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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 Results of Antidumping
Duty Administrative Review: Utility Scale Wind Towers from the
Socialist Republic of Vietnam

Summary

In response to requests from interested parties, the Department of Commerce (“Department”) is conducting the first administrative review (“AR”) of the antidumping duty (“AD”) order on utility scale wind towers (“wind towers”) from the Socialist Republic of Vietnam (“Vietnam”), for the period of review (“POR”) February 13, 2013 through January 31, 2014. The AR covers one exporter of subject merchandise, CS Wind Group.¹ The Department preliminarily determines that during the POR CS Wind Group did not sell subject merchandise in the United States at prices below normal value (“NV”).

If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (“CBP”) to assess ADs on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”), unless that time is extended.

Background

On February 15, 2013, the Department published in the Federal Register the AD order on wind towers from Vietnam.² On February 3, 2014, the Department notified interested parties of their opportunity to request an AR of orders, findings, or suspended investigations with anniversaries

¹ The Department preliminarily determines that CS Wind Vietnam and CS Wind Corporation, the Korean parent of CS Wind Vietnam, (collectively, “CS Wind Group”) should be treated as a single entity for AD purposes. See Single Entity Treatment section below.

² See Utility Scale Wind Towers From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 78 FR 11150 (February 15, 2013) (“Order”).



in February 2014, including the AD order on wind towers from Vietnam.³ On February 27, 2014, the Wind Tower Trade Coalition (“Petitioner”) requested that the Department conduct an AR of CS Wind Group covering the period February 13, 2013 to January 31, 2014.⁴ Also, on February 28, 2014, CS Wind Group requested that the Department conduct an AR of its sale of subject merchandise during the period February 13, 2013 to January 31, 2014.⁵ On April 1, 2014, the Department published the initiation of the first AR of the AD order on wind towers from Vietnam and initiated a review on CS Wind Group.⁶ The Department issued the original questionnaire to CS Wind Group on May 1, 2014.

Between May 29, 2014 and December 16, 2014, CS Wind Group responded to the Department’s initial and supplemental questionnaires. Between June 12, 2014 and January 5, 2015, Petitioner commented on CS Wind Group’s responses.

On September 30, 2014, the Department extended the time period for issuing the preliminary results until March 2, 2014,⁷ in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

On February 4, 2015, Petitioner and CS Wind Group submitted pre-preliminary results comments.

Scope of the Order

The merchandise covered by this order are certain wind towers, whether or not tapered, and sections thereof. Certain wind towers are designed to support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and

³ See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 79 FR 6159 (February 3, 2014).

⁴ See Letter from Petitioner, “Utility Scale Wind Towers from the Socialist Republic of Vietnam: Request for Administrative Review,” dated February 27, 2014.

⁵ See Letter from CS Wind Group, “Request for the First Administrative Review of the Antidumping Duty Order on Utility Scale Wind Towers from the Socialist Republic of Vietnam,” dated February 28, 2014.

⁶ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 79 FR 18262 (April 1, 2014) (“Initiation Notice”).

⁷ See Memorandum from Trisha Tran, International Trade Compliance Analyst, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Antidumping Duty Administrative Review of Utility Scale Wind Towers from the Socialist Republic of Vietnam: Extension of Time Limit for the Preliminary Results,” dated September 30, 2014.

storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

Merchandise covered by the order is currently classified in the Harmonized Tariff System of the United States (“HTSUS”) under subheadings 7308.20.0020⁸ or 8502.31.0000.⁹ Prior to 2011, merchandise covered by the order was classified in the HTSUS under subheading 7308.20.0000 and may continue to be to some degree. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Discussion of Methodology

NME Country Status

The Department considers Vietnam to be a non-market economy country (“NME”) country.¹⁰ In accordance with section 771(18)(C)(i) of the Act, any determinations that a foreign country is an NME country shall remain in effect until revoked by the administering authority.¹¹ The Department has not revoked Vietnam’s NME status. Therefore, we continue to treat Vietnam as an NME country for purposes of these preliminary results.

Single-Entity Treatment

To the extent that the Department practice does not conflict with section 773(c) of the Act, the Department will collapse two or more affiliated entities in a proceeding involving an NME

⁸ Wind towers are classified under HTSUS 7308.20.0020 when imported as a tower or tower section(s) alone.

⁹ Wind towers may also be classified under HTSUS 8502.31.0000 when imported as part of a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades).

¹⁰ See, e.g., Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 74 FR 56813 (November 3, 2009), unchanged in Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value, 75 FR 16434 (April 1, 2010).

¹¹ See 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, 30760 (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).

country if the facts of the case warrant such treatment.¹² Pursuant to 19 CFR 351.401(f)(1), 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. In determining whether a significant potential for manipulation exists, 19 CFR 351.401(f)(2) states that the Department may consider various factors, including: (1) the level of common ownership; (2) the extent to which manager 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 information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

Section 771(33) of the Act identifies persons that shall be considered “affiliated” or “affiliated persons,” including, *inter alia*, (1) any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization, or (2) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.¹³ 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.

In response to the Department’s questionnaire responses, CS Wind Group reported that CS Wind Corporation is the Korean parent company of CS Wind Vietnam.¹⁴ According to CS Wind Group, CS Wind Corporation controls and owns the majority of shares of CS Wind Vietnam.¹⁵ Additionally, CS Wind Corporation plays an integral role in the sale¹⁶ and production¹⁷ of wind towers during the POR. For example, CS Wind Corporation negotiates the prices of wind towers directly with its U.S. customers, invoices the U.S. customer, and determines and retains profits.¹⁸ Moreover, CS Wind acts as a toller for its parent company, CS Wind Corporation, which, in turn, also purchased raw materials used by CS Wind Vietnam to produce the wind towers sold to the United States during the POR.¹⁹ Accordingly, the Department preliminarily determines that significant potential for manipulation of production and sales decisions exists between CS Wind

¹² See, e.g., 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).

¹³ See sections 771(33)(E)-(F) of the Act.

¹⁴ See Letter from CS Wind Group, “CS Wind Section A Response in the Antidumping Duty Administrative Review on Utility Scale Wind Towers from the Socialist Republic of Vietnam,” dated May 29, 2014 (“CS Wind Group’s Section A Response”) at 1.

¹⁵ *Id.* at 1-2.

¹⁶ *Id.* at 10.

¹⁷ *Id.* at 1.

¹⁸ *Id.* at 10-13.

¹⁹ See Letter from CS Wind Group, “CS Wind Response to Supplemental Section A Questionnaire in the Antidumping Duty Administrative Review on Utility Scale Wind Towers from the Socialist Republic of Vietnam,” dated August 1, 2014 (“CS Wind Group’s Supplemental Section A Response”) at Exhibit SA-11.

Corporation and CS Wind Vietnam because CS Wind Corporation effectively controls and indirectly manages CS Wind's operations with respect to subject merchandise. Consistent with the investigation, we preliminarily determine that CS Wind Vietnam and CS Wind Corporation are affiliated pursuant to sections 771(33) of the Act and that these companies should be treated as a single entity in this proceeding.²⁰

Bona Fide Sale Analysis

CS Wind Group reported a single sale of subject merchandise to the United States during the POR.²¹ On February 4, 2015, Petitioner asserted that evidence on the record and an evaluation of the totality of the circumstances surrounding the transaction at issue demonstrate that the sale is atypical, distortive, and unrepresentative of the normal business practices between CS Wind Group and its customer.²² According to Petitioner, the factors the Department considers in its bona fide sale analysis demonstrate that CS Wind Group's sale is not bona fide.²³ In evaluating whether or not a sale subject to review is commercially reasonable, and therefore bona fide, the Department considers, inter alia, such factors as (1) the time of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arms-length basis. The Department examines the bona fide nature of a sale on a case-by-case basis, and the analysis may vary with the facts surrounding each sale.²⁴ In TTPC, the court affirmed the Department's practice of considering "any factor which indicates that the sale under consideration is not likely to be typical of those which the producer will make in the future is relevant,"²⁵ and that "the weight given to each factor investigated will depend on the circumstances surrounding the sale."²⁶ In New Donghua, the court stated that the Department's practice makes clear that the Department "is highly likely to examine objective, verifiable factors to ensure that a sale is not being made to circumvent an antidumping duty order."²⁷

For the reasons stated below, we preliminarily find CS Wind Group's reported U.S. sale during the POR to be bona fide based on the facts on the record. First, the sale was made to an unaffiliated customer with the terms set by negotiation and payment received in a timely manner,

²⁰ See Utility Scale Wind Towers from the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 77 FR 29315 (August 2, 2012), unchanged in Utility Scale Wind Towers From the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value, 77 FR 75984, 75986 (December 26, 2012).

²¹ See Letter from CS Wind Group, "CS Wind Section C Response in the Antidumping Duty Administrative Review on Utility Scale Wind Towers from the Socialist Republic of Vietnam," dated June 26, 2014 ("CS Wind Group's Section C Response") at 15.

²² See Letter from Petitioner, "Utility Scale Wind Towers from the Socialist Republic of Vietnam: Petitioner's Pre-Preliminary Determination Comments," dated February 4, 2015 at 2-24.

²³ Id.

²⁴ See Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States, 366 F. Supp. 2d 1246, 1250 ("TTPC") (CIT 2005), citing Am. Silicon Techs. v. United States, F. Supp. 2d 992, 995 (CIT 2000); Hebei New Donghua Amino Acid Co., Ltd. v. United States, 374 F. Supp. 2d 1333, 1338 (CIT 2005), ("New Donghua") quoting Fresh Garlic from the PRC: Final Results of Administrative Review and Rescission of New Shipper Review, 67 FR 11283 (March 13, 2002).

²⁵ See TTPC, 366 F. Supp. 2d at 1250, citing Windmill Int'l Pte., Ltd. v. United States, F. Supp. 2d at 1303, 1307 (CIT 2002).

²⁶ See TTPC, 366 F. Supp. 2d at 1263.

²⁷ See New Donghua, 374 F. Supp. 2d at 1339.

indicating that the sale was made at arm's-length.²⁸ Second, there does not seem to be anything unusual in the timing of CS Wind Group's sale.²⁹ Third, CS Wind Group's sales price and quantity are similar to the prices and quantities of sales to third country markets in the POR.³⁰ Fourth, there were no unusual expenses arising from the sale. Fifth, there is no record evidence that the merchandise was not resold at a profit. Therefore, based on the totality of the circumstances, the Department preliminarily finds that CS Wind Group's sale is bona fide.

Separate Rates

There is a rebuttable presumption that all companies within Vietnam are subject to government control and, thus, should be assessed a single AD rate. In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.³¹ It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law ("de jure") and in fact ("de facto"), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers,³² as amplified by Silicon Carbide.³³ However, if the Department determines that a company is wholly-foreign-owned or located in a market economy ("ME"), then a separate rate analysis is not necessary to determine whether it is independent from government control.³⁴ In this AR, CS Wind Group provided information indicating that it is a wholly-foreign owned company.³⁵ Accordingly, a separate rate analysis is not necessary for this company.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOP"). The Act further instructs that valuation of the FOP shall be based on the best available information from a surrogate ME country or countries considered to be appropriate by the

²⁸ See CS Wind Group's Section A Response at Exhibit 6 and 12; see also CS Wind Group's Supplemental Section A Response at 11-16 and Exhibit SA-8; see also CS Wind Group's Section C Response at Exhibit C-2.

²⁹ Id.

³⁰ See Letter from CS Wind Group, "CS Wind Response to Supplemental Section C-D Questionnaire in the Antidumping Duty Administrative Review on Utility Scale Wind Towers from the Socialist Republic of Vietnam," dated September 10, 2014 ("CS Wind Group's Supplemental Sections C & D Questionnaire Response") at Exhibit S2-9 and S2-10; see also Letter from CS Wind Group, "CS Wind Rebuttal to Petitioner's Pre-Preliminary Comments (Bona Fide Sale) in the Antidumping Duty Administrative Review on the Utility Scale Wind Towers from the Socialist Republic of Vietnam," dated February 11, 2015.

³¹ See Initiation Notice, 79 FR 18263.

³² See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) ("Sparklers").

³³ 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").

³⁴ See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007).

³⁵ See CS Wind Group's Section A response at 2-15 and Exhibit A-4.

Department.³⁶ When valuing the FOP, the Department shall utilize, to the extent possible, the prices or costs of the FOP in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.³⁷ As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.³⁸ Further, the Department normally values all FOPs in a single surrogate country.³⁹

In examining which countries to select as the primary surrogate country for this proceeding, the Department first determined that Bangladesh, India, Nicaragua, Nigeria, Pakistan, and the Philippines are countries that are at the same level of economic development as Vietnam in terms of per capita gross national income (GNI).⁴⁰

On June 18, 2014, the Department invited parties to comment on: (1) the list of countries that the Department determined, based on per capita GNI, is at the same level of economic development as Vietnam; (2) surrogate country selection; and (3) selection of FOP valuation in the administrative review. On June 24, 2014, CS Wind Group filed comments on the Department's list of economically comparable countries. According to CS Wind, "{r}eading sections 773(c)(1) and (c)(4) of the Act in concert, the Department is not required to limit its selection of surrogate values ("SV") from countries specified on the Department's Surrogate Country List even before the parties have had the opportunity to fully develop record evidence in support of their respective positions."⁴¹ CS Wind Group contends that because wind towers are produced in only a handful of countries worldwide, the possibility exists that the Department might not be able to find reliable SV for one or more significant factors of production.⁴² As such, CS Wind Group submitted a list of economically comparable countries and argues that the Department should be open to accepting SV data reported from CS Wind Group's list of economically comparable countries.⁴³

On June 27, 2014, Petitioner filed rebuttal comments to CS Wind Group's list of economically comparable countries.⁴⁴ Petitioner argued that CS Wind Group's comments to use CS Wind Group's list of economically comparable countries is inappropriate because the comments

³⁶ See section 773(c)(1) of the Act.

³⁷ See section 773(c)(4) of the Act.

³⁸ See Letter from Robert Bolling to All Interested Parties, "2013-2014 Antidumping Duty Administrative Review of Utility Scale Wind Towers from the Socialist Republic of Vietnam: Request for Surrogate Country and Surrogate Value Comments and Information," dated June 18, 2014 ("Surrogate Country List").

³⁹ See 19 CFR 351.408(c)(2).

⁴⁰ See Surrogate Country List at Attachment 1.

⁴¹ Id.

⁴² Id.

⁴³ Id.

⁴⁴ Letter from Petitioner, "Utility Scale Wind Towers from the Socialist Republic of Vietnam: Rebuttal to CS Wind's Comments on the List of Economically Comparable Countries," dated June 27, 2014.

suggest that Vietnam's per capita GNI (i.e., \$3,440) is economically comparable to Spain's per capita GNI (i.e., \$32,320).⁴⁵ Additionally, Petitioner argues CS Wind Group has not suggested that it is not possible to select a surrogate country from the Department's Surrogate Country List.⁴⁶ Moreover, Petitioner argues that CS Wind Group fails to specifically identify which FOPs the Department might not be able to find a reliable SV for one or more significant FOPs and why CS Wind Group believes that a reliable SV may not be available from the listed countries, which includes India, the country the Department relied on in the original investigation.⁴⁷

On July 7, 2014, Petitioner filed surrogate country comments.⁴⁸ Petitioner argued that India is the best surrogate country for this review because India is: a (1) significant producer of comparable merchandise; (2) has a large wind energy industry; and (3) is the best source for quality SV data and usable financial statements.⁴⁹ CS Wind Group did not provide any rebuttal comments.

Economic Comparability

As explained in the Surrogate Country List, Bangladesh, India, Nicaragua, Nigeria, Pakistan, and the Philippines are all at the same level of economic development as Vietnam.⁵⁰ Accordingly, unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons, we will rely on data from one of these countries. Therefore, we consider all six countries as having met this prong of the surrogate country selection criteria.⁵¹

Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."⁵² Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Letter from Petitioner, "Utility Scale Wind Towers from the Socialist Republic of Vietnam: Surrogate Country Comments," dated July 7, 2014 ("Petitioner's Surrogate Country Comments").

⁴⁹ Id.

⁵⁰ See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin") at 2.

⁵¹ Id.

⁵² Id.

selecting a surrogate country.⁵³ Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.⁵⁴ Record evidence indicates that export data for the period of review at the six-digit level for HTSUS 7308.20 “Towers and Lattice Masts of Iron and Steel” demonstrates that India, with 14.37 and 7.08 percent share of global exports by weight and value, respectively, is the only country on the Department’s list of countries that are at the same level of economic development as Vietnam that qualifies as a “significant” producer of “comparable” merchandise.⁵⁵ Record evidence indicates that India best met this criterion: Bangladesh and Nigeria had no exports during the POR, while Nicaragua, Pakistan, and the Philippines did.⁵⁶ As such, we find that India, Nicaragua, Pakistan, and the Philippines are significant producers of comparable merchandise.⁵⁷

Data Availability

When the Department finds that there is more than one country that is at the same level of economic development of the NME country and is a significant producer of comparable merchandise, the Department will consider the availability and reliability of the SV data.⁵⁸ In assessing SV data and data sources, it is the Department’s practice to consider a number of factors including whether the values represent broad-market averages, are specific to the inputs in question, are net of taxes and import duties, are contemporaneous with the period of investigation or review, and are publicly available.⁵⁹ Further, it is the Department’s preference, consistent with 19 CFR 351.408(c)(2), to value the FOPs in a single surrogate country, when possible.⁶⁰

Consistent with the original investigation, the Department finds India to be a reliable source for SVs because India is at the same level of economic development, pursuant to 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data. The Department preliminarily finds that India has the best available data because the

⁵³ The Policy Bulletin also states that “if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise.” Id. at note 6.

⁵⁴ See Sebacic Acid from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review, 62 FR 65674, 65675-76 (December 15, 1997) (“{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.”).

⁵⁵ See Petitioner’s Surrogate Country Comments at 3-5 and Exhibit 1.

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ For a description of our practice, see Policy Bulletin 04.1.

⁵⁹ See, e.g., 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) (“CLPP”), and accompanying Issues and Decision Memorandum at Comment 3.

⁶⁰ Clearon Corporation and Occidental Chemical Corp. v. United States, Slip Op. 13-22 (CIT 2013) at 13.

record only includes financial statements from Indian companies.⁶¹ Moreover, the record includes Indian financial statements from a company that produces identical and comparable merchandise.⁶² The Indian financial statements do not have evidence of countervailable subsidies and include a valid auditor's report. Given the above facts, the Department selected India as the primary surrogate country for this review. A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice.

For these reasons, the Department will rely on India as the surrogate country for this review because India is economically comparable to Vietnam, is a significant producer of comparable merchandise, and has reliable and usable SV data.

Surrogate Value Comments

On August 6, 2014, CS Wind Group and Petitioner filed SV comments. On September 2, 2014, both parties submitted SV rebuttal comments. For a detailed discussion of the SVs used in this review, see "Factor Valuation" section below and the SV Memorandum, issued concurrently with this memorandum.⁶³

Date of Sale

Consistent with our regulation, 19 CFR 351.401(i), CS Wind Group reported the invoice date as the date of sale.⁶⁴ In order to support CS Wind Group's claim that invoice date is the appropriate date of sale, CS Wind Group provided evidence of a sample sale in which the sales terms changed between the date of the purchase order and the date of the invoice.⁶⁵ CS Wind also confirmed that shipment did not occur prior to the issuance of the invoice. Accordingly, the Department used invoice date as the date of sale for these preliminary results.

Normal Value Comparisons

To determine whether the sale of wind towers produced by CS Wind Group to the U.S. were at price below NV, we compared CS Wind Group's export price ("EP") to NV as described in the "Export Price" and "Normal Value" sections below.

⁶¹ See Letter from CS Wind Group, "CS Wind's First Surrogate Value Submission: Antidumping Duty Administrative Review on Utility Scale Wind Towers from the Socialist Republic of Vietnam," dated August 6, 2014 ("CS Wind Group's Initial SV Submission") at Exhibit 8a, 8d, 8f, and 8h; see also Letter from Petitioner, "Utility Scale Wind Towers From the Socialist Republic of Vietnam Submission of Surrogate Values," dated August 6, 2014 ("Petitioner's Initial SV Submission" at Exhibit 7; see also Letter from CS Wind Group, "CS Wind's Submission of Final SV Submission: Antidumping Duty Administrative Review on Utility Scale Wind Towers from the Socialist Republic of Vietnam, dated February 2, 2015 ("CS Wind Group's Final SV Submission"); see also Letter from Petitioner, "Utility Scale Wind Towers from the Socialist Republic of Vietnam; Submission of Surrogate Values and Factual Information," dated February 2, 2015 ("Petitioner's Final SV Submission").

⁶² See Memorandum to the File from Trisha Tran through Robert Bolling regarding "Antidumping Duty Administrative Review of Utility Scale Wind Towers from the Socialist Republic of Vietnam," ("Surrogate Value Memorandum") issued concurrently with this memorandum; see also Factor Valuations section below.

⁶³ Id.

⁶⁴ See CS Wind Group's Section C Response at 15.

⁶⁵ See CS Wind Group's Supplemental Section A Response at 8 and SA-5.

Determination of the Comparison Method

Differential Pricing Analysis

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (“CEPs”)) (the average-to-average method) unless the Department determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department’s examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.⁶⁶ In recent investigations, the Department applied a “differential pricing” analysis to determine whether application of average-to-transaction 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.⁶⁷ The Department finds that the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this AR. 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 average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average 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. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (*i.e.*, city name, zip code, *etc.*) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR 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.

⁶⁶ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

⁶⁷ See Frontseating Service Valves From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012, 78 FR 27954 (May 13, 2013); see also Certain Steel Threaded Rod From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012, 78 FR 21101 (April 9, 2013), unchanged in 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).

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. In this instant review, because there is only one sale, the question as to whether a pattern of prices that differ significantly exists is moot. Accordingly, the Department is not applying the differential pricing analysis and is calculating CS Wind Group’s dumping margin using the standard method by comparing the weighted-average NV to the weighted-average EP.

U.S. Price

Export Price

In accordance with section 772(a) of the Act, EP is “the price at which 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 section 772(c) of the Act. We use the EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which CEP was not otherwise indicated. We find that CS Wind Group’s sale in this review is an EP sale.⁶⁸

We based EP on the price to the unaffiliated purchaser in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price (gross unit price) for foreign brokerage and handling, international freight, U.S. customs fees, U.S. brokerage and handling fees, and other U.S. transportation expenses. Consistent with 19 CFR 351.408(c)(1), we valued these movement expenses using the price paid to CS Wind Group’s ME supplier because CS Wind Group demonstrated that it incurred international freight expenses in a ME currency through a ME company by providing full document traces indicating that the prices paid by CS Wind Group were set by the ME freight carrier.⁶⁹ However, because CS Wind Group’s foreign inland freight from the plant to the port of exportation were provided by Vietnamese service providers or paid for in Vietnamese currency (Dong), we based these charges on SV rates.⁷⁰

Value Added Tax

The Department’s practice, in NME cases, is to subtract from CEP or EP the amount of any un-refunded (irrecoverable) valued-added tax (“VAT”), in accordance with section 772(c)(2)(B) of

⁶⁸ See CS Wind Group’s Section A Response at 28; see also CS Wind Group’s Section C Response at 1 and 28.

⁶⁹ See CS Wind Group’s Supplemental Sections C & D Questionnaire Response at 8 and Exhibit S2-5.

⁷⁰ See CS Wind Group’s Section C Response at 24.

the Act.⁷¹ Where the irrecoverable VAT is a fixed percentage of the U.S. price, the Department makes a tax-neutral dumping comparison by reducing the U.S. price by this percentage.⁷²

Information placed on the record of this review demonstrates that the VAT rate is 10 percent and the rebate rate for subject merchandise is 10 percent.⁷³ For the purposes of these preliminary results of review, therefore, we did not reduce the U.S. price because the difference between the rates, i.e., irrecoverable VAT, is zero percent.⁷⁴

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a FOP methodology if the merchandise is exported from an NME country and the Department finds that the available 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. When determining NV in a NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. This methodology ensures that the Department's calculations are as accurate as possible.⁷⁵

We calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include but are not limited to: (1) hours of labor required, (2) quantities of raw materials employed, and (3) representative capital costs. The Department used FOPs reported by CS Wind Group for materials, labor, packing and by-products. Specifically, to calculate NV, the Department multiplied the reported per-unit FOP consumption quantities by publicly available SVs. See the "Factor Valuations" section below.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by CS Wind Group for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs. However, when a producer sources an input from an ME and pays for it in an ME currency, the Department normally will value the factor using the actual price paid for the input.⁷⁶ To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). In selecting SVs, we considered the quality, specificity, and contemporaneity

⁷¹ See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481 (June 19, 2012).

⁷² Id.

⁷³ See CS Wind Group's Section C Response at 43-45 and Exhibits C-9 and C-10.

⁷⁴ Id.

⁷⁵ 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 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).

⁷⁶ See 19 CFR 351.408(c)(1); see also Shakeproof Assembly Components Div of III Tool Works v. United States, 268 F. 3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

of the data.⁷⁷ As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to import SVs the surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit’s decision in Sigma Corp.⁷⁸

For the preliminary results, except where noted below, we used data from India in the Global Trade Atlas (“GTA”) in order to calculate SVs for CS Wind Group’s FOPs (i.e., direct materials and packing materials) and certain movement expenses because India is the primary surrogate country. As noted above, when selecting the best available information for valuing FOPs, the Department’s practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.⁷⁹ The record shows that Indian import statistics obtained through GTA are contemporaneous with the POR, product-specific, and tax-exclusive.⁸⁰ In those instances where we could not obtain publicly available information contemporaneous to the POR with which to value factors, we adjusted the SVs using, where appropriate, the relevant Consumer Price Index and Producer Price Index, as published by the International Financial Statistics.⁸¹

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding import prices if it has a reason to believe or suspect the source data may be subsidized.⁸² In this regard, the Department has previously found that it is appropriate to disregard such prices from Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.⁸³ Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies.

⁷⁷ See, e.g., Fresh Garlic From the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People’s Republic of China, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.

⁷⁸ See Sigma Corp. v. United States, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997) (“Sigma Corp.”).

⁷⁹ 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).

⁸⁰ See Surrogate Value Memorandum.

⁸¹ Id.

⁸² See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

⁸³ See 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; 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; Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum at 7-9.

Therefore, the Department has not used prices from India, Indonesia, South Korea and Thailand in calculating the import-based SVs. Additionally, we disregarded prices from NME countries.⁸⁴ Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.⁸⁵

We valued CS Wind Group’s steel plate inputs using domestic price data from Steel Guru India (grades IS2062 E350 and E250) because they are specific to the size and grade of CS Wind Group’s steel plate, contemporaneous with the POR, publicly-available, and tax exclusive. Additionally, domestic price data from Steel Guru India represents a broad market average of actual steel prices in India, the primary surrogate country. The Department preliminarily finds that the most appropriate steel plate SV is derived from domestic price data from Steel Guru India because the type of steel covered by the SV source is most specific to the steel plate CS Wind Group used during the POR. Record evidence indicates that the steel grade from Steel Guru India is comparable to the grades of steel used by CS Wind Group during the POR to produce subject merchandise.⁸⁶ More specifically, steel grade IS2062, the grade from Steel Guru India, is commonly used in the production of wind towers and other similar applications and has similar characteristics and end uses as that used by CS Wind Group during the POR to produce subject merchandise.⁸⁷ Additionally, we preliminarily find that domestic data from Steel Guru India for grade IS2062 are more specific because they provide specific prices for the grade and thicknesses of steel plates used by CS Wind Group, while the GTA Indian import price data provide only one price for plate thickness “above 10 millimeters.”⁸⁸ Moreover, we find that domestic data from Steel Guru India are more specific because Steel Guru India data reflects prices only for the comparable IS2062 grades while the GTA Indian import data reflects prices for many different types of steel. Specifically, Infodrive data for HTSUS 7208.51, the tariff classification for the merchandise covered by GTA Indian data, demonstrate that during the POR, only 2.3 percent of total imports (by quantity) consisted of the grade used by CS Wind

⁸⁴ See, e.g., Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 74 FR 9591, 9600 (March 5, 2009), unchanged in Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 36656 (July 24, 2009) and Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order, 74 FR 46971 (September 14, 2009).

⁸⁵ Id.

⁸⁶ See CS Wind Group’s Initial SV Submission at Exhibit 9e and 9m (stating that steel grade IS2062 is used for applications in general engineering, wind towers, and railways); see also Letter from CS Wind Group, “Surrebuttal to Petitioner’s rebuttal comments on CSW’s 6th Supplemental Questionnaire response: Antidumping Duty Administrative Review on Utility Scale Wind Towers from the Socialist Republic of Vietnam,” (“CS Wind Group’s 6th Supplemental Surrebuttal Comments”) at 4-20 (explaining that 7th (2011) standard revision of the IS2062 standard is (1) harmonized with the European Standard EN 10025; (2) encompasses steel grade used by CS Wind’s Group; (3) and similar in terms of chemical composition, metallurgical properties, physical characteristics, and mechanical properties); see also CS Wind Group’s Final SV Submission at Exhibit 1a (clarification from Steel Guru India that the IS2062 E350BO, E350BR, and E350C are equivalent to three types of grade steel plates used by CS Wind).

⁸⁷ Id.

⁸⁸ See Letter from CS Wind Group, “CS Wind Pre-Preliminary Comments & Submission of Factual Information to Value Factors of Production in the Antidumping Duty Administrative Review on Utility Scale Wind Towers from the Socialist Republic of Vietnam,” dated February 4, 2015 at 17-23.

Group during the POR.⁸⁹ Finally, we preliminary find that Steel Guru India data for grade IS2062 E350 is publicly-available because it is accessible to paid subscribers upon request.⁹⁰

We valued truck freight expenses using data from www.infobanc, which Petitioner and CS Wind Group submitted.⁹¹ This data source provides daily rates per truck load from twenty-six major points of origin to four different destinations in India.⁹²

To calculate the labor input, we based our calculation on information provided by the Department in Labor Methodologies, which recommends using single-country labor cost and compensation data from Chapter 6A of the International Labor Organization (“ILO”).⁹³ Specifically, we used the ILO Chapter 6A data for industry-specific classification code 28 “Manufacture of Fabricated Metal Products, except Machinery and Equipment.” We used the most recent data within five years of the base year (2008), which was 2005, and adjusted them to the instant POR using an inflator based on the CPI. This computation resulted in a wage rate of 72.11 INR/hour. The Department finds the description under Sub-Classification 28 of the ISIC-Revision 3-D “Manufacture of Fabricated Metal Products, except Machinery and Equipment.” to be the best available labor rate SV source on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the SV Memorandum.⁹⁴

As discussed above, the Department normally will use publicly available information to value FOPs. However, in accordance with 19 CFR 351.408(c)(1), where an FOP is produced in one or more ME countries, purchased from one or more ME suppliers, and paid for in an ME currency, the Department normally will use the price(s) paid to the ME supplier(s) to value the FOPs if substantially all of the total volume of the FOP is purchased from the ME supplier(s). The Department defines the term “substantially all” to be 85 percent or more of the total volume purchased of the FOP used in the production of subject merchandise.⁹⁵ In those instances where less than substantially all of the total volume of the FOP is produced in one or more ME countries and purchased from one or more ME suppliers, the Department normally will weight-average the actual price(s) paid for the ME portion and the SV for the NME portion by their respective quantities. CS Wind Group provided evidence of ME purchases of some inputs during the POR. We applied their ME purchases in valuing certain FOP.⁹⁶

The record includes an audited financial statement (April 1, 2013-March 31, 2014) from Ganges International Private Limited (“Ganges”), a producer of identical and comparable merchandise from India.⁹⁷ We calculated financial ratios for factory overhead, selling, general, and

⁸⁹ See CS Wind Group’s 6th Supplemental Surrebuttal Comments at 20 and Exhibit 5a.

⁹⁰ See Since Hardware (Guangzhou) Co., Ltd. v. United States, 977 F. Supp. 2d 1347 (CIT 2014).

⁹¹ See CS Wind Group’s Initial SV Submission at Exhibit 12.

⁹² See Surrogate Value Memorandum.

⁹³ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (“Labor Methodologies”).

⁹⁴ See Surrogate Value Memorandum.

⁹⁵ See Use of Market Economy Input Prices in Nonmarket Economy Proceedings, 78 FR 46799 (August 2, 2013).

⁹⁶ See CS Wind Group’s Analysis Memorandum.

⁹⁷ See CS Wind Group’s Final SV Submission at Exhibit 15(C).

administrative expenses, and profit from this financial statement because Ganges' 2013-2014 financial statements are the best available information: the company is a producer of identical and comparable merchandise; its publicly available 2013-2014 financial statements are complete, audited, cover eleven months of the POR, show a profit, reflect no evidence of countervailable subsidies, and include an independent auditor's report that is signed by the auditor.⁹⁸ We note that the record contains Ganges' 2012-2013 and 2010-2011 financial statements.⁹⁹ However, because the 2012-2013 financial statements only cover 1.5 months of the POR and the Ganges 2010-2011 financial statements are not contemporaneous with the POR, we disregarded these two financial statements.¹⁰⁰

The record also includes eight other Indian financial statements from India: (1) ISGEC Heavy Engineering Ltd for fiscal year ("FY") October 1, 2012-September 30, 2013 of ("ISGEC"); (2) Pipavav Defence and Offshore Engineering Company, Limited for the FY April 1, 2013-March 31, 2014 ("Pipavav"); (3) Elecon Engineering Company Ltd., for the FY April 1, 2013-March 31, 2014 ("Elecon"); (4) Larsen & Tourbo for the FY April 1, 2013-March 31, 2014 ("L&T"); (5) Suzlon Structures Limited ("Suzlon") for the FY April 1, 2011-March 31, 2012; (6) Suzlon for the FY April 1, 2010-March 31, 2011; (7) Suzlon for the FY April 1, 2009-March 31, 2010; and (8) TJSV Steel Fabrication and Galvanizing India Ltd. April 1, 2012-March 31, 2013 ("TJSV"). However, record evidence indicates that both ISGEC and Suzlon received countervailing subsidies.¹⁰¹ Additionally, record evidence indicates that TJSV's financial statements do not include a valid auditor's report.¹⁰² TJSV's auditor's report does not identify the auditor, the auditor's credentials, or the auditor's firm.¹⁰³ Moreover, the auditor's report is neither signed nor dated.¹⁰⁴ Finally, record evidence indicates that L&T, Elecon, and Pipavav do not produce identical and comparable merchandise, unlike Ganges.¹⁰⁵ Therefore, for the preliminary results, the Department did not consider these financial statements when we calculated the surrogate financial ratios.

For a complete listing of all of the inputs and a detailed discussion regarding our SV selections, see SV Memorandum

Currency Conversion

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rate in effect on the date of the U.S. sale as certified by the Federal Reserve Bank.

⁹⁸ Id.

⁹⁹ See CS Wind Group's Initial SV Submission at Exhibit 8a; see also CS Wind Group's Final SV Submission at 15(A).

¹⁰⁰ Id.

¹⁰¹ See CS Wind Group's Initial SV Submission at Exhibits 8d, 8f, 8h; see also Petitioner's Initial SV submission at Exhibit 7.

¹⁰² See CS Wind Group's Final SV Submission at 15(E).

¹⁰³ Id. at 9.

¹⁰⁴ Id.

¹⁰⁵ See Petitioner's Final SV Submission at Exhibits 16, 17, and 18.

Conclusion:

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Date