



A-570-067  
Administrative Review  
POR: 05/17/2018-10/31/2019  
**Public Document**  
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March 19, 2021

**MEMORANDUM TO:** Christian Marsh  
Acting Assistant Secretary  
for Enforcement and Compliance

**FROM:** James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Results of Antidumping  
Duty Administrative Review and Preliminary Determination of No  
Shipments: Forged Steel Fittings from the People's Republic of  
China; 2018-2019

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## I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on forged steel fittings from the People's Republic of China (China)<sup>1</sup> for the period of review (POR) May 17, 2018, through October 31, 2019. Commerce preliminarily determines that Both-Well (Taizhou) Steel Fittings Co., Ltd. (Both-Well) did not make sales of the subject merchandise in the United States at prices below normal value (NV) during the POR. Additionally, Commerce preliminarily determines that Ningbo Zhongan Forging Co., Ltd. (Ningbo Zhongan) is not eligible for a separate rate and is, therefore, part of the China-wide entity.

If these preliminary results are adopted in the final results of this administrative review, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Commerce intends to issue the final results no later than 120 days from the date of publication of these preliminary results pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), unless this deadline is extended.

## II. BACKGROUND

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<sup>1</sup> See *Forged Steel Fittings from Italy and the People's Republic of China: Antidumping Duty Orders*, 83 FR 60397 (November 26, 2018) (*Order*).



On January 17, 2020, pursuant to timely requests for review, Commerce published the notice of initiation of the first administrative review of the *Order*.<sup>2</sup> Commerce initiated an administrative review of 26 companies<sup>3</sup> for the period May 17, 2018, through October 31, 2019.<sup>4</sup>

On January 23, 2020, we placed CBP entry data on the record inviting comments on respondent selection.<sup>5</sup> On January 30, 2020, Bonney Forge Corporation (the petitioner) timely filed respondent selection comments and requested that Commerce select as the mandatory respondents the two exporters accounting for the largest volume of subject merchandise during the POR.<sup>6</sup> On February 13, 2020, Commerce selected Both-Well and Ningbo Zhongan for individual examination in this administrative review.<sup>7</sup>

On February 18, 2020, Commerce issued the non-market economy (NME) AD questionnaire to Both-Well and Ningbo Zhongan (collectively, the mandatory respondents). On March 4, 2020, Ningbo Zhongan notified Commerce that it intended not to participate in this review.<sup>8</sup>

Both-Well provided responses to section A of the NME questionnaire in March 2020,<sup>9</sup> and responses to the double remedy questionnaire and sections C and D of the NME questionnaire in June 2020.<sup>10</sup> From August 2020 through November 2020, Commerce issued supplemental questionnaires and received responses to the supplemental questionnaires from Both-Well.<sup>11</sup>

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<sup>2</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014 (January 17, 2020) (*Initiation Notice*).

<sup>3</sup> The total number of company names for which Commerce initiated this review is 27. Four of those companies under review submitted no shipment certifications. Two of those companies for which Commerce initiated this review are Both-Well and Ningbo Zhongan, mandatory respondents, and six are separate-rate applicants. For purposes of respondent selection, and for this review, we considered two of the initiated companies as the same company: Both-Well (Taizhou) Steel Fittings Co., Ltd. and Both-Well Taizhou Steel Fittings Co., Ltd. See Memorandum, “Antidumping Duty Administrative Review of Forged Steel Fittings from the People’s Republic of China: Selection of Respondents for Individual Examination,” dated February 13, 2020 (Respondent Selection Memo).

<sup>4</sup> *Id.* (We note that the *Initiation Notice* lists 27 companies initiated for review, but for purposes of respondent selection, we considered two of the initiated companies as the same company: Both-Well (Taizhou) Steel Fittings Co., Ltd. and Both-Well Taizhou Steel Fittings Co., Ltd. See Respondent Selection Memo).

<sup>5</sup> See Memorandum, “Forged Steel Fittings from the People’s Republic of China (China): Customs Data of U.S. Imports of Forged Steel Fittings for Respondent Selection,” dated January 23, 2020.

<sup>6</sup> See Petitioner’s Letter, “Forged Steel Fittings from the People’s Republic of China: Comments on Respondent Selection,” dated January 30, 2020.

<sup>7</sup> See Respondent Selection Memo.

<sup>8</sup> See Ningbo Zhongan’s Letter, “Ningbo Zhongan Notice of No Intent to Respond to Questionnaire for Administrative Review of the Antidumping Duty Order on Forged Steel Fittings from the People’s Republic of China,” dated March 4, 2020 (Ningbo Zhongan’s No Intent to Respond Letter).

<sup>9</sup> See Both-Well’s Letter, “Forged Steel Fittings from China: Antidumping,” dated March 25, 2020 (Both-Well’s Section A Response).

<sup>10</sup> See Both-Well’s Letter, “Forged Steel Fittings from China: Antidumping,” dated June 22, 2020 (Both-Well’s Section CDQR).

<sup>11</sup> See Both-Well’s Letter, “Forged Steel Fittings from China: Antidumping,” dated September 30, 2020 (Both-Well’s Supplemental Section ACQR); see also Both-Well’s Letter, “Forged Steel Fittings from China: Antidumping,” dated September 30, 2020 (Both-Well’s Supp D Response); and Both-Well’s Letter, “Forged Steel Fittings from China: Antidumping,” dated November 10, 2020 (Both-Well’s Second Supp C Response).

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for the preliminary results of this review until September 21, 2020.<sup>12</sup> On July 21, 2020, Commerce again tolled all deadlines in administrative reviews by 60 days, thereby extending the deadline for the preliminary results of this review until November 19, 2020.<sup>13</sup> On November 3, 2020, Commerce extended the preliminary results deadline by 60 days.<sup>14</sup> On January 4, 2021, Commerce extended the preliminary results deadline by an additional 60 days until March 19, 2021.<sup>15</sup>

### **III. SCOPE OF THE ORDER**

The merchandise covered by the *Order* is carbon and alloy forged steel fittings, whether unfinished (commonly known as blanks or rough forgings) or finished. Such fittings are made in a variety of shapes including, but not limited to, elbows, tees, crosses, laterals, couplings, reducers, caps, plugs, bushings, unions, and outlets. Forged steel fittings are covered regardless of end finish, whether threaded, socket-weld or other end connections.

While these fittings are generally manufactured to specifications ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350 and ASTM A182, the scope is not limited to fittings made to these specifications.

The term forged is an industry term used to describe a class of products included in applicable standards, and does not reference an exclusive manufacturing process. Forged steel fittings are not manufactured from casting. Pursuant to the applicable specifications, subject fittings may also be machined from bar stock or machined from seamless pipe and tube.

All types of fittings are included in the scope regardless of nominal pipe size (which may or may not be expressed in inches of nominal pipe size), pressure rating (usually, but not necessarily expressed in pounds of pressure/PSI, e.g., 2,000 or 2M; 3,000 or 3M; 6,000 or 6M; 9,000 or 9M), wall thickness, and whether or not heat treated. Excluded from this scope are all fittings entirely made of stainless steel. Also excluded are flanges, butt weld fittings, butt weld outlets, nipples, and all fittings that have a maximum pressure rating of 300 pounds of pressure/PSI or less. Also excluded are fittings certified or made to the following standards, so long as the fittings are not also manufactured to the specifications of ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350 and ASTM A182:

- American Petroleum Institute (API) 5CT, API 5L, or API 11B
- Society of Automotive Engineering (SAE) J476, SAE J514, SAE J516, SAE J517, SAE J518, SAE J1026, SAE J1231, SAE J1453, SAE J1926, J2044 or SAE AS 35411
- Underwriter's Laboratories (UL) certified electrical conduit fittings

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<sup>12</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

<sup>13</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

<sup>14</sup> See Memorandum, "Forged Steel Fittings from the People's Republic of China: Extension of Deadline for Preliminary Results of the First Antidumping Duty Administrative Review," dated November 3, 2020.

<sup>15</sup> See Memorandum, "Forged Steel Fittings from the People's Republic of China: Extension of Deadline for Preliminary Results of the First Antidumping Duty Administrative Review," dated January 4, 2021.

- ASTM A153, A536, A576, or A865
- Casing Conductor Connectors 16–42 inches in diameter made to proprietary specifications
- Military Specification (MIL) MIL–C–4109F and MIL–F–3541
- International Organization for Standardization (ISO) ISO6150–B

To be excluded from the scope, products must have the appropriate standard or pressure markings and/or be accompanied by documentation showing product compliance to the applicable standard or pressure, *e.g.*, “API 5CT” mark and/or a mill certification report. Subject carbon and alloy forged steel fittings are normally entered under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7307.99.1000, 7307.99.3000, 7307.99.5045, and 7307.99.5060. They also may be entered under HTSUS subheadings 7307.92.3010, 7307.92.3030, 7307.92.9000, and 7326.19.0010. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

#### IV. DISCUSSION OF THE METHODOLOGY

##### Non-Market Economy Country

Commerce considers China to be an NME country.<sup>16</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this review have contested such treatment. Therefore, Commerce continues to treat China as an NME country for purposes of these preliminary results.

##### Preliminary Finding of No Shipments

Dalian Guangming Pipe Fittings Co., Ltd. (Guangming), Jiangsu Forged Pipe Fittings Co., Ltd. (Jiangsu), Lianfa Stainless Steel Pipes & Valves (Qingyun) Co., Ltd. (Lianfa), and Qingdao Bestflow Industrial Co., Ltd. (Bestflow) reported that they made no shipments of subject merchandise to the United States during the POR.<sup>17</sup> To confirm these no-shipment claims, Commerce issued a no-shipment inquiry to CBP requesting that it review each company’s no-shipment claim.<sup>18</sup> CBP reported that it did not have information to contradict these companies’ no-shipment claims.<sup>19</sup> Because these companies certified that they made no shipments of subject merchandise, and there is no information which contradicts their claims, Commerce

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<sup>16</sup> See *Antidumping Duty Investigation of Certain Aluminum Foil from the People’s Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum, “China’s Status as a Non-Market Economy,” dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

<sup>17</sup> See Guangming’s February 25, 2020, No Shipment Certification, Lianfa’s February 25, 2020, No Shipment Certification, Jiangsu’s February 25, 2020, No Shipment Certification, and Bestflow’s February 17, 2020, No Shipment Certification.

<sup>18</sup> See No Shipments Inquiry for Forged Steel Fittings from the People’s Republic of China Exported by Various Companies (A-570-067),” message number 0062403, dated March 2, 2020.

<sup>19</sup> See Memorandum, “Forged Steel Fittings from the People’s Republic of China (A-570-067),” dated April 28, 2020.

preliminarily determines that Guangming, Jiangsu, Lianfa, and Bestflow did not have shipments of subject merchandise to the United States during the POR. Consistent with Commerce's practice, Commerce will not rescind the review with respect to these companies but, rather, will complete the review and issue assessment instructions to CBP based on the final results.<sup>20</sup>

### Separate Rates

Commerce has the rebuttable presumption that all companies within an NME are subject to government control and, thus, should be assessed a single antidumping duty rate.<sup>21</sup> In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate-rate status in NME proceedings.<sup>22</sup> It is Commerce's policy to assign all exporters of the merchandise subject to review in an NME proceeding a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, Commerce analyzes each exporting entity in an NME proceeding under the test established in *Sparklers*,<sup>23</sup> as expanded upon by *Silicon Carbide*<sup>24</sup> and further refined by *Diamond Sawblades*.<sup>25</sup> However, if Commerce determines that a company is wholly foreign-owned, then an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether it is independent from government control.<sup>26</sup>

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<sup>20</sup> See, e.g., *Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012-2013*, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR at 51306 (August 28, 2014).

<sup>21</sup> See *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, 53082 (September 8, 2006); see also *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

<sup>22</sup> See *Initiation Notice*.

<sup>23</sup> See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*).

<sup>24</sup> 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*).

<sup>25</sup> See *Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China* (May 6, 2013), *Advanced Technology & Materials Co., Ltd. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), sustained, *Advanced Technology & Materials Co. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), aff'd, Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013), and accompanying Preliminary Decision Memorandum (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) (*Diamond Sawblades*), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

<sup>26</sup> See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews*, 79 FR 4327 (January 27, 2014); and *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

Commerce continues to evaluate its practice with regard to the separate-rates analysis in light of the *Diamond Sawblades* AD proceeding, and Commerce's determinations therein. In particular, in litigation involving the *Diamond Sawblades* proceeding, the U.S. Court of International Trade (CIT) found Commerce's existing separate-rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the exporter under examination.<sup>27</sup> Following the Court's reasoning, Commerce has concluded that where a government entity holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority ownership holding in and of itself means that the government exercises, or has the potential to exercise, control over the company's operations generally.<sup>28</sup> This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, Commerce would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profit distribution of the company.

Eight companies, including the two mandatory respondents, Both-Well and Ningbo Zhongan,<sup>29</sup> timely filed a separate-rate application (SRA) or separate-rate certification (SRC). After being selected for individual examination, Ningbo Zhongan notified Commerce that it did not intend to participate in this administrative review and did not respond to the section A portion of the NME questionnaire.<sup>30</sup> Commerce did receive a complete response to the section A portion of the NME questionnaire from Both-Well,<sup>31</sup> which contained information pertaining to the company's eligibility for a separate rate.<sup>32</sup> Commerce also received either an SRA or SRC from the following six companies that were not selected for individual examination (separate-rate applicants):

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<sup>27</sup> See, e.g., *Advanced Technology I*, 885 F. Supp. 2d at 1349 ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); *Id.* at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor *de jure* 'separation' that Commerce concludes.") (footnotes omitted); *Id.* at 1355 ("The point here is that 'governmental control' in the context of the separate-rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); and *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).

<sup>28</sup> 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, unchanged in *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 79 FR 68860 (November 19, 2014), and accompanying IDM.

<sup>29</sup> See Ningbo Zhongan's Letter, "Ningbo Zhongan Separate Rate Application in the Administrative Review of the Antidumping Duty Order on Forged Steel Fittings from the People's Republic of China," dated February 6, 2020.

<sup>30</sup> See Ningbo Zhongan's No Intent to Respond Letter.

<sup>31</sup> See Both-Well's Section A Response.

<sup>32</sup> Commerce notes that Both-Well also submitted an SRA. See Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated February 25, 2020.

1. Ningbo Long Teng Metal Manufacturing Co., Ltd. (Ningbo Long Teng),<sup>33</sup>
2. Ningbo Save Technology Co., Ltd. (Ningbo Save),<sup>34</sup>
3. Q.C. Witness International Co., Ltd. (Q.C.),<sup>35</sup>
4. Xin Yi International Trade Co., Limited (Xin Yi),<sup>36</sup>
5. Yingkou Guangming Pipeline Industry Co., Ltd. (Yingkou Guangming),<sup>37</sup> and
6. Yuyao Wanlei Pipe Fitting Manufacturing Co., Ltd. (Wanlei),<sup>38</sup>

i. Wholly Foreign-Owned Applicants

Both-Well demonstrated in its Section A response, and Q.C. in its SRC, that they each are wholly owned by companies or individuals located in a foreign country.<sup>39</sup> Therefore, as there is no Chinese ownership of these two companies, and because Commerce has no evidence indicating that these companies are under the control of the Chinese government, further analyses of the *de jure* and *de facto* criteria are not necessary to determine whether they are independent from government control of their export activities.<sup>40</sup> Therefore, Commerce preliminarily determines that 1) Both-Well, and 2) Q.C. are each eligible for a separate rate.

ii. 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) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.<sup>41</sup> The evidence provided by Xin Yi, Yingkou Guangming, Ningbo Long Teng, Ningbo Save, and Wanlei supports a preliminary finding of the absence of *de jure* government control of export activities based on the following: (1) there is an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2)

<sup>33</sup> See Ningbo Long Teng's Letter, "Re: Forged Steel Fittings from the People's Republic of China-Separate Rate Certification," dated February 25, 2020 (Ningbo Long Teng SRC).

<sup>34</sup> See Ningbo Save's Letter, "Re: Forged Steel Fittings from the People's Republic of China-Separate Rate Certification," dated February 25, 2020 (Ningbo Save SRC).

<sup>35</sup> See Q.C.'s Letter, "Re: Forged Steel Fittings from the People's Republic of China-Separate Rate Certification," dated February 18, 2020 (Q.C. SRC).

<sup>36</sup> See Xin Yi's Letter, "Re: Forged Steel Fittings from the People's Republic of China-Separate Rate Certification," dated February 14, 2020 (Xin Yi SRC).

<sup>37</sup> See Yingkou Guangming's Letter, "Re: Forged Steel Fittings from the People's Republic of China-Separate Rate Certification," dated February 14, 2020, Separate Rate Certification (Yingkou Guangming SRC).

<sup>38</sup> See Wanlei's Letter, "Re: Forged Steel Fittings from the People's Republic of China-Separate Rate Certification," dated February 25, 2020, Separate Rate Certification (Wanlei SRC).

<sup>39</sup> See Both-Well's Section A Response and Q.C. SRC at Exhibit 2.

<sup>40</sup> See, e.g., *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001), unchanged in *Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review*, 66 FR 27063 (May 16, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104-05 (December 20, 1999).

<sup>41</sup> See *Sparklers*, 56 FR at 20589.

there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of the companies.<sup>42</sup>

### iii. Absence of *De Facto* Control

Typically Commerce considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export 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 disposition of profits or financing of losses.<sup>43</sup> 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.<sup>44</sup>

The evidence provided by Xin Yi, Yingkou Guangming, Ningbo Long Teng, Ningbo Save, and Wanlei supports a preliminary finding of the absence of *de facto* government control based on the following: (1) the companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.<sup>45</sup> Therefore, Commerce preliminarily finds that: 1) Xin Yi; 2) Yingkou Guangming; 3) Ningbo Long Teng; 4) Ningbo Save; and 5) Wanlei have established that they qualify for a separate rate under the criteria established by *Diamond Sawblades*, *Silicon Carbide*, and *Sparklers*.

### Weighted-Average Dumping Margin for Non-Examined Separate-Rate Companies

As stated above in the "Respondent Selection" section, Commerce employed a limited examination methodology in this review, as it did not have the resources to examine all companies for which an administrative review was initiated, and selected the two exporters which account for the largest volume of subject merchandise as mandatory respondents in this review, Both-Well and Ningbo Zhongan.<sup>46</sup> Six additional companies (identified in the "Separate Rates" section above) remain subject to review as non-examined, separate-rate respondents.

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the

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<sup>42</sup> See Xin Yi SRC, Yingkou Guangming SRC, Ningbo Long Teng SRC, Ningbo Save SRC, and Wanlei SRC.

<sup>43</sup> See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

<sup>44</sup> *Id.*

<sup>45</sup> See Xin Yi SRC, Yingkou Guangming SRC, Ningbo Long Teng SRC, Ningbo Save SRC, Ningbo Zhongan SRA, and Wanlei SRC.

<sup>46</sup> See Respondent Selection Memo.



all-others rate in an investigation, for guidance when calculating the rate for separate-rate respondents which Commerce did not examine individually in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference that Commerce is not to calculate an all-others rate using rates for individually examined respondents which are zero, *de minimis*, or based entirely on facts available (FA). Accordingly, Commerce’s usual practice in determining the rate for separate-rate respondents not selected for individual examination has been to weight-average the weighted-average dumping margins for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on FA.<sup>47</sup>

In these preliminary results, because the only participating mandatory respondent (*i.e.*, Both-Well) has received a weighted-average dumping rate of zero, we look to section 735(c)(5)(B) of the Act for guidance, which instructs Commerce to use any “reasonable method” to determine the rate for exporters that are not being individually examined and found to be entitled to a separate rate. In addition, the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act provides that the “expected method” in such cases will be to weight-average any zero or *de minimis* margins or margins not based entirely on facts available.<sup>48</sup> Accordingly, for these preliminary results, we find it appropriate to assign the calculated weighted-average dumping margin of the sole participating mandatory respondent, Both-Well (*i.e.*, zero percent) to the non-examined separate rate respondents.<sup>49</sup>

#### *China-Wide Entity*

As noted above, Ningbo Zhongan notified Commerce that it did not intend to respond to Commerce’s NME questionnaire. Following this notification, Commerce withdrew its supplemental questionnaire regarding Ningbo Zhongan’s SRA.<sup>50</sup> Consequently, Ningbo Zhongan’s non-cooperation has precluded Commerce from supplementing the record with missing information and from verifying Ningbo Zhongan’s separate rate information. Therefore, Commerce finds that Ningbo Zhongan has not demonstrated that it is eligible for a separate rate. Additionally, 14 other companies under review failed to establish their eligibility for a separate rate because they did not file either a SRA or SRC with Commerce, or claim that they had “no shipments” during the instant POR and were eligible for a separate rate during the immediately preceding POR. Hence, Commerce preliminarily determines to treat these 15 companies as part of the China-wide entity.<sup>51</sup>

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<sup>47</sup> See *Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (CIT 2008) (affirming Commerce’s determination to assign a 4.22 percent dumping margin to the separate-rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively); see also *Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656, 36660 (July 24, 2009).

<sup>48</sup> See SAA, H.R. Doc. No. 103-316 at 873 (1994); *Albemarle Corp. v. United States*, 821 F.3d 1345 (Fed. Cir. 2016).

<sup>49</sup> See, e.g., *Xanthan Gum From the People’s Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, and Partial Rescission; 2018-2019*, 85 FR 74686 (November 23, 2020).

<sup>50</sup> See Commerce’s Letter, “Separate Rate Application Supplemental Questionnaire,” dated May 12, 2020; see also Memorandum, “Zhongan Separate Rate Application Supplemental Questionnaire,” dated May 18, 2020.

<sup>51</sup> See Attachment to this memorandum for a complete listing of these companies.

Because no party requested a review of the China-wide entity and Commerce no longer considers the China-wide entity as an exporter conditionally subject to administrative reviews, Commerce is not conducting a review of the China-wide entity.<sup>52</sup> Thus, the rate for the China-wide entity (*i.e.*, 142.72 percent) is not subject to change pursuant to this review.<sup>53</sup>

#### Surrogate Country and Surrogate Value Data

On June 24, 2020, Commerce sent interested parties a letter inviting comments on: (1) the non-exhaustive list of countries that Commerce determined are at the same level of economic development as China based on annual per capita gross national income (GNI), (2) surrogate country (SC) selection, and (3) surrogate value (SV) data.<sup>54</sup> On July 8, 2020, the petitioner and Both-Well submitted comments on the list of potential surrogate countries and the selection of the SC.<sup>55</sup> On July 13, 2020, Both-Well submitted rebuttal SC comments.<sup>56</sup> On July 24, 2020, Commerce extended the deadline for SV comments and rebuttal SV comments to August 7, 2020 and August 14, 2020, respectively.<sup>57</sup> On July 24 and August 7, 2020, the petitioner and Both-Well submitted SV comments, respectively.<sup>58</sup> On October 16, 2020, Commerce extended the deadline for final SV comments and final SV rebuttal comments to October 27, 2020, and November 3, 2020, respectively.<sup>59</sup> From October 20, 2020 to October 27, 2020, the petitioner and Both-Well submitted final SV comments, and the petitioner also submitted comments for consideration in the preliminary results.<sup>60</sup> On October 27, 2020, Commerce extended the deadline for final SV comments and final SV rebuttal comments for the second time, to November 3, 2020, and November 10, 2020, respectively.<sup>61</sup> From October 29, 2020, to November 4, 2020, Both-Well and the petitioner filed various comments for consideration in the

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<sup>52</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65969-70 (November 4, 2013).

<sup>53</sup> See *Forged Steel Fittings from Italy and the People's Republic of China: Antidumping Duty Orders*, 83 FR 60397 (November 26, 2018).

<sup>54</sup> See Commerce's Letter, "Request for Comments," dated June 24, 2020 (SC Memo).

<sup>55</sup> See Petitioner's July 8, 2020 Comments on Surrogate Country Selection (Petitioner's SC Comments); *see also* Both-Well's July 8, 2020 Comments on Surrogate Country Selection (Both-Well's SC Comments).

<sup>56</sup> See Both-Well's July 13, 2020 Rebuttal Comments on Surrogate Country Selection (Both-Well's Rebuttal SC Comments).

<sup>57</sup> See Commerce's Letter, "First Antidumping Duty Administrative Review of Forged Steel Fittings from the People's Republic of China: Extension for the Submission of Publicly- Available Information to value the Factors of Production (FOPs)," dated July 24, 2020.

<sup>58</sup> See Petitioner's Letter, "Forged Steel Fittings from China: Comments on Surrogate Values," dated July 24, 2020 (Petitioner's SV Submission); *see also* Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated August 7, 2020 (Both-Well's SV Submission).

<sup>59</sup> See Commerce's Letter, "Antidumping Duty Administrative Review of Forged Steel Fittings from the People's Republic of China: Extension for the Submission of Publicly-Available Information to Value the Factors of Production (FOPs)" dated October 16, 2020.

<sup>60</sup> See Petitioner's Letter, "30-day Surrogate Value Submission," dated October 20, 2020 (Petitioner's Final SV Submission); *see also* Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated October 20, 2020 (Both-Well's Final SV I); Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated October 27, 2020 (Both-Well's Final SV II); and Petitioner's Letter, "Forged Steel Fittings: Pre-Preliminary Comments," dated October 27, 2020 (Petitioner's Pre-Preliminary Results Comments).

<sup>61</sup> See Letter to All Interested Parties, "Antidumping Duty Administrative Review of Forged Steel Fittings from the People's Republic of China: Second Extension for the Submission of Publicly- Available Information to value the Factors of Production (FOPs)," dated October 27, 2020.

preliminary results, and also filed additional SV comments and SV rebuttal comments.<sup>62</sup> On December 21, 2020, in consideration of the partially extended preliminary results deadline (*i.e.*, January 19, 2021), Both-Well submitted additional final SV comments, in two separate submissions.<sup>63</sup>

### *Surrogate Country Selection*

When Commerce investigates imports from an NME country, section 773(c)(1) of the Act directs it to base 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. 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: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.<sup>64</sup> As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because either: (a) they 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.<sup>65</sup> 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.<sup>66</sup> To determine which countries are at the same level of economic development, Commerce generally relies on GNI data from the World Bank's World Development Report.<sup>67</sup> Further, Commerce has stated that it prefers to value all FOPs from a single surrogate country.<sup>68</sup>

On August 15, 2019, Commerce identified Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey (collectively, OP List Countries) as countries that are at the same level of economic development as China based on per capita 2018 GNI data.<sup>69</sup> The petitioner recommends that Commerce select Mexico, Russia, or Brazil as the primary surrogate country because these countries exported significant quantities of merchandise comparable to the subject merchandise at the six-digit harmonized schedule (HS) level, which indicates that these countries are

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<sup>62</sup> See Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated October 29, 2020 (Both-Well's Rebuttal Pre-Prelim Comments); *see also* Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated November 3, 2020 (Both-Well's Final SV III); and Petitioner's Letter, "Forged Steel Fittings from China: Rebuttal to Both-Well November 3, 2020, Surrogate Value Submission," dated November 4, 2020.

<sup>63</sup> See Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated December 21, 2020 (Both-Well's Final SV IV); *see also* Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated December 21, 2020 (Both-Well's Final SV V).

<sup>64</sup> See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1).

<sup>65</sup> *Id.*

<sup>66</sup> See SC Memo.

<sup>67</sup> *Id.*

<sup>68</sup> See 19 CFR 351.408(c)(2).

<sup>69</sup> See SC Memo at Attachment.

significant producers of comparable merchandise.<sup>70</sup> The petitioner also argues that Brazil, Mexico, and Russia all have import statistics for the major FOPs.<sup>71</sup> The petitioner argues that the most important FOP regarding forged steel fittings is round bar with a carbon content of less than 0.25 percent,<sup>72</sup> and that all three of these countries report import data at the 8-digit level for round steel bar specific to this carbon content.<sup>73</sup> Further, the petitioner contends that in addition to the import data, Brazil, Mexico and Russia have SV information for all other FOPs such as labor and energy, as well as useable financial statements.<sup>74</sup>

In Both-Well's SC Comments, Both-Well recommends that Commerce select Bulgaria or Turkey as the primary SC. Both-Well argues that during the POR, all six OP List Countries had significant export quantities of merchandise comparable to the subject merchandise at the six-digit HS level, which indicates that these countries are all significant producers of comparable merchandise.<sup>75</sup> Additionally, Both-Well argues that Bulgarian import statistics for the main FOP (*i.e.*, round bar: HS 7214.99) provide more FOP-specific import data on the basis of carbon content and the diameter of the round bars which Both-Well uses to produce the subject merchandise. Moreover, Both-Well contends that the Turkish data also provide FOP-specific import data similar to that reported by Bulgaria.<sup>76</sup> Further, Both-Well asserts that Russia is not a suitable surrogate country, as its internal market is distorted, as noted by the European Commission.<sup>77</sup> Both-Well asserts that complete SV data, including financial statements, are available from Bulgaria and Turkey.<sup>78</sup>

In addition, in Both-Well's Rebuttal SC Comments, Both-Well argues that the petitioner's proposed Brazil and Mexico import data on the main FOP (*i.e.*, round bar) are not as specific as those of Bulgaria and Turkey, and that the Turkish data are also more specific than those of Russia.<sup>79</sup> Both-Well also provided a HS codes comparison chart compiled from Global Trade Atlas (GTA), the source for the submitted import statistics, for Brazil, Bulgaria, Mexico, and Turkey in the same submission to corroborate its assertion.<sup>80</sup> The chart provided by Both-Well in Both-Well's Rebuttal SC Comments demonstrates that unlike the Brazilian and Mexican

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<sup>70</sup> See Petitioner's SC Comments at 2-3 (Information put on the record by the petitioner indicates the following quantities of merchandise were exported under HS 7307.92 and 7307.99, collectively, in 2018: 20,707,794 (Mexico), 3,880,966 kg (Russia), 659,645 kg (Brazil) and in 2019, 12,858,901 (Mexico), 3,497,924 kg (Russia), 1,543,928 kg (Brazil) .

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* (citing *Certain Collated Steel Staples From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination*, 85 FR 33623 (June 2, 2020); *Certain Fabricated Structural Steel From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 5376 (January 30, 2020)).

<sup>75</sup> Information on the record indicates the following export quantities during the POR: 17,402,581 kilograms (kg) (Mexico), 12,628,413 kg (Turkey), 12,226,065.35 kg (Malaysia), 4,815,223.64 kg (Russia), 1,317,531 (Brazil), and 378,430 (Bulgaria). See Both-Well's SV Submission at 2 and Exhibit 1.

<sup>76</sup> See Both-Well's SC Comments at 2.

<sup>77</sup> See Both-Well's Final SV IV at Exhibit 2.

<sup>78</sup> See Both-Well's SV Submission at attachments with the bar code numbers: 4013580-02 and 4013580-03; see also Both-Well's Final SV I, Both-Well's Final SV II, Both-Well's Final SV III, and Both-Well's Final SV V.

<sup>79</sup> See Both-Well's Rebuttal SC Comments at 1 and Exhibit 1.

<sup>80</sup> *Id.*

import data, the Bulgarian, Turkish, and Russian import data are specific to the chemical composition and dimension of the round bar, the major FOP in the production of forged steel fittings, consumed by Both-Well.<sup>81</sup>

### *Economic Comparability*

As explained in the SC Memo, consistent with its practice and section 773(c)(4) of the Act, Commerce considers Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey to be at the same level of economic development as China.<sup>82</sup> Commerce treats each of these countries as equally comparable.<sup>83</sup> Therefore, Commerce considers all six countries identified in the SC Memo as having met this prong of the SC selection criteria. Unless Commerce finds that none of these countries are a significant producer of comparable merchandise, do not provide a reliable source of publicly available surrogate data, or are unsuitable for use for other reasons, or Commerce finds that another equally comparable country is an appropriate surrogate within the GNI range exhibited by the OP List Countries, Commerce will rely on data from one of these countries.<sup>84</sup> 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. As discussed below, Commerce preliminarily determines that one or more of these six countries are significant producers of comparable merchandise and provide usable SV information.<sup>85</sup>

### *Significant Producers 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 a definition in the statute or regulations, Commerce looks to other sources such as Policy Bulletin 04.1 for guidance on defining comparable merchandise. Policy Bulletin 04.1 states "the terms 'comparable level of economic development,' 'comparable merchandise,' and 'significant producer' are not defined in the statute."<sup>86</sup> Policy Bulletin 04.1 further states, "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."<sup>87</sup> Conversely, if the country does not produce identical

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<sup>81</sup> *Id.* at Exhibit 1.

<sup>82</sup> See SC Memo at Attachment.

<sup>83</sup> See, e.g., *Certain Steel Wheels from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 76 FR 67703, 67708 (November 2, 2011), unchanged in *Certain Steel Wheels from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances*, 77 FR 17021 (March 23, 2012).

<sup>84</sup> *Id.*; see also *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 36168 (June 17, 2013), and accompanying IDM at Comment 5; and *Silica Bricks and Shapes from the People's Republic of China: Preliminary Determination of Antidumping Duty Investigation and Postponement of Final Determination*, 78 FR 37203 (June 20, 2013), unchanged in *Final Determination of Sales at Less Than Fair Value: Silica Bricks and Shapes from the People's Republic of China*, 78 FR 70918 (November 27, 2013).

<sup>85</sup> See SC Memo at Attachment.

<sup>86</sup> See Policy Bulletin 04.1.

<sup>87</sup> *Id.*

merchandise, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>88</sup> Further, when selecting a surrogate country, the statute requires Commerce to consider the comparability of the merchandise, not the comparability of the industry.<sup>89</sup> “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.”<sup>90</sup> In this regard, Commerce recognizes that it must do an analysis of comparable merchandise on a case-by-case basis:

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized, dedicated, or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, based on a comparison of the major inputs, including energy, where appropriate.<sup>91</sup>

Further, the statute grants Commerce discretion to examine various data sources for determining the best available information.<sup>92</sup> Moreover, while the legislative history provides that the term “significant producer” include any country that is a significant “net exporter,”<sup>93</sup> it does not preclude reliance on additional or alternative metrics.

In this review, Commerce examined export data during the POR for the primary HS heading included in the scope (*i.e.*, HS code 7307.99, covering May 2018 to October 2019), to determine which countries included on the SC list were producers of comparable merchandise. The export data placed on the record by Both-Well indicate that all of the countries identified in the SC Memo had exports of comparable merchandise during the POR.<sup>94</sup> These volumes are: 17,402,581 kg (Mexico), 12,628,413 kg (Turkey), 12,226,065 kg (Malaysia), 4,815,224 kg (Russia), 1,317,531 kg (Brazil), and 378,430 kg (Bulgaria).<sup>95</sup> Commerce preliminarily determines that none of the total export volumes from the countries identified in the SC Memo are insignificant. Accordingly, Commerce finds that Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey are significant producers of comparable merchandise pursuant to section 773(c)(4)(B) of the Act.<sup>96</sup> Because multiple potential surrogate countries have been identified as significant producers of identical or comparable merchandise, and because “data quality is a

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<sup>88</sup> Policy Bulletin 04.1 also states that “[i]f 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 note 6.

<sup>89</sup> See *Sebacic Acid from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 65674 (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.”)

<sup>90</sup> See Policy Bulletin 04.1.

<sup>91</sup> *Id.*

<sup>92</sup> See section 773(c)(1) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

<sup>93</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576 (1988) at 590 (OTCA 1988).

<sup>94</sup> See Both-Well’s SC Comments at 1 and Exhibit 1.

<sup>95</sup> *Id.*

<sup>96</sup> See Policy Bulletin 04.1.

critical consideration affecting surrogate country selection,”<sup>97</sup> Commerce then looked to the availability of SV data to determine the most appropriate surrogate country.

### *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.<sup>98</sup> When evaluating SV data, Commerce considers several factors, including whether the SVs are publicly available, contemporaneous with the POR, representative of a broad market average, tax- and duty-exclusive, and specific to the inputs being valued.<sup>99</sup> There is no hierarchy among these criteria.<sup>100</sup> Commerce’s preference is to satisfy the breadth of the aforementioned selection criteria.<sup>101</sup> 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.<sup>102</sup> Commerce must weigh the available information 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.<sup>103</sup> Additionally, pursuant to 19 CFR 351.408(c)(2), Commerce has a preference of valuing all FOPs in a single surrogate country.

Both-Well submitted complete SV data to value FOPs (materials, labor, movement expenses and energy) from Bulgaria and Turkey.<sup>104</sup> In addition, for the calculation of factory overhead, selling, general and administrative expenses (SG&A) and profit ratios, Both-Well placed on the record (1) the 2018 and 2019 audited, complete, and translated financial statements of the Turkish steel producer Doktas Dokum, (2) the audited, complete, translated 2018 and 2019 financial statements of the Bulgarian forged parts producer Preskov AD, (3) the incomplete 2018/2019 financial statements for the Bulgarian steel producer and hardware fittings trader/producer WATO AD, and (4) the incomplete 2018 and 2019 financial statements for the Bulgarian steel producer Elektrostomana.<sup>105</sup>

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<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 74 FR 11349 (March 17, 2009), and accompanying IDM at Comment 2.

<sup>100</sup> 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 AR6*), and accompanying IDM at Comment 1.

<sup>101</sup> See, e.g., *Administrative Review of Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940, 51943 (August 19, 2011), and accompanying IDM at Comment 2.

<sup>102</sup> See *Mushrooms AR6* at Comment 1; see also *Freshwater Crawfish Tail Meat from the People’s Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002), and accompanying IDM at Comment 2.

<sup>103</sup> See, e.g., *Mushrooms AR6* at Comment 1.

<sup>104</sup> See Both-Well’ SV Submission; see also Both-Well’s Final SV IV.

<sup>105</sup> *Id.*; see also Both-Well’s Final SV I, Both-Well’s Final SV II, Both-Well’s Final SV III, and Both-Well’s Final SV V.

The petitioner provided complete data to value FOPs from Brazil, Mexico, and Russia.<sup>106</sup> Additionally, for the calculation of factory overhead, SG&A and profit ratios, the petitioner provided (1) the audited 2019 financial statements for a Brazilian company that produce iron castings (*i.e.*, Tupy SA), (2) the audited 2019 financial statements for a Mexican producer of steel and steel alloy products (*i.e.*, Grupo Simec), (3) the 2019 audited complete financial statements of the Russian producer of steel pipes, PJSC Chelyabinsk Pipe Plant, (4) the 2019 audited complete financial statements of the Russian producer of ferrous metal products, Magnitogorsk Iron & Steel, and (5) the 2018 annual report containing the asset statement and profit and loss statement of the Russian producer of metal structures, Konatovkiy Steel.<sup>107</sup> As no interested parties provided SV data for Malaysia, we did not further consider this country as a potential surrogate country.

After reviewing the comments and data, the record contains complete SV data, including surrogate financial statements, from Brazil, Bulgaria, Mexico, Russia, and Turkey. In reviewing the data from these countries, Commerce first evaluated whether the import data are specific to Both-Well's FOPs, contemporaneous, and tax- and duty-exclusive, and represent a broad market average, with specific focus on the main input used to produce subject merchandise: round bar. We note that the level of specificity with respect to round bar, especially the carbon content and the diameter of the round bar, is a significant factor in selecting the primary SC in this review.

The record demonstrates that, unlike the Brazilian and Mexican data, the Bulgarian, Russian, and Turkish data provide more specific HS classifications (*i.e.*, by carbon content and diameter) of round bar used by Both-Well. The Bulgarian HS code<sup>108</sup> and Russian HS code<sup>109</sup> are equally specific to the Round Bar 1 FOP used by Both-Well, in that both HS codes cover round bars with diameters of less than 26 millimeters (mm). The import data reported under Turkish HS code 7214.99.39.00.14<sup>110</sup> can be combined with Turkish import data reported under HS code 7214.99.39.00.13<sup>111</sup> to cover the round bars with diameters of less than 26mm, and thus achieve the same level of specificity as the Bulgarian and Russian HS codes to value the Round Bar 1 FOP.<sup>112</sup> Accordingly, we find that the import data reported under Bulgarian HS code 7214.99.39, Russian HS code 7214.99.39.00, and the combined import data reported under Turkish HS codes 7214.99.39.00.14 and 7214.99.39.00.13 are the best available information on the record to value the main FOP (*i.e.*, Round Bar 1), as the HS codes from these three countries provide the same level of specificity with regards to the valuation of the main input. As we have

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<sup>106</sup> See Petitioner's SV Submission.

<sup>107</sup> *Id.* at Exhibits 6a and 6b; *see also* Petitioner's Final SV Submission.

<sup>108</sup> We note that the description of the Bulgarian HS code 7214.99.39 is: Bars And Rods Of Iron Or Non-Alloy Steel, Containing < 0.25% Of Carbon, Of Circular Cross-Section Of A Maximum Diameter Of < 80 mm. *See* Both-Well's SV Submission at the attachment with the bar code numbers: 4013580-02.

<sup>109</sup> We note that the description of the Russian HS code 7214.99.39.00 is: Bars And Rods Of Iron Or Non-Alloy Steel, measuring less than 80 mm in diameter, containing by weight < 0.25% Carbon. *See* Petitioner's SV Submission at the attachment with the bar code numbers: 4005483-05.

<sup>110</sup> We note that the description of the Turkish HS code 7214.99.39.00.14 is: Round Bars of Iron/Non Alloy Steel, 26 mm < Cross Section, C<0.25%. *See* Both-Well's SV Submission at the attachment with the bar code numbers: 4013580-03.

<sup>111</sup> We note that the description of the Turkish HS code 7214.99.39.00.13 is: Round Bars of Iron /Unalloyed Steel (10 mm <Cross Section = <26 Mm. C <0%, 25. *See* Both-Well's Final SV IV at Exhibit 1; *see also* Both-Well's Rebuttal Pre-Prelim Comments at 3.

<sup>112</sup> *See* Both-Well's Final SV IV at Exhibit 1; *see also* Both-Well's SV Submission.



equally specific import data from Bulgaria, Russia, and, Turkey for the SV for Round Bar 1, we examined the financial statements on the record to determine which SC provides the best available information on the record to value Both-Well's FOPs.

As noted above, parties placed Brazilian, Bulgarian, Mexican, Russian, and Turkish financial statements on the record. In accordance with 19 CFR 351.408(c)(4), Commerce normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country to value factory overhead, SG&A, and profit.<sup>113</sup> Although the regulation does not define what constitutes "comparable merchandise," it is Commerce's practice to, where appropriate, apply a three-prong test that considers the: (1) physical characteristics; (2) end uses; and (3) production process.<sup>114</sup> For purposes of selecting surrogate producers, Commerce examines how similar a proposed surrogate producer's production experience is to the NME producer.<sup>115</sup> Commerce, however, is not required to "duplicate the exact production experience of" an NME producer, nor must it undertake "an item-by-item analysis in calculating factory overhead."<sup>116</sup> Further, 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 POR,<sup>117</sup> that show a profit, from companies with a production experience similar to respondents' production experience, and that are not distorted or otherwise unreliable, such as financial statements that indicate the company received countervailable subsidies.<sup>118</sup>

In this review, Commerce finds that the 2019 financial statements for the Bulgarian producer of forged parts, Preskov AD, are the best available information on the record, as its production experience is similar to that of Both-Well's. Further, Preskov AD's products are comparable to the subject merchandise in that its products have similar physical characteristics (*i.e.*, forgings of carbon and alloy steel) and production process (*i.e.*, heating, cutting, forging, drilling, and machining) as the subject merchandise.<sup>119</sup>

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<sup>113</sup> See *Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 52049 (September 12, 2007), and accompanying IDM at Comment 2.

<sup>114</sup> See *Certain Woven Electric Blankets from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 38459 (July 2, 2010), and accompanying IDM at Comment 2.

<sup>115</sup> See *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010), accompanying IDM at Comment 13.

<sup>116</sup> *Id.*

<sup>117</sup> See *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 1.C.

<sup>118</sup> 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; see also *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; and *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2013-2014*, 81 FR 21840 (April 13, 2016), and accompanying IDM at Comment 1.

<sup>119</sup> See, *e.g.*, *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 4539 (January 28, 2015), and accompanying IDM at Comment 2.

The petitioner suggests that Russia provides useable financial statements for the calculation of the surrogate financial ratios,<sup>120</sup> as the three Russian statements (*i.e.*, PJSC Chelyabinsk Pipe Plant, Magnitogorsk Iron & Steel, and Konatovkiy Steel ) on the record are complete with auditor's statements and provides sufficient information to calculate the ratios.<sup>121</sup> Also, the petitioner argues that at least one of the three Russian companies (*i.e.*, PJSC Chelyabinsk Pipe Plant) does produce pipe fittings.<sup>122</sup>

Although the petitioner argues that the Russian producer of steel pipes, PJSC Chelyabinsk Pipe Plant produces comparable merchandise, we find that its statements are consolidated, and more than 80 percent of its 2019 revenue came from the sale of steel pipe production segment, which is an operating segment in the company "representing manufacturing and distribution of pipes and other related products, including activities related to the procurement of scrap and its further utilization as raw materials in manufacturing of steel billets used in seamless pipe production."<sup>123</sup> The revenue from its trunk pipeline systems, which includes the production of valves, hot-formed and cold-formed pipeline bends and hubs, comprises only 2.6 percent of its 2019 revenue. In addition, the Russian producer of ferrous metal products, Magnitogorsk Iron & Steel, and the Russian producer of metal structures, Konatovkiy Steel, are not producers of comparable merchandise. Therefore, we will not rely on these financial statements because they do not provide a sufficient level of comparability to the respondent's experience in order to value the respondent's financial ratios, and thus are not the best available information on the record.

Further, we note that the financial statements for the Brazilian producer of iron castings (*i.e.*, Tupy SA), the Mexican producer of steel and steel alloy products (*i.e.*, Grupo Simec), and the financial statements for the Turkish producer of gray cast iron (*i.e.*, Doktas Dokum) are not the best available information on the record to value Both-Well's financial ratios, because these three companies are not producers of comparable merchandise.<sup>124</sup>

Both-Well argues that WATO AD is a Bulgarian producer of comparable merchandise, in that it also produces valves and fittings.<sup>125</sup> However, we find that the WATO AD financial statements are unusable because these statements are incomplete as they do not include the explanatory notes of the financial statements or the auditor's report.<sup>126</sup>

The Preskov AD statements are fully translated, audited, complete with notes, contemporaneous, demonstrate a profit with no evidence of countervailable subsidies, and are unconsolidated. Additionally, these financial statements are more reflective of Both-Well's operations and merchandise than the consolidated statements on the record, as Preskov AD statements relate to production of only comparable merchandise. We note that although Both-Well submitted Preskov AD's 2018 and 2019 financial statements, we are only using the 2019 financial statements because the 2018 Preskov statements are unusable as the "profit/loss for the period

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<sup>120</sup> See Petitioner's Pre-Preliminary Results Comments at 1-3.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.* at 5.

<sup>123</sup> See Petitioner's Final SV Submission at Exhibit 1, pdf. 32 and 34.

<sup>124</sup> See Petitioner's SV Submission at Exhibits 6a and 6b; *see also* Both-Well' SV Submission.

<sup>125</sup> See Both-Well's Final SV V.

<sup>126</sup> See Both-Well's Final SV III.

before taxes” shown in the notes to the Preskov AD financial statements does not match the profit shown in its 2018 profit and loss statement on the record.<sup>127</sup>

Accordingly, Commerce preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Bulgaria as the primary surrogate country because Bulgaria is: (1) at the same level of economic development as China; (2) a significant producer of merchandise comparable to the subject merchandise such that can be determined from the information available; and (3) provides the best available information, specifically with respect to the main FOP and with which to value all FOPs, including surrogate financial ratios. Therefore, Commerce has selected Bulgaria as the primary surrogate country.

### Partial Facts Available

#### *Legal Framework*

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

#### *Partial Facts Available for Products Sold but Not Produced during the POR*

In its section D questionnaire response, Both-Well reported that some of its product control numbers (CONNUMs) in the U.S. sales database were not produced during the POR.<sup>128</sup> Further, in its FOP database accompanying its section D questionnaire response, Both-Well replaced those CONNUMs sold but not produced during the POR with substitute CONNUMs produced during the POR, which it reported were “[s]imilar CONNUMs.”<sup>129</sup> In the supplemental section D questionnaire response, Both-Well reported the production quantity of the products sold but not produced during the POR, and the percentage of the production quantity of those CONNUMs over the total quantity of subject merchandise produced during the POR.<sup>130</sup>

When a respondent has products that were sold but not produced during the POR, Commerce traditionally does its own analysis and assigns costs using the closest CONNUMs. Also, it is Commerce’s practice in assigning surrogate costs (where a respondent did not produce a CONNUM during the reporting period) to use the most similar CONNUM available in establishing those surrogates, as long as it does not lead to distortions.<sup>131</sup> Although using the

<sup>127</sup> See Both-Well’s Final SV I at pdf. 266; see also Both-Well’s Final SV II at Exhibit 3, pdf. 176.

<sup>128</sup> See Both-Well’s Letter, “Forged Steel Fittings from China: Antidumping,” dated June 22, 2020 at 8.

<sup>129</sup> *Id.* at the accompanying Excel spreadsheet; see also Both-Well’s Supp D Response, and accompanying SAS database.

<sup>130</sup> See Both-Well’s Supp D Response at 4-5.

<sup>131</sup> See Notice of Final Results of the Tenth Administrative Review and New Shipper Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 70 FR 12443 (March

costs of the most similar CONNUM is our preference, in each instance, we analyze whether the cost of the most similar CONNUM reasonably reflects the cost of the CONNUM not produced during the POR.<sup>132</sup> If the physical difference between the sold CONNUM and the surrogate CONNUM, is so significant that using the surrogate CONNUM causes a distortion in the calculation of NV, we would not use the surrogate CONNUM.<sup>133</sup> In this instance, we compared the original “sold but not produced during the POR” CONNUMs with the substitute CONNUMs provided by Both-Well, and found that the only physical differences are related to the four least significant physical characteristics which define the CONNUMs (*i.e.*, Nominal Pipe Size 1, Nominal Pipe Size 2, End Finish 1, and End Finish 2), and do not contain an extra cost element, such as an additional material. The physical differences (*i.e.*, the pipe size and end finishings) only pertain to the shape and size of the products, and therefore, the related cost differences are not significant as to cause a distortion in our NV calculation for each of the non-produced CONNUMs. Further, the quantity of the “sold but not produced during the POR” CONNUMSs, in comparison to the total POR production quantity (*i.e.*, 0.2707 percent), can be considered minimal. Therefore, we find that the surrogate CONNUMs provided by Both-Well in its section D FOP database are reasonable substitutes for the CONNUMs “sold but not produced during the POR,” and do not distort the accuracy of the weighted-average dumping margin calculated for Both-Well.

## V. DATE OF SALE

Pursuant to 19 CFR 351.401(i), Commerce normally will define the invoice date as the date of sale unless Commerce is satisfied that a different date better reflects the date on which the material terms of the sale are established. Further, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.<sup>134</sup>

Both-Well reported the invoice date as the U.S. date of sale because the material terms of sale were established at the time of invoicing.<sup>135</sup> Therefore, in accordance with 19 CFR 351.401(i),

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14, 2005), and accompanying IDM at Comment 5; *see also Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 76 FR 2332 (January 13, 2011), and accompanying IDM at Comment 1.

<sup>132</sup> *See Certain Stilbenic Optical Brightening Agents from Taiwan: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 61368 (October 13, 2015), and accompanying IDM at Comment 2.

<sup>133</sup> *Id.*

<sup>134</sup> *See, e.g., Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009).

<sup>135</sup> *See Both-Well's Section CDQR at 13; see also Both-Well's Supplemental Section ACQR at 12-13 and Exhibits SC-1 and SC-6B.*

and Commerce's long-standing practice in determining the date of sale,<sup>136</sup> Commerce preliminarily finds that, the invoice date is the most appropriate date to use as Both-Well's U.S. date of sale.

## VI. COMPARISONS TO NORMAL VALUE

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Both-Well's sales of the subject merchandise to the United States were made at less than NV, 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 a weighted-average dumping margin by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEP) (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In a less-than-fair-value investigation, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern our examination of this question in the context of an administrative review, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in an administrative review is, in fact, analogous to the issue in a less-than-fair-value investigation.<sup>137</sup>

In prior investigations, Commerce has applied a "differential pricing" analysis for determining whether application of the A-T method is appropriate in a particular situation pursuant to section 777A(d)(1)(B) of the Act and 19 CFR 351.414(c)(1).<sup>138</sup> 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 administrative review. 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

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<sup>136</sup> See, e.g., *Certain Polyester Staple Fiber from the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review, and Intent To Revoke Order in Part*, 76 FR 40329 (July 8, 2011), unchanged in *Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, and Revocation of an Order in Part*, 76 FR 69702 (November 9, 2011); see also *Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review*, 75 FR 68758 (November 9, 2010), unchanged in *First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 27994, 27996 (May 13, 2011).

<sup>137</sup> See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and the accompanying IDM at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

<sup>138</sup> See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 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); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

dumping that can occur when Commerce uses the A-A method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or 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 A-A 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 codes) 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 POR 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 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 A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d*

test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the A-A 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 A-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-A 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 A-A 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 A-A 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 these preliminary results, including arguments for modifying the group definitions used in this proceeding.<sup>139</sup>

#### *Results of the Differential Pricing Analysis*

For Both-Well, based on the results of the differential pricing analysis, Commerce preliminarily finds that 66.1 percent of Both-Well's U.S. sales pass the Cohen's *d* test,<sup>140</sup> and confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the A-A method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the A-T method to all U.S. sales. Accordingly, for these preliminary results, Commerce is applying the A-A method for all U.S. sales to calculate the weighted-average dumping margin for Both-Well.<sup>141</sup>

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<sup>139</sup> The Court of Appeals for the Federal Circuit (CAFC) has affirmed much of Commerce's differential pricing methodology. *See Apex Frozen Foods Private Ltd. 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.

<sup>140</sup> *See* Memorandum, "Antidumping Duty Administrative Review of Forged Steel Fittings the People's Republic of China; Preliminary Results Calculation Memorandum for Both-Well," dated concurrently with this memorandum (Both-Well's Preliminary Calculation Memorandum) at Attachment I.

<sup>141</sup> *See* Both-Well's Preliminary Calculation Memorandum at "Differential Pricing Analysis."

## VII. U.S. PRICE

### *Export Price*

In accordance with section 772(a) of the Act, Commerce defined the U.S. price of subject merchandise based on EP for all sales reported by Both-Well. Commerce calculated EP based on the prices at which subject merchandise was sold to unaffiliated purchasers in the United States.

In accordance with section 772(c)(2)(A) of the Act, where appropriate, Commerce deducted from the starting price (*i.e.*, gross unit price) to unaffiliated purchasers foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. customs duties, U.S. brokerage and handling, and U.S. inland freight expenses.<sup>142</sup> For certain movement expenses for services that were provided by a ME supplier and paid for in an ME currency, Commerce used the reported expense. For certain movement expenses that were provided by an NME supplier and paid for using an NME currency, Commerce used SVs as appropriate.<sup>143</sup>

Both-Well provided documentation which indicates that certain movement services (*i.e.*, Chinese inland freight and Chinese brokerage and handling) were purchased by Both-Well from both ME and NME suppliers.<sup>144</sup> However, we valued Both-Well's domestic inland freight and brokerage and handling expenses using only SVs as the regulation with respect to ME purchases applies to factors "produced in one or more market economy countries."<sup>145</sup>

Additionally, in accordance with section 772(c)(2)(B) of the Act, Commerce also deducted irrecoverable value-added tax (VAT) from the starting price as explained below. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to the U.S. price for Both-Well, *see* Both-Well's Preliminary Calculation Memorandum.

Further, pursuant to section 772(c)(1)(C) of the Act, Commerce increases the U.S. price by the amount of any countervailing duty imposed to offset an export subsidy. Therefore, we adjusted Both-Well's U.S. net price by increasing it by an amount based on the export subsidy rate calculated in the most recently completed CVD administrative review.<sup>146</sup> *See* Both-Well's Preliminary Calculation Memorandum.

### *Value-Added Tax*

Commerce's recent practice in NME cases is to adjust EP (or the CEP) for the amount of any unrefunded (herein irrecoverable) VAT in certain NMEs, in accordance with section

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<sup>142</sup> *See* Both-Well Preliminary Calculation Memorandum.

<sup>143</sup> *See* Preliminary SV Memorandum at III. Transportation and Handling; *see also* Factor Valuation Methodology section of this memorandum. <sup>144</sup> *See* Both-Well's Second Supp C Response at Exhibits SSC-1 and SSC-2.

<sup>144</sup> *See* Both-Well's Second Supp C Response at Exhibits SSC-1 and SSC-2.

<sup>145</sup> *See* 19 CFR 351.408(c)(1).

<sup>146</sup> *See Forged Steel Fittings from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2018*, 86 FR 14722 (March 18, 2021).



772(c)(2)(B) of the Act.<sup>147</sup> Commerce has previously 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.<sup>148</sup> 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.<sup>149</sup>

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.<sup>150</sup> As a 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. The 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 Circular)*.<sup>151</sup>

$$\text{Reduction/Offset} = (P - c) \times (T_1 - T_2),$$

<sup>147</sup> 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).

<sup>148</sup> *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.

<sup>149</sup> *Id.*

<sup>150</sup> The credit, if not exhausted in the current period, can be carried forward.

<sup>151</sup> See Both-Well's Section CDQR at Exhibit C-4A.

where,

P = (VAT-free) free-on-board (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<sub>1</sub> = VAT rate; and,

T<sub>2</sub> = refund rate specific to the export good.

Using the example above, if P = \$200 million, c = 0, T<sub>1</sub> = 17% and T<sub>2</sub> = 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 Circular*:

$$\text{Creditable input VAT} = \text{Total input VAT} - \text{Reduction/Offset}$$

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<sub>1</sub> – T<sub>2</sub>. 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.<sup>152</sup> 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.<sup>153</sup>

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 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 a cost of exported goods.

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<sup>152</sup> Article 5(3) of the *2012 VAT Circular* states: “If the tax refund rate is lower than the applicable tax rate, the tax for the difference calculated accordingly shall be included in the cost of exported goods and labor services.”

<sup>153</sup> 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 perhaps 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 Circular* 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.

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 Circular* 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.<sup>154</sup> The formulas discussed above from Article 5 of the *2012 VAT Circular* 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,  $T_1$ .<sup>155</sup> Commerce must therefore deduct this tax from U.S. price<sup>156</sup> under section 772(c) of the Act to ensure tax-neutral dumping margin calculations.<sup>157</sup>

The Chinese VAT schedule placed on the record of this review demonstrates that the VAT rate for the subject merchandise is 17 percent prior to May 1, 2018, 16 percent effective May 1, 2018, and 13 percent effective April 1, 2019, and the VAT refund (exemption) rate for the subject merchandise is 9 percent before November 1, 2018, and 13 percent effective November 1, 2018.<sup>158</sup> Both-Well reported that for each export sale, in the same month of booking the sales revenue to the accounting system, Both-Well submits the VAT refund application of the sale to the tax authority. For the sales submitted in a month for which new tax rates and/or rebate rates are adopted, the new rates apply to the submitted sales.<sup>159</sup> Thus, for the purposes of these preliminary results of review, for all of Both-Well's U.S. sales, Commerce reduced the reported price of each U.S. sale by applying the difference between the VAT rate of 16 or 13 percent and the VAT refund rate of 9 percent or 13 percent, as applicable, to the FOB price.<sup>160</sup>

## VIII. NORMAL VALUE

Section 773(c)(1) of the Act provides that Commerce shall determine the NV using an FOP methodology if the merchandise is exported from an NME country and the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under sections 773(a) or 773(e) of the Act. Commerce bases NV on the FOPs because the presence of government controls on various aspects of an NME renders price comparisons and the calculation of production costs invalid under Commerce's normal methodologies.<sup>161</sup>

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<sup>154</sup> See *2012 VAT Circular*, Article 7. For these goods, the VAT refund rate on exports is zero.

<sup>155</sup> See *2012 VAT Circular*, Article 7.2(1).

<sup>156</sup> Commerce will divide the VAT-inclusive export price by  $(1 + T)$ , where  $T$  is the applicable VAT rate.

<sup>157</sup> Pursuant to sections 772(c) and 773(c) of the Act, the calculation of NV based on FOPs 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.

<sup>158</sup> See Both-Well's Section CDQR at 32 and Exhibits C-4A and C-4B; *see also* Both-Well's Supplemental Section ACQR at 16.

<sup>159</sup> See Both-Well's Section CDQR at 32-33.

<sup>160</sup> See Both-Well's Preliminary Calculation Memorandum.

<sup>161</sup> 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*

### *Factor Valuation Methodology*

In accordance with section 773(c) of the Act, Commerce calculated NV based on FOPs reported by Both-Well. To calculate NV, Commerce multiplied the reported per-unit FOPs by publicly available SVs. When selecting the SVs, Commerce considered, among other factors, the quality, specificity, and contemporaneity of the data.<sup>162</sup> As appropriate, Commerce adjusted input prices by including freight costs to make them delivered prices. Specifically, Commerce added a surrogate freight cost, where appropriate, to SVs 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.<sup>163</sup> Where necessary, Commerce adjusted SVs for exchange rates, and converted all applicable items to a per-kilogram basis. A detailed description of SVs used for the respondent can be found in the Preliminary SV Memorandum.<sup>164</sup>

In addition, pursuant to 19 CFR 351.408(c)(1), if substantially all of an input (*i.e.*, 85 percent or more of the total volume purchased of the FOP) is purchased from ME suppliers, Commerce normally will use the weighted-average purchase price paid to ME suppliers to value all of the FOP.<sup>165</sup> To use a ME price paid by a respondent to value a particular FOP, Commerce requires that the claimed ME FOP is produced in one or more ME countries, purchased from ME suppliers and paid for in ME currencies.<sup>166</sup> In this review, there is documentation on the record for Both-Well's claimed ME FOP purchases, and indicates one FOP (*i.e.*, Hex Rod1) was produced in a ME country, purchased from a ME supplier and paid for in a ME currency. Such documentation includes two commercial invoices.<sup>167</sup> Also, information reported by Both-Well demonstrates that the claimed FOP (*i.e.*, Hex Rod1) meets the volume threshold (*i.e.*, 85 percent) of being purchased from ME suppliers.<sup>168</sup> Therefore, for this analysis, Commerce used the weighted-average purchase price paid to ME supplier during the POR, as reported by Both-Well, to value all of the FOP (*i.e.*, Hex Rod1) consumed to produce subject merchandise.<sup>169</sup>

For the preliminary results, consistent with its primary surrogate country determination above, Commerce is using Bulgarian import data, as published by Global Trade Atlas (GTA), and other publicly available sources from Bulgaria to calculate SVs for Both-Well's material FOPs. In accordance with section 773(c)(1) of the Act, Commerce applied the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are: (1) tax-exclusive, non-export average values; (2) contemporaneous with, or closest in time to, the POR; (3) product-

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*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).

<sup>162</sup> 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.

<sup>163</sup> See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

<sup>164</sup> See Memorandum, "First Administrative Review of Forged Steel Fittings from the People's Republic of China: Surrogate Values for the Preliminary Results," dated concurrently with this PDM (Preliminary SV Memorandum).

<sup>165</sup> See 19 CFR 351.408(c)(1) (2013); see also *Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013) (*Market Economy Input Price*).

<sup>166</sup> See 19 CFR 351.408(c)(1); see also *Market Economy Input Price*.

<sup>167</sup> See Both-Well's Section CDQR at pdf. 48 and Exhibit D-5.

<sup>168</sup> *Id.* at Exhibit D-4.

<sup>169</sup> See Preliminary SV Memorandum; see also Both-Well's Preliminary Calculation Memorandum.

specific; and (4) broad-market averages.<sup>170</sup> The record shows that Bulgarian import data obtained through GTA, as well as data from other Bulgarian sources, are broad-market averages, product-specific, tax exclusive, and generally contemporaneous with the POR.<sup>171</sup>

In accordance with section 773(c)(5) of the Act and the legislative history of the Omnibus Trade and Competitiveness Act 1988 (OTCA), Commerce continues to apply its long-standing practice of disregarding SVs without further investigation if broadly available export subsidies existed or particular instances of subsidization occurred with respect to those SVs or if those SVs were subject to an AD order.<sup>172</sup> In this regard, Commerce previously found that it is appropriate to disregard such prices from India, Indonesia, the Republic of Korea, and Thailand because Commerce determined that these countries maintain broadly available, non-industry-specific export subsidies.<sup>173</sup> Based on the existence of these subsidy programs that were generally available to all exporters in these countries at the time of the POR, Commerce finds that it is reasonable to infer that all exporters from the above-mentioned countries may have benefitted from these subsidies. Therefore, Commerce has not used average unit import values from these countries in calculating the Bulgarian import-based SVs. Additionally, Commerce disregarded prices from NME countries because those prices are not based on market principles.<sup>174</sup>

Commerce used Bulgarian import statistics from GTA and other publicly available sources from Bulgaria to value raw materials, packing materials, and energy inputs.

We valued truck freight expenses using average truck rates from the World Bank's report, *Doing Business 2019: Bulgaria*.<sup>175</sup> This World Bank report gathers information concerning the distance and cost to transport a containerized shipment weighing 15 metric tons from the country's largest business city to the country's major port/land border crossing.<sup>176</sup> We calculated a per-kg, per-

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<sup>170</sup> 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) (*Vietnam Shrimp*), 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).

<sup>171</sup> See Preliminary SV Memorandum.

<sup>172</sup> See section 773(c)(5) of the Act; see also OTCA 1988, H.R. Rep. No. 100-576, at 590-91.

<sup>173</sup> See, e.g., *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying IDM at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying IDM at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying IDM at 17, 19-20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001), and accompanying IDM at 23; *Certain Hot-Rolled Carbon Steel Flat Products From India, Indonesia, and Thailand*, 78 FR 16252 (March 14, 2013), and accompanying IDM at 5-7.

<sup>174</sup> See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008), unchanged in *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 (September 24, 2008); see also section 773(c) of the Act.

<sup>175</sup> See Preliminary SV Memorandum; see also Both-Well's SV Submission at Exhibit 5 and Exhibit SV-5.

<sup>176</sup> *Id.*

kilometer surrogate inland freight rate based on the methodology used by the World Bank.<sup>177</sup> Commerce did not inflate or deflate this rate because it is contemporaneous with the POR.

We valued Chinese brokerage and handling expenses using average brokerage and handling rates from the World Bank's report, *Doing Business 2019: Bulgaria*,<sup>178</sup> which measures the cost (excluding tariffs) associated with exporting a standard shipment of goods. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods weighing 15,000 kg by ocean transport in Bulgaria. Commerce did not inflate or deflate this rate because it is contemporaneous with the POR.

Commerce valued marine insurance using the price data based on the P.A.F. Shipping Insurance online cargo insurance rates.<sup>179</sup> As the rates were in effect in 2020, Commerce deflated the value to make it contemporaneous with the POR.

Commerce valued electricity using the price data based on Bulgarian electricity tariffs as published by National Statistics Institute of Bulgaria.<sup>180</sup> As the rates were in effect during the POR, we did not adjust the value for inflation. Additionally, we valued natural gas using Bulgarian GTA import data.<sup>181</sup>

In an NME proceeding, Commerce prefers to value labor solely based on data from the primary surrogate country.<sup>182</sup> For these preliminary results, pursuant to *Labor Methodologies*, Commerce determined that the best available information to value the labor input is industry-specific labor rates from the primary surrogate country, Bulgaria. Accordingly, we valued labor using labor rates from the Labor Cost in Manufacturing from the International Labor Organization Yearbook of Labor Statistics, Chapter 6A, Sub-Classification, "Manufacture of fabricated metal products, except machinery and equipment." We inflated the 2007 labor value using the Producer Price Index to make it contemporaneous with the POR.<sup>183</sup>

Commerce's criteria for choosing surrogate financial statements from which we derive the surrogate financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.<sup>184</sup> Moreover, for valuing factory overhead, SG&A expenses and profit, Commerce normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.<sup>185</sup> In addition, the CIT has held that in the selection of a surrogate producer,

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<sup>177</sup> See Preliminary SV Memorandum.

<sup>178</sup> *Id.*; see also Both-Well's SV Submission at Exhibit 5 and Exhibit SV-5.

<sup>179</sup> *Id.*; see also Both-Well's SV Submission at Exhibit 5 and Exhibit SV-6.

<sup>180</sup> See Preliminary SV Memorandum; see also Both-Well's SV Submission at Exhibit 2.

<sup>181</sup> See Preliminary SV Memorandum.

<sup>182</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

<sup>183</sup> See Preliminary SV Memorandum; see also Both-Well's SV Submission at Exhibit SV-4a.

<sup>184</sup> See, e.g., *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), and accompanying IDM at Comment 3.

<sup>185</sup> See, e.g., *Diamond Sawblades and Parts Thereof from the People's Republic of China, Final Determination in the Antidumping Duty Investigation*, 71 FR 29303 (May 22, 2006), and accompanying IDM at Comment 2; see also section 773(c)(4) of the Act; 19 CFR 351.408(c)(4).

Commerce may consider how closely the surrogate producer approximates the NME producer's experience.<sup>186</sup>

As discussed in more detail above under "Surrogate Country and Surrogate Value Comments," to value factory overhead, SG&A expenses, and profit, Commerce relied on the financial statements of a Bulgarian producer of comparable merchandise (*i.e.*, Preskov AD) covering the 12-month period ending December 31, 2019.<sup>187</sup> Additionally, we note that the Preskov AD financial statements are not as detailed as Commerce prefers in that the statements do not break out manufacturing labor cost and wages for other supporting staffs. In the petitioner's pre-prelim comments, the petitioner suggests Commerce should allocate the reported labor costs on the basis of the percentages of staff composition provided in Preskov AD's financial statements.<sup>188</sup> However, in *PRBCs*, Commerce noted that we normally classify the entire value of the salary and wages recorded on the surrogate producer's financial statements as labor expenses when the financial statements do not clearly distinguish between wages and salaries attributed to manufacturing and SG&A personnel.<sup>189</sup> Therefore, following the long-standing Commerce practice, we allocated the entire amount of labor cost reported in the 2019 Preskov AD financial statements as labor cost in the calculation of financial ratios.<sup>190</sup>

Commerce's practice is to grant the respondent an offset to the reported FOPs for a by-product generated during the production of the subject merchandise if evidence is provided that such byproduct has commercial value.<sup>191</sup> We valued Both-Well's claimed by-product offsets using Bulgarian import statistics.<sup>192</sup>

## **IX. CURRENCY CONVERSION**

Where necessary, Commerce 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, as certified by the Federal Reserve Bank, in effect on the date of the U.S. sales.

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

In applying section 777A(f) of the Act, Commerce examines: (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of

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<sup>186</sup> See *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-54 (CIT 2002); see also *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005), and accompanying IDM at Comment 1.

<sup>187</sup> See Both-Well's Final SV I at 273; see also Both-Well's Final SV II at Exhibit 3.

<sup>188</sup> *Id.* at 3-4; see also Both-Well's Final SV I at 290 (We note that Both-Well's "Annual Report on Activities for 2019" provides that "The number of staff at the end of 2019 is a total of 257 people, of which main workers – 107 people, representing 41.63%, and the remaining 150 people or 58.37% include support and administrative staff.")

<sup>189</sup> See *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 12762, (March 12, 2007) (*PRCBs*), and accompanying IDM at Comment 2.

<sup>190</sup> See Preliminary SV Memorandum.

<sup>191</sup> See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 54897 (September 19, 2005), and accompanying IDM at Scrap Offset.

<sup>192</sup> See Preliminary SV Memorandum.

merchandise; (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.<sup>193</sup> For a subsidy meeting these criteria, the statute requires Commerce to reduce the antidumping duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.<sup>194</sup>

In conducting this analysis, Commerce has not concluded that concurrent application of NME antidumping 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.

To determine whether to grant a domestic pass-through adjustment, Commerce relies on the experience of the mandatory respondents examined, subject to section 777A(f)(2) of the Act. As noted above, Commerce preliminarily determined that one of two mandatory respondents (*i.e.*, Ningbo Zhongan) is part of the China-wide entity. Consequently, Commerce examined the only remaining information on the record with regard to any evidence of countervailable domestic subsidies under section 777A(f) of the Act, which is specific to Both-Well. Commerce examined whether Both-Well demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacturing (COM); and (2) a cost-to-price link, *e.g.*, the respondent's prices changed due to changes in the COM.

Both-Well identified one subsidy program that might apply during this POR, (*i.e.*, Provision of Steel Bar for Less Than Adequate Remuneration (LTAR)). However, Both-Well failed to demonstrate that the subsidies received resulted in a change to its COM during the relevant period. For the Provision of Steel Bar for LTAR program, Both-Well provided sample accounting vouchers that cover only one month of the POR to substantiate its claim that the program impacts Both-Well's COM.<sup>195</sup> However, Both-Well provided no additional documentation, such as company accounting records, to draw a connection between subsidies received by Both-Well and Both-Well's COM. Therefore, the subsidies-to-cost linkage was not satisfied. Additionally, because Both-Well failed to identify a subsidies-to-cost link, it also failed to identify a cost-to-price link as no price fluctuations were tied directly to changes in the COM associated with the subsidy identified in the relevant period. Even if we separately consider Both-Well's documents provided to substantiate the cost-to-price linkage, with respect to the Provision of Steel Bar for LTAR, Both-Well provided only a sample of Both-Well's internal cost report, sales invoices, and price negotiation emails, and this documentation does not demonstrate how Both-Well established prices in response to changes in the cost of the item associated with the subsidy (*i.e.*, steel bar).<sup>196</sup> Although Both-Well asserts that the changes in the cost of raw material affected the pricing of its product, the internal cost report provided to

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<sup>193</sup> See section 777A(f)(1)(A)-(C) of the Act.

<sup>194</sup> See section 777A(f)(1)-(2) of the Act.

<sup>195</sup> See Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated June 22, 2020, at Exhibit DR-2.

<sup>196</sup> *Id.* at DR-2



substantiate this claim only demonstrates how changes in the cost of raw materials, not specific to steel bar, changed the unit cost of production, and does not demonstrate how the changes in the cost of steel bar affected the final price of the product.<sup>197</sup> Therefore, Commerce finds that there is no basis to make an adjustment for Both-Well, pursuant to section 777(A)(f) of the Act.

## **XI. RECOMMENDATION**

We recommend applying the above methodology for these preliminary results.



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

3/19/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh  
Acting Assistant Secretary  
for Enforcement and Compliance

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<sup>197</sup> *Id.* at DR-1b (We note that the chart provided in this exhibit explains that the cost of raw material provided in this chart pertain to the cost of all the raw materials, the main part of which comprise of the cost of steel.).

## **ATTACHMENT**

### **Companies Preliminarily Not Eligible for a Separate Rate and Treated as Part of China-Wide Entity**

1. Cixi Baicheng Hardware Tools, Ltd.
2. Eaton Hydraulics (Luzhou) Co., Ltd.
3. Eaton Hydraulics (Ningbo) Co., Ltd.
4. Jiangsu Haida Pipe Fittings Group Co.
5. Jinan Mech Piping Technology Co., Ltd.
6. Jining Dingguan Precision Parts Manufacturing Co., Ltd.
7. Luzhou City Chengrun Mechanics Co., Ltd.
8. Ningbo HongTe Industrial Co., Ltd.
9. Ningbo Zhongan Forging Co., Ltd.
10. Shanghai Lon Au Stainless Steel Materials Co., Ltd.
11. Witness International Co., Ltd.
12. Yancheng Boyue Tube Co., Ltd.
13. Yancheng Haohui Pipe Fittings Co., Ltd.
14. Yancheng Jiuwei Pipe Fittings Co., Ltd.
15. Yancheng Manda Pipe Industry Co., Ltd