



A-570-067
Administrative Review
POR: 05/17/2018-10/31/2019
Public Document
E&C/VIII: MJA

September 21, 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 Final Results of Antidumping Duty
Administrative Review and Final Determination of No Shipments:
Forged Steel Fittings from the People's Republic of China; 2018-
2019

I. SUMMARY

The Department of Commerce (Commerce) analyzed the case and rebuttal briefs submitted by interested parties in the administrative review of the antidumping duty order on forged steel fittings from the People's Republic of China (China) covering the period of review (POR) May 17, 2018, through October 31, 2019. As a result of our analysis, we made certain revisions to the margin calculations since the *Preliminary Results* for the sole mandatory respondent participating in this review, Both-Well (Taizhou) Steel Fittings Co., Ltd. (Both-Well).¹ These revisions did not change the weighted-average dumping margin for Both-Well.² Further, we find that 15 companies under review have not established their eligibility for a separate rate, including Ningbo Zhongan Forging Co., Ltd., a company that was selected for individual examination but failed to participate in the review. We also find that four companies had no shipments during the POR.

We recommend that you approve the positions we developed in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues for which we received comments from interested parties:

¹ See *Forged Steel Fittings from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019*, 86 FR 16186 (March 26, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Antidumping Duty Administrative Review of Forged Steel Fittings the People's Republic of China: Final Results Calculation Memorandum for Both-Well," dated concurrently with this memorandum (Both-Well Final Calculation Memorandum), at Attachment 1.



Comment 1: Surrogate Country Selection
Comment 2: Ministerial Errors
Comment 3: Financial Ratios

II. BACKGROUND

On March 26, 2021, Commerce published the *Preliminary Results* of this administrative review. On April 26, 2021, Bonney Forge Corporation (the petitioner) timely submitted its case brief.³ On May 3, 2021, Both-Well timely submitted its rebuttal brief.⁴

On July 1, 2021, Commerce extended the deadline of the final results of this administrative review by 60 days, until September 22, 2021.⁵

III. SCOPE OF THE ORDER⁶

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:

³ See Petitioner's Letter, "Bonney Forge's Case Brief," dated April 26, 2021 (Petitioner's Case Brief).

⁴ See Both-Well's Letter, "Antidumping Both-Well Rebuttal to Petitioner's Case Brief," dated May 3, 2021 (Both-Well's Rebuttal Brief).

⁵ See Memorandum, "Forged Steel Fittings from the People's Republic of China (China): Extension of Deadline for Final Results of First Antidumping Duty Administrative Review," dated July 1, 2021.

⁶ See *Forged Steel Fittings from Italy and the People's Republic of China: Antidumping Duty Orders*, 83 FR 60397, dated November 26, 2018 (*Order*).

- 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
- 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. CHANGES SINCE THE *PRELIMINARY RESULTS*

Based on our review and analysis of the comments received from the interested parties, we made certain changes to our margin calculations for Both-Well.⁷ Specifically, we:

1. removed “UPCASE” function from the calculation of surrogate values (SVs) for two non-market economy (NME) movement expenses: marine insurance and domestic brokerage and handling expenses (*i.e.*, variables MARNINU and DBROKU, respectively);⁸
2. replaced QTYU2 (*i.e.*, the total weight of each sale) variable with WEIGHTU (*i.e.*, the actual weight per piece) variable in the calculation of domestic movement expenses;⁹ and
3. revised the financial ratio SVs used in the calculation of normal value for Both-Well.¹⁰

V. DISCUSSION OF THE ISSUES

Comment 1: Surrogate Country Selection

Petitioner’s Arguments:

- Commerce should use Russia as the surrogate country (SC) for the final results, because Russia is a significant producer of comparable merchandise, provides the same level of specificity for the main input (*i.e.*, round bar) as Bulgaria, and provides better financial statements than Bulgaria.¹¹

⁷ See Both-Well Final Calculation Memorandum.

⁸ See Comment 2 of this memorandum.

⁹ *Id.*

¹⁰ See Comment 3 of this memorandum.

¹¹ See Petitioner’s Case Brief at 1, 8-9.

- Bulgaria, the country used as the SC in the *Preliminary Results*, is not a significant producer because its exports of comparable merchandise constitute merely 0.8 percent of exports from the six OP List Countries.¹²
- Russia accounts for nearly 10 percent of comparable merchandise exported by the six OP List Countries. Therefore, unlike Bulgaria, Russia is a significant producer.¹³
- The Court of International Trade (CIT) in *Jacobi I* questioned whether Commerce’s reliance on total exports, devoid of evidence of influence on world trade, is a permissible method of interpreting the term ‘significant producer.’¹⁴
- On remand pursuant to the CIT order in *Jacobi I*, Commerce tried to rely on “financial statements as providing evidence of domestic Thai production of comparable merchandise and Thailand’s status as a net exporter (in quantity terms) of the subject merchandise,” as the basis for confirming Thailand’s status as a significant producer.¹⁵
- The CIT found in *Jacobi II* that, “reliance on evidence of domestic production, without explaining its significance, reads the word ‘significant’ out of the statute.”¹⁶
- In *Jacobi III*, Thailand’s ranking as the ninth largest global exporter of activated carbon among 24 reporting countries, was not sufficient for the CIT to confirm Thailand’s status as a significant producer, as the top five exporters collectively accounted for more than 90 percent of global exports.¹⁷
- In this review, the record does not contain worldwide exports of harmonized schedule (HS) subheading 7307.99 (*i.e.*, the primary HS heading included in the scope), but a review of the export quantities under HS subheading 7307.99 from the six OP List Countries indicates Bulgaria is not a significant producer of comparable merchandise, as exports of comparable merchandise from Bulgaria constitute merely 0.8 percent of exports from the six OP List Countries.¹⁸
- Therefore, Commerce has ignored judicial precedent in finding Bulgaria is “a significant producer.”¹⁹
- Both “significance” and “large amount” cannot be viewed in a vacuum, but can only be seen in the context of the other quantities involved.²⁰
- The petitioner recommends that Commerce, to avoid going down the same path as the *Jacobi I*, *Jacobi II* and *Jacobi III* cases, place on the record a table of export quantities of HS subheading 7307.99 from all countries, including a column showing each country’s exports as a percentage of worldwide exports, and invite parties to submit arguments as to why the export volume from Bulgaria is or is not significant.²¹

¹² *Id.* at 1, 3, and 9 (Commerce notes that 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 Gross National Income (GNI) data. See Commerce’s Letter, “Request for Comments,” dated June 24, 2020 (SC Memo) at Attachment).

¹³ *Id.* at 8.

¹⁴ *Id.* at 3 (citing *Jacobi Carbons AB v. United States*, 222 F.Supp.3d 1159, 1181 (CIT 2017) (*Jacobi I*)).

¹⁵ *Id.* at 4 (citing *Jacobi Carbons AB v. United States*, 313 F.Supp.3d 1308, 1323 (CIT 2018) (*Jacobi II*)).

¹⁶ *Id.* (citing *Jacobi II* at 1326).

¹⁷ *Id.* (citing *Jacobi Carbons AB v. United States*, 365 F.Supp.3d 1323, 1330-31 (CIT 2019) (*Jacobi III*)).

¹⁸ *Id.* at 2-3 and 5.

¹⁹ *Id.* at 1.

²⁰ *Id.* at 6.

²¹ *Id.*

- In the alternative, Commerce can find that the quantity of exports from Bulgaria is not large enough to reasonably qualify as “significant,” and, therefore, Bulgaria fails the test of being a significant producer of comparable merchandise within the meaning of Section 773(c)(4)(B) of the Tariff Act of 1930, as amended (the Act). Commerce would then proceed with the rest of the SC analysis without taking Bulgaria into consideration.²²
- Further, the 2019 financial statements of Preskov AD (Preskov) that Commerce relied on in the *Preliminary Results* is not a suitable source of surrogate financial ratios, because Preskov is not a publicly listed company and there is no evidence in the record demonstrating that its financial statements are public information.²³
- Even if the Preskov financial statements were publicly available, the flaws in Preskov’s situation (*i.e.*, its arrangements with its parent company and other related companies) make it an atypical company in terms of normal operations and financing. Note 4.12 indicates that the parent company provides a one-year loan to Preskov at a below market rate.²⁴ Note 5.2 indicates that 5,143 thousand Bulgarian Lev (BGN) of its total sales of good and services were to related companies, meaning that over a quarter of its sales were in effect internal.²⁵
- Russia provides three complete financial statements, and one of those statements provide information for a producer that produces comparable merchandise: pipe fittings (*i.e.*, PJSC Chelyabinsk Pipe Plant (Chelpipe)). All else being equal, Commerce prefers to use SC’s with multiple financial statements, although if Commerce wants to use only statements from companies that make products closest to the subject merchandise, Commerce can use Chelpipe’s financial statements.²⁶

Both-Well’s Rebuttal Arguments:

- Commerce correctly selected Bulgaria as the primary SC for the *Preliminary Results*.²⁷
- The petitioner’s reliance on the *Jacobi I*, *Jacobi II* and *Jacobi III* cases is misplaced. The CIT in *Jacobi I* remanded because the court questioned whether “reliance on total exports, devoid of evidence of influence on world trade, is a permissible method of interpreting the term ‘significant producer.’”²⁸
- In a different case, however, the CIT acknowledged that Commerce was entitled to *Chevron* deference in not interpreting “significant” to mean “having or likely to have influence or effect.”²⁹
- In *Jacobi III*, the CIT faulted Commerce for relying on export rankings to determine “significance” without conducting “contextual analysis.” Unlike in *Jacobi III*, here, Commerce did not determine significance based on a ranking of all exporters of subject merchandise.³⁰
- The petitioner appears to suggest that Commerce should determine Bulgaria is not a “significant” producer based on a comparison of its exports to the export volume of the other

²² *Id.*

²³ *Id.* at 6-7.

²⁴ *Id.* at 8.

²⁵ *Id.*

²⁶ *Id.* at 9.

²⁷ See Both-Well’s Rebuttal Brief at 2.

²⁸ *Id.* at 1 (citing *Jacobi I* at 1181).

²⁹ *Id.* (citing *Juancheng Kangtai Chem. Co. v. United States*, No. 14-00056, 2017 Ct. Intl. Trade LEXIS 3, at *11 (CIT January 19, 2017) (*Juancheng Kangtai Chem. Co.*)).

³⁰ *Id.* at 2.

countries. However, Commerce is not required to determine significance through a comparative approach or to select an SC that is a more, or even the most, significant producer.³¹

- As the CIT observed, it is neither improper nor inconsistent with the statute for Commerce to eschew considering “degrees of significant production” or select the country that is “the most significant producer.”³²
- Even if other OP List Countries have greater export volumes, Commerce was correct to determine that Bulgaria’s exports are not insignificant such as to render it a “significant producer” for purposes of selecting a SC in this review, as exports by Bulgaria of nearly 400,000 kilograms in 2019 is not insignificant.³³
- Further, the petitioner offers no basis to find that the Preskov financial statements are proprietary. We readily obtained them and submitted them as public statements in a certified filing.³⁴
- Furthermore, while Commerce prefers to use “publicly available information,”³⁵ there is no statutory or regulatory mandate for such information.³⁶
- The so-called flaws of the Preskov financial statements that the petitioner advances are irrelevant to Commerce’s inquiry and misconstrue Commerce’s reference to comparability. As Commerce explained, its practice in conducting a surrogate analysis is to look to physical characteristics, end uses, and production process. Commerce found the Preskov financial statements the “best available” information on the record, in part, because they relate to production of only comparable merchandise, and thus are more reflective of Both-Well’s operations and merchandise than the consolidated statements on the record.³⁷
- Preskov’s financial statements provide the best available information to calculate surrogate financial ratios for this review. The petitioner offers no basis for Commerce to reconsider its determination.³⁸
- The Chelpipe statements are unsuitable for use because they are consolidated including operations in countries other than Russia. It is also not the best available information on the record because 80 percent of the company’s 2019 revenue comes from its “steel pipe production segment” which manufactures and distributes pipes and engages in activities related to the procurement of scrap and its further utilization.³⁹
- Furthermore, the other two Russian financial statements on the record are not from the producers of comparable merchandise.⁴⁰
- Therefore, Russia is not a suitable SC for the calculation of the normal value.⁴¹

³¹ *Id.* (citing *Fresh Garlic Final Results and Final Rescission of the 20th Antidumping Duty Administrative Review*; 2013-2014, 81 FR 38897 (June 20, 2016), and accompanying Issues and Decision Memorandum (IDM) at 10).

³² *Id.* (citing *Juancheng Kangtai Chem. Co.* at *11-12).

³³ *Id.* at 2.

³⁴ *Id.* at 3.

³⁵ *Id.* (citing 19 CFR 351.408(c)(1)).

³⁶ *Id.* at 3.

³⁷ *Id.*

³⁸ *Id.* at 4.

³⁹ *Id.* at 5.

⁴⁰ *Id.*

⁴¹ *Id.*

Commerce’s Position: For these final results, Commerce continues to find that Bulgaria is economically comparable to China, is a significant producer of comparable merchandise, and provides the best available SV information to value Both-Well’s factors of production (FOPs). We explain our reasoning in detail below.

Economic Comparability

Section 773(c)(4)(A) of the Act states that Commerce “shall utilize, to the extent possible, the prices or costs of {FOPs} in one or more market economy countries that are ... at a level of economic development comparable to that of the {NME} country.” The applicable statute does not expressly define the phrase “level of economic development comparable” or what methodology Commerce must use in evaluating this criterion. The CIT has found the use of per capita GNI to be a “consistent, transparent, and objective metric to identify and compare a country’s level of economic development” and “a reasonable interpretation of the statute.”⁴²

On August 15, 2019, consistent with our practice, and section 773(c)(4) of the Act, Commerce identified Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey as countries at the same level of economic development as China, based on per capita GNI data from the World Bank’s World Development Report.⁴³ Therefore, we consider all six countries as having met this economic comparability prong of the SC selection criteria. The countries identified are not ranked and are considered equivalent in terms of economic comparability.

Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce to value FOPs, to the extent possible, in an SC that is a significant producer of comparable merchandise. Neither the statute nor Commerce’s regulations provide further guidance on the definition of comparable merchandise or significant producer. Given the absence of a definition in the statute or regulations, Commerce looks to other sources such as Policy Bulletin 04.1 and the legislative history for guidance.⁴⁴ Policy Bulletin 04.1 explains that Commerce should not compare production levels in the NME country and the potential SCs in order to identify significant producers.⁴⁵ Instead, Policy Bulletin 04.1 provides, “Commerce should define ‘significant producer’ in relation to world production and trade (subject to the availability of data on these characteristics).”⁴⁶ Moreover, the legislative history provides that the term “significant producer” includes any country that is a “net exporter” of identical or comparable merchandise.⁴⁷ However, that text does not define the phrase “net exporter” or explain whether a potential SC must constitute a net exporter in terms of quantity, value, or both to fit the example provided in the legislative

⁴² See *Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014), *aff’d* *Jiaxing Brother Fastener Co. v. United States*, 822 F.3d 1289 (Fed. Cir. 2016).

⁴³ See SC Memo at Attachment.

⁴⁴ See Enforcement and Compliance Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1), available at <https://enforcement.trade.gov/policy/bull04-1.html>.

⁴⁵ *Id.*

⁴⁶ *Id.*; see also *DuPont Teijin Films v. United States*, 997 F. Supp. 2d 1338, 1342 (CIT 2014) (*DuPont Teijin Films*).

⁴⁷ See *Conference Report to the 1988 Omnibus Trade & Competitiveness Act*, H.R. Rep. No. 100-576 (1988) at 590.

history.⁴⁸ The CIT has held that this term (*i.e.*, significant producer) is not statutorily defined, and is “inherently ambiguous,”⁴⁹ and that this ambiguous provision of the Act does not compel Commerce to define “significant producer” in any particular manner.⁵⁰ Accordingly, Commerce may examine export volumes from among those countries that are at the same level of economic development to determine whether a country is a significant producer.⁵¹

Also, Policy Bulletin 04.1 states that “in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”⁵² Commerce has also previously stated that, if comparable merchandise is produced, a country qualifies as a producer of comparable merchandise.⁵³ Therefore, if the record contains evidence of domestic production of comparable merchandise, then this evidence directly addresses the requirement of production of comparable merchandise under section 773(c)(4) of the Act.

In this review, the record contains export data for all six OP List Countries during the POR for the primary HS subheading included in the scope (*i.e.*, 7307.99, covering May 2018 to October 2019). These export data placed on the record by Both-Well indicate that each of the countries identified in the SC Memo had exports of comparable merchandise during the POR.⁵⁴ These volumes are: 17,402,581 kilograms (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).⁵⁵ As noted in the *Preliminary Results*, none of these quantities are insignificant.⁵⁶ Despite the petitioner’s contention, Commerce is not required to determine significance through a comparative approach or to select an SC that is a more, or even the most, significant producer.⁵⁷ Further, world production and trade data of comparable merchandise are not available on the record of this administrative review. Although the petitioner recommends that Commerce place on the record a table of export quantities of HS subheading 7307.99 from all countries, including a column showing each country’s exports as a percentage of worldwide exports, Policy Bulletin 04.1’s guidance for Commerce in determining which country qualifies as a “significant producer” provides that, “[a] judgement should be made consistent with the characteristics of world production of, and trade in, comparable merchandise (*subject to the availability of data on these characteristics*) (emphasis added).”⁵⁸ Therefore, as the world production and trade data for comparable merchandise are unavailable on the record, and pursuant to Policy Bulletin 04.1’s guidance, Commerce is not required to define ‘significant producer’ in relation to world

⁴⁸ *Id.*

⁴⁹ See *Fresh Garlic Producers Ass’n v. United States*, 121 F. Supp. 3d 1313, 1338-39 (CIT 2015).

⁵⁰ See *Dorbest Ltd. v. United States*, 462 F. Supp. 2d 1262, 1274 n.5 (CIT 2006).

⁵¹ See *Certain Uncoated Paper from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 81 FR 3112 (January 20, 2016), and accompanying IDM at Comment 1.

⁵² *Id.*; see also Policy Bulletin 04.1.

⁵³ See *Sebacic Acid from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65676 (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.”).

⁵⁴ See Both-Well’s Letter, “Forged Steel Fittings from China: Antidumping,” dated July 8, 2020 at 1 and Exhibit 1.

⁵⁵ *Id.*

⁵⁶ See *Preliminary Results* and PDM at 14.

⁵⁷ See *Fresh Garlic Final Results and Final Rescission of the 20th Antidumping Duty Administrative Review; 2013-2014*, 81 FR 38897 (June 20, 2016), and accompanying IDM at 10.

⁵⁸ See Policy Bulletin 04.1; see also *DuPont Teijin Films* 997 F. Supp. 2d at 1342.

production and trade data, we decline to place world production and trade data for HS subheading 7307.99 on the record of this review.⁵⁹

Further, the petitioners' reliance on the CIT decisions in *Jacobi I* and *Jacobi III* to request Commerce to compare export quantities to determine significant producer is inapposite. In *Jacobi I* and *Jacobi III*, the CIT faulted Commerce for trying to determine significance based on a ranking of all exporters of subject merchandise, "[w]hile avoiding any requisite contextual analysis."⁶⁰ Unlike in *Jacobi I* and *Jacobi III*, in the *Preliminary Results* of this review, Commerce did not determine significance based on a ranking of all exporters of subject merchandise. Instead, Commerce analyzed exports of comparable merchandise (*i.e.*, POR export quantities under HS subheading 7307.99) from the six OP List Countries, as a proxy for production data, as net exporter information was unavailable on the record, and determined that none of the total export volumes from the six OP List Countries are insignificant.⁶¹

Therefore, pursuant to the guidance provided by Policy Bulletin 04.1 and Commerce's practice described above, which provides that Commerce should not compare production levels in the NME country and the potential SCs in order to identify significant producers, we continue to find that none of the total export volumes from the countries identified in the OP List are insignificant. Accordingly, Commerce continues to find that each of these countries, including both Bulgaria and Russia, are significant producers of comparable merchandise pursuant to section 773(c)(4)(B) of the Act.⁶² Because multiple potential SCs that are economically comparable with China have been identified as significant producers of comparable merchandise, and because "data quality is a critical consideration affecting surrogate country selection,"⁶³ Commerce then looked to the availability and quality of the SV data to determine the most appropriate SC.

Data Considerations

If more than one potential SC is determined to be economically comparable and a significant producer of comparable merchandise, Commerce selects the primary SC based on data quality and availability.⁶⁴ 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.⁶⁵ There is no hierarchy among these criteria. 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.⁶⁶ Commerce must weigh the available information with respect to each

⁵⁹ *Id.*

⁶⁰ See *Jacobi I*, 222 F. Supp. 3d at 1182; see also *Jacobi III*, 365 F. Supp. 3d at 1332.

⁶¹ See *Preliminary Results* and accompanying PDM at 14.

⁶² See Policy Bulletin 04.1.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *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.

⁶⁶ See *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.

input value and make a product-specific and case-specific decision as to what constitutes the “best” available SV for each input.⁶⁷ Additionally, pursuant to 19 CFR 351.408(c)(2), Commerce has a preference of valuing all FOPs in a single SC.

The record contains complete SV data, including surrogate financial statements, from both Bulgaria and Russia, along with Brazil, Mexico, and Turkey. In reviewing the data from these countries, Commerce evaluated whether the import data are specific to Both-Well’s FOPs especially with respect to the main input (*i.e.*, round bar), and also evaluated the financial statements.

As noted in the *Preliminary Results*, the record demonstrates that the Bulgarian, Russian, Turkish data all provide equally specific HS classifications (*i.e.*, by carbon content and diameter) of the round bar used by Both-Well.⁶⁸ As we have equally specific import data from Bulgaria, Russia, and Turkey for the round bar SV, 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.

The interested 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 SC to value factory overhead (overhead), selling, general and administrative (SG&A) expenses, and profit.⁶⁹ 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.⁷⁰ For purposes of selecting surrogate producers, Commerce examines how similar a proposed surrogate producer’s production experience is to the NME producer.⁷¹ 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.”⁷² 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,⁷³ that show a profit, from companies with a production experience similar to respondents’ production experience, and that

⁶⁷ See, *e.g.*, *Mushrooms AR6* at Comment 1.

⁶⁸ See Both-Well’s Letter, “Forged Steel Fittings from China: Antidumping,” dated August 7, 2020 at the attachment with the bar code numbers: 4013580-02 and 4013580-03; *see also* Petitioner’s Letter, “Forged Steel Fittings from China: Comments on Surrogate Values,” dated July 24, 2020 (Petitioner’s SV Submission) at the attachment with the bar code numbers: 4005483-05.

⁶⁹ 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.

⁷⁰ 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.

⁷¹ 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.

⁷² *Id.*

⁷³ 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.

are not distorted or otherwise unreliable, such as financial statements that indicate the company received countervailable subsidies.⁷⁴

For these final results, Commerce continues to find that the 2019 unconsolidated financial statements for the Bulgarian producer of forged parts, Preskov, are the best available information on the record, as its production experience is similar to that of Both-Well's. Preskov'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.⁷⁵ In addition, the 2019 Preskov financial statements cover a period that is contemporaneous with the POR, show a profit, and are not distorted or otherwise unreliable.⁷⁶ Further, contrary to the petitioner's argument that the Preskov financial statements are not public information, Both-Well readily obtained the financial statements and submitted them as public statements in a certified filing.⁷⁷ Therefore, Preskov financial statements are public information.

Although the petitioner argues that the Russian producer of steel pipes, Chelpipe, produces comparable merchandise, we find that its statements are consolidated, and more than 80 percent of its 2019 revenue came from the sales of its 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."⁷⁸ The revenue from its sales of valves, hot-formed and cold-formed pipeline bends and hubs (*i.e.*, products comparable to the subject merchandise), comprises only 2.6 percent of its 2019 revenue.⁷⁹ Further, Chelpipe's statements are consolidated and include income from its subsidiaries incorporated in the Czech Republic and Ireland.⁸⁰ The other financial statements, *i.e.*, financial statements of the Russian producer of ferrous metal products (Magnitogorsk Iron & Steel), the Russian producer of metal structures (Konatovkiy Steel), the Brazilian producer of iron castings (Tupy SA), the Mexican producer of steel and steel alloy products (Grupo Simec), and the Turkish producer of cast iron (Doktas Dokum) are not the best available information on

⁷⁴ 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.

⁷⁵ 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; see also Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated October 27, 2020 (Both-Well's Final SV II) at Exhibit 3.

⁷⁶ See Both-Well's Final SV II at Exhibit 3.

⁷⁷ *Id.*

⁷⁸ See Petitioner's Letter, "30-day Surrogate Value Submission," dated October 20, 2020 (Petitioner's Final SV Submission) at Exhibit 1, pdf. 32 and 34.

⁷⁹ *Id.*

⁸⁰ *Id.*

the record because these five companies are not producers of comparable merchandise.⁸¹ Therefore, the Bulgarian financial statements for Preskov are the only financial statements on the record suitable for use in calculating surrogate financial ratios.

Therefore, based on the foregoing analysis, we continue to use Bulgaria as the SC, as it is a country at the same level of economic development as China, is a significant producer of comparable merchandise, and provides the best available information with complete SVs to value the FOPs, including usable financial statements.

Comment 2: Ministerial Errors

Petitioner's Arguments:

- In the *Preliminary Results*, Commerce made three ministerial errors in the calculations of domestic and international movement expenses.⁸²
- First, the SAS program treated the variable for marine insurance (*i.e.*, MARNINU) as a character variable. Because MARNINU is a binary numeric variable (either 0 or 1), treating it as a character variable resulted in incorrect calculations of marine insurance expenses.⁸³
- Second, the SAS program also treated the variable for domestic brokerage and handling (*i.e.*, DBROKU) as a character variable, which resulted in incorrect calculations of home market movement expenses.⁸⁴
- Third, the SAS program used QTYU2, the sales quantity in pieces, instead of WEIGHTU, the actual weight per piece, in calculating the per-piece domestic movement expense.⁸⁵

Commerce's Position: Commerce agrees with the petitioner that Commerce inadvertently treated MARNINU and DBROKU as character variables, and used the "UPCASE" function for the calculation of SVs for the two NME movement expenses, marine insurance and domestic brokerage and handling. The function "UPCASE" is used to capitalize character values in SAS. As the values reported under both of these variables are numeric (*i.e.*, either 0 or 1), we find that our application of the UPCASE function for the variables "MARNINU" and "DBROKU" in the SAS program is an unintentional error constituting a ministerial error within the meaning of 19 CFR 351.224(f), and warranting correction. Consequently, we have removed the "UPCASE" function from the calculation of SVs for these two NME movement expenses.

Commerce also agrees with the petitioner that Commerce's use of QTYU2 (*i.e.*, the total weight of each sale), instead of WEIGHTU (*i.e.*, the actual weight per piece),⁸⁶ in calculating the per-

⁸¹ See Petitioner's SV Submission at Exhibits 6a and 6b; *see also* Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated August 7, 2020 at the attachment with bar code number: 4013638-01; *see also* Petitioner's Final SV Submission at Exhibits 3 through 6.

⁸² See Petitioner's Case Brief at 1.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ See Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated June 22, 2020 at 6; *see also* Both-Well's Letter, "Forged Steel Fittings from China: Antidumping," dated September 30, 2020 (Both-Well's Supplemental AC Response) at 8 and Exhibit SC-1.

piece domestic movement expense in the SAS program is an unintentional error constituting a ministerial error within the meaning of 19 CFR 351.224(f), and warranting correction.⁸⁷

As the domestic movement expense in the SAS program was calculated on a per-piece basis, we find that the variable for per-piece weight (*i.e.*, WEIGHTU) is the appropriate variable to be used as a multiplying factor to calculate the SV for domestic movement expenses. Consequently, we have replaced the QTYU2 variable with the WEIGHTU variable in the calculation of domestic movement expenses.⁸⁸

Comment 3: Financial Ratios

Petitioner's Arguments:

- In the *Preliminary Results*, in calculating the surrogate financial ratios using Preskov's 2019 financial statements, Commerce incorrectly allocated the amount reported under the line item "sale of materials and waste" as an offset to SG&A expenses.⁸⁹
- Because Commerce also makes an offset for scrap revenue to material costs in the SAS program, the inclusion of scrap revenue as an offset to SG&A expenses results in double-counting. If, as discussed above, Commerce continues to regard Bulgaria as a significant producer of comparable merchandise, and thus continues to use Bulgaria as the SC, the amount for "sale of materials and waste" should be excluded from the calculation of the surrogate financial ratios.⁹⁰
- In addition, note 5.2 indicates that Preskov purchased 5,176 thousand BGN of "goods/electricity" from its related company Zagora Energy EOOD, and then again purchased 24 thousand BGN of "goods/electricity" from Zagora Energy EOOD.⁹¹ Commerce did not include these amounts in its calculation of the cost of energy included in the denominator of its financial ratio calculations.⁹²

Both-Well's Rebuttal Arguments:

- The petitioner's request to adjust the SG&A expense and profit ratios is incorrect.⁹³ The line item at issue identified by the petitioner in the financial statements specifically states, "sale of materials and waste." Therefore, the petitioner's request to exclude the amount reported under this line item is inapposite, as this line item includes both the income from the sale of materials and the income from the sale of waste.⁹⁴

Commerce's Position: Commerce agrees with the petitioner, in part, that the inclusion of scrap revenue as an offset in the calculation of SG&A expenses could result in double-counting. Commerce also agrees with the respondent in part, that the "sale of materials and waste" line

⁸⁷ *Id.* (Commerce notes that contrary to the petitioner's assertion that the field QTYU2 represents the sales quantity in pieces, QTYU2 represents the total sales quantity in kilograms of each transaction that Both-Well reported in its supplemental section C response.).

⁸⁸ See Both-Well Final Calculation Memorandum at Attachment 1.

⁸⁹ See Petitioner's Case Brief at 2.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ See Both-Well's Rebuttal Brief at 1.

⁹⁴ *Id.*

item includes both the income from the sale of materials and the income from the sale of waste. For the reasons stated below, for the final results, we find it is more appropriate to exclude the amount reported under the line item “sale of materials and waste” from the calculation of the surrogate financial ratio for SG&A. Further, Commerce disagrees with the petitioner that Commerce incorrectly excluded the amounts reported under the line item “goods/electricity” from the calculation of the surrogate financial ratios for overhead, SG&A and profit. Therefore, for the reasons stated below, for the final results, we find it appropriate to continue to exclude the amounts reported under the line item “goods/electricity” from the calculation of these financial ratios.

In deriving surrogate financial ratios for overhead, SG&A and profit, it is Commerce’s practice to exclude expenses from the financial ratios only when the information contained in the financial statements demonstrates that the expense at issue is captured elsewhere in the calculation of normal value, and thus its inclusion would result in double-counting.⁹⁵ Also, Commerce’s practice is to rely on information in the surrogate company’s financial statement and not go behind it to determine the appropriateness of including particular line items in the financial ratio calculations.⁹⁶

In the *Preliminary Results*, we granted the respondent an offset to the reported FOPs for a by-product generated during the production of the subject merchandise.⁹⁷ As the description provided in the Preskov financial statements indicates that the amount reported under the line item “sale of materials and waste” is comprised of the income from “the sale of steel waste from production, wooden crates and goods,”⁹⁸ we agree with the petitioner, in part, that there is the risk of double-counting when we include scrap revenue as an offset to the SG&A expenses in the surrogate SG&A expense ratio calculation. However, the respondent is also correct in that the line item “sale of materials and waste” is not comprised solely of income from the sale of waste, but also includes income from the sale of wooden crates and goods. As stated above, it is Commerce’s practice to exclude expenses from the financial ratio calculations when the information contained in the financial statements demonstrates that the expense at issue is captured elsewhere in the calculation of normal value, and thus its inclusion would result in double-counting.⁹⁹ In this review, as a conservative measure, Commerce finds that it is more appropriate to exclude the expense reported under the line item “sale of materials and waste” from SG&A expenses, to avoid the risk of double-counting, as the descriptions to the notes in the Preskov financial statements indicate that at least a portion of the amount reported under the line item “sale of materials and waste” is income from “the sale of steel waste from production.”¹⁰⁰

⁹⁵ See, e.g., *Wooden Bedroom Furniture from the People's Republic of China: Final Results and Final Rescission in Part*, 76 FR 49729 (August 11, 2011) (*Wooden Bedroom Furniture*), and accompanying IDM at 30-31.

⁹⁶ See *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) (*Certain New Pneumatic Off-The-Road Tires*), and accompanying IDM at 18B.

⁹⁷ See Memorandum, “Antidumping Duty Administrative Review of Forged Steel Fittings the People’s Republic of China; Preliminary Results Calculation Memorandum for Both-Well,” dated March 19, 2021 (Preliminary Calculation Memorandum) at Attachment 1.

⁹⁸ See Both-Well’s Final SV II at Exhibit 3, PDF page 173.

⁹⁹ See *Wooden Bedroom Furniture* IDM at 30-31.

¹⁰⁰ See Both-Well’s Final SV II at Exhibit 3, PDF page 173.

Such income from the sale of steel scrap is separately accounted for in Commerce's margin calculation through the use of scrap SVs to offset the calculated normal value.¹⁰¹

Further, Commerce disagrees with the petitioner that Commerce incorrectly excluded the amounts reported under the line items “goods/electricity” from the calculation of the financial ratios for overhead, SG&A and profit. The amounts reported under the line items “goods/electricity,” which represent the amount of goods/electricity purchased from Preskov’s related company Zagora Energy EOOD, are not included in Preskov’s profit and loss statement as expenses for raw materials or as any other expenses related to the operations of the company.¹⁰² Further, it is unclear from the reading of these financial statements how much of the amounts reported under these line items are attributable to Preskov’s purchase of electricity. As stated above, Commerce does not go behind the financial statements of the surrogate company to determine the appropriateness of including particular line items in the financial ratio calculations.¹⁰³ Therefore, for the final results, we find it appropriate to continue to exclude from the calculation of the surrogate financial ratios the “goods/electricity” amounts reported as purchases from Preskov’s related company.

Therefore, for these final results, we have taken the conservative approach and excluded the amount reported under the “sale of materials and waste” line item from the calculation of the financial ratio for SG&A to avoid the risk of double-counting the same expense in the calculation of normal value.¹⁰⁴ Further, we continue to exclude the amounts reported under the line item “goods/electricity” from the calculation of the financial ratios for overhead, SG&A and profit, as there is no evidence on the record that these expenses are related to the surrogate company’s operations.

¹⁰¹ See Preliminary Calculation Memorandum at Attachment 1; *see also* Both-Well’ Calculation Memorandum at Attachment 1.

¹⁰² See Both-Well’s Letter, “Forged Steel Fittings from China: Antidumping,” dated October 20, 2020, at PDF 286.

¹⁰³ See *Certain New Pneumatic Off-The-Road Tires* IDM at 18B.

¹⁰⁴ See Memorandum, “First Administrative Review of Forged Steel Fittings from the People’s Republic of China: Surrogate Values for the Final Results,” dated concurrently with this memorandum; *see also* Both-Well Final Calculation Memorandum at Attachment 2.

VI. RECOMMENDATION

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



Agree



Disagree

9/21/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance