



June 28, 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:** Issues and Decision Memorandum for the Final Affirmative  
Antidumping Duty Determination in the Less-Than-Fair-Value  
Investigation of Certain Metal Lockers and Parts Thereof from the  
People's Republic of China

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## I. SUMMARY

The Department of Commerce (Commerce) finds that certain metal lockers and parts thereof (metal lockers) from People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2020, through June 30, 2020.

As a result of our analysis of the record and incorporation of information received since the *Preliminary Determination*, we have made changes to the *Preliminary Determination*.<sup>1</sup> Further, we have considered the comments submitted by interested parties, and recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues for which we have received comments from the interested parties:

Comment 1: Selection of Primary Surrogate Country and Surrogate Financial Statements  
Comment 2: Ministerial Error Allegation Regarding Ocean Freight

## II. BACKGROUND

On February 11, 2021, Commerce published in the *Federal Register* its preliminary affirmative determination in the antidumping duty investigation of metal lockers from China.<sup>2</sup> The mandatory respondents in this investigation are Hangzhou Xline Machinery & Equipment Co.,

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<sup>1</sup> See *Certain Metal Lockers and Parts Thereof from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 86 FR 9051 (February 11, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See *Preliminary Determination*, 85 FR at 9051.

Ltd. (Hangzhou Xline) and Zhejiang Xingyi Metal Products Co., Ltd./Xingyi Metalworking Technology (Zhejiang) Co., Ltd (collectively, Zhejiang Xingyi).<sup>3</sup> The petitioners in this investigation are List Industries, Inc., Penco Products, Inc., DeBourgh Manufacturing Co., and Tennsco LLC (collectively, the petitioners).

On February 19, 2021, Hangzhou Xline requested that Commerce accept revisions to its factors of production (FOP) database to correct clerical errors committed by Hangzhou Xline.<sup>4</sup> On February 26, 2021, the petitioners objected to Hangzhou Xline's request.<sup>5</sup> On March 9, 2021, Commerce rejected Hangzhou Xline's request to revise the FOP database.<sup>6</sup> On March 15, 2021, Hangzhou Xline requested that Commerce solicit corrections to the FOP database from Hangzhou Xline.<sup>7</sup> On March 18, 2021, the petitioners objected to Hangzhou Xline's request that Commerce solicit corrections to its FOP database.<sup>8</sup> On April 9, 2021, Commerce notified Hangzhou Xline of its denial of Hangzhou Xline's request and that it would not solicit corrections to the FOP database.<sup>9</sup>

On March 9, 2021, Commerce issued a post-preliminary determination supplemental questionnaire to Hangzhou Xline.<sup>10</sup> On March 16, 2021, Hangzhou Xline responded to Commerce's post-preliminary determination supplemental questionnaire.<sup>11</sup>

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<sup>3</sup> In the *Preliminary Determination*, we found that Zhejiang Xingyi and Xingyi Metalworking Technology (Zhejiang) Co., Ltd (Xingyi Metalworking) are affiliated pursuant to section 771(33)(F) of the Act because the record demonstrates that Zhejiang Xingyi and Xingyi Metalworking represent two or more persons directly or indirectly controlling, controlled by, or under common control with, any person. Accordingly, we determined that Zhejiang Xingyi and Xingyi Metalworking should be treated as a single entity for antidumping duty purposes pursuant to 19 CFR 351.401(f). *See Preliminary Determination* PDM at 9-10; *see also* Zhejiang Xingyi's Letter, "Certain Metal Lockers and Parts Thereof from China, Case Nos. A-570-133: Zhejiang Xingyi's Section A Questionnaire Response," dated September 25, 2020. There has been no information or argument placed on the record of this investigation concerning this issue since the *Preliminary Determination*. Therefore, for this final determination, we shall continue to treat Zhejiang Xingyi and Xingyi Metalworking as a single entity.

<sup>4</sup> *See* Hangzhou Xline's Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Identification of Clerical Error in the Factors of Production for Certain Packing Materials," dated February 19, 2021.

<sup>5</sup> *See* Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China – Objection to Hangzhou Xline's NFI Request," dated February 26, 2021.

<sup>6</sup> *See* Commerce's Letter, "Less-Than-Fair-Value Investigation into Certain Metal Lockers and Parts Thereof from the People's Republic of China: Rejection of Hangzhou Xline's Clerical Error Letter," dated March 9, 2021; *see also* Memorandum, "Antidumping Duty Investigation of Certain Metal Lockers and Parts Thereof from the People's Republic of China: Request to Reject and Retain File," dated March 9, 2021.

<sup>7</sup> *See* Hangzhou Xline's Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Request that Commerce Solicit Clarifying Information in the Factors of Production for Certain Packing Materials," dated March 15, 2021.

<sup>8</sup> *See* Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China – Petitioners' Objection to Hangzhou Xline Request for Supplemental Questionnaire," dated March 18, 2021.

<sup>9</sup> *See* Commerce's Letter, "Less-Than-Fair-Value Investigation into Certain Metal Lockers and Parts Thereof from the People's Republic of China: Denial of Hangzhou Xline's Request," dated April 9, 2021.

<sup>10</sup> *See* Commerce's Letter, "Less-Than-Fair-Value Investigation into Certain Metal Lockers and Parts Thereof from the People's Republic of China: Post-Preliminary Determination Supplemental Questionnaire," dated March 9, 2021.

<sup>11</sup> *See* Hangzhou Xline's Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Submission of Hangzhou Xline's Post-Preliminary Supplemental Response," dated March 16, 2021 (Hangzhou Xline's Supplemental Response).

On March 15, 2021, Zhejiang Xingyi requested a hearing.<sup>12</sup> On March 15, 2021, the petitioners and Central Purchasing, LLC, doing business as (d.b.a.) Harbor Freight Tools (Harbor Freight), an importer of the subject merchandise, each requested to participate in any public hearing scheduled by Commerce.<sup>13</sup> On May 25, 2021, Zhejiang Xingyi withdrew its hearing request.<sup>14</sup>

On April 6, 2021, and April 13, 2021, Commerce issued verification questionnaires in lieu of on-site verification (ILOV) to Zhejiang Xingyi and Hangzhou Xline, respectively.<sup>15</sup> On April 15, 2021, and April 21, 2021, Zhejiang Xingyi and Hangzhou Xline, respectively filed responses to Commerce's ILOV Questionnaires.<sup>16</sup> On April 21, 2021, the petitioners objected to Hangzhou Xline's request to submit minor corrections prior to its ILOV Questionnaire response.<sup>17</sup> On May 5, 2021, Commerce accepted the minor corrections submitted prior to Hangzhou Xline's ILOV Questionnaire response, which effectively resulted in correction of the clerical errors to the FOP database which Hangzhou Xline requested previously.<sup>18</sup>

On May 5, 2021, Commerce established deadlines for case briefs and rebuttal briefs.<sup>19</sup> Commerce received a case brief from the petitioners on May 12, 2021.<sup>20</sup> On May 19, 2021, Commerce extended the deadline to submit rebuttal briefs to May 20, 2021.<sup>21</sup> Commerce received a rebuttal brief from Zhejiang Xingyi on May 20, 2021.<sup>22</sup>

No other parties provided information or argument for this final determination.

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<sup>12</sup> See Zhejiang Xingyi's Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China, Case No. A-570-133: Zhejiang Xingyi's Request for Hearing," dated March 15, 2021.

<sup>13</sup> See Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Petitioners' Request to Participate in Hearing," dated March 15, 2021; and Harbor Freight's Letter, "Certain Metal Lockers and Parts Thereof from China, Case No. A-570-133: Harbor Freight Request to Participate in Hearing," dated March 15, 2021.

<sup>14</sup> See Zhejiang Xingyi's Letter, "Certain Metal Lockers and Parts Thereof from China, Case No. A-570-133: Zhejiang Xingyi Withdrawal of Request for Hearing," dated May 25, 2021.

<sup>15</sup> See Commerce's letters, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Questionnaire in Lieu of Verification," (ILOV Questionnaire) to Zhejiang Xingyi on April 6, 2021, and to Hangzhou Xline on April 13, 2021, respectively.

<sup>16</sup> See Zhejiang Xingyi's Letter, "Certain Metal Lockers and Parts Thereof from China, Case Nos. A-570-133: Zhejiang Xingyi Verification Questionnaire Response," date April 14, 2021, and Hangzhou Xline's Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Submission of Hangzhou Xline's Verification Response," date April 21, 2021 (Hangzhou Xline's Verification Response).

<sup>17</sup> See Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China – Petitioners' Objection to Hangzhou Xline Request to Correct Errors Contained in its FOP Data Base," dated April 21, 2021.

<sup>18</sup> See Memorandum, "Antidumping Duty Investigation of Certain Metal Lockers and Parts Thereof, from the People's Republic of China: Hangzhou Xline's Request to Submit Corrections Prior to Verification," dated May 5, 2021.

<sup>19</sup> See Memorandum, "Antidumping Duty Investigation of Certain Metal Lockers and Parts Thereof from the People's Republic of China: Establishment of Briefing Schedule," dated May 5, 2021.

<sup>20</sup> See Petitioners' Letter, "Petitioners' Case Brief," dated May 12, 2021 (Petitioners' Case Brief).

<sup>21</sup> See Memorandum, "Antidumping Duty Investigation of Certain Metal Lockers and Parts Thereof from the People's Republic of China: Extension of Deadline to File Rebuttal Case Briefs," dated May 19, 2021.

<sup>22</sup> See Zhejiang Xingyi's Letter, "Rebuttal Brief of Zhejiang Xingyi Metal Products Co., Ltd.," dated May 20, 2021 (Zhejiang Xingyi's Rebuttal Brief).

### III. PERIOD OF INVESTIGATION

The POI is January 1, 2020, through June 30, 2020. This period corresponds to the two most recently completed fiscal quarters prior to the month of the filing of the Petition, which was July 2020.

### IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are metal lockers from China. For a full description of the scope of the investigation, *see* the accompanying *Federal Register* notice at Appendix I.

### V. CHINA-WIDE RATE

For the final determination, we continue to base the China-wide rate on adverse facts available (AFA).<sup>23</sup> In the *Preliminary Determination*, Commerce assigned the highest petition margin (322.25 percent), as the AFA rate.<sup>24</sup> We corroborated the highest petition margin by comparing the highest petition margin to the mandatory respondents' calculated individual dumping margins and found the petition margin to be within the range of the highest calculated individual dumping margins for the respondents Hangzhou Xline and Zhejiang Xingyi.<sup>25</sup> As explained below, we made changes to our calculations for Hangzhou Xline. Accordingly, Hangzhou Xline's highest transaction-specific margin has changed,<sup>26</sup> and we are unable to corroborate the highest petition margin using Hangzhou Xline's calculated individual dumping margins. However, for this final determination, we continue to corroborate the highest petition margin using Zhejiang Xingyi's calculated individual dumping margins.

In an antidumping duty investigation, Commerce's practice with respect to the assignment of an AFA rate is to select the higher of: (1) the highest dumping margin alleged in the Petition; or (2) the highest calculated dumping margin of any respondent in the investigation.<sup>27</sup>

Section 776(c) of the Act provides that, where Commerce relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.<sup>28</sup> The Statement of Administrative Action (SAA) clarifies that "corroborate"

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<sup>23</sup> See *Preliminary Determination*, 86 FR at 9052; *see also Preliminary Determination PDM* at 18-21.

<sup>24</sup> See *Preliminary Determination PDM* at 20-21 (citing *Certain Metal Lockers and Parts Thereof from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 85 FR 47343 (August 5, 2020) at 47346; *see also* Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China – Petitioners' Response to Supplemental Questionnaire Regarding Volume II: Antidumping Duty Petition," dated July 16, 2020).

<sup>25</sup> See *Preliminary Determination PDM* at 20-21

<sup>26</sup> See Memorandum, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Final Analysis Memorandum for Hangzhou Xline Machinery & Equipment Co., Ltd.," dated concurrently with this memorandum at Attachment 3, page 124 (Hangzhou Xline's Final Analysis Memo).

<sup>27</sup> See, e.g., *Certain Uncoated Paper from Indonesia: Final Determination of Sales at Less Than Fair Value*, 81 FR 3101 (January 20, 2016).

<sup>28</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) SAA at 870.

means that Commerce will satisfy itself that the secondary information to be used has probative value,<sup>29</sup> although Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.<sup>30</sup> To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used, although Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.<sup>31</sup>

In order to determine the probative value of the dumping margin alleged in the petition for assigning an AFA rate, we examined the information on the record. We first compared the petition dumping margin of 322.25 percent to the calculated individual dumping margins for the mandatory respondents, Hangzhou Xline and Zhejiang Xingyi.<sup>32</sup> For this final determination, we are making no changes to Zhejiang Xingyi’s margin calculations, and the highest petition margin of 322.25 falls within the individual margins calculated for Zhejiang Xingyi.<sup>33</sup> Therefore, we are able to corroborate the highest petition dumping margin of 322.25 percent using the individual dumping margins calculated for Zhejiang Xingyi because the range of dumping margins for Zhejiang Xingyi’s individual sales encompasses the highest dumping margin alleged in the petition. The highest petition dumping margin is relevant because it was alleged in the petition which prompted the instant investigation. Additionally, Commerce finds that the highest petition dumping margin is reliable because Commerce was satisfied with the accuracy and adequacy of the evidence in support of the petition which prompted initiation of the instant investigation, and no record evidence causes Commerce to question the reliability of the selected rate.

As the 322.25 percent petition margin is both reliable and relevant, we determine that it has probative value. Thus, we are able to corroborate, to the extent practicable within the meaning of section 776(c) of the Act, the highest petition margin of 322.25 percent. Therefore, for the final determination, on the basis of AFA we continue to assign to the China-wide entity a rate of 322.25 percent.

## **VI. CHANGES SINCE THE *PRELIMINARY DETERMINATION***

- We incorporated Hangzhou Xline’s revised U.S. sales database, submitted in response to Commerce’s post-preliminary determination supplemental questionnaire, into its margin calculations.<sup>34</sup>

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<sup>29</sup> *Id.*; see also 19 CFR 351.308(d).

<sup>30</sup> See section 776(c)(2) of the Act.

<sup>31</sup> See section 776(d)(3) of the Act.

<sup>32</sup> See Hangzhou Xline’s Final Analysis Memo at Attachment 3, pages 116 and 117; see also Memorandum, “Antidumping Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Analysis Memorandum for the Preliminary Determination: Zhejiang Xingyi Metal Products Co., Ltd.,” dated concurrently with this memorandum (Zhejiang Xingyi’s Preliminary Analysis Memo) at Attachment 3, “SAS Margin Program – Output,” at 429 and 430. We have not revised Zhejiang Xingyi’s margin calculations since the *Preliminary Determination*.

<sup>33</sup> See Memorandum, “Antidumping Duty Investigation of Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Corroboration of the Margin Based on Adverse Facts Available for the Final Determination,” dated concurrently with this memorandum.

<sup>34</sup> See Hangzhou Xline’s Supplemental Response; see also Hangzhou Xline’s Final Analysis Memo at 3.

- We incorporated the minor corrections submitted by Hangzhou Xline prior to its ILOV Questionnaire response into its margin calculations.<sup>35</sup>
- In Hangzhou Xline’s margin calculation program, we adjusted the calculation of inland freight from plant/warehouse to port of exit to match the bracketing settings in the U.S. sales database.<sup>36</sup>
- We revised our surrogate financial ratios calculations to offset selling, general and administrative expenses (SG&A) for deferred financial income, incentive income, shipping revenues, provisions no longer required, exchange difference income, price difference, other income and profits, rental income, and exchange difference income.
- We revised our surrogate financial ratios calculations to adjust the profit amount from the surrogate financial statements to exclude the profit and loss increases deriving from securities values.

## VII. DISCUSSION OF THE ISSUES

### Comment 1: Selection of Primary Surrogate Country and Surrogate Financial Statements

#### Petitioners’ Case Brief:<sup>37</sup>

- Commerce should select Mexico, rather than Turkey, as the primary surrogate country for this investigation because:
  - Mexico produced a greater volume of comparable merchandise than Turkey;
  - Data that the respondents provided for Turkey include non-contemporaneous information for labor (2018), electricity (2019), natural gas (2019), and water (2019). Commerce has an established practice of favoring surrogate values (SVs) which are contemporaneous with the POI or period of review (POR) under consideration.<sup>38</sup> Mexico has contemporaneous values for labor, electricity, and natural gas, and more contemporary rates for water; thus, the data available for Mexico are more contemporaneous than – and superior to – the data for Turkey.
  - Commerce’s practice is to disregard financial statements from use in the calculation of surrogate financial ratios where the statements reflect that said company is insolvent and/or unprofitable.<sup>39</sup> The audited financial statements of Ayes Celikhasir VE CT (Ayes), the only Turkish source of surrogate financial ratios on the record, are unusable for the purpose of determining surrogate financial ratios because they do not reflect a positive pre-tax profit once one excludes “other income” and investment activities not related to normal operations.
- Even if Commerce continues to use Turkey as the primary surrogate country in the final determination, Commerce should use Grupo Carso’s audited financial statements to determine the financial ratios applicable to this case:

<sup>35</sup> See Hangzhou Xline’s Verification Response at 2-4 and Attachment 1; *see also* Hangzhou Xline’s Final Analysis Memo at 3.

<sup>36</sup> See Hangzhou Xline’s Final Analysis Memo at 3.

<sup>37</sup> See Petitioners’ Case Brief at 3-7.

<sup>38</sup> *Id.* at 5-6 (citing *Shakeproof Assembly Components Division of Illinois Tool Works, Inc. v. United States*, 30 F.3d 1173, 1177 (Fed. Cir. 2006) (*Shakeproof Assembly Components*); and *Jiaxing Brother Fastener Co. v. United States*, 428 F. Supp. 3d 1364, 1372 (CIT 2020) (*Jiaxing Brother Fastener*)).

<sup>39</sup> *Id.* at 6-7 and 12 (citing *Steel Propane Cylinders from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 84 FR 29161 (June 21, 2019) (*Propane Cylinders China*), and accompanying Issues and Decision Memorandum (IDM) at 7).

- In determining that Grupo Carso did not represent the most appropriate data from which to calculate financial ratios on the record in the *Preliminary Determination*, Commerce noted that Grupo Carso was a diversified conglomerate and not a producer of comparable or similar merchandise to that of metal lockers. However, Grupo Carso does, indeed, produce comparable merchandise to the metal lockers at issue here, including a wide range of industrial products (*e.g.*, metal containers and structures for construction, such as structures for bridges, buildings and mining branches, heat exchangers, pressure vessels, distillation towers, air coolers, surface capacitors, high pressure feed water heaters, and large containers). Many of these products also involve materials and processes similar to metal lockers.
- Commerce can use financial statements and financial ratio calculations from a company that is not based in the primary surrogate country in circumstances where that data is superior to data from the surrogate country.<sup>40</sup>
- Neither Hangzhou Xline nor Zhejiang Xingyi submitted Turkish surrogate financial statements by the November 16, 2020, deadline to submit SV data. Rather, Zhejiang Xingyi submitted the Ayes financial statements on December 18, 2020, as part of its supplemental SV submission. Though the record was not closed at the time of the later submission, Zhejiang Xingyi did not explain its failure to submit the financial statements for Ayes, which appear to have been available since March 2020. Because Zhejiang Xingyi did not file the financial data within the deadline set by Commerce and did not timely seek an extension to file that data, it should not be considered for the final determination.
- In this proceeding, Commerce notified respondents that initial SV submissions “did not provide surrogate values ...” for certain specific FOPs,<sup>41</sup> effectively notifying respondents of deficiencies with respect to submitted SV data for Turkey, and allowing respondents the opportunity to remedy said deficiencies. Commerce must offer equal treatment to the parties in terms of identifying and affording opportunities to remedy any perceived deficiencies in the record.<sup>42</sup> Thus, if Commerce similarly determined that the surrogate financials on the record for Mexico were deficient, it should have provided the petitioners with similar notice and an opportunity to provide supplemental information.
- Ayes’ financial statements and subsequent ratio calculations suffer qualitative flaws that make them unusable.
  - Ayes’ financial statements reflect a pre-tax profit only due to amounts listed as “other income” and investment activities not related to normal operations. In the *Preliminary Determination*, Commerce excluded these items rather than considering their material impact. While certain income items are recognized as offsets to general expenses (*i.e.*, included in the “SG&A” expense ratio

<sup>40</sup> *Id.* at 8-9 (citing *Camau Frozen Seafood Processing Imp. Exp. Corp. v. United States*, 929 F. Supp. 2d 1352, 1355 (CIT 2013) (*Camau Frozen Seafood Processing*); *Risen Energy Co. v. United States*, 477 F. Supp. 3d 1331, 1340-1341 (CIT 2020); *Forged Steel Fittings from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 50339 (October 5, 2018), and accompanying IDM at 13; *Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*; 2013-2014, 80 FR 77323 (December 14, 2015), and accompanying IDM at 12-13; and *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 24-25).

<sup>41</sup> See Commerce’s Letter, “Certain Metal Lockers and Parts Thereof from the People’s Republic of China: Surrogate Values from Turkey,” dated January 19, 2020 (Request for Additional Surrogate Value Information).

<sup>42</sup> *Id.* at 10 (citing *Allied Pacific Food (Dalian) Co. v. United States*, 435 F. Supp. 2d 1295, 1313-1314 (CIT 2006) (*Allied Pacific Food*)).

numerator), Commerce's practice recognizes that many income items should not be used to offset general expenses, and certain disregarded income items must be recognized as reducing the pre-tax profit and not simply ignored.<sup>43</sup> Without Ayes' income unrelated to production, and other improper calculations to the financial ratios of Ayes made by Zhejiang Xingyi, the company would be unprofitable and therefore unusable in this investigation.<sup>44</sup> Accordingly, Commerce should disregard Ayes' financial statements.

- The financial statements of Ayes are far less detailed than are the financial statements of Grupo Carso. Specifically, Ayes' statements list virtually no details of the amounts underlying the materials, labor and energy (MLE) costs, with the vast majority of the MLE costs classified simply as Cost of Products Sold. Grupo Carso, on the other hand, clearly distinguishes the typical non-market economy (NME) components, including wages and salaries, employee benefits, raw materials, electricity, and statutory employee profit sharing. Grupo Carso's cost of sales also details numerous additional costs normally included in factory overhead, including manufacturing depreciation, amortization, maintenance, security services and leasing costs, which presents comparatively far more detail for Ayes, for which the alleged overhead ratio of less than one percent is not consistent with a manufacturing operations.
- Moreover, while Ayes may sell some products that involve processes similar to metal lockers, it also offers numerous products that are not comparable to the merchandise at issue.
- Ayes' 2019 financial statements were presented without inflation adjustments despite the fact that Commerce required inflation-adjusted reporting and applied a modified methodology using monthly cost of production and pricing data in proceedings involving Turkey covering the same time period as Ayes' financial statements. In various recent reviews of antidumping duty cases involving Turkey, Commerce found that high inflation existed, requiring monthly cost indexing and monthly sales comparisons to avoid distortions.<sup>45</sup> The fact that Ayes was operating during what Commerce has determined to be a period of high inflation further undermines the suitability of unadjusted financial results.
- Should Commerce determine not to use Grupo Carso's audited financial statements, it should consider using the financial statements of the Montenegrin companies, Mezon D.O.O. Danilovgrad (Mezon) and Obodice-MNE D.O.O. (Obodice), for the determination of surrogate financial ratios. Mezon produces metal electrical storage containers and Obodice produces chest freezers, which should each satisfy Commerce's criteria for comparable merchandise.

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<sup>43</sup> *Id.* at 11-12 (citing *Calgon Carbon Corp. v. United States*, 487 F. Supp. 3d 1359, 1362 (CIT 2020); and *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review and Final Rescission, in Part*, 77 FR 14495 (March 12, 2012), and accompanying IDM at comment 7).

<sup>44</sup> *Id.* at 12 (citing *Propane Cylinders China* IDM at 7).

<sup>45</sup> *Id.* at 15 (citing *Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019*, 86 FR 15190 (March 22, 2021), and accompanying IDM at 9-10; and *Certain Hot-Rolled Steel Flat Products from the Republic of Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019*, 86 FR 11227 (February 24, 2021), and accompanying PDM at 11).



## Zhejiang Xingyi's Rebuttal Brief:<sup>46</sup>

- Commerce should reject the petitioners' arguments for using Mexico as a surrogate country for the following reasons.
  - When determining whether products are “comparable merchandise,” Commerce considers whether products have similar physical characteristics, end uses, and production processes.<sup>47</sup> In the *Preliminary Determination*, Commerce determined that Grupo Carso did not produce comparable merchandise. There is no record evidence showing that the physical characteristics, end uses, and production processes for the products that Grupo Carso produces are comparable to the merchandise under investigation. Rather, the record reflects that Grupo Carso is a diversified conglomerate with commercial, industrial, infrastructure, construction, and energy sectors that produces various products unrelated to metal lockers, and also operates commercial retail stores; constructs roads, wells, and pipelines; and produces electrical cable, automotive electrical harnesses, steel tubing, power transformers and alternate energy. At most, there is an unspecific indication that Grupo Carso has engaged in the “manufacture of large containers” but the record completely lacks any evidence regarding the physical characteristics, end uses or the production process for such containers. On the other hand, the record demonstrates that Ayes produces assembled fences and steel mesh products made from cold-drawn steel comparable to the metal lockers under investigation. Accordingly, Grupo Carso's financial statements are not useable for the determination of surrogate financial ratios.
  - The petitioners' argument that Mexico produces greater volumes of comparable merchandise than Turkey is irrelevant. The statute simply directs Commerce to use a significant producer of comparable merchandise as a surrogate country, not the most significant producer of comparable merchandise.<sup>48</sup>
  - The petitioners' argument that Mexico is the superior surrogate country because certain SVs from Mexico are “more contemporaneous” than those from Turkey is not persuasive, as this argument ignores the fact that Commerce determined that the record has complete surrogate value information only from Turkey. Commerce normally values all FOPs in a single surrogate country. Thus, the finding that certain Mexican SVs are more contemporaneous is superseded by the primary finding that Mexico does not provide a complete dataset.
  - The Harmonized Tariff System (HTS) codes contained in the Global Trade Atlas (GTA) data on the record for Mexico do not match the product characteristics of the inputs that Zhejiang Xingyi uses in the production of the subject merchandise.
    - For example, the record identifies Mexico HTS code 7209.26, “Flat-Rolled Products of Iron or Nonalloy Steel, Width 600 mm or More, Not In Coils, Cold-Rolled Worked Only, of a Thickness Over 1 mm But Less Than 3 mm,” for Zhejiang Xingyi's variable COLD\_GDG\_56. However, the material that Zhejiang Xingyi uses for variable COLD\_GDG\_56 should be classified under Mexico HTS code 7211.29, “Flat-Rolled Iron or Nonalloy Steel Products Under 600 mm Wide, Cold-Rolled, Not Clad, Plated or Coated, Nesoi,” not 7209.26,

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<sup>46</sup> See Zhejiang Xingyi's Rebuttal Brief at 2-7.

<sup>47</sup> *Id.* at 3 (citing *Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 48612 (July 25, 2002), and accompanying IDM at Comment 5.

<sup>48</sup> See Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1), available on Commerce's website at <http://enforcement.trade.gov/policy/bull04-1.html>.

because COLD\_GDG\_56 has a width of 368 millimeters, rather than 600 millimeters, or more.

- In addition, Exhibit 7 of Zhejiang Xingyi's Rebuttal Surrogate Value Comments<sup>49</sup> contains a list of Mexican HTS codes that do not accurately reflect the inputs that Zhejiang Xingyi used to produce the subject merchandise.
- The Grupo Carso audited financial statements are unsuitable for use in the alternative.
  - As discussed, the financial statements of Grupo Carso are unsuitable for use as Commerce determined that Grupo Carso does not produce comparable merchandise. Regarding the Montenegrin companies Mezon and Obodice, Commerce found in the *Preliminary Determination* that these financial statements did not constitute audited financial statements.
  - While Commerce can use financial statements from a country other than the primary surrogate country when necessary, case law emphasizes that “use of a single surrogate country is justified when ... all other factors are fairly equal {.}”<sup>50</sup> The use of multiple surrogate countries is not necessary in this investigation.
  - Ayes' financial statements do not suffer qualitative flaws that render them unsuitable, as alleged by the petitioners. Rather, Ayes provides the most specific and best surrogate financial ratio information for use in the final determination:
    - There are no extraneous “other income” items that should be deducted from profit; *i.e.*, the proper adjustment of Ayes' financial statement for stand-alone “other income” demonstrate that Ayes is a profitable company.
      - Commerce properly excluded both the shipping expenses and shipping revenues in the *Preliminary Determination* because these expenses and revenues are reportable as sale-specific expenses. Commerce should continue to exclude both the expenses and revenues associated with shipping merchandise for sale.
      - While the petitioners claim that Commerce should offset profit by exchange rate incomes, Commerce normally includes both exchange gains and losses (*i.e.*, income and expenses) in the calculation of net financial ratios. Likewise, it is Commerce's practice to allow for an offset to SG&A for provisions no longer required. Accordingly, Commerce should not exclude exchange gains from the calculation of Ayes' profit ratio.
      - The majority of income items that Commerce excluded from Ayes' financial ratio calculations are the income components of operating expenses that correspond to real operating expenses included in Ayes' SG&A expenses.
      - Commerce should be consistent in its treatment of both the revenue and expense side of line items on Ayes' financial statements. If Commerce concludes that it must adjust Ayes' profit for excluded income items, then it should revise its calculation of the surrogate financial ratios to properly include as offsets to SG&A the incomes that correspond to expenses included in the SG&A calculation.
    - Commerce is not obligated to select the most detailed financial statements on the record. The Ayes financial statements are sufficiently detailed for

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<sup>49</sup> See Zhejiang Xingyi's Letter, “Certain Metal Lockers and Parts Thereof from the People's Republic of China, Case No. A-570-133: Rebuttal Surrogate Value and Surrogate Country Comments,” dated December 11, 2021 at Exhibit 7. (Rebuttal Surrogate Value and Surrogate Country Comments).

<sup>50</sup> See Zhejiang Xingyi's Rebuttal Brief at 8, quoting *Camau Frozen Seafood Processing*.

Commerce to calculate surrogate financial ratios, as it did in the *Preliminary Determination*.

- The data on the record does not point to inflation distorting the Ayes financial statements.
- Commerce should reject the use of the audited financial statements from the Montenegrin companies, Mezon and Obodice, as a source of surrogate financial ratios because:
  - Commerce found in the *Preliminary Determination* that these financial statements were not complete;
  - The petitioners' contention that Commerce should use financial statements from a country other than the primary surrogate country is spurious, since case law emphasizes that Commerce should use a single surrogate country, all things being equal, even if the law does not restrict Commerce from departing from the primary surrogate country, when necessary.

### **Commerce's Position:**

#### *Selection of Primary Surrogate Country*

We continue to select Turkey as the primary surrogate country for the final determination because it best meets our selection criteria. When Commerce investigates imports from an NME country, section 773(c)(1) of the Act directs it to base normal value on the NME producer's FOPs, valued using a surrogate market economy country or countries that, pursuant to section 773(c)(4) of the Act, Commerce considers to be "at a level of economic development comparable to that of the non-market economy country" and a "significant producer of comparable merchandise."<sup>51</sup> In the *Preliminary Determination*, we determined that Brazil, Mexico, Romania, and Turkey were at the same level of economic development as China and were significant producers of comparable merchandise.<sup>52</sup>

In addition to these statutory requirements, in selecting a primary surrogate country, Commerce strives to select, to the extent practicable, SVs that are publicly available, product-specific, representative of a broad market average, contemporaneous with the POI or POR, and tax and duty exclusive.<sup>53</sup> Parties submitted SV data for all material inputs reported by Zhejiang Xingyi and Hangzhou Xline from Turkey and Mexico.<sup>54</sup> Additionally, in the *Preliminary Determination*, we found that the only complete, audited financial statements on the record were those of Grupo Carso, from Mexico, and Ayes, from Turkey.<sup>55</sup> An examination of Grupo

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<sup>51</sup> See section 773(c)(4)(A)-(B) of the Act and 19 CFR 351.408.

<sup>52</sup> See *Preliminary Determination* PDM at 11-12.

<sup>53</sup> See *Jiaxing Brother Fastener Co., Ltd. v. United States*, 822 F.3d 1289, 1293 (Fed. Cir. 2016) (describing Commerce's surrogate value selection criteria); see also Commerce's Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004).

<sup>54</sup> See Memorandum, "Less-Than-Fair-Value Investigation of Certain Metal Lockers and Parts Thereof from the People's Republic of China: Preliminary Surrogate Value Memorandum," dated February 4, 2021 (Preliminary Surrogate Value Memo) at 2.

<sup>55</sup> See *Preliminary Determination* PDM at 13. Parties also submitted surrogate value information for Romania and Montenegro which included information only for raw materials, packing materials and byproducts (and without audited financial statements from producers of identical or comparable merchandise located in those countries). See Hangzhou Xline's Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China: Submission of Hangzhou Xline's Surrogate Country Comments and Initial Surrogate Value Submission," dated November 16, 2020 at Exhibit 8; and, Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the

Carso's financial statements revealed that Grupo Carso is a diversified conglomerate with commercial, industrial, infrastructure, construction, and energy sectors that do not produce comparable merchandise.<sup>56</sup> Ayes, however, produces mesh fences, steel mesh, ribbed iron, and certain machines (drawing machine, cutting machines, butt welding machines, wire mesh bending machines, *etc.*).<sup>57</sup> As a result, we determined that Ayes produces merchandise comparable to the subject merchandise, and that its audited financial statements constitute the only information on the record suitable for the determination of surrogate financial ratios specific to metal locker production.<sup>58</sup> Therefore, given the completeness and contemporaneity of the SV data available on the record for Turkey, including contemporaneous financial statements from a producer of comparable merchandise, we found that Turkey best meets our selection criteria for a surrogate country. As a result, we selected Turkey as the primary surrogate country.<sup>59</sup>

There have been no changes to this information since the *Preliminary Determination*: Turkey and Mexico are both at the same level of economic development as China and qualify as significant producers of comparable merchandise; the only complete, audited financial statements on the record are those of Grupo Carso and Ayes. Specifically, the petitioners have provided no new information or argument that indicates that Grupo Carso produces merchandise comparable to subject metal lockers, and that Ayes does not.<sup>60</sup> We disagree with the petitioners that the record contains sufficient information to compel reconsideration of the preliminary finding that Grupo Carso is a producer of merchandise similar to subject metal lockers. Prior to the *Preliminary Determination*, the petitioners argued that the following merchandise produced by Grupo Carso is comparable to subject metal lockers: metallic structures for bridges, building, and mining branches, heat exchangers, pressure vessels, distillation towers, air coolers, surface capacitors, high pressure feed water heaters, and large containers.<sup>61</sup> However, we preliminarily determined that, based on the evidence on the record, Grupo Carso does not produce comparable merchandise.<sup>62</sup> The petitioners have not provided additional evidence since the *Preliminary Determination* to demonstrate that Grupo Carso produces merchandise similar to subject metal lockers. Rather, the petitioners simply reiterate their previous arguments that the above-referenced merchandise is similar to subject metal lockers, but provide no elaboration on how these products or their production processes are comparable to metal lockers. The record lacks

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People's Republic of China: Petitioners' Comments on Surrogate Country Selection and Submission of Surrogate Values," dated November 17, 2020 at Exhibit Montenegro – 9.

<sup>56</sup> *Id.*; see also Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China – Petitioners' Comments on Surrogate Country Selection and Submission of Surrogate Values," dated November 17, 2020 at Exhibit Mexico-9 (Petitioners' SV Submission). Grupo Carso's financial statements describe its products as: metallic structures for bridges, buildings and mining branches; heat exchanges; pressure vessels; distillation towers; air coolers; surface capacitors; high pressure feed water heaters; and large containers.

<sup>57</sup> See *Preliminary Determination* PDM at 13; see also Zhejiang Xingyi's Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China, Case No. A-570-133: Submission of Surrogate Financial Ratios," dated December 18, 2021 (Zhejiang Xingyi Surrogate Financial Ratios Submission).

<sup>58</sup> See *Preliminary Determination* PDM at 13.

<sup>59</sup> *Id.*

<sup>60</sup> See, e.g., Petitioners' Case Brief at 4 (citing Petitioners' SV Submission at Exhibit Mexico-9).

<sup>61</sup> See Petitioners' SV Submission at Exhibit Mexico-9. We note that many of these products represent high-value structural components for the public or private sector, and/or machinery that includes "cutting-edge technology." *Id.* Therefore, although the petitioners claim that Grupo Carso produces comparable products including metal containers, we note that Grupo Carso's list of products identifies "large containers," not metal containers. See Petitioners' Case Brief at 4, and Petitioners' SV Comments at Exhibit Mexico-9.

<sup>62</sup> See *Preliminary Determination* PDM at 13, which explains that Grupo Carso's audited financial statements reveal that Grupo Carso is a diversified conglomerate with commercial, industrial, infrastructure, construction, and energy sectors.

sufficient information to demonstrate that Grupo Carso produces anything with similar physical characteristics or end uses comparable to metal lockers, or that Grupo Carso uses a similar production process to that of the metal lockers under investigation. As Zhejiang Xingyi notes, at most, there is an unspecific indication that Grupo Carso has engaged in the “manufacture of large containers” but the record lacks any evidence regarding the physical characteristics, end uses or the production process for such containers. Accordingly, we continue to find that Grupo Carso is not a producer of merchandise comparable to metal lockers.

With respect to the petitioners’ argument that Mexico is the superior surrogate country because certain SV information from Mexico is “more contemporaneous” than those from Turkey, we note that – as a result of the aforementioned finding regarding the Grupo Carso financial statements not reflecting a producer of comparable merchandise – the selection of Mexico does not offer a complete set of information from which to derive SVs and surrogate financial ratios. As such, the record has complete SV information only from Turkey, and Commerce’s practice is to value all FOPs in a single surrogate country.<sup>63</sup> Thus, while we acknowledge that the Mexican data for certain FOPs may be more contemporaneous than that of corresponding Turkish data, this does not in this instance overcome Commerce’s preference to value all data from a single source country. We note that the non-contemporaneous Turkish data is appropriately inflated/deflated in our SV calculations, thus mitigating concerns that the selection of Turkey as the primary surrogate country provides for a less-specific and less appropriate source of SVs during the POI. In contrast, however, no such adjustment is available to mitigate specificity concerns which arise from the use of financial ratios derived from financial information of a producer of non-comparable merchandise.

Zhejiang Xingyi claims that errors in the Mexican GTA data on the record make the data unreliable, and therefore, would render Mexico an unsuitable surrogate country. For example, Zhejiang Xingyi claims that because the petitioners misclassified the SV for COLD\_GDG\_56 as HTS 7209.26, rather than 7211.29, the GTA data from Mexico are unreliable. In its Rebuttal Surrogate Value and Surrogate Country Comments, Zhejiang Xingyi provided corrected HTS numbers and corresponding SVs from Turkey, but not Mexico.<sup>64</sup> The petitioners neither refuted these HTS numbers nor provided corresponding SVs from Mexico. Consequently, the record is incomplete with respect to SVs from Mexico, but is complete with respect to SVs from Turkey. This further supports our decision to continue to use Turkey as the primary surrogate country in this investigation.

We further disagree that the petitioners received unequal treatment with respect to their SV submissions. Commerce requested Zhejiang Xingyi to provide SV information for five specific inputs for which it believed that no information was on the record.<sup>65</sup> In fact, Zhejiang Xingyi responded that the requested information was already on the record.<sup>66</sup> In contrast, the Petitioners’ SV Submission was not deficient but, rather, provided the information necessary to value all applicable FOPs in Mexico, including surrogate financial ratios using Grupo Carso’s financial statements.<sup>67</sup> Commerce’s determination that Grupo Carso does not produce

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<sup>63</sup> See 19 CFR 351.408(c)(2).

<sup>64</sup> See Rebuttal Surrogate Value and Surrogate Country Comments at 5-6 and Exhibits 1, 2, and 7.

<sup>65</sup> See Commerce’s Request for Additional Surrogate Value Information at 1.

<sup>66</sup> See Zhejiang Xingyi’s Letter, “Certain Metal Lockers and Parts Thereof from the People’s Republic of China, Case No. A-570-133: Surrogate Values from Turkey Supplemental Questionnaire Response,” dated January 27, 2021.

<sup>67</sup> See, generally, Petitioners’ SV Submission.

comparable merchandise was based on an analysis of complete, factual information on the record, and did not result from a deficient or incomplete SV submission. Thus, Commerce had no basis for requesting the petitioners to provide additional surrogate financial statements on the record.

Further, as discussed in detail below, we disagree with the petitioners' various arguments that Ayes' financial statements and surrogate financial ratios are unusable. Finally, we disagree with the petitioners' assertion that neither Hangzhou Xline nor Zhejiang Xingyi provided timely surrogate financial statements. On November 16, 2020, Zhejiang Xingyi submitted SV and surrogate country comments before the established deadline.<sup>68</sup> On December 18, 2020, Zhejiang Xingyi submitted timely financial statements and surrogate financial ratios in accordance with 19 CFR 351.301(c)(3)(i).<sup>69</sup> Though Zhejiang Xingyi did not provide Ayes' financial statements in its initial SV submission, 19 CFR 351.301(c)(3)(i) is clear that any submission of affirmative factual information to value FOPs in an AD investigation is due no later than 30 days before the scheduled date of the preliminary determination. Zhejiang Xingyi's December 18, 2020, submission was timely submitted no later than 30 days before the preliminary determination. Commerce has enumerated no requirement that submission of surrogate financial statements must be received in an initial submission in order to be considered for use in the calculation of surrogate financial ratios, and we are aware of no precedent where Commerce has disregarded timely SV information received by this deadline on the basis that such information was provided in a supplemental, and not an initial, SV submission.

Thus, we continue to select Turkey as the primary surrogate country for this investigation, because the Turkish GTA data are accurate and appropriate to value all material inputs, and because Turkey is the only country that has usable financial statements on the record from a comparable producer for the purposes of valuing surrogate financial ratios.

#### *Selection of Financial Statements Used to Derive Surrogate Financial Ratios*

Furthermore, we continue to use Ayes' financial statements to calculate surrogate financial ratios in this investigation. In the *Preliminary Determination*, we found that Ayes' financial statements constituted the only information on the record suitable for the calculation of surrogate financial ratios. Although the petitioners alleged that Ayes' financial statements may be distorted by significant inflation, and were submitted to the record "without inflation adjustments," the petitioners failed to provide specific evidence of any such distortion, identify any inflation adjustments that should have made, or identify any past instances where Commerce made inflation adjustments in the determination of surrogate financial ratios.

We agree with Zhejiang Xingyi that the audited financial statements of two companies from Montenegro, Mezon, and Obodice, should not be used to calculate surrogate financial ratios. In the *Preliminary Determination*, we determined that the audited financial statements for Mezon and Obodice were not complete, and therefore, could not be used for the purposes of determining

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<sup>68</sup> See Zhejiang Xingyi's Letter, "Antidumping Duty Investigation for Certain Metal Lockers and Parts Thereof from China, Case No. A-570-133: Surrogate Value and Surrogate Country Comments," dated November 16, 2020 (Zhejiang Xingyi Surrogate Value Comments) at 1-2; see also Memorandum, "Antidumping Duty Investigation for Certain Metal Lockers and Parts Thereof from China: Extension of Deadline to File Comments on Surrogate Countries and Surrogate Values and Treatment of Production Component Names," dated November 2, 2020.

<sup>69</sup> See Zhejiang Xingyi Surrogate Financial Ratios Submission at 1-2.

surrogate financial ratios.<sup>70</sup> We continue to find them incomplete, and, thus unusable as a source of surrogate financial ratios for the final determination.

We disagree with the petitioners' argument that the Ayes financial statements and ratios are unusable. In the *Preliminary Determination*, we valued factory overhead, SG&A, and profit using the Ayes financial statements.<sup>71</sup> In accordance with Commerce's practice, we excluded certain income and expenses from the financial ratio calculations.<sup>72</sup> Consistent with Commerce's practice, we sought consistency in the treatment of both the revenue and expense side of line items on Ayes' financial statements.<sup>73</sup> For example, we excluded both the shipping expenses and shipping revenues in the *Preliminary Determination*, because these expenses and revenues are reportable as sales-specific expenses. We continue to exclude both the expenses and revenues associated with shipping merchandise for sale. Similarly, we continue to include both exchange gains and losses in the calculation of financial income and expenses, respectively. Furthermore, it is Commerce's practice to treat other income as related to the general operations of the company and, therefore, include other income as an offset to SG&A expenses.<sup>74</sup> The exception is when the reported information and the information in the surrogate financial statements indicates otherwise; if, for example, the income has been reported as an FOP, the income relates to a separate line of business, or the income relates to the disposal of non-routine assets.<sup>75</sup> Accordingly, we revised our calculations to offset SG&A for deferred financial income, incentive income, provisions no longer required, exchange difference income, price difference, other income and profits, rental income, and exchange difference income. Moreover, it is Commerce's practice to exclude interest income generated from long-term financial assets because such income is generally related to investing activities (*e.g.*, long-term interest income, capital gains, dividend income) and is not associated with the general operations of the company.<sup>76</sup> Thus, consistent with Commerce's practice, because we are disallowing the long-term interest income offset to the SG&A and interest expenses, likewise, we are adjusting the profit amount from the surrogate financial statements for the profit and loss increases deriving from securities values.<sup>77</sup> In instances where we can identify, from the face of the financial

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<sup>70</sup> See *Preliminary Determination* PDM at 13. As a matter of fact, the financial information submitted for Mezon and Obodice was derived from databases behind a pay wall generated by a British market research firm, EMIS, and thus, it does not represent publicly available, audited financial statements prepared and published by the companies themselves. See Petitioners SV Comments at Exhibit 9. Therefore, this information is not useable for the purposes of determining surrogate financial ratios, since the data does not represent a primary source document of each company, and because there is no way to determine whether and how the original data may have been manipulated before published by this market research firm.

<sup>71</sup> See *Preliminary Surrogate Value Memo* at 6 and Exhibit 3.

<sup>72</sup> *Id.*; see also *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 18.D; and *Notice of Final Results of Antidumping Duty Administrative Review: Silicon Metal from Brazil*, 71 FR 7517 (February 13, 2006), and accompanying IDM at Comment 4.

<sup>73</sup> See *Forged Steel Fittings from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 66302 (October 19, 2020), and accompanying IDM at 18.

<sup>74</sup> See *Certain Tool Chests and Cabinets from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 15365 (April 10, 2018), and accompanying IDM at Comment 14; and *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 80 FR 51779 (August 26, 2015), and accompanying IDM at Comment 8a.

<sup>75</sup> *Id.*

<sup>76</sup> See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of the 2009–2010 Antidumping Duty Administrative Review and Final Rescission, in Part*, 77 FR 14495 (March 12, 2012), and accompanying IDM at Comment 7.

<sup>77</sup> *Id.*

statement, line items that should be excluded as offsets to S&GA and interest expenses, we will also remove those line items from profit. However, we have excluded “interest income” from the financial ratios because we are unable to identify whether the interest income is short-term or long-term in nature and have not offset SG&A or adjusted profit for this line item. Therefore, we used financial statements for Ayes which had been properly adjusted for income and expense items and which demonstrate that Ayes is a profitable company.<sup>78</sup>

Moreover, we disagree with the petitioners’ contention that Grupo Carso’s financial statements are more suitable because they are more detailed than those of Ayes. Commerce’s practice is to select financial statements that are “completely translated, publicly available, contemporaneous with the POI, show a profit before taxes, do not contain countervailable subsidies, are sufficiently detailed to calculate financial ratios, and are from the primary surrogate country.”<sup>79</sup> While the petitioners contend that the Ayes’ financial statements are less detailed than those of Grupo Carso, they do not contend that Ayes’ financial statements are insufficiently detailed to calculate financial ratios. There is no requirement that the financial statements be the most detailed financial statements on the record. Absent any record evidence demonstrating that Ayes’ financial statements are insufficiently detailed to calculate financial ratios, we reject the petitioners’ contention that Grupo Carso’s financial statements are more suitable because they are more detailed than those of Ayes.

With respect to the petitioners’ arguments that inflation in Turkey further undermines the suitability of the use of Ayes’ financial statements, we first note that the petitioners have provided no information to demonstrate that Ayes financial statements, taken on their own, were compromised in any way for the purpose of determining surrogate financial ratios covering fiscal year 2019.<sup>80</sup> The petitioners cite to several instances where Commerce made affirmative determinations of hyperinflation in Turkey. While each proceeding generally stands on its own and hyperinflation is not a basis or criterion for surrogate country selection, we nonetheless in this instance address the petitioners’ comments on this issue. Specifically, Commerce conducted ten AD proceedings concerning investigations or orders on products from Turkey covering parts or all of 2019.<sup>81</sup> Commerce determined that hyperinflation did not exist in one proceeding.<sup>82</sup> It did not address hyperinflation in three proceedings,<sup>83</sup> two of which covered the entire fiscal year

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<sup>78</sup> See Preliminary Surrogate Value Memo at 6 and Exhibit 3.

<sup>79</sup> See *Certain Quartz Surface Products from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances*, 84 FR 23767 (May 23, 2019), and accompanying IDM at 81-82.

<sup>80</sup> See Zhejiang Xingyi Surrogate Financial Ratios Submission at Exhibit 2.

<sup>81</sup> In order of the date of the final determination, these are: dried tart cherries, quartz surface products, prestressed concrete steel wire strand, light-walled rectangular pipe and tube, common alloy aluminum sheet, circular welded carbon steel standard pipe and tube products, mattresses, steel concrete reinforcing bar, hot-rolled steel flat products, and, aluminum foil. However, we note that the determinations for dried tart cherries and prestressed concrete steel wire strand were based on AFA.

<sup>82</sup> See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No-Shipments; 2018-2019*, 85 FR 74983 (November 24, 2020), unchanged in *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019*, 86 FR 28574 (May 27, 2021) (collectively, *Steel Concrete Reinforcing Bar Turkey*).

<sup>83</sup> See (in order of the date of the final determination or final results of review): (1) *Common Alloy Aluminum Sheet from Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 65346 (October 15, 2020), unchanged in *Common Alloy Aluminum Sheet from Turkey: Final*



of 2019,<sup>84</sup> and one of which covered six months of 2019.<sup>85</sup> Two proceedings were based on AFA, and therefore, did not reference inflation.<sup>86</sup> In contrast, Commerce found that hyperinflation existed in four proceedings,<sup>87</sup> one of which covers the first nine months of 2019,<sup>88</sup> one of which covers the first eight months,<sup>89</sup> and the other two cover only the first four months of 2019.<sup>90</sup> Therefore, although Commerce's findings of hyperinflation in Turkey during 2019 are mixed, Commerce did not make findings of hyperinflation in four of eight proceedings with a POI/POR in 2019, including the two proceedings that covered the entirety of 2019. In contrast, the petitioners cited Commerce's determinations covering only two proceedings, one of which covered only the first four months of 2019,<sup>91</sup> and one of which covered only the first nine months of 2019.<sup>92</sup> Thus, the petitioners' analysis is incomplete. In addition, the petitioners failed to

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*Affirmative Determination of Sales at Less Than Fair Value*, 86 FR 13326 (March 8, 2021) (collectively, *Common Alloy Aluminum Sheet Turkey*); (2) *Mattresses from the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 69571 (November 3, 2020), unchanged in *Mattresses from the Republic of Turkey: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 86 FR 15917 (March 25, 2021) (collectively, *Mattresses Turkey*); and (3) *Certain Aluminum Foil from the Republic of Turkey: Preliminary Negative Determination of Sales at Less Than Fair Value, Postponement of Final Determination*, 86 FR 23686 (May 4, 2021) (*Aluminum Foil Turkey*). *Aluminum Foil* has not yet gone to final.

<sup>84</sup> See *Common Alloy Aluminum Sheet Turkey* and *Mattresses Turkey*.

<sup>85</sup> See *Aluminum Foil Turkey*.

<sup>86</sup> See (1) *Dried Tart Cherries from the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 51112 (September 27, 2019), unchanged in *Dried Tart Cherries from the Republic of Turkey: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 67429 (December 10, 2019); and (2) *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, the Netherlands, Saudi Arabia, the Republic of Turkey, and the United Arab Emirates: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Preliminary Affirmative Critical Circumstances Determinations, in Part*, 85 FR 61722 (September 30, 2020), unchanged in *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, the Netherlands, Saudi Arabia, Taiwan, the Republic of Turkey, and the United Arab Emirates: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determinations, in Part*, 85 FR 80001 (December 11, 2020).

<sup>87</sup> See in order of the date of the final determination: (1) *Certain Quartz Surface Products from the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 84 FR 68111 (December 13, 2019), unchanged in *Certain Quartz Surface Products from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 85 FR 25389 (May 1, 2020) (collectively, *Quartz Surface Products*); (2) *Light-Walled Rectangular Pipe and Tube from Turkey: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission, and Preliminary Determination of No Shipments; 2018-2019*, 85 FR 44861 (July 24, 2020), unchanged in *Light-Walled Rectangular Pipe and Tube from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019*, 86 FR 11230 (February 24, 2021) (collectively *LWRPT Turkey*); (3) *Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019*, 85 FR 44509 (July 23, 2020), unchanged in *Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019*, 86 FR 15190 (March 22, 2021) (collectively, *CWCSSPT Turkey*); and, (4) *Certain Hot-Rolled Steel Flat Products from the Republic of Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019*, 86 FR 11227 (February 24, 2021)) (which has not gone to final) (collectively, *Hot-Rolled Steel Flat Products Turkey*).

<sup>88</sup> See *Hot-Rolled Steel Flat Products Turkey*.

<sup>89</sup> See *Prestressed Concrete Steel Wire Strand*.

<sup>90</sup> See *LWRPT Turkey* and *CWCSSPT Turkey*.

<sup>91</sup> See *CWCSSPT Turkey*.

<sup>92</sup> See *Hot-Rolled Steel Flat Products Turkey*.

address the proceedings where hyperinflation was either not found<sup>93</sup> or was otherwise unaddressed.<sup>94</sup>

Moreover, although Commerce found Turkey to be a hyperinflationary economy for certain cases covering certain parts of 2019,<sup>95</sup> the determination of a hyperinflationary economy is not applicable to the use of surrogate financial statements to determine financial ratios in non-market economy cases. Commerce's hyperinflation methodology applies to proceedings where material costs are experiencing rapid changes in price levels which impact the total cost of manufacturing.<sup>96</sup> It involves determining whether it is appropriate to determine normal value on a shorter period of time than the complete POI/POR. As a result, the hyperinflationary methodology does not change or undermine a respondent's prices, costs or financial statements. Rather, Commerce's hyperinflation methodology seeks to determine the appropriate method of calculating weighted-average costs, and/or determining normal value on a monthly, quarterly, annually or on a POI/POR-wide basis, based on the underlying price and cost data in the respondent's books and records. Thus, Commerce's hyperinflationary methodology does not change the respondent's underlying prices or costs in a respondent's books and records, or in its financial statements. As a result, it is not clear what sort of "inflation adjustments" the petitioners expected in stating that the "2019 results for Ayes were not presented with inflation adjustments."<sup>97</sup> Moreover, Commerce selected Turkey as the surrogate country in the recently completed AD investigation of certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (vertical shaft engines), from China, using Turkish financial statements to calculate surrogate financial ratios for the July 1 through December 31, 2019, POI in that investigation and, in so doing, did not express concerns regarding hyperinflation as related to the usability of the financial statements in that case.<sup>98</sup> Accordingly, Commerce's use of Turkish statements is consistent with other recent investigations with POIs around that of the instant case.

Therefore, we continue to find for the purposes of this final determination that the final ratios determined using Ayes audited financial statements were accurate and appropriately applied in the determination of the normal value for both respondents. Accordingly, we will continue to use Ayes' financial statements to calculate surrogate financial ratios for the final determination of this investigation.

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<sup>93</sup> See *Steel Concrete Reinforcing Bar*.

<sup>94</sup> See *Common Alloy Aluminum Sheet Turkey*, *Mattresses Turkey*, and, *Aluminum Foil Turkey* (excluding the two AFA cases, *Dried Tart Cherries* and *Prestressed Concrete Steel Wire Strand*).

<sup>95</sup> See, e.g., *Quartz Surface Products Turkey*, *LWRPT Turkey*, *CWCSSPT Turkey*, and *Hot-Rolled Steel Flat Products Turkey*.

<sup>96</sup> See, e.g., *Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 82 FR 12791 (March 7, 2017), and accompanying PDM, unchanged in *Final Affirmative Determination in the Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from the Republic of Turkey*, 82 FR 23192 (May 22, 2017), and accompanying IDM at 15.

<sup>97</sup> See Petitioners' Case Brief at 15 (citing Zhejiang Xingyi Surrogate Financial Ratios Submission at Exhibit 2, note 1).

<sup>98</sup> See *Vertical Shaft Engines China* and accompanying IDM at 31.

## **Comment 2: Ministerial Error Allegation Regarding Ocean Freight**

### **Petitioners' Case Brief:<sup>99</sup>**

- Commerce explained in the Preliminary Surrogate Value Memo that it would base the determination of non-market-economy international freight costs during the POI on publicly-available international freight values from Maersk for: (1) China to West Coast USA routings; and (2) China to East Coast USA routings, allocated over a standard 40-foot container, as provided by the petitioners.<sup>100</sup> However, Commerce's calculations erroneously used the rate provided by Zhejiang Xingyi, rather than the rate provided by the petitioners.
- Zhejiang Xingyi's rate is unsuitable for use for the final determination because it is based on non-POI data.
- Commerce should revise the determination of ocean freight to apply the value of ocean freight that the petitioners provided as described in the Preliminary Surrogate Value Memo.

### **Zhejiang Xingyi's Rebuttal Brief:<sup>101</sup>**

- The petitioners' allegation that Commerce made a ministerial error in relation to the ocean freight SV is incorrect.
- It appears more likely that Commerce misidentified the source of the SV in the Preliminary Surrogate Value Memo when it stated that it would use the value "provided by the petitioners."<sup>102</sup> The citation in footnote 33 of the Preliminary Surrogate Value Memo correctly identifies Zhejiang Xingyi as the source of the surrogate value.<sup>103</sup>
- Commerce should continue to use Zhejiang Xingyi's ocean freight data because the petitioners' data represents business proprietary information.

### **Commerce's Position:**

We continue to use Zhejiang Xingyi's SV submission as the source to value the ocean freight reported by Hangzhou Xline. In the Preliminary Surrogate Value Memo, we inadvertently stated that we used publicly available international freight values based on Maersk freight quotes provided by the petitioners. However, footnote 33 of the Preliminary Surrogate Value Memo clearly states that we used the international freight values provided by Zhejiang Xingyi in the margin calculation program.<sup>104</sup> The narrative statement that we used the Maersk freight quotes provided by the petitioners represents an inadvertent error, and we confirm that the actual freight quotes selected for use (*i.e.*, the Descartes values provided by Zhejiang Xinyi) were those applied.

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<sup>99</sup> See Petitioners' Case Brief at 7-8.

<sup>100</sup> *Id.* (citing Preliminary Surrogate Value Memo at 7).

<sup>101</sup> See Zhejiang Xingyi's Rebuttal Brief at 7.

<sup>102</sup> See Preliminary Surrogate Value Memo at 7.

<sup>103</sup> *Id.*

<sup>104</sup> See Memorandum, "Antidumping Duty Investigation of Certain Metal Lockers and Parts Thereof from the People's Republic of China: Analysis Memorandum for the Preliminary Determination: Hangzhou Xline Machinery & Equipment Co., Ltd.," dated February 4 at 4 and Attachment 2, lines 1230-1234; *see also* Preliminary Surrogate Value Memo at 7.

The underlying basis for the petitioners' presumption that the statement that Commerce used the Maersk data must necessarily reflect Commerce's actual intent because said data are contemporaneous with the POI, whereas the Descartes data provided by Zhejiang Xingyi are based on a price quote prior to the POI and, as such, do not reflect the most contemporaneous data on the record. However, we disagree that the Maersk data, though contemporaneous, reflect usable data from which to derive the ocean freight SV, as these data are bracketed as business proprietary information as submitted.<sup>105</sup> It is Commerce's normal practice to use publicly available information to value FOPs.<sup>106</sup> While Zhejiang Xingyi's ocean freight data are based on price quotes from just prior to the POI in October 2019,<sup>107</sup> these data were submitted without bracketing and, thus, reflect the only publicly-available information on the record from which to derive the ocean freight SV. Accordingly, we continue to use the international freight data submitted by Zhejiang Xingyi to value Hangzhou Xline's reported ocean freight.

## VIII. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final determination of the investigation and the final estimated weighted-average dumping margins in the *Federal Register*.



Agree



Disagree

6/28/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh  
Acting Assistant Secretary  
for Enforcement and Compliance

<sup>105</sup> See Petitioners' Letter, "Certain Metal Lockers and Parts Thereof from the People's Republic of China – Petitioners' Submission of Surrogate Ocean Freight Values," dated November 16, 2020 at Exhibit Ocean Freight – 1.

<sup>106</sup> See 19 CFR 351.408; Policy Bulletin 04.1 ("in assessing data and data sources, it is the Department's stated practice to use ... publicly available data"); and Preliminary Surrogate Value Memo at 2 and 4.

<sup>107</sup> See Zhejiang Xingyi Surrogate Value Comments at Exhibit 9.