



A-570-020  
Investigation  
Public Document  
E&C/III: JRT

June 10, 2015

**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 Preliminary Determination of the  
Antidumping Duty Investigation of Melamine from the People's  
Republic of China

## I. SUMMARY

The Department of Commerce ("Department") preliminarily determines that melamine from the People's Republic of China ("PRC") is being, or is 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, 2014, through September 30, 2014. The estimated margin of sales at LTFV is shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

## II. BACKGROUND

### 1. Initiation

On November 12, 2014, the Department received an antidumping duty ("AD") petition concerning imports of melamine from the PRC filed in proper form by Cornerstone Chemical Company ("Petitioner").<sup>1</sup> The Department published the initiation of this investigation and the companion countervailing duty investigation on December 9, 2014.<sup>2</sup> On January 6, 2015, 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 of melamine.<sup>3</sup>

<sup>1</sup> See Letter to the Secretary of Commerce from Petitioner "Petition for Antidumping and Countervailing Duties Pursuant Sections 701 and 731 of the Tariff Act of 1930, as Amended" (November 12, 2014) ("Petition").

<sup>2</sup> See *Melamine from the People's Republic of China and Trinidad and Tobago: Initiation of Antidumping Duty Investigation*, 79 FR 73037 (December 9, 2014) ("Initiation Notice").

<sup>3</sup> See *Melamine from China and Trinidad and Tobago*, 80 FR 518 (January 6, 2015).



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.<sup>4</sup> The process requires exporters and producers to submit a separate rate application (“SRA”)<sup>5</sup> 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 SRA would be due 60 days after publication of the notice, or on February 9, 2015.

## 2. Period of Investigation

The POI is April 1, 2014, through September 30, 2014. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was November 2014.<sup>6</sup>

## 3. Postponement of Preliminary Determination

On March 12, 2015, pursuant to section 733(c)(1)(B) of the Act and 19 CFR 351.205(b)(2), the Department issued a 50-day postponement of the preliminary AD determination on melamine from the PRC.<sup>7</sup>

## 4. Scope of the Investigation

The merchandise subject to this investigation is melamine (Chemical Abstracts Service (“CAS”) registry number 108-78-01, molecular formula  $C_3H_6N_6$ ).<sup>8</sup> Melamine is a crystalline powder or granule typically (but not exclusively) used to manufacture melamine formaldehyde resins. All melamine is covered by the scope of this investigation irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of this investigation. Melamine that is otherwise subject to this investigation is not excluded when commingled with melamine from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The subject merchandise is provided for in subheading 2933.61.0000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

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<sup>4</sup> See *Initiation Notice*, 79 FR at 73042.

<sup>5</sup> 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>.

<sup>6</sup> See 19 CFR 351.204(b)(1).

<sup>7</sup> See *Melamine from the People’s Republic of China and Trinidad and Tobago: Postponement of Preliminary Determination of Antidumping Duty Investigations*, 80 FR 12979 (March 12, 2015).

<sup>8</sup> Melamine is also known as 2,4,6-triamino-s-triazine; 1,3,5-Triazine-2,4,6-triamine; Cyanurotriamide; Cyanurotriamine; Cyanuramide; and by various brand names.

## 5. Scope Comments

In accordance with the preamble to the Department's regulations,<sup>9</sup> in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments by December 22, 2015.<sup>10</sup> Because we did not receive any comments on the scope of the investigation, we preliminarily find that the products that meet the plain language of the scope are necessarily products for which Petitioner is seeking relief and are therefore subject to the scope of this investigation.

## 6. Selection of Respondents

Section 777A(c)(1) 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 and producers if it is not practicable to make individual weighted-average dumping margin determinations because of the large number of exporters and producers involved in the investigation. When the Department limits the number of exporters 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 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.

In the *Initiation Notice*, we stated we would issue quantity and value ("Q&V") questionnaires to each potential respondent and post the Q&V questionnaire along with filing instructions on our website.<sup>11</sup> We further stated that respondent selection in this investigation will be based on responses to the Q&V questionnaire and that all responses must be submitted by all PRC exporters/producers no later than December 17, 2014.<sup>12</sup> On December 3, 2014, we sent Q&V questionnaires to 54 producers/exporters of merchandise under consideration, which were identified by Petitioner in the Petition. Of these questionnaires, 29 were successfully delivered. On December 17, 2014, the Department received timely filed Q&V questionnaire responses from four exporters and/or producers.<sup>13</sup> Furthermore, 26 of the companies that were issued and received a Q&V questionnaire by the Department did not respond to the questionnaire.<sup>14</sup> On January 6, 2015, Zhongyuan Dahua, one of the four companies which submitted a timely Q&V

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<sup>9</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296 (May 19, 1997).

<sup>10</sup> See *Initiation Notice*, 79 FR at 73037.

<sup>11</sup> *Id.*, 79 FR at 73041-73042.

<sup>12</sup> *Id.*

<sup>13</sup> Zhongyuan Dahua Group Co., Ltd., ("Zhongyuan Dahua") Allied Chemicals Inc., ("Allied"), Xinji Jiuyuan Chemicals Inc. ("Xinji Jiuyuan"), Sichuan Golden Elephant Sincerity Chemical Co., Ltd. ("Golden Elephant").

<sup>14</sup> See Memorandum to the File, "Antidumping Duty Investigation of Melamine from the People's Republic of China: FedEx – UPS Delivery Confirmations," dated January 15, 2015. See also *Separate Rates and PRC-wide Entity* section below.

response, submitted a letter indicating it would no longer participate in the proceeding.<sup>15</sup> In accordance with section 777A(c)(2) of the Act, on January 15, 2015, we selected the two exporters accounting for the largest volume of melamine exported from the PRC during the POI, Allied<sup>16</sup> and Xinji Jiuyuan, as mandatory respondents.<sup>17</sup> We issued questionnaires on January 15, 2015.

On January 27, 2015, Xinji Jiuyuan indicated that it was withdrawing from participation in the investigation.<sup>18</sup> On February 5, 2015, we selected Sichuan Golden Elephant Sincerity Chemical Co., Ltd. (“Golden Elephant”), as a mandatory respondent in place of Xinji Jiuyuan.<sup>19</sup> On February 19, 2015, Golden Elephant submitted a letter stating that it was withdrawing from participation in the proceeding.<sup>20</sup> Finally, after submitting a response to Section A of the questionnaire on February 19, 2015, on March 6, 2015, Allied sent a letter stating that it was withdrawing from the proceeding.<sup>21</sup>

On March 30, 2015, Petitioner submitted comments arguing that the Department should base its preliminary determination on total adverse facts available (“AFA”).<sup>22</sup> As total AFA, Petitioner argues that the Department should use 363.31 percent, the highest margin alleged in the Petition. Petitioner also pointed out that the information in the Petition was corroborated by secondary sources, as well as information contained in the Q&V responses provided by the PRC exporters.<sup>23</sup>

### III. DISCUSSION OF THE METHODOLOGY

#### 1. Non-Market Economy Country

The Department considers the PRC to be an NME country.<sup>24</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall

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<sup>15</sup> See Letter from Zhongyuan Dahua, “Melamine from the People’s Republic of China-Withdrawal from Participation,” dated January 6, 2015.

<sup>16</sup> Allied was not one of the 54 producers identified by the Petitioner but filed a Q&V response.

<sup>17</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Melissa Skinner, Director, Office III “Antidumping Duty Investigation of Melamine from the People’s Republic of China: Respondent Selection” (January 15, 2015) (“Respondent Selection Memo”).

<sup>18</sup> See Letter from Xinji Jiuyuan, “Melamine from the People’s Republic of China,” dated January 27, 2015.

<sup>19</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Melissa Skinner, Director, Office III “Antidumping Duty Investigation of Melamine from the People’s Republic of China: Selection of Respondent” (February 5, 2015) (“Second Respondent Selection Memo”).

<sup>20</sup> See Letter from Golden Elephant, “Certain Melamine from the People’s Republic of China: Withdrawal from Proceeding,” dated February 19, 2015.

<sup>21</sup> See Letter from Allied, “Melamine from the People’s Republic of China; Withdrawal from Proceeding,” dated March 6, 2015.

<sup>22</sup> See Letter from Petitioner, “Melamine from China: Pre-Preliminary Comments,” dated March 30, 2015.

<sup>23</sup> *Id.*

<sup>24</sup> See *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).

remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

## 2. Separate Rates and the PRC-wide Entity

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.<sup>25</sup> 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.<sup>26</sup> The Department analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*<sup>27</sup> and further developed in *Silicon Carbide*.<sup>28</sup> 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. As noted above, we did not receive adequate responses from any PRC producers or exporters. Although Allied submitted a response to section A which included information pertaining to separate rates, because it withdrew from the investigation, we lack sufficient information to evaluate whether it demonstrated that it qualifies for a separate rate. Therefore, the Department preliminarily determines that there were exports of merchandise under consideration from PRC exporters (Zhongyuan Dahua, Allied, Xinji Jiuyuan, and Golden Elephant) that did not demonstrate eligibility for separate rate status. As a result, the Department is treating Zhongyuan Dahua, Allied, Xinji Jiuyuan, and Golden Elephant as part of the PRC-wide entity. Finally, as noted above, the Department issued Q&V questionnaires to 54 exporters/producers of merchandise under consideration, 26 of which did not respond despite documentation that they received the questionnaire.<sup>29</sup> Accordingly, the Department preliminarily determines that a total of 30 PRC exporters of merchandise under consideration did not demonstrate their eligibility for separate rate status in this investigation. As a result, the Department is preliminarily treating these 30 PRC exporters as part of the PRC-wide entity, subject to the PRC-wide rate.

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<sup>25</sup> 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).

<sup>26</sup> 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*").

<sup>27</sup> *Id.*

<sup>28</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585, 22586-89 (May 2, 1994) ("*Silicon Carbide*").

<sup>29</sup> Those companies are: Anhui Jinhe Industrial Co., Ltd., Anhui Sunson Chemical Group Co., Ltd., Chengdu Yulong Chemical Co., Ltd., Fujian Sangang (Group), Hebei Jinglong Fengli Chemical Co., Ltd., Hefei Tianfeng Import & Export Co Ltd. China, Henan Zhongyuan Dahua Group Co., Ltd., JianFeng Chemicals, Jiangsu Heyou Group Co., Ltd., Jiangsu Sanmu Group Corporation, Kaiwei Investment Group, M and A Chemicals, Corp China, Nanjing Deju Trading Co Ltd China, Nantong Zixin Industrial Co., Ltd., OCI Trading (Shanghai) Co., Ltd. China, Panjin Zhongrun Chemical Co., Ltd., Qingdao Shida Chemical Co., Ltd. China, Shandong Jinmei Mingshui Chemical Co., Ltd., Shandong Liaherd Chemical Industry Co., Ltd., Shandong Sanhe Chemical Company Ltd., Shandong Xintai Liaherd Chemical Co., Ltd., Shandong Yixing Melamine Co., Ltd., Sichuan Chemical Works Group Ltd., Sinopec Jinling Petrochemical Co., Ltd., Well Hope Enterprises Limited, and Zhejiang Fuyang Yongxing Chemical Co., Ltd.

### 3. Application of Facts Available and Selection Based Upon Adverse Inferences for the PRC-Wide Entity

Section 776(a)(1) and (2) of the Act provides that, if necessary information is missing from the record, or if an interested party (A) withholds information that has been requested by 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 the PRC-wide entity, which includes the 30 identified exporters above, failed to provide necessary information, withheld information requested by the Department, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested 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. As a 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.<sup>30</sup>

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 was not fully cooperative.<sup>31</sup> Therefore, the Department preliminarily determines that the PRC-wide entity failed to cooperate 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.<sup>32</sup> The Department's practice is to select, as an AFA

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<sup>30</sup> 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).

<sup>31</sup> 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.")).

<sup>32</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland*, 69 FR 77216 (December 27, 2004), unchanged in

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.<sup>33</sup> There are no calculated margins for any respondents in this investigation. Thus, for this preliminary determination, we assigned the PRC-wide entity the rate of 363.31 percent, which is the highest dumping margin calculated in the Petition.<sup>34</sup>

#### 4. Corroboration of AFA Rate

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. The SAA clarifies that “corroborate” means the Department will satisfy itself that the secondary information to be used has probative value.<sup>35</sup> As stated in *Japanese TRBs*, to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used.<sup>36</sup> The Department’s regulations state 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.<sup>37</sup>

For the purposes of this investigation and to the extent that appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis and for purposes of this preliminary determination.<sup>38</sup> We examined evidence supporting the calculations in the Petition to determine the probative value of the margins alleged in the Petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis we examined the key elements of the export price (“EP”) and normal value (“NV”) calculations used in the Petition to derive margins. During our pre-initiation analysis we also examined information from various independent sources provided either in the Petition or in supplements to the Petition that demonstrated the accuracy and

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*Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005).

<sup>33</sup> 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).

<sup>34</sup> See “AD Investigation Checklist: Melamine from the People’s Republic of China” (December 2, 2014) (“Initiation Checklist”), at 9.

<sup>35</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (URAA), H.R. Doc. 103-316, 870 (1994) (“SAA”) at 870.

<sup>36</sup> See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (“*Japanese TRBs*”), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825, 11843 (March 13, 1997).

<sup>37</sup> See 19 CFR 351.308(d); see also SAA, at 870.

<sup>38</sup> See Initiation Checklist, at 6-9.

validity of key elements of the EP and NV calculations used in the Petition to derive estimated margins.<sup>39</sup>

Based on our examination of the information, as discussed in detail in the Initiation Checklist, we consider the Petitioners' calculation of the EP and NV to be reliable. Therefore, because we confirmed the accuracy and validity of the information underlying the calculation of margins in the Petition by examining source documents as well as publicly available information, we preliminarily determine that the margins in the Petition are reliable for the purposes of this investigation.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant.<sup>40</sup> Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin.<sup>41</sup> The rates in the Petition reflect commercial practices of the melamine industry and, as such, are relevant to the respondents in this investigation.<sup>42</sup> The courts have acknowledged that the consideration of the commercial behavior inherent in the industry is important in determining the relevance of the selected AFA rate to the uncooperative respondent by virtue of it belonging to the same industry.<sup>43</sup> Such consideration typically encompasses the commercial behavior of other respondents under investigation; however, as there are no cooperating respondents in this investigation, we relied upon the rates found in the Petition, which is the only information regarding the melamine industry reasonably at the Department's disposal. Because the Petition rates are derived from the melamine industry and are based on information related to aggregate data involving the melamine industry, we determined that the Petition rates are relevant. Accordingly, by using information that was determined to be reliable in the pre-initiation stage of this investigation and preliminarily determining it to be relevant for the uncooperative respondents in this investigation, we corroborated the AFA rate of 363.31 percent "to the extent practicable" as provided in section 776(c) of the Act. Therefore, we preliminarily applied the petition rate of 363.31 percent to the PRC-wide entity, which includes the 30 identified exporters above.

## 5. Verification

Section 782(i)(1) of the Act directs the Department to verify all information relied upon in making a final determination in an investigation. However, because we are preliminarily finding all exporters subject to this investigation to be part of the PRC-wide entity and we preliminarily

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<sup>39</sup> *Id.*

<sup>40</sup> See *Certain Steel Nails from the United Arab Emirates: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 76 FR 68129, 68132 (November 3, 2011), unchanged in *Certain Steel Nails from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 77 FR 17029 (March 23, 2012).

<sup>41</sup> See *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest dumping margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin).

<sup>42</sup> See Initiation Checklist at 6-9.

<sup>43</sup> See, e.g., *Ferro Union, Inc. v. United States*, 44 F. Supp. 2d 1310, 1334-35 (CIT 1999).

determined to apply AFA to the PRC-wide entity, the Department does not intend to conduct verification of any portion of the PRC-wide entity, in accordance with our standard practice.<sup>44</sup>

#### 6. Section 777A(f) of the Act

In applying section 777A(f) of the Act, the Department examines (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.<sup>45</sup> For a subsidy meeting these criteria, the statute requires the Department to reduce the AD by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.<sup>46</sup> In conducting this analysis, the Department has not concluded that concurrent application of NME ADs and countervailing duties necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

The Department's practice is to calculate an adjustment under section 777(A)(f) of the Act based on the information provided by the mandatory respondents. In this case, the Department has no information upon which to make an adjustment because no party has responded to the Department's request for information. Therefore, the Department is preliminarily not making any adjustments pursuant to section 777A(f) of the Act to the AD cash deposit rate for the PRC-wide entity in this investigation.

### **IV. ITC NOTIFICATION**

In accordance with section 733(f) of the Act, we are notifying the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of melamine, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

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<sup>44</sup> See, e.g., *Galvanized Steel Wire From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17430 (March 26, 2012), and accompanying Issues and Decision Memorandum, at Comment 1.C. ("... a prerequisite to verification in an investigation is that a selected mandatory respondent submit a substantially complete questionnaire response. If the respondent does not provide the complete questionnaire response, and the rate is based on facts available, it is clear that verification of some portion of the information required (on which the Department cannot rely) is meaningless. The Department is not required to verify the portion of the information a respondent may self-select for verification. Doing so would allow for the PRC-wide entity to potentially manipulate AD results by selectively providing data on the record and dictating what data can be verified.")

<sup>45</sup> See sections 777A(f)(1)(A)-(C) of the Act.

<sup>46</sup> See sections 777A(f)(1)-(2) of the Act.

We will make our final determination no later than 75 days after the date of publication of this preliminary determination, pursuant to section 735(a)(1) of the Act.

**V. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

✓  
Agree

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Disagree

*Paul Piquado*  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

10 JUNE 2015  
(Date)