UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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Investigation
Public Document
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July 24, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China

Summary

The Department of Commerce ("Department") preliminarily determines that certain crystalline silicon photovoltaic products ("certain solar products") from the People's Republic of China ("PRC") 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 period of investigation ("POI") is April 1, 2013, through September 30, 2013. The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of the accompanying Federal Register notice.

Background

On December 31, 2013, the Department received antidumping duty ("AD") and countervailing duty petitions concerning imports of certain solar products from the PRC and an AD petition concerning imports of certain solar products from Taiwan filed in proper form by SolarWorld Industries America, Inc. ("Petitioner").[1] The Department published the initiation of these AD investigations, as well as the companion countervailing duty investigation concerning imports of certain solar products from the PRC, on January 29, 2014.[2]

In the Initiation Notice, the Department requested comments from interested parties regarding the appropriate physical characteristics of certain solar products to be reported in response to the

[1] See "Petition for the Imposition of Antidumping and Countervailing Duties on Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and Taiwan," dated December 31, 2013 ("Petition").
[2] See Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations, 79 FR 4661 (January 29, 2014) ("Initiation Notice"); see also Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Initiation of Countervailing Duty Investigation, 79 FR 4667 (January 29, 2014).

Department's AD questionnaires, and the Department also set aside a period for interested parties to raise issues regarding product coverage. Between February 12, 2014 and February 19, 2014, interested parties submitted comments and rebuttal comments on physical characteristics.[3] Between February 18, 2014, and April 21, 2014, interested parties submitted comments and rebuttal comments regarding product coverage.[4]

On March 4, 2014, the U.S. International Trade Commission ("ITC") published its preliminary determination in which it determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the PRC and Taiwan of certain solar products.[5]

In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy ("NME") investigations.[6] The process requires exporters and producers to submit a separate rate status application ("SRA")[7] and to demonstrate an absence of both de jure and de facto government control over their export activities. In the Initiation Notice, we stated that the SRAs would be due 60 days after publication of the notice.[8] On March 28, 2014, the Department extended the SRA deadline to April 7, 2014, for three companies, Motech (Suzhou) Renewable Energy Co.

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[3] See Submission from Petitioner, "Comments on Physical Characteristics for Reporting of Sales and Costs," dated February 12, 2014; Submission from Yingli Green Energy Holding Company Limited, Yingli Green Energy Americas, Inc., Canadian Solar Inc., Changzhou Trina Solar Energy Co., Ltd., and Jinko Solar Co., Ltd., "Comments on Product Characteristics," dated February 12, 2014; Submission from Petitioner, "Rebuttal Comments on Physical Characteristics for Reporting of Sales and Costs," dated February 19, 2014; Submission from Yingli Green Energy Holding Company Limited, Yingli Green Energy Americas, Inc., Canadian Solar Inc., Changzhou Trina Solar Energy Co., Ltd., Wuxi Suntech Power Co., Ltd., Shanghai JA Solar Technology Co., Ltd., Hefei JA Solar Technology Co., Ltd., and Jinko Solar Co., Ltd., "Rebuttal Comments on Product Characteristics," dated February 19, 2014.

[4] See Submission from Gintech Energy Corporation, "Gintech Comments on Scope," dated February 18, 2014; Submission from Motech Industries, Inc., "Comments on Scope of Investigation," dated February 18, 2014; Submission from Neo Solar Power Corporation, "Scope Comments," dated February 18, 2014; Submission from NextEra Energy, Inc., "NextEra Energy Scope Comments," dated February 18, 2014;Submission from SunEdison, Inc., "SunEdison Comments on Scope," dated February 18, 2014; Submission from Suniva, Inc., "Comments on the Scope and Request for Scope Revisions," dated February 18, 2014; Submission from Yingli Green Energy Holding Company Limited, Yingli Green Energy Americas, Inc., Canadian Solar Inc., Changzhou Trina Solar Energy Co., Ltd., Wuxi Suntech Power Co., Ltd., Shanghai JA Solar Technology Co., Ltd., Hefei JA Solar Technology Co., Ltd., and Jinko Solar Co., Ltd., "Comments on Scope," dated February 18, 2014; Submission from Petitioner, "Rebuttal to Respondents' Scope Comments," dated April 3, 2014; Submission from Yingli Green Energy Holding Company Limited, Yingli Green Energy Americas, Inc., Canadian Solar Inc., Changzhou Trina Solar Energy Co., Ltd., Wuxi Suntech Power Co., Ltd., Shanghai JA Solar Technology Co., Ltd., Hefei JA Solar Technology Co., Ltd., and Jinko Solar Co., Ltd., "Response to Petitioner's Rebuttal on Scope," dated April 21, 2014.

[5] See Certain Crystalline Silicon Photovoltaic Products from China and Taiwan, 79 FR 12221 (March 4, 2014).

[6] See Initiation Notice, 79 FR at 4666.

[7] See Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005) ("Policy Bulletin 05.1"), available at http://enforcement.trade.gov/policy/bull05-1.pdf.

[8] In this case, the deadline of March 30, 2014, fell on a Sunday. Pursuant to 19 CFR 351.303(b), where a deadline falls on a weekend or federal holiday, the Department will accept documents that are filed on the next business day.
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Ltd., Wuxi Suntech Power Co., Ltd., and Zhongli Talesun Solar Co. Ltd.[9] Between March 4, 2014, and April 7, 2014, interested parties submitted SRAs. We issued supplemental questionnaires to certain separate rate applicants to which we received responses in June and July 2014.

On March 21, 2014, the Department selected Changzhou Trina Solar Energy Co., Ltd. and Renesola Jiangsu Ltd. ("Renesola") as mandatory respondents in this investigation.[10] On March 24, 2014, the Department issued AD questionnaires to Trina Solar Energy Co., Ltd. and Renesola. As will be discussed below, on May 16, 2014 the Department determined pursuant to sections 771(33)(A), (E) and (F) of the Act that the producers Renesola and Jinko Solar, and Jinko Solar I&E (referred to herein as Renesola/Jinko) are affiliated and that these companies should be treated as a single entity for AD purposes pursuant to 19 CFR 351.401(f).[11] On June 30, 2014, the Department determined, pursuant to sections 771(33)(F) and (G) that the producers Trina Solar and Trina Solar (Changzhou) Science & Technology Co., Ltd. (referred to herein as Trina Solar) are affiliated and that these companies should be treated as a single entity for AD purposes pursuant to 19 CFR 351.401(f).[12] Between April 22, 2014, and July 16, 2014, Trina Solar and Renesola/Jinko submitted responses to the Department's AD questionnaire and supplemental questionnaires and Petitioner submitted comments on those questionnaire responses. In June and July 2014 Petitioner and Trina Solar filed comments on the preliminary determination.

Period of Investigation

The POI is April 1, 2013, through September 30, 2013. This period corresponds to the two most recently completed fiscal quarters as of the month preceding the month in which the petition was filed, which was December 2013.[13]

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[9] See Letters to Motech (Suzhou) Renewable Energy Co. Ltd., Wuxi Suntech Power Co., Ltd., and Zhongli Talesun Solar Co. Ltd., "Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Separate Rate Application Extensions," dated March 28, 2014.

[10] See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Respondent Selection," dated March 21, 2014 ("Respondent Selection Memorandum"). Subsequently, the Department determined to treat Trina Solar and Trina Solar (Changzhou) Science & Technology Co., Ltd. as a single entity (collectively "Trina Solar") and determined to treat Renesola, Renesola Zhejiang Ltd., ("Renesola Zhejiang"), Jinko Solar Co. Ltd. ("Jinko Solar") and Jinko Solar Import and Export Co., Ltd. ("Jinko Solar I&E") as a single entity (collectively "Renesola/Jinko"). See the section of this memorandum entitled "Single Entity Treatment"

[11] See Memorandum from Thomas Martin to Abdelali Elouaradia, regarding "Affiliation and Single Entity Status," dated May 16, 2012.

[12] See Memorandum from Jeff Pedersen to Abdelali Elouaradia, regarding "Affiliation and Single Entity Status of Changzhou Trina Solar Energy Co., Ltd. and Trina Solar (Changzhou) Science & Technology Co., Ltd.," dated June 30, 2014.

[13] See 19 CFR 351.204(b)(1).

Postponement of Preliminary Determination

On May 27, 2014, pursuant to section 733(c)(1)(B) of the Act and 19 CFR 351.205(b)(2), the Department published a 43-day postponement of the preliminary AD determination on certain solar products from the PRC.[14]

Scope of the Investigation

The merchandise covered by this investigation is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of this investigation, subject merchandise also includes modules, laminates and/or panels assembled in the subject country consisting of crystalline silicon photovoltaic cells that are completed or partially manufactured within a customs territory other than that subject country, using ingots that are manufactured in the subject country, wafers that are manufactured in the subject country, or cells where the manufacturing process begins in the subject country and is completed in a non-subject country.

Subject merchandise includes crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of this investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of this investigation are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China. See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (December 7, 2012); Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Countervailing Duty Order, 77 FR 73017 (December 7, 2012).

Also excluded from the scope of this investigation are crystalline silicon photovoltaic cells, not exceeding 10,000mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030,

[14] See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and Taiwan: Postponement of Preliminary Determination of Antidumping Duty Investigations, 79 FR 30084 (May 27, 2014).

8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

Scope Comments

In accordance with the preamble to the Department's regulations,[15] in our Initiation Notice we set aside a period of time for parties to raise issues regarding product coverage. Between February 18, 2014, and April 21, 2014, numerous interested parties timely submitted scope comments and rebuttal scope comments.[16] The Department is continuing to analyze interested parties' scope comments, including comments on whether it is appropriate to apply a traditional substantial transformation or other analysis in determining the country of origin of certain solar modules described in the scope of the investigation.

With respect to administering this investigation, we note that the scope explicitly excludes any products covered by the existing AD and countervailing duty (CVD) orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the PRC.[17] Further, this investigation and the ongoing investigation of solar products from Taiwan are not intended to cover the same merchandise. We will continue to work with CBP to ensure that the scope of this investigation and the ongoing investigation of solar products from Taiwan is properly administered for each investigation and that the appropriate cash deposit rates are applied. In addition, we are implementing a certification requirement with respect to these investigations that is described in our preliminary determination notice.

Selection of Respondents

Section 777A(c)(l) of the Act directs the Department to calculate an individual weighted average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to make individual weighted average dumping margin determinations because of the large number of exporters or producers involved in the investigation. When the Department limits the number of exporters or producers examined in an investigation pursuant to section 777A(c)(2) of the Act, section 782(a) of the Act directs the Department to calculate individual weighted average dumping margins for companies not initially selected for individual examination who voluntarily provide the information

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[15] See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27323 (May 19, 1997) ("Preamble").

[16] See scope comment submissions, dated February 18, 2014, from Gintech; Motech; Neo Solar Power Corporation; NextEra Energy, Inc.; SunEdison, Inc.; Suniva, Inc.; Solartech Energy Corp.; and Yingli Green Energy Holding Company Limited, Yingli Green Energy Americas, Inc., Canadian Solar Inc., Changzhou Trina Solar Energy Co., Ltd., Wuxi Suntech Power Co., Ltd., Shanghai JA Solar Technology Co., Ltd., Hefei JA Solar Technology Co., Ltd., and Jinko Solar Co., Ltd.; *see also* rebuttal scope comment submissions, dated April 3, 2014, from Petitioner, and dated April 21, 2014, from Yingli Green Energy Americas, Inc., Canadian Solar Inc., Changzhou Trina Solar Energy Co., Ltd., Wuxi Suntech Power Co., Ltd., Shanghai JA Solar Technology Co., Ltd., Hefei JA Solar Technology Co., Ltd., and Jinko Solar Co., Ltd.

[17] See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (December 7, 2012); Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Countervailing Duty Order, 77 FR 73017 (December 7, 2012).

requested of the mandatory respondents if: (1) the information is submitted by the due date specified for the mandatory respondents and (2) the number of such companies that have voluntarily provided such information is not so large that individual examination would be unduly burdensome and inhibit the timely completion of the investigation.

On January 23, 2014, the Department mailed quantity and value ("Q&V") questionnaires to the 78 PRC exporters and/or producers of certain solar products named in the Petition.[18] Sixty of the Q&V questionnaires were successfully delivered to the addressee.[19] The Department received timely filed Q&V questionnaire responses from 64 exporters/producers.[20] On March 21, 2014, the Department determined that it was not practicable to examine more than two mandatory respondents in the investigation. Therefore, in accordance with section 777A(c)(2) of the Act, the Department selected the two exporters accounting for the largest volume of certain solar products exported from the PRC during the POI (i.e., Trina Solar and Renesola) based on Q&V data.[21] The Department issued its AD NME questionnaire to Trina Solar and Renesola on March 24, 2014.

We noted in the Respondent Selection Memorandum that Yingli Green Energy Holdings Company Limited and Yingli Green Energy Americas, Inc. timely filed a request for treatment as a voluntary respondent. We further stated in the memorandum that if any company, including those which submitted voluntary respondent requests, wished to be treated as a voluntary respondent and met the requirements of section 782(a) of the Act and 19 CFR 351.204(d), we would evaluate the circumstances at that time to determine whether the individual examination of such companies would be unduly burdensome and inhibit the timely completion of the investigation. Yingli Green Energy Holdings Company Limited and Yingli Green Energy

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[18] See Initiation Notice at 79 FR 4666; see also memorandum to the file from Jonathan Hill, International Trade Analyst, Office IV, AD/CVD Operations, on the subject "Issuance of Quantity and Value Questionnaires" dated February 7, 2014. The Department issued Q&V questionnaires to each of the companies listed in Exhibit I-10A (Revised) of the January 13, 2014 supplement to the Petition.

[19] See memorandum to the file from Erin Kearney International Trade Analyst, Office 4, AD/CVD Operations on the subject "Delivery of Quantity and Value Questionnaires" dated March 12, 2014.

[20] The companies not named in the Petition which filed timely Q&V questionnaire responses are: Anji DaSol Solar Energy Science & Technology Co., Ltd.; Asun Energy Co., Ltd. (a/k/a Suzhou Asun Energy Co., Ltd.); BYD (Shangluo) Industrial Company Limited; CEEG Nanjing Renewable Energy Co., Ltd.; Changzhou Almaden Co., Ltd.; Dongguan Sunworth Solar Energy Co., Ltd.; ET Solar Industry Limited; Hainan Yingli New Energy Resources Co., Ltd.; Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd.; Hanwha Q CELLS GmbH, Hengshui Yingli New Energy Resources Co., Ltd.; Jumao Photonic (Xiamen) Co., Ltd.; Jiawei Technology (HK) Ltd.; Lianyungang Shenzhou New Energy Co., Ltd.; Perlight Solar Co., Ltd.; Shenzhen Jiawei Photovoltaic Lightning Co. Ltd.; Shenzhen Sungold Solar Co., Ltd.; Sumec Hardware & Tools Co. Ltd.; Sunenergy (S.Z) Co., Ltd.; Sunny Apex Development Ltd.; SunPower Corporation; SunPower Philippines Manufacturing Ltd.; SunPower Systems SARL; tenKsolar (Shanghai) Co., Ltd.; Upsolar Global Co., Ltd.; Upsolar Group Co., Ltd.; Wuxi Taichen Machinery & Equipment Co., Ltd.; and Wuhan FYY Technology Co., Ltd. Seven of the 64 timely filed Q&V questionnaire responses were improperly filed. The Department provided an opportunity for these seven companies to correct their filing deficiencies. Hangzhou AmpleSun Solar Technology Co., Ltd., Hanwha Q CELLS GmbH, Jumao Photonic (Xiamen) Co., Ltd., and Tainergy Tech Co., Ltd. re-filed their responses with the deficiencies in the responses corrected. General SolarPower (Yantai) Co., Ltd., Shandong Linuo Photo voltaic Hi-Tech Co., Ltd., and Tianwei New Energy (Yangzhou) Co., Ltd. did not correct their filing deficiencies. Therefore, we rejected the Q&V questionnaire responses of these three companies. See Document Rejection Memoranda to the File, dated May 9, 2014.

[21] See Respondent Selection Memorandum.

Americas, Inc. did not submit a response to the Department's AD NME questionnaire and thus they have not met the requirements of section 782(a) of the Act and 19 CFR 351.204(d).

Discussion of the Methodology

Non-Market Economy Country

The Department considers the PRC to be an NME country.[22] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. No information or argument has been presented to demonstrate that the PRC should not be considered to be an NME. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value ("NV"), in most circumstances, on the NME producer's factors of production ("FOPs"), valued in a surrogate market economy ("ME") country or countries considered to be appropriate by the Department. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, "to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (A) at a level of economic development comparable to that of the NME country; and (B) significant producers of comparable merchandise."[23] To determine which countries are at a comparable level of economic development, the Department generally relies solely on per capita gross national income ("GNI") data from the World Bank's World Development Report.[24] In addition, if more than one country satisfies the two criteria noted above, the Department narrows the field of potential surrogate countries to a single country (pursuant to 19 CFR 351.408(c)(2), the Department prefers to value FOPs in a single surrogate country) based on data availability and quality.

On March 28, 2014, the Department identified Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand as being at the level of economic development of the PRC.[25] On May 6, 2014, the Department issued a letter to the interested parties that not only solicited comments on the list of countries that the Department determined, based on per capita GNI, to be at the level of economic development of the PRC, and the selection of the primary surrogate country, but

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[22] See, e.g, Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results, 76 FR 62765, 62767-68 (October 11, 2011), unchanged in Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review, 77 FR 21734 (April 11, 2012).

[23] For a description of the Department's practice, see Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin 04.1") available on the Department's website at http://enforcement.trade.gov/policy/bull04-1.html.

[24] Id.

[25] See Memorandum from Carole Showers, Director, Office of Policy, to Howard Smith, Program Manager, Office IV, Enforcement and Compliance, "Request for a List of Surrogate Countries for an Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China," dated Marcy 28, 2014 ("Surrogate Country Memo").

also provided deadlines for the consideration of any submitted surrogate value information for the preliminary determination.[26] The Department received timely comments on the surrogate country list and surrogate country selection from Petitioner and Trina Solar.[27]

Petitioner recommends that the Department select Thailand as the primary surrogate country, in particular because Thailand is at the same level of economic development as the PRC, is a significant producer of identical or comparable merchandise, and four solar module producers exist within Thailand. Trina Solar recommends South Africa as the surrogate country, in particular because South Africa is a significant producer of comparable merchandise with two producers of solar modules.

A. Economic Comparability

Consistent with its practice, and section 773(c)(4)(A) of the Act,[28] the Department identified Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand as countries at the level of economic development of the PRC based on the most current annual issue of World Development Report 2014.[29]

B. Significant Producer of Comparable Merchandise

Among the factors we consider in determining whether a country is a significant producer of comparable merchandise is whether the country is an exporter of comparable merchandise. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, we examined whether any of the potential surrogate countries exported merchandise comparable to the merchandise under consideration. Accordingly, the Department obtained export data for the six-digit Harmonized Tariff System ("HTS") number listed in the description of the scope of this investigation specific to solar panels (i.e., 8541.40) for each of the six potential surrogate countries listed above, except Bulgaria, for which there were no data, and Ecuador, which had no exports under HTS 8541.40 during the POI. After reviewing the export data, the Department preliminarily determines that Colombia, Indonesia, South Africa, and Thailand are significant producers of merchandise comparable to the merchandise under consideration.

C. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, the Department selects the primary surrogate country based on data

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[26] See Letter to All Interested Parties, "Request and Extension of due date for Surrogate Country and Surrogate Value Comments and Information," dated May 6, 2014.
[27] See Surrogate Country Comments filed by Petitioner on May 23, 2014, May 30, 2014, June 4, 2014, June 25, 2014, and July 7, 2014 and by Trina on May 23, 2014, May 30, 2014, June 23, 2014, and June 30, 2014. Petitioner and Trina also filed surrogate value comments and surrogate value information with which to value the FOPs in this proceeding on May 23 and June 24, 2014. On May 30, 2014, Petitioner and Trina Solar each filed rebuttal surrogate factor valuation comments and surrogate value information with which to value the FOPs. On June 4, 2014, and July 7, 2014, Petitioner filed additional rebuttal comments on surrogate value information provided by Trina Solar.
[28] See Surrogate Country Memo.
[29] See id.

availability and reliability.[30] When evaluating surrogate value data, the Department considers several factors, including whether the surrogate values are publicly available, contemporaneous with the POI, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.[31]

Parties have placed surrogate value data on the record for South Africa and Thailand.[32] Petitioner contends that Thai surrogate values, including financial statements for Thai producers of merchandise comparable to solar products, are available for all FOPs. Trina Solar placed South African FOP information on the record. Record evidence indicates that all of the Thai companies whose financial statements were placed on the record received countervailable subsidies during the POI;[33] in contrast, there is no evidence that the one South African company whose financial statements are on the record received countervailable subsidies. The Department has a practice of not relying on financial statements where there is evidence of receipt of countervailable subsidies and there are other usable financial statements on the record.[34]

The financial statements from South Africa are for Mustek Limited, a computer assembler, while the five companies from Thailand for which financial statements have been placed on the record are circuit board manufacturers. Petitioner argues that the production of circuit boards is more similar to that of solar panels than the assembly of computers. However, solar panel manufacturing consists of casting silicon into ingots, slicing ingots into wafers, processing the wafers into cells, and assembling the cells into panels.[35] While circuit board manufacturing may be similar to processing wafers into cells, assembling solar cells into panels is also a significant stage of solar panel manufacturing. We preliminarily find that the panel assembly stage of manufacturing, which involves assembling cells, wires, junction boxes and other parts into panels, is more comparable to the assembly of computers,[36] which involves assembling circuit boards, wires, junction boxes and other parts into a computer, than it is to circuit board manufacturing, which involves attaching and connecting electronic components and etching

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[30] For a description of our practice, see Policy Bulletin 04.1.

[31] See id.

[32] Petitioner and Trina filed surrogate value comments and surrogate value information with which to value the FOPs in this proceeding on May 23 and June 24, 2014. On May 30, 2014, Petitioner and Trina Solar each filed rebuttal surrogate factor valuation comments and surrogate value information with which to value the FOPs. On June 4, 2014, and July 7, 2014, Petitioner filed additional rebuttal comments on surrogate value information provided by Trina Solar.

[33] For Hana Microelectronics Company Limited see Petitioner's May 23, 2014 Comments on Surrogate Country and Surrogate Values at Exhibit 11, page 34; for KCE Electronics Public Company Limited see Petitioner's June 24, 2014 Submission of Surrogate Values at Exhibit 12 at 329. For Stars Microelectronics (Thailand) Public Company Limited see Trina's June 24, 2014 submission at Exhibit 1, page 34. For SIIX EMS (Thailand) Co. Ltd see Trina's June 24, 2014 submission at Exhibit 2, note 20. For Team Precision Public Company Limited see Trina's May 30, 2014 submission at Exhibit 6 at 76.

[34] See Certain Steel Threaded Rod from the People's Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2011-2012, 78 FR 66330 (November 5, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

[35] See Volume 1 of the Petition at 13.

[36] See Trina Solar's May 23, 2014 submission at Exhibit 10 where Mustek Limited, a computer assembler, describes and provides pictures of its computer assembly operations, its computerized and automated assembly, and its research and development efforts at page 30 and the last five pages of Exhibit 10.

conductive tracks, pads and other features from copper sheets and laminating them onto a non-conductive substrate.[37]

While Petitioner alleged that Thai HTS categories are more specific to the inputs used to produce subject merchandise than are South Africa's HTS categories, we preliminarily find that this claim is not correct for most inputs. In fact, some South African HTS categories are more specific to the inputs used by the respondents than Thai HTS categories. For example, South African HTS categories for backsheets and junction boxes are itemized by more detailed categories for thickness and voltage, respectively, than are Thai HTS categories. Also, the record contains South African data to value labor, rail freight, and inland water freight, the last of which is a significant mode of transportation used to ship Trina Solar's solar panels to the United States. None of this information is on the record for Thailand. Moreover, we find individual specificity issues in this case are outweighed by the lack of usable Thai financial statements, i.e., financial statements that do not contain evidence of receipt of countervailable subsidies.

Given the foregoing, we have selected South Africa as the primary surrogate country. Therefore, the Department has calculated NV using South Africa import prices when available and appropriate to value respondents' FOPs.

Surrogate Value Comments

Petitioner and Trina Solar filed surrogate value comments and surrogate value information with which to value the FOPs in this proceeding on May 23 and June 24, 2014. On May 30, 2014, Petitioner and Trina Solar each filed rebuttal surrogate factor valuation comments and surrogate value information with which to value the FOPs. On June 4, 2014, and July 7, 2014, Petitioner filed additional rebuttal comments on surrogate value information provided by Trina Solar. For a detailed discussion of the surrogate values used in this LTFV proceeding, see the "Factor Valuation Methodology" section below and the Preliminary SV Memorandum.

Separate Rates

In proceedings involving NME countries, the Department maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.[38] The Department's policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[39] The Department analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in Sparklers[40] and further

[37] See Petitioner's June 24, 2014 Submission of Surrogate Values at Exhibit 12 at 40, included the financial statements of KCE Electronics Public Company Limited, a printed circuit board manufacturer. These statements describe its production processes.
[38] See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039, 55040 (September 24, 2008).
[39] See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588, 20589 (May 6, 1991) ("Sparklers").
[40] Id.

developed in Silicon Carbide.[41] According to this separate rate test, the Department will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both de jure and de facto government control over its export activities. If, however, the Department determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

A. Separate Rate Recipients

The Department preliminary grants the following companies a separate rate, as explained below:

1. Anji DaSol Solar Energy Science & Technology Co., Ltd.
2. Baoding Tianwei Yingli New Energy Resources Co. , Ltd
3. BYD (Shangluo) Industrial Co., Ltd.
4. CEEG Nanjing Renewable Energy Co., Ltd.
5. Changzhou Almaden Co., Ltd.
6. Chint Solar (Zhejiang) Co., Ltd.
7. Hainan Yingli New Energy Resources Co. Ltd
8. Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd.
9. Hefei JA Solar Technology Co., Ltd.
10. Hengdian Group DMEGC Magnetics Co., Ltd
11. Hengshui Yingli New Energy Resources Company Limited
12. Jiawei Solarchina Co., Ltd.
13. Jiawei Technology (HK) Ltd.
14. LDK Solar Hi-Tech (Nanchang) Co., Ltd.
15. Lixian Yingli New Energy Company Ltd.
16. Renesola Jiangsu Ltd./Renesola Zhejiang Ltd./Jinko Solar Co. Ltd./Jinko Solar Import and Export Co., Ltd.
17. Ningbo Qixin Solar Electrical Appliance Co., Ltd.
18. Perlight Solar Co., Ltd.
19. Risen Energy Co., Ltd.
20. Shanghai JA Solar Technology Co., Ltd.
21. Shanghai Solar Energy Science & Technology Co., Ltd.
22. Shenzhen Jiawei Photovoltaic Lighting Co. Ltd.
23. Shenzhen Sungold Solar Co., Ltd.
24. Shenzhen Topray Solar Co., Ltd.
25. Sun Earth Solar Power Co., Ltd.
26. Wanxiang Import & Export Co., Ltd.
27. Wuhan FYY Technology Co., Ltd.
28. Wuxi Suntech Power Co., Ltd
29. Yingli Energy (China) Company Limited
30. Yingli Green Energy International Trading Limited
31. Zhongli Talesun Solar Co.,Ltd.
32. Asun Energy Co., Ltd. (a/k/a Suzhou Asun Energy Co., Ltd.)

[41] See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China, 59 FR 22585 (May 2, 1994) ("Silicon Carbide").

33. Canadian Solar International Limited
34. Canadian Solar Manufacturing (Changshu), Inc.
35. Canadian Solar Manufacturing (Luoyang) Inc.
36. Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science & Technology Co., Ltd.
37. ET Solar Industry Limited
38. Hanwha SolarOne (Qidong) Co., Ltd.
39. Hanwha SolarOne Hong Kong Limited
40. Jiangyin Hareon Power Co., Ltd.
41. MOTECH (Suzhou) Renewable Energy Co., Ltd
42. Sunny Apex Development Ltd.
43. SunPower Systems SARL
44. Upsolar Global Co., Ltd. and including Upsolar Group, Co., Ltd.

1. Joint Ventures between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

Companies one through 31, listed above, provided evidence that they are either Chinese joint-stock limited companies, or are wholly Chinese-owned companies. The Department analyzed whether each of these companies have demonstrated an absence of de jure and de facto government control over their respective export activities.

a. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.[42]

The evidence provided by companies one through 31 in the above list supports a preliminary finding of an absence of de jure government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.

b. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to de facto government control of its export functions: (1) whether the export prices ("EP") are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent

[42] See Sparklers, 56 FR at 20589.

decisions regarding the disposition of profits or financing of losses.[43] The Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The evidence provided by companies one through 31 in the above list supports a preliminary finding of an absence of de facto government control based on record statements and supporting documentation showing that the companies: (1) set their own EPs independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

Therefore, the evidence placed on the record of this investigation by companies one through 31 in the above list demonstrates an absence of de jure and de facto government control under the criteria identified in Sparklers and Silicon Carbide. Accordingly, the Department preliminarily grants separate rates to these companies.

2. Wholly Foreign-Owned

Companies 32 through 44 in the above list provided evidence in their submissions that they are wholly owned by a company located in a ME country. Moreover, the Department has no record evidence indicating that these companies are under the control of the government of China ("GOC"). For these reasons, it is not necessary for the Department to conduct a separate rate analysis to determine whether these companies are independent from government control.[44] Therefore, the Department has preliminarily granted a separate rate to companies 32 through 44 in the above list.[45]

B. Companies Not Receiving a Separate Rate

For the reasons explained in the business proprietary memorandum regarding "Companies Not Receiving a Separate Rate"[46] the Department has not granted a separate rate to the following Separate Rate Applicants:

1. CSG PVTech Co., Ltd.
2. tenKsolar (Shanghai) Co., Ltd.

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[43] See Silicon Carbide, 59 FR at 22586-87; Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).
[44] See, e.g., Seamless Refined Copper Pipe and Tube from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 75 FR 26716, 26720 (May 12, 2010), unchanged in Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 60725 (October 1, 2010).
[45] See "Preliminary Determination" section below.
[46] See the memorandum from Jeff Pedersen Senior International Trade Analyst, Office IV, AD/CVD Operations to Abdelali Elouaradia, Director, Office IV AD/CVD Operations regarding "Companies Not Receiving a Separate Rate," dated concurrently with, and adopted by, this memorandum.

3. Lianyungang Shenzhou New Energy Co., Ltd.
4. Lightway Green New Energy Co., Ltd.
5. SunEnergy (S.Z.) Co., Ltd.
6. SunPower Corproration (U.S.)
7. Jiawei Solarchina (Shenzhen) Co., Ltd.
8. Sumec Hardware & Tools Co., Ltd.

Margin for the Separate Rate Companies

Normally, the Department's practice is to assign to separate rate entities that were not individually examined a rate equal to the average of the rates calculated for the individually examined respondents, excluding any rates that are zero, de minimis, or based entirely on facts available, in accordance with section 735(c)(5)(A) of the Act.[47] The statute further provides that, where all margins are zero rates, de minimis rates, or rates based entirely on facts available, the Department may use "any reasonable method" for assigning the rate to non-selected respondents.[48] We based our calculation of the separate rate on the weighted-average of the margins calculated for the mandatory respondents using publicly-ranged data. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for these respondents.[49]

Combination Rates

In the Initiation Notice, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.[50] This practice is described in Policy Bulletin 05.1.[51]

The PRC-wide Entity

As discussed above, we have determined not to grant a separate rate to eight companies, CSG PVTech Co., Ltd., tenKsolar (Shanghai) Co., Ltd., Lianyungang Shenzhou New Energy Co., Ltd., Lightway Green New Energy Co., Ltd., SunEnergy (S.Z.) Co., Ltd., SunPower Corproration (U.S.), Jiawei Solarchina (Shenzhen) Co., Ltd., and Sumec Hardware & Tools Co., Ltd. Specifically, we found these companies either have not demonstrated an absence of de facto government control, or did not have a transaction during the POI that provided a basis for

[47] See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China, 71 FR 77373, 77377 (December 26, 2006), unchanged in Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China, 72 FR 19690 (April 19, 2007).
[48] See 735(c)(5)(B).
[49] See the Department's memorandum to the file titled, "Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Calculation of the Preliminary Margin for Separate Rate Recipients," dated concurrently with, and adopted by, this memorandum.
[50] See Initiation Notice.
[51] See Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, dated April 5, 2005 found at: http://enforcement.trade.gov/policy/bull05-1.pdf.

granting separate rate status. Because the eight companies listed above have not demonstrated that they are eligible for separate rate status, the Department considers them part of the PRC-wide entity.

Further, the record indicates that there are other PRC exporters and/or producers of the merchandise under consideration during the POI that did not respond to the Department's requests for information. Specifically, the Department did not receive responses to its Q&V questionnaire from 35 PRC exporters and/or producers of merchandise under consideration that were named in the Petition and for which the Department received confirmation that its issued questionnaire was delivered.[52] Because non-responsive PRC companies have not demonstrated that they are eligible for separate rate status, the Department finds that they have not rebutted the presumption of government control and therefore considers them to be part of the PRC-wide entity. Furthermore, as explained in the next section, we preliminarily determine to calculate the PRC-wide rate on the basis of adverse facts available ("AFA").

Application of Facts Available and Adverse Facts Available

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

The Department preliminarily finds that necessary information is not available on the record and that the PRC-wide entity withheld information requested by the Department, failed to provide information by the established deadlines, and significantly impeded this proceeding by not submitting the requested quantity and value information. The PRC-wide entity neither filed documents indicating that it was having difficulty providing the information nor did it request to submit the information in an alternate form. It is our standard practice to select respondents in NME investigations based on Q&V information we receive from potential respondents.[53] Without a Q&V response from a potential respondent, we are not able to select a respondent for individual examination in accordance with our normal methodology and calculate a rate. As a

[52] Those companies are: Beijing Hope Industry, China Sunergy, CNPV, EGing, ENN Solar Energy, Era Solar, Goldpoly (Quanzhou), Himin Holdings, Jetion, Jia Yi Energy Technology, Jiasheng Photovoltaic Tech., Jiutai Energy, Komaes Solar, Leye Photovoltaic Science Tech., Magi Solar Technology, Perfectenergy, Polar Photovoltaics, Qiangsheng (QS Solar), Refine Solar, Risun Solar (JiangXi Ruijing Solar Power Co., Ltd.), Shanghai Chaori Solar Energy, Shangpin Solar, Shanshan Ulica, Shenglong PV-Tech, Shenzhen Global Solar Energy Tech., Shuqimeng Energy Tech, Skybasesolar, Solargiga Energy Holdings Ltd., Sopray Solar, Sunlink PV, Tianjin Jinneng Solar Cell, Topsolar, Trony, Weihai China Glass Solar, and Yuhan Sinosola. For an additional 12 PRC exporters and/or producers of merchandise that were named in the Petition, the Department issued a questionnaire, but did not receive confirmation of delivery. Those companies are: Aiko Solar, Best Solar Hi-tech, Dai Hwa Industrial, Eoplly New Energy, Golden Partner development, Innovosolar, Jiangxi Green Power Co. Ltd., Sanjing Silicon, Sunflower, Sunvim Solar Technology, Yunnan Tianda, and Yunnan Zhuoye Energy. See memorandum to the file from Erin Kearney, International Trade Analyst, Office 4, AD/CVD Operations on the subject "Delivery of Quantity and Value Questionnaires" dated March 12, 2014.

[53] Initiation Notice, 79 FR at 4666.

result, the Department preliminarily determines, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act, to use facts otherwise available to determine the rate for the PRC-wide entity.[54]

Section 776(b) of the Act provides that the Department, in selecting from among the facts otherwise available, may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The Department finds that the PRC-wide entity's failure to provide the requested information constitutes circumstances under which it is reasonable to conclude that the PRC-wide entity has failed to cooperate by not acting to the best of its ability.[55] Therefore, the Department preliminarily determines that the PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with requests for information and, consequently, the Department may employ an inference that is adverse to the PRC-wide entity in selecting from among the facts otherwise available.

Section 776(b) of the Act states that the Department, 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. In selecting a rate based on AFA, the Department 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. The Department'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 dumping margin of any respondent in the investigation.[56] Thus, as AFA, the Department has selected the petition margin of 165.04 percent for the PRC-wide entity.[57]

Corroboration of Information

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. 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."[58] Because the 165.04 percent AFA rate applied to the PRC-wide entity is derived from the petition and, consequently, is based upon secondary information, the Department must corroborate it to the extent practicable.

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

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

[56] See Certain Stilbenic Optical Brightening Agents From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 17436, 17438 (March 26, 2012).

[57] See Initiation Notice, 79 FR 4667.

[58] See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) at 870 ("SAA").

The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value.[59] The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.[60] To corroborate secondary information, the Department will, to the extent practicable, determine whether the information used has probative value through examining the reliability and relevance of the information.

In order to determine the probative value of the margins in the petition for use as AFA for purposes of this preliminary determination, we compared the petition margin to the margins we calculated for the individually examined respondents. We determined that the petition margin of 165.04 percent is reliable and relevant because it is within the range of the transaction-specific margins[61] on the record for the individually examined exporters of subject merchandise. Thus the petition margin has probative value. Accordingly, we have corroborated the petition margin to the extent practicable within the meaning of section 776(c) of the Act.

Single Entity Treatment

To the extent that the Department's practice does not conflict with section 773(c) of the Act, the Department has, in prior cases, treated certain NME exporters and/or producers as a single entity if the facts of the case supported such treatment.[62] Pursuant to section 351.401(f)(1) of the Department's regulations, the Department will treat producers as a single entity, or "collapse" them, where: (1) those producers are affiliated; (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and (3) there is a significant potential for manipulation of price or production.[63] In determining whether a significant potential for manipulation exists, section 351.401(f)(2) of the Department's regulations states that the Department may consider various factors, including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether the operations of the affiliated firms are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.[64]

Section 771(33) of the Act identifies persons that shall be considered "affiliated" or "affiliated persons," including, *inter alia* : (1) members of a family, including brothers and sisters (whether

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[59] Id.
[60] Id.
[61] See Renesola/Jinko and Trina Solar Analysis Memoranda.
[62] See Certain Steel Nails From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination, 73 FR 3928, 3932 (January 23, 2008), unchanged in Certain Steel Nails From the People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value, 73 FR 7254 (February 7, 2008) and Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 33977 (June 16, 2008).
[63] See, e.g., Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review, 63 FR 12764, 12774-12775 (March 16, 1998).
[64] See also, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From Taiwan, 62 FR 51427, 51436 (October 1, 1997).

by whole or half blood), spouses, ancestors, and lineal descendants, (2) any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization; (3) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (4) any person who controls any other person and such other person.[65] Section 771(33) of the Act further states that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

On June 6, 2014, the Department preliminarily determined that Renesola, Renesola Zhejiang, Jinko Solar, and Jinko Solar I&E are affiliated pursuant to section 771(33)(A),(E), and (F) of the Act and that these companies should be treated as a single entity for AD purposes pursuant to 19 CFR 351.401(f).[66] These companies are under common control of the Li family grouping[67] and, therefore, are affiliated in accordance with section 771(33)(F) of the Act. Further, we found that these companies operate production facilities that produce similar or identical products that would not require substantial retooling of their facilities in order to restructure manufacturing priorities.[68] We have also determined that there is a significant potential for the manipulation of price or production among these companies as evidenced by the level of common ownership, the degree of management overlap, and the intertwined nature of the operations of these companies.[69] Thus we have preliminarily treated these companies as a single entity.

As stated above, on June 30, 2014, the Department preliminarily determined that Trina Solar and Trina Solar (Changzhou) Science & Technology Co., Ltd. are affiliated pursuant to sections 771(33)(F) and (G) of the Act and that these companies should be treated as a single entity for AD purposes pursuant to 19 CFR 351.401(f).[70] These companies are under common control of Trina Solar Limited and, therefore, are affiliated in accordance with section 771(33)(F). In addition, Trina Solar (Changzhou) Science & Technology Co., Ltd. is under the control of Trina Solar, and thus, these companies are affiliated with each other pursuant to section 771(33)(G) of the Act. Further, we found that these companies operate production facilities that produce similar or identical products that would not require substantial retooling of their facilities in order to restructure manufacturing priorities.[71] We also determined that there is a significant potential for the manipulation of price or production among these companies as evidenced by the level of common ownership, the degree of management overlap, and the intertwined nature of the

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[65] See sections 771(33)(E)-(G) of the Act.

[66] See Memorandum from Thomas Martin, International Trade Analyst, AD/CVD Operations, Office IV, to Abdelali Elouaradia Director, AD/CVD Operations, Office IV, regarding "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Affiliation and Single Entity Status" dated June 6, 2014. ("Renesola Jinko Single Entity Memo").

[67] See section 771(33)(A) of the Act; see also Renesola Jinko Single Entity Memorandum.

[68] See section 351.401(f)(1) of the Department's regulations. The Department included Jinko Solar I&E in the collapsed entity although it is a non-producing affiliated exporter, as it has in other cases. See Renesola Jinko Single Entity Memo at 9-11.

[69] See section 351.401(f)(2) of the Department's regulations. See Renesola Jinko Single Entity Memo at 9

[70] See Memorandum from Jeff Pedersen International Trade Analyst, AD/CVD Operations, Office 4, to Abdelali Elouaradia Director, AD/CVD Operations, Office 4, regarding "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and the subject "Affiliation and Single Entity Status of Changzhou Trina Solar Energy Co., Ltd. and Trina Solar (Changzhou) Science & Technology Co., Ltd." dated June 30, 2014.

[71] See section 351.401(f)(1) of the Department's regulations.

operations of these companies.[72] Thus we have preliminarily treated these companies as a single entity.

Date of Sale

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), "use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." The date of sale is generally the date on which the parties agree upon all material terms of the sale. This normally includes the price, quantity, delivery terms and payment terms.[73] Trina Solar and Renesola/Jinko have indicated that the material terms of sale occurred on the invoice date. Consistent with our practice, the Department has preliminarily determined to use invoice date, or shipment date, if the invoice date is after the shipment date, as the date of sale.

Fair Value Comparisons

In accordance with section 777A(d)(1)(A) of the Act, the Department compared the weighted-average price of the U.S. sales of the merchandise under consideration to the weighted-average NV to determine whether the individually-examined respondents sold merchandise under consideration to the United States at LTFV during the POI.[74]

Export Price

In accordance with section 772(a) of the Act, "the term 'export price' means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." The Department defined the U.S. price of merchandise under consideration based on the EP for certain sales reported by Renesola/Jinko. The Department calculated the EP based on the prices at which merchandise under consideration was sold to unaffiliated purchasers in the United States.

The Department made deductions, as appropriate, from the reported U.S. price for movement expenses (i.e., domestic and foreign inland freight, domestic and foreign brokerage and handling, international movement expenses, and marine insurance).[75] The Department based movement expenses on surrogate values where the service was purchased from a PRC company.[76]

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[72] See id. and section 351.401(f)(2) of the Department's regulations.
[73] See, e.g., Carbon and Alloy Steel Wire Rod From Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review, 72 FR 62824 (November 7, 2007), and accompanying Issue and Decision Memorandum at Comment 1; Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.
[74] See "Export Price" and "Normal Value" sections below.
[75] See section 772(c)(2)(A) of the Act.
[76] See "Factor Valuation Methodology" section below.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)." For Trina Solar and Renesola/Jinko, we based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, warehouse expenses, and repacking expenses, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(l) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States where appropriate. Specifically, we deducted, where appropriate, credit expenses, inventory carrying costs, indirect selling expenses, U.S. movement expenses, and warranty expenses. We valued foreign movement expenses provided by PRC service providers or paid for in PRC currency using surrogate values.[77] For those expenses that were charged by an ME provider and paid for in an ME currency, we used the reported expense.[78]

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using the FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.[79] Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), the Department calculated NV based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not

[77] See Memorandum to the File through Howard Smith from Jeff Pedersen "Factor Valuation Memorandum," dated concurrently with, and adopted by, this memorandum for details regarding the surrogate values for movement expenses.

[78] See Memorandum to the File through Howard Smith from Jeff Pedersen "Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Preliminary Analysis Memorandum for Changzhou Trina Solar Energy Co., Ltd.," dated concurrently with, and adopted by, this memorandum ("Trina Solar Preliminary Analysis Memorandum"); see also Memorandum to the File through Howard Smith from Jeff Pedersen, International Trade Analyst, Office IV, "Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Preliminary Analysis Memorandum for Renesola Jiangsu Ltd. and Jinko Solar Import and Export Co., Ltd., dated concurrently with, and adopted by, this memorandum ("Renesola/Jinko Preliminary Analysis Memorandum")

[79] See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China, 71 FR 19695, 19703 (April 17, 2006), unchanged in Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006).

limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.[80]

Factor Valuation Methodology

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by the individually examined respondents. Both mandatory respondents reported that they were unable to obtain a limited amount of FOP data from certain unaffiliated tollers/suppliers. Given the limited amount of FOP data that was not provided and other case-specific facts, the Department has determined that it is appropriate to apply facts available with respect to the missing FOP data, pursuant to section 776(a) of the Act.[81] To calculate NV, the Department multiplied the reported per-unit factor-consumption rates by publicly available surrogate values or ME purchase prices, where appropriate, as discussed below. Further, we added freight costs, based on surrogate freight rates, where appropriate, to the inputs that we valued using surrogates. Renesola/Jinko reported that it recovered and sold certain by-products in the production of subject merchandise. Trina Solar reported that it recovered and sold scrap modules as a by-product of its production of subject merchandise. In calculating NV we also granted these by-product offsets for Renesola/Jinko and Trina Solar, based upon the reported by-product generated during the POI.

A. ME Prices

Pursuant to section 351.408(c)(1) of the Department's regulations, when a respondent sources inputs produced in an ME, from an ME supplier,and pays in an ME currency, the Department normally will use the actual price paid by the respondent to value, in whole or in part, those inputs, except when prices may have been distorted by findings of dumping in the PRC and/or subsidies. Where the Department finds ME purchases to constitute substantially all of the total factor purchased from all sources, (i.e., 85 percent or more),[82] the Department normally uses the actual purchase prices to value the inputs. Where the quantity of the reported input purchased from ME suppliers is below 85 percent of the total volume of the input purchased from all sources during the POI, and where otherwise valid, the Department weight-averages the ME input's purchase price with the appropriate surrogate value for the input according to their respective shares of the reported total volume of purchases.

Based on information reported by Trina Solar and Renesola/Jinko that demonstrates that they sourced some of their inputs from an ME country and paid for those inputs in ME currencies, the

[80] See section 773(c)(3)(A)-(D) of the Act.
[81] For further details see the memorandum from Jeff Pedersen and Thomas Martin to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations regarding "Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Unreported Factors of Production," which is dated concurrently with, and adopted by, this memorandum.
[82] See Use of Market Economy Input Prices in Nonmarket Economy Proceedings, 78 FR 46699 (August 2, 2013) (where the Department changed its methodology in NME cases, and now requires respondents' purchases of market economy inputs to equal or exceed 85 percent to warrant use of market economy prices to value the input.); Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61717-61718 (October 19, 2006) ("Antidumping Methodologies: Market Economy Inputs").

Department used each respondent's actual ME purchase prices to value those inputs, either in whole, or in part, based upon purchase volume, in accordance with 19 CFR 351.408(c). Where appropriate, we added freight expenses to the ME prices of the inputs. For a detailed description of the values used for the reported ME inputs, see the preliminary analysis memoranda for Trina Solar and Renesola/Jinko.

B. Surrogate Values

When selecting the surrogate values, the Department considered, among other factors, the quality, specificity, and contemporaneity of the data.[83] As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.[84] An overview of the surrogate values used to calculate weighted-average dumping margins for the mandatory respondents is below. A detailed description of all surrogate values used to calculate weighted-average dumping margins for the mandatory respondents can be found in the Preliminary Surrogate Value Memorandum.

We used South African import data, as published by Global Trade Atlas ("GTA"), and other publicly available sources from South Africa to calculate surrogate values for the mandatory respondents' FOPs. In accordance with section 773(c)(1) of the Act, the Department applied the best available information for valuing FOPs by selecting, to the extent practicable, surrogate values which are (1) non-export average values, (2) contemporaneous with, or closest in time to, the POI, (3) product-specific, and (4) tax-exclusive.[85] The record shows that South African import data obtained through GTA, as well as data from other South African sources, are product-specific, tax-exclusive, and generally contemporaneous with the POI.[86] In those instances where the Department could not obtain information contemporaneous with the POI with which to value FOPs, the Department adjusted the surrogate values using, where appropriate, South Africa's producer price index (PPI) or consumer price index in the case of labor. Both indices were published in the International Monetary Fund's ("IMF") International Financial Statistics.

When calculating South African import-based, per-unit surrogate values, the Department disregarded import prices that it has reason to believe or suspect may be dumped or subsidized. It is the Department's practice, guided by the legislative history, not to conduct a formal investigation to ensure that such prices are not dumped or subsidized; rather, the Department

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[83] See, e.g., Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum at Comment 9.
[84] See Sigma Corp. v. United States, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).
[85] See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).
[86] See Preliminary Surrogate Value Memorandum.

bases its decision on information that is available to it at the time it makes its determination.[87] In this case, the Department has reason to believe or suspect that prices of exports from India, Indonesia, and South Korea are subsidized. The Department found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, consequently, it is reasonable to infer that all exports from these countries to all markets may be subsidized.[88] Therefore, the Department has not used data from these countries in calculating South African import-based surrogate values.

Additionally, the Department disregarded data from NME countries when calculating South African import-based per-unit surrogate values. The Department also excluded from the calculation of South African import-based per-unit surrogate values imports labeled as originating from an "unidentified" country because it could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.[89]

In Labor Methodologies,[90] the Department determined that the best methodology to value labor is to use industry-specific labor rates from the primary surrogate country. We valued labor using data reported by South Africa to the International Labour Organization ("ILO") as identified in the ILO's website LABORSTA. The data used reflect all costs related to manufacturing labor, including wages, benefits, housing, training, etc. The financial statements used to calculate the surrogate financial ratios demonstrated that no labor was included in the amounts calculated for overhead costs, sales, general and administrative expenses, and profit.[91]

We valued electricity using South African data from the South African electricity provider Eskom's publication Tariffs and Charges Booklet. We did not inflate or deflate the rate cited in this article because it is contemporaneous with the POI.[92]

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[87] See Omnibus Trade and Competitiveness Act of 1988, Conference Report, H.R. Rep. 100-576 at 590 (1988); Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China, 72 FR 30758, 30763 (June 4, 2007), unchanged in Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China, 72 FR 60632 (October 25, 2007); Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 73 FR 24552, 24559 (May 5, 2008), unchanged in Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR at 55039 (September 24, 2008).

[88] See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7; Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; and Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.

[89] See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China, 69 FR 75294, 75301 (December 16, 2004), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China, 70 FR 24502 (May 10, 2005).

[90] See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) ("Labor Methodologies").

[91] See Preliminary Surrogate Value Memorandum at Attachment III.

[92] Id. at Attachment IV.

We valued water using data from the publication South Africa Statistics, which is found at the website Statistics South Africa (http://www.statssa.gov.za). This website indicates that Statistics South Africa is the national statistical service of South Africa. The water price cited in this publication was in effect in 2010 and thus we have adjusted this price based on the difference in PPI between 2010 and the POI.[93]

We valued truck freight using data from the World Bank's 2014 Doing Business in South Africa and based our calculation transporting a 20-foot container weighing 10,000 kilograms by truck. We did not inflate or deflate the truck rate because it is contemporaneous with the POI.[94]

We valued inland water freight using South African data found in an article published by the Human Sciences Research Council, a South African research agency. The inland water freight rate cited in this article was in effect in 2005 and thus we have adjusted this price based on the difference in PPI between 2005 and the POI.[95]

We also valued rail freight using South African data found in an article published by the Human Sciences Research Council. The rail freight rate cited in this article was in effect in 2005 and thus we have adjusted this price based on the difference in PPI between 2005 and the POI.[96]

We valued brokerage and handling expenses using a price list for charges related to exporting and importing a standardized cargo of goods in and out of South Africa as published in the World Bank's 2014 Doing Business in South Africa. This price list was compiled based on a survey of parties to determine costs experienced in trading a standard shipment of goods by ocean transport in South Africa. We did not inflate or deflate the rate cited in this survey because it is contemporaneous with the POI.[97]

We valued marine insurance using a marine insurance rate offered by RJG Consultants. RJG Consultants is an ME provider of marine insurance. The rate is a percentage of the value of the shipment; thus we did not inflate or deflate the rate.[98]

We valued air freight based on rates on the UPS website: http://www.ups.com. These rates are publicly available and cover a wide range of air routes which are reported on a daily basis. While the rates were based on prices in effect after the POI, the record lacks any information to inflate or deflate these rates; thus we did not inflate or deflate the rates.[99]

We valued ocean freight using rates from the website https://my.maerskline.com, which lists international ocean freight rates offered by Maersk Line. These rates are publicly available and

[93] Id. at Attachment V.
[94] Id. at Attachment VI.
[95] Id. at Attachment VII.
[96] Id. at Attachment VII.
[97] Id. at Attachment VI.
[98] Id. at Attachment VIII.
[99] Id. at Attachment VI.

cover a wide range of shipping rates which are reported on a daily basis. We did not inflate or deflate the rate cited in this survey because it is contemporaneous with the POI.[100]

The record contains the audited financial statements for one South African company, Mustek Limited, a computer manufacturer. We used these financial statements to value factory overhead, selling, general, and administrative expenses, and profit. This financial statements cover the fiscal year ending June 2013 and, therefore, are contemporaneous with the POI.[101]

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Trina Solar's and Renesola/Jinko's sales of the subject merchandise to the United States were made at less than NV, the Department compared the EP (or CEP) to the NV as described above in the "Export Price," "Constructed Export Price" and "Normal Value" sections of this memorandum.

Comparisons to Normal Value

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A. Determination of Comparison Method

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

In recent investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[102] The

[100] Id. at Attachment IX.
[101] Id. at Attachment VI.
[102] See, e.g., Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013) and accompanying Issues and Decisions Memorandum at Comment 5 Differential pricing was also used in the antidumping duty administrative review of certain activated carbon from the People's Republic of China: Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 26748 (May 8, 2013), unchanged in Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 70533 (November 26, 2013) and accompanying Issues and Decisions Memorandum at Comments 2-4.

Department finds that the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.[103]

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. When we find such a pattern the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise, which is defined by the parameters within each respondents reported data fields, e.g., reported consolidated customer code; reported destination code (e.g., zip codes or cities) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau; and quarters within the POI being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

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

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to

[103] See id.

purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (i.e., the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted average dumping margin as compared to that resulting from the use of the A-A method only. If the difference between the two calculations is meaningful, this demonstrates that the A-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A meaningful difference in the weighted-average dumping margins occurs if (1) there is a 25 percent relative change in the weighted average dumping margin between the A-A method and the appropriate alternative method where both rates are above the de minimis threshold or (2) the resulting weighted-average dumping margin moves across the de minimis threshold.

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

B. Results of the Differential Pricing Analysis

For Renesola/Jinko, based on the results of the first stage of the differential pricing analysis, the Department finds that 89.6 percent of Renesola/Jinko's sales pass the Cohen's *d* test and confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods.[104] Accordingly, the Department considered whether using only the A-A method can appropriately account for such differences. The Department finds that for Renesola/Jinko there is not a meaningful difference in the weighted-average dumping margin when calculated using the A-A method and an alternative comparison method based on the A-to-T method applied to all U.S. sales, and thus determines that the A-A method can appropriately account for such differences.[105] For Trina Solar, the Department finds that 93.4 percent of Trina Solar's sales confirm the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods.[106] Accordingly, the Department considered whether using only the A-A method can appropriately account for such differences. The Department finds that for Trina Solar there is not a meaningful difference in the weighted-average dumping margin when calculated using the A-A method and an

[104] See Renesola/Jinko's Preliminary Analysis Memorandum.
[105] See id.
[106] See Trina Solar's Preliminary Analysis Memorandum.

alternative comparison method based on the A-to-T method applied to all U.S. sales, and thus determines that the A-A method can appropriately account for such differences. Accordingly, the Department has determined to use the A-A method in making comparisons of EP or CEP and NV for Trina Solar and Renesola/Jinko.[107]

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information from Trina Solar and Renesola/Jinko upon which we will rely in making our final determination.

Adjustment Under Section 777A(f) of the Act

In applying section 777A(f) of the Act in this investigation, the Department examined (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether the Department can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted average dumping margin for the class or kind of merchandise.[108] For a subsidy meeting these criteria, the statute requires the Department to reduce the antidumping duty by the estimated amount of the increase in the weighted average dumping margin subject to a specified cap.[109]

Since the Department has relatively recently started conducting an analysis under section 777A(f) of the Act, the Department is continuing to refine its practice in applying this section of the law. The Department examined whether the respondents demonstrated: (1) a subsidies-to-cost link, e.g., subsidy impact on cost of manufacture ("COM"); and (2) a cost-to-price link, e.g., respondent's prices changed as a result of changes in the COM.

As a result of our analysis, the Department is preliminarily making adjustments to the calculation of the cash deposit rate for antidumping duties for Trina, Renesola/Jinko, and companies that are not being individually examined but preliminarily are being granted separate-rate status in this investigation, pursuant to section 777A(f) of the Act, in the manner described below. In making

[107] In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101, 8104 (February 14, 2012). In particular, the Department compared monthly weighted-average export prices with monthly weighted-average NV s and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.
[108] See Section 777A(f)(1)(A)-(C) of the Act.
[109] See Section 777A(f)(1)-(2) of the Act.

this adjustment, the Department has not concluded that concurrent application of NME ADs and countervailing duties ("CVDs") necessarily and automatically results in overlapping remedies. Rather a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

The Department examined the preliminary report issued by the U.S. International Trade Commission ("ITC"),[110] which indicates that prices steadily decreased during January 2010 to September 2013, and that large price decreases occurred in all four of the examined product categories.[111] Based on this information, the Department preliminarily finds that prices of imports of the class or kind of merchandise during the relevant period decreased.

Trina

Trina demonstrated that the Provision of Aluminum Extrusions LTAR, Provision of Electricity for LTAR, and Provision of Solar Glass for LTAR subsidies impacted its cost of manufacturing ("COM"), and that the other subsidy programs under investigation (*e.g.*, grant programs, tax programs, export credit subsidies, etc.) did not.[112] We preliminarily determine Trina's questionnaire responses indicate a subsidies-to-cost linkage for certain subsidy programs. Trina provided information indicating that the price at which it sells subject merchandise to its customers is impacted by the cost of raw materials and energy.[113] Thus, Trina's questionnaire responses indicate a cost-to-price linkage for the aluminum extrusions, electricity, and solar glass subsidy programs that impact COM.

In the companion CVD proceeding, the Department preliminarily determined program-specific rates of subsidized aluminum extrusions, electricity, and solar glass for Trina.[114] Thus, the Department has the necessary information from the companion CVD proceeding to make the adjustment in this proceeding for purposes of this preliminary determination.

Because the record indicates that several factors other than the cost of aluminum extrusions, electricity, and solar glass impact Trina's prices to customers,[115] the Department is applying a documented ratio of cost-price changes for the Chinese manufacturing sector as a whole, which is based on data provided by Bloomberg, as the estimate of the extent of subsidy pass-through.[116]

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[110] See Certain Crystalline Silicon Photovoltaic Products from China and Taiwan, Investigation Nos. 701-TA-511 & 731-TA-1246-1247 (Preliminary), Publication 4454 (February 2014).
[111] See id. at V-9; see also id. at V-4 (defining the four examined product categories).
[112] See Submission from Changzhou Trina Solar Energy Co., Ltd., "Double Remedies Questionnaire Response," dated July 16, 2014 ("Trina Double Remedies Response").
[113] See id.
[114] See Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, 79 FR 33174 (June 10, 2014) and the accompany Decision Memorandum.
[115] See Trina Double Remedies Response at 3.
[116] See Attachment 1 to this memorandum.

Jinko and Renesola

Jinko asserted that the Provision of Polysilicon for LTAR, Provision of Aluminum Extrusions LTAR, Provision of Electricity for LTAR, and Provision of Solar Glass for LTAR subsidies impacted its COM, and that the other subsidy programs under investigation (*e.g.*, grant programs, tax programs, export credit subsidies, etc.) did not.[117] However, because Jinko reported purchasing solar cells as an input to its solar modules, rather than using polysilicon as an input for manufacturing its own solar cells, we preliminarily find that the subsidy program relating to polysilicon would not impact its COM for subject merchandise. Accordingly, we preliminarily determine Jinko's questionnaire responses indicate a subsidies-to-cost linkage for certain subsidy programs. Additionally, Jinko provided information indicating that the price at which it sells subject merchandise to its customers is impacted by the cost of raw materials and energy.[118] Jinko's questionnaire responses indicate a cost-to-price linkage for the aluminum extrusions, electricity, and solar glass subsidy programs that impact COM.

Renesola provided information indicating that the price at which it sells subject merchandise to its customers is impacted by the cost of material inputs.[119] However, Renesola reported that none of the subsidy programs under investigation impacted its COM.[120] Renesola's questionnaire responses do not indicate a subsidy-to-cost linkage as described above.

In the companion CVD proceeding, the Department did not determine program-specific rates for Jinko.[121] Accordingly, the adjustment to account for domestic subsidies is based on an average of the program-specific countervailing duty rates found for the mandatory respondents for Provision of Aluminum Extrusions LTAR, Provision of Electricity for LTAR, and Provision of Solar Glass for LTAR in the preliminary CVD determination.

Because the record indicates that several factors other than the cost of aluminum extrusions, electricity, and solar glass impact Jinko's prices to customers,[122] the Department is applying a documented ratio of cost-price changes for the Chinese manufacturing sector as a whole, which is based on data from Bloomberg, as the estimate of the extent of subsidy pass-through.[123] Furthermore, because the Department found both a subsidies-to-cost and cost-to-price linkage for only one company of the collapsed Renesola/Jinko entity (*i.e.*, Jinko), the Department has preliminarily used a percentage of the subsidy pass-through equal to the percentage of Jinko's POI sales relative to the total POI sales of Renesola/Jinko.[124]

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[117] See Submission from Jinko Solar Import & Export Co., Ltd. and Renesola Jiangsu Ltd., "Response to Double Remedies Supplemental Questionnaire," dated July 15, 2014, at Attachment A ("Jinko Double Remedies Response").
[118] See id.
[119] See Submission from Jinko Solar Import & Export Co., Ltd. and Renesola Jiangsu Ltd., "Response to Double Remedies Supplemental Questionnaire," dated July 15, 2014, at Attachment B page 1 ("Renesola Double Remedies Response").
[120] See id. at Attachment B page 4.
[121] See Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, 79 FR 33174 (June 10, 2014).
[122] See Jinko Double Remedies Response at 2.
[123] See Double Remedies Calculation Memorandum, dated concurrently with this memorandum.
[124] For calculations, *see* Double Remedies Calculation Memorandum.

Separate Rate Companies

For the non-individually examined companies which are eligible for a separate rate, their weighted-average dumping margin is based on the weighted-average dumping margins of the mandatory respondents in this investigation. In the companion CVD investigation, the Department did not individually examine certain non-mandatory respondents that are preliminarily eligible for separate rates in this AD investigation, and, therefore, those companies were assigned the all-other exporters' rate as determined in the preliminary determination for the CVD investigation.

Accordingly, in this AD investigation, for exporters that received a non-selected company rate in the companion CVD investigation, the adjustment to account for domestic subsidies is based on an average of the program-specific countervailing duty rates found for the mandatory respondents for Provision of Aluminum Extrusions for LTAR, Provision of Electricity for LTAR, and Provision of Solar Glass for LTAR in the preliminary CVD determination.

For Wuxi Suntech, however, which received its own calculated rate in the preliminary determination of the companion CVD investigation, the adjustment to account for domestic subsidies is based on the program-specific countervailing duty rates for Provision of Aluminum Extrusions for LTAR, Provision of Electricity for LTAR, and Provision of Solar Glass for LTAR found for Wuxi Suntech in the companion CVD investigation.

Finally, in making these adjustments for the separate rate companies, the Department preliminarily determines that the percentage of the CVDs determined to have passed through to U.S. prices is the documented ratio of cost-price changes for the Chinese manufacturing sector as a whole, which is based on data provided by Bloomberg.[125]

Conclusion

We recommend applying the above methodology for this preliminary determination.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

24 July 2014
(Date)

[125] See id.