



A-570-053

Investigation

POI: 7/01/2016-12/31/2016

Public Document

E&C/VI: MJH/TB

October 26, 2017

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

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Antidumping Duty Investigation of Certain Aluminum Foil from
the People's Republic of China

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain aluminum foil (aluminum foil) 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 estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

II. BACKGROUND

On March 9, 2017, the Department received an antidumping duty (AD) petition covering imports of aluminum foil from the PRC, which was filed in proper form by The Aluminum Association Trade Enforcement Working Group (the petitioner), covering aluminum foil from the PRC.¹ The Department initiated this investigation on March 28, 2017.²

¹ See "Certain Aluminum Foil from the People's Republic of China - Petitions for the Imposition of Antidumping and Countervailing Duties," March 9, 2017 (Petition).

² See *Certain Aluminum Foil from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 82 FR 15691 (March 30, 2017) (*Initiation Notice*).

On April 28, 2017, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of aluminum foil from the PRC.³

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) LTFV investigations.⁴ The process requires exporters to submit a separate-rate application (SRA)⁵ 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 SRAs would be due 30 days after publication of the notice, *i.e.*, May 4, 2017.⁶ We also stated that to be considered for separate-rate status, parties are required to submit a response to the quantity and value (Q&V) questionnaire.⁷ On April 24, 2017, we granted a two-day extension to all parties to submit SRAs.⁸ As part of this investigation, the Department initiated an inquiry into whether the PRC should continue to be treated as a nonmarket economy (NME) country under the antidumping and countervailing duty laws.⁹

Between April 24, 2017, and May 4, 2017, the Department timely received SRAs from 24 companies.¹⁰ On August 25, 2017, we issued supplemental SRA questionnaires to Chinalco

³ See *Aluminum Foil from China*, 82 FR 19751 (April 28, 2017).

⁴ See *Initiation Notice*, 82 FR at 15695.

⁵ For a description of the Department's practice, 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>.

⁶ See *Initiation Notice*, 82 FR at 15695.

⁷ *Id.*

⁸ See Letter to Interested Parties, "Certain Aluminum Foil from the People's Republic of China – Extension of Deadline for Submission of Separate Rate Applications," dated April 24, 2017.

⁹ See *Certain Aluminum Foil from the People's Republic of China: Notice of Initiation of Inquiry Into the Status of the People's Republic of China as a Nonmarket Economy Country Under the Antidumping and Countervailing Duty Laws*, 82 FR 16162 (April 3, 2017) (*NME Inquiry Initiation*).

¹⁰ The Department timely received SRAs from the following companies: Alcha International Holdings Limited, Baotou Alcha Aluminum Co., Ltd, Chinalco Aluminum Foil Co., Ltd., Dingsheng Aluminium Industries (Hong Kong) Trading Co., Limited, Jiangyin Dolphin Pack Ltd. Co., Granges Aluminum (Shanghai) Co., Ltd., Hangzhou Dingsheng Import & Export Co., Ltd., Huaфон Nikkei Aluminium Corporation, Hunan Suntown Marketing Limited, Jiangsu Alcha Aluminum Co., Ltd, Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd., Jiangsu Zhongji Lamination Materials Co., (HK) Limited/Jiangsu Zhongji Lamination Materials Co., Ltd., Kunshan Aluminium Co., Ltd., Luoyang Longding Aluminium Industries Co., Ltd., Luoyang Wanji Aluminium Processing Co., Ltd., Shandong Yuanrui Metal Material Co., Ltd., Shanghai Shenhua Aluminium Foil Co., Ltd., SNTO International Trade Limited, Suzhou Manakin Aluminum Processing Technology Co., Ltd., Walson (HK) Trading Co., Limited, Xiamen Xiachun Aluminum Foil Co., Ltd., Yantai Jintai International Trade Co., Ltd., Yinbang Clad Material Co., Ltd., and Zhejiang Zhongjin Aluminum Industry Co., Ltd.

Aluminum Foil Co., Ltd. and Yantai Jintai International Trade Co., Ltd.,¹¹ to which each company responded on September 6, 2017.¹²

On April 12, 2017, the petitioner submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes.¹³ On April 18, 2017, the Department received rebuttal comments on product characteristics from Hangzhou Dingsheng Import & Export Co., Ltd, Jiangsu Dingsheng New Materials Co., Ltd. and Dingsheng Aluminum Industries (Hong Kong) Trading Co.¹⁴ On April 19, 2017, the Department received rebuttal comments on product characteristics from Jiangsu Zhongji Lamination Materials Co., (HK) Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd., and Jiangsu Huafeng Aluminium Industry Co., Ltd.¹⁵ (collectively, Zhongji) and Trinidad Benham Corporation.¹⁶ No other interested parties submitted comments.

We also stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on responses to Q&V questionnaires to be sent to certain potential respondents named in the Petition.¹⁷ On April 5, 2017, the Department issued Q&V questionnaires to 30 companies that the petitioner identified as potential producers/exporters of aluminum foil from the PRC.¹⁸ In addition, the Department posted the Q&V questionnaire on its website and, in the *Initiation Notice*, invited parties that did not receive a Q&V questionnaire from the Department to file a response to the Q&V questionnaire by the applicable deadline.¹⁹ On April 12, 2017, the Department received timely filed Q&V questionnaire responses from 15 of the companies that were issued Q&V questionnaires. Additionally, 11 other companies submitted voluntary Q&V

¹¹ See Letter to Chinalco Aluminum Foil Co., Ltd., “Aluminum Foil from the People’s Republic of China: Separate Rate Application Supplemental Questionnaire,” dated August 25, 2017; see also Letter to Yantai Jintai International Trade Co., Ltd., “Aluminum Foil from the People’s Republic of China: Separate Rate Application Supplemental Questionnaire,” dated August 25, 2017; Letter to Chinalco Aluminum Foil Co., Ltd., “Certain Aluminum Foil from the People’s Republic of China – Extension of Deadline for Submission of Response to Supplemental Separate Rate Application Questionnaire,” dated September 1, 2017; Letter to Yantai Jintai International Trade Co., Ltd., “Certain Aluminum Foil from the People’s Republic of China – Extension of Deadline for Submission of Response to Supplemental Separate Rate Application Questionnaire,” dated September 1, 2017.

¹² See Letter from Chinalco Aluminum Foil Co., Ltd., “Chinalco Separate Rate Supplemental Response in the Antidumping Duty Investigation on Aluminum Foil from the People’s Republic of China,” dated September 6, 2017; Letter from Yantai Jintai International Trade Co., Ltd., “Certain Aluminum Foil from the People’s Republic of China: Supplemental Separate Rate Application Questionnaire Response,” dated September 6, 2017.

¹³ See Letter from the Petitioner, “Certain Aluminum Foil from the People’s Republic of China – Petitioners’ Comments on Product Characteristics for Antidumping Questionnaire,” dated April 12, 2017.

¹⁴ See Letter to the Department, “Dingsheng’s Response to Petitioners’ Comments on Product Characteristic in the Antidumping Duty Investigation of Aluminum Foil from the People’s Republic of China, A-570-053,” dated April 18, 2017.

¹⁵ After the POI, Jiangsu Zhongji Lamination Materials Stock Co., Ltd. revised the English translation of its name to Jiangsu Zhongji Lamination Materials Co., Ltd. The amended name is still in use at the time of publication of this document.

¹⁶ See Letter from Zhongji, “Certain Aluminum Foil from the People’s Republic of China: Product Characteristic Rebuttal Comments,” dated April 19, 2017; see also Letter from Trinidad Benham Corporation, “Certain Aluminum Foil from the People’s Republic of China: Rebuttal Product Characteristic Comments,” dated April 19, 2017.

¹⁷ See *Initiation Notice*, 82 FR at 15695.

¹⁸ See Memorandum, “Investigation of Certain Aluminum Foil from the People’s Republic of China – Issuance of Quantity and Value Questionnaires,” dated April 24, 2017 (Q&V Issuance Memo).

¹⁹ See Letter, “Antidumping Duty Investigation of Certain Aluminum Foil from the People’s Republic of China: Quantity and Value Questionnaire,” dated April 3, 2017.

responses. On May 22, 2017, based on the responses to the Q&V questionnaires, we selected Dingsheng Aluminum Industries (Hong Kong) Trading Co. Ltd. (Dingsheng HK),²⁰ Hangzhou Dingsheng Import & Export Co. Ltd. (Dingsheng IE),²¹ and Jiangsu Zhongji Lamination Materials Co., (HK) Ltd. (Zhongji HK) for individual examination as mandatory respondents in this AD investigation.²²

On May 23, 2017, the Department issued its AD NME questionnaires to Dingsheng HK, Dingsheng IE, and Zhongji HK.²³ On June 20, 2017, the Department received responses to Section A of the Initial Questionnaire from Zhongji, and a combined response from Dingsheng IE, Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd., Dingsheng HK, and Walson (HK) Trading Co., Limited (collectively, Dingsheng).²⁴ On July 6, 2017, we received responses to Sections C – D of the Initial Questionnaire from Zhongji and Section C from Dingsheng.²⁵ On July 10, 2017, we received Dingsheng's response to Section D of the Initial Questionnaire.²⁶

On July 11, 2017,²⁷ and July 28, 2017,²⁸ the petitioner submitted comments regarding Dingsheng's and Zhongji's questionnaire responses.

²⁰ The quantity and value reported in Dingsheng HK's response to section A of the Department's antidumping questionnaire differed from the quantity and value reported in Dingsheng HK's Q&V questionnaire response. However, we find that the quantity and value reported in Dingsheng HK's section A questionnaire response was also sufficient for its selection as a mandatory respondent.

²¹ The quantity and value reported in Dingsheng IE's response to section A of the Department's antidumping questionnaire differed from the quantity and value reported in Dingsheng IE's Q&V questionnaire response. However, we find that the quantity and value reported in Dingsheng IE's section A questionnaire response was also sufficient for its selection as a mandatory respondent.

²² See Memorandum to Gary Taverman, "Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Respondent Selection," dated May 22, 2017 (Respondent Selection Memorandum).

²³ See Letters to Dingsheng HK, Dingsheng IE, and Zhongji HK, dated May 23, 2017 (Initial Questionnaire).

²⁴ See Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Section A Questionnaire Response of Zhongji HK and its Affiliated Companies," dated June 20, 2017 (Zhongji Section A Response); see also Letter from Dingsheng, "Dingsheng's Section A Response in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, A-570-053," dated June 20, 2017 (Dingsheng Section A Response).

²⁵ See Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Section C & D Questionnaire Response of Zhongji HK and its Affiliated Companies," dated July 6, 2017 (Zhongji Section C – D Response); see also Letter from Dingsheng, "Dingsheng's Section C Response in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, A-570-053," dated July 6, 2017 (Dingsheng Section C Response).

²⁶ See Letter from Dingsheng, "Dingsheng's Section D Response in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, A-570-053," dated July 10, 2017 (Dingsheng Section D Response).

²⁷ See Letter from the Petitioner, "Certain Foil from the People's Republic of China - Petitioners Comments on the Section A Questionnaire Response of Zhongji," dated July 11, 2017; Certain Aluminum Foil from the People's Republic of China – Petitioners' Comments on Dingsheng's Section A Questionnaire Response," dated July 11, 2017.

²⁸ See Letter from the Petitioner, "Certain Aluminum Foil the People's Republic of China – Petitioners' Deficiency Comments on Dingsheng's Section C Questionnaire Response," dated July 28, 2017; see also Letter from the Petitioner, "Certain Aluminum Foil from the People's Republic of China – Petitioners' Deficiency Comments on the Section C and D Response of Zhongji," dated July 28, 2017; Letter from the Petitioner, "Certain Aluminum Foil from the People's Republic of China - Petitioners' Deficiency Comments on Dingsheng's Section D Questionnaire Response," dated July 28, 2017.

On July 5, 2017,²⁹ July 25, 2017,³⁰ and August 9, 2017,³¹ we issued supplemental questionnaires to Dingsheng. On July 5, 2017,³² and August 9, 2017,³³ we issued supplemental questionnaires to Zhongji. On July 17, 2017,³⁴ August 28, 2017,³⁵ and September 5, 2017,³⁶ Dingsheng submitted responses to the Department's supplemental questionnaires. On July 17, 2017,³⁷ August 25, 2017,³⁸ and August 28, 2017,³⁹ Zhongji submitted responses to the Department's supplemental questionnaires. On September 5, 2017,⁴⁰ the petitioner submitted rebuttal comments regarding the supplemental questionnaire responses of Dingsheng and Zhongji.

Between June 23, 2017, and September 11, 2017, the petitioner, Dingsheng, and Zhongji timely submitted comments and factual information related to surrogate country selection.⁴¹ On July 17, 2017, the petitioner, Dingsheng, and Zhongji timely submitted surrogate value information.⁴²

²⁹ See Letter to Dingsheng, "Certain Aluminum Foil from the People's Republic of China: Section A Supplemental Questionnaire," dated July 5, 2017 (Dingsheng Section A Supplemental Questionnaire).

³⁰ See Letter to Dingsheng, "Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: First Supplemental Questionnaire," dated July 25, 2017 (Dingsheng First Supplemental Questionnaire).

³¹ See Letter to Dingsheng, "Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Second Supplemental Questionnaire," dated August 9, 2017 (Dingsheng Second Supplemental Questionnaire).

³² See Letter to Zhongji, "Certain Aluminum Foil from the People's Republic of China: First Supplemental Questionnaire," dated July 5, 2017 (Zhongji First Supplemental Questionnaire).

³³ See Letter to Zhongji, "Certain Aluminum Foil from the People's Republic of China: Second Supplemental Questionnaire," dated August 9, 2017 (Zhongji Second Supplemental Questionnaire).

³⁴ See Letter from Dingsheng, "Dingsheng's Supp Section A Response in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, A-570-053," dated July 17, 2017.

³⁵ See Letter from Dingsheng, "Dingsheng's Supplemental Response in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, A-570-053," dated August 28, 2017.

³⁶ See Letter from Dingsheng, "Dingsheng's Supplemental Response to Questions D-1 through D-3 in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, A-570-053," dated September 5, 2017.

³⁷ See Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Supplemental Section A Questionnaire Response of Zhongji HK and its Affiliated Companies," dated July 17, 2017 (Zhongji Section A Supplemental Questionnaire Response).

³⁸ See Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Second Supplemental Questionnaire Response Sections A and C," dated August 25, 2017 (Zhongji Section A-C Supplemental Questionnaire Response).

³⁹ See Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Second Supplemental Questionnaire Response Section D," dated August 28, 2017 (Zhongji Section D Supplemental Questionnaire Response).

⁴⁰ See Letter from the petitioner, "Certain Aluminum Foil from the People's Republic of China – Petitioner's Submission of New Factual Information to Rebut, Clarify, or Correct the Supplemental Questionnaire Responses of Zhongji and Dingsheng," dated September 5, 2017.

⁴¹ See Letter from Dingsheng, "Dingsheng's Surrogate Country Comments in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, A-570-053," dated June 23, 2017; *see also* Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Surrogate Country Comments," dated June 23, 2017; Letter from the petitioner, "Antidumping Investigation of Aluminum Foil from the People's Republic of China - Surrogate Country Comments," dated June 23, 2017; *and* Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Rebuttal Surrogate Countries List Comments," dated June 5, 2017.

⁴² See Letter from the petitioner, "Antidumping Investigation of Certain Aluminum Foil from the People's Republic of China – Petitioners' Submission of South African Surrogate Value Information," dated July 17, 2017; *see also* Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Surrogate Value Selection Comments," dated July 17, 2017; Letter from Dingsheng, "Dingsheng's Surrogate Country Comments in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, A-570-053," dated June

On August 1, 2017, and pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.205(f)(1), the Department published in the *Federal Register* a postponement of the preliminary determination by 50 days, until no later than October 4, 2017.⁴³ On October 12, 2017, the Department published in the *Federal Register* a deferral of the preliminary determination until no later than November 30, 2017.⁴⁴

The Department is conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2016, through December 31, 2016. This period corresponds to the two most recently completed fiscal quarters prior to the month of the filing of the Petition, which was March 2017.⁴⁵

IV. SCOPE COMMENTS

In accordance with the *Preamble* to the Department's regulations, in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and stated that parties must submit comments by April 18, 2017.⁴⁶ On April 18, 2017, Valeo North America, Inc. and MAHLE Behr Troy Inc. submitted comments on the scope of this investigation, arguing for an exclusion for aluminum fin stock.⁴⁷ Also on April 18, 2017, Zhongji submitted scope comments, arguing that aluminum foil of a thickness below 0.0003 inches should be excluded from the scope or treated as a separate class or kind of merchandise.⁴⁸ On April 28, 2017, the petitioner submitted rebuttal scope comments.⁴⁹ Based on our analysis of these comments, we preliminarily find no reason to amend or modify the scope of this investigation.⁵⁰

23, 2017; see also "Discussion of the Methodology: Surrogate Country and Surrogate Values" section, below, for additional detail.

⁴³ See *Certain Aluminum Foil from the People's Republic of China: Postponement of Preliminary Determination of the Less-Than-Fair-Value Investigation*, 82 FR 35753 (August 1, 2017).

⁴⁴ See *Certain Aluminum Foil from the People's Republic of China: Deferral of Preliminary Determination of the Less-Than-Fair-Value Investigation*, 82 FR 47481 (October 12, 2017); see also *Certain Aluminum Foil from the People's Republic of China: Deferral of Preliminary Determination of the Less-Than-Fair-Value Investigation—Correction Notice*, 82 FR 48485 (October 18, 2017).

⁴⁵ See 19 CFR 351.204(b)(1).

⁴⁶ See *Initiation Notice*, 82 FR at 15692.

⁴⁷ See Letter from MAHLE Behr Troy Inc., "Comments on Scope of the Investigation: Certain Aluminum Foil from the People's Republic of China," dated April 18, 2017; see also Letter from Valeo North America, Inc., "Aluminum Foil from the People's Republic of China: Request for Confirmation of Scope Exclusion for Automotive Fin Stock," dated April 18, 2017.

⁴⁸ See Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Request that Aluminum Foil of a Thickness Below .0003" Be Excluded from the Scope or Treated as a Separate Class or Kind of Merchandise," dated April 18, 2017.

⁴⁹ See Letter from the Petitioner, "Certain Aluminum Foil from the People's Republic of China – Petitioners' Scope Rebuttal Comments," dated April 28, 2017.

⁵⁰ See Memorandum to James Maeder, "Certain Aluminum Foil from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated October 26, 2017.

V. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is aluminum foil having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width. Aluminum foil is made from an aluminum alloy that contains more than 92 percent aluminum. Aluminum foil may be made to ASTM specification ASTM B479, but can also be made to other specifications. Regardless of specification, however, all aluminum foil meeting the scope description is included in the scope.

Excluded from the scope of this investigation is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on only one side of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above. The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6000, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000. Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

VI. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on September 6, 2017, Dingsheng and Zhongji requested that the Department postpone the final determination and extend provisional measures from four months to six months.⁵¹ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because: (1) our preliminary determination is affirmative, (2) the requesting exporters, Dingsheng and Zhongji, account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than February 22, 2018, and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

VII. DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country

With respect to the inquiry into the PRC's NME status, the Department provided an opportunity for the public to comment and submit information with respect to the PRC on the six factors

⁵¹ See Letter from Dingsheng, "Dingsheng's Request to Extend the Final Determination in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, A-570-053," dated September 6, 2017; *see also* Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Request to Postpone Final Determination," dated September 6, 2017.

enumerated by section 771(18)(B) of the Act, which the Department must take into account in making a market/nonmarket economy determination.⁵² The Department has completed its inquiry and concludes that the PRC is a NME country because it does not operate sufficiently on market principles to permit the use of prices and costs in that country for purposes of the Department's antidumping analysis.⁵³

Surrogate Country and Surrogate Values

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."⁵⁴ As a general rule, the Department selects a surrogate country that is at the same level of economic development of the NME unless it is determined that none of the countries are viable options because they either (a) are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available surrogate value (SV) data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the level of economic development of 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.⁵⁵ To determine which countries are at the same level of economic development of the NME country, the Department generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.⁵⁶ Further, the Department normally values all FOPs in a single surrogate country.⁵⁷

On May 24, 2017, the Department identified Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand as countries that are at the same level of economic development of the PRC based on per capita 2015 GNI data. On the same date, the Department issued a letter to interested

⁵² See *NME Inquiry Initiation*, 82 FR at 16163; see also *Certain Aluminum Foil from the People's Republic of China: Notice of Extension of Time for Public Comment Regarding Status of the People's Republic of China as a Nonmarket Economy Country Under the Antidumping and Countervailing Duty Laws*, 82 FR 20559 (May 3, 2017).

⁵³ See Memorandum to Gary Taverman, "China's Status as a Non-Market Economy," dated October 26, 2017 (*China NME Status Determination*). Section 771(18)(D) states that a NME determination "shall not be subject to judicial review in any investigation conducted" under section 771(18). As the Department has completed its NME analysis, we will not address further this analysis in this preliminary determination.

⁵⁴ 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>.

⁵⁵ See Letter to All Interested Parties, "Investigation of Certain Aluminum Foil from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated May 24, 2017 (Surrogate Country Letter); see also Letter to All Interested Parties "Revised Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," July 31, 2015 (Revised Surrogate Country Letter).

⁵⁶ *Id.*

⁵⁷ See 19 CFR 351.408(c)(2).

parties soliciting comments on the list of potential surrogate countries and the selection of the primary surrogate country, as well as providing deadlines for submitting SV information for consideration in the preliminary determination.⁵⁸

On June 23, 2017, the petitioner, Dingsheng, and Zhongji timely submitted comments on the proposed list of surrogate countries. Dingsheng and Zhongji argued that Bulgaria is economically comparable to the PRC and a significant producer of comparable merchandise, and that quality data are available for Bulgaria.⁵⁹ The petitioner argued that South Africa is economically comparable to the PRC and a significant producer of comparable merchandise, and that quality data are available for South Africa.⁶⁰ On June 5, 2017, Zhongji submitted rebuttal surrogate country comments.⁶¹

On July 17, 2017, the petitioner, Dingsheng, and Zhongji placed on the record surrogate value information and comments regarding Bulgaria and South Africa.⁶² On July 31, 2017, the petitioner, Dingsheng, and Zhongji placed on the record rebuttal surrogate value information and comments.⁶³ On September 11, 2017, the petitioner, Dingsheng, and Zhongji placed additional surrogate value comments on the record.⁶⁴

1. Economic Comparability

Section 773(c)(4) of the Act states that the Department “shall utilize, to the extent possible, the prices or costs of {FOPs} in one or more market economy countries that are... at a level of economic development comparable to that of the {NME} country.” The applicable statute does

⁵⁸ See Surrogate Country Letter, at Attachment 1.

⁵⁹ See Letter from Dingsheng, “Dingsheng’s Surrogate Country Comments in the Antidumping Duty Investigation of Aluminum Foil from the People’s Republic of China, A-570-053,” dated June 23, 2017; *see also* Letter from Zhongji, “Certain Aluminum Foil from the People’s Republic of China: Surrogate Country Comments,” dated June 23, 2017.

⁶⁰ See Letter from the Petitioner, “Antidumping Investigation of Aluminum Foil from the People’s Republic of China - Surrogate Country Comments,” dated June 23, 2017.

⁶¹ See Letter from Zhongji, “Certain Aluminum Foil from the People’s Republic of China: Rebuttal Surrogate Countries List Comments,” dated June 5, 2017.

⁶² See Letter from the Petitioner, “Antidumping Investigation of Certain Aluminum Foil from the People’s Republic of China — Petitioners’ Submission of South African Surrogate Value Information,” dated July 17, 2017 (Petitioner’s SV Comments); *see also* Letter from Dingsheng, “Dingsheng’s First Surrogate Value Submission in the Antidumping Duty Investigation of Aluminum Foil from the People’s Republic of China, A-570-053,” dated July 17, 2017 (Dingsheng SV Comments); Letter from Zhongji, “Certain Aluminum Foil from the People’s Republic of China: Surrogate Value Selection Comments,” dated July 17, 2017 (Zhongji SV Comments).

⁶³ See Letter from the Petitioner, “Certain Aluminum Foil from the People’s Republic of China – Petitioners’ Surrogate Value Rebuttal Information and Comments,” dated July 31, 2017 (Petitioner’s Rebuttal SV Comments); *see also* Letter from Dingsheng, “Dingsheng’s Rebuttal to Surrogate Value Comments in the Antidumping Duty Investigation of Aluminum Foil from the People’s Republic of China, A-570-053,” dated July 31, 2017; Letter from Zhongji, “Certain Aluminum Foil from the People’s Republic of China: Rebuttal Surrogate Value Comments,” dated July 31, 2017.

⁶⁴ See Letter from the Petitioner, “Antidumping Investigation of Certain Aluminum Foil from the People’s Republic of China – Petitioners’ Final Affirmative Submission of Surrogate Value Information,” dated September 11, 2017; *see also* Letter from Dingsheng, “Dingsheng’s Second Surrogate Value Submission in the Antidumping Duty Investigation of Aluminum Foil from the People’s Republic of China, A-570-053,” dated September 11, 2017; Letter from Zhongji, “Certain Aluminum Foil from the People’s Republic of China: Factual Information to Value Factors of Production,” dated September 11, 2017.

not expressly define the phrase “level of economic development comparable” or what methodology the Department must use in evaluating this criterion. The U.S. Court of International Trade (CIT) has found the use of per capita GNI to be a “consistent, transparent, and objective metric to identify and compare a country’s level of economic development” and “a reasonable interpretation of the statute.”⁶⁵

For this investigation, as noted above, the Department determines that Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand are countries at the same level of economic development as the PRC, based on per capita gross national economic income.⁶⁶

2. *Significant Producer of Comparable Merchandise*

Section 773(c)(4)(B) of the Act requires the Department, to the extent possible, 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. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, the Department’s practice is to examine which countries on the surrogate country list exported merchandise comparable to the merchandise under consideration. Information on the record indicates that both Bulgaria and South Africa were net exporters during the POI of merchandise covered by HTS categories identified in the scope of this investigation, *i.e.*, identical merchandise.⁶⁷ The record also contains export data showing that both Bulgaria and South Africa are producers of comparable merchandise.⁶⁸ Accordingly, we preliminarily find that Bulgaria and South Africa have met the significant producer of comparable merchandise prong of the surrogate country selection criteria.

3. *Data Availability*

When evaluating SV data, the Department considers several factors, including whether the SVs are publicly available, contemporaneous with the POI, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued. There is no hierarchy among these criteria.⁶⁹ It is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.⁷⁰

The petitioner, Dingsheng, and Zhongji have placed data on the record from Bulgaria and South Africa.⁷¹ No parties placed SV information on the record for Brazil, Mexico, Romania, or Thailand, or argued that these countries be selected as the surrogate country. As a result, we

⁶⁵ See *Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

⁶⁶ See Surrogate Country Letter, at Attachment 1.

⁶⁷ See the Petitioner’s June 23, 2017 submission, at 3-4, and Exhibit 1; see also Dingsheng’s June 23, 2017 submission, at 2-3 at Exhibit 1; Zhongji’s June 23, 2017 submission, at 2.

⁶⁸ *Id.*

⁶⁹ See, e.g., *Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

⁷⁰ See Policy Bulletin 04.1.

⁷¹ See the Petitioner’s July 17, 2017 submission; see also Dingsheng’s July 17, 2017 submission; Zhongji’s July 17, 2017 submission.

have not considered Brazil, Mexico, Romania, or Thailand for surrogate country selection purposes.

The Department preliminarily finds that the South African data are the best available data for valuing the relevant FOPs because the record contains complete, publicly available, contemporaneous, and specific South African data which represent a broad market average, and which are tax and duty exclusive, for the majority of inputs used by the respondents to produce subject merchandise during the POI.⁷² In addition, the South African surrogate financial statements on the record include publicly available statements for a company which produces identical merchandise.⁷³ Although the record also contains publicly available surrogate value data representing a broad market average, which are tax and duty exclusive, from Bulgaria,⁷⁴ we preliminarily find that the Bulgarian surrogate value data for certain direct material inputs, such as foil stock, are less specific to the reported factors of production than are the South African surrogate value data.⁷⁵ While Zhongji attempts to construct a more specific surrogate value for foil stock using world-market aluminum ingot prices plus a conversion factor,⁷⁶ we find this method to be counter to the Department's preference of utilizing surrogate values of ready-for-consumption inputs from a single country, and that the proposed conversion factor introduces possible distortions, namely price fluctuations in upstream inputs, into the valuation of FOPs.⁷⁷ In addition, Bulgarian surrogate values for certain inputs, such as nitrogen and argon gas, are not contemporaneous with the POI.⁷⁸

Based on the foregoing, we find that South Africa best meets our criteria for a surrogate country given the completeness and contemporaneity of the data, including the financial statement data. Therefore, the Department preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use South Africa as the primary surrogate country because South Africa is (1) at the level of economic development of the PRC; (2) a significant producer of merchandise comparable to the merchandise under consideration; and (3) contains the best available data for valuing FOPs. An explanation of the SVs upon which the Department is preliminarily relying can be found in the "Normal Value" section of this 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.⁷⁹ 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

⁷² See Memorandum, "Investigation of Certain Aluminum Foil from the People's Republic of China: Surrogate Values for the Preliminary Results," dated concurrently with this memorandum (Preliminary SV Memorandum).

⁷³ See Petitioner's SV Comments, at Exhibit ZA-7.

⁷⁴ See Dingsheng SV Comments; see also Zhongji SV Comments.

⁷⁵ See Zhongji SV Comments, at 2-3; see also Petitioner's Rebuttal SV Comments, at 2-3.

⁷⁶ *Id.*

⁷⁷ See Petitioner's Rebuttal SV Comments, at 4 and Exhibit 1.

⁷⁸ See Dingsheng SV Comments, at Exhibit 1 and Exhibit 13.

⁷⁹ 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).

rate.⁸⁰ The Department analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*⁸¹ and further developed in *Silicon Carbide*.⁸² 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.

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from the PRC AD proceeding, and its determinations therein.⁸³ In particular, in litigation involving the diamond sawblades from the PRC proceeding, the CIT found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.⁸⁴ Following the Court's reasoning, in recent proceedings, we have concluded that where a government holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority holding in and of itself means that the government exercises, or has the potential to exercise, control over the company's operations generally.⁸⁵ This may include control over, for example, the selection of management, a key

⁸⁰ 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*).

⁸¹ *Id.*

⁸² 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*).

⁸³ See *Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China* (May 6, 2013) in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), affirmed in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd* Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013), and accompanying Preliminary Decision Memo at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum at Comment 1.

⁸⁴ See, e.g., *Advanced Technology I*, 885 F. Supp. 2d at 1349 (CIT 2012) ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); *id.* at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {State-owned Assets Supervision and Administration Commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor *de jure* 'separation' that Commerce concludes.") (footnotes omitted); *id.* at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); *id.* at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

⁸⁵ See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying Preliminary Decision Memorandum at 5-9; unchanged in *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Final Determination of Sales at Less Than*

factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company.

In the *Initiation Notice*, we stated that exporters and producers desiring a separate rate must submit an SRA and a Q&V response. We also stated that the deadline for submission of SRAs would be 30 days after publication of the notice, *i.e.*, May 1, 2017.⁸⁶ The Department subsequently extended the deadline to file an SRA until May 3, 2017.⁸⁷ Between April 24, 2017 and May 4, 2017, 24 companies applied for separate rate status.⁸⁸ In addition, Dingsheng and Zhongji submitted responses to section A of the NME AD questionnaire, in which each company submitted information pertaining to their eligibility for a separate rate.⁸⁹ As explained in detail below, the Department preliminarily determines that Dingsheng; Zhongji; Alcha International Holdings Limited; Baotou Alcha Aluminum Co., Ltd.; Jiangyin Dolphin Pack Ltd. Co.; Granges Aluminum (Shanghai) Co., Ltd.; Huaфон Nikkei Aluminium Corporation; Hunan Suntown Marketing Limited; Jiangsu Alcha Aluminum Co., Ltd.; Luoyang Longding Aluminium Industries Co., Ltd.; Shandong Yuanrui Metal Material Co., Ltd.; SNT0 International Trade Limited; Suzhou Manakin Aluminum Processing Technology Co., Ltd.; Xiamen Xiachun Aluminum Foil Co., Ltd.; Yantai Jintai International Trade Co., Ltd.; Yinbang Clad Material Co., Ltd.; and Zhejiang Zhongjin Aluminum Industry Co., Ltd. are eligible to receive a separate rate. As explained in detail below, the Department also preliminarily determines that Chinalco Aluminum Foil Co., Ltd., Kunshan Aluminium Co., Ltd., Luoyang Wanji Aluminium Processing Co., Ltd., and Shanghai Shenhua Aluminium Foil Co., Ltd. are not eligible for a separate rate, and are part of the PRC-wide entity.

Granges Aluminum (Shanghai) Co., Ltd. and Xiamen Xiachun Aluminum Foil Co., Ltd. provided evidence that they are wholly foreign-owned companies.⁹⁰ Because Granges

Fair Value and Final Affirmative Determination of Critical Circumstances, in Part, 79 FR 68860 (November 19, 2014).

⁸⁶ See *Initiation Notice*, at 82 FR 15695.

⁸⁷ See Letter to All Interested Parties, “Certain Aluminum Foil from the People’s Republic of China - Extension of Deadline for Submission of Separate Rate Applications,” dated April 24, 2017. On April 3, 2017, an internal error within the Department’s online filing system caused the rejection of some digitally filed documents. Therefore, the Department accepted several SRAs submitted on April 4, 2017.

⁸⁸ The Department timely received SRAs from the following companies: (1) Alcha International Holdings Limited; (2) Baotou Alcha Aluminum Co., Ltd.; (3) Chinalco Aluminum Foil Co., Ltd.; (4) Dingsheng Aluminium Industries (Hong Kong) Trading Co., Limited; (5) Jiangyin Dolphin Pack Ltd. Co.; (6) Granges Aluminum (Shanghai) Co., Ltd.; (7) Hangzhou Dingsheng Import & Export Co., Ltd.; (8) Huaфон Nikkei Aluminium Corporation; (9) Hunan Suntown Marketing Limited; (10) Jiangsu Alcha Aluminum Co., Ltd.; (11) Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.; (12) Jiangsu Zhongji Lamination Materials Co., (HK) Limited/Jiangsu Zhongji Lamination Materials Co., Ltd.; (13) Kunshan Aluminium Co., Ltd.; (14) Luoyang Longding Aluminium Industries Co., Ltd.; (15) Luoyang Wanji Aluminium Processing Co., Ltd.; (16) Shandong Yuanrui Metal Material Co., Ltd.; (17) Shanghai Shenhua Aluminium Foil Co., Ltd.; (18) SNT0 International Trade Limited; (19) Suzhou Manakin Aluminum Processing Technology Co., Ltd.; (20) Walson (HK) Trading Co., Limited; (21) Xiamen Xiachun Aluminum Foil Co., Ltd.; (22) Yantai Jintai International Trade Co., Ltd.; (23) Yinbang Clad Material Co., Ltd.; and (24) Zhejiang Zhongjin Aluminum Industry Co., Ltd.

⁸⁹ See Dingsheng Section A Response; see also Zhongji Section A Response.

⁹⁰ See Letter from Granges Aluminum (Shanghai) Co., Ltd., “Aluminum Foil from the People’s Republic of China:

Aluminum (Shanghai) Co., Ltd. and Xiamen Xiashun Aluminum Foil Co., Ltd. are wholly foreign-owned, and we have no evidence indicating that these companies are under the control of the PRC government, an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether they are independent from government control. Accordingly, we preliminarily grant a separate rate to Granges Aluminum (Shanghai) Co., Ltd. and Xiamen Xiashun Aluminum Foil Co., Ltd.

1. 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 companies; and (3) other formal measures by the government decentralizing control over export activities of companies.⁹¹

The evidence provided by Dingsheng, Zhongji, Alcha International Holdings Limited, Baotou Alcha Aluminum Co., Ltd, Jiangyin Dolphin Pack Ltd. Co., Granges Aluminum (Shanghai) Co., Ltd., Huaфон Nikkei Aluminium Corporation, Hunan Suntown Marketing Limited, Jiangsu Alcha Aluminum Co., Ltd, Luoyang Longding Aluminium Industries Co., Ltd., Shandong Yuanrui Metal Material Co., Ltd., SNTA International Trade Limited, Suzhou Manakin Aluminum Processing Technology Co., Ltd., Xiamen Xiashun Aluminum Foil Co., Ltd., Yantai Jintai International Trade Co., Ltd., Yinbang Clad Material Co., Ltd., and Zhejiang Zhongjin Aluminum Industry Co., Ltd., Granges Aluminum (Shanghai) Co., Ltd. and Xiamen Xiashun Aluminum Foil Co., Ltd. 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 exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control over export activities of companies; and (3) the implementation of formal measures by the government decentralizing control over export activities of companies.⁹²

2. 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 prices 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 decisions regarding the disposition of profits or financing of losses.⁹³ The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject

Separate Rate Application," dated May 1, 2017; *see also* Letter from Xiamen Xiashun Aluminum Foil Co., Ltd., "Aluminum Foil from the People's Republic of China: Separate Rate Application - Xiamen Xiashun Aluminum Foil Co., Ltd.," dated April 24, 2017.

⁹¹ *See Sparklers* at 20589.

⁹² *See* Dingsheng Section A Response, at A2 – A23; *see also* Zhongji Section A Response, at A-2 - A-18.

⁹³ *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).

to a degree of government control which would preclude the Department from assigning separate rates.

The evidence provided by Dingsheng, Zhongji, Alcha International Holdings Limited, Baotou Alcha Aluminum Co., Ltd, Jiangyin Dolphin Pack Ltd. Co., Granges Aluminum (Shanghai) Co., Ltd., Huaфон Nikkei Aluminium Corporation, Hunan Suntown Marketing Limited, Jiangsu Alcha Aluminum Co., Ltd, Luoyang Longding Aluminium Industries Co., Ltd., Shandong Yuanrui Metal Material Co., Ltd., SNT0 International Trade Limited, Suzhou Manakin Aluminum Processing Technology Co., Ltd., Xiamen Xiaxhun Aluminum Foil Co., Ltd., Yantai Jintai International Trade Co., Ltd., Yinbang Clad Material Co., Ltd., and Zhejiang Zhongjin Aluminum Industry Co., Ltd., Granges Aluminum (Shanghai) Co., Ltd. and Xiamen Xiaxhun Aluminum Foil Co., Ltd. supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that both companies: (1) set their own prices 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 the disposition of profits or financing of losses.⁹⁴

We preliminarily determine that the evidence placed on the record of this investigation by Dingsheng, Zhongji, Alcha International Holdings Limited, Baotou Alcha Aluminum Co., Ltd, Jiangyin Dolphin Pack Ltd. Co., Granges Aluminum (Shanghai) Co., Ltd., Huaфон Nikkei Aluminium Corporation, Hunan Suntown Marketing Limited, Jiangsu Alcha Aluminum Co., Ltd, Luoyang Longding Aluminium Industries Co., Ltd., Shandong Yuanrui Metal Material Co., Ltd., SNT0 International Trade Limited, Suzhou Manakin Aluminum Processing Technology Co., Ltd., Xiamen Xiaxhun Aluminum Foil Co., Ltd., Yantai Jintai International Trade Co., Ltd., Yinbang Clad Material Co., Ltd., and Zhejiang Zhongjin Aluminum Industry Co., Ltd., Granges Aluminum (Shanghai) Co., Ltd. and Xiamen Xiaxhun Aluminum Foil Co., Ltd. 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.

3. Companies Not Receiving a Separate Rate

We preliminarily determine that Chinalco Aluminum Foil Co., Ltd.,⁹⁵ Kunshan Aluminium Co., Ltd.,⁹⁶ Luoyang Wanji Aluminium Processing Co., Ltd.,⁹⁷ and Shanghai Shenhua Aluminium

⁹⁴ See Dingsheng Section A Response, at A-5, citing SRAs filed by Dingsheng on May 3, 2017; see also Zhongji Section A Response, at A-13, citing SRAs filed by Zhongji on May 3, 2017.

⁹⁵ See Letter from Chinalco Aluminum Foil Co., Ltd., “Chinalco Separate Rate Application in the Antidumping Duty Investigation on Aluminum Foil from the People’s Republic of China,” dated May 3, 2017, at Exhibit 6 and Exhibit 11; see also Letter from Chinalco Aluminum Foil Co., Ltd., “Chinalco Separate Rate Supplemental Response in the Antidumping Duty Investigation on Aluminum Foil from the People’s Republic of China,” dated September 6, 2017, at Exhibit 1.

⁹⁶ See Letter from Kunshan Aluminium Co., Ltd., “Aluminum Foil from the People’s Republic of China: Separate Rate Application,” dated May 3, 2017, at Exhibit 4 and Exhibit 7.

⁹⁷ See Letter from Luoyang Wanji Aluminium Processing Co., Ltd., “Certain Aluminum Foil from the People’s Republic of China: Separate Rate Applications for Luoyang Wanji Aluminium Processing Co., Ltd.,” dated May 3,

Foil Co., Ltd.⁹⁸ failed to demonstrate an absence of both *de jure* and *de facto* government control. For each of these companies, evidence on the record shows majority ultimate ownership by a government entity. Specifically, these companies failed to demonstrate autonomy from the government in making decisions regarding the selection of management.⁹⁹

Combination Rates

In the *Initiation Notice*, we stated we would calculate combination rates for respondents that are eligible for a separate rate in this investigation.¹⁰⁰ This practice is described in Policy Bulletin 05.1.¹⁰¹

Collapsing and Affiliation

We have considered the evidence on the record and preliminarily determine that affiliation exists with respect to the following companies during the POI: (1) Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.; Hangzhou Dingsheng Import & Export Co., Ltd.; Dingsheng Aluminum Industries (Hong Kong) Trading Co., Limited; Walson (HK) Trading Co., Limited; Hangzhou Teemful Aluminium Co., Ltd.; Hangzhou Five Star Aluminium Co., Ltd.; and Inner Mongolia Liansheng New Energy Material Joint-Stock Co., Ltd.;¹⁰² and (2) Jiangsu Zhongji Lamination Materials Co., Ltd. (Jiangsu Zhongji); Zhongji HK; and Jiangsu Huafeng Aluminum Industry Co., Ltd. (Huafeng).¹⁰³

Section 771(33) of the Act provides that the following persons shall be considered to be “affiliated” or “affiliated persons”:

- (A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;
- (B) Any officer or director of an organization and such organization;
- (C) Partners;
- (D) Employer and employee;
- (E) 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;
- (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; or,
- (G) Any person who controls any other person and such other person.

2017, at 17, Exhibit 12.1, Exhibit 12.2 and Exhibit 19.

⁹⁸ See Letter from Shanghai Shenhua Aluminium Foil Co., Ltd., “Aluminum Foil from the People’s Republic of China: Separate Rate Application,” at Exhibit 4 and Exhibit 8.

⁹⁹ See *Sparklers* at 20589.

¹⁰⁰ See *Initiation Notice*.

¹⁰¹ See *Policy Bulletin 05.1*.

¹⁰² See Memorandum, “Antidumping Duty Investigation of Certain Aluminum Foil from the People’s Republic of China: Dingsheng Affiliation and Collapsing Status,” dated October 26, 2017 (Dingsheng Affiliation and Collapsing Memorandum).

¹⁰³ See Memorandum, “Antidumping Duty Investigation of Certain Aluminum Foil from the People’s Republic of China: Zhongji Affiliation and Collapsing Status,” dated October 26, 2016 (Zhongji Affiliation and Collapsing Memorandum).

The Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreement Act states the following:

The traditional focus on control through stock ownership fails to address adequately modern business arrangements, which often find one firm ‘operationally in a position to exercise restraint or direction’ over another in the absence of an equity relationship. A company may be in a position to exercise restraint or direction, for example, through corporate or family groupings, franchise or joint venture agreements, debt financing, or close supplier relationships in which the supplier or buyer becomes reliant upon the other.¹⁰⁴

Section 351.102(b)(3) of the Department’s regulations defines affiliated persons and affiliated parties as having the same meaning as in section 771(33) of the Act. In determining whether control over another person exists, within the meaning of section 771(33) of the Act, the Department considers the following factors, among others: corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. The regulation directs the Department not to find that control exists on the basis of these factors unless the relationship has “the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.” The regulation also directs the Department to consider the temporal aspect of a relationship in determining whether control exists; normally, temporary circumstances will not suffice as evidence of control.

19 CFR 351.401(f), which outlines the criteria for treating affiliated producers as a single entity for purposes of AD proceedings, states the following:

- (1) In general. In an antidumping proceeding under this part, the Secretary will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production.
- (2) Significant potential for manipulation, in identifying a significant potential for the manipulation of price or production, the factors the Secretary may consider include:
 - (i) The level of common ownership;
 - (ii) The extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and
 - (iii) Whether operations 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.¹⁰⁵

¹⁰⁴ See SAA, H.R. Doc. No. 316, Vol. 1, 103d Cong., 2d Sess. (1994) at 838.

¹⁰⁵ See 19 CFR 351.401(f).

Based on the evidence on the record, we preliminarily find that Jiangsu Zhongji is affiliated with Zhongji HK and Huafeng within the meaning of section 771(33)(E) of the Act, based on its ownership of five percent or more of Zhongji HK and Huafeng.¹⁰⁶ We also preliminarily find that Zhongji HK and Huafeng are affiliated with one another within the meaning of section 771(33)(E)-(F) of the Act because they are under the common control of Jiangsu Zhongji.¹⁰⁷ Furthermore, we have preliminarily treated affiliated producers Jiangsu Zhongji and Huafeng as a single entity, pursuant to 19 CFR 351.401(f)(1). We preliminarily find that both of these companies have production facilities for similar or identical products, and that a significant potential for manipulation of price or production exists, based on common ownership, shared managers and/or board members, and intertwined operations.¹⁰⁸

Additionally, based on evidence on the record, we preliminarily find that the following companies are affiliated: Dingsheng HK; Dingsheng IE; Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd. (Jiangsu Dingsheng); Walson (HK) Trading Co., Limited (Walson); Hangzhou Teemful Aluminum Co., Ltd. (Teemful); Hangzhou Five Star Aluminum Co., Ltd. (Five Star); and Inner Mongolia Liansheng New Energy Material Joint Stock Co., Ltd. (Liansheng). Specifically, we preliminarily find that Jiangsu Dingsheng is affiliated with Dingsheng HK, Dingsheng IE, Walson, Teemful, Five Star, and Liansheng within the meaning of section 771(33)(E) of the Act based on Jiangsu Dingsheng's direct or indirect ownership of five percent or more of each of these companies.¹⁰⁹ We also preliminarily find that each of these companies is affiliated with one another within the meaning of 771(33)(F) of the Act because they are all under the common control of Jiangsu Dingsheng.¹¹⁰ Furthermore, we have preliminarily treated the following affiliated producers as a single entity, pursuant to 19 CFR 351.401(f): Dingsheng IE, Dingsheng HK, Walson, Jiangsu Dingsheng, Teemful, Five Star, and Liansheng. We preliminarily find that each of these companies has production facilities for similar or identical products, and that a significant potential for manipulation of price or production exists, based on common ownership, shared managers and/or board members, and intertwined operations.¹¹¹

The PRC-Wide Entity

The record indicates there are PRC exporters and/or producers of the merchandise under consideration during the POI that did not respond to the Department's requests for information.

¹⁰⁶ See Letter from Zhongji, "Certain Aluminum Foil from the People's Republic of China: Separate Rate Applications for Jiangsu Zhongji Lamination Materials Co., (HK) Limited and Jiangsu Zhongji Lamination Materials Co., Ltd.," dated May 3, 2017. See also Zhongji Affiliation and Collapsing Memorandum.

¹⁰⁷ *Id.*

¹⁰⁸ See Zhongji Affiliation and Collapsing Memorandum.

¹⁰⁹ See Dingsheng Letter to Secretary of Commerce, Re: Dingsheng Section A Response dated June 20, 2017 (Dingsheng Section A Response), at A-1 and Exhibit A-3; see also Dingsheng Letter to Secretary of Commerce, Re: Dingsheng Supp Section A Response in the Antidumping Duty Investigation of Aluminum Foil from the People's Republic of China, dated July 17, 2017 (Dingsheng Section A Supplemental Response), at 1-2; see also Dingsheng Affiliation and Collapsing Memorandum.

¹¹⁰ *Id.*

¹¹¹ See Dingsheng Section A Response at A-1 Exhibit A-3; see also Dingsheng Affiliation and Collapsing Memorandum for additional business proprietary detail.

Specifically, the Department did not receive timely responses to its Q&V questionnaire or SRAs from numerous PRC exporters and/or producers of merchandise under consideration that were named in the Petition and to whom the Department issued Q&V questionnaires.¹¹² Because non-responsive PRC companies have not demonstrated that they are eligible for separate-rate status, the Department considers them to be part of the PRC-wide entity. Furthermore, as explained below, we are preliminarily determining the PRC-wide rate on the basis of adverse facts available (AFA).

Application of Facts Available and Adverse Inferences

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.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In so doing, and under the Trade Preferences Extension Act of 2015 (TPEA),¹¹³ the Department is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.¹¹⁴

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,

¹¹² See Memorandum, “Issuance of Quantity and Value Questionnaires,” dated April 24, 2017.

¹¹³ On June 29, 2015, the TPEA made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act. See TPEA, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015). The amendments to section 776 of the Act are applicable to all determinations made on or after August 6, 2015. See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015). The text of the TPEA may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

¹¹⁴ See also 19 CFR 351.308(c).

information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.¹¹⁵ The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value,¹¹⁶ although under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.¹¹⁷ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used, although under the TPEA, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.¹¹⁸

Under section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins. The TPEA also makes clear that when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.

1. Use of Facts Available

We issued our request for Q&V information to 30 potential PRC producers/exporters of aluminum foil. We received only 15 timely filed Q&V responses from companies to which we issued a Q&V questionnaire.¹¹⁹

We preliminarily find that the PRC-wide entity, which includes the PRC exporters and/or producers that did not respond to the Department’s requests for information, failed to provide necessary information, withheld information requested by the Department, and significantly impeded this proceeding by not submitting the requested information. Moreover, where certain PRC exporters and/or producers did not respond to the Department’s Q&V questionnaire, section 782(d) of the Act is inapplicable. Accordingly, we preliminarily determine that use of facts

¹¹⁵ See SAA at 870.

¹¹⁶ *Id.*; see also 19 CFR 351.308(d).

¹¹⁷ See section 776(c)(2) of the Act; TPEA, section 502(2).

¹¹⁸ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

¹¹⁹ See Memorandum, “Antidumping Duty Investigation of Certain Aluminum Foil from the People’s Republic of China: Respondent Selection,” dated May 22, 2017.

available is warranted in determining the rate of the PRC-wide entity, pursuant to sections 776(a)(1), (a)(2)(A) and (a)(2)(C) of the Act.¹²⁰

2. *Application of Facts Available with an Adverse Inference*

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. We find that the PRC-wide entity's failure to respond to the Department's Q&V questionnaire 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 to comply with the Department's request for information.¹²¹ Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to the PRC-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).¹²²

3. *Selection and Corroboration of the AFA rate*

To determine the appropriate rate for the PRC-wide entity based on AFA, the Department first examined whether the highest petition margin was less than or equal to the highest calculated margin, and determined that the highest calculated margin of 162.24 percent was the higher of the two. Because this rate was a calculated rate, based on a mandatory respondent's data in this segment of the proceeding, it does not constitute secondary information and, therefore, there is no need to corroborate it. Thus, for the preliminary determination, as adverse facts available, we have assigned to the PRC-wide entity a dumping margin of 162.24 percent, which is the highest calculated rate in this proceeding.

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" unless a different date better reflects the date on which the material terms of sale (*e.g.*, price and quantity) are established.¹²³ For Dingsheng and Zhongji, we preliminarily determine that the invoice date best reflects the date on which the material terms of sale are established.¹²⁴

¹²⁰ 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).

¹²¹ *Id.*

¹²² See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

¹²³ See, *e.g.*, *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.

¹²⁴ See Memorandum, "Antidumping Investigation of Certain Aluminum Foil from the People's Republic of China (PRC): Dingsheng Analysis Memorandum for the Preliminary Results," dated concurrently with this memorandum (Dingsheng Preliminary Analysis Memorandum); see also Memorandum, "Antidumping Investigation of Certain Aluminum Foil from the People's Republic of China (PRC): Zhongji Analysis Memorandum for the Preliminary Results," dated concurrently with this memorandum (Zhongji Preliminary Analysis Memorandum).

Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Dingsheng's and Zhongji's sales of the subject merchandise from the PRC to the United States were made at less than NV, the Department compared the EP to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

1. *Export Price*

Both Dingsheng and Zhongji reported that all U.S. sales during the POI were EP in accordance with section 772(a) of the Act. Section 772(a) of the Act defines EP as "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..." We preliminarily determine that Dingsheng's and Zhongji's sales are EP sales because all of Dingsheng's and Zhongji's sales to the United States were made to unaffiliated customers. Accordingly, we based EP 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, and U.S. movement expenses, in accordance with section 772(c)(2)(A) of the Act. We based movement expenses on SVs if the expense was paid to an NME company in Chinese renminbi.¹²⁵

2. *Value-Added Tax (VAT)*

In 2012, the Department announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any irrecoverable VAT in certain NME countries in accordance with section 772(c)(2)(B) of the Act.¹²⁶ The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.¹²⁷ Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.¹²⁸

The Department's methodology, as explained above and applied in this investigation, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this investigation by Dingsheng and Zhongji indicates that according to the PRC VAT schedule,

¹²⁵ For details regarding the SVs used for movement expenses, see Preliminary SV Memorandum.

¹²⁶ 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).

¹²⁷ *Id.*; see also *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014), and accompanying Issues and Decision Memorandum at Comment 5.A.

¹²⁸ *Id.*

the standard VAT levy is 17 percent, and the rebate rate for the merchandise under consideration is 15 percent.¹²⁹ Consistent with the Department's standard methodology, for purposes of this preliminary determination, we removed from U.S. price the amount calculated based on the difference between those standard rates (*i.e.*, 2 percent) applied to the export sales value, consistent with the definition of irrecoverable VAT under PRC tax law and regulation.

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.¹³⁰ 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 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.¹³¹

Factor Valuation Methodology

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by Dingsheng and Zhongji. To calculate NV, the Department multiplied the reported per-unit factor-consumption rates by publicly available SVs. When selecting the SVs, the Department considered, among other factors, the quality, specificity, and contemporaneity of the data.¹³² 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.¹³³ A detailed description of SVs used for the respondent can be found in the Preliminary SV Memorandum.¹³⁴

For the preliminary determination, the Department is using South African import data, as published by the Global Trade Atlas (GTA), and other publicly available sources from South

¹²⁹ See Zhongji Section C-D Response, at C-38 – C-39 and Exhibit C-6; *see also* Dingsheng Section C Response, at 23-24 and Exhibit C-6.

¹³⁰ 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).

¹³¹ See section 773(c)(3)(A)-(D) of the Act.

¹³² 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.

¹³³ See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

¹³⁴ See Preliminary SV Memorandum.

Africa to calculate SVs for the 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, SVs that are (1) non-export average values, (2) contemporaneous with, or closest in time to, the POI, (3) product-specific, and (4) tax-exclusive.¹³⁵ The record shows that South African import data obtained through GTA, as well as data from other South African sources, are broad market averages, product-specific, tax-exclusive, and contemporaneous with the POI.¹³⁶ South African GTA SVs are reported on a CIF basis; thus, some movement expenses must be added to calculate FOB values.

The Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be dumped or subsidized.¹³⁷ In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, and South Korea because we have determined that these countries maintain broadly available, non-industry specific export subsidies.¹³⁸ Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, and South Korea may have benefitted from these subsidies. Therefore, the Department has not used prices from those countries in calculating South African import-based SVs.

Additionally, the Department disregarded data from NME countries when calculating South African import-based per-unit SVs.¹³⁹ The Department also excluded from the calculation of South African import-based per-unit SV imports labeled as originating from an "unidentified"

¹³⁵ 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).

¹³⁶ See Preliminary SV Memorandum.

¹³⁷ See Section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (June 29, 2015) (amending Section 773(c)(5) of the Act to permit Department to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values); see also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).

¹³⁸ See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying Issues and Decision Memorandum at 7-19; see also *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying Issues and Decision Memorandum at 1; see also *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying Issues and Decision Memorandum at 4; see also *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum at IV.

¹³⁹ 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).

country because the Department could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.¹⁴⁰

Pursuant to 19 CFR 351.408(c)(1), where a factor 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 prices paid to the ME suppliers if substantially all (*i.e.*, 85 percent or more) of the total volume of the factor is purchased from the ME suppliers. In those instances where less than substantially all of the total volume of the factor is produced in one or more ME countries and purchased from one or more ME suppliers, the Department will weight-average the actual prices paid for the ME portion and the SV for the NME portion by their respective quantities.¹⁴¹

The Department used South African import statistics from GTA to value raw materials, by-products, packing materials, and certain energy inputs.

In NME AD proceedings, the Department prefers to value labor solely based on data from the primary surrogate country.¹⁴² In *Labor Methodologies*, the Department determined that the best methodology to value labor is to use industry-specific labor rates from the primary surrogate country. Additionally, we determined that best data source for industry-specific labor rate is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics.¹⁴³ The Department did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Rather, we continue to follow our practice of selecting the “best information available” to determine SVs for inputs such as labor. In this investigation, we find that the ILO data on the record from South Africa are the best available information for valuing labor for this investigation because they are industry-specific and represent the closest labor valuation to the industry in question from the primary surrogate country.¹⁴⁴

We used the electricity rates from Eskom, a South African electricity public utility, to value electricity. We used tariff rates for water usage from the City of Johannesburg to value water. We valued truck freight using data published in *Doing Business 2017: South Africa* by the World Bank and used a calculation methodology based on a 20-foot container weighing 10,000 kilograms.¹⁴⁵

Additionally, we valued brokerage and handling expenses from *Doing Business 2017: South Africa* using a price list of export procedures necessary to export a standardized cargo of goods in South Africa. This is compiled based on a survey case study of the procedural requirements

¹⁴⁰ *Id.*

¹⁴¹ See *Use of Market Economy Input Prices in Nonmarket Economy Proceedings; Final Rule*, 78 FR 46799 (August 2, 2013).

¹⁴² See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

¹⁴³ *Id.*

¹⁴⁴ See Preliminary SV Memorandum.

¹⁴⁵ *Id.*

for transporting a standard shipment of goods by ocean transport in South Africa.¹⁴⁶ The reported prices were contemporaneous with the POI.

The Department's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, comparability with the respondent's experience, and publicly available information.¹⁴⁷ Moreover, for valuing factory overhead, selling, general, and administrative (SG&A) expenses and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.¹⁴⁸ In addition, the CIT has held that in the selection of surrogate producers, the Department may consider how closely the surrogate producers approximate the NME producer's experience.¹⁴⁹ To value factory overhead, SG&A expenses, and profit, the Department used the 2016 financial statements on the record from Hulamin, which are publicly available, contemporaneous, and are comparable to the respondents' experience as a producer of subject merchandise.¹⁵⁰

Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁵¹ The Department finds that the differential pricing analysis used in recent investigations 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 average-to-average method in calculating a respondent's weighted-average dumping margin.

¹⁴⁶ *Id.*

¹⁴⁷ See, e.g., *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), and accompanying Issues and Decision Memorandum at Comment 3.

¹⁴⁸ See, e.g., *Diamond Sawblades and Parts Thereof from the People's Republic of China, Final Determination in the Antidumping Duty Investigation*, 71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 2; see also section 773(c)(4) of the Act; 19 CFR 351.408(c)(4).

¹⁴⁹ See *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-54 (CIT 2002); see also *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁵⁰ See Preliminary SV Memorandum.

¹⁵¹ See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of*

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. 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. For Dingsheng and Zhongji, purchasers are based on the reported customer codes.¹⁵² Regions are defined using the reported destination code (*i.e.*, zip code) 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 POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period 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. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass 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 average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to 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 average-to-transaction method to

Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

¹⁵² See Dingsheng Preliminary Analysis Memorandum; see also Zhongji Preliminary Analysis Memorandum.

those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average 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 average-to-average 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, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative comparison 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 average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move 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.

For Dingsheng, based on the results of the differential pricing analysis, the Department preliminarily finds that 85.5 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁵³ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for this preliminary determination, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Dingsheng.

For Zhongji, based on the results of the differential pricing analysis, the Department preliminarily finds that 53.2 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁵⁴ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-

¹⁵³ See Dingsheng Preliminary Analysis Memorandum.

¹⁵⁴ See Zhongji Preliminary Analysis Memorandum.

average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for this preliminary determination, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Zhongji.

VIII. CURRENCY CONVERSION

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

IX. ADJUSTMENT UNDER 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.¹⁵⁵ For a subsidy meeting these criteria, the statute requires the Department to reduce the AD cash deposit rate by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.¹⁵⁶

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 Dingsheng and Zhongji 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.

Based upon information submitted to the Department, Dingsheng and Zhongji failed to substantiate a subsidies-to-cost link and a cost-to-price link. To determine whether to grant a domestic pass-through adjustment for non-selected separate rate respondents, the Department relies on the experience of the mandatory respondents examined in this investigation. For the preliminary determination, because Dingsheng and Zhongji did not establish eligibility for this adjustment, the Department did not make an adjustment pursuant to section 777A(f) of the Act for countervailable domestic subsidies for Dingsheng, Zhongji, or the non-selected separate rate respondents.¹⁵⁷

¹⁵⁵ See section 777A(f)(1)(A)-(C) of the Act.

¹⁵⁶ See section 777A(f)(1)-(2) of the Act.

¹⁵⁷ See Dingsheng Preliminary Analysis Memorandum; *see also* Zhongji Preliminary Analysis Memorandum.

IX. ADJUSTMENT FOR COUNTERVAILABLE EXPORT SUBSIDIES

In AD investigations where there is a concurrent countervailing duty (CVD) investigation, it is the Department's normal practice to calculate the cash deposit rate for each respondent by adjusting the respondent's weighted-average dumping margin to account for export subsidies found for each respective respondent in the concurrent countervailing duty investigation. Doing so is in accordance with section 772(c)(1)(C) of the Act, which states that U.S. price "shall be increased by the amount of any countervailing duty imposed on the subject merchandise... to offset an export subsidy."¹⁵⁸ The Department determined in the preliminary determination of the companion CVD investigation that Dingsheng and Zhongji benefitted from an export subsidy. For Dingsheng, we find that an export subsidy adjustment of 12.60 percent to the cash deposit rate is warranted.¹⁵⁹ For Zhongji, we find that an export subsidy adjustment of 10.54 percent to the cash deposit rate is warranted.¹⁶⁰ With respect to the separate rate companies, we find that an export subsidy adjustment of 11.57 percent to the cash deposit rate is warranted because this is the export subsidy rate included in the CVD all-others rate, to which the separate rate companies are subject in the companion CVD proceeding.¹⁶¹ For the PRC-wide entity, which preliminarily received an AFA margin, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, the Department has adjusted the PRC-wide entity's AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding.¹⁶² That rate is 10.54 percent.¹⁶³

X. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.¹⁶⁴ Case briefs may be submitted to Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁶⁵

¹⁵⁸ See *Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 38076, 38077 (July 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁵⁹ See Dingsheng Preliminary Analysis Memorandum.

¹⁶⁰ See Zhongji Preliminary Analysis Memorandum.

¹⁶¹ See *Certain Aluminum Foil from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 37845 (August 14, 2017) (*Aluminum Foil CVD Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

¹⁶² See, e.g., *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; In Part and Postponement of Final Determination*, 80 FR 4250 (January 27, 2015), and accompanying Issues and Decision Memorandum at 35.

¹⁶³ *Aluminum Foil CVD Preliminary Determination*, 82 FR at 37844-37846.

¹⁶⁴ See 19 CFR 351.224(b). Comments with respect to the NME status of the PRC were considered and addressed by the Department in the *China NME Status Determination* and will not be addressed again in the final determination of the investigation.

¹⁶⁵ See 19 CFR 351.309.

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁶⁶ This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.¹⁶⁷ Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.¹⁶⁸ Electronically-filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.¹⁶⁹

XI. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by ACIT in response to the Department's questionnaires.

XII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

☒

Agree

☐

Disagree

10/26/2017

X



Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

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

¹⁶⁶ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁶⁷ See 19 CFR 351.310(c).

¹⁶⁸ See 19 CFR 351.303(b)(2)(i).

¹⁶⁹ See 19 CFR 351.303(b)(1).