompasses all types of "innerspring mattresses," "non-innerspring mattresses," and "hybrid mattresses." "Innerspring mattresses" contain innersprings, a series of metal springs joined together in sizes that correspond to the dimensions of mattresses. Mattresses that contain innersprings are referred to as "innerspring mattresses" or "hybrid mattresses." "Hybrid mattresses" contain two or more support systems as the core, such as layers of both memory foam and innerspring units.

"Non-innerspring mattresses" are those that do not contain any innerspring units. They are generally produced from foams (*e.g.*, polyurethane, memory (viscoelastic), latex foam, gel-infused viscoelastic (gel foam), thermobonded polyester, polyethylene) or other resilient filling.

Mattresses covered by the scope of this investigation may be imported independently, as part of furniture or furniture mechanisms (*e.g.*, convertible sofa bed mattresses, sofa bed mattresses imported with sofa bed mechanisms, corner group mattresses, day-bed mattresses, roll-away bed mattresses, high risers, trundle bed mattresses, crib mattresses), or as part of a set in combination with a "mattress foundation." "Mattress foundations" are any base or support for a mattress. Mattress foundations are commonly referred to as "foundations," "boxsprings," "platforms," and/or "bases." Bases can be static, foldable, or adjustable. Only the mattress is covered by the scope if imported as part of furniture, with furniture mechanisms, or as part of a set in combination with a mattress foundation.

Excluded from the scope of this investigation are "futon" mattresses. A "futon" is a bi-fold frame made of wood, metal, or plastic material, or any combination thereof, that functions as both seating furniture (such as a couch, love seat, or sofa) and a bed. A "futon mattress" is a tufted mattress, where the top

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[34] *See* Memorandum, "Mattresses from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determination," dated concurrently with this memorandum (Scope Memorandum).

covering is secured to the bottom with thread that goes completely through the mattress from the top through to the bottom, and it does not contain innersprings or foam. A futon mattress is both the bed and seating surface for the futon.

Also excluded from the scope are airbeds (including inflatable mattresses) and waterbeds, which consist of air- or liquid-filled bladders as the core or main support system of the mattress.

Further, also excluded from the scope of this investigation are any products covered by the existing antidumping duty order on uncovered innerspring units. *See Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009).

Additionally, also excluded from the scope of this investigation are "mattress toppers." A "mattress topper" is a removable bedding accessory that supplements a mattress by providing an additional layer that is placed on top of a mattress. Excluded mattress toppers have a height of four inches or less.

The products subject to this investigation are currently properly classifiable under Harmonized Tariff Schedule for the United States (HTSUS) subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to this investigation may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this investigation is dispositive.

VIII. 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 respondent based on responses to Q&V questionnaires.[35]

On October 10, 2018, we issued Q&V questionnaires to the 54 known Chinese exporters and producers of mattresses identified in the petition.[36] Forty-two exporters/producers received the Q&V

[35] *See Initiation Notice*, 83 FR at 52389.
[36] *See* Q&V Questionnaire Delivery Memo.

questionnaire.[37] Additionally, we posted the Q&V questionnaire, along with filing instructions, on Enforcement and Compliance's website[38] 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.[39] Commerce received timely filed Q&V questionnaire responses from 40 exporters and producers of the subject merchandise.[40]

In the 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 two producers and exporters accounting for the largest volume of exports of mattresses from China to the United States during the POI that could be reasonably examined. Specifically, we determined that Commerce had the resources to individually examine Healthcare and Zinus as mandatory respondents.[41]

IX. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country

Commerce considers China to be a non-market economy (NME) country.[42] In accordance with section 771(18)(C)(i) of the Act, a determination that a 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."[43] 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

[37] *See* Q&V Questionnaire Delivery Memo; *see also* Respondent Selection Memorandum.
[38] *See* http://trade.gov/enforcement/news.asp.
[39] *See Initiation Notice*, 83 FR at 52389.
[40] *See* Respondent Selection Memorandum.
[41] *Id.*
[42] *See, e.g., 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) (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)).
[43] For a description of our practice *see* Commerce 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.surrogate country.

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 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.[44] To determine which countries are at a similar level of economic development, Commerce generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.[45] In addition, if more than one country satisfies the two criteria noted above, Commerce narrows the field of potential surrogate countries to a single country, pursuant to 19 CFR 351.408(c)(2). Further, Commerce will normally value FOPs in a single surrogate country based on data availability and quality.[46]

On February 6, 2019, 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.[47] 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.[48] In March 2019, Commerce received surrogate country and surrogate value comments from interested parties.[49] In May 2019, Commerce received preliminary comments from interested parties.[50]

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.[51] The U.S. Court of International Trade (CIT) has found the use of per capita GNI to be a "consistent, transparent, and objective metric to identify and compare a country's level of economic development" and "a reasonable

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[44] *See* Commerce Letter, "Antidumping Duty Investigation of Mattresses from the People's Republic of China: Request for Surrogate Country Comments and Information," dated February 6, 2019 (Surrogate Country Memorandum).
[45] *Id.*
[46] *See* 19 CFR 351.408(c)(2).
[47] *See* Surrogate Country Memorandum.
[48] *Id.* at Attachment I.
[49] *See* Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Comments On Primary Surrogate Country Selection," dated March 6, 2019 (petitioners' SC Comments); *see also* Letter from Zinus, "Mattresses from the People's Republic of China: Zinus' Surrogate Country Selection Comments," dated March 6, 2019 (Zinus' SC Comments).
[50] *See* Letter from Healthcare, "Mattresses from People's Republic of China: Healthcare's Pre-Preliminary Comments," dated May 8, 2019; Zinus' Preliminary Comments; Letter from Healthcare, "Mattresses from People's Republic of China: Healthcare's Response to petitioners' Pre-Preliminary Comments," dated May 15, 2019; Letter from Zinus, "Mattresses from the People's Republic of China: Zinus' Pre-Preliminary Rebuttal Comments," dated May 15, 2019; petitioners' Rebuttal Comments.
[51] 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. *See* Policy Bulletin 04.1.

interpretation of the statute."[52] 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, Commerce identified Brazil, Kazakhstan, Malaysia, Mexico, Romania, and Russia as countries at the same level of economic development as China based on GNI data published in the World Bank Development Indicators database.[53] The countries identified are not ranked and are considered equivalent in terms of economic comparability.

2. Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. 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.[54] 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 intensities. Since these characteristics are specific to the merchandise in question, the standard for "significant producer" will vary from case to case.[55]

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.* 940421, 940429, and 940140), which cover the merchandise under consideration.[56] Based on these data, Commerce has determined that Brazil,

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[52] *See Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).
[53] *See* Surrogate Country Memorandum at Attachment 1.
[54] *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 33351 (June 4, 2013)).
[55] *See* Policy Bulletin 04.1; *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.
[56] *See* petitioners' SC Comments and Zinus' SC Comments.

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, represent a broad-market average, tax and duty-exclusive, and specific to the inputs being valued.[57] Commerce's preference is to satisfy the breadth of these aforementioned selection factors.[58]

As an initial matter, Mexico and Malaysia are the only potential surrogate countries for which we have complete SV data on the record.[59] 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 the most part, the Malaysian SVs are more specific to the inputs used by the mandatory respondents than the Mexican SVs. Specifically, the Malaysian HTS numbers are either specific to the 8- or 10-digit level, while Mexican HTS numbers are, for the most part, only specific to the 6-digit level. Furthermore, the record of the investigation does not contain a publicly available, contemporaneous financial statement from a Mexican producer of merchandise under consideration but does contain a contemporaneous financial statement from a Malaysian producer of identical merchandise.

With regard to Zinus' argument that Commerce should not select Malaysia because the Malaysian economy is distorted due to export subsidies,[60] Commerce disagrees. While Commerce often disregards import prices from countries, including Thailand, India, Indonesia, and South Korea, where there is evidence of broad export subsidies, this practice only pertains to import-based surrogate values. Here, Commerce has followed its practice to disregard such tainted import-based surrogate values. Furthermore, with respect to surrogate financial ratios and other non-import-based surrogate values, there is no evidence of the three export subsidy programs that Zinus alleged in its preliminary comments in the Malaysian financial statements on the record of this proceeding. Finally, part of Zinus' proffered evidence relates to rubber production in Malaysia. However, the record does not indicate that rubber subsidization in Malaysia would affect surrogate values pertaining to mattress production.

Given the above facts, we have preliminarily selected Malaysia as the primary surrogate country for this investigation. Malaysia 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 in the "Normal Value" section of this memorandum.

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[57] *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 1.C.
[58] *Id*.
[59] *See* Letter from petitioners, "Mattresses from the People's Republic of China: petitioners' Surrogate Values Submission," dated March 18, 2019 (petitioners' Surrogate Value Submission); *see also* Letter from Zinus, "Mattresses from the People's Republic of China: Zinus' Affirmative Surrogate Values Submission," dated March 18, 2019 (Zinus' Surrogate Value Submission); *see also* Letter from Healthcare, "Mattresses from the People's Republic of China: Surrogate Value Comments," dated March 18, 2019.
[60] *See* Zinus' Preliminary Comments at 16-23.

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 assigned a single antidumping duty deposit rate.[61] In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in this LTFV investigation.[62] The process requires exporters to submit a separate rate application (SRA)[63] 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 subject merchandise 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.[64] Commerce analyzes whether each entity exporting the subject merchandise is sufficiently independent from government control under a test established in *Sparklers*[65] and further developed in *Silicon Carbide*.[66] 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 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.[67] In particular, in litigation involving the diamond sawblades from China proceeding, the CIT found Commerce's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.[68] Following the CIT's reasoning,

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[61] *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).
[62] *See Initiation Notice*, 83 FR at 52389.
[63] *See* Commerce 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.
[64] *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*).
[65] *Id*.
[66] *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*).
[67] *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); *Advanced Technology & Materials Co., Ltd. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*); *see also Advanced Technology & Materials Co., Ltd. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd* 581 Fed. Appx 900 (Fed. Cir. 2014) (*Advanced Technology II*). Commerce's remand redetermination is available 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).
[68] *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

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.[69] 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.*, October 17, 2018.[70] Commerce provided parties an additional ten days to submit SRAs, thus, extending the due date for SRAs until November 26, 2018.[71] Commerce received timely-filed SRAs from 35 companies.[72]

1. Separate Rate Analysis

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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.") (emphasis omitted) (footnotes omitted).

[69] *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)).

[70] *See Initiation Notice*, 83 FR at 52389; *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).

[71] *See* Letter from Commerce, "Antidumping Investigation of Mattresses from the People's Republic of China: Extension Request for Separate Rate Application," dated November 9, 2018.

[72] Those companies are: (1) Zinus (Xiamen) Inc.; (Zinus); (2) Jiashan Nova Co.; Ltd. (Nova); (3) Foshan Suilong Furniture Co., Ltd. (Suilong), (4) Foshan Ziranbao Furniture Co., Ltd. (Ziranbao); (5) Foshan Chiland Furniture Co., Ltd. (Chiland); (6) Jinlongheng Furniture Co., Ltd. (Jinlongheng); (7) Foshan Mengruo Household Furniture Co., Ltd. (Mengruo); (8) Foshan Qisheng Sponge Co., Ltd. (Qisheng); (9) Foshan Ruixin Non Woven Co., Ltd. (Ruixin), (10) Xilinmen Furniture Co., Ltd. (Xilinmen), (11) Jiaxing Taien Springs Co., Ltd. (Taien); (12) Xianghe Kaneman Furniture Co., Ltd. (Kaneman); (13) Guangdong Diglant Furniture Industrial Co., Ltd. (Diglant); (14) Dockter China Limited (DCL); (15) Healthcare Co., Ltd. (Healthcare); (16) Healthcare Sleep Products Limited (Healthcare Sleep); (17) Hong Kong Gesin Technology Limited (HK Gesin); (18) lnno Sports Co., Ltd. (Inno Sports); (19) Luen Tai Group (China) Limited (LT China); (20) Luen Tai Global Limited (LT Global); (21) Ningbo Megafeat Bedding Co., Ltd. (Ningbo Megafeat); (22) Nisco Co., Ltd. (Nisco); (23) Quanzhou Hengang Imp. & Exp. Co., Ltd. (Quanzhou Hengang); (24) Shanghai Glory Home Furnjshings Co., Ltd. (Shanghai Glory); (25) Ningbo Shuibishen Home Textile Technology Co., Ltd. (Shuibishen); (26) Sinomax Macao Commercial Offshore Limited (Sinomax Macao); (27) Jiangsu Wellcare Household Articles Co., Ltd. (Wellcare); (28) Wings Developing Co., Limited (Wings Developing); (29) Zhejiang Glory Home Furnishings Co., Ltd. (Zhejiang Glory); (30) Foshan EON Technology Industry Co., Ltd (Foshan EON); (31) Foshan City Shunde Haozuan Furniture Co., Ltd. (Foshan Haozuan); (32) Foshan City Kewei Furniture Co., Ltd (Foshan Kewei); (33) Jiaxing Visco Foam Co., Ltd. (Jiaxing Visco); (34) Foshan City Jinxingma Furniture Manufacture Co., Ltd. (Foshan Jinxingma); (35) Man Wah Furniture Manufacturing (Hui Zhou) Co., Ltd., Man Wah (MACAO Commercial Offshore), Ltd., and Man Wah (USA), Inc. (Man Wah).

Commerce is preliminarily granting the following 35 companies a separate rate, as explained below:

(1) Zinus
(2) Nova
(3) Suilong
(4) Ziranbao
(5) Chiland
(6) Jinlongheng
(7) Mengruo
(8) Qisheng
(9) Ruixin
(10) Xilinmen
(11) Taien
(12) Kaneman
(13) Diglant
(14) DCL
(15) Healthcare
(16) Healthcare Sleep
(17) HK Gesin
(18) Inno Sports
(19) LT China
(20) LT Global
(21) Ningbo Megafeat
(22) Nisco
(23) Quanzhou Hengang
(24) Shanghai Glory
(25) Shuibishen
(26) Sinomax Macao
(27) Wellcare
(28) Wings Developing
(29) Zhejiang Glory
(30) Foshan EON
(31) Foshan Haozuan
(32) Foshan Kewei
(33) Jiaxing Visco
(34) Foshan Jinxingma
(35) Man Wah

A. Wholly-Foreign Owned

(1) Zinus, (2) Nova, (14) DCL, (16) Healthcare Sleep, (17) HK Gesin, (18)Inno Sports, (19) LT China, (20) LT Global, (21) Ningbo Megafeat, (25) Shuibishen, (27) Wellcare, (29) Zhejiang Glory, and (35) Man Wah reported that they are wholly owned by ME companies located outside of China.[73] Therefore,

[73] *See* Letter from Zinus, "Mattresses from the People's Republic of China: Zinus' Separate Rate Application," dated

a separate rate analysis is not necessary to determine whether their export activities are independent from government control.[74] Accordingly, Commerce is preliminarily granting separate rate status to these companies.

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.[75]

The evidence provided by the Chinese-owned companies listed in section C 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.

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

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November 26, 2018; Zinus AQR; Letter from Nova, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 16, 2018; Letter from DCL, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 26, 2018; Letter from Healthcare Sleep, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 26, 2018; Letter from HK Gesin, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 26, 2018 ; Letter from Inno Sports, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 26, 2018 ; Letter from LT China, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 26, 2018 ; Letter from LT Global, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 26, 2018 ; Letter from Ningbo Megafeat, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 26, 2018 ; Letter from Shuibishen, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 26, 2018 ; Letter from Wellcare, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 26, 2018; Letter from Zhejiang Glory, "Mattresses from the People's Republic of China: Separate Rate Application," dated November 26, 2018; Letter from Man Wah, "Antidumping Duty Investigation of Mattresses from the People's Republic of China: Separate Rate Application of Man Wah (MACAO Commercial Offshore),Ltd." dated November 27, 2018 .

[74] *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).

[75] *See Sparklers*, 56 FR at 20589.

proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.[76] 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 21 Chinese-owned companies listed below[77] 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.

Therefore, the evidence placed on the record of this investigation by the above-mentioned separate rate applicants 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 separate rate applicants identified above.

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 that we did not individually examine. Section 735(c)(5)(A) of the Act articulates a preference 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 entirely on facts available, in calculating the separate rate for non-selected companies.[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 rates for both mandatory respondents found to be eligible for separate rates that is not zero, *de minimis*, or based entirely on facts available. Therefore, we assigned the weighted- average margin to the separate rate applicants not individually examined.[79]

E. Combination Rates

[76] *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).

[77] (3) Suilong; (4) Ziranbao; (5) Chiland; (6) Jinlongheng; (7) Mengruo; (8) Qisheng; (9) Ruixin; (10) Xilinmen; (11) Taien; (12) Kaneman; (15) Healthcare; (22) Nisco; (23) Quanzhou Hengang; (24) Shanghai Glory; (26) Sinomax Macao; (28) Wings Developing; (30) Foshan EON; (31) Foshan Haozuan; (32) Foshan Kewei; (33) Jiaxing Visco; and (34) Foshan Jinxingma.

[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* Memorandum, "Calculation of the Rate for Separate Rate Respondents," dated May 28, 2019.

Consistent with the *Initiation Notice*, we calculated combination rates for respondents that are eligible for a separate rate in this investigation.[80] This practice is described in Policy Bulletin 05.1.

F. The China-Wide Entity

As discussed above, the following companies did not respond to Commerce's Q&V questionnaire and as a result are not entitled to a separate rate: Aishu; Apex Maritime Xiamen; Beijing Kang Jie Kong; EON Living; Foshan City Deepsung Home Furniture; Foshan Shunde Yong Heng Package Products Co., Ltd.; Gold Gulf International Trade; Guangdong Silique International; Guangdong Silique International GP Win Company; Hangzhou Lintex; Hangzhou Yuchun Home Textile Company; Hangzhou Yudi Hometextile; Hangzhou Samsung Down Products; Honour Lane Shipping; Hubei Lianle Bedding Group Co., Ltd.; Jiangsu Tianma Textile; Jiaxing Yuanchang Furniture Supplier; King Koil; Nantong Mengjini Home Textiles; Ningbo Shida; Relux Mattress Co. Ltd.; Royal HK Bedding; SCM Home Zhejiang; Shenzhen Changding Industries Co. Ltd.; Shanghai Foamemo Furniture; Shenzhen Shenbao Industrial Co Limited; Union Capital Enterprises; Warm Universe Home Products Company; Wong Hau Plastic Works and Trading; Wuxi JHT Textiles; Zhejiang Crafts and Textile; Zhejiang Huaweimei Group Co., Ltd.; and Zhejiang Shiguanghomewaare and Tex.[81] 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 that there are other Chinese exporters and/or producers of the subject merchandise during the POI that did not respond to Commerce's requests for information. Specifically, as noted in the "Selection of Respondents" section, Commerce did not receive timely responses to its Q&V questionnaire from certain Chinese exporters and/or producers of subject merchandise 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 in the section "Application of Facts Available and Adverse Inferences,", 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 Act, 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

[80] *See Initiation Notice*, 83 FR at 52389-90.
[81] *See* Q&V Questionnaire Delivery Memo; *see also* Respondent Selection Memorandum.

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.[82] 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.[83]

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.[84]

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.

2. Application of Facts Available with an Adverse Inference

[82] *See* Section 776(b)(1)(B) of the Act.
[83] *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, vol. 1 (1994) at 870.
[84] *See* Q&V Questionnaire Delivery Memo.

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 its failure 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.[85] 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).[86]

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.[87] The SAA clarifies that "corroborate" means that Commerce will satisfy itself that the secondary information to be used has probative value.[88] 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.[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 respondents. 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 1,731.75 percent is reliable and relevant because it is within the range of the transaction-specific margins on the record for the participating individually-examined

[85] *See Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (noting that Commerce need not show intentional conduct on the part of the respondent to demonstrate a lack of cooperation, but merely that a respondent failed "to cooperate to the best of {its} ability"); *see also SolarWorld Americas, Inc. v. United States*, 234 F. Supp. 3d 1286, 1299-1301 (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).
[86] *See Nippon Steel*, 337 F.3d at 1382-84.
[87] *See* SAA at 870.
[88] *Id.*; *see also* 19 CFR 351.308(d).
[89] *See* section 776(d)(3) of the Act.

respondent.[90] Moreover, there were a number of transaction specific margins for the individually examined respondents that exceeded the highest margin in the petition. Thus, the highest petition margin is reliable and relevant and 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 subject merchandise, Commerce will normally, in accordance with 19 CFR 351.401(i), "use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary 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] Healthcare stated that for U.S. sales, the commercial invoice could be issued days or months after shipment for export price (EP) and constructed export price sales (CEP).[92] Healthcare states that, due to the time lag between date of shipment and date of invoice, and the fact that the material terms do not change after shipment, shipment date is appropriate for date of sale.[93] Given this sequence of events, Commerce has preliminarily determined to treat the date of shipment as the date of sale.

With regard to Zinus' date of sale, Zinus states that the material terms of sale for its U.S. sales are set at the date of invoice for its EP sales, but on some occasions shipment date precedes invoice date.[94] Therefore, Zinus has reported invoice date as the date of sale unless shipment date precedes invoice date, in which case, Zinus has reported shipment date as the date of sale. As for Zinus' CEP sales, Zinus states that the invoice date and shipment date are the same for its CEP sales.[95] Given these facts, Commerce has preliminarily determined to treat the invoice date as the date of sale (except where shipment date proceeds invoice date).

I. Fair Value Comparisons

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

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

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[90] *See* memorandum, "Corroboration of the Adverse Facts Available Rate for the Preliminary Determination in the Antidumping Duty Investigation of Mattresses 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 2.
[92] *See* Healthcare AQR at 8.
[93] *Id.*
[94] *See* Zinus AQR at A-9; *see also* Zinus CQR at C-22.
[95] *See* Zinus AQR at A-9; *see also* Zinus CQR at C-22.

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.[96] 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 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

[96] *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).

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 Healthcare, Commerce finds that 46.00 percent of the value of U.S. sales pass the Cohen's d test, which confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods.[97] However, Commerce finds that there is not a meaningful difference in the weighted-average dumping margins calculated using the average-to-average comparison method and the average-to-transaction comparison method when both methods are applied

[97] *See* memorandum, "Mattresses from China: Healthcare Preliminary Analysis Memorandum," dated concurrently with this notice (Healthcare's Preliminary Analysis Memorandum).

to all sales. Accordingly, Commerce has preliminarily determined to use the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Healthcare.[98]

For Zinus, Commerce finds that 50.50 percent of the value of U.S. sales pass the Cohen's *d* test, which confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods.[99] However, Commerce finds that there is not a meaningful difference in the weighted-average dumping margins calculated using the average-to-average comparison method and the average-to-transaction comparison method when both methods are applied to all sales. Accordingly, Commerce has preliminarily determined to use the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Zinus.[100]

J. U.S. Price

In accordance with section 772(a) of the Act, EP means "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)."

1. Export Price

In accordance with section 772(a) of the Act, we calculated an EP for certain U.S. sales reported by Healthcare and Zinus. We calculated EP based on the packed prices at which subject merchandise was sold to unaffiliated purchasers in the United States. We made deductions from U.S. price for movement expenses, as appropriate (*e.g.*, foreign inland freight from the plant to the port of exportation, domestic brokerage, international freight to the port of importation), in accordance with section 772(c)(2)(A) of the Act.

2. Constructed Export Price

We have treated all sales made by Healthcare and Zinus after importation as CEP sales. In accordance with section 772(b) of the Act, we calculated CEPs for Healthcare and Zinus by deducting from the reported gross unit sales price movement expenses, where applicable, in accordance with section

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[98] In this preliminary determination, Commerce 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) (*Final Modification*). In particular, Commerce 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.
[99] *See* memorandum, "Mattresses from China: Zinus Preliminary Analysis Memorandum," dated concurrently with this notice (Zinus' Preliminary Analysis Memorandum).
[100] *See Final Modification*. As stated above, Commerce 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.

772(c)(2)(A) of the Act, indirect selling expenses, credit expenses, warranty expenses, and inventory carrying costs, all of which relate to commercial activity in the United States, in accordance with section 772(d)(1) of the Act, and CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act. Where applicable, we reduced movement expenses by freight revenue.

3. Value Added Tax (VAT)

Commerce's methodology with respect to the calculation of EP and CEP is to include an adjustment for any irrecoverable VAT in certain NME countries, in accordance with section 772(c)(2)(B) of the Act.[101] 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.[102] 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.[103]

Commerce's methodology, as 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 Healthcare and Zinus indicates that, according to the Chinese VAT schedule, the standard VAT levy was 17 percent until May 1, 2018, when it changed to 16 percent. For the POI, the recovery rate for the subject merchandise was 15 percent. The EP and CEP prices include irrecoverable VAT.[104] 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 by the difference between those standard rates, consistent with the definition of irrecoverable VAT under Chinese tax law and regulation.[105]

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 country 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

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[101] *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).
[102] *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.
[103] *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); *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
[104] *See* Healthcare CQR at C-53 through C-56 and Exhibits C-7 through C-9; *see also* Zinus CQR at C-60 through C-63 and Exhibits C-23A through C-23D.
[105] *See* Healthcare's Preliminary Analysis Memorandum and *See* Zinus' Preliminary Analysis Memorandum.

renders price comparisons and the calculation of production costs invalid under Commerce's normal methodologies.[106] 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.[107]

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.[108] 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.[109] A detailed description of the SVs used can be found in the Preliminary SV Memorandum.[110]

1. Direct and Packing Materials

We valued direct and packing materials using Global Trade Atlas (GTA) import statistics from the primary surrogate country, Malaysia.[111]

We disregarded certain import values when calculating SVs. We have continued to apply Commerce's long-standing practice of disregarding import prices that we have reason to believe or suspect are subsidized or dumped.[112] In this regard, Commerce previously found that it is appropriate to disregard prices of imports from India, Indonesia, South Korea, and Thailand because it determined that these

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[106] *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)).
[107] *See* section 773(c)(3)(A)-(D) of the Act.
[108] *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, 42682-83 (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)).
[109] *See, e.g., Sigma Corp. v. United States*, 117 F.3d 1401, 1407-09 (Fed. Cir. 1997).
[110] *See* memorandum "Preliminary Determination of the Antidumping Duty Investigation of Mattresses from the People's Republic of China: Surrogate Value Memorandum," dated concurrently with this memorandum (Preliminary SV Memorandum).
[111] *See* Preliminary SV Memorandum.
[112] *See* Section 773(c)(5) of the Act permits Commerce to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values; *see also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).

countries maintain broadly available, non-industry specific export subsidies.[113] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, Commerce finds that it is reasonable to infer that all exporters in India, Indonesia, and South Korea may have benefitted from these subsidies. Therefore, we have not used the prices of Malaysian imports of goods from India, Indonesia, Thailand and South Korea in calculating the Malaysian import-based SVs. Additionally, in selecting import data for SVs, we disregarded prices from NME countries.[114] Finally, we excluded from our calculation of the average import value any imports that were labeled as originating from an "unspecified" 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.[115]

2. Energy

We valued electricity and water using Malaysian Investment Development Authority electricity rates.[116] We did not inflate or deflate the energy rates because they are contemporaneous with the POI.

3. Movement Expenses

As appropriate, we added freight costs to SVs. Specifically, we added surrogate inland truck freight and brokerage and handling costs to import values used as SVs. We calculated surrogate inland truck freight costs using data from *Doing Business 2019: Malaysia*, a container weight of 15 metric tons, and the average inland freight distance from Malaysian manufacturing plants to the border.[117]

4. Labor

We valued Healthcare's and Zinus' labor based on Department of Statistics Malaysia during the POI.[118] Because these rates were in effect during the POI, we did not inflate or deflate them.[119]

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[113] *See*, *e.g.*, *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.
[114] *See, e.g.*, *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 9591, 9600 (March 5, 2009) (unchanged in *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009) and *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order*, 74 FR 46971 (September 14, 2009)).
[115] *Id.*
[116] *See* Preliminary SV Memorandum; *see also* petitioner's First SV Submission at Exhibit 1.
[117] *Id.*
[118] *Id.*
[119] *Id.*

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 subject merchandise 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,[120] that show a profit, from companies with a production experience similar to respondents' production experience, and that are not distorted or otherwise unreliable, such as financial statements that indicate the company received subsidies.[121]

The record contains the audited financial statements of four companies: Aerofoam Manufacturing Sdn. Bhd. (Aerofoam), a Malaysian company that produces rubber foam products and spring mattresses and has production processes comparable to those used by producers of mattresses, for the year ending December 2017; Luxury Sleep Products Sdn. Bhd. (Luxury Sleep), a Malaysian company that produces beds, mattresses, divans, headboards, sofas, and related products and has production processes comparable to processes used by producers of mattresses, for the year ending June 2018; Poh Huat Resources Holdings Berhad (Poh Huat), a Malaysian company which produces bedroom suites and home office suites, for the year ending October 2018; and Tempur Sealy Mexico, S. De R.I. De C.V. (Tempur Sealy) a Mexican company which produces mattresses, and has production processes comparable to those used by producers of mattresses, for the year ending December 2017.[122]

The Luxury Sleep surrogate financial statements on the record cover a period that is contemporaneous with the POI, and they are complete, including notes and an auditor's report. Luxury Sleep is an integrated company, and its financial statement shows a profit before taxes. Luxury Sleep produces identical merchandise to respondents, and its financial statement does not contain any evidence of received countervailable subsidies. While the Aerofoam and Tempur Sealy financial statements indicate that they produce identical merchandise, neither is contemporaneous with the POI. Additionally, while Poh Huat meets most of the above criteria, it does not produce merchandise that is identical to the subject merchandise, unlike Luxury Sleep. Therefore, for the preliminary determination, Commerce has valued factory overhead, SG&A and profit using Luxury Sleep's 2018 financial statements.[123]

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[120] *See Frozen Fish Fillets March 2013* and accompanying Issues and Decision Memorandum at Comment 1.C.

[121] *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; *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2013-2014*, 81 FR 21840 (April 13, 2016), and accompanying Issues and Decision Memorandum at Comment 1.

[122] *See* Zinus' Surrogate Value Submission at Exhibit SV-6 through SV-6.2; *see also* petitioners' Surrogate Value Submission at Exhibit 13.

[123] *See* Preliminary SV 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.

X. 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.

XI. VERIFICATION

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

XII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

☒ Agree

☐ Disagree

5/28/2019

X

Signed by: CHRISTIAN MARSH

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance