A-570-108
Investigation
Public Document
E&C/Office VI: PW/HL

November 6, 2019

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

FROM: Steven Presing
Acting Director, Office VI
Antidumping and Countervailing Duty Operations

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

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that imports of ceramic tile 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 preliminary estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

II. BACKGROUND

On April 10, 2019, we received an antidumping duty (AD) petition covering imports of ceramic tile from China,[1] which was filed in proper form on behalf of The Coalition for Fair Trade in Ceramic Tile (the petitioner).[2] We published the initiation of this investigation on May 8, 2019.[3]

On April 30, 2019, we released U.S. Customs and Border Protection (CBP) data to aid in the selection of mandatory respondents.[4] In the "Respondent Selection" section of the *Initiation*

[1] *See* Petitioner's Letter, "Petition for the Imposition of Antidumping Duties on Imports of Ceramic Tile from the People's Republic of China," dated April 10, 2019 (the Petition).
[2] A companion countervailing duty (CVD) petition was also filed by the petitioner on ceramic tile from China. *See* Petitioner's Letter, "Petition for the Imposition of Countervailing Duties on Imports of Ceramic Tile from the People's Republic of China," dated April 10, 2019.
[3] *See Ceramic Tile from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 84 FR 20093 (May 8, 2019) (*Initiation Notice*).
[4] *See* Memorandum, "Ceramic Tile from the People's Republic of China; U.S. Customs and Border Protection Data for Respondent Selection Purposes," dated April 30, 2019.

Notice, Commerce stated that it intended to select respondents based on responses to quantity and value (Q&V) questionnaires.[5] On May 8, 2019, Commerce issued Q&V questionnaires to the top 50 exporters or producers of the merchandise under consideration listed in the CBP data, and identified by the petitioner with complete contact information in the Petition.[6] In addition, we posted the Q&V questionnaire on our website and, in the *Initiation Notice*, invited parties that 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.[7] Commerce received timely separate rate applications (SRA) from 106 companies.[8] For a discussion of these topics, *see* the "Respondent Selection" and "Separate Rates" sections, below.

On May 14, 2019, we 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 provide surrogate value (SV) information.[9] We received comments on the selection of the primary surrogate country and SV information, and rebuttals thereto, from the petitioner,[10] Belite Ceramics (Anyang) Co., Ltd. and its two affiliates, Tianjin Honghui Creative Technology Co., Ltd. (Honghui) and Beilitai (Tianjin) Tile Co., Ltd. (Beilitai) (collectively, Belite)[11] and Foshan Sanfi Import & Export Co., Ltd. (Foshan Sanfi).[12]

On June 3, 2019, the International Trade Commission (ITC) preliminarily determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of ceramic tile from China.[13]

On August 16, 2019, the petitioner filed an allegation that critical circumstances exist with respect to imports of ceramic tile from China.[14] Between August 19 and 28, 2019, certain

[5] *See Initiation Notice* at "Respondent Selection."
[6] *See* the Petition, Volume I, at Exhibit I-5; *see also* Commerce's Letters, dated May 8, 2019 (Q&V Questionnaires).
[7] *See Initiation Notice*, 84 FR at 20096-97; *see also* Q&V Questionnaires.
[8] For a list of these companies, *see* the "Preliminary Determination" section of the accompanying *Federal Register* notice.
[9] *See* Commerce's Letter, "Ceramic Tile from the People's Republic of China: Request for Economic Development Surrogate Country and Surrogate Value Comments and Information," dated May 14, 2019 (Surrogate Country Letter).
[10] *See* Petitioner's Letters, "Ceramic Tile from the People's Republic of China: Petitioner's Surrogate Value Data," dated August 19, 2019 (Petitioner's SV Letter); "Antidumping Duty Investigation of Ceramic Tile from the People's Republic of China: Petitioner's Supplemental Surrogate Value Information," dated September 4, 2019 (Petitioner's Supplemental SV Letter); and "Antidumping Duty Investigation of Ceramic Tile from the People's Republic of China: Petitioner's Rebuttal Surrogate Value Information," dated August 29, 2019 (Petitioner's Rebuttal SV Letter).
[11] *See* Belite's Letter, "Belite Anyang's First Surrogate Value Comments in the Antidumping Duty Investigation of Ceramic Tile from the People's Republic of China," dated August 19, 2019 (Belite's SV Letter).
[12] *See* Foshan Sanfi's Letter, "Ceramic Tile from the People's Republic of China – Response to Request for Surrogate Value Information," dated August 19, 2019 (Foshan Sanfi's SV Letter).
[13] *See Ceramic Tile from China, Investigation Nos. 701–TA–621 and 731– TA–1447 (Preliminary)*, 84 FR 25561 (June 3, 2019) (*ITC Preliminary Determination*).
[14] *See* Petitioner's Letter, "Ceramic Tile from the People's Republic of China: Petitioner's Allegation of Critical Circumstances," dated August 16, 2019 (CC Allegation).

interested parties submitted comments on the petitioner's critical circumstances allegation.[15] For a discussion of this allegation, *see* the "Preliminary Determination of Critical Circumstances" section, below.

On September 5, 2019, we published in the *Federal Register* the postponement of the preliminary determination by 50 days, until no later than November 6, 2019.[16]

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

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is October 1, 2018 through March 31, 2019. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was April 2019.[17]

IV. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations, we notified parties of an opportunity to comment on the scope of the investigation.[18] On May 28, 2019, we received timely scope comments from several interested parties.[19] On June 10, 2019, we received timely rebuttal comments.[20] After analyzing these comments, Commerce preliminarily found no basis for altering the scope language from what appeared in the *Initiation Notice*.[21] The Preliminary Scope Decision Memorandum, issued concurrently with the companion CVD preliminary

---

[15] *See*, *e.g.*, Temgoo International Trading Limited's (Temgoo) Letter, "Ceramic Tile from China; A-570-108; Comments on Petitioner's Request for Finding of Critical Circumstances," dated August 19, 2019.
[16] *See Ceramic Tile from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 84 FR 46711 (September 5, 2019).
[17] *See* 19 CFR 351.204(b)(1).
[18] *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).
[19] *See* Everstone Industry (Qingdao) Co., Ltd.'s Letter, "Antidumping and Countervailing Duty Investigations of Ceramic Tile from the People's Republic of China; Scope Comments," dated May 28, 2019; The Home Depot, USA, Inc.'s Letter, "Ceramic Tile from the People's Republic of China: Scope Comments," dated May 28, 2019; New Pearl Ceramics' Letter, "Ceramic Tile from China; A-570-108/C-570-109; Comments on Scope," dated May 28, 2019; MS International, Arizona Tile LLC, Bedrosians Tile & Stone, and Anatolia Tile & Stone, Inc.'s Letter, "Ceramic Tile from the People's Republic of China: Comments on Scope of the Investigation," dated May 28, 2019; Soho Studio Corp.'s Letter, "Comments on the Scope of the Investigations: Antidumping and Countervailing Duty Investigations of Ceramic Tile from the People's Republic of China," dated May 28, 2019; Temgoo's Letter, "Ceramic Tile from China; A-570-108/C-570-109; Comments on Scope," dated May 28, 2019; Zhuhai Doumen Xuri Ceramics Co., Ltd.'s Letter, "Ceramic Tile from the People's Republic of China: Comments on Scope," dated May 28, 2019; and Guangdong Kito Ceramics Group Co., Ltd.'s Letter, "Ceramic Tile from the People's Republic of China: Scope Comments by Guangdong Kito Ceramics Group Co., Ltd.," dated May 28, 2019.
[20] *See* Petitioner's Letter, "Antidumping and Countervailing Duty Investigations of Ceramic Tile from the People's Republic of China: Petitioner's Rebuttal Comments on Scope," dated June 10, 2019; and Belite's Letter, "Belite Anyang and Beilitai Tianjin Rebuttal Scope Comments in the Antidumping and Countervailing Duty Investigations on Ceramic Tile from the People's Republic of China," dated June 10, 2019.
[21] *See* Memorandum, "Ceramic Tile from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated September 6, 2019 (Preliminary Scope Decision Memorandum).

determination, includes an explanation of our consideration of the parties' comments.[22] The Preliminary Scope Decision Memorandum also provided deadlines for the submission of scope case briefs and rebuttal scope briefs.[23] On October 15, 2019, multiple parties timely submitted scope case briefs,[24] and on October 21, 2019, multiple parties timely submitted rebuttal scope briefs.[25] We intend to issue a final scope decision after considering interested parties' scope case briefs and rebuttal briefs.

V. SCOPE OF THE INVESTIGATION

For a full description of the scope of this investigation, *see* the accompanying *Federal Register* notice at Appendix I.

VI. PRODUCT CHARACTERISTICS

In the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding product characteristics.[26] The petitioner provided comments,[27] which we took into consideration in determining the physical characteristics outlined in the AD questionnaire. Commerce received no rebuttal comments regarding product characteristics.

VII. RESPONDENT SELECTION

As noted above, in the *Initiation Notice*, Commerce stated its intent to base respondent selection on the responses to Q&V questionnaires.[28] On May 8, 2019, we issued the Q&V questionnaire to the largest 50 producers and exporters of ceramic tile identified in the CBP data.[29] As noted above, we posted the Q&V questionnaire on our website and, in the *Initiation Notice*, invited parties that did not receive a Q&V questionnaire from Commerce to file a response to the Q&V

---

[22] *Id.*

[23] *Id.* at 3. The Preliminary Scope Decision Memorandum stated that scope case briefs would be due no later than 30 days after the publication of the preliminary CVD determination in the *Federal Register*, and rebuttal scope briefs would be due five days after the deadline for scope case briefs. The preliminary CVD determination published on September 12, 2019, making scope case briefs due October 15, 2019, and rebuttal scope briefs due October 21, 2019. *See Ceramic Tile from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 48125 (September 12, 2019).

[24] *See* Petitioner's Letter, "Countervailing Duty Investigation of Ceramic Tile from the People's Republic of China: Petitioner's Scope Case Brief," dated October 15, 2019; New Pearl Ceramic's Letter, "Ceramic Tile from China; A-570-108/C-570-109; Scope Brief and Request for Hearing," dated October 15, 2019; Anatolia Tile & Stone, Inc., *et. al*.'s Letter, "Ceramic Tile from the People's Republic of China: Comments on Scope of the Investigations," dated October 15, 2019; Soho Studio Corp, *et. al*.'s Letter, "Letter In Lieu of Scope Brief: Antidumping and Countervailing Duty Investigations of Ceramic Tile from the People's Republic of China," dated October 15, 2019.

[25] *See* Petitioner's Letter, "Petitioner's Scope Rebuttal Case Brief," dated October 21, 2019; *see also* Anatolia Tile & Stone, Inc., *et. al*.'s Letter, "Ceramic Tile from the People's Republic of China: Rebuttal Comments on Scope of the Investigations," dated October 21, 2019.

[26] *See Initiation Notice*, 84 FR at 20094-95.

[27] *See* Petitioner's Letter, "Antidumping Duty Investigation of Ceramic Tile from the People's Republic of China: Petitioner's Product Characteristics Comments," dated May 20, 2019.

[28] *See Initiation Notice*, 84 FR at 20096-97.

[29] *See* Q&V Questionnaires.

questionnaire by the applicable deadline if they wished to be included in the pool of companies from which Commerce would select mandatory respondents.[30] Of the 50 companies to which we issued the Q&V questionnaire, one company, Foshan Foson Tiles Co., Ltd. (Foshan Foson), did not respond to our request for information. Moreover, while Foshan Ibel Import and Export Ltd. (Foshan Ibel) timely submitted a Q&V response, we rejected this response because it was improperly filed, and provided Foshan Ibel an opportunity to remedy these deficiencies.[31] Foshan Ibel did not resubmit its Q&V response.

Commerce received timely filed Q&V questionnaire responses from 124 exporters and producers of the merchandise under consideration.[32] On May 13, 2019, the petitioner submitted comments on respondent selection.[33]

On June 11, 2019, in accordance with section 777A(c)(2)(B) of the Act, we selected the two exporters accounting for the largest volume of ceramic tile from China during the POI, *i.e.*, Belite and Foshan Sanfi, as mandatory respondents.[34] On June 12, 2019, we issued initial questionnaires to Belite and Foshan Sanfi.[35] Between July 11 and July 29, 2019, we received initial questionnaire responses from Belite[36] and Foshan Sanfi.[37] Between August 2 and September 27, 2019, we issued supplemental questionnaires to Belite and Foshan Sanfi,[38] and between August 23 and October 8, 2019, we received timely responses to these supplemental questionnaires.[39]

---

[30] *See Initiation Notice*, 84 FR at 20096-97; *see also* Q&V Questionnaires.
[31] *See* Commerce's Letter, "Ceramic Tile from the People's Republic of China: Rejection of Improperly Filed Q&V Response,' dated May 28, 2019.
[32] *See* Memorandum, "Ceramic Tile from the People's Republic of China: FedEx Tracking Information," dated June 11, 2019.
[33] *See* Petitioner's Letter, "Antidumping Duty Investigation of Ceramic Tile from the People's Republic of China: Petitioner's Comments on Confidential Customs and Border Protection Data and Respondent Selection," dated May 13, 2019.
[34] *See* Memorandum, "Less-Than-Fair-Value Investigation of Ceramic Tile from the People's Republic of China: Respondent Selection," dated June 11, 2019 (Respondent Selection Memorandum).
[35] *See* Commerce's Letters to Belite and Foshan Sanfi, dated June 12, 2019.
[36] *See* Belite's Letters, "Section A Questionnaire Response for Belite Ceramics (Anyang) Co., Ltd. Antidumping Duty Investigation on Ceramic Tile from the People's Republic of China," dated July 11, 2019 (Belite's AQR); "Section C Questionnaire Response for Belite Ceramics (Anyang) Co., Ltd. Antidumping Duty Investigation on Ceramic Tile from the People's Republic of China," dated July 28, 2019 (Belite's CQR); "Section D Questionnaire Response for Belite Ceramics (Anyang) Co., Ltd. Antidumping Duty Investigation on Ceramic Tile from the People's Republic of China," dated July 29, 2019 (Belite's DQR).
[37] *See* Foshan Sanfi's Letters, "Ceramic Tile from the People's Republic of China – Section A Response," dated July 15, 2019 (Foshan Sanfi's AQR); "Ceramic Tile from the People's Republic of China – Section C Response," dated July 24, 2019 (Foshan Sanfi's CQR); "Ceramic Tile from the People's Republic of China – Section D Response," dated July 29, 2019 (Foshan Sanfi's DQR).
[38] *See*, *e.g.*, Commerce's Letters, Antidumping Duty Investigation on Ceramic Tile from the People's Republic of China: Section A and Double Remedies Questionnaire," dated August 2, 2019; and "Antidumping Duty Investigation on Ceramic Tile from the People's Republic of China: Supplemental Questionnaire for Foshan Sanfi Import & Export Co., Ltd.," dated September 27, 2019.
[39] *See* Belite's Letters, "Supplemental SRA, A&C and 301 Questionnaire Response for Belite Ceramics (Anyang) Co., Ltd. Antidumping Duty Investigation on Ceramic Tile from the People's Republic of China," dated October 1, 2019 (Belite's Supplemental Response); and "Supplemental Section D Questionnaire Response for Belite Ceramics (Anyang) Co., Ltd. Antidumping Duty Investigation on Ceramic Tile from the People's Republic of China," dated

VIII. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Between October 28, 2019 and October 30, 2019, pursuant to 19 CFR 351.210(b)(2)(ii) and 19 CFR 351.210(e)(2), Belite, Foshan Sanfi, and the petitioner 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.[40] 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,[41] and (3) no compelling reasons for denial exist, we are granting respondents' 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 respondents submitted requests to extend the provisional measures,[42] and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

IX. PRELIMINARY NEGATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES

Section 733(e)(1) of the Act provides that Commerce, upon receipt of a timely allegation of critical circumstances, will determine whether there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (A)(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales; and (B) there have been "massive imports" of the subject merchandise over a relatively short period. In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted 20 days or more before the scheduled date of the preliminary determination, Commerce must issue a preliminary critical circumstances determination no later than the date of the preliminary determination.

October 4, 2019 (Belite's SDQR); *see also* Foshan Sanfi's Letters, "Ceramic Tile from the People's Republic of China – Supplemental Questionnaire Response," dated August 23, 2019 (Foshan Sanfi's SAQR); "Ceramic Tile from the People's Republic of China – Supplemental A and C Questionnaire Response," dated October 4, 2019 (Foshan Sanfi's SACQR); and "Ceramic Tile from the People's Republic of China – Supplemental Section D Questionnaire Response," dated October 8, 2019 (Foshan Sanfi's SDQR).

[40] *See* Belite's Letter, "Belite Anyang's Request for Postponement of Final Determination and Extension of Provisional Measures Period in the Antidumping Duty Investigation on *Ceramic Tile from the People's Republic of China,* A-570-108," dated October 28, 2019 (Belite's Postponement Request); *see also* Foshan Sanfi's Letter, "Ceramic Tile From the People's Republic of China – Request Postponement of Final Determination and Extension of Provisional Measures Period," dated October 30, 2019 (Foshan Sanfi's Postponement Request); and Petitioner's Letter, "Antidumping Duty Investigation of Ceramic Tile from the People's Republic of China: Petitioner's Request for Postponement of Final Determination and Extension of Provisional Measures Period," dated October 30, 2019.

[41] *See* Respondent Selection Memorandum.

[42] *See* Belite's Postponement Request; and Foshan Sanfi's Postponement Request.

The petitioner submitted information alleging that, pursuant to section 733(e)(1) of the Act, and 19 CFR 351.206, critical circumstances exist with respect to imports of ceramic tile from China.[43] We preliminarily find that critical circumstances do not exist for Belite, Foshan Sanfi, the non-examined companies, or the China-wide entity.

History of Dumping and Material Injury

To determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous AD orders on the subject merchandise from the country in question in the United States and current orders imposed by other countries with regard to imports of the same merchandise.[44] In this case, the current investigation of the subject merchandise marks the first instance that Commerce has examined whether sales of the subject merchandise have been made at less than fair value in the United States. Accordingly, Commerce previously has not imposed an AD order on the subject merchandise. However, the petitioners note there exists several orders on Chinese ceramic tile in other countries, notably the European Union, India, South Korea, Mexico, and Pakistan.[45] Therefore, we preliminarily find a history of injurious dumping of the subject merchandise, pursuant to section 733(e)(1)(A)(i) of the Act.

Knowledge that Exporters Were Dumping and that There Was Likely to Be Material Injury by Reason of Such Sales

Because we have found a history of dumping and material injury by reason of dumped ceramic tile under section 733(e)(1)(A)(i) of the Act, it is not necessary to determine whether importers knew or should have known that exporters were selling the subject merchandise at less than fair value, pursuant section 733(e)(1)(A)(ii) of the Act.

Massive Imports of the Subject Merchandise over a Relatively Short Period

Pursuant to section 733(e)(1)(B) of the Act, as well as 19 CFR 351.206(h), Commerce will not consider imports to be massive unless imports during a relatively short period (comparison period) have increased by at least 15 percent over imports in an immediately preceding period of comparable duration (base period). Commerce normally considers the comparison period to begin on the date that the proceeding began (*i.e.*, the date the petition was filed) and to end at least three months later.[46] Furthermore, Commerce may consider the comparison period to begin at an earlier time if it finds that importers, exporters, or foreign producers had a reason to believe that proceedings were likely before the petition was filed.[47] In addition, Commerce expands the periods as more data are available.

---

[43] *See* CC Allegation.
[44] *See*, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 31970, 31972-73 (June 5, 2008); and *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2052-53 (January 14, 2009).
[45] *See* CC Allegation at 5.
[46] *See* 19 CFR 351.206(i).
[47] *Id.*

In this investigation, the petitioner has made no allegation that importers, exporters, or foreign producers had a reason to believe that proceedings were likely before the proceeding began, nor is there any record evidence to support such a finding. Therefore, we have relied on the largest possible periods by comparing the period December 2018, through April 2019 (*i.e.*, the base period), with the period May, through September, 2019 (*i.e.*, the comparison period) to determine whether imports of subject merchandise were massive.

Here, we preliminarily find that the volume of U.S. imports did not increase by 15 percent from the base to the comparison period.[48] Further, parties to the investigation have argued that the U.S. Census Bureau data have been reported on a landed duty-paid basis, which is likely impacted by the increase in the Section 301 duties at start of 2019.[49] As such, they argue that the value figure provided in the U.S. Census Bureau data is unreliable.[50] After considering these factors, we preliminarily find that information provided in the critical circumstances allegation does not show that imports of subject merchandise were massive during a relatively short period.

X. COLLAPSING AND AFFILIATION

Legal Framework

Section 771(33) of the Act provides that the following persons shall be considered to be "affiliated" or "affiliated persons":

(A) Members of a family, including brothers and sisters (whether by the whole or half-blood), spouse, ancestors, and lineal descendants;
(B) Any officer or director of an organization and such organization;
(C) Partners;
(D) Employer and employee;
(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization;
(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; or,
(G) Any person who controls any other person and such other person.

"Person" is defined to include "any interested party as well as any other individual, enterprise, or entity, as appropriate."[51] The Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreement Act states the following:

[48] *See* CC Allegation.
[49] *See*, *e.g.*, Temgoo International Trading Limited's (Temgoo) Letter, "Ceramic Tile from China; A-570-108; Comments on Petitioner's Request for Finding of Critical Circumstances," dated August 19, 2019.
[50] *Id.*
[51] *See* 19 CFR 351.102(b).

> The traditional focus on control through stock ownership fails to address adequately modern business arrangements, which often find one firm 'operationally in a position to exercise restraint or direction' over another in the absence of an equity relationship. A company may be in a position to exercise restraint or direction, for example, through corporate or family groupings, franchise or joint venture agreements, debt financing, or close supplier relationships in which the supplier or buyer becomes reliant upon the other.[52]

Section 351.102(b)(3) of Commerce's regulations defines affiliated persons and affiliated parties as having the same meaning as in section 771(33) of the Act. In determining whether control over another person exists, within the meaning of section 771(33) of the Act, Commerce considers the following factors, among others: corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. The regulation directs Commerce not to find that control exists on the basis of these factors unless the relationship has "the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product." The regulation also directs Commerce to consider the temporal aspect of a relationship in determining whether control exists; normally, temporary circumstances will not suffice as evidence of control.

Section 351.401(f) of Commerce's regulations, which outlines the criteria for treating affiliated producers as a single entity for purposes of AD proceedings, states the following:

> (1) In general. In an antidumping proceeding under this part, the Secretary will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production.
> (2) Significant potential for manipulation, in identifying a significant potential for the manipulation of price or production, the factors the Secretary may consider include:
>
> (i) The level of common ownership;
> (ii) The extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and
> (iii) Whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.[53]

[52] *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) at 838.
[53] *See* 19 CFR 351.401(f).

Belite

Belite reported that its parent company, Honghui, also owns at least five percent of Belite and Beilitai.[54] All three companies produce and sell the subject merchandise.[55] Based on the evidence on the record that Honghui owns more than five percent of Belite and Beilitai, Commerce preliminarily finds that Honghui is affiliated with Belite and that Honghui is affiliated with Beilitai, pursuant to section 771(33)(E) of the Act. Further, the record shows that Honghui controls each of these companies. Therefore, based on the evidence on the record that Belite and Beilitai are under the common control of Honghui, Commerce also preliminarily finds that Belite and Beilitai are affiliated companies, pursuant to section 771(33)(F) of the Act.

Further, based on the evidence presented in Belite's questionnaire responses, we preliminarily find that Belite, Beilitai, and Honghui should be treated as a single entity for the purposes of this investigation, pursuant to 19 CFR 351.401(f). We find that, because Belite, Beilitai, and Honghui are all producers of the subject merchandise and have production facilities for similar or identical products that would not require substantial retooling in order to restructure manufacturing priorities, the requirements for treating affiliated parties as a single entity are met within the meaning of 19 CFR 351.401(f)(1). Further, given the level of ownership and intertwining of operations, there exists a significant potential for manipulation of price or production, within the meaning of 19 CFR 351.401(f)(2).[56] Specifically, Belite, Beilitai, and Honghui coordinate production and pricing, as well as share managers and staff.[57] As such, we have preliminarily collapsed Belite, Beilitai, and Honghui.

Foshan Sanfi

Foshan Sanfi reported that its parent company, Guangdong Sanfi Ceramics Group Co., Ltd. (Guangdong Sanfi Group), owns at least five percent of Foshan Sanfi.[58] Foshan Sanfi reported that it exported the subject merchandise during the POI produced by the Guangdong Sanfi Group.[59] Pursuant to 19 CFR 351.401(f), Commerce did not collapse Foshan Sanfi and Guangdong Sanfi Group. Based on the evidence on the record that Guangdong Sanfi Group owns more than five percent of Foshan Sanfi, Commerce preliminarily finds affiliation between these companies, pursuant to section 771(33)(E) of the Act.

[54] *See* Belite's AQR at 14 and Exhibit 4.
[55] *Id*.
[56] *See* Memorandum, "Investigation of Ceramic Tile from the People's Republic of China: Affiliation and Collapsing of Belite Ceramics (Anyang) Co., Ltd., Beilitai (Tianjin) Tile Co., Ltd., and Tianjin Honghui Creative Technology Co., Ltd.," dated concurrently with this memorandum.
[57] *See* Belite's Supplemental Response at 9 and Exhibit SA-5.
[58] *See* Foshan Sanfi's AQR at 14.
[59] *Id*.

XI. DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country

Commerce considers China to be a non-market economy (NME) country.[60] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. 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.

Surrogate Country

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."[61] As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME, unless it is determined that none of the countries are viable options because they either: (a) 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. Surrogate countries that are not at the same level of economic development as the NME country, but 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. To determine which countries are at the same level of economic development as the NME, Commerce generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.[62] Further, Commerce normally values all FOPs in a single surrogate country.[63]

On May 14, 2019, 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, and issued a letter to interested parties soliciting comments on the list of countries and the selection of the primary surrogate country, as well as providing deadlines for the consideration of any submitted SV information for the preliminary determination.[64] In

---

[60] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum (PDM); *see also* Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017.

[61] For a description of our practice, *see* 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.

[62] *Id*.

[63] *See* 19 CFR 351.408(c)(2).

[64] *See* Surrogate Country Letter.

response, no other party commented on the surrogate country list itself, but the petitioner recommended Mexico as the primary surrogate country in this investigation.[65] Further, the petitioner placed SV information on the record from Mexico, and Belite and Foshan Sanfi placed SV information on the record from Russia.[66]

a. Economic Comparability

Consistent with our practice, and section 773(c)(4)(A) of the Act, and as stated above, we identified Brazil, Kazakhstan, Malaysia, Mexico, Romania, and Russia as countries at the same level of economic development as China based on the *per capita* GNI data from the World Bank's World Development Report.[67] Therefore, we consider all six countries as having met this prong of the surrogate country selection criteria. The countries identified are not ranked and are considered equivalent in terms of economic comparability.

b. 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. Neither the statute nor Commerce's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, Commerce looks to other sources such as the Policy Bulletin 04.1 for guidance on defining comparable merchandise. The Policy Bulletin 04.1 states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[68] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[69] Further, when selecting a surrogate country, the statute requires Commerce to consider the comparability of the merchandise, not the comparability of the industry.[70] "In cases where the identical merchandise is not produced, Commerce must determine if other merchandise that is comparable is produced. How Commerce does this depends on the subject merchandise."[71] In this regard, Commerce recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

> In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be

[65] *See* Petitioner's Letter, "Antidumping Duty Investigation of Ceramic Tile from the People's Republic of China: Petitioner's Surrogate Country Comments," dated May 21, 2019.
[66] *See, generally*, Belite's SV Letter; Foshan Sanfi's SV Letter; and Petitioner's SV Letter.
[67] *See* Surrogate Country Letter.
[68] *See* Policy Bulletin 04.1 at 2.
[69] The Policy Bulletin 04.1 also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.* at n.6.
[70] *See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").
[71] *See* Policy Bulletin 04.1 at 2.

identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.[72]

Further, the statute grants Commerce discretion to examine various data sources for determining the best available information.[73] Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[74] it does not preclude reliance on additional or alternative metrics. It is Commerce's practice 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).[75]

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. However, Belite, Foshan Sanfi and the petitioner provided evidence that Mexico and Russia are significant producers of the merchandise under consideration.[76] Therefore, we find that Mexico and Russia meet the "significant producer" requirement of section 773(c)(4) of the Act.

c. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, Commerce selects the primary surrogate country based on data availability and reliability.[77] When evaluating SV data, Commerce considers several criteria including whether the SV data are publicly available, contemporaneous with the period under consideration, broad-market averages, tax and duty-exclusive, and specific to the inputs being valued.[78] There is no hierarchy among these criteria.[79] Commerce's preference is to satisfy the breadth of these aforementioned selection criteria.[80] Moreover, it is Commerce's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.[81] Commerce must weigh the available information

---

[72] *Id.* at 3.
[73] *See* section 773(c) of the Act; *see also Nation Ford Chem. Co. v. United States*, 166 F. 3d 1373, 1377 (Fed. Cir. 1990).
[74] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, (1988) at 590.
[75] *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 PDM at 4-7, unchanged in *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013).
[76] *See* Belite's SV Letter at Exhibit 7; *see also* Foshan Sanfi's SV Letter at Exhibit 11; and Petitioner's SV Letter at Exhibits 12-13.
[77] *See* Policy Bulletin 04.1; *see also* section 773(c)(1) of the Act.
[78] *See* Policy Bulletin 04.1.
[79] *See*, *e.g.*, *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) (*Mushrooms*), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.
[80] *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), and accompanying IDM at Comment I.C.
[81] *See Mushrooms* IDM at Comment 1.

with respect to each input value and make a product-specific and case-specific decision as to what constitutes the "best" available SV for each input.[82] Additionally, pursuant to 19 CFR 351.408(c)(2), Commerce has a preference for valuing all FOPs in a single surrogate country.

Interested parties have only placed SV data on the record for Mexico and Russia, which are publicly available, contemporaneous with the POI, and generally include tax-exclusive broad market average prices.[83]

There are two Mexican financial statements and one purported Russian financial statement from producers of comparable merchandise on the record.[84] The Russian financial statement shows that the company, Kirov Ceramics, is involved in producing ceramic tile, as well as other ceramic products such as sinks and toilets.[85] However, we note this statement is unaudited, appears to be merely a form submitted to the Russian government, and is not signed by the director, as the form states it should be.[86] Because of these deficiencies, we preliminarily determine that the Kirov Ceramics financial statement is unusable, especially given that there are better alternative Mexican financial statements on the record. We preliminarily determine that the Mexican financial statements on the record for Grupo Lamosa S.A.B. de C.V. and Internacional de Ceramica, S.A.B. de C.V. are from producers of ceramic tile, and are audited financial statements. Furthermore, the two Mexican financial statements are fully translated, contemporaneous, profitable, and show no evidence of countervailable subsides. Commerce's preference is to use multiple financial statements to determine surrogate financial ratios which allows Commerce to average the factory overhead, SG&A, and profit ratios and, thus, to normalize any potential distortions that may arise from using those of a single producer.[87] Because the Mexican data on the record include multiple reliable financial statements, while the Russian data do not, data availability and reliability considerations weigh in favor of selecting Mexico as the primary surrogate country.

Given the above factors, we have preliminarily selected Mexico as the primary surrogate country for this investigation. Mexico is at the same level of economic development as China, is a significant producer of comparable merchandise, and has reliable and usable SV data, including multiple financial statements from producers of comparable merchandise which are representative of the experience of ceramic tile respondents. A detailed description of the SVs selected by Commerce is provided in the "Factor Valuation Methodology" section and the Preliminary SV Memorandum.[88]

---

[82] *Id.*
[83] *See, generally,* Belite's SV Letter; Foshan Sanfi's SV Letter; and Petitioner's SV Letter.
[84] *See* Belite's SV Letter at Exhibit 7; *see also* Petitioner's SV Letter at Exhibits 12 & 13.
[85] *See* Belite's SV Letter at Exhibit 7.
[86] *Id*.
[87] *See Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2010-2011*, 78 FR 28803 (May 16, 2013), and accompanying IDM at Comment I.D.
[88] *See* Memorandum, "Ceramic Tile from the People's Republic of China: Surrogate Values for the Preliminary Determination," dated concurrently with this memorandum.

Separate Rates

In proceedings involving NME countries, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.[89] In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in this investigation.[90] The process requires exporters to submit an SRA and to demonstrate an absence of both *de jure* and *de facto* government control over their export activities. In the *Initiation Notice*, Commerce required that "respondents submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status."[91]

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 so as to be entitled to a separate rate.[92] Commerce analyzes whether each exporter is sufficiently independent under a test established in *Sparklers*[93] and further developed in *Silicon Carbide.*[94] According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, 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.[95] In particular, in litigation involving the diamond sawblades from China proceeding, the U.S. Court of International Trade (CIT) found Commerce's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity exercised control over the respondent exporter.[96] Following the CIT's reasoning, in recent proceedings, we have

---

[89] *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).
[90] *See Initiation Notice*, 84 FR at 20097.
[91] *Id.*
[92] *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*).
[93] *Id.*
[94] *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*).
[95] *See* Final Results of Redetermination pursuant to *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), and available at http://enforcement.trade.gov/remands/12-147.pdf, *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, Case No. 2014-1154 (Fed. Cir. 2014); *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 PDM 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 IDM at Comment 1.
[96] *See*, *e.g.*, *Advanced Technology I*, 885 F. Supp. 2d at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management'

concluded that where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the government exercises or has the potential to exercise control over the company's operations generally.[97] This may include control over, for example, the selection of board members and management, key factors 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 that a 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. Accordingly, we have considered the level of government ownership, where necessary.

In the *Initiation Notice*, we stated that SRAs would be due 30 days after publication of the notice, *i.e.*, June 7, 2019. Belite and Foshan Sanfi timely submitted responses to the separate-rates application, and also submitted information pertaining to their eligibility for a separate rate in their Section A questionnaire responses.[98] Furthermore, we received timely filed SRAs from 106 applicants, for whom we are preliminarily granting a separate rate. For a full list of these companies, *see* the accompanying *Federal Register* notice at the "Preliminary Determination" section.

One company, Guangzhou Bravotti Building Material Technology Co., Ltd. (Bravotti), submitted a timely filed SRA.[99] However, Braviotti did not submit a Q&V response, as required in the *Initiation Notice*.[100] Because Braviotti did not submit a Q&V response, we have not considered it for a separate rate, and it remains a part of the China-wide entity.

---

of its 'state-owned assets' is restricted to the kind of passive-investor de jure 'separation' that Commerce concludes.") (footnotes omitted); *id.* at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); *Id.* at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

[97] *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 PDM at 5-9.

[98] *See* Belite's SRA and AQR; *see also* Foshan Sanfi's SRA; and AQR.

[99] *See* Bravotti's Letter, "Ceramic Tile from China; A-570-108; Separate Rate Applications," dated June 7, 2019.

[100] The *Initiation Notice* states that, in order to receive consideration for separate-rate status, respondents must timely submit responses to both the Q&V questionnaire and the separate-rate application. *See Initiation Notice*, 84 FR at 20097.

a. Wholly Foreign-Owned Companies

Anatolia Tile & Stone, Inc. (Anatolia),[101] China Stone Limited (CSL),[102] Dox Building Materials, Co., Ltd. (Dox),[103] Gearex Corp. (Gearex),[104] Hoe Hin Building Materials Co., Ltd. (Hoe Hin),[105] Hong Kong Kito Ceramic Co., Ltd. (Hong Kong Kito),[106] Kim Hin Ceramics (Shanghai) Co., Ltd. (Kim Hin),[107] McMarmocer Ceramics Ltd. (McMarmocer),[108] Megacera Incorporation Ltd. (Megacera),[109] Modern Home Ceramics Co., Limited (Modern Home),[110] Sinorock (Jiangxi) Co., Ltd. (Sinorock),[111] Temgoo,[112] The Tile Shop (Beijing) Trading Company, Ltd. (The Tile Shop)[113] and Yingfei International Limited (Yingfei)[114] reported that they are wholly owned by market economy companies located in market economy countries. Because these companies are wholly foreign-owned, and we have no evidence indicating that the Chinese government controls the companies' export activities, an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether these companies are independent from government control. We preliminarily find Anatolia, CSL, Dox, Gearex, Hoe Hin, Hong Kong Kito, Kim Hin, McMarmocer, Megacera, Modern Home, Sinorock, Temgoo, The Tile Shop and Yingfei to be eligible for separate rates.

b. Wholly Chinese-Owned Companies

The other 91 companies for which we are granting a separate rate (collectively, the Separate Rate Respondents), including Belite and Foshan Sanfi, reported that they are wholly owned by Chinese individuals. Therefore, we must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

[101] *See* Anatolia's Letter, "Ceramic Tile from the People's Republic of China: Separate Rate Application of Anatolia Tile & Stone Inc.," dated June 7, 2019.
[102] *See* CSL's Letter, "Ceramic Tile from China; A-570-108; Separate Rate Applications," dated June 7, 2019.
[103] *See* Dox's Letter, "Antidumping Duty Investigation of Ceramic Tile from the People's Republic of China - Separate Rate Application," dated June 7, 2019.
[104] *See* Gearex's Letter, "Ceramic Tile from China; A-570-108; Separate Rate Applications," dated June 7, 2019.
[105] *See* Hoe Hin's Letter, "Antidumping Investigation of Ceramic Tile from the People's Republic of China; Separate Rate Application," dated June 7, 2019.
[106] *See* Hong Kong Kito's Letter, "Ceramic Tile from the People's Republic of China - Separate Rate Application," dated June 7, 2019.
[107] *See* Kim Hin's Letter, "Ceramic Tile from the People's Republic of China: Separate Rate Application," dated June 6, 2019.
[108] *See* McMarmocer's Letter, "Ceramic Tile from the People's Republic of China: Separate Rate Application," dated June 10, 2019.
[109] *See* Megacera's Letter, "Ceramic Tile from the People's Republic of China: Separate Rate Application," dated June 10, 2019.
[110] *See* Modern Home's Letter, "Ceramic Tile from China; A-570-108; Separate Rate Applications," dated June 7, 2019.
[111] *See* Sinorock's Letter, "Ceramic Tile from China - Separate Rate Applications," dated June 7, 2019.
[112] *See* Temgoo's Letter, "Ceramic Tile from China; A-570-108; Separate Rate Applications," dated June 7, 2019.
[113] *See* The Tile Shop's Letter, "Ceramic Tile from China; A-570-108; Separate Rate Applications," dated June 7, 2019.
[114] *See* Yingfei's Letter, "Ceramic Tile from the People's Republic of China: Separate Rate Application," dated June 10, 2019.

c. 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.[115]

The evidence placed on the record of this investigation with respect to the Separate Rate Respondents 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.[116]

d. Absence of *De Facto* Control

Typically, Commerce considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the prices are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.[117] 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 placed on the record of this investigation with respect to the Separate Rate Respondents 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.[118]

Therefore, the evidence placed on the record of this investigation with respect to the Separate Rate Respondents demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, we preliminarily grant separate rates to the Separate Rate Respondents.

---

[115] *See Sparklers*, 56 FR at 20589.
[116] *See*, *e.g.*, Belite's SRA.
[117] *See Silicon Carbide*, 59 FR at 22586-87; and *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).
[118] *See*, *e.g.*, Belite's SRA.

e. Dumping Margin for Companies receiving a Separate Rate

Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate rate respondents which we did not individually examine. Section 735(c)(5)(A) of the Act articulates a preference that we not 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.[119] 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 Belite and Foshan Sanfi that are not zero, *de minimis*, or based entirely on facts available. The rates of Belite and Foshan Sanfi are applicable to companies not selected for individual examination and eligible for a separate rate. For non-selected respondents eligible for a separate rate, we cannot apply our normal methodology of calculating a weighted-average margin using the actual net U.S. sales values and antidumping duty amounts of Belite and Foshan Sanfi because doing so could indirectly disclose business proprietary information to both of these companies. Alternatively, we have previously applied the simple average of the margins we determined for the selected companies.[120] In order to strike a balance between our duty to safeguard parties' business proprietary information and our attempt to adhere to the guidance set forth in section 735(c)(5)(A) of the Act, we calculated a weighted-average margin for non-selected separate rate respondents using the publicly available, ranged total U.S. sales values of the selected respondents, compared the resulting public, weighted-average margin to the simple average of the antidumping duty margins, and used the amount which is closer to the actual weighted-average margin of the selected respondents as the margin for the non-selected respondents.[121] Accordingly, for the preliminary determination of this investigation, we are assigning the weighted average of the two individually examined respondents' rates based on their publicly available, ranged U.S. sales values and dumping margins for eligible non-selected respondents. The separate rate for the eligible non-selected respondents is 179.95 percent.[122]

Moreover, consistent with the *Initiation Notice*, we calculated combination rates for the respondents that are eligible for a separate rate in this investigation.[123] This practice is described in Policy Bulletin 05.1.

---

[119] *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 IDM at Comment 16.
[120] *Id.*
[121] *Id.* at Comment 1.
[122] *See* Memorandum, "Ceramic Tile from the People's Republic of China: Preliminary Calculation of Separate Rate," dated concurrently with this memorandum.
[123] *See Initiation Notice*, 84 FR at 20097.

China-Wide Entity

As discussed above, Foshan Foson did not respond to our Q&V Questionnaire and Foshan Ibel did not respond to our request to refile its Q&V response, and, therefore, these companies did not establish their eligibility for a separate rate. Because Foshan Foson and Foshan Ibel have not demonstrated their eligibility for separate rate status, Commerce considers them part of the China-wide entity. Furthermore, as explained below, we are determining the preliminary China-wide rate based on adverse facts available (AFA).

a. Application of Facts Available and Adverse Inferences

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

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

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

Section 776(c) of the Act provides that, in general, 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.[124] Further, 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.[125]

[124] *See* SAA at 870.
[125] *See* sections 776(d)(3)(A) and (B) of the Act.

b. Use of Facts Available

We preliminarily find that the China-wide entity, which includes certain Chinese exporters and/or producers that did not respond to our requests for information, withheld information requested and significantly impeded this proceeding by not submitting the requested information. Specifically, Foshan Foson and Foshan Ibel, which are part of the China-wide entity, failed to respond to our requests for Q&V information.[126] Thus, necessary information is not on the record, and we find that the China-wide entity (including those companies that failed to respond to requests for Q&V information) has withheld requested information, failed to provide such information in a timely manner or in the form or manner requested, and significantly impeded the proceeding. Therefore, we preliminarily determine that the use of facts available is warranted in determining the rate of the China-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.[127]

c. Application of Facts Available with an Adverse Inference

Section 776(b) of the Act provides that in selecting from among the facts otherwise available, Commerce may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Commerce finds that the China-wide entity's failure to submit Q&V information constitutes circumstances under which it is appropriate to conclude that the China-wide entity failed to cooperate to the best of its ability to comply with Commerce's request for information.[128] With respect to the missing information, the China-wide entity did not file any document indicating difficulty providing the information or any 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 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).[129]

d. Selection and Corroboration of the AFA Rate

In applying an adverse inference, Commerce may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.[130] In selecting an AFA rate, Commerce selects a rate that is sufficiently adverse to

---

[126] *See* Respondent Selection Memorandum.

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

[128] *See Nippon Steel Corporation v. United States*, 337 F. 3d 1373, 1383 (Fed. Cir. 2003) (*Nippon Steel*) (noting that Commerce need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (*i.e.*, information was not provided "under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.")).

[129] *See Nippon Steel*, 337 F. 3d at1382-83.

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

ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.[131] Consistent with sections 776(b)(2) and 776(d)(2) of the Act, in an investigation, Commerce's practice with respect to the assignment of an AFA rate is to select the higher of: (1) the highest dumping margin alleged in the petition; or (2) the highest calculated dumping margin of any respondent in the investigation.[132] Based on the information on the record, we are able to corroborate the highest petition rate of 356.02 percent.

In attempting to corroborate that rate, we compared the highest petition rate of 356.02 percent to the individually investigated respondents' highest transaction-specific dumping margins and found Belite's highest calculated transaction-specific dumping margin exceeded the highest petition rate. Because we were able to corroborate the highest dumping margin contained in the petition, we assigned to the China-wide entity a dumping margin of 356.02 percent.

Date of Sale

In identifying the date of sale of the subject merchandise, Commerce normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business.[133] Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.[134] Furthermore, we have a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.[135]

Belite reported the commercial invoice date, as requested.[136] Belite explained that the invoice date is the appropriate date of sale because adjustments to quantity, price, delivery times or other terms of the sale may occur until the invoice is finalized.[137] Consistent with 19 CFR 351.401(i), we preliminarily find that the invoice date is the appropriate date of sale for Belite.

Foshan Sanfi reported the earlier of the sales invoice date or the date of shipment as the date of sale for its U.S. sales.[138] Foshan Sanfi explained that the sale terms are fixed on that date.[139] Consistent with 19 CFR 351.401(i), we preliminarily determine to use the earlier of the sales invoice date or the date of shipment as the date of all sales for Foshan Sanfi.

---

[131] *See* SAA at 870.
[132] *See*, *e.g.*, *Certain Uncoated Paper from Indonesia: Final Determination of Sales at Less Than Fair Value*, 81 FR 3101 (January 20, 2016).
[133] *See* 19 CFR 351.401(i).
[134] *Id.*; *see also Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-92 (CIT 2001) ("As elaborated by {Commerce} practice, a date other than invoice date 'better reflects' the date when 'material terms of sale' are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.").
[135] *See*, *e.g.*, *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 10670 (March 12, 2018), and accompanying PDM at 6-7, unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 32629 (July 13, 2018).
[136] *See* Belite's AQR at 17.
[137] *Id.*
[138] *See* Foshan Sanfi's AQR at 16.
[139] *Id.*

Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether the respondents' sales of the subject merchandise from China to the United States were made at less than fair value, Commerce compared the export price (EP) to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

Determination of Comparison Method

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

Commerce has applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.[140] Commerce finds that the differential pricing analysis used in prior investigations 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 on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of investigation based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and

[140] *See*, *e.g.*, *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

all characteristics of the U.S. sales, other than purchaser, region and time period, that Commerce uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

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

average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this investigation.[141]

Results of the Differential Pricing Analysis

For Belite, based on the results of the differential pricing analysis, Commerce preliminarily finds that 20.9 percent of the value of U.S. sales pass the Cohen's *d* test, and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Belite.

For Foshan Sanfi, based on the results of the differential pricing analysis, we preliminarily find that 10.0 percent of the value of U.S. sales pass the Cohen's *d* test and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, for this preliminary determination, we are applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Sanfi.

U.S. Price

For Belite's and Foshan Sanfi's reported sales, in accordance with section 772(a) of the Act, we based the U.S. price of subject merchandise on EP. We calculated EP based on the prices at which subject merchandise was sold to unaffiliated purchasers in the United States.

We made deductions, as appropriate, from the reported U.S. price for discounts and for movement expenses, *e.g.*, foreign inland freight expenses and foreign brokerage and handling expenses.[142] We based movement expenses on SVs where the service was purchased from a Chinese company.

Value-Added Tax

[141] The Court of Appeals for the Federal Circuit (CAFC) has affirmed much of Commerce's differential pricing methodology. *See*, *e.g.*, *Apex Frozen Foods v. United States*, 862 F. 3d 1322 (Fed. Cir. 2017). We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.
[142] *See* Section 772(c)(2)(A) of the Act.

Commerce's recent practice in NME cases is to adjust EP (or the CEP) for the amount of any unrefunded, (herein irrecoverable) value-added tax (VAT) in certain non-market economies in accordance with section 772(c)(2)(B) of the Act.[143] In changing its practice, Commerce explained that, when an NME government imposes an export tax, duty, or other charges 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.[144] 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.[145]

VAT is an indirect, *ad valorem* consumption tax imposed on the purchase (sale) of goods. It is levied on the purchase (sale) price of the good, *i.e.*, it is paid by the buyer and collected by the seller. For example, if the purchase price is $100 and the VAT rate is 15 percent, the buyer pays $115 to the seller, $100 for the good and $15 in VAT. VAT is typically imposed at every stage of production. Thus, under a typical VAT system, firms: (1) pay VAT on their purchases of production inputs and raw materials (input VAT) as well as (2) collect VAT on sales of their output (output VAT).

Firms calculate input VAT and output VAT for tax purposes on a company-wide (not transaction-specific) basis, *i.e.*, in the case of input VAT, on the basis of *all input purchases* regardless of whether used in the production of goods for export or domestic consumption, and in the case of output VAT, on the basis of *all sales to all markets*, foreign and domestic. Thus, a firm might pay the equivalent of $60 million in total input VAT across all input purchases and collect $100 million in total output VAT across all sales. In this situation, however, the firm would remit to the government only $40 million of the $100 million in output VAT collected on its sales because of a $60 million credit for input VAT paid that the firm can claim against output VAT.[146] As result, the firm bears no "VAT burden (cost)": the firm through the credit is refunded or recovers all of the $60 million in input VAT it paid, and the $40 million remittance to the government is simply a transfer to the government of VAT paid by (collected from) the buyer with the firm acting only as an intermediary. Thus, the cost of output VAT falls on the buyer of the good, not on the firm.

This would describe the situation under Chinese law except that producers in China, in most cases, do not recover (*i.e.*, are not refunded) the total input VAT they paid. Instead, Chinese tax law requires a *reduction in or offset to* the input VAT that can be credited against output VAT. This formula for this reduction/offset is provided in Article 5 of the 2012 Chinese government tax regulation, *Circular on Value-Added Tax and Consumption Tax Policies on Exported Goods and Services* (*2012 VAT Notice*):[147]

---

[143] *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).
[144] *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 IDM at Comment 5.A (Chlorinated Isocyanurates VAT Adjustment).
[145] *See* Chlorinated Isocyanurates VAT Adjustment.
[146] The credit, if not exhausted in the current period, can be carried forward.
[147] *See* Belite's CQR at Exhibit C-2A (*2012 VAT Notice*).

Reduction/Offset = (P – c) x **(T_1 – T_2)**,

where,
P = (VAT-free) FOB value of export sales;
c = value of bonded (duty- and VAT-free) imports of inputs used in the production of goods for export;
T_1 = VAT rate; and,
T_2 = refund rate specific to the export good.
Using the example above, if P = $200 million, c = 0, T_1 = 17% and T_2 = 10%, then the reduction/offset = ($200 million - $0) x (17% - 10%) = $200 million x 7% = $14 million. Chinese law then requires that the firm in this example calculate creditable input VAT by subtracting the $14 million from total input VAT, as specified in Article 5.1(1) of the *2012 VAT Notice*:

Creditable input VAT = Total input VAT – Reduction/Offset

Using again the example above, the firm can credit only $60 million – $14 million = $46 million of the $60 million in input VAT against output VAT. Since the $14 million is not creditable (legally recoverable), it is not refunded to the firm. Thus, the firm incurs a cost equal to $14 million, which is calculated on the basis of FOB export value at the *ad valorem* rate of T_1 – T_2. This cost therefore functions as an "export tax, duty, or other charge" because the firm does not incur it *but for* exportation of the subject merchandise, and under Chinese law must be recorded as a cost of exported goods.[148] It is for this "export tax, duty, or other charge" that Commerce makes a downward adjustment to U.S. price under section 772(c) of the Act.[149]

It is important to note that under Chinese law, the reduction/offset described above is defined in terms of, and applies to, total (company-wide) input VAT across purchases of all inputs, whether used in the production of goods for export or domestic consumption. The reduction/offset does not distinguish the VAT treatment of export sales from the VAT treatment of domestic sales from an input VAT recovery standpoint for the simple reason that such treatment under Chinese law applies to the company as a whole, not specific markets or sales. At the same time, however, the reduction/offset is calculated on the basis of the FOB value of exported goods, so it can be thought of as a tax on the company (*i.e.*, a reduction in the input VAT credit) that the company

[148] *Id*. at Article 5(3) of the *2012 VAT Notice* (stating "{w}here the tax refund rate is lower than the applicable tax rate, the corresponding differential sum calculated shall be included into the cost of exported goods and services").
[149] Because the $14 million is the amount of input VAT that is not refunded to the firm, it is sometimes referred to as "irrecoverable input VAT." However, that phrase is misleading because the $14 million is not a fraction or percentage of the VAT the firm paid on purchases of inputs used in the production of exports. If that were the case, the value of production inputs, not FOB export value, would appear somewhere in the formula in Article 5 of the *2012 VAT Notice* as the tax basis for the calculation. The value of production inputs does not appear in the formula. Instead, as explained above, the $14 million is simply a cost imposed on firms that is tied to export sales, as evidenced by the formula's reliance on the FOB export value as the tax basis for the calculation. The $14 million is a reduction in or offset to what is essentially a tax credit, and it is calculated based on and is proportional to the value of a company's export sales. Thus, "irrecoverable input VAT" is in fact, despite its name, an export tax within the meaning of section 772(c) of the Act.

would not incur but for the export sales it makes, a tax fully allocable to export sales because the firm under Chinese law must book it as cost of exported goods.

The VAT treatment under Chinese law of exports of goods described above concerns only export sales that are *not* subject to output VAT, the situation where the firm collects no VAT from the buyer, which applies to most exports from China. However, the *2012 VAT Notice* provides for a limited exception in which export sales of certain goods are, under Chinese law, deemed domestic sales for tax purposes and are thus subject to output VAT at the full rate.[150] The formulas discussed above from Article 5 of the *2012 VAT Notice* do not apply to firms that export these goods, and there is therefore no reduction in or offset to their creditable input VAT. For these firms creditable input VAT = total input VAT, *i.e.*, these firms recover all of their input VAT. At the same time, export sales of these firms are subject to an explicit output VAT at the full rate, T_1.[151] Commerce must therefore deduct this tax from U.S. price[152] under section 772(c) of the Act to ensure tax-neutral dumping margin calculations.[153]

As such, in the initial questionnaires, Commerce instructed Belite and Foshan Sanfi to report VAT on the subject merchandise sold to the United States during the POI and to identify which taxes are unrefunded upon export.[154] Information placed on the record of this investigation indicates that according to the China VAT schedule, the standard VAT levy during the period October 1, 2018, through October 31, 2019, was 16 percent and the rebate rates for the subject merchandise were nine percent.[155] In addition, according to the China VAT schedule, the standard VAT levy during the period November 1, 2018, through March 31, 2019, was 16 percent and the rebate rates for the subject merchandise were 13 percent.[156] Finally, according to the China VAT schedule, the standard VAT levy after April 1, 2019, was 13 percent and the rebate rates for the subject merchandise were 13 percent.[157] Consistent with our standard methodology, for purposes of this preliminary determination we based the calculation of irrecoverable VAT on the difference between those standard rates, applied to a free-on-board price at the time of exportation.[158] Thus, because the VAT levy and VAT rebate rates on exports are different, we adjusted Belite's and Foshan Sanfi's U.S. sales for irrecoverable VAT.

Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine NV using the FOP methodology if the merchandise is exported from an NME and the information does not permit

[150] *See 2012 VAT Notice*, Article 7. For these goods, the VAT refund rate on export is zero.
[151] *See 2012 VAT Notice*, Article 7.2(1).
[152] Commerce will divide the VAT-inclusive export price by (1 + T), where T is the applicable VAT rate.
[153] Pursuant to sections 772(c) and 773(c) of the Act, the calculation of normal value based on factors of production in NME antidumping cases is calculated on a VAT-exclusive basis, so U.S. price must also be calculated on a VAT-exclusive basis to ensure tax neutrality.
[154] *See* Antidumping Duty Questionnaire.
[155] *See* Belite's CQR at 40 and Exhibit C-2C.
[156] *Id.*
[157] *Id.*
[158] *See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012-2013*, 80 FR 33241 (June 11, 2015), and accompanying IDM at Comment 5.

the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. Commerce bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under Commerce's normal methodologies.[159] Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), we calculated NV 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 used; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.[160]

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by Belite and Foshan Sanfi. To calculate NV, we multiplied the reported per-unit FOP consumption rates by publicly available SVs. When selecting SVs, we considered, among other factors, the quality, specificity, and contemporaneity of the SV data.[161] 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.[162] A detailed description of the SVs used can be found in the Preliminary SV Memorandum.[163]

a. Direct Materials, Packing Materials and By-products

For the preliminary determination, we used Mexican import data, as published by the GTA, and other publicly available sources from Mexico to calculate SVs for FOPs. 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.[164]

---

[159] *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).

[160] *See* section 773(c)(3)(A)-(D) of the Act.

[161] *See*, *e.g.*, *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008), and accompanying IDM at Comment 9.

[162] *See Sigma Corp. v. United States*, 117 F. 3d 1401, 1407-08 (Fed. Cir. 1997) (*Sigma Corp.*).

[163] *See* Preliminary SV Memorandum.

[164] *See*, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

As noted in the "Surrogate Value Comments" and "Data Availability" sections, the parties made several submissions regarding the appropriate surrogate valuation of the respondents' reported FOPs. In instances where the parties disagree with respect to the particular Harmonized Tariff System (HTS) subheading under which a particular material input should be valued, we used an HTS subheading selection method based on the best match between the reported physical description and function of the input and the HTS subheading description.[165]

Pursuant to 19 CFR 351.408(c)(1), where a factor is produced in one or more market economy countries, purchased from one or more market economy suppliers and paid for in a market economy currency, Commerce normally will use the prices paid to the market economy suppliers if substantially all (*i.e.*, 85 percent or more) of the total volume of the factor is purchased from the market economy suppliers. Alternatively, when the volume of an NME firm's purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, Commerce will weight-average the ME purchase price with an appropriate SV, according to their respective shares of the total volume of purchases. When a firm has made ME input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, Commerce will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold.[166] Neither Belite nor Foshan Sanfi had ME purchases that met the 85 percent threshold.

The record shows that for the remaining inputs, Mexican import data obtained through GTA, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POI.[167]

Pursuant to section 773(c)(5) of the Act and Commerce's long-standing practice, Commerce disregards SVs if it has a reason to believe or suspect the source data may comprise dumped or subsidized prices.[168] In this regard, Commerce has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[169] Based on the existence of the subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, Commerce finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea, and Thailand may have

---

[165] *See* Preliminary SV Memorandum for further discussion.
[166] *See Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013).
[167] *See* Preliminary SV Memorandum.
[168] *See* section 773(c)(5) of the Act; *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).
[169] *See*, *e.g.*, *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying IDM at 7-19; *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying IDM at 1; *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying IDM at 4; and *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying IDM at IV.

benefitted from these subsidies. Therefore, we have not used prices from these four countries in calculating the Mexican import-based SVs.

Additionally, we disregarded data from NME countries when calculating Mexican import-based per-unit SVs. We also excluded from the calculation of Mexican import-based per-unit SVs imports labeled as originating from an "unidentified" country because we could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.[170]

b. Energy

We preliminarily valued electricity using Mexican data from the International Energy Agency.[171] Because the electricity data are contemporaneous with the POI, we did not adjust the data for inflation. We preliminarily valued natural gas using Mexican data from the National Reference Index of Wholesale Natural Gas Prices.[172] We preliminarily valued water using the publication *Statistics on Water in Mexico*, by the National Water Commission, using rates that would be applicable to the respondents based on their reported usage.[173]

c. Movement Expenses

As appropriate, we added freight costs to SVs. Specifically, we added surrogate inland freight costs to import values used as SVs. We calculated freight SVs using the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest port to the factory that produced the subject merchandise, where appropriate.[174]

We valued brokerage and handling and inland truck freight expenses using the data from the World Bank Group's *Doing Business – Mexico* (*Doing Business*) and the average of the distances between the factory and the port.[175]

d. Labor

We calculated an hourly labor rate using industry-specific data from the primary surrogate country, Mexico. In particular, we relied on industry-specific labor data from the International Labour Organization.[176]

---

[170] *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005).
[171] *See* Preliminary SV Memorandum at Exhibit 1.
[172] *Id.*
[173] *Id.*
[174] *See Sigma Corp.*, 117 F. 3d at 1407-08.
[175] *See* Preliminary SV Memorandum at Exhibit 1.
[176] *Id.*

e. Financial Ratios

According to 19 CFR 351.408(c)(4), Commerce is directed to value overhead, selling, general and administrative (SG&A) expenses, and profit using non-proprietary information gathered from producers of merchandise that is identical or comparable to the merchandise under consideration in the surrogate country. Commerce's preference is to derive surrogate overhead expenses, SG&A expenses, and profit using financial statements covering a period that is contemporaneous with the POI, that show a profit, from companies with a production experience similar to the respondents' production experience, and that are not distorted or otherwise unreliable, such as financial statements that indicate the company received subsidies.[177]

To value factory overhead, SG&A, and profit, we used the average of the 2018 audited public financial statements of Grupo Lamosa S.A.B. de C.V. and Internacional de Ceramica, S.A.B. de C.V. We preliminarily determine that these companies are Mexican producers of comparable merchandise.[178]

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.

XII. ADJUSTMENT UNDER SECTION 777A(F) OF THE ACT

In applying section 777A(f)(1) of the Act, Commerce examines: (A) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise; (B) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period; and (C) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.[179] As part of its analysis under section 777A(f)(1)(C), Commerce examines whether the respondent demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacture (COM); and (2) a cost-to-price link, *e.g.*, respondent's prices changed as a result of changes in the COM.[180] For a subsidy meeting these criteria, the statute requires Commerce to reduce the AD

[177] *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 IDM at Comment 2; and *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 IDM at Comment 1.
[178] *See* the Petitioner's SV Comments at Exhibits 11 & 12.
[179] *See* section 777A(f)(1)(A)-(C) of the Act.
[180] *See*, *e.g.*, *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 36876 (June 8, 2016), and accompanying PDM at 36, unchanged in *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 81 FR 75032 (October 28, 2016).

by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.[181]

In conducting this analysis, Commerce has not concluded that concurrent application of NME dumping duties and countervailing duties necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute. [182]

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

In order to examine the effects of concurrent countervailable subsidies in calculating margins for Belite and Foshan Sanfi, Commerce provided these respondents with an opportunity to submit information with respect to subsidies relevant to their eligibility for an adjustment to the calculated weighted-average dumping margins.[183] Belite and Foshan Sanfi timely submitted their double remedy questionnaire responses.[184]

Belite and Foshan Sanfi have claimed a domestic pass-through adjustment for electricity, water, clay, feldspar and sand,[185] for which Commerce made preliminary affirmative determinations of the government of China's provision for less than adequate remuneration (LTAR) in the concurrent CVD investigation of ceramic tile from China.[186] Therefore, we preliminarily determine that section 777A(f)(1)(A) of the Act is satisfied with respect to the electricity, water, clay, feldspar and sand for LTAR programs.

As discussed above, section 777A(f)(1)(B) of the Act requires consideration of whether the countervailable subsidy programs noted above have been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period. In *Truck Tires*, we examined the preliminary report issued by the ITC in order to conduct an analysis under section 777A(f)(1)(B) and found prices of imports of the class or kind of merchandise

---

[181] *See* section 777A(f)(1)-(2) of the Act.
[182] *See*, *e.g.*, *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part*, 82 FR 28629 (June 23, 2017), and accompanying PDM at 43.
[183] *See* Commerce's Letter, "Antidumping Duty Investigation on Ceramic Tile from the People's Republic of China: Double Remedies Questionnaire," dated June 12, 2019.
[184] *See* Belite's Letter, "Double Remedies Questionnaire Response for Belite Ceramics (Anyang) Co., Ltd. Antidumping Duty Investigation on Ceramic Tile from the People's Republic of China," dated July 29, 2019 (Belite's DRQR); and Foshan Sanfi's Letter, "Ceramic Tile from the People's Republic of China – Double Remedy Response," dated July 30, 2019 (Foshan Sanfi's DRQR).
[185] *See* Belite's DRQR; and Foshan Sanfi's DRQR.
[186] *See Ceramic Tile from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 48125 (September 12, 2019) (*Ceramic Tile CVD Prelim*), and accompanying PDM.

decreased during the relevant period.[187] In *Steel Racks*, we also examined U.S. import data in the preliminary report issued by the ITC and did not find a decrease in import prices during the relevant period.[188] Thus, we have examined the preliminary report issued by the ITC to determine whether section 777A(f)(1)(B) of the Act has been satisfied.[189]

Here, while we find that certain countervailable subsidies have been provided with respect to ceramic tile, we have not found a reduction in the average import price during the relevant period. To make this determination, we examined the imported subject merchandise price trends contained in the preliminary report issued by the ITC, in which the ITC concluded that there are higher prices for porcelain, ceramic and mosaic tiles.[190] In particular, the ITC preliminary report shows an upward movement in prices from 2016 to 2018.[191] Based on this information, Commerce preliminarily finds that import prices of the class or kind of merchandise at issue during that relevant period increased. Accordingly, we preliminarily find that the requirement under section 777A(f)(1)(B) of the Act has not been met because we have not found a reduction in the average import price during the relevant period. Because section 777A(f)(1)(B) of the Act has not been satisfied, we have not further addressed the remaining requirements of section 777A(f) of the Act.

In light of the above, we did not make an adjustment under section 777A(f) of the Act for either Belite or Foshan Sanfi.

XIII. ADJUSTMENT TO CASH DEPOSIT RATE FOR EXPORT SUBSIDIES

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

---

[187] *See Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; In Part and Postponement of Final Determination*, 80 FR 4250 (January 27, 2015), and accompanying PDM at 33, unchanged in *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 FR 34893 (June 18, 2015), and accompanying IDM; and *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 FR 34893 (June 18, 2015), and accompanying IDM (collectively, *Truck Tires*).

[188] *See Certain Steel Racks and Parts Thereof from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 35595 (July 24, 2019) (*Steel Racks*), and accompanying IDM at Comment 5.

[189] *See, e.g.*, *Forged Steel Fittings from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 83 FR 22948 (May 17, 2018), and accompanying PDM at "IX. Adjustment Under Section 777A(f) of the Act," unchanged in *Forged Steel Fittings from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 50339 (October 5, 2018).

[190] *See Preliminary ITC Determination* at V-9.

[191] *Id.* at Table IV-2.

section 772(c)(1)(C) of the Act, which states that U.S. price "shall be increased by the amount of any countervailing duty imposed on the subject merchandise… to offset an export subsidy."[192]

Commerce determined in the preliminary determination of the companion CVD investigation that the individually examined CVD respondents, Foshan Sanfi and Temgoo International Trading Limited, each benefitted from certain subsidy programs contingent on exports, totaling 10.54 percent.[193] Accordingly, we have adjusted the AD cash deposit rate for each of this companies to account for export subsidies found for each company in the concurrent CVD investigation. With respect to the separate rate companies' cash deposit rates, we find that the export subsidy adjustment of 10.54 percent is warranted because this is the export subsidy rate included in the CVD all-others rate, to which the separate rate companies and Belite are subject in the companion CVD proceeding. For the China-wide entity, Commerce has adjusted the China-wide entity's AD cash deposit rate by the only export subsidy rate determined for any party in the companion CVD proceeding, which is the 10.54 percent rate applicable to Belite and Foshan Sanfi.

XIV. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

☒ ☐

Agree Disagree

11/6/2019

X

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

[192] *See Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 38076, 38077 (July 1, 2010), and accompanying IDM at Comment 1.
[193] *See Ceramic Tile CVD Prelim* PDM at 27 - 31, relating to the Export Buyer's Credit Program.