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Investigation  
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E&C/Office VIII: STL

DATE: May 7, 2018

MEMORANDUM TO: Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations  
performing the duties of Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the  
Less-Than-Fair-Value Investigation of Forged Steel Fittings from  
Taiwan

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## I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that forged steel fittings from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margin is shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

## II. BACKGROUND

On October 5, 2017, Commerce received an antidumping duty (AD) petition covering imports of forged steel fittings from Taiwan,<sup>1</sup> which was filed in proper form by Bonney Forge Corporation and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW) (collectively, the petitioners). Commerce initiated this investigation on October 25, 2017.<sup>2</sup>

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<sup>1</sup> See Letter to the Secretary of Commerce re: “Petitions for the Imposition of Antidumping and Countervailing Duties: Forged Steel Fittings from the People’s Republic of China, Italy, and Taiwan,” dated October 5, 2017 (the Petition).

<sup>2</sup> See *Forged Steel Fittings from the People’s Republic of China, Italy, and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 50614 (November 1, 2017) (*Initiation Notice*).



In the *Initiation Notice*, Commerce notified the public that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.<sup>3</sup> Accordingly, on October 27, 2017, Commerce released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.<sup>4</sup>

Also in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of forged steel fittings to be reported in response to Commerce's AD questionnaire.<sup>5</sup> Commerce received a number of scope comments on the record of this investigation, as well as on the records of the companion forged steel fitting investigations involving Italy and the People's Republic of China. On March 7, 2018, Commerce issued a Preliminary Scope Decision Memorandum which included certain preliminary revisions to the scope based on the scope comments received (*see* Scope Comments Section V below).<sup>6</sup>

On November 14, 2017, the petitioners submitted comments to Commerce regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes.<sup>7</sup> On November 25, 2017, M.E.G.A. S.p.A. (MEGA), an Italian producer and exporter of subject merchandise, filed rebuttal comments regarding the petitioners' comments on physical characteristics of the merchandise.<sup>8</sup> Based on the comments received, Commerce developed a questionnaire to be issued to the mandatory respondents which contained the product characteristics for this and the companion AD investigations.<sup>9</sup>

On November 28, 2017, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of forged steel fittings from Taiwan.<sup>10</sup>

On December 8, 2017, Commerce issued a memorandum selecting Both Well Steel Fittings Co. (Both Well) and Luchu Shinyee Works Co., Ltd. (Luchu), the two publicly identifiable exporters or producers that account for the largest volume of the subject merchandise, in alphabetical order, based on the CBP data, for individual examination as mandatory respondents in this investigation.<sup>11</sup> On December 11, 2017, Commerce issued the AD questionnaire to Both Well

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<sup>3</sup> *Id.* at 50618.

<sup>4</sup> *See* Memorandum to the File, "Customs Data for Respondent Selection," dated October 27, 2017 (Customs Data).

<sup>5</sup> *See Initiation Notice*, 82 FR at 50615.

<sup>6</sup> For further discussion of these comments, *see* Memorandum to the File, "Certain Forged Steel Fittings from People's Republic of China, Italy, and Taiwan: Scope Comments Decision Memorandum for the Preliminary Determinations," dated March 7, 2018 (Preliminary Scope Decision Memorandum).

<sup>7</sup> *See* the petitioners' Letter re: Comments on Product Characteristics, dated November 14, 2017.

<sup>8</sup> *See* M.E.G.A. S.p.A. Letter re: Reply Comments on Product Matching Characteristics, dated November 24, 2017.

<sup>9</sup> *See* Commerce Letter to Both Well re: Antidumping Duty Questionnaire, dated December 11, 2017 (Both Well AD Questionnaire) and Letter to Luchu re: Antidumping Duty Questionnaire, dated December 11, 2017 (Luchu AD Questionnaire).

<sup>10</sup> *See Forged Steel Fittings from the China, Italy, and Taiwan; Determinations*, 82 FR 56049 (November 27, 2017).

<sup>11</sup> *See* Memorandum to the File, "Antidumping Duty Investigation of Forged Steel Fittings from Taiwan: Respondent Selection," dated December 7, 2017.

and Luchu.<sup>12</sup> Neither Both Well nor Luchu responded to any sections of the questionnaire. On January 9, 2018, Luchu officially notified Commerce of its withdrawal from participation in the investigation.<sup>13</sup>

On January 10, 2018, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation.<sup>14</sup> Based on the request, and pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), on February 2, 2018, Commerce published in the Federal Register a postponement of the preliminary determination by 50 days until no later than May 3, 2018. On January 23, 2018, Commerce tolled the deadline for the preliminary determination until May 7, 2018, due to the partial shutdown of the Federal Government from January 20, 2018, through January 22, 2018.<sup>15</sup>

On February 20, 2018, Commerce issued a second memorandum selecting Kopex Industrial Co. (Kopex), the next largest publicly identifiable exporter or producer of the subject merchandise by volume, based on the CBP data, for individual examination as a mandatory respondent in this investigation.<sup>16</sup> On March 15, 2018, Commerce placed on the record the email correspondence between Commerce and Kopex, which also includes Kopex's bills of lading and a letter from Kopex stating that it does not produce or export to the United States Taiwanese forged steel fittings.<sup>17</sup>

We are conducting this investigation in accordance with section 733(b) of the Act.

### **III. PERIOD OF INVESTIGATION**

The POI is October 1, 2016, through September 30, 2017. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was October 2017.<sup>18</sup>

### **IV. TREATMENT OF KOPEX**

On February 27, 2018, Commerce received an email from Kopex, a *pro se* company, explaining that it had difficulties with our ACCESS electronic filing system and did not understand our filing requirements.<sup>19</sup> In the same email, Kopex contended that it is not a producer or exporter of

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<sup>12</sup> See Both Well AD Questionnaire and Luchu AD Questionnaire.

<sup>13</sup> See Luchu Letter re: Withdrawal of Participation, dated January 9, 2017 (Luchu Withdrawal).

<sup>14</sup> See the petitioners' Letter re: Request to Extend Deadlines for Preliminary Determinations, dated January 10, 2018.

<sup>15</sup> See Memorandum for the Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

<sup>16</sup> See Memorandum, "Certain Forged Steel Fittings from Taiwan Respondent Selection: Additional Mandatory Respondent Selection," dated February 20, 2018.

<sup>17</sup> See Memorandum to the File, "Placing Kopex U.S. Customs and Border Protection (CBP) Entry Documents on the Record," dated March 15, 2018.

<sup>18</sup> See 19 CFR 351.204(b)(1).

<sup>19</sup> See Memorandum to the File, "Forged Steel Fittings from Taiwan," dated March 15, 2018 at Attachment I (Kopex Documents).

Taiwanese forged steel fittings, but rather a trading company which sources from China all of the forged steel fittings it sells. As provided in section 782(i)(1) of the Act, we intend to verify Kopex's claim that it did not produce or sell the subject merchandise during the POI.

## **V. SCOPE COMMENTS**

In accordance with the *Preamble* to Commerce's regulations,<sup>20</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, *i.e.*, scope.<sup>21</sup> Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation Notice*. Based on our analysis of these comments, we made certain preliminary revisions to the scope, as reflected in Appendix I of the accompanying *Federal Register* notice. For a summary of the scope comments and rebuttal responses submitted to the record, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum and the Second Preliminary Scope Decision Memorandum.<sup>22</sup>

## **VI. SCOPE OF THE INVESTIGATION**

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

## **VII. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCE**

As noted above, Commerce selected Both Well and Luchu as mandatory respondents in this investigation. Both Well received our questionnaire and did not submit any responses. Luchu received Commerce's questionnaire and officially notified us that it would not participate in this investigation.<sup>23</sup> For the reasons stated below, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to Both Well and Luchu.

### *A) Application of Facts Available*

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or if an interested party: (1) withholds information requested by Commerce; (2) fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, Commerce shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(c)(1) of the Act states that Commerce shall consider the ability of an interested party to provide information upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full

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<sup>20</sup> *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>21</sup> *See Initiation Notice*, 82 FR at 50615.

<sup>22</sup> *See* Preliminary Scope Decision Memorandum and Memorandum to the File, "Second Preliminary Scope Decision Memorandum," dated concurrently with this memorandum (Second Preliminary Scope Decision Memorandum).

<sup>23</sup> *See* Luchu Withdrawal at P1.

explanation for the difficulty and suggests an alternative form in which the party is able to provide the information. Section 782(e) of the Act states further that Commerce shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Both Well and Luchu did not respond to our request for information or otherwise participate in this investigation. The deadline for the submission of responses to Section A of the questionnaire was January 2, 2018, and the deadline for responses to Sections B, C, D, and E of the questionnaire was January 17, 2018.<sup>24</sup> Commerce received no response from Both Well. Luchu officially withdrew from participating in this investigation, claiming that most of its shipments during the period of investigation (POI) were of SAE-grade hydraulic fittings which, Luchu stated, the petitioners agreed are outside the scope of the investigation.<sup>25</sup>

As a result, we preliminarily find that the necessary information is not available on the record of this investigation, that Both Well and Luchu withheld information Commerce requested, that they failed to provide information by the specified deadlines, and that they significantly impeded the proceeding. Moreover, because Both Well and Luchu failed to provide any information, section 782(e) of the Act is not applicable. Accordingly, pursuant to sections 776(a)(1) and 776(a)(2)(A), (B), and (C) of the Act, we are relying upon facts otherwise available to determine the preliminary dumping margins for Both Well and Luchu.

#### *B) Application of Facts Available with an Adverse Inference*

Section 776(b) of the Act provides that, if Commerce finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, Commerce may use an inference adverse to the interests of that party in selecting from the facts otherwise available.<sup>26</sup> In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.<sup>27</sup> In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that Commerce may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”<sup>28</sup> Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference in selecting from

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<sup>24</sup> See Both Well AD Questionnaire and Luchu AD Questionnaire.

<sup>25</sup> See Luchu Withdrawal at P1.

<sup>26</sup> See 19 CFR 351.308(a); see also *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002).

<sup>27</sup> See section 776(b)(1)(B) of the Act.

<sup>28</sup> See SAA, H.R. Doc. 103-316, Vol. 1 (1994) at 870; *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

the facts available.<sup>29</sup> It is Commerce's practice to consider, in employing adverse facts available, the extent to which a party may benefit from its own lack of cooperation.<sup>30</sup>

We preliminarily find that Both Well and Luchu have not acted to the best of their abilities to comply with Commerce's request for information. Both Well and Luchu failed to respond to Commerce's questionnaire. The failure of Both Well and Luchu to participate in this investigation and respond to Commerce's questionnaire has precluded Commerce from performing the necessary analysis to calculate weighted-average dumping margins for them based on their own data. Accordingly, Commerce concludes that Both Well and Luchu failed to cooperate to the best of their abilities to comply with a request for information by Commerce. Based on the above, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), Commerce preliminarily determines to use an adverse inference when selecting from among the facts otherwise available.<sup>31</sup>

C) *Preliminary Estimated Weighted-Average Dumping Margin Based on Adverse Facts Available*

Section 776(b)(2) of the Act states that Commerce, when employing an adverse inference, may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.<sup>32</sup> In selecting a rate based on adverse facts available (AFA), Commerce selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.<sup>33</sup> Commerce's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition, or (2) the highest calculated rate of any respondent in the investigation.<sup>34</sup>

With respect to this investigation, the only dumping margin alleged in the Petition is 116.17 percent and no rate was calculated for an individually-examined respondent. Thus, consistent with Commerce's practice, we have selected the only dumping margin alleged in the Petition as

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<sup>29</sup> See, e.g., *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Preamble*, 62 FR at 27340.

<sup>30</sup> See, e.g., *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum at 4; unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476 (March 14, 2014).

<sup>31</sup> See, e.g., *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 29423 (May 22, 2014), and accompanying Preliminary Decision Memorandum at 7-11; unchanged in *Non-Oriented Electrical Steel from Germany, Japan, the People's Republic of China, and Sweden: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 61609 (October 14, 2014); see also *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR at 42985, 42986 (July 12, 2000) (where Commerce applied total AFA when the respondent failed to respond to the antidumping questionnaire).

<sup>32</sup> See also 19 CFR 351.308(c).

<sup>33</sup> See SAA, at 870.

<sup>34</sup> See *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014), and accompanying Issues and Decision Memorandum at Comment 3.

the AFA rate applicable to Both Well and Luchu in this investigation.

#### D) *Corroboration of Secondary Information*

When using facts otherwise available, section 776(c) of the Act provides that, where Commerce relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the Petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.<sup>35</sup> The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information to be used has probative value,<sup>36</sup> although under the Trade Preferences Extension Act of 2015 (TPEA), Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.<sup>37</sup> To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used,<sup>38</sup> 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>39</sup>

Thus, because the AFA rate applied to both Both Well and Luchu, the mandatory respondents in this investigation, is derived from the Petition and, consequently, is based upon secondary information, Commerce must corroborate the rate to the extent practicable. In this case, we determined that the Petition margin is reliable where, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis and for purposes of this preliminary determination.<sup>40</sup>

Specifically, we examined evidence supporting the calculations in the Petition to determine the probative value of the dumping margin alleged in the Petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis, we also examined the key elements of the alleged dumping margin calculation, *i.e.*, export price (EP) and normal value (NV).<sup>41</sup> Further, we examined information from various independent sources provided either in the Petition or, based on our request, in the supplement to the Petition that corroborates key elements of the EP and NV calculations used in the Petition to derive the estimated dumping

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<sup>35</sup> See SAA, at 870.

<sup>36</sup> See SAA at 870; see also 19 CFR 351.308(d).

<sup>37</sup> See section 776(c)(2) of the Act; section 502(2) of the TPEA.

<sup>38</sup> See *e.g.*, *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*; *Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996); *unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*; *Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

<sup>39</sup> See section 776(d)(3) of the Act.

<sup>40</sup> See Taiwan Initiation Checklist.

<sup>41</sup> *Id.*

margin alleged in the Petition.<sup>42</sup>

Based on our examination of the information, as discussed in detail in the Taiwan Initiation Checklist, we consider the petitioners' EP and NV calculations to be reliable. Because we obtained no other information that calls into question the validity of the sources of information or the validity of the information supporting the EP and NV calculations provided in the Petition, based on our examination of the aforementioned information, we preliminarily consider the EP and NV calculations from the Petition to be reliable. Because we confirmed the accuracy and validity of the information underlying the derivation of the dumping margin alleged in the Petition by examining source documents and affidavits, as well as publicly available information, we preliminarily determine that the dumping margin alleged in the Petition is reliable for the purpose of this investigation.

In making a determination as to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal to determine whether there are circumstances that would render a rate not relevant. Because there are no cooperative respondents in this investigation, we relied upon the dumping margin alleged in the Petition, which is the only information regarding the forged steel fittings industry reasonably at Commerce's disposal. Furthermore, as noted in *GOES from China*, in which the only mandatory respondent received AFA, "there was no need to review any additional documentation outside of what was submitted in the Petition considering such sources of information fulfill our requirements for corroboration of secondary information."<sup>43</sup>

Accordingly, Commerce preliminarily determines that the only dumping margin alleged in the Petition has probative value. Commerce has corroborated the AFA rate of 116.17 percent to the extent practicable within the meaning of section 776(c) of the Act by demonstrating that the rate: 1) was determined to be reliable in the pre-initiation stage of this investigation (and there is no record information indicating otherwise), and 2) is relevant to the uncooperative mandatory respondents.<sup>44</sup>

## VIII. ALL-OTHERS RATE

Section 735(c)(5)(A) of the Act provides that the estimated "all-others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of

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<sup>42</sup> *Id.*

<sup>43</sup> See *Grain-Oriented Electrical Steel from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 59226 (October 1, 2014) (*GOES from China*), and accompanying Issues and Decision Memorandum at 20; see also *KYD, Inc. v. United States*, 607 F.3d 760, 765 (Fed. Cir. 2010) (agreeing with Commerce that price quotes and third-party affidavits used in the petition to calculate estimated margins were independent information not requiring additional corroboration and stating that "[t]he relevant inquiry focuses on the nature of the information, not on whether the source of the information was referenced in or included with the petition").

<sup>44</sup> See section 776(c) of the Act and 19 CFR 351.308(c) and (d); see also *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 35652, 35653 (June 24, 2008), and accompanying Issues and Decision Memorandum at Comment 1.



the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis*, or determined entirely under section 776 of the Act, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

As indicated above, Both Well and Luchu are mandatory respondents and their preliminary estimated dumping margins are determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, Commerce's practice under these circumstances has been to assign, as the "all-others" rate, a simple average of the Petition rates.<sup>45</sup> However, because the Petition here contained only one estimated dumping margin, there are no additional estimated margins available on which to base the "all-others" rate. Consequently, and consistent with its practice, Commerce is using the Petition margin of 116.17 percent as the "all-others" rate applicable to entities not individually examined in this investigation.<sup>46</sup>

## IX. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

☒

Agree

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Disagree

5/7/2018

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Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

<sup>45</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>46</sup> See *Certain Oil Country Tubular Goods from Thailand: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 79 FR 10487 (February 25, 2014), unchanged in *Certain Oil Country Tubular Goods from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 41978 (July 18, 2014).