



A-570-970

AR: 12/1/2015 - 11/30/2016

Public Document
E&C/VIII: SB/MB

January 2, 2018

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

FROM: Edward Yang
Senior Director, Office VII
Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of Antidumping
Duty Administrative Review: Multilayered Wood Flooring from the
People's Republic of China; 2015-2016

SUMMARY

In response to requests from interested parties, the Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on multilayered wood flooring (MLWF) from the People's Republic of China (China) for the period of review (POR) December 1, 2015, through November 30, 2016. This administrative review was initiated on 116 companies, including the two mandatory respondents, Jiangsu Senmao Bamboo and Wood Industry Co., Ltd. (Jiangsu Senmao) and Jilin Forest Industry Jinqiao Flooring Group Co., Ltd. (Jinqiao Flooring).

Commerce preliminarily determines that Jiangsu Senmao did not make sales of subject merchandise in the United States at prices below normal value (NV) and that Jinqiao Flooring is not eligible for a separate rate and, therefore, remains part of the China-wide entity. In addition, we preliminarily determine that 16 companies had no shipments to the United States during the POR, and that 70 companies (including Jiangsu Senmao) are eligible for a separate rate. Finally, we are rescinding the administrative review with respect to Dalian Penghong Floor Products Co., Ltd. (Dalian Penghong).

If these preliminarily results are adopted in the final results of this administrative review, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. The preliminary rates assigned to each of these companies can be found in the "Preliminary Results of Review" section of the accompanying *Federal Register* notice.



Interested parties are invited to comment on these preliminary results. Commerce intends to issue the final results no later than 120 days from the date of publication of the accompanying *Federal Register* notice of these preliminary results pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (Act), unless this deadline is extended.

BACKGROUND

On December 8, 2011, Commerce published the AD *Order* on multilayered wood flooring from China.¹ On December 1, 2016, Commerce published a notice of opportunity to request an administrative review of the *Order*.² Between December 19, 2016, and January 3, 2017, Commerce received requests to conduct an administrative review for 116 companies. On February 13, 2017, Commerce published the notice of initiation of the administrative review for 114 companies.³ On February 13, 2017, Fine Furniture (Shanghai Limited) (Fine Furniture) requested that Commerce amend the *Initiation Notice* to include its affiliated re-seller Double F Limited (Double F).⁴ Although Commerce did not amend the *Initiation Notice* to specifically include the company name “Double F,” consistent with prior reviews, upon completion of this review, Commerce intends to issue cash deposit and liquidation instructions to CBP to reflect the names of Fine Furniture and its affiliated re-seller, Double F Limited.⁵ On December 7, 2017 Commerce published the notice of initiation of the administrative review for two companies that were inadvertently omitted from the *Initiation Notice*.⁶

After selecting Jiangsu Senmao and Jinqiao Flooring as mandatory respondents,⁷ Commerce issued the AD questionnaire to these companies on April 10, 2017.⁸ Commerce received

¹ See *Multilayered Wood Flooring from the People’s Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011), as Amended in *Multilayered Wood Flooring from the People’s Republic of China*, 77 FR 5484 (February 3, 2012) (collectively, the *Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 81 FR 86694 (December 1, 2016).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 10457 (February 13, 2017) (*Initiation Notice*).

⁴ See Letter from Fine Furniture, “Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People’s Republic of China: Correction of Initiation Notice,” dated February 13, 2017.

⁵ See *Multilayered Wood Flooring from the People’s Republic of China: Final Results of the 2013-2014 Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People’s Republic of China*, 81 FR 46899 (July 12, 2016), and accompanying Issues and Decision Memorandum at Comment 8; see, also, *Multilayered Wood Flooring from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Final Partial Rescission of Antidumping Duty Administrative Review, 2014-2015*, 82 FR 25766 (June 5, 2017), and accompanying Issues and Decision Memorandum at Comment 5, unchanged in *Multilayered Wood Flooring from the People’s Republic of China: Correction to the Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 43219 (Sept. 14, 2017).

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 57705 (December 7, 2017) (*Second Initiation Notice*). Commerce notes the *Second Initiation Notice* contained a typographical error in the spelling of “Dun Hua Sen Tai Wood Co., Ltd.” This determination corrects the second notice of initiation and reflects the accurate spelling.

⁷ See Commerce Memorandum, “Multilayered Wood Flooring from the People’s Republic of China: Selection of Respondents,” dated April 7, 2017 (Respondent Selection Memorandum).

⁸ See Letters to Jiangsu Senmao and Jinqiao Flooring regarding issuance of Commerce’s antidumping questionnaire,

responses to section A from Jiangsu Senmao and Jinqiao Flooring on May 8, 2017, and May 16, 2017, respectively.⁹ Commerce received responses to sections C and D from Jiangsu Senmao on May 24, 2017, and from Jinqiao Flooring on May 31, 2017, and June 6, 2017.¹⁰ Commerce issued supplemental questionnaires to Jiangsu Senmao and Jinqiao Flooring and received responses from Jiangsu Senmao and Jinqiao Flooring on August 3, 2017.¹¹ We received additional responses from Jinqiao Flooring on August 11, 2017, and August 31, 2017.¹² On September 18, 2017, the petitioner, the Coalition for American Hardwood Parity, submitted rebuttal comments to Jinqiao Flooring's supplemental responses.¹³ In response to these comments, Commerce sought additional information from Jinqiao Flooring, which it provided on September 29, 2017.¹⁴ Finally, on November 9, 2017, we issued supplemental questionnaires regarding double remedies to Jinqiao Flooring and Jiangsu Senmao,¹⁵ to which we received responses on November 16, 2017.¹⁶

On June 8, 2017, Commerce solicited interested party comments regarding the selection of the surrogate country and offered an opportunity to provide surrogate value (SV) data to be considered in these preliminary results.¹⁷ On August 11, 2017, Commerce postponed the deadline for preliminary results from September 5, 2017 until December 1, 2017.¹⁸ On

dated April 10, 2017 (IQ).

⁹ See Letters from Jiangsu Senmao, "Multilayered Wood Flooring from the People's Republic of China: Section A Questionnaire Response," dated May 8, 2017 (AQR), and Jinqiao Flooring, "Multilayered Wood Flooring from the People's Republic of China; Submission of Section A Response" (AQR), dated May 16, 2017.

¹⁰ See Letters from Jiangsu Senmao, "Multilayered Wood Flooring from the People's Republic of China: Sections C & D Questionnaire Response," dated May 24, 2017 (Jiangsu Senmao CDQR), and Jinqiao Flooring, "Multilayered Wood Flooring from the People's Republic of China; Submission of Section C Response," dated May 31, 2017, and "Multilayered Wood Flooring from the People's Republic of China; Submission of Section D Response," dated June 6, 2017.

¹¹ See Letters from Jiangsu Senmao, "Multilayered Wood Flooring from the People's Republic of China: Supplemental Questionnaire Response," and Jinqiao Flooring, "Multilayered Wood Flooring from the People's Republic of China: Submission of First Supplemental Response," both dated August 3, 2017.

¹² See Letters from Jinqiao Flooring, "Multilayered Wood Flooring from the People's Republic of China; Submission of First Supplemental Response - Section A Questions," dated August 11, 2017, and "Multilayered Wood Flooring from the People's Republic of China; Submission of Second Supplemental Response," dated August 31, 2017.

¹³ See Letter from the petitioner, "Multilayered Wood Flooring from the People's Republic of China," dated September 18, 2017.

¹⁴ See Letter from Jinqiao Flooring, "Multilayered Wood Flooring from the People's Republic of China: Submission of Fourth Supplemental Response," dated September 29, 2017.

¹⁵ See Letters from Commerce to Jinqiao Flooring "Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China," and Jiangsu Senmao, "Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China," both dated November 9, 2017.

¹⁶ See Letters from Jiangsu Senmao, "Multilayered Wood Flooring from the People's Republic of China: Double Remedy Questionnaire Response," (Double Remedies Response), and Jinqiao Flooring, "Multilayered Wood Flooring from the People's Republic of China: Submission of Double Remedy Response," both dated November 16, 2017.

¹⁷ See Letter from Commerce, "Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China, Comment Period for: (1) Economic Development; (2) Surrogate Country; and (3) Surrogate Value Information," dated June 8, 2017 (Surrogate Memorandum).

¹⁸ See Commerce Memorandum, "Multilayered Wood Flooring from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2015-2016," dated August 11, 2017.

November 22, 2017, Commerce further postponed this deadline until January 2, 2018.¹⁹

PERIOD OF REVIEW

The POR is December 1, 2015, through November 30, 2016.

SCOPE OF THE ORDER²⁰

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)²¹ in combination with a core.²² The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.*, “engineered wood flooring” or “plywood flooring.” Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.*, without a finally finished surface to protect the face veneer from wear and tear) or “prefinished” (*i.e.*, a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard (HDF), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a

¹⁹ See Commerce Memorandum, “Multilayered Wood Flooring from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Administrative Review; 2015-2016,” dated November 22, 2017.

²⁰ See Order. See, also, *Multilayered Wood Flooring from the People’s Republic of China: Final Clarification of the Scope of the Antidumping and Countervailing Duty Orders*, 82 FR 27799 (June 19, 2017).

²¹ A “veneer” is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

²² Commerce Interpretive Note: Commerce interprets this language to refer to wood flooring products with a minimum of three layers.

strip, plank, or other geometrical patterns (*e.g.*, circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product. Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660; 4412.31.2510; 4412.31.2520; 4412.31.2610; 4412.31.2620; 4412.31.3175; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.4140; 4412.31.4160; 4412.31.4175; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.5225; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.0640; 4412.32.0665; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2625; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3225; 4412.32.5600; 4412.32.5700; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; 4418.74.2000; 4418.74.9000; 4418.75.4000; 4418.75.7000; 4418.79.0100; and 9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

SELECTION OF RESPONDENTS

Section 777A(c)(1) of the Act directs Commerce 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 Commerce discretion to limit its examination to a reasonable number of exporters or 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 review.

In the *Initiation Notice*, Commerce notified the public that it may limit the number of respondents for individual examination in this administrative review and that, in the event that Commerce limits the number of respondents for individual examination, Commerce

intended to select respondents based on CBP data for U.S. imports during the period of review.²³ Commerce stated that it intended to place the CBP data on the record within five days of publication of the initiation notice and to provide parties seven days from that date to submit comments regarding CBP data and respondent selection, and five days after the deadline for the initial comments to submit rebuttal comments with five days after the deadline for the initial comments. On February 27, 2016, Commerce placed CBP data for imports made during the POR under the HTSUS numbers listed in the scope of the *Order*, on the record of the review, and requested comments on the data for use in respondent selection.²⁴ Commerce received timely comments on the CBP data and respondent selection from various parties.

On April 7, 2017, Commerce issued the respondent selection memorandum, in which it explained that, because of the large number of exporters and producers involved in the review, and given Commerce's resource constraints, it would not be practicable to examine all companies individually.²⁵ Rather, Commerce determined that it could only reasonably examine two exporters.²⁶ Pursuant to section 777A(c)(2)(B) of the Act, Commerce selected Jiangsu Senmao and Jinqiao Flooring for individual examination because they are the two largest exporters or producers of the subject merchandise by volume, from China during the POR, based on CBP data.²⁷

PARTIAL RESCISSION OF REVIEW

All of the requests for review of Dalian Penghong were timely withdrawn.²⁸ Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw their requests within 90 days of the date of publication of the notice of initiation. Accordingly, Commerce is rescinding this review, in part, with respect to Dalian Penghong.

PRELIMINARY DETERMINATION OF NO SHIPMENTS

In the *Initiation Notice*, we instructed the producers or exporters under review that had no exports, sales, or entries during the POR to notify Commerce within 30 days of publication of the notice.²⁹ We received no-shipment certifications from the following companies: Anhui Boya Bamboo & Wood Products Co., Ltd. (Anhui Boya);³⁰ Changbai Mountain Development and

²³ See *Initiation Notice*, 82 FR at 10457.

²⁴ See Commerce Memorandum, "Multilayered Wood Flooring from the People's Republic of China: Antidumping Duty Administrative Review; Release of Customs and Border Protection Data," dated February 27, 2017.

²⁵ See Respondent Selection Memorandum.

²⁶ *Id.*

²⁷ *Id.*

²⁸ See Letters from the petitioner, "Partial Withdrawal of Request for Administrative Review: Multilayered Wood Flooring from the People's Republic of China," and Dalian Penghong, "Multilayered Wood Flooring from the People's Republic of China; Withdrawal of Request for Review," both dated March 27, 2017.

²⁹ See *Initiation Notice*.

³⁰ See Letter from Anhui Boya *et al.*, "Multilayered Wood Flooring from the People's Republic of China: No Shipment Certifications," dated March 1, 2017.

Protection Zone Hongtu Wood Industrial Co., Ltd.;³¹ Dalian Jiahong Wood Industry Co., Ltd.;³² Jiangsu Yuhui International Trade Co., Ltd.;³³ Jiashan On-Line Lumber Co., Ltd.³⁴; Kingman Floors Co., Ltd.;³⁵ Jiangsu Keri Wood Co., Ltd. (Keri Wood);³⁶ Linyi Bonn Flooring Manufacturing Co., Ltd. (Linyi Bonn);³⁷ Guangzhou Homebon Timber Manufacturing Co., Ltd. (Guangzhou Homebon);³⁸ Power Dekor Group Co., Ltd. (Power Dekor);³⁹ The Lizhong Wood Industry Limited Company of Shanghai (also known as Shanghai Lizhong Wood Products Co., Ltd.) (Lizhong);⁴⁰ Zhejiang Shuimojiangnan New Material Technology Co., Ltd. (Zhejiang Shuimojiangnan);⁴¹ Chinafloors Timber (China) Co, Ltd. (Chinafloors);⁴² Huzhou Muyun Wood Co., Ltd. (Huzhou Muyun);⁴³ Les Planchers Mercier, Inc. (Mercier);⁴⁴ and Zhejiang Simite Wooden Co., Ltd. (Zhejiang Simite).⁴⁵ Accordingly, we requested that CBP import officers alert Commerce if they had information contrary to these companies' claims.⁴⁶ We did not receive a response from CBP that contradicted these no-shipment claims.

Therefore, Commerce preliminarily determines that these companies had no shipments to the United States during the POR. Consistent with our practice in non-market economy (NME) cases, we are not rescinding this review, in part, but we intend to complete the review with respect to these companies, and issue appropriate instructions to CBP based on the final results of the review.⁴⁷

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ See Letter from Keri Wood, "Multilayered Wood Flooring from the People's Republic of China: No Shipment Certification," dated March 2, 2017.

³⁷ See Letter from Linyi Bonn, "Multilayered Wood Flooring from the People's Republic of China: No Shipment Certification," dated March 3, 2017.

³⁸ See Letter from Guangzho Homebon, "Multilayered Wood Flooring from People's Republic Of China: Guangzhou Homebon Timber Manufacturing Co., Ltd.'s No Shipment Letter," Dated March 8, 2017.

³⁹ See Letter from Power Dekor, "Multilayered Wood Flooring from People's Republic Of China: Power Dekor Group Co., Ltd.'s No Shipment Letter," dated March 8, 2017.

⁴⁰ See Letter from Lizhong, "Multilayered Wood Flooring from the People's Republic of China: No Shipment Certification for The Lizhong Wood Industry Limited Company of Shanghai ("Lizhong") (also known as Shanghai Lizhong Wood Products Co., Ltd.)," dated March 13, 2017.

⁴¹ See Letter from Zhejiang Shuimojiangnan, "Multilayered Wood Flooring from the People's Republic of China; No Sales Certification," dated March 15, 2017.

⁴² See Letter from Chinafloors, "Multilayered Wood Flooring from the People's Republic of China: No Shipment Certification of Chinafloors Timber (China) Co., Ltd.," dated March 15, 2017.

⁴³ See Letter from Huzhou Muyun, "Multilayered Wood Flooring from the People's Republic of China No Sales Certification," dated March 15, 2017.

⁴⁴ See Letter from Mercier, "Multilayered Wood Flooring from the People's Republic of China; Submission of Statement of No Shipments," dated March 15, 2017.

⁴⁵ See Letter from Zhejiang Simite, "Multilayered Wood Flooring from the People's Republic of China ("Multilayered Wood Flooring"); A-570-970; No Shipment Certification," dated March 15, 2017.

⁴⁶ See, CBP Message Numbers 7179303, dated June 28, 2017, and 7242302, dated August 30, 2017,

⁴⁷ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011) (*Assessment Notice*).

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country Status

Commerce considers China to be a non-market economy (NME) country.⁴⁸ 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 Commerce. Therefore, we continue to treat China as a NME country for purposes of these preliminary results.

Separate Rate Determinations

Commerce has the rebuttable presumption that all companies within the NME are subject to government control and, thus, should be assessed a single antidumping duty rate.⁴⁹ In the *Initiation Notice*, Commerce notified parties of the application process by which exporters and producers may obtain separate-rate status in NME proceedings.⁵⁰ It is Commerce's policy to assign all exporters of the merchandise subject to review in an NME proceeding 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, Commerce analyzes each exporting entity in an NME proceeding under the test established in *Sparklers*,⁵¹ as amplified by *Silicon Carbide*,⁵² and further refined by *Diamond Sawblades*.⁵³ However, if Commerce determines that a company is wholly foreign-owned, then an analysis of the *de jure*

⁴⁸ 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 memorandum, *China's Status as a Non-Market Economy*.

⁴⁹ See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006)) (*Diamond Sawblades I*).

⁵⁰ See *Initiation Notice*.

⁵¹ 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*).

⁵² See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

⁵³ See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China (May 6, 2013) in *Advanced Technology & Materials Co., Ltd. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), sustained, *Advanced Technology & Materials Co. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), aff'd, Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memorandum (PDM) at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014) (*Diamond Sawblades II*) and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

and *de facto* criteria is not necessary to determine whether it is independent from government control.⁵⁴

Commerce continues to evaluate its practice with regard to the separate-rates analysis in light of the *Diamond Sawblades* antidumping duty proceeding, and Commerce's determinations therein. In particular, in litigation involving the *Diamond Sawblades* proceeding, the U.S. Court of International Trade (CIT) found Commerce's existing separate-rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the exporter under examination.⁵⁵ Following the Court's reasoning, in recent proceedings, Commerce has concluded that, where a government entity holds a majority ownership share either directly or indirectly, in the respondent exporter, the majority ownership holding in and of itself means that the government exercises, or has the potential to exercise, control over the company's operations generally.⁵⁶ This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, Commerce would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profit distribution of the company.

In order to demonstrate separate rate status eligibility, Commerce normally requires entities, for whom a review was requested, and who were assigned a separate rate in a previous segment of this proceeding, to submit a separate-rate certification (SRC) stating that they continue to meet the criteria for obtaining a separate rate.⁵⁷ For entities that were not assigned a separate rate in a previous segment of a proceeding, to demonstrate eligibility, Commerce requires a separate rate application (SRA).⁵⁸

⁵⁴ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews*, 79 FR 4327 (January 27, 2014), and *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

⁵⁵ See *Advanced Technology I*, 885 F. Supp. 2d at 1349 ("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).

⁵⁶ See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying PDM at 5-9.

⁵⁷ See *Initiation Notice*.

⁵⁸ *Id.*

As discussed below, of the 116 companies for which Commerce has initiated a review, 72 filed either a SRA or a SRC.⁵⁹ On December 4, 2017,⁶⁰ Commerce received SRAs filed on behalf of Baishan Huafeng Wooden Product Co., Ltd (Baishan Huafeng), and Dalian Guhua Wooden Product Co., Ltd (Dalian Guhua).⁶¹ Both submissions acknowledge that Commerce has previously reviewed Baishan Huafeng individually, and has assigned it a separate rate in each previous segment of the proceeding. However, the parties urge that “in light of the joint management and operation of the two companies in the Huafeng Group, Baishan Huafeng has opted to submit a full SRA in the present review, together with a new SRA by Dalian Guhua..., in order to provide full information about their joint management and operations, in order to obtain a single group-wide rate in this and future reviews.”⁶²

Commerce preliminarily determines that Baishan Huafeng and Dalian Guhua are each entitled to a separate rate. With respect to the companies’ request for a single group-wide rate, it is neither our practice, nor our policy, to conduct affiliation/collapsing analyses for entities not under individual examination.⁶³ Moreover, Commerce’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 respondents, 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.

Finally, Commerce received completed responses to the section A portion of the NME questionnaire from the two mandatory respondents which contained information pertaining to the companies’ eligibility for separate rates.

(1) Wholly Foreign-Owned Applicants

A&W (Shanghai) Woods Co., Ltd., Kember Hardwood Flooring, Inc., Metropolitan Hardwood Floors, Inc., Sino-Maple (Jiangsu) Co., Limited, Xiamen Yung De Ornament Co., Ltd., and Yingyi-Nature (Kunshan) Wood Industry Co., Ltd. reported that they were wholly foreign-owned by a market-economy (ME) company located in a ME country. Therefore, as there is no Chinese ownership of these companies, and because Commerce has no evidence indicating that

⁵⁹ This number includes Dalian Penghong’s SRC. *See* SRAs/SRCs filed from March 6, 2017, through March 15, 2017.

⁶⁰ *See* Letter from Baishan Huafeng, “Multilayered Wood Flooring from the PRC: Separate Rate Application of Baishan Huafeng Wooden Product Co., Ltd.,” dated December 4, 2017 (Baishan Huafeng Resubmitted SRA); *see* Letter from Dalian Guhua Wooden Product Co., Ltd., “Multilayered Wood Flooring from the PRC: Separate Rate Application of Dalian Guhua Wooden Product Co., Ltd. (Dalian Guhua Resubmitted SRA),” dated December 4, 2017.

⁶¹ Baishan Huafeng and Dalian Guhua originally filed SRAs in a single submission. *See* Letter from Baishan Huafeng Wooden Product Co., Ltd. “Multilayered Wood Flooring from the PRC: Separate Rate Application of Baishan Huafeng Wooden Product Co., Ltd. and Dalian Guhua Wooden Product Co., Ltd. (the Huafeng Group),” dated March 15, 2017. On December 1, 2017, Commerce requested a re-filing of the applications in the form of two separate submissions, as required by the SRA instructions. *See* Memorandum to the File, “Multilayered Wood Flooring from the People’s Republic of China: Telecon with Counsel to Baishan Huafeng Wooden Product Co., Ltd. (Baishan Huafeng) and Dalian Guhua Wooden Product Co., Ltd. (Dalian Guhua), dated December 1, 2017.

⁶² *See* Baishan Huafeng Resubmitted SRA and Dalian Guhua Resubmitted SRA, both at page 2.

⁶³ *See, e.g., Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2013-2014*, 80 FR 55328 (September 15, 2015), and accompanying IDM, at comment 12.

these companies are under the control of the Chinese government, further analyses of the *de jure* and *de facto* criteria are not necessary to determine whether these companies are independent from government control of its export activities.⁶⁴

Therefore, because Commerce finds that these companies have demonstrated an absence of Chinese government control of export activities, Commerce preliminarily determines that they are each eligible for a separate rate.

(2) Mandatory Respondents and the Remaining Separate Rate Applicants

The remaining separate rate applicants⁶⁵, including Jiangsu Senmao, reported being either Chinese-foreign joint venture companies or wholly Chinese-owned companies. In accordance with our practice, Commerce analyzed whether these companies demonstrated the absence of *de jure* and *de facto* governmental control over their export activities.

a. Absence of *De Jure* Control

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.⁶⁶

The evidence provided by one of the mandatory respondents, Jiangsu Senmao, and by the remaining separate rate applicants, supports a preliminary finding of the absence of *de jure* government control of export activities based on the following: (1) there is an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of the companies.⁶⁷

b. Absence of *De Facto* Control

Typically Commerce considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices (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

⁶⁴ See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007); *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001), unchanged in *Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review*, 66 FR 27063 (May 16, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104-05 (December 20, 1999).

⁶⁵ See the Appendix to this memorandum.

⁶⁶ See *Sparklers*, 56 FR at 20589.

⁶⁷ See Jiangsu Senmao AQR at A-1 – A-9, and the SRCs/SRAs filed from March 6, 2017, through March 15, 2017.

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 disposition of profits or financing of losses.⁶⁸ As stated in previous cases, there is evidence that certain enactments of the Chinese central government have not been implemented uniformly among different sectors and/or jurisdictions in China.⁶⁹ Therefore, Commerce 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 Commerce from assigning separate rates.⁷⁰

The evidence provided by Jiangsu Senmao and the remaining separate rate applicants supports a preliminary finding of the absence of *de facto* government control based on the following: (1) the companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.⁷¹

Therefore, Commerce preliminarily finds that the evidence placed on the record of this review demonstrates an absence of *de jure* and *de facto* government control with respect to the companies' exports of the merchandise under review. Thus, Commerce preliminarily finds that Jiangsu Senmao and the remaining companies, excluding Jinqiao Flooring, as detailed below, have established that they each qualify for a separate rate under the criteria established by *Diamond Sawblades*, *Silicon Carbide* and *Sparklers*.

China-Wide Entity

Record evidence demonstrates that the other mandatory respondent, Jinqiao Flooring, has not demonstrated that it is entitled to a separate rate. Commerce has based this determination on facts that are subject to the administrative protective order of this administrative review. Accordingly, Commerce has addressed this matter in a business proprietary memorandum.⁷²

As Jinqiao Flooring is not eligible for a separate rate, Commerce preliminarily determines to treat this company as part of the China-wide entity. Because no party requested a review of the China-wide entity and Commerce no longer considers the China-wide entity as an exporter conditionally subject to administrative reviews, Commerce is not conducting a review of the

⁶⁸ 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).

⁶⁹ See, e.g., *Silicon Carbide*, 59 FR at 22586-87.

⁷⁰ *Id.*

⁷¹ See Jiangsu Senmao AQR at A-1 – A-9, and the SRCs/SRAs filed from March 6, 2017, through March 15, 2017.

⁷² See Memorandum, "Preliminary Separate Rate Analysis Memorandum for Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.," dated concurrently with this memorandum.

China-wide entity.⁷³ Thus, the rate for the China-wide entity (*i.e.*, 25.62 percent⁷⁴) is not subject to change pursuant to this review.

Weighted-Average Dumping Margin for Non-Examined Separate-Rate Companies

As stated above in the “Respondent Selection” section of this memorandum, Commerce employed a limited examination methodology in this review, as it determined that it would not be practicable in light of its resources to individually examine all companies for which an administrative review was initiated, and selected the two largest exporters by volume as mandatory respondents in this review, Jiangsu Senmao and Jinqiao Flooring. Sixty-nine additional exporters remain subject to review as non-individually examined, separate-rate respondents.

The statute and Commerce’s regulations do not address the establishment of a rate to be applied to individual respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate-rate respondents which Commerce did not examine individually in an administrative review.

Under section 735(c)(5)(A) of the Act, the all-others rate 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} (FA).” Accordingly, Commerce’s usual practice in determining the rate for separate-rate respondents not selected for individual examination, has been to average the weighted-average dumping margins for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on FA.⁷⁵ However, when the weighted-average dumping margins established for all individually investigated respondents are zero, *de minimis*, or based entirely on facts available, section 735(c)(5)(B) of the Act permits Commerce to “use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.”

⁷³ On November 4, 2013, Commerce announced a change in practice with respect to the conditional review of the NME entity for antidumping duty administrative reviews for which the notice of opportunity to request an administrative review is published on or after December 4, 2013. See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Proceedings*, 78 FR 65963 (November 4, 2013). The opportunity to request this administrative review was published on July 1, 2015; therefore, Commerce’s new practice applies to this review.

⁷⁴ See *Multilayered Wood Flooring from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, Final Partial Rescission of Antidumping Duty Administrative Review; 2014–2015*, 82 FR 25766 (June 5, 2017).

⁷⁵ See *Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (CIT 2008) (affirming Commerce’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); see also *Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656, 36660 (July 24, 2009).

In *Albemarle Corp. v. United States*, the Court of Appeals for the Federal Circuit affirmed the Court of International Trade's holding that Commerce improperly "carried forward" the separate rate from the prior review because the mandatory respondents in the active proceeding all received *de minimis* margins.⁷⁶ In this administrative review, we have calculated a weighted-average dumping margin for Jiangsu Senmao of zero.⁷⁷ Because this is the only calculated POR margin available and in light of *Albemarle Corp. v. United States*, we are assigning this rate to the non-examined respondents who qualify for a separate rate in this review.

Surrogate Country and Surrogate Value Data

As noted, on June 8, 2017, Commerce sent interested parties a letter inviting comments on: (1) the non-exhaustive list of countries that Commerce determined are at the same level of economic development as China based on annual per capita gross national income (GNI), (2) surrogate country selection, and (3) SV data to be used in this administrative review.⁷⁸ On June 29, 2017, the petitioner, Lumber Liquidators Services, LLC (Lumber Liquidators), Jiangsu Senmao, and Jinqiao Flooring submitted comments on the list of surrogate countries.⁷⁹ On July 24, 2017, the petitioner and Jiangsu Senmao submitted comments on SV data.⁸⁰ Finally, on August 3, 2017, Jiangsu Senmao submitted rebuttal SV comments.⁸¹

Surrogate Country Selection

When Commerce investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate ME country or countries considered to be appropriate by Commerce. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce shall utilize, to the extent possible, 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.⁸² As a general rule, Commerce selects a surrogate country that is at

⁷⁶ See *Albemarle Corp. v. United States*, 821 F.3d 1345 (Fed. Cir. 2016).

⁷⁷ See Commerce Memorandum, "2015-2016 Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China: Preliminary Results Margin Calculation for Jiangsu Senmao Bamboo and Wood Industry Co., Ltd.," dated concurrently with this memorandum (Jiangsu Senmao Preliminary Calculation Memorandum).

⁷⁸ See Surrogate Memorandum.

⁷⁹ See Letters from the petitioner, "Multilayered Wood Flooring from the People's Republic of China" (Petitioner Surrogate Country Comments); Lumber Liquidators, "Comments on Surrogate Country Selection 2015-2016 Administrative Review Multilayered Wood Flooring from the People's Republic of China"; Jiangsu Senmao, "Multilayered Wood Flooring from the People's Republic of China: Surrogate Country Comments" (Jiangsu Senmao Surrogate Country Comments); and, Jinqiao Flooring, "Multilayered Wood Flooring from the People's Republic of China: Surrogate Country Selection Comments" (Jinqiao Flooring Surrogate Country Comments), all dated June 29, 2017.

⁸⁰ See Letters from the petitioner, "Multilayered Wood Flooring from the People's Republic of China" (Petitioner SV Comments), and Jiangsu Senmao, "Multilayered Wood Flooring from the People's Republic of China: Comments Regarding Surrogate Value Selection" (Jiangsu Senmao SV Comments), both dated July 27, 2017.

⁸¹ See Letter from Jiangsu Senmao, "Multilayered Wood Flooring from the People's Republic of China: Rebuttal Surrogate Value Comments" dated August 3, 2017.

⁸² See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin).

the same level of economic development as the NME country unless it is determined that none of the countries are viable options because, either (a) they are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons.⁸³ Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at the same level of economic development, Commerce generally relies on GNI data from the World Bank's World Development Report.⁸⁴ Further, Commerce has stated that it prefers to value all FOPs from a single surrogate country.⁸⁵

In the Surrogate Memorandum, Commerce identified Brazil, Mexico, Romania, Bulgaria, South Africa, and Thailand, pursuant to section 773(c)(4) of the Act, as countries that are at the same level of economic development as China based on per capita 2015 GNI data available in the World Development Report provided by the World Bank.⁸⁶ In their surrogate country comments, the petitioner, Lumber Liquidators, and Jiangsu Senmao argued that Commerce should select Romania as the primary surrogate country, however, the petitioner concluded that Thailand also would be a suitable country. In its comments, Jinqiao Flooring argued that all six countries offer data which could be used to value the FOPs. In their SV comments, both the petitioner and Jiangsu Senmao provided Romanian data with which to value the FOPs. Our surrogate country analysis follows below.

As indicated above, when selecting among several potential surrogate countries, Commerce's practice, in accordance with section 773(c)(1) of the Act, is to select a country that provides SV data which are product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and free of taxes and duties.⁸⁷ There is no hierarchy among these criteria. It is Commerce's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.⁸⁸

Economic Comparability

As explained in the Surrogate Memorandum, Commerce considers Brazil, Mexico, Romania, Bulgaria, South Africa, and Thailand to be at the same level of economic development as China.⁸⁹ Therefore, we consider all six countries as having satisfied this prong of the surrogate country selection criteria.⁹⁰

⁸³ See Surrogate Memorandum.

⁸⁴ *Id.*

⁸⁵ See 19 CFR 351.409(c)(2).

⁸⁶ See Surrogate Memorandum at the Attachment.

⁸⁷ See, e.g., *First Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010), and accompanying IDM at Comment 1.

⁸⁸ See, e.g., *Certain Steel Threaded Rod from the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013), and accompanying IDM at 7.

⁸⁹ See Surrogate Memorandum at the Attachment.

⁹⁰ See Section 773(c)(4)(A) of the Act.

Significant Producer of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce to value FOPs in a surrogate country that is a significant producer of comparable merchandise; however, neither the statute nor Commerce's regulations defines "significant" or "comparable." Given the absence of any definition in the statute or regulations, Commerce looks to other sources such as the Policy Bulletin for guidance. Commerce's practice is to evaluate whether production is significant based on characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics) and to determine whether merchandise is comparable on a case-by-case basis.⁹¹ Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"⁹² it does not preclude reliance on additional or alternative metrics. Where there is no production information, Commerce has relied upon export data from potential surrogate countries. With respect to comparability of merchandise, the Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."⁹³ Where there is no evidence of production of identical merchandise in a potential surrogate country, Commerce has determined whether merchandise is comparable to the subject merchandise on the basis of similarities in physical form and the extent of processing or on the basis of production factors (physical and non-physical) and factor intensities.⁹⁴ Because these characteristics are specific to the merchandise in question, the standard for "significant producer" will vary from case to case.⁹⁵ Based on the information placed on the record of this administrative review, Commerce determines that Brazil, Mexico, Romania, Bulgaria, South Africa, and Thailand are all significant producers of comparable merchandise.⁹⁶

Data Availability

The Policy Bulletin states that if more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, Commerce selects the primary surrogate country "with the best factors data."⁹⁷ Section 773(c)(1) of the Act instructs Commerce to value the FOPs based upon the best available information from an ME country or countries that Commerce considers appropriate. When evaluating SV data, Commerce considers several factors including whether SV data are publicly available, contemporaneous with the POR,

⁹¹ See, e.g., *Xanthan Gum from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2252 (January 10, 2013), and accompanying PDM at 7-8, unchanged in *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) (*Xanthan Gum*);

⁹² See *Conference Report to the 1988 Omnibus Trade & Competitiveness Act*, H.R. Rep. No. 100-576 (1988), at 590.

⁹³ See Policy Bulletin.

⁹⁴ *Id.*

⁹⁵ See Policy Bulletin at 1-2; see also, e.g., *Hardwood and Decorative Plywood from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and accompanying IDM at Comment 7.

⁹⁶ See Petitioner Surrogate Country Comments, Jinqiao Flooring Surrogate Country Comments, and Jiangsu Senmao Surrogate Country Comments.

⁹⁷ See Policy Bulletin at 2.

representative of a broad-market average, tax and duty-exclusive, and specific to the input.⁹⁸ There is no hierarchy among these criteria, and it is Commerce’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.⁹⁹ However, Commerce’s preference is to satisfy the breadth of these aforementioned selection factors,¹⁰⁰ and to value all FOPs in the primary surrogate country.¹⁰¹

We considered the SV data on the record and found that Romania is the only potential surrogate country for which the record contains usable data for valuing nearly all of the respondents’ FOPs.¹⁰² Further, we find that the Romanian data and financial statements on the record are of an acceptable quality for use as SVs.¹⁰³ The Romanian data generally are publicly available, contemporaneous with the POR, representative of broad-market averages, tax- and duty-exclusive, and specific to the inputs being valued. Thus, Commerce finds that the Romanian SV data satisfy the criteria for selecting SVs.

Given the above facts, Commerce preliminarily selects Romania as the primary surrogate country for this administrative review. Romania is at a comparable level of economic development pursuant to 773(c)(4) of the Act; is a significant producer of comparable merchandise; and has publicly available and reliable data for all the identified inputs submitted by interested parties. An explanation of the SV data used in our preliminary analysis is provided below in the “Normal Value” section of this memorandum.

Date of Sale

Pursuant to 19 CFR 351.401(i), Commerce normally will use the invoice date as the date of sale unless Commerce is satisfied that a different date better reflects the date on which the material terms of the sale are established. Jiangsu Senmao reported the invoice date as the date of sale, claiming that for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established based on the invoice date.¹⁰⁴ Therefore, in accordance with 19 CFR 351.401(i), and Commerce’s long-standing practice in determining the date of sale,¹⁰⁵

⁹⁸ See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2010-2011*, 78 FR 17350 (March 21, 2013), and accompanying IDM at Comment I(C).

⁹⁹ See Policy Bulletin.

¹⁰⁰ *Id.*

¹⁰¹ See, e.g., *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part*, 77 FR 63791 (October 17, 2012), and accompanying IDM at Comment 9.

¹⁰² See Commerce Memorandum, “Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People’s Republic of China; 2015-2016: Surrogate Values for the Preliminary Determination,” dated concurrently with this memorandum (Preliminary SV Memorandum); see, also, Petitioner SV Comments and Jiangsu Senmao SV Comments.

¹⁰³ See Jiangsu Senmao SV Comments.

¹⁰⁴ See Jiangsu Senmao AQR at A-14.

¹⁰⁵ See, e.g., *Certain Polyester Staple Fiber from the People’s Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review, and Intent To Revoke Order in Part*, 76 FR 40329 (July 8, 2011), unchanged in *Certain Polyester Staple Fiber from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, and Revocation of an Order in Part*, 76 FR 69702 (November 9, 2011); see also *Steel Wire Garment Hangers from the People’s Republic of China: Preliminary Results and Preliminary Rescission, in*

Commerce preliminarily determines that the invoice date is the most appropriate date to use as the date of sale.

Comparisons to Normal Value

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

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern our examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.¹⁰⁶

In certain investigations, Commerce 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.¹⁰⁷ Commerce 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 administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is

Part, of the First Antidumping Duty Administrative Review, 75 FR 68758 (November 9, 2010), unchanged in *First Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 27994, 27996 (May 13, 2011).

¹⁰⁶ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and the accompanying IDM at Comment 1; see, also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014).

¹⁰⁷ See, e.g., *Xanthan Gum LTFV Final Determination; Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A 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 codes) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR 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 Commerce uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

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

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A 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 A-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-A method, and application of the A-A 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 A-A 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, Commerce examines whether using only the A-A method can appropriately account for such differences. In

considering this question, Commerce 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 A-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the A-A method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.¹⁰⁸

B. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, Commerce preliminarily finds that 73.60 percent of Jiangsu Senmao's U.S. sales pass the Cohen's *d* test,¹⁰⁹ which confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods, and supports the consideration of an alternative to the A-A method for all sales. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the A-A method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the A-T method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the A-A method for all U.S. sales to calculate the weighted-average dumping margin for Jiangsu Senmao.¹¹⁰

U.S. Price

Export Price

In accordance with section 772(a) of the Act, EP is "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. We calculated EP for those sales because they represented the first sale to an unaffiliated party made before the date of importation and the use of CEP was not otherwise

¹⁰⁸ Commerce's application of its differential pricing methodology was recently upheld by the Court of Appeals for the Federal Circuit in *Apex Frozen Foods Pvt. Ltd. v. United States*, Court No. 2016-1789 (Fed. Cir. July 12, 2017).

¹⁰⁹ See Jiangsu Senmao Preliminary Calculation Memorandum.

¹¹⁰ *Id.*

warranted.¹¹¹ In accordance with section 772(c)(2)(A) of the Act, where appropriate, Commerce deducted from the starting price (gross unit price) to unaffiliated purchasers foreign inland freight, foreign brokerage and handling, customs duties, domestic brokerage and handling and other movement expenses incurred in China.¹¹² Additionally, in accordance with section 772(c)(2)(B) of the Act, Commerce deducted any irrecoverable value-added tax (VAT) from the starting price as explained below.

Value-Added Tax

Commerce's practice in NME cases is to subtract from EP or CEP the amount of any irrecoverable VAT, in accordance with section 772(c)(2)(B) of the Act.¹¹³ Commerce 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, Commerce will reduce the respondent's EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.¹¹⁴ Where the irrecoverable VAT is a fixed percentage of EP, Commerce makes a tax-neutral dumping comparison by reducing the U.S. price by this percentage.¹¹⁵ Thus, Commerce's methodology essentially amounts to performing two steps: (1) determining the amount (or rate) of the irrecoverable VAT tax included in the FOB price of the subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one.

Commerce requested that the mandatory respondents report net un-refunded VAT for the subject merchandise. Information placed on the record of this review indicates that, according to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is nine percent.¹¹⁶ Thus, for the purposes of these preliminary results, for all of Jiangsu Senmao's sales, Commerce reduced the price of each U.S. sale by the irrecoverable VAT rate of eight percent of gross unit price.¹¹⁷ We note that this is consistent with Commerce's policy and the intent of the statute, that dumping comparisons be tax-neutral.¹¹⁸

Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Commerce bases NV in an NME context on FOPs because the presence of government controls on various aspects of NME countries renders price comparisons

¹¹¹ See Jiangsu Senmao's AQR at Exhibit A-1.

¹¹² Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price, see Jiangsu Senmao Preliminary Calculation Memorandum.

¹¹³ See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481, 36483-84 (June 19, 2012) (*Methodological Change*).

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ See Jiangsu Senmao CDQR at C-32 and Jinqiao Flooring's CQR at 36.

¹¹⁷ See Jiangsu Senmao Preliminary Calculation Memorandum.

¹¹⁸ See *Methodological Change*.

and the calculation of production costs invalid under Commerce's normal methodologies.¹¹⁹ Therefore, we calculated 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 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.¹²⁰ We used the FOPs reported by Jiangsu Senmao for materials, energy, labor, by-products, packing and freight. In accordance with section 773(c) of the Act and 19 CFR 351.408(c)(1), we calculated NV by multiplying the reported per-unit FOP consumption rates by publicly available SVs.¹²¹

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Jiangsu Senmao for the POR. For a detailed discussion of the SVs used in this review, *see* Preliminary SV Memorandum.

As noted above, when selecting from among the available information for valuing FOPs, Commerce's practice is to select, to the extent practicable, SVs which are publicly available, broad market averages, contemporaneous with the POR or closest in time to the POR, product-specific, and tax-exclusive.¹²² In all instances, we valued FOPs using publicly available information that was contemporaneous with the POR; therefore, we did not adjust the SVs using inflation indices. In addition, as discussed in more detail below, where appropriate, we adjusted input prices by including freight costs to make them delivered prices. An overview of the SVs used to calculate a weighted-average dumping margin for Jiangsu Senmao is provided below.

1. Direct and Packing Materials

The record indicates that import statistics from the primary surrogate country, Romania, which are available through the *Global Trade Atlas*, are generally contemporaneous with the POR, publicly available, product-specific, tax-exclusive, and representative of a broad market average.¹²³ Thus, we based SVs for Jiangsu Senmao's direct materials and packing materials on these import values, except where noted below.¹²⁴

¹¹⁹ *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006).

¹²⁰ *See* section 773(c)(3)(A)-(D) of the Act.

¹²¹ *See* Jiangsu Senmao Preliminary Calculation Memorandum.

¹²² *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

¹²³ *See* Preliminary SV Memorandum.

¹²⁴ *Id.*

Pursuant to section 773(c)(5) of the Act and Commerce’s long-standing practice, Commerce is disregarding SVs if it has a reason to believe or suspect the source data may comprise subsidized prices.¹²⁵ In this regard, Commerce has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.¹²⁶ 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 POR, Commerce finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, Commerce has not used prices from those countries in calculating the Romanian import-based SVs.

Additionally, Commerce disregarded data from NME countries when calculating Romanian import-based per-unit SVs.¹²⁷ Commerce also excluded from the calculation of Romanian import-based per-unit SVs imports labeled as originating from an “unidentified” country because Commerce could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.¹²⁸

As appropriate, we added surrogate inland freight costs to import values used as SVs. We calculated freight SVs using the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest port to the factory that produced the subject merchandise, where appropriate. This adjustment is in accordance with the CAFC’s decision in *Sigma Corp.*¹²⁹ We valued truck freight expenses using average truck rates from the World Bank’s report, *Doing Business 2017: Romania (Doing Business)*.¹³⁰ This World Bank report gathers information concerning the distance and cost to transport a containerized shipment weighing 15 metric tons from the per-urban area of the economy’s largest business city to the country’s major port. We did not inflate or deflate this SV because it is contemporaneous with the POR.¹³¹

¹²⁵ See section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (June 29, 2015) (amending section 773(c)(5) of the Act to permit Commerce to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values); see also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).

¹²⁶ See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying IDM at 7-19; see also *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying IDM at 1; see also *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying IDM at 4; see also *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying IDM at IV.

¹²⁷ See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People’s Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People’s Republic of China*, 70 FR 24502 (May 10, 2005).

¹²⁸ *Id.*

¹²⁹ See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997) (*Sigma Corp.*).

¹³⁰ See Preliminary SV Memorandum.

¹³¹ *Id.*

2. Labor

In NME AD proceedings, Commerce prefers to value labor solely based on data from the primary surrogate country.¹³² In *Labor Methodologies*, Commerce determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.¹³³ Additionally, Commerce made a determination to use Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor (*i.e.*, wages, benefits, housing, training, etc.).¹³⁴

However, for these preliminary results, Commerce valued the labor input using data from the National Institute of Statistics of Romania data for 2016.¹³⁵ Although the National Institute of Statistics data are not from the ILO, we find that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, we decided to change to the use of ILO Chapter 6A from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.¹³⁶ We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Consistent with section 773(c)(1) of the Act, we continue to follow our practice of selecting the “best available information” to determine SVs for inputs, such as labor.¹³⁷ In this case, we find that the National Institute of Statistics of Romania data for 2016 are the best available information for valuing labor because the 2016 data are contemporaneous with the POI, industry-specific, and reflect all costs related to labor, including wages, benefits, housing, and training.

3. Financial Ratios

Commerce’s criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, their comparability to the respondent’s experience, and whether they are publicly available.¹³⁸ Moreover, to value factory overhead, selling, general, and administrative (SG&A) expenses and profit, Commerce

¹³² See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying IDM at 7-19; see also *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying IDM at 1; see also *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying IDM at 4; see also *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying IDM at IV.

¹³³ See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 16 FR 36092 (June 21, 2011) (*Labor Methodologies*).

¹³⁴ *Id.*

¹³⁵ See Preliminary SV Memorandum.

¹³⁶ See *Labor Methodologies*.

¹³⁷ See, e.g., *Xanthan Gum*, and accompanying IDM at Comment 6-C; and *Drawn Stainless Steel Sinks from the People’s Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013), and accompanying IDM at Comment 3.

¹³⁸ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People’s Republic of China*, 70 FR 24502 (May 10, 2005), and accompanying IDM at Comment 3.

normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.¹³⁹ In addition, the CIT has held that in the selection of surrogate producers, Commerce may consider how closely the surrogate producers approximate the NME producer's experience.¹⁴⁰

With respect to financial statements, the record contains one set of financial statements for Romanian producer, SC Sigstrat SA (Sigstrat), for the fiscal year ending December 31, 2016. As noted above, Commerce's preference is to value all FOPs in a single surrogate country pursuant to 19 CFR 351.408(c)(2). Accordingly, because we have a useable financial statement from the primary surrogate country, Romania, we have preliminarily used Sigstrat's financial statement for the calculation of surrogate financial ratios.¹⁴¹

4. *By-Products*

Commerce's practice is to grant the respondents an offset to the reported FOPs for by-products generated during the production of the subject merchandise if evidence is provided that such by-product has commercial value.¹⁴² Also, for waste or by-products sold to unaffiliated parties, it is Commerce's practice to offset NV costs with the sales revenue of the waste or by-product.¹⁴³ Jiangsu Senmao reported one by-product, wood scrap, generated in the production of subject merchandise.¹⁴⁴ Commerce's practice, as reflected in Commerce's antidumping questionnaire issued to Jiangsu Senmao, is to grant by-product offsets "for merchandise that is either sold or reintroduced into production during the POR, up to the amount of that byproduct/co-product actually produced during the POR."¹⁴⁵ Thus, to be eligible for an offset, a respondent must provide and substantiate the quantity of by-product it generated from the production of subject merchandise during the POR, as well as demonstrate that the by-product has commercial value.¹⁴⁶ Jiangsu Senmao provided production records demonstrating it reported recovered quantities of the by-product and that it later sold these recovered quantities.¹⁴⁷ Therefore, Commerce made an appropriate offset to the reported FOP for this by-product.

¹³⁹ See *Diamond Sawblades I* and accompanying IDM at Comment 2; see also section 773(c)(4) of the Act; 19 CFR 351.408(c)(4).

¹⁴⁰ See *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-54 (CIT 2002); see, also, *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005), and accompanying IDM at Comment 1.

¹⁴¹ See Preliminary SV Memorandum.

¹⁴² See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 54897 (September 19, 2005), and accompanying IDM at Scrap Offset.

¹⁴³ *Id.*

¹⁴⁴ See Jiangsu Senmao CDQR at D-18 and Preliminary SV Memorandum.

¹⁴⁵ See Jiangsu Senmao IQ.

¹⁴⁶ See *Narrow Woven Ribbons With Woven Selvage from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 41808 (July 19, 2010) (Ribbons), and accompanying IDM at Comment 2.

¹⁴⁷ See Preliminary SV Memorandum.

Adjustment Under Section 777A(f) of the Act

In applying section 777A(f) of the Act in this administrative review, Commerce 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 Commerce 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 Commerce to reduce the AD duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap. In conducting this analysis, Commerce has not concluded that concurrent application of NME ADs and CVDs necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

In order to examine the effects of concurrent countervailable subsidies in calculating antidumping margins for respondents in this review, Commerce requested that Jiangsu Senmao submit information with respect to subsidies relevant to its eligibility for an adjustment to the calculated weighted-average dumping margin.¹⁴⁸ Commerce examined whether Senmao demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacture; and (2) a cost-to-price link, *e.g.*, respondent's prices changed as a result of changes in the cost of manufacture.

Jiangsu Senmao identified one program that might apply during this POR, *i.e.* Provision of Electricity for Less Than Adequate Remuneration.¹⁴⁹ However, Jiangsu Senmao failed to state whether the subsidies received resulted in a change to their cost of manufacturing during the relevant period. Therefore, the subsidies-to-cost linkage was not satisfied. Additionally, because Jiangsu Senmao failed to identify a subsidies-to-cost link, they also failed to identify a cost-to-price linkage as no price fluctuations were tied directly to the change in cost associated with the subsidy identified in the relevant period. Accordingly, we made no adjustment for double remedies to Jiangsu Senmao's margin for the preliminary results.

Currency Conversion

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

¹⁴⁸ See Letter to Jiangsu Senmao, "Double Remedies Supplemental Questionnaire," dated November 9, 2017.

¹⁴⁹ See Letter from Jiangsu Senmao, "Double Remedies Supplemental Questionnaire Response," dated November 16, 2017.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree

Disagree

1/2/2018

X



Signed by: CHRISTIAN MARSH
Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

APPENDIX

Separate Rate Companies
A&W (Shanghai) Woods Co., Ltd.
Anhui Longhua Bamboo Product Co., Ltd.
Baishan Huafeng Wooden Product Co., Ltd.
Benxi Wood Company
Changzhou Hurd Flooring Co., Ltd.
Dalian Dajen Wood Co., Ltd.
Dalian Guhua Wood Product Co., Ltd.
Dalian Huade Wood Product Co., Ltd.
Dalian Huilong Wooden Products Co., Ltd.
Dalian Jaenmaken Wood Industry Co., Ltd.
Dalian Kemian Wood Industry Co., Ltd.

Dalian Xinjinghua Wood Co., Ltd.
Dongtai Fuan Universal Dynamics, LLC
Dunhua City Jisen Wood Industry Co., Ltd.
Dunhua City Dexin Wood Industry Co., Ltd.
Dunhua City Hongyuan Wood Industry Co., Ltd.
Dunhua City Wanrong Wood Industry Co., Ltd.
Dunhua Shengda Wood Industry Co., Ltd.
Dun Hua Sen Tai Wood Co., Ltd.
Fine Furniture (Shanghai) Limited
Fusong Jinlong Wooden Group Co., Ltd.
Fusong Jinqiu Wooden Product Co., Ltd.
Fusong Qianqiu Wooden Product Co., Ltd.
Guangzhou Panyu Kangda Board Co., Ltd.
Guangzhou Panyu Southern Star Co., Ltd.
HaiLin LinJing Wooden Products, Ltd.
Hangzhou Hanje Tec Co., Ltd.
Hunchun Forest Wolf Wooden Industry Co., Ltd.
Hunchun Xingjia Wooden Flooring Inc.
Huzhou Chenghang Wood Co., Ltd.
Huzhou Fulinmen Imp. & Exp. Co., Ltd.
Huzhou Jesonwood Co., Ltd.
Huzhou Sunergy World Trade Co., Ltd.
Jiangsu Guyu International Trading Co., Ltd.
Jiangsu Kentier Wood Co., Ltd.
Jiangsu Mingle Flooring Co.
Jiangsu Senmao Bamboo and Wood Industry Co., Ltd.
Jiangsu Simba Flooring Co., Ltd.
Jiashan Huijiale Decoration Material Co., Ltd.
Jiaxing Hengtong Wood Co., Ltd.
Jilin Xinyuan Wooden Industry Co., Ltd.
Karly Wood Product Limited

Kember Flooring, Inc.
Kemian Wood Industry (Kunshan) Co., Ltd.
Linyi Anying Wood Co., Ltd.
Linyi Youyou Wood Co., Ltd.
Metropolitan Hardwood Floors, Inc.
Mudanjiang Bosen Wood Industry Co., Ltd.
Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd.
Pinge Timber Manufacturing (Zhejiang) Co., Ltd.
Scholar Home (Shanghai) New Material Co. Ltd.
Shanghai Lairunde Wood Co., Ltd.
Shenyang Haobainian Wooden Co., Ltd.
Shenzhenshi Huanwei Woods Co., Ltd.
Sino-Maple (Jiangsu) Co., Ltd.
Suzhou Dongda Wood Co., Ltd.
Tongxiang Jisheng Import and Export Co., Ltd.
Xiamen Yung De Ornament Co., Ltd.
Xuzhou Antop International Trade Co., Ltd.
Xuzhou Shenghe Wood Co., Ltd.
Yekalon Industry, Inc.
Yihua Lifestyle Technology Co., Ltd.
Yingyi-Nature (Kunshan) Wood Industry Co., Ltd.
Zhejiang Biyork Wood Co., Ltd.
Zhejiang Dadongwu Green Home Wood Co., Ltd.
Zhejiang Fudeli Timber Industry Co., Ltd.
Zhejiang Fuerjia Wooden Co., Ltd.
Zhejiang Fuma Warm Technology Co., Ltd.
Zhejiang Longsen Lumbering Co., Ltd.
Zhejiang Shiyou Timber Co., Ltd.

No-Shipment Certifications
Anhui Boya Bamboo & Wood Products Co., Ltd.

Changbai Mountain Development and Protection Zone Hongtu Wood Industrial Co., Ltd.
Chinafloors Timber (China) Co, Ltd.
Dalian Jiahong Wood Industry Co., Ltd.
Guangzhou Homebon Timber Manufacturing Co., Ltd.
Huzhou Muyun Wood Co., Ltd.
Jiangsu Keri Wood Co., Ltd.
Jiangsu Yuhui International Trade Co., Ltd.
Jiashan On-Line Lumber Co., Ltd.
Kingman Floors Co., Ltd.
Les Planchers Mercier, Inc.
Linyi Bonn Flooring Manufacturing Co., Ltd.
Power Dekor Group Co., Ltd.
Shanghai Lizhong Wood Products Co., Ltd.
Zhejiang Shuimojiangnan New Material Technology Co., Ltd.
Zhejiang Simite Wooden Co., Ltd.

China-Wide Entity Companies
Anhui Suzhou Dongda Wood Co., Ltd.
Baishan Huafeng Wood Product Co., Ltd.
Baiying Furniture Manufacturer Co., Ltd.
Cheng Hang Wood Co., Ltd.
Dalian Jiuyuan Wood Industry Co., Ltd.
Dalian Qinqi Wooden Product Co., Ltd.
Dongtai Zhangshi Wood Industry Co., Ltd.
Fu Lik Timber (HK) Co., Ltd.
GTP International Ltd.
Guangdong Yihua Timber Industry Co., Ltd.
HaiLin Xincheng Wooden Products, Ltd.
Hangzhou Dazhuang Floor Co., Ltd. (dba Dasso Industrial Group Co., Ltd.)
Hangzhou Huahi Wood Industry Co., Ltd.
Huber Engineering Wood Corp.

Huzhou City Nanxun Guangda Wood Co., Ltd.
Huzhou Fuma Wood Co., Ltd.
Jiafeng Wood (Suzhou) Co., Ltd.
Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.
Qingdao Barry Flooring Co., Ltd.
Shandong Kaiyuan Wood Industry Co., Ltd.
Shanghai Anxin (Weiguang) Timber Co., Ltd.
Shanghai Eswell Timber Co., Ltd.
Shanghai New Sihe Wood Co., Ltd.
Shanghai Shenlin Corporation
Vicwood Industry (Suzhou) Co., Ltd.
Yixing Lion-King Timber Industry
Zhejiang AnJi Xinfeng Bamboo and Wood Industry Co., d.
Zhejiang Desheng Wood Industry Co., Ltd.
Zhejiang Haoyun Wooden Co., Ltd.