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Investigation
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Public Document
E&C/VII: The Team

December 21, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Antidumping Duty Investigation of Certain Corrosion-Resistant
Steel Products from the People's Republic of China

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain corrosion-resistant steel products (corrosion-resistant steel) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

II. BACKGROUND

On June 3, 2015, the Department received an antidumping duty (AD) petition covering imports of corrosion-resistant steel from the PRC, which was filed in proper form by United States Steel Corporation, Nucor Corporation, ArcelorMittal USA LLC, AK Steel Corporation, Steel Dynamics Inc., and California Steel Industries (collectively, Petitioners) covering corrosion-resistant steel from the PRC.¹ The Department initiated this investigation on June 23, 2015.²

¹ See "Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Corrosion-Resistant Steel Products from the People's Republic of China, the Republic of Korea, India, Italy, and Taiwan," June 3, 2015 (Petition).

² See *Certain Corrosion-Resistant Steel Products From Italy, India, the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 37228 (June 30, 2015) (*Initiation Notice*).



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.³ The process requires exporters to submit a separate rate application (SRA)⁴ 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, which fell on July 30, 2015.⁵ In response to requests for extension of that deadline, the Department extended the deadline to August 6, 2015 for Union Steel China (Union Steel), Baoshan Iron & Steel Co., Ltd. (Baoshan), WISCO International Economic & Trading Co., Ltd. (WISCO), and Jiangyin Zongcheng Steel Co. Ltd (Zongcheng).⁶ Zongcheng requested, and was granted, an additional extension until August 10, 2015, to submit its SRA.⁷ The Department received timely filed SRAs from Yieh Phui (China) Technomaterial Co., Ltd. (Yieh Phui),⁸ Baoshan,⁹ WISCO,¹⁰ Union Steel,¹¹ and Zongcheng.¹²

Additionally, in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of corrosion-resistant steel to be reported in response to the Department's AD questionnaire.¹³ In July and August 2015, Baoshan, Totem Steel International (Totem), a U.S. importer of subject merchandise, Great Grandeul Steel Co., Ltd. (GGS), Yieh Phui Enterprise Co., Ltd.(YPE), and POSCO, interested parties in the companion AD investigations, submitted comments on the scope of this investigation. On July 24, 2015, Petitioners submitted rebuttal scope comments in response to POSCO, Totem, YPE, Baoshan, and GGS.

On July 17, 2015, Petitioners, Dongkuk Steel Mill Co., Ltd./Union Steel Manufacturing Co., Ltd. (Dongkuk/Union Steel), Hyundai Steel Company (Hyundai), Prosperity Tieh Enterprise Co., Ltd. (Prosperity Tieh), and YPE, interested parties in the companion AD investigations, submitted comments to the Department regarding the physical characteristics of the merchandise under

³ See *Initiation Notice*, 80 FR at 37233.

⁴ 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>.

⁵ See *Initiation Notice*, 80 FR at 37233.

⁶ See Letters from Mark Hoadley, "Certain Corrosion-Resistant Steel Products from the People's Republic China: Separate Rate Application Deadline Extension for Zongcheng," July 24, 2015; "Certain Corrosion-Resistant Steel Products from the People's Republic China: Separate Rate Application Deadline Extension for WISCO," July 24, 2015; "Certain Corrosion-Resistant Steel Products from the People's Republic China: Separate Rate Application Deadline Extension for Baoshan," July 27, 2015; and "Certain Corrosion-Resistant Steel Products from the People's Republic China: Separate Rate Application Deadline Extension for Union Steel," July 28, 2015, respectively.

⁷ See Letter from Mark Hoadley, "Certain Corrosion-Resistant Steel Products from the People's Republic China: Separate Rate Application Deadline Extension for Zongcheng," August 6, 2015.

⁸ See Letter from Yieh Phui, "Corrosion-Resistant Steel Products from China; Section A Response," August 20, 2015 (Section A Part 2) at 11.

⁹ See Letter from Baoshan "Certain Corrosion Resistant Steel Products from the People's Republic of China: Separate Rate Application," August 6, 2015 (Baoshan SRA).

¹⁰ See Letter from WISCO "Certain Corrosion Resistant Steel Products from the People's Republic of China: Separate Rate Application," August 6, 2015 (WISCO SRA).

¹¹ See Letter from Union Steel "Certain Corrosion Resistant Steel Products from the People's Republic of China: Separate Rate Application," August 6, 2015 (Union Steel SRA).

¹² See Letter from Zongcheng "Certain Corrosion Resistant Steel Products from the People's Republic of China: Jiangyin Zongcheng Steel Co. Ltd Separate Rate Application," August 10, 2015 (Zongcheng SRA).

¹³ See *Initiation Notice*, 80 FR at 37229.

consideration to be used for reporting purposes. Then, on July 27, 2015, Petitioners, Dongkuk/Union Steel, Hyundai, POSCO, JSW Steel Ltd. and JSW Steel Coated Products Limited (collectively “JSW”), Prosperity Tieh, YPE, Uttam Galva Steels Limited (“Uttam Galva”), Arvedi, and Marcegaglia filed rebuttal comments regarding the physical characteristics of the merchandise under consideration. On August 4, 2015, the Department issued the product characteristics to be used in the investigation.¹⁴

We also stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on responses to quantity and value (Q&V) questionnaires to be sent to each potential respondent named in the Petition.¹⁵ On June 26, 2015, the Department issued Q&V questionnaires to the 145 companies that Petitioners identified as potential producers/exporters of corrosion-resistant steel from the PRC.¹⁶ 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. On July 6 and July 7, 2015, the Department received timely filed Q&V questionnaire responses from 10 exporters/producers.¹⁷ On July 20, 2015, based on the responses to the Q&V questionnaires, we selected Hebei Iron & Steel Co., Ltd. (Tangshan Branch) (Tangshan) and Yieh Phui for individual examination as mandatory respondents in this AD investigation.¹⁸

On July 23, 2015, the Department issued its AD NME questionnaires to Tangshan and Yieh Phui.¹⁹ On August 3, 2015, Tangshan informed the Department that it would not be participating in this investigation.²⁰ On August 6, 2015, the Department selected Baoshan as an additional mandatory respondent in this AD investigation.²¹ Yieh Phui submitted its response to Section A of the Initial Questionnaire on August 10 and 20, 2015.²² Yieh Phui submitted its response to Sections C and D of the Initial Questionnaire on September 14 and 18, 2015, respectively.²³ Between September and December 2015, we issued multiple supplemental questionnaires to Yieh Phui. We received responses to these supplemental questionnaires between September and

¹⁴ See Letter to All Interested Parties from Mark Hoadley, “Product Characteristics for Use in Sections C and D Questionnaire Responses” (August 4, 2015). Corrections to the product characteristics in this letter were issued on August 6, 14, and 18, 2015.

¹⁵ See *Initiation Notice*, 80 FR at 37233.

¹⁶ See Petition at Exhibit I-7; see also Letter to Interested Parties “Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Quantity and Value Questionnaire,” June 26, 2015, and Memorandum to The File, “Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products (CORE) from the People’s Republic of China (PRC): Quantity and Value Questionnaire Recipients,” July 16, 2015 (Q&V Recipients Memo).

¹⁷ See “Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Respondent Selection,” July 20, 2015 (Respondent Selection Memorandum).

¹⁸ *Id.*

¹⁹ See Letters from Mark Hoadley to Tangshan and Yieh Phui, both dated July 23, 2015 (Initial Questionnaire).

²⁰ See Letter from Tangshan, “*Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Letter Regarding Respondent Selection*,” August 3, 2015.

²¹ See Memorandum to Christian Marsh, “Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Selection of Additional Mandatory Respondent,” August 6, 2015.

²² See Letter from Yieh Phui “Corrosion-Resistant Steel Products from China: Affiliation Response,” August 10, 2015, and Section A Part 2.

²³ See Letters from Yieh Phui “Corrosion-Resistant Steel Products from China: Section C Response,” September 14, 2015 (Yieh Phui Section C), and “Corrosion-Resistant Steel Products from China: Section D Response,” September 18, 2015.

December 2015. During the same time frame, Petitioners submitted comments regarding Yieh Phui's questionnaire responses.

On September 2, 2015, Baoshan informed the Department that it would not participate in this investigation.²⁴

On July 24, 2015, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of corrosion-resistant steel from the PRC.²⁵

In October 2015, and pursuant to section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1), the Department published in the *Federal Register* a postponement of the preliminary determination by 41 days until no later than December 21, 2015.²⁶

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 October 1, 2014, through March 31, 2015. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was June 2015.²⁷

IV. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

On July 23, 2015, Petitioners filed allegations that critical circumstances exist with respect to imports of subject merchandise from the PRC.²⁸ On November 5, 2015, the Department issued its preliminary critical circumstances determination,²⁹ finding that critical circumstances exist for imports of subject merchandise from the PRC-wide entity, including Tangshan and Baoshan.

V. SCOPE OF THE INVESTIGATION

The products covered by the scope are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with

²⁴ See Letter from Baoshan, "Certain Corrosion-Resistant Steel Products from the People's Republic of China: Withdrawal from Participation as a Mandatory Respondent in the Antidumping Duty Investigation," September 2, 2015.

²⁵ See *Certain Corrosion-Resistant Steel Products From China, India, Italy, Korea, and Taiwan*, 80 FR 44151 (July 24, 2015).

²⁶ See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 61793 (October 14, 2015).

²⁷ See 19 CFR 351.204(b)(1).

²⁸ See Letter from Petitioners, "Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Critical Circumstances Allegations," July 23, 2015.

²⁹ See *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products From India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances*, 80 FR 68504 (November 5, 2015).

plastics or other non-metallic substances in addition to the metal coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness 4.75 mm or more than a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) 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 for above, and
- (2) where the width and thickness vary for a specific period (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope in this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are

recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (terne plate), or both chromium and chromium oxides (tin free steel), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measure at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant steel flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

VI. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country

The Department considers the PRC to be an NME country.³⁰ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

B. Surrogate Country and Surrogate Value Comments

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."³¹ As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available surrogate value (SV) data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.³² To determine which countries are at the same level of economic development, the Department generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.³³ Further, the Department normally values all FOPs in a single surrogate country.³⁴

On June 30, 2015, the Department identified Bulgaria, Ecuador, Romania, South Africa, Thailand and Ukraine, as countries that are at the same level of economic development as the PRC based on per capita 2013 GNI data.³⁵ On July 13, 2015, the Department issued a letter to interested parties soliciting comments on the list of potential surrogate countries and the

³⁰ 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).

³¹ 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>.

³² See Letter to All Interested Parties "Revised Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," July 31, 2015 (Revised Surrogate Country Comment Letter).

³³ *Id.*

³⁴ See 19 CFR 351.408(c)(2).

³⁵ See "Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," July 13, 2015 at Attachment 1.

selection of the primary surrogate country, as well as providing deadlines for submitting surrogate value information for consideration in the preliminary determination.³⁶ On July 31, 2015, the Department issued a revised non-exhaustive list of potential surrogate countries. The Department identified Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand, as countries that are at the same level of economic development as the PRC based on per capita 2014 GNI data.³⁷ On July 31, 2015, the Department issued a letter to interested parties revising the deadlines for comments on the list of potential countries and the selection of the primary surrogate country, and for submission of any surrogate value information to be considered for the preliminary determination.³⁸

On August 7, 2015, Yieh Phui submitted timely comments on the proposed list of surrogate countries.³⁹ Yieh Phui noted the countries on the list are not ranked in any order of preference and should, therefore, be regarded as equally qualified for use as the surrogate country. In addition, Yieh Phui asserted that, to the extent that acceptable surrogate country information from the countries on the list is either insufficient or otherwise inappropriate for use in this investigation, the Department can use surrogate country information from India and Indonesia, countries which are also known producers of comparable merchandise and which have been used as surrogate country data sources in previous proceedings. On September 8, 2015, Yieh Phui, United States Steel Corporation (U.S. Steel), and USS-POSCO Industries (UPI) submitted timely comments on surrogate countries, including information on whether certain countries are significant producers of the comparable merchandise, and, with Yieh Phui submitting surrogate value information for Thailand.⁴⁰ U.S. Steel and UPI argue for the use of Mexico as a surrogate country; both submitted data to show Mexico is a significant producer of comparable merchandise. Yieh Phui argues for use of Thailand as a surrogate country and submitted evidence to show Thailand is significant producer of comparable merchandise. U.S. Steel submitted rebuttal comments on September 18, 2015.⁴¹ On October 1, U.S. Steel and Yieh Phui submitted surrogate values data for Mexico and Thailand, respectively.⁴² Both parties submitted rebuttal comments on October 13, 2015.⁴³ UPI submitted additional timely comments and data

³⁶ *Id.*

³⁷ See Revised Surrogate Country Comment Letter at Attachment I.

³⁸ *Id.*

³⁹ See Letter from Yieh Phui, “Certain Corrosion-Resistant Steel Products from China; Comments on Surrogate Country List,” August 7, 2015.

⁴⁰ See Letter from Yieh Phui, “Certain Corrosion-Resistant Steel Products from China: Surrogate Country Comments,” September 8, 2015 (Yieh Phui’s SV); Letter from UPI, “Certain Corrosion-Resistant Steel Products from the People’s Republic of China, the Republic of Korea, India, Italy, and Taiwan –USS-POSCO Industries’ Comments on Surrogate Country Selection,” September 8, 2015 (UPI’s SV); and Letter from U.S. Steel “Certain Corrosion-Resistant Steel Products from the People’s Republic of China,” dated September 9, 2015, but initially submitted on September 8, 2015 (U.S. Steel’s SV).

⁴¹ See Letter from U.S. Steel “Certain Corrosion-Resistant Steel Products from the People’s Republic of China,” September 18, 2015 (U.S. Steel’s SV Rebuttal).

⁴² See Letter from U.S. Steel “Certain Corrosion-Resistant Steel Products from the People’s Republic of China,” October 1, 2015, (U.S. Steel’s SV 2) and Letter from Yieh Phui “Certain Corrosion-Resistant Steel Products from China: Rebuttal Comments on Surrogate Values,” October 1, 2015 (Yieh Phui’s SV 2).

⁴³ See Letter from U.S. Steel “Certain Corrosion-Resistant Steel Products from the People’s Republic of China,” October 13, 2015 (U.S. Steel’s SV Rebuttal 2), and Letter from Yieh Phui “Certain Corrosion-Resistant Steel Products from China: Rebuttal Comments on Publicly Available Information,” October 13, 2015 (Yieh Phui’s SV Rebuttal).

on October 21, 2015.⁴⁴ On October 28, 2015, Yieh Phui submitted rebuttal comments to UPI's additional surrogate value information.⁴⁵

As noted above, in its surrogate country and value submissions, Yieh Phui recommends that the Department use Thailand as the primary surrogate country. Yieh Phui provided production data,⁴⁶ export data,⁴⁷ and SV data,⁴⁸ as well as financial statements from two Thai manufacturers of comparable merchandise.⁴⁹ Yieh Phui argues that the production methods of the two Thai manufacturers are more comparable to that of Chinese producers, and Yieh Phui in particular,⁵⁰ than the Mexican producers. Therefore, Yieh Phui asserts that the Department should select Thailand as the primary surrogate country.

In its surrogate country and value submissions, U.S. Steel recommends that the Department use Mexico as the primary surrogate country. U.S. Steel provided production data⁵¹ export data,⁵² and SV data for Mexico,⁵³ as well as financial statements from two Mexican manufacturers of comparable merchandise. U.S. Steel contends that data submitted by Yieh Phui shows that Mexico is a larger producer of comparable merchandise than Thailand.⁵⁴ Further, U.S. Steel contends that the quality of the Mexican data that it submitted is superior to the Thai data.⁵⁵ Therefore, U.S. Steel argues that the Department should select Mexico as the primary surrogate country.

UPI agrees with U.S. Steel that the Department should choose Mexico as the primary surrogate country. UPI argues that the Thai financial statements provided by Yieh Phui are not suitable for the calculation of financial ratios because the companies received subsidies from the Thai government.⁵⁶ On October 28, 2015, Yieh Phui replied that the potential effect of subsidies on a financial statement does not automatically disqualify its use as surrogate value information. Yieh Phui also noted that according to the financial statements for the Mexican companies, one company is unprofitable and the other does not make subject merchandise.

1. Economic Comparability

Consistent with its practice, and section 773(c)(4) of the Act,⁵⁷ the Department identified Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand as countries at the same level

⁴⁴ Letter from UPI, "Certain Corrosion-Resistant Steel Products from the People's Republic of China – USS-POSCO Industries' Submission of Additional Surrogate Value Information," October 21, 2015.

⁴⁵ See Letter from Yieh Phui, "Certain Corrosion-Resistant Steel Products from China: Rebuttal Comments on Additional Surrogate Value Information," October 28, 2015 (UPI Additional SV Info).

⁴⁶ See Yieh Phui's SV at Attachment 1.

⁴⁷ *Id.* at Attachment 2.

⁴⁸ *Id.* at Attachments 3-8.

⁴⁹ *Id.* at Attachment 9 and Yieh Phui's SV 2 at Attachment 1.

⁵⁰ See Yieh Phui's SV 2 at 2.

⁵¹ See U.S. Steel's SV at Exhibit 1.

⁵² *Id.* at Exhibit 2.

⁵³ See U.S. Steel's SV 2.

⁵⁴ See U.S. Steel's SV Rebuttal at 3.

⁵⁵ *Id.* at 3 - 4.

⁵⁶ See UPI Additional SV Info.

⁵⁷ See Revised Surrogate Country Comment Letter.

of economic development as the PRC based on GNI data published in the World Bank Development Indicators database.⁵⁸

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.” However, the applicable statute does not expressly define the phrase “level of economic development comparable” or what methodology the Department must use in evaluating the criterion. 19 CFR 351.408(b) states that in determining whether a country is at a level of economic development comparable to the NME country, the Department will place primary emphasis on per capita GDP as the measure of economic comparability.⁵⁹ 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.”⁶⁰

Unless it is determined that none of the countries identified above are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons, we will rely on data from one of these countries.

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. Among the factors we consider in determining whether a country is a significant producer of comparable merchandise is whether the country is an exporter of comparable merchandise. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, 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 Thailand and Mexico were significant net exporters of merchandise covered by HTS categories identified in the scope of this investigation.⁶¹ Accordingly, we preliminarily find that Thailand and Mexico have met the significant producer of comparable merchandise prong of the surrogate country selection criteria.

3. *Data Availability*

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, the Department selects the primary surrogate country based on data availability and reliability.⁶² When evaluating surrogate value data, the Department considers several factors, including whether the surrogate values are publicly available, contemporaneous

⁵⁸ *Id.*

⁵⁹ Commerce uses per capita GNI as a proxy for per capita GDP. GNI is GDP plus net receipt of primary income (compensation of employees and property income) from nonresident sources. See Policy Bulletin 04.1.

⁶⁰ See *Jiaying Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

⁶¹ See U.S. Steel’s SV at Exhibits 1 and 2, UPI’s SV at page 4, and Yieh Phui’s SV at Attachment 1.

⁶² See Policy Bulletin 04.1.

with the POI, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.⁶³ There is no hierarchy among these criteria.⁶⁴ 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.⁶⁵

As noted above, U.S. Steel placed on the record certain potential SV data for Mexico, and Yieh Phui did the same for Thailand. For material SVs, U.S. Steel placed on the record contemporaneous Global Trade Atlas (GTA) import price data for Mexico,⁶⁶ and Yieh Phui placed on the record contemporaneous data from the United Nations Commodity Trade Statistics Database (which it says compiles the same data as the GTA).⁶⁷ As for other SVs, U.S. Steel provided: *Doing Business Mexico 2015 (DB Mexico)* to value brokerage and handling and truck freight; Maersk Line data to value ocean freight; P.A.F. Shipping Insurance online cargo insurance rates to value transportation insurance; Mexican Federal Commission electricity rates from 2013-2014 to value electricity; Mexico National Commission for Water's *Water Statistics in Mexico 2014* to value water; GTA data and conversion calculations to value gas, hydrogen, nitrogen, and steam; and industry specific data for Mexico from Chapter 6A, sub-classification 27 (*i.e.*, "Manufacture of Basic Iron and Steel," which includes flat-rolled steel products) of the *Yearbook of Labor Statistics* published by the International Labor Organization to value labor.⁶⁸ Yieh Phui provided *Doing Business Thailand 2014* to value brokerage and handling and truck freight; contemporaneous Thai data from the Metropolitan Electricity Authority to value electricity; Thai National Statistics Office 2013 data to value labor; and a calculation from the Xanthan Gum from the PRC case and Glow Energy 2013 Annual Report to value steam.⁶⁹ Finally, to value factory overhead, selling, general, and administrative expenses, and profit, U.S. Steel provided two 2014 financial statements of Mexican steel producers (Altos Hornos de Mexico (AHMSA) and Grupo Simec S.A.B. de C.V (Grupo Simec)),⁷⁰ while Yieh Phui provided two 2014 financial statements of Thai steel producers (NS Bluescope (Thailand) Limited (Bluescope) and Thai Coated Steel Sheet Company Limited (Thai Coated)).⁷¹

U.S. Steel argues that the Mexican data are more complete because Yieh Phui did not provide Thai data to value all FOPs. In addition, U.S. Steel notes that the Mexican import data it placed on the record are more specific, and thus superior to the Thai data that Yieh Phui placed on the record (*i.e.*, eight-digit HTS codes for Mexican data on the record versus four-digit and six-digit HTS codes for Thai data on the record).

Another issue relates to the financial statements on the record.⁷² UPI argues that the Thai financial statements are not usable because of evidence of countervailable subsidies. UPI submitted information to show that both Bluescope and Thai Coated are promoted companies

⁶³ *Id.*

⁶⁴ 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.

⁶⁵ See Policy Bulletin 04.1.

⁶⁶ See U.S. Steel SV 2 at Exhibit A.

⁶⁷ See Yieh Phui's SV at Attachment 3.

⁶⁸ See U.S. Steel SV 2 at Exhibits A - K.

⁶⁹ See Yieh Phui's SV at Attachments 4 -8.

⁷⁰ See U.S. Steel's SV 2 at Attachment G.

⁷¹ See Yieh Phui's SV at Attachment 9 and Yieh Phui's SV 2 at Attachment 1.

⁷² See U.S. Steel's SV Rebuttal 2 at 2-4.

under Thailand's Investment Promotion Act (IPA), and the Department has previously determined that multiple incentives provided by the IPA are countervailable. Moreover, UPI points out that both Thai companies' financial statements show they benefited from investment support.⁷³

Yieh Phui argues that the Mexican financial statements should not be used because the Mexican companies are fully integrated steel mills, unlike Yieh Phui. In addition, Yieh Phui asserts that AHMSA had a loss in 2014, which automatically disqualifies its financial statement from being used because profit cannot be valued. Finally, Yieh Phui asserts that Grupo Simec does not manufacture comparable merchandise as it produces long steel products instead of steel sheet.⁷⁴

We agree with U.S. Steel that the Mexican data are more complete and reliable than the Thai data. We have data on the record to value every FOP using Mexican data, but we do not have complete Thai data, such as ocean freight, insurance, and water. In addition, we preliminarily determine that both Thai financial statements are not usable because of evidence of countervailable subsidies, consistent with the Department's finding in *PSF 2013*.⁷⁵ Specifically, there is evidence on the record that both Thai companies are promoted companies under the Thailand Board of Investment's IPA, which was found countervailable in previous cases.⁷⁶ That evidence combined with information on the financial statements showing receipt of "investment support" by both companies show use of a countervailable subsidy by both companies.⁷⁷ The Department's usual practice is not to rely on financial statements where there is evidence that the company received countervailable subsidies and there are other, more reliable and representative data on the record for purposes of calculating surrogate financial ratios. In addition, we preliminarily determine that AHMSA's financial statements are not usable because they reported a net loss.⁷⁸ It is the Department's practice to disregard financial statements with zero profit when there are financial statements on the record of other surrogate companies that have earned a profit.⁷⁹ Finally, although Grupo Simec does not manufacture identical merchandise, we preliminarily find that it does manufacture comparable merchandise (*e.g.*, it manufactures another processed steel product). After steel is made, it can be made into flat products, which include slabs, hot-rolled coil, cold-rolled coil, coated steel products, tinplate and heavy plate, or into long products, which include billets, blooms, rebars, wire rod, sections, rails, sheet piles and drawn wire. Both flat and long products are used in automotive and construction markets, among others. The subject merchandise is a flat product while Grupo Simec makes long products. However, both flat and long products are steel products, even though they make take different

⁷³ See UPI Additional SV Info.

⁷⁴ See Yieh Phui's SV Rebuttal at 4-7.

⁷⁵ See *Certain Polyester Staple Fiber From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review*, 77 FR 39990, 39992 (July 6, 2012), unchanged in *Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*; 2010-2011, 78 FR 2366 (January 11, 2013) (*PSF 2013*).

⁷⁶ See *Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013) and accompanying Issues and Decision Memorandum at 7-11.

⁷⁷ See UPI Additional SV Info, Yieh Phui's SV at Attachment 9, and Yieh Phui's SV 2 at Attachment 1.

⁷⁸ See, *e.g.*, *Frontseating Service Valves From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 74 FR 10886 (March 13, 2009), and accompanying Issues and Decision Memorandum at Comment 1 (*Frontseating Service Valves Final*).

⁷⁹ See, *e.g.*, *Frontseating Service Valves from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, and Postponement of Final Determination*, 73 FR 62952, 62958 (October 22, 2008), unchanged in *Frontseating Service Valves Final*.

sizes and shapes (or different properties depending on the specifications). In fact, the Department has long cited flat products and long products as examples of comparable merchandise: “Thus, if circular steel pipe and tube were the subject merchandise, rectangular steel pipe and tube, hot-rolled steel sheet and plate, steel wire rod, steel wire rope, steel bar, and structural, all of which are low value-added products of roughly similar form . . . would constitute comparable merchandise.”⁸⁰ Thus, the financial statements of Mexican company, Grupo Simec, are the only usable financial statements on the record.

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

C. 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.⁸¹ The Department’s policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.⁸² The Department analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*⁸³ and further developed in *Silicon Carbide*.⁸⁴ 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.

⁸⁰ See Import Administration Policy Bulletin, Number: 04.1, Non-Market Economy Surrogate Country Selection Process, at 3.

⁸¹ 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).

⁸² 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*).

⁸³ *Id.*

⁸⁴ 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*).

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.⁸⁵ 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.⁸⁶

1. *Separate Rate Recipients*

The following firms submitted SRAs, as mentioned above: Yieh Phui,⁸⁷ Baoshan,⁸⁸ WISCO,⁸⁹ Union Steel,⁹⁰ and Zongcheng.⁹¹ Zongcheng, Union Steel, and Yieh Phui reported that they are wholly foreign-owned.⁹² Therefore, as there is no PRC ownership of these three companies, and because the Department has no evidence indicating that these companies are under the control of the PRC government, further analyses of the *de jure* and *de facto* criteria are not necessary to determine whether they are independent from government control of their export activities. Therefore, we preliminarily determine that Zongcheng, Union Steel, and Yieh Phui are eligible for separate rates.⁹³

2. *Margin for the Separate Rate Companies*

The statute and the Department's regulations do not address the establishment of a separate rate to be applied to individual respondents not selected for individual examination when the

⁸⁵ 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 IDM at Comment 1.

⁸⁶ 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).

⁸⁷ See Section A Part 2 at 11.

⁸⁸ See Baoshan SRA.

⁸⁹ See WISCO SRA.

⁹⁰ See Union Steel SRA.

⁹¹ See Zongcheng SRA.

⁹² *Id.* at Section IV(A), Union Steel SRA, at 10 and Yieh Phui SRA, at 11.

⁹³ See Memorandum from Spencer Toubia, "Preliminary Separate Rate Determinations," December 21 2015 (Preliminary Separate Rate Determination).

Department limits its examination pursuant to section 777A(c)(2) of the Act. Normally, the Department's practice is to assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available, using as guidance section 735(c)(5)(A) of the Act.⁹⁴ For this preliminary determination, we have calculated a weighted-average dumping margin for the mandatory respondent which is not zero, *de minimis*, or based entirely on facts available. Accordingly, we preliminarily determine to use that weighted-average dumping margin as the margin for the separate rate companies.

3. *Companies Not Receiving a Separate Rate*

As noted above, Tangshan withdrew from participating in this investigation. Therefore, it has not demonstrated its entitlement to a separate rate and will be considered part of the PRC-wide entity.

The Department preliminarily denies separate rate status to Baoshan and WISCO because these companies have not demonstrated an absence of *de facto* control.⁹⁵ These companies are, therefore, being treated as part of the PRC-wide entity. Certain information regarding State-owned Assets Supervision and Administration Commission (SASAC) involvement with these entities is business proprietary; therefore, a complete discussion is provided in a separate memorandum.⁹⁶

D. 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. Specifically, the Department did not receive timely responses to its Q&V questionnaire or separate rate applications 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.⁹⁷ In addition, Tangshan did not respond to Department's Initial Questionnaire or provide an SRA. 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 preliminarily determine to calculate the PRC-wide rate on the basis of adverse facts available (AFA).

As discussed above, we are not granting separate rate status to certain applicants. Therefore, these applicants will be considered to be a part of the PRC-wide entity. We have preliminarily assigned the PRC-wide entity a dumping margin of 255.80 percent, which is the highest calculated rate on the record. *See* below.

⁹⁴ *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

⁹⁵ *See* Preliminary Separate Rate Determination.

⁹⁶ *Id.*

⁹⁷ *See* Q&V Recipients Memo. Of the 145 packages sent, 106 were delivered, 13 were refused by recipients, and 26 were unable to be delivered because of insufficient or incorrect addresses.

E. 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.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.⁹⁸ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.⁹⁹

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 doing so, and under the TPEA, 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.

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.

⁹⁸ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015) (TPEA). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. 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) (*Applicability Notice*).

⁹⁹ *Id.*, 80 FR at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

1. *Use of Facts Available*

The Department preliminarily finds that the PRC-wide entity, which includes Baoshan, Tangshan, and other 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, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information. Moreover, because the PRC-wide entity failed to provide any information, section 782(d) of the Act is inapplicable. Accordingly, the Department preliminarily determines that use of facts available is warranted in determining the rate of the PRC-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.¹⁰⁰

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. The Department finds that the PRC-wide entity's failure to provide the requested information constitutes circumstances under which it is reasonable to conclude that the PRC-wide entity was not fully cooperative.¹⁰¹ The PRC-wide entity neither filed documents indicating that it was having difficulty providing the information, nor did it request to submit the information in an alternate form. 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).¹⁰²

3. *Selection and Corroboration of the AFA rate*

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. 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.¹⁰³ The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value,¹⁰⁴ although under the TPEA, the Department is not required to corroborate any dumping margin

¹⁰⁰ 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).

¹⁰¹ See *Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (noting that the Department need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (*i.e.*, information was not provided "under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.")).

¹⁰² See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

¹⁰³ See SAA at 870.

¹⁰⁴ See SAA at 870; see also 19 CFR 351.308(d).

applied in a separate segment of the same proceeding.¹⁰⁵ 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.¹⁰⁶ Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.¹⁰⁷

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 255.80 percent was the higher of the two. Because this rate was a calculated rate in this segment of the proceeding, there is no need to corroborate it. Thus, for the preliminary determination, we have assigned to the PRC-wide entity a dumping margin of 255.80 percent, which is the highest calculated.

F. 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.¹⁰⁸ For Yieh Phui, we preliminarily determine that the date of shipment from the factory best reflects the date on which the material terms of sale are established.¹⁰⁹ The date of shipment occurred before the invoice date.

G. Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Yieh Phui’s sales of the subject merchandise from the PRC to the United States were made at less than normal value, the Department compared the export price (EP) to the NV as described in the “Export Price” and “Normal Value” sections of this memorandum.

¹⁰⁵ See section 776(c)(2) of the Act; TPEA, section 502(2).

¹⁰⁶ 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).

¹⁰⁷ See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

¹⁰⁸ 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.

¹⁰⁹ See Yieh Phui Preliminary Analysis Memorandum at 2.

1. Export Price

In accordance with section 772(a) of the Act, we calculated EP for all of Yieh Phui's U.S. sales because the subject merchandise was first sold to an unaffiliated purchaser in the United States prior to importation and the constructed export price (CEP) methodology was not otherwise warranted based on the facts of the record.

We based EP on a packed price to the first unaffiliated purchaser in the United States. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, and marine insurance. The Department based movement expenses on surrogate values where the service was purchased from a PRC company.¹¹⁰

a. 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.¹¹¹ 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.¹¹² 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.¹¹³

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 Yieh Phui indicates that according to the PRC VAT schedule, the standard VAT levy is 17 percent and the rebate rate for the merchandise under consideration is 13 percent.¹¹⁴ 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.*, four percent) applied to the export sales value, consistent with the definition of irrecoverable VAT under PRC tax law and regulation.

Yieh Phui claims that less VAT is irrecoverable on certain sales because it does not pay import VAT on certain inputs. Specifically, it claims it does not pay VAT on some purchases of hot-rolled coils while it does pay VAT on other purchases hot-rolled coils. Yieh Phui's response

¹¹⁰ See "Factor Valuation Methodology" section below.

¹¹¹ 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).

¹¹² *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.

¹¹³ *Id.*

¹¹⁴ See Yieh Phui Section C at 39-44.

shows that it uses both raw materials on which VAT is paid and raw materials on which VAT is not paid in the production of subject merchandise destined for the United States. While Yieh Phui's claim, if true, may satisfy the requirements of the PRC government to qualify Yieh Phui for an exemption to paying VAT on a portion of its exports, the Department requires that a respondent substantiate any such claimed adjustment according to the PRC VAT regulations.¹¹⁵ While Yieh Phui has provided certain PRC VAT regulations, it has not fully substantiated its claimed lesser VAT amount against the amount required by PRC regulations. For instance, in *Copper Pipe*, we stated that PRC regulation Caishui number 39 provides the formulas necessary to adjust VAT payments and refunds for the consumption of in-bond imported materials.¹¹⁶ Yieh Phui did not provide this regulation. Moreover, Yieh Phui reported the percentage of sales value which received a lower VAT amount based on the allocation ratio of the previous year. Thus, this adjustment to VAT recovery is not based on data for the subject merchandise exported to the United States during the POI. Therefore, we preliminarily determine not to use the lesser irrecoverable VAT reported by Yieh Phui.

2. 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.¹¹⁷ 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.¹¹⁸

a. Factor Valuation Methodology

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by the Yieh Phui. To calculate NV, the Department multiplied the reported per-unit factor-consumption rates by publicly available surrogate values. When selecting the surrogate values, the Department considered, among other factors, the quality, specificity, and contemporaneity of the data.¹¹⁹ As appropriate, the Department adjusted input prices by

¹¹⁵ See *Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 32087 (June 5, 2015) (*Copper Pipe*) and accompanying Issues and Decision Memorandum at Comment 1.

¹¹⁶ *Id.*

¹¹⁷ 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).

¹¹⁸ See section 773(c)(3)(A)-(D) of the Act.

¹¹⁹ 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.

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.¹²⁰ A detailed description of surrogate values used for the respondent can be found in the Preliminary SV Memorandum.¹²¹

For the preliminary determination, the Department is using Mexican import data, as published by GTA, and other publicly available sources from Mexico to calculate surrogate values for respondents FOPs. In accordance with section 773(c)(1) of the Act, the Department applied the best available information for valuing FOPs by selecting, to the extent practicable, surrogate values which are (1) non-export average values, (2) contemporaneous with, or closest in time to, the POI, (3) product-specific, and (4) tax-exclusive.¹²² The record shows that Mexican import data obtained through GTA, as well as data from other Mexican sources, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POI.¹²³

The Department continues to apply its long-standing practice of disregarding surrogate values if it has a reason to believe or suspect the source data may be dumped or subsidized.¹²⁴ In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.¹²⁵ 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, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from those countries in calculating Mexican import-based surrogate values.

¹²⁰ See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

¹²¹ See Memorandum to The File, "Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China – Surrogate Values for the Preliminary Determination," December 21, 2015 (Preliminary SV Memorandum).

¹²² 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).

¹²³ See Preliminary SV Memorandum.

¹²⁴ 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).

¹²⁵ 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.

Additionally, the Department disregarded data from NME countries when calculating Mexican import-based per-unit surrogate values.¹²⁶ The Department also excluded from the calculation of Mexican import-based per-unit surrogate values imports labeled as originating from an “unidentified” 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.¹²⁷

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 surrogate value for the NME portion by their respective quantities.

Yieh Phui purchased inputs that are produced in ME countries, from ME suppliers and paid for in an ME currency. The Department valued those inputs in accordance with 19 CFR 351.408(c).¹²⁸

The Department used Mexican import statistics from GTA to value raw materials, by-products, packing materials, and certain energy inputs, except as listed below.

In NME AD proceedings, the Department prefers to value labor solely based on data from the primary surrogate country.¹²⁹ 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.¹³⁰ We used this source in this investigation.¹³¹

We used the electricity rate from the Mexican Federal Commission to value electricity, and the water rate from the Mexico National Commission for Water’s *Water Statistics in Mexico 2014*. We valued truck freight and brokerage and handling using data published in the *DB Mexico* by the World Bank.¹³² We valued ocean freight based on Maersk Line freight rates.¹³³ To value shipping insurance, we used P.A.F. Shipping Insurance online cargo insurance rates.¹³⁴ We used

¹²⁶ 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).

¹²⁷ *Id.*

¹²⁸ See Preliminary Surrogate Value Memorandum and Yieh Phui Preliminary Analysis Memorandum.

¹²⁹ See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

¹³⁰ *Id.*

¹³¹ See Preliminary Surrogate Value Memorandum.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

the financial statements of Mexican company Grupo Simec to value factory overhead, selling, general, and administrative expenses, and profit.¹³⁵

3. *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 normal values 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.¹³⁶ 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.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ 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 Yieh Phui, purchasers are based on the reported customer codes.¹³⁷ 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 period of investigation 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.

¹³⁵ *Id.*

¹³⁶ *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 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).

¹³⁷ *See* Yieh Phui Section C.

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 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.

4. *Results of the Differential Pricing Analysis*

For Yieh Phui, based on the results of the differential pricing analysis, the Department preliminarily finds that 72.7 percent of the value of U.S. sales pass the Cohen's d test,¹³⁸ 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 all U.S. sales. 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 Yieh Phui.

VII. 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.

VIII. 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.¹³⁹ For a subsidy meeting these criteria, the statute requires the Department to reduce the AD by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.¹⁴⁰

Since the Department has relatively recently started conducting analyses under section 777A(f) of the Act, the Department is continuing to refine its practice in applying this section of the law. The Department examined whether the respondent 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.

A finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the

¹³⁸ See Yieh Phui Preliminary Analysis Memorandum.

¹³⁹ See section 777A(f)(1)(A)-(C) of the Act.

¹⁴⁰ See section 777A(f)(1)-(2) of the Act.

proceeding as required by the statute. As a result of our analyses, the Department is preliminarily not making a domestic pass-through subsidies adjustment to the calculation of the cash deposit rate for AD duties for Yieh Phui and all other companies.

Based upon information it submitted to the Department, Yieh Phui failed to substantiate a cost-to-price link. Consequently, we are not making an adjustment to the AD cash deposit rate for domestic pass-through subsidies for Yieh Phui.¹⁴¹

In the instant case, the non-individually examined companies which are eligible for a separate rate are receiving a dumping margin based on Yieh Phui's dumping margin in this investigation. The Department also did not individually examine these separate rate companies in the companion CVD investigation, and, therefore in that case these companies were assigned the all-other exporters' subsidy rate, which was based on Yieh Phui's subsidy margin. Therefore, because the separate rate companies' CVD rate was based on Yieh Phui's rate, we are also not making an adjustment to their AD cash deposit rate for domestic pass-through subsidies.

For the PRC-wide entity, which received an AFA rate as discussed above, we would normally adjust the PRC-wide entity's AD cash deposit rate by the lowest estimated domestic subsidy pass-through determined for any party in this investigation. In this case, the lowest and only rate is zero, so no adjustment is necessary.

IX. 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.¹⁴² 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.¹⁴³

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.¹⁴⁴ 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*.¹⁴⁵ 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, 14th Street and 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.

¹⁴¹ See Yieh Phui Preliminary Analysis Memorandum.

¹⁴² See 19 CFR 351.224(b).

¹⁴³ See 19 CFR 351.309.

¹⁴⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁴⁵ See 19 CFR 351.310(c).

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.¹⁴⁶ Electronically-filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.¹⁴⁷

X. VERIFICATION

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

XI. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

21 DECEMBER 2015
(Date)

¹⁴⁶ See 19 CFR 351.303(b)(2)(i).

¹⁴⁷ See 19 CFR 351.303(b)(1).