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May 2, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination of the
Less-Than-Fair-Value Investigation of Grain-Oriented Electrical
Steel from the People's Republic of China

SUMMARY

The Department of Commerce (the Department) is conducting a less-than-fair-value investigation of sales of grain-oriented electrical steel (GOES) from the People's Republic of China (PRC) and preliminarily determines that GOES is being, or is likely to be, sold in the United States at less than fair value, pursuant to section 733 of the Tariff Act of 1930, as amended (the Act). The period of investigation is January 1, 2013, through June 30, 2013. The Department preliminarily determines that the only mandatory respondent, Baoshan Iron & Steel Co., Ltd. (Baoshan), failed to cooperate to the best of its ability in participating in the investigation, warranting the application of facts otherwise available with adverse inferences, pursuant to section 776(a)-(b) of the Act. Because we found Baoshan's responses to be unreliable, we find that it is not eligible for a separate rate and is thus part of the PRC-wide entity. Because the PRC-wide entity also failed to cooperate to the best of its ability in complying with our requests for information, we determined an estimated weighted-average dumping margin based on adverse facts available for the PRC-wide entity.



Background

On September 18, 2013, the Department received antidumping duty petitions concerning imports into the United States of GOES from the PRC and other countries from AK Steel Corporation, Allegheny Ludlum, LLC, and the United Steelworkers (collectively, the petitioners).¹ Further, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) submitted an entry of appearance to this investigation. The Department responded that it considers the UAW to be a domestic interested party to this proceeding.² On October 18, 2013, the Department notified all interested parties that deadlines in the investigation would be extended by 16 days due to the closure of the federal government from October 1, through October 16, 2013.³ The Department initiated the investigation on October 24, 2013.⁴ In its notice of initiation, the Department invited interested parties to comment on the product coverage of the scope of the investigation, as well as the product characteristics to be covered in the antidumping questionnaire.⁵ On November 20, 2013, 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 GOES from the PRC.⁶

On December 9, 2013, we selected Baoshan as the only mandatory respondent in the investigation of GOES from the PRC as a result of an analysis of the Department's available resources and the responses to a quantity-and-value questionnaire issued to four potential exporters of the merchandise subject to the investigation.⁷ We thus issued the antidumping questionnaire to Baoshan on December 11, 2013.

¹ See Antidumping Duty Petitions on Grain-Oriented Electrical Steel from the People's Republic of China, the Czech Republic, the Federal Republic of Germany, Japan, the Republic of Korea, Poland, and the Russian Federation, filed on September 18, 2013 (Petitions).

² See Memorandum to the File from James Maeder, Director, Office II, AD/CVD Operations, entitled "Antidumping Duty Investigations of Grain-Oriented Electrical Steel (GOES) from the People's Republic of China (the PRC), the Czech Republic, Germany, Japan, the Republic of Korea, Poland, and Russia, and Countervailing Duty Investigation of GOES from the PRC: Status of the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)," dated January 10, 2014.

³ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding "Deadlines Affected by the Shutdown of the Federal Government," dated October 18, 2013 (Tolling Memorandum).

⁴ See *Grain-Oriented Electrical Steel From the People's Republic of China, the Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Initiation of Antidumping Duty Investigations*, 78 FR 65283 (October 31, 2013) (*Initiation Notice*).

⁵ *Id.*, at 65283-65284.

⁶ See *Grain-Oriented Electrical Steel From China, Czech Republic, Germany, Japan, Korea, Poland, and Russia: Determinations*, 78 FR 70574 (November 26, 2013).

⁷ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Richard O. Weible, Director, Office VI, AD/CVD Enforcement, regarding "Antidumping Duty Investigation of Grain-Oriented Electrical Steel from the People's Republic of China: Respondent Selection," dated December 9, 2013 (Respondent Selection Memorandum).

Baoshan submitted timely responses to the questionnaire on January 16, 2014 (for Section A), and on January 31, 2014 (for Sections C and D). It submitted timely responses to supplemental questionnaires on February 28, March 7, and April 8 and 17 of this year. On March 12, 2014, and March 27, 2014, Baoshan filed unsolicited, revised factors-of-production spreadsheets. On March 31, 2014, Baoshan timely filed a copy of its 2013 audited financial statement (in Chinese only) and the 2013 tax return for its U.S. affiliate, Baosteel America, Inc. (Baosteel America). Baoshan filed the English translation of its 2013 audited financial statements on April 10, 2014. On April 8, 2014, it requested an extension until June 1, 2014, to file the 2013 audited financial statements for its intermediate owner, Baosteel Group Corporation (Baosteel Group), and Baosteel America.

Petitioners, Baoshan and interested parties filed timely comments and rebuttal comments on various issues, including the scope of the merchandise under investigation, physical characteristics and the model matching hierarchy, the selection of a surrogate country and surrogate values, and Baoshan's questionnaire responses, from November 2013 through April 2014.

On February 10, 2014, the petitioners filed a timely request for a 50-day postponement of the preliminary determinations for the less-than-fair-value investigations on GOES from the PRC and other countries, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e). We granted this request in full on February 20, 2014, thereby extending the deadline for the issuance of the preliminary determinations to May 2, 2014.⁸ On April 2, 2014, Baoshan filed a timely request that the final determination of the investigation be postponed, pursuant to section 735(c)(2)(A) of the Act.

Scope of the Investigation

The scope of this investigation covers grain-oriented silicon electrical steel (GOES). GOES is a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths. The GOES that is subject to this investigation is currently classifiable under subheadings 7225.11.0000, 7226.11.1000, 7226.11.9030, and 7226.11.9060 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive. Excluded are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the HTSUS as a transformer part (*i.e.*, laminations).

⁸ See *Grain-Oriented Electrical Steel From the People's Republic of China, the Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Postponement of Preliminary Determinations in the Antidumping Duty Investigations*, 79 FR 11082 (February 27, 2014).

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period for interested parties to raise issues regarding product coverage.⁹ The Department encouraged all interested parties to submit such comments within 20 calendar days of signature of the *Initiation Notice* – i.e., by November 13, 2013.¹⁰

POSCO, a respondent in the concurrent less-than-fair-value investigation of GOES from the Republic of Korea, submitted comments on November 13, 2013, requesting that the Department clarify whether GOES that is further processed into shapes that are not square or rectangular, such as trapezoids, fall within the scope of the Department's investigation. The petitioners submitted rebuttal comments on December 11, 2013, stating such products should be within the scope of the investigation. ABB Inc., which identified itself as an interested party by virtue of it being a U.S. importer of GOES from Japan and the Russian Federation, submitted comments on December 19, 2013, claiming that the petitioners' rebuttal comments represented an attempt to expand the scope beyond the products made by the petitioners.

On January 10, 2014, POSCO requested clarification regarding whether "laminations" and "cores" are covered by the scope of these investigations. Specifically, POSCO stated that it believes that those products are downstream products manufactured from GOES, noting "the physical and mechanical properties of the steel can be altered by any combination of the stamping or shearing, heat treatment, additional coating processes for laminations or stamping, molding, and stacking for cores, resulting in a new and different article with very different end uses." On January 24, 2014, the petitioners stated they do not wish relief on lamination products which have been: (1) cut-to-shape of the final design in which they will be incorporated into a stacked core; (2) subjected to additional post-processing heat treatment; and (3) potentially punched to create holes in their surface and subjected to additional coating processes.

On January 28, 2014, POSCO submitted additional comments, and, alluding to certain "cut to shape" products described in other submissions that it had filed (the aforementioned November 13, 2013, submission; a November 20, 2013 submission involving physical characteristics and the model matching hierarchy; and a January 21, 2014, submission involving its Section A response in the GOES from Korea less-than-fair-value investigation), indicated that such products for which it desires scope clarification may not have undergone heat treatment but may nevertheless be stacked into a stacked transformer core. In a memorandum to the file following a meeting between Department officials and counsel to POSCO, the Department noted that "if the products are in the 'drop in' condition and suitable for production of cores without any further cutting/shaping, then based on the petitioners' January 24, 2014 letter, these products should not be reported as subject merchandise."

In a letter dated April 1, 2014, Custom Materials, Inc. asked that the wording of the scope be changed to explicitly exclude what it terms "off-cuts," which allegedly are pieces of GOES of no

⁹ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (Preamble); see also *Initiation Notice*, 78 FR at 65283-84.

¹⁰ *Initiation Notice*, 78 FR at 65283-84.

greater than three inches in width that are cut from wider coils. Custom Materials, Inc. claims to import such merchandise and states that it is “traditionally sold as waste or scrap for re-melting and recovery purposes.” However, we have made no changes to the language of the scope of this investigation to exclude so-called “off-cuts,” as these are strips of GOES in coils specifically covered by the investigation.

On April 29, 2014, the petitioners submitted revised scope language addressing POSCO’s request to exclude certain cut to shape products. We have incorporated that language in this preliminary determination.

Product Comparisons

In the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding physical characteristics and the model matching hierarchy. On November 13, 2013, POSCO and the petitioners submitted comments on the physical characteristics. OJSC Novolipetsk Steel (NLMK) (a respondent in the concurrent antidumping investigation of GOES from the Russian Federation) and Baoshan submitted comments on November 18, 2013. POSCO, NLMK, and the petitioners submitted rebuttal comments on November 20, 2013.

We considered the comments that were submitted and established the appropriate physical characteristics to use as a basis for defining models of the merchandise under consideration that was sold in the United States, and for identifying the identical or the most similar model sold in the comparison market that may serve as a basis for normal value for this less-than-fair-value investigation. The Department identified the following seven criteria for such purposes: maximum core loss, nominal thickness, permeability, domain refinement, coating, form, and nominal width. These physical characteristics and their associated reporting requirements were included in the questionnaires issued to Baoshan, as well as the respondents in the concurrent GOES investigations.

In this investigation, we did not rely on the above-mentioned physical characteristics and model matching hierarchy because we based the estimated weighted-average dumping margin for Baoshan on adverse facts available for the reasons discussed below. Nevertheless, in the companion GOES investigations, the Department incorporates by reference any determinations made on the physical characteristics and model matching hierarchy to this investigation.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, if it is not practicable to calculate individual weighted-average dumping margins because of the large number of exporters and producers involved in the investigation or review, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers, based on sampling or the selection of exporters or producers accounting for the largest volume of subject merchandise from the exporting country that can be reasonably examined.

We stated our intent in the *Initiation Notice* to issue quantity-and-value questionnaires to each potential respondent identified in the petition.¹¹ We thus sent questionnaires to Baoshan, Anshan Iron & Steel Group Corporation (Anshan Iron & Steel), Hebei Shougang Qian' an Iron & Steel Co., Ltd. (Hebei Iron & Steel), and Wuhan Iron & Steel Co. Ltd. (WISCO). We also posted the quantity-and-value questionnaire on the Department's website and, in the *Initiation Notice*, invited other parties that may wish to be included in the respondent-selection process to file a response to the quantity-and-value questionnaire.¹² On November 13, 2013, the Department received timely-filed questionnaire responses from Baoshan, which stated that it made shipments of the merchandise covered by the scope of this investigation during the period January 1, 2013, through June 30, 2013,¹³ and WISCO, which stated that it made no such shipments.¹⁴ Anshan Iron & Steel did not respond to the questionnaire and we could not confirm delivery of the questionnaire to Hebei Iron & Steel.¹⁵ We received no other responses to the quantity-and-value questionnaire, and no comments from interested parties on respondent selection.

On December 9, 2013, we issued our Respondent Selection Memorandum, in which we selected Baoshan as the only mandatory respondent in the investigation based on an examination of the Department's available resources and the quantity-and-value questionnaire responses.

DISCUSSION OF THE METHODOLOGY

Application of Adverse Facts Available to Baoshan

Section 776(a) of the Act provides that the Department shall apply "facts otherwise available" if (1) necessary information is not on the record or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Furthermore, section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Adverse inferences are

¹¹ See *Initiation Notice* at 65288.

¹² *Id.*

¹³ See Letter from Baoshan Iron & Steel Co., Ltd. and Baosteel America, Inc., titled "Antidumping Duty Investigation of Grain-Oriented Electrical Steel from People's Republic of China – Response to Quantity and Value Questionnaire," dated November 13, 2013.

¹⁴ See Letter from International Economic and Trading Corporation and Wuhan Iron and Steel Company Limited, titled "Grain-Oriented Electrical Steel from the People's Republic of China, Case No. A-570-994: Revised Response to Quantity and Value Questionnaire," dated November 21, 2013.

¹⁵ See Memorandum to The File, from Ericka Ukrow, International Trade Analyst, through Angelica L. Mendoza, Program Manager AD/CVD Operations Office VI, Enforcement and Compliance, titled "Antidumping Duty Investigation of Grain-Oriented Electrical Steel from the People's Republic of China: Delivery of Quantity and Value Questionnaire and Responsiveness of Companies," dated November 15, 2013.

appropriate to “ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”¹⁶ Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.¹⁷

Baoshan’s responses to our December 11, 2013, antidumping questionnaire were originally due on January 2, 2014 (Section A), and January 17, 2014 (Sections C and D). Baoshan requested, and was granted, additional time to prepare its responses, such that they were not filed until January 16, 2014, and January 31, 2014, respectively. Upon review, we found the responses to be largely incomplete, particularly in terms of lacking narrative responses to identify and explain general information concerning its U.S. sales process, its reported U.S. sales data, and the factors-of-production information.

In its Section A response, Baoshan reported that, for most of its reported sales, the GOES it produced was exported to third countries by Baosteel America for “further processing” and that, subsequent to this processing, the merchandise was sold to unaffiliated U.S. customers.¹⁸ Baoshan further stated that it negotiated prices with the “unaffiliated U.S. customers” through Baosteel America¹⁹ and that it determined the ultimate-customer market based on the contract negotiation or destination of a shipment.²⁰ On page 32 of its Section A Response, Baoshan offered no comment to the instruction that, if it was aware of any merchandise sold to third countries and then ultimately shipped to the United States, it was to contact the official-in-charge within two weeks of receipt of the questionnaire (*i.e.*, December 26, 2013). Although it is clear from parts of the Section A response that some shipments were sent to third countries for further-processing, Baoshan did not describe the nature of the processing or identify the processors by name or affiliation (*i.e.*, whether or not they were affiliated to Baoshan).

Due to the lack of completeness of the Section A response, we could not ascertain the U.S. channels of distribution or define the finished product being sold in the United States for purposes of reviewing Section C. Consequently, we could not determine what sales Baoshan reported in its Section C response – whether, for any sales processed in a third country, it had reported the sale between the U.S. affiliate and the third-country processor or the sale between the third-country processor and an unaffiliated U.S. customer. In its Section C response, Baoshan claimed the sale type of all sales to be that of a constructed-export-price (CEP) sale on the basis that the subject merchandise had been sold to the United States through Baosteel America.²¹ However, Baoshan did not identify any selling functions performed by the U.S. affiliate in any of its Section C narrative responses and reported no direct selling expenses (*i.e.*,

¹⁶ See *Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. No., 103-316 at 870 (1994) (SAA).

¹⁷ See Section 776(b) of the Act.

¹⁸ See Baoshan’s Section A Questionnaire Response, dated January 16, 2014 (Section A Response), at 1 and 7.

¹⁹ *Id.* at 15.

²⁰ *Id.* at 26.

²¹ See Baoshan’s Section C Questionnaire Response, dated January 31, 2014 (Section C Response), at 16.

credit, warranty or technical service expenses) incurred in the United States in its sales data.²² Although requested in our questionnaire, Baoshan did not provide a narrative description of the indirect selling expenses incurred in the United States.²³ Specifically, it failed to provide a description of the office rent and salesmen's salaries incurred in the United States. Furthermore, a review of Baoshan's calculation worksheet showed that these two key components were not included in the reported expenses.²⁴ In other words, despite its claim of CEP sales, the responses for Sections A and C suggested that the U.S. affiliate was, at best, involved in the sales in name only.

In order to clarify these numerous deficiencies, we issued a supplemental questionnaire to Baoshan regarding its Section A Response on February 11, 2014. In its supplemental questionnaire response, Baoshan stated that, although all merchandise was sold through its U.S. affiliate, the merchandise sold to third-country processors did not transit through the United States but was shipped directly from Baoshan to the processors.²⁵ Baoshan added that no further-manufacturing was performed on the merchandise in the United States and that any additional processing of the merchandise was performed in third countries by unaffiliated processors.²⁶ In response to our question as to why it considered its reported sales to be CEP sales if the affiliate did not take title or possession of the merchandise, Baoshan stated that the sales were made through Baosteel America to an unaffiliated customer but then added that the merchandise was sent directly from Baoshan to the customer and that it did not view the bill of lading (received by Baosteel America) to be proof of a sale but merely proof of shipment.²⁷ However, further on in this response, Baoshan stated that "Baosteel America {had} developed the U.S. market for GOES jointly with the processors over the past few years".²⁸ It added that, due to this joint effort, Baosteel America was aware that the products sold to the unaffiliated processors were then resold to U.S. customers as a result of the sales negotiation process. In support of its claim, Baoshan submitted an e-mail and sales contracts between Baosteel America and the processors showing that, in some cases, the ultimate customer was named in discussions or on the contracts.²⁹ Baoshan also stated that "further-processed" referred to the slitting of GOES coils into customer-specific widths and listed seven basic steps in this process, but provided no descriptions for these steps.³⁰

²² *Id.* at 33-38.

²³ *Id.* at 39.

²⁴ *Id.* at 39 and exhibit 3-C.

²⁵ Baoshan's Supplemental Questionnaire Response for Sections A, C and D, dated February 28, 2014 (Supplemental Response A1), at 1. This response was originally due on February 25, 2014, but timely filed after we granted Baoshan an extension until February 28, 2014.

²⁶ *Id.*

²⁷ *Id.* at 3.

²⁸ *Id.* at 4.

²⁹ *Id.* at exhibits S1-5 and S1-16.

³⁰ *Id.* at 4.

In a February 21, 2014, supplemental questionnaire concerning Section C, we asked Baoshan to clarify the selling functions performed by itself and Baosteel America on the reported U.S. sales. In response, Baoshan chose not to identify the expense fields in the sales database in which it had reported the expenses associated with any claimed selling activities.³¹ Baoshan also did not provide a selling-functions chart, which would have served to clarify whether identified functions were performed by Baoshan, its affiliate or both companies.³² Baoshan did however provide a listing of selling activities that it claimed were performed solely by Baosteel America.³³ This listing included the following: prospecting the U.S. market jointly with the processors; visiting customers; sales contracting; credit risk control; receiving payments from customers; customer care and customer relationship management; product technical service follow-up; onsite customer service; marine vessel chartering; and discharging port arrangement. In spite of this listing, Baoshan did not revise any of its reported selling expenses to reflect the expenses associated with these activities. In addition, it claimed to be unable to identify the entered value or importer-of-record for sales to the third-country processors since, in its words, “the processor processed the merchandise into different specification{s}” before resale to the U.S. market.³⁴

In its next supplemental questionnaire response, Baoshan stated that, based on its knowledge of the HTSUS number³⁵ under which the further-processed product entered into the United States, the merchandise did in fact enter as GOES.³⁶ Baoshan then revealed its knowledge that, after processing, the merchandise was not ready to be placed in transformers as cores and that the U.S. customers would indeed perform further processing to get the merchandise to that stage.³⁷ Furthermore, in response to a follow-up question about the U.S. selling functions, Baoshan did not name any sales personnel from Baosteel America that were involved in the sales that it had previously claimed to be jointly-developed for the U.S. market.³⁸

In an April 4, 2014, supplemental questionnaire, we again sought additional clarification of the selling functions performed by Baosteel America from Baoshan by asking it to identify the fields in the U.S. sales database in which it had reported the expenses associated with the selling activities listed for Baosteel America in its Supplemental Response C1. Baoshan identified a field for the associated expenses of each of the activities but provided no narrative explanation

³¹ Baoshan’s Second Supplemental Questionnaire Response, dated March 7, 2014 (Supplemental Response C1), at 4. This response was originally due on February 28, 2014, but timely filed after we granted Baoshan an extension until March 7, 2014.

³² *Id.* at 4-5.

³³ *Id.* at 4.

³⁴ *Id.* at 9-10.

³⁵ In reference to the Harmonized Tariff Schedule of the United States.

³⁶ Baoshan’s Section A Second Supplemental Questionnaire Response, dated April 8, 2014 (Supplemental Response A2), at 4. This response was originally due on April 4, 2014, but timely filed after we granted Baoshan an extension until April 8, 2014.

³⁷ *Id.*

³⁸ *Id.* at 5.

for its attributions.³⁹ Without such explanations, their response presented us with more questions than answers about how the expenses of the activities were captured in Baoshan's database. For example, Baoshan attributed expenses for technical service follow-up to indirect selling expenses incurred in the United States but did not explain why it did not consider these customer-specific expenses to be direct selling expenses.⁴⁰ It attributed freight-arrangement expenses to movement expense fields but offered no explanation as to why the labor costs associated with making the arrangements would be reflected in the international freight and marine insurance expenses incurred by the company.⁴¹ Finally, Baoshan attributed the expenses of a number of activities to indirect selling expenses incurred in the United States but made no attempt to identify which expense items on a revised calculation worksheet for the indirect selling expenses tied to the expenses of the specific selling activities.⁴²

In contrast to its comments about working jointly with the processors in Supplemental Response A1, Baoshan stated in Supplemental Response C2 that Baosteel America performed no selling activities or provided no services to the ultimate customers of the third-country processors.⁴³ Furthermore, a review of the supporting documentation for its revised calculation worksheet for indirect selling expenses incurred in the United States shed no light on the issue of the personnel who performed selling activities for Baosteel America, as the documentation seemed to encompass expenses incurred at several office locations.⁴⁴ Thus, we were still unable to establish for the record that the U.S. affiliate was sufficiently involved in the sales process to conclude that CEP sales had taken place. In response to a question in which we asked Baoshan to clarify the change in specifications of the merchandise due to further processing, Baoshan stated that, other than width, none of the product specifications changed.⁴⁵ It claimed that the HTSUS numbers of the merchandise changed between entry into the third countries for processing and entry into the United States for resale, but that the merchandise still entered the United States under an HTSUS number for GOES.⁴⁶

Baoshan's Section D response also lacked information essential to performing an antidumping analysis. Primarily, Baoshan did not provide a detailed narrative description of the production process utilized for the production of GOES, as requested by the Department. Although a fully-integrated producer of GOES, Baoshan provided only a diagram of the "general production process" of the product and a series of brief descriptions of the main stages of its production

³⁹ Baoshan's Section C Second Supplemental Questionnaire Response, dated April 17, 2014 (Supplemental Response C2), at 1-2. This response was originally due on April 11, 2014, but timely filed after we granted Baoshan two extensions until April 17, 2014.

⁴⁰ *Id.* at 2. On page 4 of the response, Baoshan somewhat addressed this issue but only by recharacterizing the technical service follow-up activity as actually consisting of product technical advice that was only extended to the third-country processors and a direct U.S. customer.

⁴¹ *Id.*

⁴² *Id.* at 2, 5 and exhibit S4-4.

⁴³ *Id.* at 4.

⁴⁴ *Id.* at exhibits S4-4b, S4-4c and S4-4d.

⁴⁵ *Id.* at 9.

⁴⁶ *Id.*

process for GOES.⁴⁷ These few paragraphs provided vague information regarding the use of certain material inputs, equipment, and the generation of subsidiary products. Baoshan did not, as requested in our Section D questionnaire, fully describe each one of its production stages and it did not include specific information, also requested by us, such as processing times and the number of people involved in the production stage. Rather, Baoshan included exhibits that listed the input names and calculation worksheets for the consumption amounts with a one-page description of the calculation methodology.⁴⁸ Thus, the exhibits lacked a full description of the inputs and importantly, without a detailed narrative, the Department did not have a sufficient basis upon which to fully understand the calculation methodology used to derive the provided consumption figures.

Baoshan's Section D Response revealed numerous inconsistencies between the narrative and the exhibits provided, resulting in inputs omitted in the factors-of-production data that were referenced in the narrative. Moreover, the very brief descriptions of inputs significantly impeded the Department's ability to analyze Baoshan's Section D Response, as well as prevented the petitioners and interested parties from constructively reviewing Baoshan's submission.⁴⁹ As discussed further below, we issued Baoshan a Section D Supplemental Questionnaire on April 3, 2014 to address these and other deficiencies.

Besides the incomplete and unexplained narrative and exhibits provided in its Section D Response, Baoshan also failed to provide supporting documentation for most, if not all, of its reported factors and related consumptions rates. For example, Baoshan was requested to provide, if applicable, a list of all inputs used in the production of GOES that were purchased from a market economy supplier and to provide key information regarding such market-economy purchases. In response, Baoshan reported the name and its relationship with the suppliers, as well as the price paid for the product or service. Yet, it did not provide the terms of payment for such purchases, specific arrangements/contracts in place with the supplier, and more importantly supporting documentation for the total volume and prices claimed, commercial invoices demonstrating payment in market-economy currency, country of origin certificates from an independent government agency in the source country.⁵⁰ Other essential supporting documentation or narrative explanations that were incomplete include: (a) a detailed description of Baoshan's water consumption (since it claims to use different types of water throughout various stages of the production process) and a schedule of its reported consumption that supported its allocations; (b) a detailed description explaining the allocation methodology used to derive its reported electricity consumption, supported by documentation such as electricity meter readings, *etc.*; (c) supporting documentation and a detailed description of its reported gas consumption;⁵¹ and (d) a full description of the by-products or co-products either sold or

⁴⁷ See Baoshan's Section D Questionnaire Response, dated January 31, 2014 (Section D Response), at Exhibit 1 and pages 3-6, respectively.

⁴⁸ *Id.* at Exhibits D-3 for the factors of production, D-7 for the list of inputs, and D-8 for the factors of production calculation worksheets.

⁴⁹ For more detailed explanation, see Letter to the Secretary of Commerce from petitioners, dated February 12, 2014, at 10-12.

⁵⁰ *Id.* at 8 and Exhibit D-4.

⁵¹ See Section D Supplemental, at 3.

reintroduced into production, production records demonstrating such production, and evidence of the disposition of these.⁵²

On March 14, 2014, Baoshan filed surrogate-value information.⁵³ This submission included a spreadsheet with a surrogate values summary for each of its factors of production.⁵⁴ In the spreadsheet, all input descriptions were completely bracketed. Also included in this submission were exhibits that included public information with regard to some of these inputs. This resulted in an inadequate public summary of Baoshan's reported inputs which made it difficult for the Department as well as petitioners to provide meaningful comments regarding which surrogate value information to rely on for purposes of valuing a particular input.

On March 12, 2014, March 27, 2014, and April 2, 2014, Baoshan filed unsolicited, corrected factors-of-production information and data. These revisions included, *inter alia*, (a) removed and revised certain factors-of-production data previously reported;⁵⁵ (b) a third type of GOES sold in the United States during the POI;⁵⁶ (c) certain inputs reported initially as purchased from third parties and later reported as being self-produced;⁵⁷ and (d) revised harmonized tariff categories for surrogate information it suggested be used to value various inputs without any explanation other than that these reflected the actual factors used by Baoshan.⁵⁸ These revisions, instead of clarifying the record, actually made it more confusing and called into question the reliability of such information.

To address these and other deficiencies, in the Department's Section D Supplemental Questionnaire, dated April 3, 2014 (Section D Supplemental), we asked Baoshan to explain in detail and provide, if necessary, a spreadsheet showing how "each" upstream input flows through to the final reported consumption quantity reported in their factors of production database.⁵⁹ Again, in its Section D Supplemental response, Baoshan provided a general one-paragraph explanation of the flow of these inputs in the production process and referred the Department to exhibits filed in its Section D Response or unsolicited revisions filed subsequently.⁶⁰

⁵² *Id.*; see also Supplemental D Response at 18 and Exhibit D-13.

⁵³ See Baoshan's Letter to the Secretary of Commerce, Penny Pritzker, entitled "Investigation of Grain-Oriented Electrical Steel from People's Republic of China: Surrogate Values Submission," dated March 14, 2014.

⁵⁴ *Id.* at Exhibit 1.

⁵⁵ See Baoshan's Letter to the Secretary of Commerce, Penny Pritzker, entitled "Investigation of Grain-Oriented Electrical Steel from People's Republic of China: Section D Corrected Factors of Production Spreadsheet, dated March 12, 2014, at 1-2.

⁵⁶ See Baoshan's Letter to the Secretary of Commerce, Penny Pritzker, entitled "Investigation of Grain-Oriented Electrical Steel from People's Republic of China: Section D Corrected Factors of Production, dated March 27, 2014, at 1-2.

⁵⁷ *Id.*

⁵⁸ See Baoshan's Letter to the Secretary of Commerce, Penny Pritzker, entitled "Investigation of Grain-Oriented Electrical Steel from People's Republic of China: Surrogate Value Submission and Corrections, dated April 2, 2014, at 1-3.

⁵⁹ See Section D Supplemental at 1.

⁶⁰ See Baoshan's Section D Supplemental Questionnaire Response, dated April 17, 2014 (Supplemental D Response), at 1-2.

Additionally, Baoshan continued to provide limited and vague explanations regarding various inputs used in its production of GOES, for which the Department requested more detailed explanation in order to make a more informed decision when selecting the appropriate surrogate value, compared to petitioner's comments. Specifically, Baoshan, instead of giving a detailed description for the use of input, basically copied verbatim the harmonized tariff category title.⁶¹ Furthermore, as supporting documentation Baoshan directed the Department to exhibits comprised of print-outs, one or a few pages in length and in Chinese, of what appeared to be some type of mill certificate that merely listed in English the chemical component of the input.⁶²

As petitioners explain, "GOES must undergo a series of intensive rounds of cold-rolling and annealing to achieve its physical properties."⁶³ Because in this proceeding the factors of production serve as the basis for normal value, an in-depth understanding of the respondent's production processes is fundamental for the Department's analysis. Furthermore, as established in the petition, Baoshan is a fully vertically-integrated producer of GOES, and as such the Department's analysis of Baoshan's factors of production should take into consideration not only its upstream vertical integration of iron and steel production, but also its downstream vertical integration of all rolling, annealing and finishing stages. Thus, an accurate portrayal of Baoshan's production process and data regarding GOES is critical for the Department's analysis.

Additionally, Baoshan was requested to provide, if applicable, a list of inputs used in the production of GOES that were purchased from a market economy supplier. Baoshan reported in its response the name and relationship with the suppliers, as well as the price paid for the product or service. Yet, it failed to provide the terms of payment for such purchases, specific arrangements/contracts in place with the supplier, or, more importantly, supporting documentation for the total volume and prices claimed, commercial invoices demonstrating payment in market-economy currency or country of origin certificates from an independent government agency in the source country.⁶⁴ On April 17, 2014, Baoshan submitted a revised schedule excluding certain of these market-economy purchases.⁶⁵

Based on a review of the above-described submissions, we can only find that Baoshan failed to provide information in the form and manner requested by the Department and that, by consistently providing responses that are incomplete or appear to contradict other information of record, it significantly impeded the investigation. Thus, we conclude that, pursuant to section 776(a)(2)(B) and (C) of the Act, the application of facts otherwise available is warranted in the determination of an estimated weighted-average dumping margin for Baoshan. Further, we find that, pursuant to section 776(b) of the Act, use of an adverse inference in the applying the facts

⁶¹ For examples *see* Supplemental D Response at 10-16 (*e.g.*, input variables ELLECCO, PCCAST, SERTINE)

⁶² *Id.* at Exhibits S5-21 through S5-23 and S5-26 through S5-28.

⁶³ *See* Letter to the Secretary of Commerce from petitioners, dated February 10, 2014 (petitioners' surrogate country rebuttal), at 3.

⁶⁴ *Id.* at 8 and Exhibit D-4.

⁶⁵ *See* Baoshan's Section D Supplemental Questionnaire Response, dated April 17, 2014 (Supplemental D Response), at 3 and Exhibit S5-9.

otherwise available is warranted because Baoshan failed to cooperate by not acting to the best of its ability to comply with our requests for information.

In reaching these findings, we observe that Baoshan failed to heed our instruction in Section A of the antidumping questionnaire to contact Department officials within two weeks of receipt of the questionnaire in the event it had sold merchandise to third countries with the knowledge this merchandise would ultimately be shipped to the United States. If Baoshan had followed this instruction and contacted us by December 26, 2013, we may have gained an understanding of Baoshan's sales process that has yet to be fully clarified for the record.⁶⁶

However, Baoshan was not simply slow in providing information, it was evasive. Clearly, it is reasonable to find that Baoshan was aware at the time of its filing of its Section A Response of the nature and degree of processing performed by the third-country processors on its GOES and that additional, transformative further-processing would be performed by the ultimate customers in the United States. Yet it did not place this information, which was essential to the Department being able to identify the U.S. sales that should be properly reported, on the record until it filed supplemental responses in April. Baoshan also had knowledge at the time of its filing of its Section C Response of the selling functions performed by itself and Baosteel America on the sales under investigation and of the costs associated with those functions. But after three rounds of responses, we cannot pinpoint the activities performed, the expenses incurred, or if those expenses have been captured in the U.S. sales database. Without a clear picture of the activities, we cannot perform the most basic analysis of determining the type of sale (*i.e.*, export-price or CEP) that took place during the period of investigation. Finally, Baoshan had knowledge at the time of its filing of its Section D Response of its production process and the inputs it used to produce the subject merchandise. But, rather than identifying the process and the inputs at the outset of the investigation, it chose to file a series of responses and submissions which serves to obfuscate as much as to clarify the record.

Baoshan's conduct and inconsistent responses in this investigation lead us to call into question the credibility of the entirety of its responses and submissions.⁶⁷ Moreover, the information it refused to clarify is core to the investigation, such that its absence renders the information Baoshan provided so incomplete it cannot serve as a reliable basis on which to reach a preliminary determination.⁶⁸ Hence, even though Baoshan submitted U.S. sales and factors-of-

⁶⁶ "Ultimately, it is the respondent's responsibility to make sure that the ITA {International Trade Administration} understands, and correctly uses, any information provided by the respondent." *Neuweg Fertigung GmbH v. United States*, 797 F. Supp. 1020, 1024 (Ct. Int'l Trade 1992) (citing *Asociacion Colombiana de Exportadores v. United States*, 704 F. Supp. 1114, 1124 (Ct. Int'l Trade 1989), *aff'd* 901 F.2d 1089 (Fed. Cir. 1990), cert. denied 111 S. Ct. 136 (1990) ("Parties must submit data promptly, and be very clear as to what the data indicates").

⁶⁷ *See Foshan Shunde*, 2011 Ct. Intl. Trade LEXIS 123 (Ct. Int'l Trade Oct. 12, 2011) (sustaining total AFA call in review where respondent's failure to provide adequate responses to FOPs and sales, and deficiencies/inconsistencies called into question credibility of entirety of respondent's questionnaire responses).

⁶⁸ *Mukand*, 2013 Ct. Intl. Trade LEXIS 46 (Ct. Int'l Trade Mar. 25, 2013) (*Mukand*) (sustaining application of total AFA where respondent continuously provided deficient responses to sales below cost allegation because deficiency pertained to "core, not tangential information" and rendered "the remaining information so incomplete that it could not serve as a reliable basis for reaching a final determination" because absence of info so vitally connected with other elements of dumping determination).

production information, we cannot find the data to be reliable for purposes of calculating an estimated weighted-average dumping margin.

Non-Market Economy Country Status

The Department considers the PRC to be a non-market economy (NME) country.⁶⁹ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the Department. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

Separate Rates Determination

There is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.⁷⁰ In the *Initiation Notice*, the Department notified parties of the application process by which exporters could obtain separate-rate status in the investigation.⁷¹ It is our policy to assign a single rate to all exporters of the merchandise subject to a less-than-fair-value investigation in an NME country unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its exports.⁷² To establish if a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991), and as amplified in *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). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then consideration of the *de jure* and *de facto* criteria is not necessary to determine if it is independent from government control.⁷³

In this investigation, exporters and producers had the opportunity to file a separate-rate application no later than 60 days from the date of publication of the *Initiation Notice* (*i.e.*, December 30, 2013). No applications were received. Consequently, we find that Anshan Iron &

⁶⁹ See, e.g., *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results*, 76 FR 62765, 62767-68 (October 11, 2011), unchanged in *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 77 FR 21734 (April 11, 2012).

⁷⁰ See *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, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

⁷¹ See *Initiation Notice*, 78 FR at 65288.

⁷² See Import Administration Policy Bulletin, Number 05.1, regarding "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," dated April 5, 2005.

⁷³ See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

Steel, Hebei Iron & Steel, and WISCO are part of the PRC-wide entity for purposes of this investigation.

In our antidumping questionnaire, we instructed Baoshan that, in addition to filing a separate-rates application, it had the option to respond to the “Separate Rates” section of Section A of the questionnaire to be considered for a separate rate. It provided responses to these questions but, because we found all of the information submitted by Baoshan to be unreliable, including its Section A Response, we find that the company is not eligible for a separate rate.

The PRC-Wide Entity

As discussed above, we find that Baoshan and the other exporters identified in the petition are part of the PRC-wide entity and thus subject to the results of this investigation. The Department preliminarily determined that the information submitted by Baoshan is not reliable for the Department to determine whether Baoshan is eligible for a separate rate. Further, no other exporters from the PRC, including Anshan Iron & Steel, established their eligibility for a separate rate. Accordingly, the Department finds that all exports of GOES from the PRC are attributable to the PRC-wide entity.

Adverse Facts Available

1. Application of Total Adverse Facts Available to the PRC-Wide Entity

The Department preliminarily determines that it must rely on facts otherwise available to assign an estimated weighted-average margin to the PRC-wide entity in accordance with sections 776(a)(1),(2)(B) and (C) of the Act because the PRC-wide entity, which includes Baoshan and Anshan Iron & Steel, has to provide information in the form and manner requested by the Department and, by not providing requested information, significantly impeded the proceeding. Furthermore, the Department preliminarily finds that failure on the part of Baoshan and Anshan Iron & Steel to provide requested or reliable information constitutes circumstances under which the Department concludes that these companies and hence, the PRC-wide entity, has not acted to the best of its ability to comply with the Department’s requests for information. Therefore, pursuant to section 776(b) of the Act, the Department preliminarily determined that the PRC-wide entity failed to cooperate by not acting to the best of its ability and, accordingly, when selecting from among the facts otherwise available, an adverse inference is warranted with respect to that entity.

2. Selection of an Adverse-Facts-Available Rate

In deciding which facts to use as adverse facts available, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record. The Department’s practice in investigations, when selecting a rate as total adverse facts available, is to use the highest rate from the petition which, to the

extent practicable, can be corroborated.⁷⁴ The Department's practice is to select an adverse-facts-available rate that is sufficiently adverse as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner, and that ensures that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.⁷⁵

Consistent with the statute, court precedent and our practice, the Department assigned, as adverse facts available, an estimated weighted-average dumping margin of 159.21 percent to the PRC-wide entity. This rate, referenced in the *Initiation Notice*, is the only dumping margin alleged in the petition.⁷⁶

3. Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies upon secondary information, rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “[i]nformation 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.”⁷⁷ To corroborate means to determine that the information used has probative value.⁷⁸ The Department has determined that to have probative value, information must be both reliable and relevant.⁷⁹ Independent sources used to corroborate such evidence may include, for example, “published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.”⁸⁰

⁷⁴ See *Glycine from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 15930, 15934 (April 8, 2009), unchanged in *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 41121 (August 14, 2009); see also *Fujian Lianfu Forestry Co., Ltd. v. United States*, 638 F. Supp. 2d 1325, 1336 (CIT 2009) (“Commerce may, of course, begin its total AFA selection process by defaulting to the highest rate in any segment of the proceeding, but that selection must then be corroborated, to the extent practicable.”)

⁷⁵ See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8911 (February 23, 1998); see also *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005); SAA at 870.

⁷⁶ See *Initiation Notice* at 65287.

⁷⁷ See SAA at 870.

⁷⁸ See *id.*

⁷⁹ 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).

⁸⁰ See SAA at 870.

For the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis and for purposes of this preliminary determination.⁸¹ We examined the evidence supporting the calculations in the petition to determine the probative value of the dumping margin alleged in the petition for use as adverse facts available for purposes of this preliminary determination. During our pre-initiation analysis, we examined the key elements of the CEP and normal-value calculations used in the petition to derive the dumping margin alleged in the petition.⁸² We also examined information from various independent sources provided either in the petition or, at our request, in the supplements to the petition that corroborates key elements of the CEP and normal-value calculations used in the petition to derive the dumping margin alleged in the petition.⁸³

Based on our examination of the information, as discussed in detail in the Initiation Checklist, we considered the petitioners' CEP and normal-value calculations to be reliable. Because we obtained no other information that would make us question the validity of the sources of information or the validity of information supporting the U.S. price or normal-value calculations provided in the petition, and based on our examination of the aforementioned information, we preliminarily consider the CEP and normal-value calculations from the petition to be reliable. Because we confirmed the accuracy and validity of the information underlying the derivation of the dumping margin in the petition by examining source documents and affidavits, as well as publicly available information, we preliminarily determine that the margins in the petition are reliable for the purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. The courts acknowledge that the consideration of the commercial behavior inherent in the industry is important in determining the relevance of the selected adverse-facts-available rate to the uncooperative respondent by virtue of it belonging to the same industry.⁸⁴ No information has been placed on the record to indicate that the rates in the petition are not reflective of commercial practices of the GOES industry and, moreover, in this particular case the information contained in the petition is specific to Baoshan.⁸⁵ As such, we find this rate relevant to Baoshan. Furthermore, because, as explained in detail above, we are unable to rely on Baoshan's data to calculate an estimated weighted-average dumping margin, and as there are no other respondents in this investigation for which we are calculating an estimated weighted-average dumping margin, we relied upon the rates found in the petition, which is the only information regarding the GOES industry reasonably at the Department's disposal.

⁸¹ See Antidumping Duty Investigation Initiation Checklist: Grain-Oriented Electrical Steel from the People's Republic of China, dated October 24, 2013 (Initiation Checklist).

⁸² *Id.* at 6-10.

⁸³ *Id.*

⁸⁴ See, e.g., *Ferro Union, Inc. v. United States*, 44 F. Supp. 2d 1310, 1334 (CIT 1999).

⁸⁵ Specifically, in this particular case the offer for sale quote contained in the petition is from Baoshan. See Volume II of the petition, at 2 – 3 and Exhibit AD- C-2.

Accordingly, the Department corroborated the adverse-facts-available rate of 159.21 percent to the extent practicable within the meaning of section 776(c) of the Act because the rate: 1) was determined to be reliable in the pre-initiation stage of this investigation (and we have no information indicating otherwise); and 2) is relevant to the PRC-wide entity, and specifically to Baoshan.⁸⁶ Therefore, we preliminarily determine that the alleged dumping margin from the petition has probative value to assign an estimated weighted-average dumping margin to the PRC-wide entity based on adverse facts available.⁸⁷

RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

Agree Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

2 MAY 2014

Date

⁸⁶ See section 776(c) of the Act and 19 CFR 351.308(c) and (d); see also *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 35652, 35653 (June 24, 2008), and accompanying Issues and Decision Memorandum at Comment 1.

⁸⁷ See section 776(c) of the Act and 19 CFR 351.308(c) and (d); see also *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 35652, 35653 (June 24, 2008), and accompanying Issues and Decision Memorandum at Comment 1.