I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from the People’s Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The Department also preliminarily determines that critical circumstances exist with respect to imports from Jiangsu Hongyi Steel Pipe Co., Ltd. (Hongyi), the non-selected separate rate respondents, and the PRC-wide entity. The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying Federal Register notice.

II. BACKGROUND

On April 19, 2017, ArcelorMittal Tubular Products (AM Tubular), Michigan Seamless Tube, LLC, PTC Alliance Corp. (PTC), Zekelman Industries (Zekelman), and Webco Industries, Inc. (Webco), (collectively, the petitioners) filed a petition with the Department seeking the imposition of antidumping (AD) and countervailing (CVD) duties on cold-drawn mechanical
tubing from the PRC. On May 16, 2017, the Department published the notice of initiation of the investigation on cold-drawn mechanical tubing from the PRC.

On June 9, 2017, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of cold-drawn mechanical tubing from the PRC are materially injuring a United States industry due to selling at less than fair value.

In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy (NME) investigations. The process requires exporters and producers to submit a separate rate application (SRA) that demonstrates an absence of both de jure and de facto government control over their export activities. In the Initiation Notice, the Department stated that SRAs would be due 30 days after publication of the notice, specifically, June 15, 2017. The Department received timely SRAs from 10 applicants, including both mandatory respondents, as discussed in the “Separate Rates” section, below.

Also 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 cold-drawn mechanical tubing to be reported in response to the Department’s AD questionnaire. The Department received a number of timely scope comments on the record of this investigation, as well as on the records of the companion cold-drawn mechanical tubing investigations involving Germany, India, the Republic of Korea, the People’s Republic of China, and Switzerland. On June 9, 2017, the petitioners and various other interested parties in this and/or the companion AD investigations submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. Based on the comments received, the Department issued a letter to interested parties which contained the

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1 See Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland, filed April 19, 2017 (Petition). With respect to the PRC, 91 potential respondents were named in the Petition. See the Petition at Exhibit GEN – 11.


3 See Cold-Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland; Determinations, 82 FR 26812 (June 9, 2017) (ITC Preliminary Determination).

4 See Initiation Notice, 82 FR at 22495.


6 See Initiation Notice, 82 FR at 22495.

7 See Initiation Notice at 22491.

8 For further discussion of these comments, see Memorandum, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Germany, India, the Republic of Korea, the People’s Republic of China, and Switzerland: Scope Comments Decision Memorandum for the Preliminary Determination,” dated concurrently with this Memorandum (Preliminary Scope Memorandum).


initial product characteristics for this and the companion AD investigations.\textsuperscript{11} On July 12, 2017, the petitioners submitted comments on the product characteristics released by the Department.\textsuperscript{12} Based on the comments received, on August 7, 2017, the Department issued a memorandum to interested parties which contained the revised product characteristics for this investigation.\textsuperscript{13}

Furthermore, in the Respondent Selection section of the \textit{Initiation Notice} the Department stated its intent to base the selection of respondents for individual examination on responses to quantity and value (Q&V) questionnaires. On May 16, 2017, the Department issued Q&V questionnaires electronically \textit{via} ACCESS.\textsuperscript{14} Additionally, the Department issued \textit{via} mail the Q&V questionnaire to 20 companies identified by the petitioners as known producers/exporters. Additionally, the Department posted the Q&V questionnaire on its website, inviting parties that did not receive a Q&V questionnaire by mail to file a Q&V response.

On June 29, 2017, based on responses to Q&V questionnaires, the Department selected the two exporters accounting for the largest volume of cold-drawn mechanical tubing from the PRC during the period of investigation (POI) for individual examination: Hongyi and Zhangjiagang Huacheng Import & Export Co., Ltd. (Huacheng).\textsuperscript{15}

On August 21, 2017, the Department placed on the record a list of potential surrogate countries and invited interested parties to comment on the selection of the primary surrogate country and to provide surrogate value (SV) information.\textsuperscript{16} On September 15, 2017, the Department received comments on the selection of the primary surrogate country from the petitioners, Hongyi, and Huacheng.\textsuperscript{17}

\begin{footnotesize}
\begin{enumerate}
\item See Department Letter, re: Certain Cold-drawn Mechanical Tubing of Carbon and Alloy Steel from Italy, dated July 3, 2017.
\item See Memorandum regarding: Revised Product Characteristics, dated August 7, 2017.
\item Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).
\item Id.
\item See memorandum, “Request for a List of Surrogate Countries for an Antidumping Investigation on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel (cold-drawn mechanical tubing) from the People’s Republic of China (China),” dated August 21, 2017 (Request and SC list Memorandum).
\end{enumerate}
\end{footnotesize}
rebuttal information from the petitioners, Hongyi, and Huacheng. On October 4, 2017, the Department requested SV summaries from the petitioners, Huacheng, and Hongyi. On October 6, 2017, the petitioners submitted rebuttal comments to the SV information submitted by Hongyi and Huacheng. Also, on October 6, 2017, the petitioners, Hongyi, and Huacheng submitted the requested SV summary information. On October 16, 2017, Hongyi and the petitioners submitted their final SV comments. On October 26, 2017, Hongyi submitted its final SV rebuttal comments. On October 31, 2017, the petitioners submitted final SV rebuttal comments.

On July 5, 2017, the Department issued the initial AD questionnaire to mandatory respondents Hongyi and Huacheng. Both respondents timely provided responses to relevant sections of the initial AD questionnaire. Additionally, the Department issued supplemental questionnaires to Hongyi and Huacheng; both respondents provided timely responses, as requested.

On September 1, 2017, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended by 50 days pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2). Thereafter, pursuant to section 733(c)(1)(A) of the Act, the

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20 See the petitioners’ letter, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from China – Petitioners’ Submission of Surrogate Value Rebuttal Information” dated October 6, 2017 (Petitioners’ October 6, 2017 Rebuttal SV Comments).


25 See the petitioners’ letter, “Cold Drawn Mechanical Tubing from China, Germany, India, Italy, Korea and Switzerland – Petitioners’ Request to Postpone the Antidumping Duty Preliminary Determinations,” dated September 1, 2017.
Department published in the *Federal Register* a postponement of the preliminary determination until no later than November 15, 2017.26

On October 23, 2017, the petitioners submitted an allegation of critical circumstances.27 On October 24, 2017, the Department issued letters to Hongyi and Huacheng requesting monthly quantity and value shipment data.28

We are conducting this investigation in accordance with section 733(b) of the Act.

**III. PERIOD OF INVESTIGATION**

The POI is October 1, 2016, through March 31, 2017. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which took place on April 19, 2017.29

**IV. SCOPE COMMENTS**

In accordance with the *Preamble* to the Department’s regulations,30 the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (i.e., scope).31 Certain interested parties from the companion cold-drawn mechanical tubing investigations commented on the scope of the cold-drawn mechanical tubing investigations, as published in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, see the Preliminary Scope Decision Memorandum.32 We have evaluated the scope comments filed by the interested parties, and we are preliminarily modifying the scope language as it appeared in the *Initiation Notice*.33 In the Preliminary Scope Decision Memorandum, we set a separate briefing schedule on scope issues for interested parties. We will issue a final scope decision on the records of the cold-drawn mechanical tubing investigations after considering the comments submitted in the scope case and rebuttal briefs.

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26 See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People’s Republic of China, and Switzerland: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 82 FR 42788 (September 12, 2017).
29 See 19 CFR 351.204(b)(1).
30 See *Antidumping Duties; Countervailing Duties: Final rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).
31 See *Initiation Notice*.
32 See memorandum, “Antidumping and Countervailing Duty Investigations of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel (cold-drawn mechanical tubing) from the People’s Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland: Preliminary Scope Determination,” dated concurrently with this memorandum (Preliminary Scope Decision Memorandum).
33 Id.
Section 777A(c)(1) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted-average dumping margin determinations because of the large number of exporters and producers involved in the investigation. Pursuant to section 777A(c)(2) of the Act, the Department may limit its examination to: (A) a sample of exporters, producers, or types of products that the Department determines is statistically valid based on the information available to the Department at the time of selection, or (B) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that the Department determines can be reasonably examined. In selecting respondents in this AD proceeding, the Department found that, because of the considerable number of companies involved in the investigation, and its limited resources, it was most appropriate to select respondents that account for the largest volume of the subject merchandise that can reasonably be examined, pursuant to section 777A(c)(2)(B) of the Act.

In the Initiation Notice, we stated our intent to base respondent selection on the responses to Q&V questionnaires and indicated that we would issue a Q&V questionnaire to each potential respondent and post the Q&V questionnaire along with filing instructions on our website.34 We further stated that the Department would base respondent selection in this investigation on responses to the Q&V questionnaire.35 On May 22, 2017, the Department requested Q&V information from 20 of 91 companies that the petitioners identified in the Petition as producers/exporters of cold-drawn mechanical tubing.36 In this case, due to the large number of potential respondents listed in the petition, the Department solicited entry data from U.S. Customs and Border Protection (CBP) and determined to limit the number of Q&V questionnaires issued to the top exporters, by volume, listed in the CBP data. Only 13 companies listed in the Petition were featured in the data received from CBP. As a result, the Department issued Q&V questionnaires to these 13 companies, along with seven additional companies named in the Petition.37 The Department received timely filed Q&V questionnaire responses from 12 of 20 potential respondents to which Q&V questionnaires were issued.38

34 See Initiation Notice, 82 FR at 22495.
35 Id.
36 See the Petition at Exhibit GEN – 11.
37 Id.; also see Respondent Selection Memorandum at 2.
Additionally, four other companies submitted timely voluntary Q&V responses. Thus, the Department received 16 Q&V responses from potential respondents in this investigation.

On June 29, 2017, the Department determined it was not practicable to individually examine all 16 companies from which it received Q&V responses; thus, per section 777A(c)(2)(B) of the Act and 19 CFR 351.204(c)(2), the Department limited the number of respondents selected for individual examination to the two exporters accounting for the largest volume of exports from the PRC: Hongyi and Huacheng.

VI. PRELIMINARY AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES, IN PART

On October 23, 2017, the petitioners alleged that critical circumstances exist with respect to imports of subject merchandise, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1). In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding of whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination.

A) Legal Framework

Section 733(e)(1) of the Act provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether critical circumstances exist in an LTFV investigation if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been “massive imports” of the subject merchandise over a relatively short period. Further, 19 CFR 351.206(h)(1) provides that, in determining whether imports of the subject merchandise have been “massive,” the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports.

In addition, 19 CFR 351.206(h)(2) provides that, in determining whether imports of the subject merchandise have been “massive,” the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that, “in general, unless the imports during the ‘relatively short period’ have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive.” Under 19 CFR 351.206(i), the Department defines “relatively short

39 See the Q&V questionnaires received by (1) Changshu Fushilai Steel Pipe Co., Ltd. (Changshu Fushilai), (2) Changshu Special Shaped Steel Tube Co., Ltd. (Changshu Special), (3) Zhangjiagang Precision Tube Manufacturing Co., Ltd. (Changshu Fushilai), and (4) Zhangjiagang Shengdingyuan Pipe-Making Co., Ltd.
40 See Respondent Selection Memo, at 5-6.
41 See Critical Circumstances Allegation.
period” generally as the period starting on the date the proceeding begins i.e., the date the petition is filed and ending at least three months later. This section of the regulations further provides that, if the Department “finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely,” then the Department may consider a period of not less than three months from that earlier time.

B) Critical Circumstances Allegation

The petitioners argue that section 733(e)(1)(A)(i) is met because PRC producers of cold-drawn mechanical tubing have a history of dumping in third-country markets. Additionally, the petitioners assert that section 733(e)(1)(A)(ii) of the Act is satisfied because certain dumping margins alleged in the Petition, which ranged from 87.58 to 186.89 percent, exceed the 15 percent threshold used by the Department to impute knowledge of dumping for constructed export price (CEP) transactions and the 25 percent threshold for export price (EP) transactions. The petitioners further allege that importers of cold-drawn mechanical tubing from the PRC have been on notice that dumped imports are likely to cause injury since the ITC’s June 5, 2017 preliminary affirmative injury finding.

The petitioners allege that import statistics released by the Department’s Steel Import Monitoring Group indicate that shipments of merchandise under consideration increased significantly in terms of volume (99.99 percent) between the base period and the comparison period, and thus exceeded the threshold for “massive” imports of cold-drawn mechanical tubing from the PRC, as provided under 19 CFR 351.206(h) and (i).

C) Analysis

The Department’s normal practice in determining whether critical circumstances exist pursuant to the statutory criteria under section 733(e) of the Act has been to examine evidence available to the Department, such as: (1) the evidence presented in the petitioners’ critical circumstances allegation; (2) import statistics released by the ITC; and (3) shipment information submitted to the Department by the respondents selected for individual examination.

In determining whether a history of dumping and material injury exists, the Department generally considers current and previous AD orders on subject merchandise from the country in

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42 See 19 CFR 351.206(i); see also Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations, Policy Bulletin 98.4, 63 FR 55364 (Oct. 15, 1998) (“Commerce has traditionally compared the three-month period immediately after initiation with the three-month period immediately preceding initiation to determine whether there has been at least a 15 percent increase in imports of the subject merchandise”).
43 See 19 CFR 351.206(i).
44 See 19 CFR 351.207(h).
45 See Critical Circumstances Allegation at 7-8 (citing ITC Preliminary Determination).
46 Id. at 13.
question in the United States and current orders in any other country on imports of subject merchandise.\textsuperscript{48} The petitioners identify steel tubular products, seamless steel tubes, seamless tubes and pipes (including cold-rolled), iron steel pipes and tubes proceedings in Brazil, India, Turkey, and Thailand, respectively, all of which were imposed mid to late 2016 or early 2017, and cover the merchandise at issue in this investigation.\textsuperscript{49} Thus, the petitioners have demonstrated a history of dumping of products like the subject merchandise. Thus, we preliminarily find that there is a history of injurious dumping of cold-drawn mechanical tubing from the PRC, consistent with section 733(e)(A)(i).

Furthermore, the Department normally considers margins of 25 percent or more for EP sales and 15 percent or more for CEP sales sufficient to impute importer knowledge of sales at LTFV.\textsuperscript{50} Because in this investigation, Hongyi reported only EP sales, and because preliminary margins are 25 percent or more for Huacheng, the separate rate respondents, Hongyi, and the PRC-wide entity, pursuant to 733(e) of the Act, importers of subject merchandise knew or should have known that imports of subject merchandise were likely being sold at LTFV.\textsuperscript{51}

Accordingly, because the statutory criteria of section 733(e)(1)(A) of the Act have been satisfied, we examined whether imports from the PRC were massive over a relatively short period, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(h).

\textit{a. Hongyi}

It is the Department’s practice to base its critical circumstances analysis on all available data, using base and comparison periods of no less than three months.\textsuperscript{52} In the instant case, for Hongyi, we made our preliminary determination with respect to whether there were massive imports based upon facts otherwise available, with an adverse inference, because the Department is currently unable to rely upon Hongyi’s submitted information.\textsuperscript{53} Therefore, we preliminarily

\textsuperscript{48} Id.
\textsuperscript{49} See Critical Circumstances Allegations at Attachment 1.
\textsuperscript{50} See, e.g., Carbon and Alloy Steel Wire Rod from Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Preliminary Determination of Critical Circumstances, 67 FR 6224, 6225 (February 11, 2002) (Steel Wire Rod Prelim), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Moldova, 67 FR 55790 (August 30, 2002) (Steel Wire Rod Final), Affirmative Preliminary Determination of Critical Circumstances: Magnesium Metal from the People’s Republic of China, 69 FR 59187 (October 4, 2004) (Magnesium Metal Prelim), unchanged in Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal from the People's Republic of China, 70 FR 9037 (February 24, 2005) (Magnesium Metal Final).
\textsuperscript{51} See “Preliminary Determination” section of the accompanying Federal Register notice.
\textsuperscript{52} See e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India, 69 FR 47111, 47118-47119 (August 4, 2004), unchanged in Notice of Final Determination of Sales at Less Than Fair Value and Negative Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India, 69 FR 76916 (December 23, 2004); and Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers from the People’s Republic of China, 69 FR 20594 (April 16, 2004), and accompanying IDM at Comment 3.
\textsuperscript{53} See “Application of Facts Available and Adverse Inferences”, section, below.
find there to be massive imports for Hongyi, pursuant to section 773(e)(1)(B) of the Act and 19 CFR 351.206(h).\textsuperscript{54}

\textit{b. Huacheng}

Concerning the other mandatory respondent, Huacheng, pursuant to section 733(e) of the Act, we determined that critical circumstances do not exist in the instant case. Specifically, Huacheng’s imports of subject merchandise in the comparison period (\textit{i.e.}, May 2017 through September 2017) did not increase by 15 percent from its imports of subject merchandise during the base period (\textit{i.e.}, December 2016 through April 2017).\textsuperscript{55} Therefore, we preliminarily determine that critical circumstances do not exist with respect to Huacheng.

\textit{c. Non-Individually Examined Respondents}

In order to determine whether the non-selected separate rate respondents have massive imports, it is the Department’s practice to rely upon Global Trade Atlas (GTA) import statistics specific to the merchandise covered by the scope of the investigation less the mandatory respondents’ reported shipment data.\textsuperscript{56} The Department found that these imports were massive as well. From this data, it is clear that there was an increase in imports of more than 15 percent during a “relatively short period” of time, in accordance with 19 CFR 351.206(h) and (i). Therefore, we preliminarily find there to be massive imports for the non-selected separate rate respondents, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(c)(2)(i).

\textit{d. PRC-wide Entity}

In determining whether imports of the subject merchandise have been “massive” for the PRC-wide entity, we make our preliminary determination with respect to whether or not there were massive imports on facts otherwise available, with an adverse inference, because the PRC-wide entity has been uncooperative with the Department, as explained below.\textsuperscript{57} Specifically, with respect to critical circumstances, we are making an adverse inference that the PRC-wide entity dumped “massive imports” over a “relatively short period,” in accordance with sections 733(e) and 776(a) and (b) of the Act and 19 CFR 351.206.

\textsuperscript{54} For the Department’s analysis, which involves business proprietary information, see “Antidumping Duty Investigation of Less-Than-Fair-Value Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China: Critical Circumstances Analysis,” dated concurrently with this memorandum (Critical Circumstances Memorandum).

\textsuperscript{55} See Critical Circumstances Memorandum.


VII. DISCUSSION OF THE METHODOLOGY

Non-Market Economy (NME) Country

The Department considers the PRC to be a non-market economy (NME) country. 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.

Surrogate Country

Generally, when the Department investigates 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 (FOP), valued using a surrogate market economy (ME) country or countries that the Department considers economically comparable and a significant producer of comparable merchandise. Specifically, section 773(c)(4) of the Act states that the Department shall utilize, to the extent possible, in valuing the FOPs, the prices, or costs of FOPs in one or more ME countries that are:

(1) at a level of economic development comparable to that of the NME country; and

(2) significant producers of comparable merchandise.

The Department determined that Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand are countries at the same level of economic development as the PRC based on per capita gross national income (GNI). The sources of the SVs we used in this investigation are discussed in the “Normal Value” section below.

The petitioners submit that the Department should select Thailand as the primary surrogate country, noting that Thailand is a significant producer of comparable merchandise at a level of economic development similar to the PRC. They also note that Thailand provides publicly available information to value all costs relevant to this investigation and financial statements from two Thai producers of comparable merchandise.

In its comments regarding surrogate country selection, Huacheng and Hongyi state that, although South Africa is a producer and exporter of comparable merchandise, South Africa has the lowest volume of exports and would not likely provide publicly available financial statements because

58 See Antidumping Duty Investigation of Certain Aluminum Foil from the People’s Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination, 82 FR 50858, 50861 (November 2, 2017) and accompanying decision memorandum, China’s Status as a Non-Market Economy.
60 See Surrogate Country Memo at 2.
61 See Petitioners’ Surrogate Country Comments.
62 Id.
companies in South Africa are not required to submit financial statements to any government agencies.63

1. Economic Comparability

Section 773(c)(4) of the Act states that the Department “shall utilize, to the extent possible, the prices or costs of {FOPs} in one or more market economy countries that are… at a level of economic development comparable to that of the {NME} country.” However, section 773(c)(1) of the Act is silent with respect to how the Department may determine that a country is at the same level of economic development as the NME country or what methodology the Department must use in evaluating this criterion. The U.S. Court of International Trade (CIT) has found the use of per capita GNI to be a “consistent, transparent, and objective metric to identify and compare a country’s level of economic development” and “a reasonable interpretation of the statute.”64

In this investigation, as explained in the Surrogate Country Memo,65 the Department finds that Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand are all at the same level of economic development as the PRC, based on per capita gross national economic income.66

2. Significant Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department’s regulations provide further guidance on what may be considered comparable merchandise. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, the Department’s practice is to examine which countries on the surrogate country list exported merchandise comparable to the merchandise under consideration. The record contains export data showing that Bulgaria, Romania, South Africa, and Thailand are producers of comparable merchandise.67 Accordingly, we preliminarily find that Bulgaria, Romania, South Africa and Thailand have met the significant producer of comparable merchandise prong of the surrogate country selection criteria.

3. Data Availability

When evaluating SV data, the Department considers several factors including whether the SV data is publicly available, contemporaneous with the POI, representative of broad-market averages, tax and duty-exclusive, and specific to the input.68 There is no hierarchy among these

63 See Hongyi’s September 15, 2017 SC Comments at 2-3 and Exhibit 1; Huacheng’s September 15, 2017 SC Comments at 2 and Exhibit 1.
64 See Jiaxing Brother Fastener Co. v. United States, 961 F. Supp. 2d 1323, 1329 (CIT 2014).
65 Id.
66 Id. at 2.
67 Id.
68 See, e.g., Certain Activated Carbon from the People’s Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review, 77 FR 67337 (November 9, 2012), and accompanying Issues and Decision Memorandum at 8.
criteria. The Department carefully considers the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.69

The petitioners, Hongyi, and Huacheng placed data on the record from Romania and Thailand.70 No parties placed SV information on the record for Brazil, Bulgaria, Mexico, or South Africa, or argued that these countries should be selected as the surrogate country. Thus, the Department has not considered Brazil, Bulgaria, Mexico, or South Africa for surrogate country selection purposes in this investigation.

The Department preliminarily finds that the Romanian data are the best available data for valuing the relevant FOPs because the record contains complete, publicly available, contemporaneous, and specific Romanian data which represent a broad market average, and which are tax and duty exclusive, for the majority of inputs used by the respondents to produce subject merchandise during the POI.71 Specifically, Romanian data offer a level of specificity with respect to surrogates values for the largest input, billet (specifically, independent data points for both high and low carbon non-alloy billet), that is not available from the corresponding Thai data on the record. In addition, the Romanian surrogate financial statements on the record include publicly available statements for a company which produces identical merchandise.72 Although the record also contains publicly available surrogate value data representing broad market averages, which are tax and duty exclusive, from Thailand,73 we preliminarily determine that the Romanian financial statements on the record are the best available information on the record with respect to the calculation of financial ratios.74 Specifically, as noted above, the Romanian financial statements are from a company which manufactures merchandise that is identical to the merchandise under consideration in this investigation (i.e. pipe and tube).75 While the Thai financial statements are from a company at a comparable level of integration to that of the respondents (i.e. non-integrated) and the Romanian producer is arguably integrated, we find the overall product mix of the Thai producer to be much more diverse than just pipe and tube. Further, we do not know the percentage of other non-comparable products that accounts for the Thai producer’s production. Thus, we find that the Romanian financial statements better reflect the experience of the mandatory respondent in this investigation.

Based on the foregoing, we find that Romania best meets our criteria for a surrogate country, given the completeness and contemporaneity of the data, including the financial statement data. Therefore, the Department preliminarily determines that, pursuant to section 773(c)(4) of the Act, it is appropriate to use Romania as the primary surrogate country. Romania (1) is at the same level of economic development of the PRC; (2) a significant producer of merchandise

69 See Policy Bulletin 04.1.
71 See Memorandum, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China,” dated concurrently with this memorandum (Preliminary SV Memorandum).
72 See Hongyi’s September 29, 2017 SV Comments at Attachment 9B.
73 See Petitioners’ September 29, 2017 SV Comments at Attachment 6A.
75 See Hongyi’s September 29, 2017 SV Comments at Attachment 9B.
comparable to the merchandise under consideration; and (3) contains the best available data for valuing FOPs. An explanation of the SVs upon which the Department is preliminarily relying can be found in the “Normal Value” section of this memorandum.

Separate Rates

Pursuant to section 771(18)(C)(i) of the Act, the designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, 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.76

In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.77 It is the Department’s policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers,78 as further developed by Silicon Carbide.79 However, if the Department determines that a company is wholly foreign-owned, then a separate-rate analysis is not necessary to determine whether it is independent from government control, and thus eligible for a separate rate.80

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.81 In particular, in litigation involving the diamond sawblades from the PRC proceeding, the CIT

77 See Initiation Notice, 81 FR at 18834.
78 See Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers).
found the Department’s existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity exercised control over the respondent exporter.82 Following the Court’s reasoning, in recent proceedings, we have concluded that, where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the respondent is not eligible for a separate rate.83 Otherwise, we will analyze the impact of government ownership within the context of the de facto criteria, as established above. This may include control over, for example, the selection of board members and management, key factors in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with our normal separate rate practice, any ability to control, or possess an interest in controlling, the operations of the company (including the selection of board members, management, and the profit distribution of the company) by a government entity is subject to the Department’s rebuttable presumption that all companies within the NME country are subject to government control.

82 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).

Separate Rate Recipients

The Department preliminary determines that Anji Pengda, Changshu Fushilai, Changshu Special, Dingxin, Foster, Hongyi, Huacheng, Shengdingyuan, Wuxi Huijin, and Zhejiang Minghe are eligible for a separate rate, as explained below.

Because Anji Pengda, Changshu Fushilai, Changshu Special, Dingxin, Foster, Hongyi, Huacheng, Shengdingyuan, Wuxi Huijin, and Zhejiang Minghe provided either evidence that they are Chinese joint-stock limited companies or wholly Chinese-owned companies, the Department analyzed whether each of these companies demonstrated an absence of de jure and de facto government control over their respective export activities.

1. Absence of De Jure Control

The Department considers the following de jure criteria when determining whether an individual company will receive a separate rate:

(1) an absence of restrictive stipulations associated with an individual exporter’s business and export licenses;

(2) legislative enactments decentralizing control over export activities of the companies; and

88 See letter from Foster, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China: Separate Rate Application,” dated June 15, 2017 (Foster’s SRA).
89 See Hongyi’s August 4, 2017 Section A Questionnaire Response (Hongyi’s August 4, 2017 AQR).
94 See Anji Pengda’s SRA at 5-8 and Exhibits 2 and 3.
95 See Changshu Fushilai’s SRA at 6-10 and Exhibits 2 and 3.
96 See Changshu Special’s SRA at 6-10 and Exhibits 2 and 3.
97 See Dingxin’s SRA at 8-13 and Exhibits SRA-2 and 3.
98 See Foster’s SRA at 11-14 and Exhibits 4 and 5.
99 See Hongyi’s August 4, 2017 AQR.
100 See Huacheng’s SRA at 8-11 and Exhibits 4 and 5.
101 See Shengdingyuan’s SRA at 8-11 and Exhibits 4 and 5.
102 See Wuxi Huijin’s SRA at 6-9 and Exhibits 2 and 3.
103 See Zhejiang Minghe’s SRA at 6-12 and Exhibits 2 and 3.
(3) other formal measures by the government decentralizing control over export activities of companies.104

The evidence provided by Anji Pengda, Changshu Fushilai, Changshu Special, Dingxin, Foster, Hongyi, Huacheng, Shengdingyuan, Wuxi Huijin, and Zhejiang Minghe supports a preliminary finding of an absence of de jure government control for each of these companies based on the following:

(1) an absence of restrictive stipulations associated with the individual exporters’ business and export licenses;

(2) the existence of applicable legislative enactments decentralizing control of the companies; and

(3) the implementation of formal measures by the government decentralizing control of Chinese companies.

2. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to de facto government control of its export functions:

(1) whether the EPs are set by, or are subject to the approval of, a government agency;

(2) whether the respondent has authority to negotiate and sign contracts and other agreements;

(3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and

(4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.105 The Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control, which would preclude the Department from assigning separate rates.

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104 See Sparklers, 56 FR at 20589.
105 See Silicon Carbide, 59 FR at 22586-87; see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People’s Republic of China, 60 FR 22544, 22545 (May 8, 1995).
The evidence provided by Anji Pengda,106 Changshu Fushilai,107 Changshu Special,108 Dingxin,109 Foster,110 Hongyi,111 Huacheng,112 Shengdingyuan,113 Wuxi Huijin,114 and Zhejiang Minghe115 supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that the companies:

1. set their own EPs independent of the government and without the approval of a government authority;
2. have the authority to negotiate and sign contracts and other agreements;
3. maintain autonomy from the government in making decisions regarding the selection of management; and
4. retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

Therefore, the evidence placed on the record of this investigation by Anji Pengda, Changshu Fushilai, Changshu Special, Dingxin, Foster, Hongyi, Huacheng, Shengdingyuan, Wuxi Huijin, and Zhejiang Minghe demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, the Department preliminarily grants separate rates to Anji Pengda, Changshu Fushilai, Changshu Special, Dingxin, Foster, Hongyi, Huacheng, Shengdingyuan, Wuxi Huijin, and Zhejiang Minghe.116

**Margin for the Separate Rate Companies**

Normally, the Department’s practice is to assign to separate rate entities that were not individually examined a rate equal to the average of the rates calculated for the individually examined respondent(s), excluding any rates that are zero, *de minimis*, or based entirely on adverse facts available (AFA), in accordance with section 735(c)(5)(A) of the Act.117 Pursuant to section 735(c)(5)(A) of the Act, when only one dumping margin for the individually investigated respondents is above *de minimis* and not based on adverse facts available, the separate rate will be equal to that single above *de minimis* rate.118 Thus, consistent with our

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106 See Anji Pengda’s SRA at 9 - 15 and Exhibits 4 through 10.
107 See Changshu Fushilai’s SRA at 10 - 18 and Exhibits 4 through 11.
108 See Changshu Special’s SRA at 10 - 18 and Exhibits 4 through 11.
109 See Dingxin’s SRA at 13-21 and Exhibit SRA 4 through 11.
110 See Foster’s SRA at 14-24 and Exhibits 6 through 12.
111 See Hongyi’s August 4, 2017 AQR at Exhibits 2, 4, and 6-14.
112 See Huacheng’s SRA at 12-20 and Exhibits 6 through 19.
113 See Shengdingyuan’s SRA at 11-18 and Exhibits 6 through 11.
114 See Wuxi Huijin’s SRA at 9-16 and Exhibits 4 through 11.
115 See Zhejiang Minghe’s SRA at 10-20 and Exhibits 4 through 10.
116 See “Preliminary Determination” section below.
118 See, e.g., *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Final...*
practice, we are assigning the rate calculated for the single remaining mandatory respondent (Huacheng) as the rate for non-individually examined companies that have preliminarily qualified for a separate rate.\(^{119}\) This long-standing practice is also Court-affirmed.\(^{120}\)

**Combination Rates**

In the *Initiation Notice*, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.\(^{121}\) This practice is described in Policy Bulletin 05.1.

**Collapsing and Affiliation**

We have considered the evidence on the record and preliminarily determine that affiliation exists with respect to the following companies during the POI:

- Jiangsu Hongyi Steel Pipe Co.
- Changzhou Hongren Precision Pipe Manufacturing Co., Ltd. (Hongren)\(^ {122}\)

Additionally, the Department preliminarily determines that affiliation exists with respect to the following companies during the POI:

- Jiangsu Huacheng Industry Pipe Making Corporation
- Zhangjiagang Salem Fine Tubing Co., Ltd. (Salem)

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

\(^{119}\)See, e.g., *HFCs from the PRC*, 81 FR 42314, 42316 (June 29, 2016) (“Under section 735(c)(5)(A) of the Act, the rate for all other companies that have not been individually examined is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely on the basis of facts available. In this final determination, the Department has calculated a rate for TTI that is not zero, *de minimis*, or based entirely on facts available. Therefore, the Department has assigned to the companies that have not been individually examined, but have demonstrated their eligibility for a separate rate, a margin of 101.82 percent, which is the rate for TTI.”); *Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316, 35317 (June 2, 2016) (“In this final determination, we calculated a weighted-average dumping margin for Yieh Phui (the only cooperating mandatory respondent) which is not zero, *de minimis*, or based entirely on facts available. Accordingly, we determine to use Yieh Phui’s weighted-average dumping margin as the margin for the separate rate companies.”); *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 60627, 60627 (October 7, 2015) unchanged in *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 22578 (April 18, 2016).

\(^{120}\)See, e.g., *Changzhou Wujin Fine Chemical Factory Co., Ltd., v. United States*, 942 F. Supp. 2d 1333, 1339 (CIT 2013) (*Fine Chemical*); *Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (CIT 2008) (affirming the Department’s determination to assign a 4.22-percent dumping margin to the separate rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively).

\(^{121}\)See *Initiation Notice*, 82 FR at 22496.

\(^{122}\)See Hongyi’s September 19, 2017 Supplemental Section A Questionnaire Response (Hongyi September 19, 2017 SAQR).
(A) Members of a family, including brothers and sisters (whether by the whole or half-blood), spouse, ancestors, and lineal descendants;
(B) Any officer or director of an organization and such organization;
(C) Partners;
(D) Employer and employee;
(E) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization;
(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; or,
(G) Any person who controls any other person and such other person.

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

The traditional focus on control through stock ownership fails to address adequately modern business arrangements, which often find one firm ‘operationally in a position to exercise restraint or direction’ over another in the absence of an equity relationship. A company may be in a position to exercise restraint or direction, for example, through corporate or family groupings, franchise or joint venture agreements, debt financing, or close supplier relationships in which the supplier or buyer becomes reliant upon the other.123

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

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

(1) In general. In an antidumping proceeding under this part, the Secretary will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production.

(2) Significant potential for manipulation, in identifying a significant potential for the manipulation of price or production, the factors the Secretary may consider include:

The level of common ownership;  
(ii) The extent to which managerial employees or board members of 
(iii) one firm sit on the board of directors of an affiliated firm; and Whether operations 
are intertwined, such as through the sharing of sales information, involvement in 
production and pricing decisions, the sharing of facilities or employees, or 
significant transactions between the affiliated producers.124

Based on the evidence on the record, we preliminarily find that Hongyi is affiliated with 
Hongren within the meaning of section 771(33)(E) of the Act, based on its ownership of five 
percent or more of Hongren.125 Additionally, we preliminarily find that Huacheng is affiliated 
with Salem within the meaning of section 771(33)(E) of the Act, based on its ownership of five 
percent or more of Hongren.126

Furthermore, we have preliminarily treated affiliated producers Huacheng and Salem as 
a single entity, pursuant to 19 CFR 351.401(f)(1). In addition, we have treated producers Hongyi 
and Hongren, as a single entity pursuant to 19 CFR 351.401(f)(1). We preliminarily find that 
both of these companies have production facilities for similar or identical products, and that a 
significant potential for manipulation of price or production exists, based on common ownership, 
shared managers and/or board members, and intertwined operations.127, 128

The PRC-wide Entity

The record indicates that there were other PRC exporters and/or producers of the subject 
merchandise 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 from 
eight PRC exporters and/or producers of subject merchandise that were named in the Petition and 
to whom the Department issued Q&V questionnaires.129 Because non-responsive PRC 
companies have not demonstrated that they are eligible for separate rate status, the Department 
finds that they have not rebutted the presumption of government control and, thus, the 
Department considers them to be part of the PRC-wide entity. Furthermore, as explained below, 
we are preliminarily determining the PRC-wide rate on the basis of AFA.

Application of Facts Available and Adverse Inferences

Section 776(a)(1) and (2) of the Act provides that, if necessary information is missing from the 
record, or if an interested party: (A) withholds information that has been requested by the 
Department, (B) fails to provide such information in a timely manner or in the form or manner 

124 See 19 CFR 351.401(f).
125 See Hongyi’s September 19, 2017 SAQR at 3-4 and Exhibit S-1 and S-2; also see Hongyi’s August 4, 2017 AQR 
at Exhibit A-14.
126 See Huacheng’s August 4, 2017 AQR at 17 and Exhibit A-1and A-2.
127 See Memorandum titled, “Collapsing and Affiliation Analysis for Hongyi,” dated concurrently with this 
memorandum.
128 See Memorandum titled, “Collapsing and Affiliation Analysis for Huacheng,” dated concurrently with this 
memorandum.
129 Id. The Department also posted a copy of the Q&V questionnaire to which it referred in the Initiation Notice on 
its website. Additionally, 20 of the 91 companies identified by Petitioners in GEN-11 of the Petition were issued 
Q&V questionnaires. However, only the 20 exporters/producers identified in the “Respondent Selection” section of 
this memorandum submitted timely Q&V questionnaire responses.
requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the 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 antidumping and countervailing duty law, including amendments to section 776(b) and (c) of the Act and the addition of section 776(d) of the Act.130 The amendments to section 776 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.131

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.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corrob(rate) that 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.132 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.

132 See SAA at 870.
1. Use of Facts Available

The Department preliminarily finds that the use of facts available, with adverse inferences, is appropriate for Hongyi and the PRC-wide entity, which includes certain PRC exporters and/or producers that did not respond to the Department’s requests for information.

a. Hongyi

Petitioners’ Comments

• Hongyi has withheld information, impeded the investigation, has provided consistently unreliable information, and has failed to cooperate to the best of its ability. 133
• Hongyi’s Oct. 31, 2017,134 supplemental response shows that Hongyi misreported information to the Department on at least several occasions within its U.S. sales database creating an issue as to the reliability of its reported information.135

The Department finds that Hongyi misreported grade information, one of the physical characteristics of the product in its U.S. sales database, for several U.S. sales,136 raising serious questions about the existence of errors in Hongyi’s FOP database with respect to the products that are included in the reported CONNUMs, and the ability of the Department to rely on the database in calculating an accurate margin for Hongyi. Specifically, because of the misreporting of grade information, which is a component of the CONNUM groupings Hongyi used for purposes of computing its reported FOPs, the Department is unable to rely on such CONNUMs or Hongyi’s U.S. sales database for purposes of the preliminary determination.

We note that Hongyi provided rebuttal comments on November 13, 2017, two days prior to the signature date of this preliminary determination.137 As an initial matter, we note the proximity of the submission of these comments to the preliminary deadline did not allow sufficient time for the Department to fully evaluate these comments. Furthermore, to the extent that the Department was able to consider Hongyi’s comments with respect to steel grade, rather than providing clarity on this issue, we note that Hongyi’s explanation instead provokes further questions with respect to the relevant reporting which must be evaluated subsequent to this preliminary determination.

Accordingly, the Department finds that necessary information is not available on the record, pursuant to section 776(a)(1), meriting the use of facts available. Moreover, because Hongyi did not act to the best of its ability to comply with a request for information, here, with respect to

133 See the petitioners’ letter, “Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from china-Petitioners’ Additional Pre-Preliminary comments,” at 3-6, dated November 6, 2017.
134 Id.
135 Id.
136 See Hongyi’s October 31, 2017 Supplemental Section D Questionnaire Response at Exhibit S-3D (Hongyi’s October 31, 2017 SDQR); also see Hongyi’s August 18, 2017 Section C Questionnaire Response at Exhibit C-1 (Hongyi’s August 18, 2017 CQR).
product grade, the Department finds that an adverse inference is merited when selecting from the facts available, consistent with section 776(b). However, the Department intends to provide Hongyi with an opportunity to correct the above error before the final determination in this investigation.

b. PRC-Wide Entity

The Department finds that the PRC-wide entity withheld information requested by the Department and significantly impeded this proceeding by not submitting the requested information. Specifically, eight companies failed to respond to the Department’s request for Q&V information.\footnote{See Respondent Selection Memo, at 1-3.} Thus, the Department finds that the PRC-wide entity as a whole has overwhelmingly withheld requested information, failed to provide such information in a timely manner or in the form or manner requested by the Department, and significantly impeded the proceeding. Therefore, the Department preliminarily determines that the 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.\footnote{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).}

2. Application of Facts Available with an Adverse Inference

Section 776(b) of the Act provides that in selecting from among the facts otherwise available, the Department 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 lack of participation, including the failure of certain parts of the PRC-wide entity to submit Q&V information, constitutes circumstances under which it is reasonable to conclude that the PRC-wide entity as a whole failed to cooperate to the best of its ability to comply with the Department’s request for information.\footnote{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 where it is reasonable to conclude that less than full cooperation has been shown)).} With respect to the missing information, no documents were filed indicating any difficulty providing the information, nor was there a request to allow the information to be submitted in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from among 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).\footnote{Id., 337 F.3d 1373, 1382-83.}

3. Selection of the AFA rate

In applying an adverse inference, the Department may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other
information placed on the record.\textsuperscript{142} In selecting an AFA rate, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.\textsuperscript{143} In an investigation, the Department’s practice with respect to the assignment of an AFA rate is to select the higher of (1) the highest dumping margin alleged in the petition or (2) the highest calculated dumping margin of any respondent in the investigation.\textsuperscript{144} Therefore, we preliminarily apply the highest dumping margin alleged in the petition (\textit{i.e.}, 186.89 percent) as the AFA rate for Hongyi and the PRC-wide entity.

4. 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.\textsuperscript{145} The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value,\textsuperscript{146} although under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.\textsuperscript{147} 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.\textsuperscript{148} 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 AD order when applying an adverse inference, including the highest of such margins.\textsuperscript{149}

With respect to the investigation covering cold-drawn mechanical tubing from the PRC, the highest dumping margin in the petition is 186.89 percent.\textsuperscript{150} In order to determine the probative value of the dumping margin alleged in the petition for assigning an AFA rate, we examined the

\textsuperscript{142} See section 776(b) of the Act.
\textsuperscript{143} See SAA at 870.
\textsuperscript{144} See, e.g., Certain Uncoated Paper from Indonesia: Final Determination of Sales at Less Than Fair Value, 81 FR 3101 (January 20, 2016).
\textsuperscript{145} See SAA at 870.
\textsuperscript{146} Id.; see also 19 CFR 351.308(d).
\textsuperscript{147} See section 776(c)(2) of the Act; TPEA, section 502.
\textsuperscript{148} 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).
\textsuperscript{149} See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).
\textsuperscript{150} See Initiation Notice, 82 FR at 22495.
information on the record. When we compared the petition dumping margin of 186.89 percent to the transaction-specific dumping margins for the mandatory respondent, we found transaction-specific margins at or above the petition rate and, as a consequence, we find that the rate alleged in the petition, as noted in the *Initiation Notice*, is within the range of transaction-specific margins computed for this preliminary determination. Accordingly, we preliminarily find the 186.89 percent rate to be both reliable and relevant and, thus, that it has probative value.

In sum, the Department corroborated the AFA rate of 186.89 percent to the extent practicable within the meaning of section 776(c) of the Act. As the 186.89 percent rate is both reliable and relevant, we determine that it has probative value, and thus, it has been corroborated to the extent practicable, pursuant to section 776(c) of the Act. Thus, we preliminarily assigned this AFA rate to the Hongyi and the PRC-wide entity.

**Date of Sale**

In identifying the date of sale of the subject 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.” The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. In this investigation, Huacheng reported the invoice date as the date of sale, which we have preliminary used as the date of sale.

**Comparisons to Fair Value**

In accordance with section 777A(d)(1)(A) of the Act, the Department compared the weighted-average price of the U.S. sales of the subject merchandise to the weighted-average NV to determine whether the mandatory respondents sold subject merchandise to the United States at LTFV during the POI.

1. **Export Price**

In accordance with section 772(a) of the Act, the Department defined the U.S. price of subject merchandise based on the EP of all the sales reported by Huacheng. The Department calculated

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151 See Huacheng’s Preliminary Analysis Memorandum.
152 See, e.g., *Carbon and Alloy Steel Wire Rod from Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying Issue and Decision Memorandum at Comment 1; *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.
153 See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).
154 See Hongyi’s August 18, 2017 Section C Questionnaire Response (Hongyi’s August 18, 2017 CQR); Huacheng’s August 28, 2017 Section C Questionnaire Response (Huacheng’s August 28, 2017 CQR).
155 See “Export Price” and “Normal Value” sections below.
the EP based on the prices at which subject merchandise was sold to unaffiliated purchasers in the United States.

The Department made deductions, as appropriate, from the reported U.S. price for movement expenses (i.e., domestic, and foreign inland freight, domestic and foreign brokerage, and handling). The Department based movement expenses on surrogate values where the service was purchased from a PRC company.

2. Value-Added Tax

In 2012, the Department announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any un-refunded (herein “irrecoverable”) value-added tax (VAT) in certain NME countries in accordance with section 772(c)(2)(B) of the Act. 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. 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.

First the Department determined the irrecoverable VAT on subject merchandise, and then reduced U.S. price by the amount determined in step one. Information placed on the record of this investigation by Huacheng indicates that according to the PRC VAT schedule, the standard VAT levy applicable to the subject merchandise is 17 percent and the applicable rebate rate is 9 percent. For the purposes of this preliminary determination, therefore, we applied the difference between the rates (i.e., eight-percent) to the U.S. FOB price, which is the irrecoverable VAT as defined under PRC tax law and regulation, as reported by Huacheng.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(e) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs

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156 See section 772(c)(2)(A) of the Act.
157 See “Factor Valuation Methodology” section below.
159 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.
160 Id.
161 See Hongyi’s August 4, 2017 Section A Questionnaire Response at A-17 (Hongyi’s August AQR); Huacheng’s August 4, 2017 Section A Questionnaire Response at Exhibit A-11 (Huacheng’s August 4, 2017 AQR).
162 Id.
invalid under our normal methodologies. The Department’s questionnaire requires that the respondents provide information regarding the weighted-average FOPs on a CONNUM-specific basis, using actual quantities, or develop a reasonable methodology, across all of the companies’ plants and suppliers that produce the subject merchandise, not just the FOPs from a single plant or supplier.\textsuperscript{163} This methodology ensures that the Department’s calculations are as accurate as possible.\textsuperscript{164}

The Department calculated \textit{NV} based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). Under section 773(c)(3) of the Act, FOPs used by the respondents in the production of cold-drawn mechanical tubing 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. The Department based \textit{NV} on the respondents’ reported FOPs for materials, energy, and labor.

\textbf{Factor Valuation Methodology}

In accordance with section 773(c) of the Act, for subject merchandise produced by the respondents, the Department calculated \textit{NV} based on the FOPs they reported for the POI. The Department used Romanian import data and other publicly available Romanian sources in order to calculate \textit{SVs}. To calculate \textit{NV}, the Department multiplied the reported per-unit FOP quantities by the input-specific \textit{SV}s calculated by the Department. The Department’s practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, \textit{SV}s which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.\textsuperscript{165}

As appropriate, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, the Department added to Romanian import \textit{SV}s a surrogate-freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where it relied on an import value. This adjustment is in accordance with the decision of the Federal Circuit in \textit{Sigma Corp. v. United States}, 117 F.3d 1401, 1408 (Fed. Cir. 1997). Additionally, where necessary, the Department adjusted \textit{SV}s for inflation, exchange rates, and taxes, and converted all applicable FOPs to a per-kilogram basis.

Furthermore, with regard to the Romanian import-based \textit{SV}s, we have disregarded import prices that we have reason to believe or suspect may be subsidized.\textsuperscript{166} We have reason to believe or suspect that prices of inputs from India, Indonesia, Thailand, and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly

\textsuperscript{163} See the Department’s AD Questionnaire at Section D and D-2.
\textsuperscript{164} See, e.g., \textit{Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings from the People's Republic of China}, 68 FR 61395 (October 28, 2003), and accompanying Issues and Decision Memorandum at Comment 19.
\textsuperscript{165} See, e.g., \textit{Electrolytic Manganese Dioxide from the People's Republic of China: Final Determination of Sales at Less Than Fair Value}, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.
\textsuperscript{166} See section 773(c)(5) of the Act, as amended in section 505 of the TPEA to permit the 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, \textit{Application Notice}, 80 FR at 46795.
available, non-industry-specific export subsidies. Based on the existence of the 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. Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an “unspecified” country from the average value because the Department could not be certain that they were not from either an NME country or a country with general export subsidies. Therefore, we have not used prices from these countries either in calculating the Romanian import-based SVs or in calculating ME input values.

For the preliminary determination, the Department used Romanian Import Statistics from the GTA to value certain raw materials, byproducts, and packing material inputs that Huacheng used to produce subject merchandise during the POI, except where listed below. Parties placed data from the GTA for Romania on the record for the aforementioned items, and the GTA is a source that is regularly used by the Department because the data therein meet the Department's SV criteria.

In NME AD proceedings, the Department prefers to value labor solely based on data from the primary surrogate country. 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. However, the Department did not preclude all other sources for evaluating labor costs in NME AD proceedings. In this case, the Department determined that the best data source for industry-specific labor rates is data from the Romanian National Institute of Statistics, which reflects all costs related to nominal earnings in Romania for “manufacture of other fabricated metal products, except machinery and equipment.” The Department calculated the surrogate labor value using total labor data for the POI reported by Romanian National Institute of Statistics, in accordance with section 773(c)(4) of the Act.

We valued water using “Romanian Water and Sewage/Water Treatment Rates: Approved by ANRSC (The National Public Utility Regulation Authority) by Regional Provider.” We valued natural gas and coal using data from GTA Romania, and we valued electricity using Eurostat, Romania.

167 See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.; Certain 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; 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.


171 See Hongyi’s September 29, 2017 SV Comments.
We valued truck freight expenses using data from *Doing Business 2017 – Romania* and used a calculation methodology based on a 15-metric ton containerized shipment over 610 kilometers.\(^{172}\)

We valued brokerage and handling expenses using data from *Doing Business 2017 – Romania*.\(^{173}\)

Hongyi provided financial statements for five producers in Romania.\(^{174}\) We disregarded the financial statements of all producers other than TMK Artrom, S.A., which is a producer of identical merchandise, either because the producers were insolvent/not profitable, produce comparable and not identical merchandise, or did not have audited financial statements.\(^{175}\)

**Determination of the Comparison Method**

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (or constructed export prices) 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.\(^{176}\) 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 examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates

\(^{172}\) *Id.* at Attachment 5D.
\(^{173}\) *Id.*
\(^{174}\) See Hongyi’s September 29, 2017 SV Comments at 9B. *See also* Hongyi’s October 16, 2017 SV Comments at 8A-8D.
\(^{175}\) *See* Preliminary SV Memorandum for further discussion.
\(^{176}\) *See*, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair*, 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); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).
whether such differences can be considered when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. 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 export price (or constructed export price) and normal value for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s $d$ test” is applied. The Cohen’s $d$ coefficient is a generally recognized statistical measure of the extent of the difference between the mean (i.e., weighted-average price) of a test group and the mean (i.e., weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s $d$ coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s $d$ coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s $d$ test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s $d$ test, if the calculated Cohen’s $d$ coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s $d$ test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s $d$ test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s $d$ test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to 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 \textit{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 \textit{de minimis} threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

a. Huacheng

For Huacheng, based on the results of the differential pricing analysis, the Department preliminarily finds that 64.3 percent of the value of U.S. sales pass the Cohen’s $d$ test, 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 Huacheng.

VIII. CURRENCY CONVERSION

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

IX. ADJUSTMENT FOR COUNTERVAILABLE EXPORT SUBSIDIES

In AD investigations where there is a concurrent countervailing duty (CVD) investigation, it is the Department’s normal practice to calculate the cash deposit rate for each respondent by adjusting the respondent’s weighted-average dumping margin to account for export subsidies found for each respective respondent in the concurrent countervailing duty investigation. Doing so is in accordance with section 772(c)(1)(C) of the Act, which states that U.S. price “shall be increased by the amount of any countervailing duty imposed on the subject merchandise… to

\footnotesize{177 See Memorandum, “Analysis for the Preliminary Determination of the Less-Than-Fair-Value Investigation of Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People’s Republic of China,” dated concurrently with this memorandum (Huacheng’s Preliminary Analysis Memorandum).}

\footnotesize{178 Id.}
The Department determined in the preliminary determination of the companion CVD investigation that Huacheng benefitted from an export subsidy but that Hongyi did not. For Huacheng, we find that an export subsidy adjustment of 0.02 percent to the cash deposit rate is warranted. With respect to the separate rate companies, we find that an export subsidy adjustment of 0.01 percent to the cash deposit rate is warranted because this is the export subsidy rate included in the CVD all-others rate, to which the separate rate companies are subject in the companion CVD proceeding. For the PRC-wide entity, which preliminarily received an AFA margin, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, the Department has adjusted the PRC-wide entity’s AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding. However, because the Department determined that Hongyi did not benefit from an export subsidy in the preliminary determination of the companion CVD investigation, the lowest subsidy rate is thus zero; therefore, we have not adjusted the PRC-wide entity cash deposit rate.

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

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

179 See Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review, 75 FR 38076, 38077 (July 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.
180 See Huacheng’s Preliminary Analysis Memorandum.
181 See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, 82 FR 44562 (September 25, 2017) (Cold-Drawn Mechanical Tubing CVD Preliminary Determination), and accompanying Preliminary Decision Memorandum.
182 See, e.g., Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; in Part and Postponement of Final Determination, 80 FR 4250 (January 27, 2015), and accompanying Issues and Decision Memorandum at 35.
183 See Cold-Drawn Mechanical Tubing CVD Preliminary Determination, 82 FR at 37844-37846.
184 See section 777A(f)(1)(A)-(C) of the Act.
185 See section 777A(f)(1)-(2) of the Act.
Based upon information submitted to the Department, Hongyi and Huacheng failed to substantiate a subsidies-to-cost link and a cost-to-price link. To determine whether to grant a domestic pass-through adjustment for non-selected separate rate respondents, the Department relies on the experience of the mandatory respondents examined in this investigation. For the preliminary determination, because Hongyi and Huacheng did not establish eligibility for this adjustment, the Department did not make an adjustment pursuant to section 777A(f) of the Act for countervailable domestic subsidies for Hongyi, Huacheng, or the non-selected separate rate respondents.186

XI. POSTPONEMENT OF PRELIMINARY DETERMINATION

Pursuant to section 703(c)(1)(A) of the Act, on September 1, 2017, the petitioners requested that the Department postpone the preliminary determination.187 The Department postponed its preliminary determination to 190 days after the date the Department initiated its investigation, in accordance with 19 CFR 351.205(b)(2).188

XII. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information used to calculate the dumping margins for Hongyi and Huacheng and upon which we will rely in making our final determination.

XIII. U.S. INTERNATIONAL TRADE COMMISSION NOTIFICATION

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

As further discussed in the accompanying Federal Register notice, we will make our final determination no later than 75 days after the date of publication of this preliminary determination, pursuant to section 735(a)(1) of the Act.

186 See Hongyi Preliminary Analysis Memorandum; see also Huacheng Preliminary Analysis Memorandum.
187 See the petitioners’ letter, “Cold Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland - Petitioners’ Request to Postpone the Antidumping Duty Preliminary Determination” dated September 1, 2017.
188 See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the Federal Republic of Germany, India, Italy, the Republic of Korea, the People’s Republic of China, and Switzerland: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations, 82 FR 42788 (September 12, 2017).
XIV. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

☑ ☐

Agree Disagree

11/15/2017

Signed by: GARY TAVERMAN

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