



A-570-062
Investigation
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July 5, 2018

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

FROM: Wendy J. Frankel
Director, U.S. Customs and Border Protection Liaison Unit
Antidumping and Countervailing Duty Operations
Enforcement and Compliance

SUBJECT: Issues and Decision Memorandum for the Final Affirmative
Determination in the Less-Than-Fair-Value Investigation of Cast
Iron Soil Pipe Fittings from the People's Republic of China

I. SUMMARY

The Department of Commerce (Commerce) finds that cast iron soil pipe fittings (soil pipe fittings) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in Section 735 of the Tariff Act of 1930, as amended (the Act). Below is the complete list of the issues in this investigation for which we received comments from interested parties:

General Issues

- Comment 1: What Rate to Assign as Adverse Facts Available (AFA) to Sibos and the China-Wide Entity
- Comment 2: Surrogate Country Selection
- Comment 3: Adjusting the Global Trade Atlas (GTA) Import Data for Movement Expenses
- Comment 4: Treatment of Certain Inputs as Materials or Overhead
- Comment 5: Reintroduced Materials
- Comment 6: Surrogate Value for Coated Sand
- Comment 7: Calculating the Margins on a Consistent Basis
- Comment 8: Calculation of Movement Expenses
- Comment 9: Non-Refundable Value Added Tax (VAT)
- Comment 10: Record-Keeping Deficiencies

Wor-Biz Issues

- Comment 11: Surrogate Value for Asphalt Paint

Comment 12: Surrogate Value for Paint Thinner
Comment 13: Calculation of Freight Revenue

Xuanshi Issues

Comment 14: Surrogate Value for Pig Iron
Comment 15: Surrogate Values for Iron Ore and Coke
Comment 16: Calculation of the Slag Iron By-Product Offset
Comment 17: Calculation of the Packing Material Consumption Rates
Comment 18: Surrogate Values for Inland and Ocean Freight

II. BACKGROUND

A. Case History

On February 20, 2018, Commerce published its *Preliminary Determination* for this investigation.¹ We invited interested parties to comment. On March 1, 2018, we received ministerial error allegations from the Cast Iron Soil Pipe Institute (the petitioner).² On March 6, 2018, Sibio International Limited (Sibio) formally withdrew from participating in this investigation.³ On March 14, 2018, Wor-Biz Trading Co., Ltd. (Anhui) (Wor-Biz) and Shanxi Xuanshi Industrial Group Co., Ltd. (Xuanshi) requested a hearing.⁴ On March 27, 2018, we received pre-verification comments from the petitioner.⁵ On the same day, we issued our response to the petitioner’s ministerial error allegations.⁶ Xuanshi submitted a rebuttal to the petitioner’s pre-verification comments on March 30, 2018.⁷ Between April 2, 2018, and April 10, 2018, we conducted verifications of the questionnaire responses of Wor-Biz, Wor-Biz’s supplier, Guang Zhou Premier & Pinan Foundry Co., Ltd. (Guangzhou Premier), and Xuanshi.⁸

¹ See *Cast Iron Soil Pipe Fittings from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 83 FR 7145 (February 20, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).

² See Petitioner’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Ministerial Error Comments,” dated March 1, 2018 (Ministerial Error Comments).

³ See Sibio’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China - Withdrawal of Participation in Antidumping Duty Investigation,” dated March 6, 2018 (Sibio’s Withdrawal Letter).

⁴ See Wor-Biz’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Request for a Hearing,” and Xuanshi’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China, A– 570–062; Request for Hearing,” both dated March 14, 2018.

⁵ See Petitioner’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Pre-Verification Comments,” dated March 27, 2018 (Petitioner’s Pre-Verification Comments).

⁶ See Memorandum, “Less-Than-Fair-Value Investigation on Cast Iron Soil Pipe Fittings from the People’s Republic of China: Ministerial Error Allegations in the Preliminary Determination,” dated March 27, 2018 (Ministerial Error Allegation Memorandum).

⁷ See Xuanshi’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China (“Soil Pipe Fittings”); A-570-062; Response to Petitioner’s Pre-Verification Comments,” dated March 30, 2018 (Xuanshi’s Rebuttal Pre-Verification Comments).

⁸ See Memoranda, “Verification of the Questionnaire Responses of Wor-Biz Trading Co., Ltd. and its Supplier in the Antidumping Investigation of Cast Iron Soil Pipe Fittings from People’s Republic of China” (Wor-Biz Verification Report); “Verification of the Questionnaire Responses of NewAge Casting LP in the Antidumping Investigation of Cast Iron Soil Pipe Fittings from the People’s Republic of China” (NewAge Verification Report); and “Verification

On June 6, 2018, the petitioner, Wor-Biz, and Shanxi, filed case briefs.⁹ On June 8, 2018, Commerce rejected the petitioner’s case brief due to certain errors in the marking of business proprietary information, and gave the petitioner an opportunity to re-file its case brief correcting such errors.¹⁰ On June 8, 2018, the petitioner re-filed its case brief.¹¹ On June 12, 2018, the petitioner, Wor-Biz, Shanxi, the STR Group,¹² and Dalian Lino F.T.Z. Co., Ltd. (Dalian Lino) filed rebuttal briefs.¹³ On June 15, 2018, both Wor-Biz and Xuanshi withdrew their requests for a hearing.¹⁴ We note that all comments related to the scope of this investigation are the subject of a final scope decision memorandum, dated concurrently with this memorandum.¹⁵

B. Period of Investigation

The period of investigation (POI) is January 1, 2017, through June 30, 2017.

III. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES

In the *Preliminary Determination*, we determined that critical circumstances exist for Sibos, the non-individually examined respondents, and the China-wide entity, but did not exist for Wor-Biz and Xuanshi.¹⁶

of the Questionnaire Responses of Shanxi Xuanshi Industrial Group Co., Ltd. in the Antidumping Investigation of Cast Iron Soil Pipe Fittings from the People’s Republic of China” (Xuanshi Verification Report), all dated May 29, 2018.

⁹ See Petitioner’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Petitioner’s Case Brief” (rejected); Wor-Biz’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Submission of Administrative Case Brief” (Wor-Biz’s Case Brief); and Xuanshi’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China (“Soil Pipe Fittings”); A-570-062; Case Brief” (Xuanshi’s Case Brief), all dated June 6, 2018.

¹⁰ See Memorandum, “Less Than Fair Value Investigation of Cast Iron Soil Pipe Fittings from the People’s Republic of China: Case Brief Filed on Behalf of the Petitioner,” dated June 8, 2018.

¹¹ See Petitioner’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Petitioner’s Case Brief,” dated June 8, 2018 (Petitioner’s Case Brief).

¹² The “STR Group” consists of Dinggin Hardware (Dalian) Co., Ltd. (Dinggin Hardware), Shanxi Zhongrui Tianyue Trading Co., Ltd., Hebei Metals & Engineering Products Trading Co., Ltd., Shijiazhuang Jipeng Imp. and Exp. Co., Ltd., Dalian Metal I/E Co., Ltd., Qinshui Shunshida Casting Co., Ltd., Richang Qiaoshan Trade Co., Ltd., and Shijiazhuang Axiya Casting Co., Ltd.

¹³ See Petitioner’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Petitioner’s Rebuttal Brief” (Petitioner’s Rebuttal Brief); Wor-Biz’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Submission of Administrative Rebuttal Brief” (Wor-Biz’s Rebuttal Brief); Xuanshi’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China (“Soil Pipe Fittings”); A-570-062; Rebuttal Brief” (Xuanshi’s Rebuttal Brief); the STR Group’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China (“Soil Pipe Fittings”); A-570-062; Rebuttal Brief” (STR Group’s Rebuttal Brief); and Dalian Lino’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Submission of Administrative Rebuttal Brief” (Dalian Lino’s Rebuttal Brief), all dated June 12, 2018.

¹⁴ See Wor-Biz’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Withdrawal of Request for Hearing,” and Xuanshi’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China (“Soil Pipe Fittings”); A-570-062; Withdraw Hearing Request,” both dated June 15, 2018.

¹⁵ See Memorandum, “Countervailing Duty and Less-Than-Fair-Value Investigations of Cast Iron Soil Pipe Fittings from the People’s Republic of China: Final Scope Memorandum” (Final Scope Memorandum), dated concurrently with this memorandum.

¹⁶ See *Preliminary Determination*, and accompanying PDM at 33 – 34.

Specifically, we found no history of injurious dumping pursuant to section 733(a)(3)(A)(i) of the Act, but sufficient basis to impute knowledge of dumping, pursuant to section 733(a)(3)(A)(ii) of the Act, as the level of margins for Sibbo, Wor-Biz, Xuanshi, the non-individually examined respondents, and the China-wide entity exceeded the threshold for imputing such knowledge (*i.e.*, 25 percent or more for EP sales and 15 percent or more for CEP sales). However, we determined, pursuant to section 733(e)(1)(B) and 19 CFR 351.206(h) of the Act, that imports of subject merchandise from Wor-Biz and Xuanshi were not massive over a relatively short period, as subject-merchandise shipments from these companies did not increase by at least 15 percent between the base and comparison periods. We further determined, based on company-specific shipment data for Sibbo, GTA import statistics for the non-individually examined respondents, and AFA for the China-wide entity, that imports of subject merchandise were massive over a relatively short period.¹⁷

For the final determination, our findings with respect to the history of injurious dumping and knowledge of dumping, pursuant to sections 735(a)(3)(A)(i) and (ii) of the Act, respectively, remain the same as in the *Preliminary Determination*. With respect to massive imports, pursuant to section 735(a)(3)(B) of the Act and 19 CFR 351.206(h), we continue to find, based on updated shipment data, as verified by Commerce, that there were not massive imports over a relatively short period for Wor-Biz and Xuanshi and that critical circumstances, therefore, do not exist for these companies.¹⁸ In addition, based on updated GTA import statistics, we do not find that massive imports over a relatively short period exist for the non-individually examined respondents for the final determination. However, we continue to find that the China-wide entity had massive imports over a relatively short period, and that critical circumstances continue to exist for the China-wide entity in accordance with sections 735(a)(3)(B) and 776(a) and (b) of the Act and 19 CFR 351.206.¹⁹ Additionally, because we find Sibbo to be part of the China-wide entity, as discussed further below, Sibbo is subject to the same affirmative critical circumstances determination.

IV. CHINA-WIDE RATE

In the *Preliminary Determination*, because the China-wide entity did not respond to Commerce's requests for information, we found that it failed to provide necessary information, withheld information requested by Commerce, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information.²⁰ We further determined that, because Yangcheng County Huawang Universal Spun Cast Pipe Foundry (Huawang Foundry) and 16 non-responsive companies had not demonstrated their eligibility for separate rate status, they are also part of the China-wide entity.²¹ Finally, we preliminarily

¹⁷ See *Preliminary Determination*, and accompanying PDM at 30 – 34 for complete discussion.

¹⁸ See Memorandum, "Less-Than-Fair-Value Investigation of Cast Iron Soil Pipe Fittings from the People's Republic of China: Final Critical Circumstances Massive Imports Analysis," dated concurrently with this memorandum.

¹⁹ *Id.*

²⁰ See *Preliminary Determination*, and accompanying PDM at 16.

²¹ *Id.* These non-responsive companies include: Dinsen Impex Corporation; Handan County Conscience Cast Iron Pipe Co. Ltd.; Hebei Beisai Metal Products Co. Ltd.; Heng Tong Casting Co. Ltd.; L&Y Interior Decoration Material Co.; Leisure International Company Limited; Nanpi County Daqiang Hardware Products; Qingdao

assigned a China-wide rate based on facts available, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act, applying an adverse inference, pursuant to 776(b) of the Act.

No parties commented on this preliminary finding, and we continue to find that the China-wide entity failed to cooperate to the best of its ability in responding to Commerce's requests for information. Therefore, for the final determination, we continue to apply AFA to the China-wide entity.

In selecting the AFA rate for the China-wide entity, Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.²² Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition; or, (b) the highest calculated dumping margin of any respondent in the investigation.²³

In the *Preliminary Determination*, Commerce used the margin preliminarily calculated for Sibos as the AFA rate for the China-wide entity because it was higher than the highest petition rate.²⁴ After the *Preliminary Determination*, but prior to Commerce's verification, Sibos withdrew from participating in this investigation.²⁵ Therefore, as described in more detail in Comment 1, we were unable to verify Sibos's information submitted in support of its separate rate eligibility claim and, accordingly, Sibos has not demonstrated eligibility for a separate rate and is part of the China-wide entity. To ensure that the China-wide entity, which includes Sibos, does not benefit from its lack of cooperation, and to select a sufficiently adverse rate to induce cooperation in the future, for the final determination, we have selected Sibos's highest control-number (CONNUM)-specific rate within the mainstream of transaction-specific dumping margins, 360.39 percent, as the AFA rate for the China-wide entity.²⁶ Commerce is not required to corroborate this rate because it was obtained in the course of this investigation and, therefore, is not secondary information.²⁷

Hengtong Casting Co., Ltd.; Shijiazhuang Casting Trading Co., Ltd.; Shijiazhuang Shunjinguangao Trade Co., Ltd.; Snode Pipes Product; Taiyuan Water Industrial Co., Ltd.; Zezhou Golden Autumn Foundry Co. Ltd.; Hua Wang Universal Spun Casting Co.; Shijiazhuang Jipeng Imp. and Exp. Co., Ltd.; and, Kingway Pipe Co., Ltd.

²² See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (SAA) at 870.

²³ See, e.g., *Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17436, 17438 (March 26, 2012); *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum (IDM).

²⁴ See *Preliminary Determination*.

²⁵ See Sibos's Withdrawal Letter.

²⁶ See Memorandum, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Final AFA Rate for the China-wide Entity," dated concurrently with this memorandum (AFA Rate Memorandum).

²⁷ See section 776(c) of the Act ("when {Commerce} relies on *secondary information rather than on information obtained in the course of an investigation* or review, {Commerce}, as the case may be, shall, to the extent practicable, corroborate that information from independent sources that are reasonably at their disposal (emphasis added)."). See also, e.g., *Certain Tool Chests and Cabinets from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 15365 (April 10, 2018) (*Tool Chests – China*), and accompanying IDM at 3 and Comment 1.

V. SEPARATE RATES

Commerce preliminarily determined that Wor-Biz, Xuanshi, Sibbo, Dalian Lino, Dalian Metal I/E Co., Ltd., Dinggin Hardware, Hebei Metals & Engineering Products Trading Co., Ltd., Qinshui Shunshida Casting Co., Ltd., Richang Qiaoshan Trade Co. Ltd., Shanxi Zhongrui Tianyue Trading Co., Ltd., and Shijiazhuang Asia Casting Co., Ltd. are eligible for separate rates.²⁸ No parties commented on this preliminary finding, and with the exception of Sibbo, the facts have not changed with respect to these companies. Therefore, with the exception of Sibbo, we continue to grant separate rates to these companies in this final determination.

As discussed above, we have denied Sibbo a separate rate in this final determination. The petitioner argues that, notwithstanding this determination, we should continue to calculate a final weighted-average dumping margin for Sibbo, and include that margin in our calculation of the final rate for the non-selected companies.²⁹ However, we determined that we are unable to rely on information submitted by Sibbo, as Sibbo withdrew from participation in this investigation prior to verification. Therefore, as discussed further below in Comment 1, we did not calculate a final rate for Sibbo separate from the AFA rate assigned to the China-wide entity. The rate applicable to the non-selected companies for this final determination is the simple average of the final dumping margins calculated for Xuanshi and Wor-Biz.³⁰

VI. ADJUSTMENTS FOR COUNTERAVAILABLE EXPORT SUBSIDIES

In the *Preliminary Determination*, we determined that Xuanshi and Wor-Biz benefitted from export subsidies.³¹ Specifically, for Xuanshi we found that an export subsidy adjustment of 0.09 percent to the cash deposit rate was warranted.³² For Wor-Biz, we found an export subsidy adjustment of 0.23 percent to the cash deposit rate was warranted.³³ With respect to the separate rate companies, we found that an export subsidy adjustment of 0.16 percent to the cash deposit rate was warranted because this export subsidy rate was included in the calculation of the

²⁸ See *Preliminary Determination*, and accompanying PDM at 9 – 14.

²⁹ See Petitioner's Case Brief at 77 – 79, citing to *Notice of Final Determination of Sales at Less Than Fair Value: Live Cattle from Canada*, 64 FR 56739 (October 21, 1999) (*Live Cattle – Canada*), and accompanying IDM at Comment 1.

³⁰ See Memorandum, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Calculation of the Final Margin for Separate Rate Companies," dated concurrently with this memorandum (Separate Rate Calculation Memorandum). As noted by the petitioner in its case brief, we inadvertently excluded an explanation of our preliminary separate rate margin calculation from the administrative record. The petitioner requested in its case brief that Commerce release this preliminary calculation, however, we have not done so because the preliminary calculation has been superseded by the revised final separate rate margin calculation, detailed in the Separate Rate Calculation Memorandum.

³¹ See *Preliminary Determination* and accompanying PDM at 34.

³² See Memorandum, "Antidumping Duty Investigation of Cast Iron Soil Pipe Fittings from the People's Republic of China: Preliminary Determination Margin Calculation for Shanxi Xuanshi Industrial Group Co., Ltd.," dated February 12, 2018 (Xuanshi Preliminary Calculation Memorandum).

³³ See Memorandum, "Antidumping Duty Investigation of Cast Iron Soil Pipe Fittings from the People's Republic of China: Preliminary Determination Margin Calculation for Wor-Biz Trading Co., Ltd.," dated February 12, 2018 (Wor-Biz Preliminary Calculation Memorandum).

countervailing duty (CVD) all-others rate, to which these companies are subject in the companion CVD proceeding.³⁴ For the China-wide entity, which preliminarily received an AFA margin, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, Commerce adjusted the China-wide entity's AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding. That rate was 0.09 percent.

As no party commented on these preliminary determinations, and as these facts remain unchanged,³⁵ we have continued to apply the above adjustments to the cash deposit rates in this final determination.

VII. CHANGES SINCE THE PRELIMINARY DETERMINATION

Based on our analysis of the comments submitted by interested parties and our findings at verification, we made the following changes to the *Preliminary Determination*.³⁶

- We based the final margin calculations on revised databases submitted by Xuanshi and Wor-Biz reflecting the minor corrections accepted at verification.³⁷
- We recalculated Wor-Biz's reported early payment discounts based on verification findings. *See* Wor-Biz Final Calculation Memorandum.
- We denied Sibos a separate rate and, therefore, consider Sibos to be part of the China-wide entity. *See* Comment 1.
- We revised the dumping margin assigned to the China-wide entity. *See also* Comment 1.
- We calculated a weighted-average surrogate value for coated sand using the Harmonized Tariff Schedule (HTS) categories for sand (250510) and resin binder (382410). *See* Comment 6.
- We converted the surrogate value for wooden strips and cradle from a per-piece basis to a per-kilogram (KG) basis. *See* Final Surrogate Value Memorandum.³⁸
- We converted the South African GTA import data from a free-on-board (FOB) basis to a cost-insurance-freight (CIF) basis. *See* Comment 3. *See also* Final Surrogate Value Memorandum.

³⁴ *See* *Cast Iron Soil Pipe Fittings from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 82 FR 60178 (December 19, 2017), and accompanying PDM.

³⁵ *See* *Cast Iron Soil Pipe Fittings from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, and accompanying IDM, dated concurrently with this memorandum.

³⁶ *See* Memoranda, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Final Determination Margin Calculation for Wor-Biz Trading Co., Ltd." (Wor-Biz Final Calculation Memorandum) and "Cast Iron Soil Pipe Fittings from China: Final Determination Margin Calculation for Shanxi Xuanshi Industrial Group Co., Ltd.," (Xuanshi Final Calculation Memorandum), both dated concurrently with this memorandum.

³⁷ *See* Wor-Biz's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Submission of Pre-Verification Corrections," dated June 11, 2018; *see also* Xuanshi's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China ("Soil Pipe Fittings"); A-570-062; Reply to Department Request of May 31, 2018," dated June 12, 2018.

³⁸ *See* Memorandum, "Cast Iron Soil Pipes from the People's Republic of China: Surrogate Values for the Final Determination," dated concurrently with this memorandum (Final Surrogate Value Memorandum).

- For Xuanshi’s and Wor-Biz’s margin calculations, we multiplied the consumption rates for all factors of production (FOPs) by the weight of the fitting. *See* Comment 7. *See also* Xuanshi Final Calculation Memorandum and Wor-Biz Final Calculation Memorandum.³⁹
- We revised the calculations for movement expenses to be calculated on a gross weight basis rather than on a net weight basis where appropriate. *See* Comment 8.
- We revised the surrogate value for asphalt paint based on an HTS number that is more specific to the input used in production by Wor-Biz. *See* Comment 11.
- We capped the reported freight revenue by the applicable inland freight expense. *See* Comment 13.

VIII. DISCUSSION OF ISSUES

General Issues

Comment 1: What Rate to Assign as AFA to Sibio and the China-Wide Entity

Petitioner’s Comments:

- After the *Preliminary Determination*, Sibio provided contradictory information regarding its eligibility for a separate rate and then withdrew from participation in the investigation; therefore, Sibio should be denied a separate rate.⁴⁰
- The rate assigned as AFA to Sibio and the China-wide entity should be the highest CONNUM-specific margin calculated for Sibio, consistent with *Tool Chests – China*.⁴¹
- Further, in *Steel Nails – China*, Commerce used the respondent’s information to calculate its preliminary margin even after its withdrawal, because the preliminary calculated margin was higher than the petition margin. For the final determination, Commerce recalculated the respondent’s margin in accordance with relevant comments in the case briefs.⁴²
- Commerce may consider the extent to which a party may benefit from its own lack of cooperation when considering the application of an adverse inference.⁴³
- Use of the highest of Sibio’s preliminary CONNUM-specific margins may benefit Sibio and the China-wide entity, as arguments have been raised that warrant recalculation of

³⁹ *See* Xuanshi Final Calculation Memorandum and Wor-Biz Final Calculation Memorandum.

⁴⁰ *See* Petitioner’s Case Brief at 67 – 71.

⁴¹ *Id.* at 72, citing to citing to *Certain Tool Chests and Cabinets from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 82 FR 53456 (November 16, 2017) (*Tool Chests – China*), and *Polyethylene Retail Carrier Bags from Indonesia*, 75 FR 16431 (April 1, 2010) (*Retail Carrier Bags – Indonesia*), and accompanying IDM at Comment 6.

⁴² *Id.* at 74 – 75, citing *Certain Steel Nails from the People’s Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments*; 2015-2016, 82 FR 42291 (September 7, 2017), and *Certain Steel Nails from the People’s Republic of China*, 83 FR 11683 (March 16, 2018), and accompanying IDM at Comment 4A and 6 (collectively, *Steel Nails – China*).

⁴³ *Id.* at 73 – 75, citing to *Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1381 – 1383 (CAFC 2003), and *Ta Chen Stainless Steel Pipe, Inc. v. United States*, 298 F. 3d 1330, 1339 (CAFC 2002).

the respondents' preliminary margins. Thus, Sib0 may have received a higher CONNUM-specific margin had it continued to participate.

- Therefore, consistent with previous practice, Commerce should recalculate Sib0's margin, incorporating the arguments raised, to ensure that Sib0's failure to cooperate does not benefit Sib0 or the China-wide entity.
- If Commerce accepts the changes recommended in the case briefs, Sib0's highest CONNUM-specific margin will likely increase.
- Therefore, Commerce should recalculate Sib0's margin consistent with the final surrogate values and methodologies recommended by the petitioner, and then assign Sib0's highest CONNUM-specific margin to Sib0 and the China-wide entity.

STR Group's Rebuttal:

- Should Commerce base Sib0's rate on AFA, it should not include Sib0's rate in calculating the rate for the separate rate applicant (SRA) respondents.⁴⁴
- In addition to normal practice,⁴⁵ Commerce cannot apply a rate based on adverse facts to SRA respondents, as to do so would be in violation of the 8th Amendment of the U.S. Constitution.⁴⁶

Commerce Position:

Sib0's preliminary calculated margin (109.95 percent) was higher than the highest petition margin (92.48 percent). Therefore, Sib0's preliminary calculated margin was assigned as AFA to the China-wide entity in the *Preliminary Determination*. Further, as stated above, we were unable to verify Sib0's responses to the separate rate portion of the antidumping duty questionnaire, and accordingly, have considered Sib0 to be a part of the China-wide entity.⁴⁷ In cases where a mandatory respondent has withdrawn after the preliminary determination, and the preliminary margin is based on an average-to-average price comparison, as here, we have assigned that respondent's highest CONNUM-specific margin calculated in the preliminary determination as AFA for the final determination, to ensure that the respondent and the China-wide entity do not benefit from a lack of participation, and to induce cooperation in future investigations.⁴⁸

In a recent investigation involving a similar fact pattern, *Tool Chests – China*, we assigned the uncooperative respondent its highest CONNUM-specific margin calculated in the preliminary determination as AFA, and we made no revisions to the preliminary margin calculations.⁴⁹ This

⁴⁴ See STR Group's Rebuttal Brief at 2 – 5.

⁴⁵ *Id.* at 3 – 4, citing to *Changzhou Wujin Fine Chemical Factory Co., Ltd. v. United States*, 701 F. 3d 1367 (CAFC 2012).

⁴⁶ *Id.* at 4, citing to *Austin v. United States*, 509 U.S. 602 (1993).

⁴⁷ See Sib0's Withdrawal Letter.

⁴⁸ See, e.g., *Tool Chests – China* and *Retail Carrier Bags – Indonesia*. See also, e.g., *Certain Tool Chests and Cabinets from the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value* 83 FR 15361 (April 10, 2018) (*Tool Chests – Vietnam*); *Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 14514 (March 31, 2009) (*Line Pipe – China*); and *Circular Welded Austenitic Stainless from the People's Republic of China*, 74 FR 4913 (January 28, 2009) (*Pressure Pipe – China*).

⁴⁹ See *Tool Chests – China* and accompanying IDM at 4.

approach is consistent with other cases with similar facts where the only adjustment Commerce made to a respondent's preliminary dumping margin was to correct ministerial errors.⁵⁰ We found no ministerial errors with respect to Sibos preliminary margin calculation in this case.⁵¹

The facts in *Steel Nails – China*, the administrative review cited by the petitioner as the basis for its argument to recalculate Sibos margins before selecting its highest CONNUM-specific margin, differ significantly from this case. In *Steel Nails – China*, we preliminarily granted the respondent a separate rate, notwithstanding its withdrawal prior to the preliminary determination, “to ensure the respondent {did} not benefit from its non-cooperation.” Although we adjusted that respondent’s rate based on changes for the final determination, upon further review, we denied that respondent a separate rate and assigned the petition margin as AFA to the respondent and to the China-wide entity.⁵² Here, assigning Sibos highest CONNUM-specific margin calculated in the *Preliminary Determination* as AFA to the China-wide entity inclusive of Sibos likely eliminates the possibility that Sibos and the China-wide entity would benefit from non-cooperation.⁵³

Further, while the Act does not require Commerce to corroborate a dumping margin calculated based on information obtained in the course of an investigation, the Court has rejected margins found to be punitive, aberrational, or uncorroborated. The above-*de minimis* CONNUM-specific margins calculated for Sibos in the *Preliminary Determination* are listed in a business proprietary memorandum.⁵⁴ The highest CONNUM-specific margin falling within the mainstream of transaction-specific dumping margins is 360.39 percent.⁵⁵ This margin is non-aberrational because it falls within the mainstream of Sibos transaction-specific margins, and is non-punitive because it reflects the pricing information that Sibos itself reported. We have therefore assigned 360.39 percent as AFA to the China-wide entity inclusive of Sibos for the final determination.⁵⁶

Finally, as discussed above in the Separate Rates section of this memorandum, the petitioner also argues that Sibos recalculated margin should be incorporated into the calculation of the final margin for the non-selected companies receiving separate rates, because Sibos withdrawal affects this rate.⁵⁷ We have not done so, however, pursuant to Section 735(c)(5)(A) of the Act, which provides that the estimated “all-others” rate is calculated exclusive of margins determined entirely under section 776 of Act, as is the case for Sibos.

⁵⁰ *Id.* See also, e.g., *Tool Chests – Vietnam, Line Pipe – China, Pressure Pipe – China*.

⁵¹ See Ministerial Error Allegation Memorandum.

⁵² See *Steel Nails – China*.

⁵³ We further note, given the changes to the rates of the other mandatory respondents resulting from our revisions to their preliminary margin calculations, the most likely scenario in which Sibos might benefit from its lack of participation would be if we did, in fact, recalculate its margin for the final determination.

⁵⁴ See AFA Rate Memorandum.

⁵⁵ *Id.*

⁵⁶ See, e.g., *Biodiesel from Indonesia: Final Determination of Sales at Less Than Fair Value*, 83 FR 8835, (March 1, 2018) (*Biodiesel – Indonesia*), and accompanying IDM at Comment 9 (assigning as AFA a rate “within the mainstream of {the respondent’s} other calculated rates”).

⁵⁷ See Petitioner’s Case Brief at 77 – 79. The STR Group’s and Dalian Lino’s rebuttal briefs rebut the petitioner’s argument.

Comment 2: Surrogate Country Selection

Petitioner's Comments

- Brazil is the appropriate surrogate country, as the only reason that Commerce provided for choosing South Africa over Brazil was its conclusion that Tupy Brazil's 2015 financial statement was not contemporaneous with the POI.⁵⁸
- However, the financial statement Commerce used, Tata Africa's 2016 financial statement, is not contemporaneous with the POI either; the POI is January 1, 2017, through June 30, 2017, while Tata Africa's 2016 financial statement is for the year ended March 31, 2016.
- Further, Tupy Brazil produces more comparable merchandise than does Tata Africa; Tupy Brazil is mostly a producer of cast iron products, while the record indicates that Tata Africa is a steel processor and producer of aluminum wire rod.⁵⁹
- Tata Africa is "technically insolvent,"⁶⁰ and Commerce has a long practice of rejecting financial statements of companies that are insolvent or that have anomalies such as significant interest-free loans.⁶¹
- Should Commerce find Tupy Brazil's 2015 financial statement unusable, Commerce should use Tupy Brazil's 2017 financial statement. The statement has been used in a recent AD investigation,⁶² and Commerce may place factual information on the record of the proceeding at any time.⁶³
- Given Commerce's preference to source all surrogate values from one country, all other surrogate values should come from Brazil.

Wor-Biz's Rebuttal

- Commerce's preliminary determination that South Africa is the appropriate surrogate country is supported by substantial evidence on the administrative record and is otherwise in accordance with the law.⁶⁴
- As correctly noted by Commerce, South Africa: (1) is the at same level of economic development as China; (2) is a significant producer of merchandise comparable to the subject merchandise such that can be determined from the information available; and (3) provides the best usable data and information with which to value factors of production

⁵⁸ See Petitioner's Case Brief at 2 – 8, citing to *Preliminary Determination*, and accompanying PDM at 7.

⁵⁹ *Id.* at 5, citing to Petitioner's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Comments on Surrogate Value Selection," dated December 1, 2017 (Petitioner's December 1, 2017 SV Comments), at 5 – 7 and Exhibit IV-B; and, *Cast Iron Soil Pipe Fittings from the People's Republic of China: Initiation of Less Than Fair Value Investigation*, 82 FR 37053 (August 8, 2017) (*Initiation Notice*) at 37056.

⁶⁰ *Id.* at 5 – 7, citing to Petitioner's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Response to Supplemental Questions – Antidumping Duties," dated July 26, 2017 (Amended Petition) at Exhibit 11.

⁶¹ *Id.* at 7, citing to *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China*, 83 FR 55574 (November 22, 2017), and accompanying IDM at 30; and *Certain Cased Pencils from the People's Republic of China*, 69 FR 29266 (May 21, 2004), and accompanying IDM at Comment 3.

⁶² *Id.* at 8, citing to *Forged Steel Fittings from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 22948 (May 17, 2018) (*Forged Steel Fittings – China*), and accompanying PDM at 11.

⁶³ *Id.*, citing to 19 CFR 351.301(b)(4).

⁶⁴ See Wor-Biz's Rebuttal Brief at 1 – 4.

(FOPs) such as direct materials, labor, energy, and financial ratios.⁶⁵

- Further, Tata Africa’s 2016 financial statement is the sole source on the administrative record of data that are both usable and contemporaneous.
- Tata Africa’s 2016 financial statement does not suffer from the deficiencies associated with all other financial statements on the record, including Tupy Brazil’s 2015 financial statement, which is further removed from the POI.
- Additionally, as a steel processor and producer of aluminum wire rods, Tata Africa is a producer of merchandise that is comparable to the subject merchandise.
- The petitioner’s comments regarding Tata Africa’s insolvency is based on hypothetical events which might render Tata Africa insolvent in the future, but such speculation does not change the fact that Tata Africa was profitable in 2016.
- As the deadline for submitting new factual information has passed, it would be inappropriate to place Tupy Brazil’s 2017 financial statement on the record because parties would have insufficient time to comment on the new information.
- It is irrelevant to this investigation that Tupy Brazil’s 2017 financial statement was used in another investigation.
- Should Commerce use Brazil as the primary surrogate country in the final determination, Commerce should use the adjusted average unit value for Brazilian HTS category 720449 to value scrap iron or steel inputs.

Xuanshi’s Rebuttal

- Xuanshi takes no position as to whether Commerce should use Brazil instead of South Africa as the surrogate country and as a source of surrogate values.⁶⁶
- If Commerce does shift to Brazil as the surrogate country, Commerce should ensure that the selected surrogate values are not aberrational. Specifically, Commerce should not use the Brazilian import data for either sand or iron ore, as such data are aberrational and not based on significant quantities of imports.⁶⁷
- The petitioner does not proffer any specific surrogate values in its case brief, and this may constitute a waiver of any argument on the appropriateness of the selected surrogate values.⁶⁸
- Further, if Commerce does shift to Brazil and determines ocean freight should be added to surrogate values, it should use the most specific ocean freight rate which reflects that iron ore and related materials are dry bulk goods.

⁶⁵ *Id.* at 1, citing to the *Preliminary Determination*, and accompanying PDM at 9.

⁶⁶ See Xuanshi’s Case Brief at 1.

⁶⁷ *Id.* at 4 – 7, citing to Xuanshi’s Letters, “Cast Iron Soil Pipe Fittings from the People’s Republic of China (“Soil Pipe Fittings”); A-570-062; Surrogate Value for Preliminary Determination,” dated December 1, 2017 (Xuanshi’s December 1, 2017 SV Comments); “Cast Iron Soil Pipe Fittings from the People’s Republic of China (“Soil Pipe Fittings”); A-570-062; Rebuttal to Surrogate Value Submission of Petitioner,” dated December 8, 2017 (Xuanshi’s December 8, 2017 Rebuttal SV Comments); “Cast Iron Soil Pipe Fittings from the People’s Republic of China (“Soil Pipe Fittings”); A-570-062; Final Surrogate Value Submission,” dated January 8, 2017 (Xuanshi’s January 8, 2017 SV Comments); Xuanshi’s Rebuttal Pre-Verification Comments; and at 8 – 10, citing to *Nissan Motor Mfg. Corp., U.S.A. v. United States*, 693 F.Supp. 1183 (CIT 1988); Harmonized Tariff Schedule of South Africa; *Universal Electronics, Inc., v. United States*, 112 F.3d. 488 (CAFC 1997); and the Merriam-Webster and Cambridge Dictionaries.

⁶⁸ *Id.* at 4, citing to 19 CFR 351.309(c)(2).

- Lastly, Commerce should not place new financial statements on the record, as Xuanshi would have insufficient time to comment on their appropriateness or otherwise identify issues in those statements.

Commerce Position:

We preliminarily selected South Africa as the surrogate country because, of all the surrogate value data on the record, the South African data were the most contemporaneous and complete for purposes of valuing all of the respondents' reported FOPs.⁶⁹ Notably, the petitioner makes no argument against the suitability of South African data as the source for surrogate values for the majority of FOPs, but takes issue with the financial statements used to derive surrogate financial ratios. For the following reasons, we are unpersuaded that the issues the petitioner raises with respect to these financial statements disqualify South Africa as the appropriate surrogate country for the final determination.

First, we continue to find that the Tata Africa financial statements are the most contemporaneous with the POI. At the time parties were permitted to submit factual information to value the respondents' FOPs, the available financial statements most closely aligned to the POI covered fiscal years 2015 (Tupy Brazil) and 2016 (Tata Africa).⁷⁰ Indeed, the petitioner noted in its comments on surrogate country selection that, while Tupy Brazil's 2016 financial statements were available and are more contemporaneous than Tupy Brazil's 2015 and Tata Africa's 2016 financial statements, Tupy Brazil's 2016 financial statements were unusable (and not submitted on the record) as the company had a net loss in that year.⁷¹ Further, Tata Africa's statements cover the period of April 1, 2015, through March 31, 2016, while Tupy Brazil's cover the 2015 calendar year.⁷² Therefore, Tata Africa's financial statements are the most contemporaneous on the record for the POI of January through July of 2017.

In addition, we disagree with the petitioner's assertion that the record conclusively demonstrates that Tupy Brazil produces "more comparable" merchandise than does Tata Africa. At best, the record indicates that, in its Joinville Industrial Plant, Tupy Brazil manufactures "engine blocks and heads and other automotive, railroad, and machinery and equipment parts besides pipe fittings, shots and bars."⁷³ Thus, while the record demonstrates that an aspect of Tupy Brazil's production process may be comparable, it does not demonstrate that Tupy Brazil produces merchandise *more* comparable to cast iron soil pipe fittings than does Tata Africa. Further, we note that Tupy Brazil's financial statements are consolidated among its manufacturing operations in Brazil and Mexico, meaning that Tupy Brazil's financial ratios encompass a significant portion of business activity outside of Brazil.⁷⁴ As noted in the *Preliminary Determination*, and by the petitioner, it is Commerce's preference to value all FOPs using a single surrogate country.⁷⁵

⁶⁹ See *Preliminary Determination*, and accompanying PDM at 9.

⁷⁰ See Petitioner's December 1, 2017 SV Comments at 6.

⁷¹ *Id.*

⁷² *Id.* at Exhibit IV-A. See also Amended Petition at Exhibit 11.

⁷³ *Id.* at Exhibit IV-B.

⁷⁴ See Petitioner's December 1, 2017 SV Comments at 5. Indeed, the record indicates that more than one-third of Tupy Brazil's production occurs in Mexico. See also, e.g., Exhibit IV-A and IV-B.

⁷⁵ See *Preliminary Determination*, and accompanying PDM at 8.

With respect to the petitioner's argument that Tata Africa is insolvent, we agree with Wor-Biz that Tata Africa's 2016 financial statements do not indicate that Tata Africa was insolvent during the reporting period. The petitioner's assertion is speculative. The financial statements in fact show that Tata Africa earned a profit during the reporting period. We also agree with Wor-Biz and Xuanshi that it would be inappropriate to consider Tupy Brazil's 2017 financial statements for the final determination. This investigation must be conducted within statutory deadlines, and there is insufficient time for Commerce to properly assess, and parties to comment on, any new information at this late stage in the investigation.

Because we continue to find that Tata Africa's financial statements are the most reliable data on the record, and we are not relying on Brazilian import statistics, we do not address Wor-Biz's and Xuanshi's allegations that the Brazilian import statistics are aberrational.

Comment 3: Adjusting the GTA Import Data for Movement Expenses

Petitioner's Comments

- In every proceeding before and after the *Preliminary Determination* that has relied upon GTA data from either Brazil, Mexico, or South Africa, Commerce has recognized that the GTA data for that particular country are reported on a free on board (FOB) basis.⁷⁶
- The record does not indicate whether the GTA data from any surrogate country are on an FOB or a cost, insurance, and freight (CIF) basis.
- There is no statutory, regulatory, or case law presumption that GTA data are reported on a CIF basis. Therefore, for the final determination, Commerce must remove speculation from its preliminary decision and determine whether the South African import statistics are reported to GTA on a CIF or FOB basis.
- Further, as explained in Policy Bulletin 10.2, Commerce's practice is to adjust GTA data reported on an FOB basis to a CIF basis.⁷⁷
- Commerce recognizes that Brazilian, Mexican, and South African GTA data are reported on an FOB basis, and has consistently adjusted the GTA data to a CIF basis.⁷⁸
- The record contains the necessary information for Commerce to make the CIF adjustments regardless of whether the GTA data from Brazil, Mexico, or South Africa are used in the final determination. Thus, regardless of whether Commerce chooses Brazil, Mexico, or South Africa as the primary surrogate country, it must adjust the GTA data to a CIF basis.
- Although Commerce provided an opportunity to rebut the surrogate values chosen for water and marine insurance, the majority of other surrogate values used in the preliminary determination also constitute new factual information. Therefore, to the extent that Commerce does not accept as fact that Brazilian, Mexican, and South African

⁷⁶ See Petitioner's Case Brief at 14 – 21, citing to *Fine Denier Polyester Staple Fiber from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 24740 (May 30, 2018) (*Staple Fiber – China*), and *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018) (*Aluminum Foil – China*).

⁷⁷ *Id.* at 15, citing to Policy Bulletin 10.2, "Inclusion of International Freight Costs When Import Prices Constitute Normal Value," dated November 1, 2010 (Policy Bulletin 10.2) at 1.

⁷⁸ *Id.* at 17, citing to *Potassium Permanganate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015*, 82 FR 28044 (June 20, 2017) (*Potassium Permanganate – China*), and accompanying IDM at Comment 1.

GTA data are reported on an FOB basis, Commerce must establish a deadline to rebut the other surrogate values that Commerce placed on the record as part of the preliminary determination that constitute new factual information.

Xuanshi's Rebuttal

- The petitioner's claim that GTA import data for Brazil, Mexico, and South Africa are reported on an FOB basis is unsupported. Under the WTO Customs Valuation Code, customs value can be based either on a CIF or FOB basis. Many nations, including Brazil, use the CIF valuation methodology.⁷⁹
- In this case, the record does not contain any evidence showing that the GTA South African import data are on a CIF basis. As the record does not contain evidence that the import data are not reported on a CIF basis, Commerce should treat the data as if they were on a CIF basis.⁸⁰
- It is immaterial that, in other cases, Commerce has converted GTA import data from an FOB to a CIF basis because each proceeding stands on its own. A fact from a previous case, particularly when the supporting fact is not on the record, does not necessarily mean that inferences stemming from that same fact apply generally.
- Interested parties must provide evidence in each proceeding to support the terms at issue. The petitioner provided no evidence as to the terms of the GTA import data.
- As GTA data are "import" data, prices should be assumed to be stated on a CIF basis. If a country's import statistics do not follow the common practice as reflected in the plain meaning of the terms, interested parties have the burden of placing evidence on the record proving that the data do not reflect the plain meaning.

Commerce Position:

For the reasons explained below, we agree with the petitioner and have added an amount for international freight costs to the inputs we valued using South African GTA import data for the final determination.⁸¹

Policy Bulletin 10.2 states that "in situations where the surrogate country import statistics do not include international freight costs, the Department will add international freight and foreign brokerage and handling charges to the import value."⁸² Normally, international freight costs include not only the ocean freight portion of transporting the merchandise from one location to another but also the other expenses associated with moving the goods, such as marine insurance.⁸³

Policy Bulletin 10.2 further states that "{w}hen relying on surrogate country import statistics to value inputs, the Department normally obtains import prices that include the international freight

⁷⁹ See Xuanshi's Rebuttal Brief at 14 – 16.

⁸⁰ *Id.* at 15, citing to the Ministerial Error Allegation Memorandum.

⁸¹ See Final Surrogate Value Memorandum.

⁸² See Policy Bulletin 10.2 at 1.

⁸³ See *Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire from the People's Republic of China*, 79 FR 25572 (May 5, 2014) (*PC Tie Wire – China*), and accompanying IDM at Comment 3.

costs on shipping the product to the port of the importing country... However, when the import statistics of the surrogate country do not include such costs, the Department has added surrogate values for international freight and brokerage and handling charges to the calculation of normal value.”⁸⁴ As the petitioner noted, Commerce has repeatedly recognized that GTA South African import values are reported on an FOB basis.⁸⁵ Because the GTA South African import values are reported on an FOB basis, we have no basis for assuming that international movement expenses, including marine insurance, are accounted for in the GTA South African import values.

For these reasons, we have added an amount for international freight costs to the inputs we valued using South African GTA import data for the final determination. As stated in the Ministerial Error Allegation Memorandum, no party asserted that Commerce should include international freight costs in its calculation of surrogate values prior to the *Preliminary Determination*.⁸⁶ Upon further review of the case precedent, as discussed above, and given that the information with which to make the adjustment is available on the record,⁸⁷ we have accounted for these costs in the calculation of surrogate values for the final determination.

With respect to the petitioner’s claim that the surrogate value data used in the *Preliminary Determination* constitute new factual information,⁸⁸ we disagree. 19 CFR 351.408 (c)(1) directs Commerce to use publicly available information to value FOPs. Each surrogate value used in the *Preliminary Determination* derives from HTS numbers suggested and placed on the record by interested parties.⁸⁹ Additionally, as noted above, publicly available information to value FOPs from South Africa was suggested and placed on the record by interested parties.⁹⁰ Therefore, the surrogate value data used in the *Preliminary Determination* does not constitute new factual information within the meaning of 19 CFR 351.301.

Comment 4: Treatment of Certain Inputs as Materials or Overhead

Petitioner’s Comments

- While Commerce’s preliminary memorandum on surrogate values shows that Commerce properly included deslagging agent, the components of sand molds and sand cores, ferromanganese, and inoculant as direct materials, Commerce did not include refractory materials, steel shot, grinding rocks or wheels, taps, and turning tools among the materials for which it assigned a surrogate value.⁹¹

⁸⁴ See Policy Bulletin at 10.2 at 1 – 2.

⁸⁵ See, e.g., *Staple Fiber – China*, and accompanying IDM at Comment 1; see also *Aluminum Foil – China*, and accompanying IDM at Comment 1.

⁸⁶ See Ministerial Error Allegation Memorandum at Allegation 1.

⁸⁷ See Preliminary SV Memorandum.

⁸⁸ See Petitioner’s Case Brief at 20.

⁸⁹ See, e.g., Xuanshi’s December 1, 2017 SV Comments.

⁹⁰ *Id.*

⁹¹ See Petitioner’s Case Brief at 54 – 58, citing to Memorandum, “Antidumping Duty Investigation of Cast Iron Soil Pipe Fittings from the People’s Republic of China: Surrogate Values for the Preliminary Determination,” dated February 12, 2018 (Preliminary SV Memorandum).

- For the final determination, these inputs should be assigned surrogate values rather than being considered as part of overhead.
- Commerce considers four factors when classifying materials as direct materials or overhead: (1) whether the material is physically incorporated into the final product; (2) the material's contribution to the production process and finished product; (3) the relative cost of the input; and (4) the way the cost of the input is typically treated in the industry.⁹²
- Commerce has also considered inputs that are replaced on a regular basis as direct materials rather than as components of overhead.⁹³ Although Commerce makes this decision based on the totality of the circumstances, Commerce has frequently treated materials that are not physically incorporated into the final product as direct materials based on consideration of the other factors listed above, and has rejected the argument that incorporation is the determinative factor.⁹⁴
- In the verification report for Xuanshi, Commerce noted whether the company reported an input as direct material or as overhead in its accounting records; however, the treatment in a cost record is not dispositive of the issue.
- There is no inherent reason why Commerce preliminarily considered silica sand to be a material input while steel shot was not, as both are essential to production, and neither are physically incorporated into the finished product.⁹⁵ Similarly, refractory materials, grinding rocks or wheels, taps, and turning tools are “consumed” in the production process in that they must be replaced, as Commerce noted in Xuanshi’s verification report.⁹⁶
- In determining whether to treat FOPs as direct materials or as overhead items, Commerce should ultimately take into consideration how raw materials and consumables are treated in the relevant surrogate financial statements.⁹⁷
- If Commerce uses Tupy Brazil’s financial statements as the basis for surrogate financial ratios, it should be noted that Tupy Brazil’s Annual Report includes both raw materials and maintenance materials. It is not possible to separate process materials based on Tupy Brazil’s Annual Report, and thus the entire amount should be classified as raw materials rather than overhead.
- In *Crystalline Silicon Cells – China*, Commerce treated consumable inputs as direct raw materials because they were combined into a single line item with raw materials in the relevant surrogate financial statement. Commerce considered this fact to be the determining factor in deciding whether to classify materials as direct materials or overhead. As the facts are the same here, Commerce should reach the same conclusion.

⁹² *Id.* at 55, citing to *Certain Steel Nails from the People’s Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2010–2011*, 78 FR 16651 (March 18, 2013) (*Steel Nails – China AR3*).

⁹³ *Id.*

⁹⁴ *Id.*, citing to *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal from the Russian Federation*, 68 FR 6885 (February 11, 2003).

⁹⁵ *Id.* at 56, citing to *Forged Steel Fittings – China*.

⁹⁶ *Id.*, citing to Xuanshi Verification Report.

⁹⁷ *Id.* at 57, citing to *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) (*Crystalline Silicon Cells – China*).

- If Commerce continues to use Tata Africa’s financial statements, the only element of overhead is depreciation and amortization; thus, the overhead ratio based on this financial statement does not include any of the materials respondents consider to be overhead items in their own records.
- As the surrogate value data for all FOPs are on the record, Commerce should use them to value as material inputs all the FOPs that were not included in the preliminary calculations.

Xuanshi’s Comments

- In the preliminary determination, Commerce found that certain items which Xuanshi reported as overhead should indeed be treated as overhead, including cast steel shot, grinding wheels, acidic lining materials, castables, repairing materials, and high temperature fire clay. Commerce should continue to treat these items as overhead.
- However, Commerce rejected the claim that certain other items should be treated as overhead items, including drying sand, mold discharge agent, and deslagging agent. Commerce should modify its treatment of these articles and treat them as part of overhead, rather than as raw materials.
- Specifically, as noted during verification, drying sand is re-used multiple times in the production process and is not incorporated into the final product.
- Further, as noted during verification, the mold discharge and deslagging agents are also not incorporated into the final product but are used as adjuncts in the production process.
- Accordingly, Commerce should find these materials to be overhead items, not raw materials. In addition, these items are sufficiently accounted for in the financial ratios calculation and need not be broken out separately.

Xuanshi’s Rebuttal

- The petitioner has unreasonably requested that Commerce treat all inputs as raw materials.
- As verified by Commerce, Xuanshi maintains its books and records in accordance with the generally accepted accounting standards in China, as well as the applicable cost accounting practices. In addition, both Sibos and Wor-Biz treat overhead materials in a similar fashion, and thus this practice is representative of the Chinese industry as a whole.
- The petitioner neglects in its argument the critical question of whether the overhead material is consumed in production or is used for multiple cycles.
- The petitioner’s reliance on Tupy Brazil’s financial statements does not support its argument. Tupy Brazil’s financial statements do not identify what is and what is not overhead. In addition, contrary to the petitioner’s claim, Tupy Brazil may use different materials, processes, and depreciation practices than does Xuanshi.

Wor-Biz’s Rebuttal

- Commerce confirmed during verification that coated sand, silica sand, clay, sand additives, coal powder, and steel shot balls were classified as overhead items in the records of Wor-Biz’s supplier.⁹⁸
- It is Commerce’s practice to value all process materials, *i.e.*, those materials that are not

⁹⁸ See Wor-Biz’s Rebuttal Brief at 21, citing to Wor-Biz Verification Report at 13.

physically incorporated into the subject merchandise but are consumed or destroyed in the production process, as direct materials, “except where the record indicates that the input is not replaced so regularly as to represent a direct factor rather than overhead.”⁹⁹

- In this case, neither the sand mixture, steel balls, refractory materials, grinding wheels, taps, nor turning materials are physically incorporated into the cast iron soil pipe fittings nor were they consumed in the production process. They were not continually replenished as are direct materials, but are recycled until they can no longer be reused.
- Because Commerce will apply surrogate financial ratios that account for all overhead items to the reported FOPs, the inclusion of these items as direct material inputs would result in the impermissible double counting of these items.

Petitioner’s Rebuttal

- Commerce was correct to treat as material inputs certain items that Xuanshi claims should be treated as part of overhead.
- Commerce has previously rejected the argument that “incorporation” is the determinative factor when deciding to treat an input as overhead or as a direct material.

Commerce’s Position:

We agree with Xuanshi and Wor-Biz that refractory materials, steel shot balls, grinding rocks or wheels, and taps and turning tools are appropriately classified as part of factory overhead. However, we agree with the petitioner that deslagging agent, the components of sand molds and sand cores, ferromanganese, and inoculant are appropriately classified as direct materials. As noted by the petitioner, Commerce generally considers four main factors when classifying inputs as either direct materials or overhead: (1) whether the material is physically incorporated into the final product; (2) the material’s contribution to the production process and finished product; (3) the relative cost of the input; and (4) the way the cost of the input is typically treated in the industry.¹⁰⁰

Our verification findings are instructive in this analysis. First, we observed that refractory materials, steel shot balls, grinding rocks or wheels, and taps and turning tools are not physically incorporated into the final product, but are used as tools in the production process.¹⁰¹ Specifically, refractory materials are used in lining the furnace for greater energy efficiency. Steel shot balls¹⁰² and grinding rocks or wheels are used as tools to clean and polish finished soil pipe fittings. Tap and turning tools are used for threading purposes. Next, we found that the relative cost and consumption ratios for these inputs are small compared to other inputs such as scrap iron or iron ore.¹⁰³ Finally, we observed that Xuanshi and Wor-Biz both record the costs

⁹⁹ *Id.* at 22, citing to *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 (May 22, 2006).

¹⁰⁰ See Petitioner’s Case Brief at 55, citing to *Steel Nails – China AR3*.

¹⁰¹ See Xuanshi Verification Report at 13 – 14.

¹⁰² The petitioner argues that Commerce classified steel balls as direct materials in *Forged Steel Fittings – China*; however, this decision is preliminary, and is subject to change in the final determination.

¹⁰³ See Xuanshi Verification Report at 19 – 21 and Wor-Biz Verification Report at 12.

for these inputs as overhead.¹⁰⁴ Therefore, we find that these items are appropriately classified as part of overhead.

Conversely, while drying silica sand, coated sand, resin, deslagging agent, and ferromanganese may not necessarily be physically incorporated into the final product, these inputs all touch the final product and are replaced each production cycle.¹⁰⁵ Further, the consumption of these inputs varies based on production quantities or output, resulting in variable costs, as opposed to a fixed, overhead cost.¹⁰⁶ Both companies' inventory movement schedules, raw material consumption records, and purchasing practices all support the fact that these items are more appropriately treated as direct materials.¹⁰⁷ Indeed, Xuanshi treats coated sand as a direct material in its internal books and records, which speaks to the way the cost of this input is typically treated in the industry.

For the final determination, we continue to treat drying silica sand, coated sand, resin, deslagging agent, and ferromanganese as direct materials, and refractory materials, steel shot balls, grinding rocks or wheels, and taps and turning tools as overhead items in our margin calculations.

Comment 5: Reintroduced Materials

Petitioner's Comments

- All three respondents failed to report their consumption of reintroduced materials such as cast iron scrap arising from gates and risers and broken or defective fittings, instead opting to report what could be termed “net net” consumption of molten iron inputs.¹⁰⁸
- Specifically, the respondents netted out both the consumption of the reintroduced material on the input side and the consumption rate of the byproduct. Such an approach is, however, contrary to the statutory imperative to “value all inputs utilized in producing the subject merchandise.”¹⁰⁹
- Commerce has determined that there is no exception for reporting scrap material that later re-enters the production process, as such material is still an FOP. A respondent may, however, request an offset for such recycled material.¹¹⁰
- Commerce stated in *Pet Film – China* that, even where the quantity of reintroduced material exactly matches the quantity of scrap offset, a “net net” methodology is not mathematically equivalent to fulsome reporting of both values in the dumping calculation.¹¹¹

¹⁰⁴ See Xuanshi Verification Report at 21 and Wor-Biz Verification Report at 12.

¹⁰⁵ See Xuanshi Verification Report at 13.

¹⁰⁶ See, e.g., Xuanshi Verification Report at Exhibit 28 A – B and Wor-Biz Verification Report at Exhibits 6 – 7.

¹⁰⁷ *Id.*

¹⁰⁸ See Petitioner's Case Brief at 26 – 37, citing to Exhibit 4.

¹⁰⁹ *Id.* at 26, citing to *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China*, 78 FR 35245 (June 12, 2013) (*Pet Film – China*), and accompanying IDM at 19; and Department of Commerce Antidumping Manual, Chapter 10.

¹¹⁰ *Id.* at 27, citing to *Pet Film – China*, 77 FR 14493 (March 12, 2012), and accompanying IDM at 9; and *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China*, 81 FR 75032 (October 28, 2016), and accompanying IDM at Comment 4.

¹¹¹ *Id.*, citing to *Pet Film – China*, 79 FR 37715 (July 2, 2014), and accompanying IDM at Issue 3.

- Because financial ratios are applied to material costs but not the byproduct offset, a portion of an input’s cost attributable to the financial ratios remains, even after offsetting normal value with the byproduct. This financial ratio remnant is absent from normal value if neither the reintroduced input nor the offset are reported.¹¹²
- The Court has agreed that Commerce may not simply ignore a recycled input in the normal value calculation on the theory that the reintroduced material is balanced out by the scrap generated.¹¹³
- Further, the Court has found that Commerce has justifiably denied a byproduct offset adjustment for respondents who do not record and report the actual amount of scrap generated during production and the specific quantity reintroduced into the production process.¹¹⁴
- In *Malleable Iron Pipe Fittings – China*, Commerce faced the same facts and the same arguments in the present case. Commerce attempted to obtain the quantity of reintroduced materials, and was forced to rely upon facts available to calculate a consumption rate of reintroduced materials.¹¹⁵
- The respondents in this case, who reported not tracking reintroduced materials in the normal course of business, are therefore obliged to construct an alternative reporting methodology to allow Commerce to value reintroduced materials, and their failure to construct an alternative is grounds for facts available.
- Wor-Biz has argued, citing *Graphite Electrodes – China*, that reintroduced materials such as broken or defective cast iron fittings, as well as gates and risers, should not be separately valued as material inputs when the corresponding offset is not reported.¹¹⁶
- However, an analysis of the facts shows that the reintroduced materials in this case are not like the reintroduced forming scrap in *Graphite Electrodes – China*, which Commerce did not separately value, but are more akin to the reintroduced baking and graphite scrap, which Commerce did value separately.¹¹⁷
- The record in this case establishes a reasonable basis for the construction of the unreported consumption rate of the reintroduced materials, using the petitioner’s data. Therefore, consistent with past precedent, Commerce should value the reintroduced materials and deny an offset for the final determination.

Xuanshi Rebuttal

- The FOP reporting methodology of Xuanshi is accurate both from an accounting perspective and from a production perspective.¹¹⁸
- From an accounting perspective, the applicable standard and cost accounting practice allows companies to record their consumption quantities at the beginning and production

¹¹² *Id.*, citing to *Pet Film – China*, 78 FR 78333 (December 26, 2013), and accompanying IDM at 24.

¹¹³ *Id.* at 30, citing to *Tianjin Wanhua Co., Ltd. v. United States*, 179 F. Supp. 3d 1062, 1071 (CIT 2016).

¹¹⁴ *Id.* at 29, citing to *Pet Film – China*, 78 FR 78333 (December 26, 2013), and accompanying IDM at 24.

¹¹⁵ *Id.* at 32, citing to *Certain Malleable Iron Pipe Fittings from the People’s Republic of China*, 68 FR 33911 (June 6, 2003) (*Malleable Iron Pipe Fittings – China*), and accompanying IDM at Comment 1.

¹¹⁶ *Id.* at 33 – 34, citing Wor-Biz’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Submission of Pre-Preliminary Comments,” (February 2, 2018) at 9 – 11, therein citing *Small Diameter Graphite Electrodes from the People’s Republic of China*, 81 FR 62474 (September 9, 2016) (*Graphite Electrodes – China*), and accompanying IDM at Comments 6 and 8.

¹¹⁷ *Id.* at 35, citing Wor-Biz Verification Report at 8, and Xuanshi Verification Report at 14 and VE-7.

¹¹⁸ See Xuanshi’s Rebuttal Brief at 16 – 18.

quantities at the end, which is actual cost and production. This information has been verified and provides complete and accurate consumption and yield detail.

- From a production perspective, the input is iron ore, and the output is cast iron soil pipe fittings. Xuanshi reported the detailed FOPs of the intermediate product because liquid iron is an important semi-finished factor. Xuanshi is not reporting its FOPs on a so-called “net net” basis in this regard.
- Xuanshi did not claim a by-product offset of so-called “cast iron scrap,” thus there is no need to report its quantity, and the company does not record its quantity in the normal course of business.
- Xuanshi has cooperated to the best of its ability, has reported the actual FOP consumption, and has reconciled the reported FOPs to its accounting books. In addition, the information has been verified.
- Xuanshi reported all additional costs associated with recycling the sand and re-melting the scrap iron, and as a result, the reported FOP consumption by Xuanshi is complete and accurate.

Wor-Biz Rebuttal

- The *Preliminary Determination* correctly used Wor-Biz’s FOPs as reported, *i.e.*, without reintroduced cast iron scrap as either a separate raw material input or a scrap by-product.¹¹⁹
- The generation of scrap and its reintroduction into the production process occurs in a continuous production line within the same smelting and casting workshop. Cast iron scrap, which includes gates, risers, and mal-formed castings, is produced in the casting stage and is continuously reintroduced in the smelting stage.¹²⁰
- Neither the production of the scrap, nor its collection and reintroduction into the melting furnace are tracked in the ordinary course of business because they remain in the same workshop and neither are entered into nor withdrawn from inventory.
- An analysis of Wor-Biz’s questionnaire responses and the production process shows that there is no reintroduction of cast iron scrap at a later stage in the production process, as all scrap is continuously created and reintroduced in the smelting and casting workshop.
- Wor-Biz’s supplier completely and accurately reported its consumption of all purchased raw material inputs consumed, consistent with its ordinary course of business and normal accounting procedures.
- As in the case of forming scrap in *Graphite Electrodes – China*, it would be equally inappropriate in this case to treat the scrap cast iron generated by Wor-Biz’s producer as an individual raw material input.¹²¹
- Inclusion of reintroduced scrap items as a separate raw material input without taking into account the generation of cast iron scrap as a by-product would have resulted in

¹¹⁹ See Wor-Biz’s Rebuttal Brief at 11 – 21, citing to Wor-Biz SQR3 at Exhibit S3-2; Wor-Biz’s Preliminary Calculation Memorandum at 1 – 2; *Preliminary Results*, and accompanying IDM at 26; and, Preliminary SV Memorandum at 2 – 3.

¹²⁰ *Id.* at 12, citing to Wor-Biz’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Submission of Pre-Preliminary Comments,” dated February 2, 2018, at 9 – 10.

¹²¹ *Id.* at 14 – 15, citing to *Graphite Electrodes – China*, 81 FR 62474 (September 9, 2016), and accompanying IDM at Comment 6.

impermissible double counting.

- The cases cited by the petitioner, namely *Pet Film – China* and *Malleable Iron Pipe Fittings – China*, do not address the precise issue in this case – the proper reporting of FOPs when production scrap is created and reintroduced into the production process in the same workshop without ever being entered into inventory.¹²²
- In *Pet Film – China*, the scrap material was produced in one workshop and was reintroduced in a different workshop.¹²³ In *Malleable Iron Pipe Fittings – China*, Commerce applied facts available because the metallic content of the FOPs reported by the respondents did not account for the quantity of metallic inputs necessary to produce the subject merchandise.¹²⁴
- The administrative record of the instant case demonstrates, and Commerce officials verified, that Wor-Biz’s supplier accurately reported its scrap iron inputs, and that such inputs accounted for all the metallic inputs contained in the produced pipe fittings, including the internally generated and reintroduced cast iron metal scrap within the smelting and casting warehouses.¹²⁵
- The petitioner ultimately recognizes that the principles established by the *Graphite Electrodes– China* case are consistent with Commerce’s current administrative practice, conceding that Commerce did not value reintroduced forming scrap in that case because forming scrap was both “created and reintroduced at an intermediate stage.”¹²⁶
- The petitioner continues that, in *Graphite Electrodes– China*, Commerce valued two other types of electrode scrap and baking scrap, which were generated at later stages of production but reintroduced into the production at the earlier forming stage.¹²⁷
- Here, because cast iron scrap is both generated and reintroduced into the production process in the smelting and casting workshop, cast iron scrap is akin to forming scrap in *Graphite Electrodes– China* and, therefore, it is not necessary for Commerce to value this scrap separately.
- Commerce officials verified the production process in the smelting and casting workshop, raw material inventory records, and production records, which all confirm that the cast iron scrap was both continuously created and reintroduced in the same production workshop.¹²⁸
- In the final determination, Commerce should continue to correctly use Wor-Biz’s reported FOPs that did not report cast iron scrap reintroduced into the production process as either a separate raw material input or as a scrap by-product.

¹²² *Id.* at 15 – 16, citing to *Pet Film – China*, 79 FR 37715 (July 2, 2014); *Malleable Iron Pipe Fittings – China*, 68 FR 61395 (October 28, 2003); and, 19 U.S.C. 1677b(c)(3)(B).

¹²³ *Id.* at 16, citing to *Pet Film – China*, 79 FR 37715 (July 2, 2014).

¹²⁴ *Id.* at 17, citing to *Malleable Iron Pipe Fittings – China*, 68 FR 61395 (October 28, 2003).

¹²⁵ *Id.* at 17 – 18, citing to Wor-Biz Verification Report at 10 – 12, and Exhibits 6 – 7.

¹²⁶ *Id.* at 18, citing Petitioner’s Case Brief at 34.

¹²⁷ *Id.* at 18, citing Petitioner’s Case Brief at 32 – 34.

¹²⁸ *Id.* at 19 – 20, citing to Wor-Biz Verification Report at 10 – 12, and Exhibit 5.

Commerce Position:

For the final determination, we have not valued reintroduced cast iron scrap as a distinct input. In support of its argument, the petitioner relies on *Pet Film – China, Malleable Pipe Fittings – China*, and *Graphite Electrodes – China*.¹²⁹ We agree that these cases stand for the proposition that in non-market economy (NME) cases, respondents must report all quantities of raw materials used to produce subject merchandise, including recycled inputs.¹³⁰ However, it is not Commerce’s practice to value recycled inputs separately when those inputs are generated during the production process and they are not reported as a by-product. In *Graphite Electrodes – China*, we denied the respondent a by-product offset claim for forming scrap which the respondent reintroduced into production. There, we stated:

We find that the creation of forming scrap and the inclusion of the reintroduced forming scrap from an earlier processing run of the identical recipes cancel out one another, *i.e.*, the amount of scrap is equivalent to the amount of the reintroduced scrap. There is no evidence on the record that any amount of forming scrap leaves the workshop, is repurposed in any way, or that the creation of the scrap from one processing run is not used completely in the next processing run of the identical recipe... Any additional processing cost carried by the reintroduced forming scrap compared to the baseline inputs was absorbed by the processing of the batch which created the forming scrap and is, therefore, included in every batch and need not be valued. For this reason, it is not necessary to determine a {SV} for forming scrap, the input (*i.e.*, re-introduced forming scrap), or to include such values in the FOP buildup.¹³¹

Thus, we do not value reintroduced material when the amount of reintroduced material matches the amount of scrap, *i.e.*, when it is not repurposed. Here, the record demonstrates that Wor-Biz’s and Xuanshi’s reintroduction of the scrap iron occurs within the same workshop and is not repurposed.¹³² Furthermore, we verified both Wor-Biz’ and Xuanshi’s FOP reporting and noted no discrepancies. Thus, we are satisfied that Wor-Biz and Xuanshi properly accounted for all of their FOPs in their data reporting.

¹²⁹ See Petitioner Case Brief at 28, 30, and 33, citing to *Pet Film – China*, 79 FR 37715 (July 2, 2014) and accompanying IDM at Comment 3; *Pet Film – China*, 78 FR 78333 (December 26, 2013) and accompanying IDMat 24; *Malleable Pipe Fittings – China*, 68 FR 61395 (October 28, 2003) and accompanying IDM at Comment 1; and, *Graphite Electrodes – China*, 81 FR 62474 (September 9, 2016) and accompanying IDM at Comment 6.

¹³⁰ We note that in *Malleable Pipe Fittings – China*, we applied facts available to the reintroduced materials as the respondents could not report these amounts per Commerce’s request to do so. In this investigation, we did not request this information from the respondents.

¹³¹ See *Graphite Electrodes – China* at Comment 6.

¹³² See Wor-Biz Verification Report at 7 and Xuanshi Verification Report at 13.

Comment 6: Surrogate Value for Coated Sand

Xuanshi's Comments

- Commerce used the wrong surrogate value for coated sand in the *Preliminary Determination*.¹³³
- The HTS category Commerce used as the basis for the surrogate value for coated sand covers only *binders* used in the production of foundry molds and cores, rather than the *material* used in the production of foundry molds and cores, which is a critical distinction.
- As observed at verification, and as reported in its FOP data, Xuanshi's coated sand consists primarily of ordinary sand plus a resin or binder. This fact is confirmed by the verification exhibit, Chinese Standard for Resin Coated Sand.¹³⁴ Xuanshi also provided at verification the standard for Phenolic Resin used for Coated Sand, which indicates that the binder used in coated sand is, in fact, phenolic resin.
- In an antidumping context, Courts have held that Commerce is not permitted to interpret a word to mean something other than its plain meaning.¹³⁵
- The surrogate value Commerce preliminarily assigned to coated sand is higher than the surrogate value for resin and a multiple of the surrogate value for sand.
- In sum, Commerce's selected HTS category for coated sand does not properly describe the input used by Xuanshi and results in a significantly inflated value.
- For the final determination, Commerce should instead use HTS category 250510 (Silica Sands and Quartz Sands, Natural) as the basis for the surrogate value for coated sand.

Wor-Biz's Comments

- Commerce used the incorrect surrogate price to value Wor-Biz's reported FOP for coated sand in the *Preliminary Determination*.¹³⁶
- Commerce valued coated sand using the HTS category for binding resin, which is only a minor component of coated sand.
- During verification, Guangzhou Premier presented an analysis report to establish the exact composition of its coated sand. This report demonstrated that silica sand is the primary component, with phenolic resin as a minor component.¹³⁷
- Because coated sand is predominantly composed of silica sand, the HTS category 3842.10 for a binding resin is not specific as a surrogate value for coated sand. Therefore, Commerce's preliminary valuation is no longer supported by the record.
- The record does not contain an HTS category that is specific to coated sand. Because the record establishes that Wor-Biz's coated sand is predominately composed of silica sand, the surrogate value for coated sand should be based on the South African import data for HTS category 250510 for silica sand.

¹³³ See Xuanshi's Case Brief at 5 – 9.

¹³⁴ See Xuanshi's Case Brief at 10, citing to Xuanshi Verification Report at Exhibit 28A.

¹³⁵ See Xuanshi's Case Brief at 7, citing to *Rubbermaid Commercial Products LLC v. United States*, Slip Op. 15-79 (CIT 2015).

¹³⁶ See Wor-Biz's Case Brief at 4 – 7.

¹³⁷ See Wor-Biz's Case Brief at 5, citing to Wor-Biz Verification Report at Exhibit 7.

- Alternatively, Commerce could calculate a weighted-average surrogate value for coated sand using the HTS numbers for sand and binders and the respective percentages of silica sand and resin composition on the record.

Petitioner’s Rebuttal

- HTS code 382410 remains the most appropriate source for the surrogate value for coated sand.
- The HTS category description matches the function and description of coated sand used to make cores.

Commerce’s Position:

As there is no surrogate value on the record specific to coated sand, and based on our verification findings, we agree with Wor-Biz that it is reasonable to base the surrogate value for coated sand on a weighted-average value using the HTS categories for sand (250510) and resin binder (382410). As noted in the Xuanshi and Wor-Biz Verification Reports,¹³⁸ we found that the coated sand used by the respondents is predominantly composed of plain silica sand, combined with a significantly smaller quantity of resin binder. It is our policy and practice to calculate surrogate values for direct materials using the most specific information available on the record.¹³⁹ Therefore, we have changed our valuation for coated sand for the final margin calculations to a weighted-average surrogate value for coated sand using the HTS numbers 250510 and 382410.¹⁴⁰

Comment 7: Calculating the Margins on a Consistent Basis

Petitioner’s Comments

- Commerce preliminarily compared gross unit prices expressed on a per-piece basis with a normal value that was not calculated on the same basis.¹⁴¹
- The petitioner points out inconsistencies between Commerce’s analysis memoranda and the margin calculations. Commerce announced and implemented changes, but failed to provide an explanation of the changes.¹⁴²
- More importantly, these announced changes were in error based on record evidence, and remain in error after verification of the underlying data.
- The petitioner noted several errors in the calculations for Xuanshi, and common errors among the calculations for Xuanshi, Wor-Biz, and Sibio.
- For Xuanshi, Commerce correctly converted movement surrogate values expressed on a per-KG basis to a per-piece basis, but failed to identify this mathematical step in the Preliminary Margin Calculation Memorandum.

¹³⁸ See Xuanshi Verification Report at 20 and Exhibit 28A; see also Wor-Biz Verification Report at 8, 12 and Exhibit 7.

¹³⁹ See, e.g., *First Administrative Review of Certain Activated Carbon from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 57995 (November 10, 2009), and accompanying IDM at Comment 3.

¹⁴⁰ See Final Surrogate Value Memorandum.

¹⁴¹ See Petitioner’s Case Brief at 37 – 50.

¹⁴² See Petitioner’s Case Brief at 38, citing to Xuanshi’s Preliminary Calculation Memorandum.

- Commerce stated that it would multiply the direct material usage rate by the weight of the fitting, but Commerce failed to make these intended changes to the SAS programming.
- In addition, Commerce correctly multiplied the consumption rates for several FOPs by the WEIGHTU variable, but did not do so for all the FOPs reported by Xuanshi.
- For all three respondents, Commerce calculated the surrogate value for coated sand and silica sand on a per-KG basis, rather than on a per-piece basis. All inputs used to calculate the normal value should be expressed on a per-piece basis.

No other interested party commented on this issue.

Commerce's Position:

Because not all respondents reported their FOPs on a product-specific basis, in our preliminary margin calculations we multiplied their FOPs by the corresponding weight of the fittings to allocate consumption rates to particular products. While most material inputs were multiplied by the weight of the fitting, we calculated the surrogate value for certain inputs on a per-KG basis, because information on the record indicated that the consumption of these inputs (*e.g.*, sand) may not necessarily correlate to the weight of the fitting as directly as other material inputs.¹⁴³ Upon further consideration of the record information, verification findings, and the comments we received on this issue, we agree with the petitioner that it is more accurate to calculate all FOPs on a product-specific basis. For the final determination, we multiplied all FOPs, including coated sand and silica sand, by the corresponding weight of the fitting.¹⁴⁴

Comment 8: Calculation of Movement Expenses

Petitioner's Comments

- In the *Preliminary Determination*, Commerce relied upon a U.S. price expressed on a per-piece basis. However, the surrogate values for movement expenses were calculated on a per-KG basis.¹⁴⁵
- To ensure that gross unit prices and movement expenses were both on a per-piece basis, Commerce multiplied the surrogate values for movement expenses by weight. However, the use of the net weight variable (WEIGHTU) was incorrect because the surrogate values for movement expenses were expressed on a gross weight basis (*i.e.*, the weight of the fitting plus the weight of packing materials).
- Commerce and the Court of International Trade has recognized in many cases that using net weight creates a distortion in the margin calculations when movement expenses are expressed on a gross weight basis because it fails to capture the cost of shipping the packing materials.¹⁴⁶
- With respect to ocean freight, the record demonstrates that the weight field in the Panjiva data Commerce used is a gross weight. As the Panjiva gross weights were used in the denominator to calculate an ocean freight surrogate, the preliminary ocean freight surrogate is expressed on a gross weight basis.

¹⁴³ See Wor-Biz Preliminary Calculation Memorandum and Xuanshi Preliminary Calculation Memorandum.

¹⁴⁴ See Wor-Biz Final Calculation Memorandum and Xuanshi Final Calculation Memorandum.

¹⁴⁵ See Petitioner's Case Brief at 60 – 65.

¹⁴⁶ *Id.* at 61, citing to *Kejriwal Iron & Steel Works v. United States*, 729 F. Supp. 1365 (CIT 1990).

- Regarding truck freight and brokerage and handling expenses, Commerce has previously addressed the issue of whether the *Doing Business In* series 15-ton assumption, which forms the denominator for these surrogate values, is expressed on a gross- or net-weight basis. Commerce determined the basis to be gross weight.¹⁴⁷
- In *Acid – China*,¹⁴⁸ Commerce agreed that gross weight should be used to calculate movement expenses. As a neutral facts available adjustment, Commerce applied the ratio of net weight to gross weight to the reported movement expenses.
- Therefore, Commerce should apply a similar methodology to calculate a weighted-average adjustment factor. The petitioner provided ratios for Xuanshi, Sibos, and Wor-Biz, using invoices placed on the record in verification exhibits.

No other interested party commented on this issue.

Commerce’s Position:

We agree with the petitioner that the surrogate values for movement expenses were expressed on a gross weight basis. Therefore, it was incorrect to multiply these values by the net weight (WEIGHTU) of the fittings. To correct the error, we applied the company-specific adjustment ratios for the applicable expenses using invoices on the record for Xuanshi and Wor-Biz.¹⁴⁹ As the petitioner notes, this adjustment is consistent with methodology Commerce has used in previous cases.¹⁵⁰

Comment 9: Non-Refundable VAT

Xuanshi’s Comments

- Commerce’s adjustment to the U.S. price for unrecoverable VAT was in error. No tax is paid at the time of exportation, but rather a refund is provided at the time of exportation. Other taxes paid in advance of exportation and are not export-related.¹⁵¹
- The Act provides for adjustments for taxes paid at the time of exportation, and Commerce has no legal authority to make this adjustment to the price.
- In *Qingdao*, the CIT recently rejected Commerce’s practice of adjusting the U.S. price for the amount of unrecoverable VAT.¹⁵²

Petitioner’s Rebuttal

- Irrecoverable VAT should continue to be deducted from U.S. price, as Xuanshi’s sole reliance on the recent CIT case is incomplete.¹⁵³

¹⁴⁷ See Petitioner’s Case Brief at 62 – 63, citing to *1-Hydroxyethylidene-1, 1- Diphosphonic Acid from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 82 FR 14876 (March 23, 2017) (*Acid – China*).

¹⁴⁸ *Id.*

¹⁴⁹ See Wor-Biz Final Calculation Memorandum and Xuanshi Final Calculation Memorandum.

¹⁵⁰ See Petitioner’s Case Brief at 61-64, citing to *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) and *Acid – China*.

¹⁵¹ See Xuanshi’s Case Brief at 10 – 12.

¹⁵² See Xuanshi’s Case Brief at 10, citing to *Qingdao Qihang Tyre Co., Ltd., v. United States*, Slip Op. 18-35 (CIT 2018) (*Qingdao*).

¹⁵³ See Petitioner’s Rebuttal Brief at 5 – 7.

- Xuanshi disregards the court cases finding that Commerce is entitled to deference with respect to its interpretation of irrecoverable VAT.¹⁵⁴
- The Court has not yet spoken in one voice on this issue. In *Qingdao*, the Court remanded the matter to Commerce, and Commerce has yet to respond. Therefore, *Qingdao* is subject to appeal and may be overturned.¹⁵⁵

Commerce Position:

We agree with the petitioner. Section 772(c)(2)(B) of the Act authorizes Commerce to deduct from its calculation any “export tax, duty or other charge imposed by the exporting country on the exportation of the subject merchandise to the United States.” Neither the statute nor the statute’s legislative history defines “export tax, duty or other charge imposed” for purposes of this provision.¹⁵⁶ In 2012, Commerce, following notice-and-comment, identified these terms to include “e.g., an export tax or VAT that is not fully refunded upon exportation.”¹⁵⁷ In the Chinese VAT system, companies have un-refunded or irrecoverable VAT, in which “some portion of the input VAT that a company pays on purchases of inputs used in the production of exports is not refunded.”¹⁵⁸ That is, companies may still deduct input VAT from domestic sales similar to companies in a typical VAT system, but do not receive a full rebate of the VAT for exports when the VAT refund rate for a particular product is less than the VAT rate. Irrecoverable VAT, therefore, “is a net VAT burden that arises solely from, and is specific to, exports.”¹⁵⁹ Commerce’s methodology establishes that the VAT in question is irrecoverable, or unrefunded, VAT, which is, as the Court recognized in *Juancheng Kangtai*, “perfected” upon export.¹⁶⁰ Accordingly, Commerce’s methodology accounts for the net cost on exports by deducting irrecoverable VAT from the export price. In *Methodological Change*, Commerce stated that “deducting internal NME tax transactions from export price or constructed export price is consistent with the Department’s longstanding policy, which is consistent with the intent of the statute, that dumping comparisons be tax-neutral.”¹⁶¹ This deduction is, also as recognized by the Court in *Juancheng Kangtai*, permissible under the statute.¹⁶²

Xuanshi correctly states that a partial refund is provided at the time of exportation.¹⁶³ However, only a portion of the 17 percent input VAT was refunded. Specifically, the Chinese law on the record indicates that the subject merchandise receives a nine percent rebate upon export.¹⁶⁴ It is

¹⁵⁴ *Id.* at 6, citing to *Jiangsu Senmao Bamboo and Wood Industry Co., Ltd. v. United States*, Slip Op. 18-67 (CIT 2018).

¹⁵⁵ *Id.*, citing to *Qingdao*.

¹⁵⁶ See SAA at 823.

¹⁵⁷ 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 Proceeding*, 77 FR 36481, 36482 (June 19, 2012) (*Methodological Change*).

¹⁵⁸ *Id.*

¹⁵⁹ See *PC Tie Wire – China*, and accompanying IDM at Comment 1.

¹⁶⁰ See *Juancheng Kangtai Chemical Co., Ltd. v. United States*, Slip Op. 17-3 (January 19, 2017) (*Juancheng Kangtai*) at 13.

¹⁶¹ See *Methodological Change* at 36483.

¹⁶² See *Juancheng Kangtai* at 13.

¹⁶³ See Xuanshi’s Case Brief at 10.

¹⁶⁴ See Xuanshi’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China (“Soil Pipe Fittings”); A-

the remaining eight percent unrefunded input VAT (*i.e.*, the irrecoverable VAT) we are deducting from Xuanshi's U.S. price. Record evidence supports that Xuanshi incurred unrefunded VAT (irrecoverable VAT) on the subject merchandise it exported, and this amounts to a tax, duty or other charge imposed on exports that is not imposed on domestic sales – in other words, a net VAT burden on exports.¹⁶⁵ Under the statute, Commerce is required to deduct such a charge to reach a tax-neutral dumping comparison.

Xuanshi asserts an incomplete analysis by relying solely on the CIT's holding in *Qingdao* to support its position.¹⁶⁶ It is true that the CIT, in *Qingdao* stated, in pertinent part, that “{a}ny attempt to interpret {772}(c)(2)(B) to address irrecoverable VAT poses an insurmountable problem.”¹⁶⁷ However, as the petitioner noted, the Court has yet to speak in one voice on this issue, finding in *Jacobi Carbons* that *Qingdao* “was premised on its understanding that Commerce was applying the export tax, duty or other charge language to a domestic tax,” and upholding in *Jacobi Carbons* a U.S. price adjustment for a VAT charged on the exportation of the merchandise.”¹⁶⁸

Accordingly, for the final determination, we are continuing to adjust the U.S. price by the reported irrecoverable VAT. As stated in the *Preliminary Determination*, we are adjusting the gross U.S. price and not the normal value, *i.e.*, we adjusted for the unrefunded input VAT (*i.e.*, irrecoverable VAT) rather than a domestic sales tax alluded to in *Qingdao*.¹⁶⁹ Therefore, we will continue to deduct the irrecoverable VAT from U.S. price in the final margin calculations in accordance with our established practice.

Comment 10: Record-Keeping Deficiencies

Petitioner's Arguments

- The record reveals record-keeping deficiencies on the part of respondents that must be remedied if this investigation results in an antidumping duty order.¹⁷⁰
- Because the respondents were unable to track reintroduced material inputs, Commerce was unable to value them in the margin calculations.
- Xuanshi's and Wor-Biz's inability to report consumption rates on a CONNUM-specific basis “masks and exaggerates margin comparisons and is inaccurate.”
- Wor-Biz's affiliated reseller NewAge should have been able to track U.S. sales by source and distinguish sales that were further-manufactured from sales that were not.
- Commerce should put the respondents on notice that better record-keeping will be required in the event an AD order is issued, as Commerce often does in response to such

570-062; Response to Sections C and D and Appendix V of the Department Questionnaire,” dated October 30, 2017 (Xuanshi CDQR), at Exhibits C-3 – C-5.

¹⁶⁵ See Xuanshi CDQR at portable document format (PDF) 45 – 48 and Xuanshi Verification Report.

¹⁶⁶ See Xuanshi's Case Brief at 10, citing *Qingdao*.

¹⁶⁷ *Id.* at 11.

¹⁶⁸ See, e.g., *Jacobi Carbons AB v. United States*, Slip. Op. 18-46 (CIT 2018) (*Jacobi Carbons*).

¹⁶⁹ See *Preliminary Determination*, and accompanying PDM at 24.

¹⁷⁰ See Petitioner's Case Brief at 79 – 82.

deficiencies identified during a LTFV investigation.¹⁷¹

Commerce Position

We agree with the petitioners, in part. First, as discussed in Comment 5 above, we determine that Xuanshi and Wor-Biz have properly reported all of their FOPs, inclusive of the materials reintroduced into the production of cast iron soil pipe fittings. Second, although neither company tracks consumption rates on a product-specific basis in the normal course of business, it is not uncommon to encounter this scenario in antidumping proceedings.¹⁷² However, Wor-Biz devised a reasonable methodology to estimate consumption rates on a CONNUM-specific basis, and we also applied this methodology to Xuanshi's reported consumption rates for this investigation.¹⁷³

However, we agree with the petitioner that NewAge's inventory tracking methodology needs improvement if Wor-Biz participates in any future administrative reviews, if this investigation results in an AD order. Wor-Biz reported, and we verified, that NewAge does not distinguish its soil pipe fitting inventory by manufacturer.¹⁷⁴ As a result, we allowed Wor-Biz to estimate its universe of sales to the United States for purposes of this investigation using a quantity adjustment factor. This type of estimation would not be acceptable in an administrative review, on which we base antidumping duty assessments. Therefore, we are putting Wor-Biz on notice that Commerce will require Wor-Biz to identify sales of subject merchandise by supplier for reporting purposes in future administrative reviews if an AD order is issued in this case.

Wor-Biz Issues

Comment 11: Surrogate Value for Asphalt Paint

Wor-Biz's Comments

- Wor-Biz objects to the surrogate value selected by Commerce for its asphalt paint input in the *Preliminary Determination*. Commerce incorrectly selected HTS category 320810, which is for polymer-based paints.¹⁷⁵
- Record evidence demonstrates that the input used by Wor-Biz's supplier, Guangzhou Premier, was in fact an asphalt-based coating rather than a polymer-based coating.¹⁷⁶

¹⁷¹ *Id.* at 81, citing to *Drawn Stainless Steel Sinks from the People's Republic of China, Final Determination*, 78 FR 13019, 13022 (February 26, 2013); *Steel Nails – China AR3*, and accompanying IDM at 5; and, *Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam*, 81 FR 75042 (October 28, 2016) and accompanying IDM at Comment 15.

¹⁷² See SAA at 835. See also, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the Republic of Korea*, 71 FR 29310 (May 22, 2006), and accompanying IDM at Comment 51.

¹⁷³ See Wor-Biz Verification Report at 11. See also Xuanshi Final Calculation Memorandum.

¹⁷⁴ See NewAge Verification Report at 5.

¹⁷⁵ See Wor-Biz's Case Brief at 7 – 8.

¹⁷⁶ See Wor-Biz's Case Brief at 7, citing to the Wor-Biz Verification Report at Exhibit 7.

- During verification, Guangzhou Premier provided information to Commerce about the two different types of paints used by Guangzhou Premier, asphalt paint and epoxy coating. Guangzhou Premier provided information on the composition of asphalt paint.
- Because Guangzhou Premier in fact used asphalt-based paint rather than a polymer-based paint, Commerce should use the HTS category 2715.00 that is on the record for asphalt-based paint to value bituminous coating because it is more specific to the type of coating used by Guangzhou Premier during the POI.

Petitioner’s Rebuttal

- HTS code 320890 is the most appropriate surrogate value for bituminous paint.¹⁷⁷
- Although Commerce used HTS code 320810 in the *Preliminary Determination* for Wor-Biz’s paint value, the appropriate surrogate value is HTS 320890 that was used for Sibos paint value.

Commerce’s Position:

We agree with Wor-Biz that the appropriate surrogate value for bituminous (asphalt) coating is HTS category 271500. We found at verification that Wor-Biz coated its fittings with a bituminous or asphalt coating rather than a polymer-based paint.¹⁷⁸ Therefore, for the final determination, we valued bituminous coating using the HTS category 271500 (bituminous mixtures based on natural asphalt, natural bitumen, petroleum bitumen, mineral tar or mineral tar pitch). We did not use the HTS category 320890 as the petitioner advocates, because this HTS code represents another category for polymer-based paints, (*i.e.*, paints and varnishes (including enamels & lacquers) based on synthetic polymers, in a nonaqueous medium, nesoi).

Comment 12: Surrogate Value for Paint Thinner

Wor-Biz’s Comments

- Wor-Biz objects to the surrogate value selected by Commerce for paint thinner in the Preliminary Determination. Commerce selected HTS 381400, which is for paint thinners that are not specified elsewhere.¹⁷⁹
- During verification, Guangzhou Premier presented to Commerce information demonstrating that the paint thinner it used to produce the subject merchandise was a xylene-based paint thinner.
- Commerce should use the HTS category 290244 that is on the record for paint thinner, because it is the most specific surrogate value for the paint thinner used by Guangzhou Premier.

Petitioner’s Rebuttal

- HTS category 381400 remains the most appropriate source for the surrogate value for paint thinner.¹⁸⁰

¹⁷⁷ See Petitioner’s Rebuttal Brief at 7 – 8.

¹⁷⁸ See Wor-Biz Verification Report at 12, and Exhibit 7.

¹⁷⁹ See Wor-Biz’s Case Brief at 9.

¹⁸⁰ See Petitioner’s Rebuttal Brief at 8 – 9.

- The petitioner placed on the record a Customs Rulings Online Search System (CROSS) ruling that determined that paint thinner containing xylene was appropriately classified under HTS category 381400.¹⁸¹

Commerce’s Position:

We agree with the petitioner. In its Pre-Preliminary Comments, the petitioner provided information that xylene-based paint thinners are classified under the HTS category 381400.¹⁸² Moreover, the HTS category 290244 advocated by Wor-Biz is specific to the chemical, xylene isomer, which is an ingredient in paint thinner. Therefore, we continued to value paint thinner using HTS category 381400 for the final determination.

Comment 13: Calculation of Freight Revenue

Petitioner’s Comments:

- Wor-Biz’s reported freight revenue should be capped by the amount of the reported inland freight from the warehouse to the customer in the final determination.
- A significant number of observations for which Wor-Biz reported freight revenue exceed the inland freight cost. It is Commerce’s policy and practice to cap freight revenue by the amount of the associated freight expense.
- Commerce acknowledged that it made a ministerial error in preliminary determination by not capping freight revenue.¹⁸³ Commerce should make this correction for the final determination.

No other interested party commented on this issue.

Commerce’s Position:

We agree with the petitioner that it is Commerce’s practice to cap freight revenue by the associated freight expense.¹⁸⁴ We corrected this ministerial error in our final margin calculations for Wor-Biz.¹⁸⁵

Xuanshi Issues

Comment 14: Surrogate Value for Pig Iron

Petitioner’s Comments

- If Commerce continues to use Tata Africa’s financial statements, for Xuanshi and Sibon Commerce should value pig iron rather than the components of pig iron, as Tata Africa’s

¹⁸¹ See Petitioner’s Rebuttal Brief at 8, citing to its letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Pre-Preliminary Comments,” dated January 18, 2018 (Pre-Preliminary Comments).

¹⁸² See Petitioner’s Pre-Preliminary Comments at 17 and Exhibit 1.

¹⁸³ See Petitioner’s Case Brief at 66, citing to the Ministerial Error Allegation Memorandum.

¹⁸⁴ See, e.g., *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010), and accompanying decision memorandum at Comment 2.

¹⁸⁵ See Wor-Biz Final Calculation Memorandum.

financial statements do not definitively state that it produces pig iron. Consequently, these financial statements do not capture the capital costs of an integrated steel mill.¹⁸⁶

- It is Commerce's practice to value an intermediate product rather than the FOPs comprising that product when the financial statements do not account for the capital costs associated with the stages of production of the intermediate product.¹⁸⁷
- Tata Africa's overhead ratio of 0.05 percent, compared to Tupy Brazil's overhead ratio of 11.7 percent, reflects an atypical depreciation value for a capital-intensive operation such as the manufacture of cast iron soil pipe fittings.

Xuanshi Rebuttal

- Commerce should not calculate the margin for Xuanshi by valuing pig iron, rather than the components of pig iron, as Xuanshi does not produce its fittings from an intermediate input. Thus, all elements of cost are adequately accounted for in the reported FOPs.¹⁸⁸
- The production of the liquid iron and the finished castings occurred at the same location and in a continuous production process.
- Unlike in *Wire Rod – Ukraine*, the production of the liquid iron and the production of castings have common elements, including the heating and adjustment of material to have specific metallurgical properties.¹⁸⁹
- Further, there is insufficient time for parties to provide any factual information and/or comments at this stage of the investigation, if Commerce determines to value pig iron.

Commerce Position:

For the final determination, we are continuing to value the individual FOPs that Xuanshi¹⁹⁰ used to make pig iron rather than the pig iron itself. While we agree that, in certain instances, Commerce values an intermediate input rather its component FOPs, we find that in this instance, doing so is unwarranted. In support of its argument, the petitioner relies on *Wire Rod – Ukraine* wherein Commerce valued iron ore as opposed to the inputs which go into mining iron ore. In *Wire Rod – Ukraine* we found that the surrogate company did not mine iron ore.¹⁹¹ Our determination in that case was rooted in the assumption that valuing the self-produced inputs would lead to the exclusion of the related capital costs.¹⁹² We disagree that *Wire Rod – Ukraine* is controlling, however. In *Wire Rod – Ukraine*, we made several determinations regarding the surrogate company, including the fact that the company did not self-produce iron ore, electricity, argon, nitrogen, or electricity and, consequently, did not possess, operate, or maintain the capital plant required to manufacture them.¹⁹³ As such, we concluded that these capital expenses were not reflected in the company's financial ratios.¹⁹⁴ Here, we do not make similar determinations

¹⁸⁶ See Petitioner's Case Brief at 9 – 12.

¹⁸⁷ See Petitioner's Case Brief at 9, citing *Carbon and Certain Alloy Steel Wire Rod from Ukraine*, 67 FR 55785 (August 30, 2002), and accompanying IDM at Comment 4 (*Wire Rod – Ukraine*).

¹⁸⁸ See Xuanshi's Rebuttal Brief at 11 – 14.

¹⁸⁹ *Id.* at 13, citing to *Wire Rod – Ukraine*.

¹⁹⁰ This argument is moot with respect to Sibco because, as discussed above, we are no longer calculating a separate rate for Sibco. See Comment 1.

¹⁹¹ See Petitioner's Case Brief at 9, citing to *Wire Rod – Ukraine*, and accompanying IDM at Comment 4.

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

with respect to Tata Africa's operations because that information is not indicated in the financial statements.¹⁹⁵

Further, the petitioner's statement that Tata Africa's 0.05 percent overhead ratio, compared to Tupy Brazil's 11.7 percent overhead ratio, is an atypical depreciation value for a capital-intensive operation like the manufacture of subject merchandise is a statement that, on the record of this investigation, is unsubstantiated. As also noted in Comment 2, Tupy Brazil's financial statements reflect its consolidated operations in Brazil and Mexico and, therefore, the depreciation value reflects operations that are outside the suggested surrogate country of Brazil. Again, our preference is to value all FOPs from a single surrogate country.

In addition, we agree with Xuanshi that iron ore mining is substantially different from pig iron production where the former is a separate and distinct operation from the production of carbon and alloy steel wire rod, the subject merchandise in *Wire Rod – Ukraine*. That is, in valuing the subject merchandise FOPs in *Wire Rod – Ukraine*, the capital cost of mining would not be captured on the financial statement, as mining is an entirely distinct industry from steel wire rod production. By contrast, in Xuanshi's case, the production of pig iron and cast iron soil pipe fittings are interrelated production processes that occur in the same location and utilize similar resources. Finally, we verified that all elements of cost related to Xuanshi's production of pig iron were properly and adequately accounted for in its reported FOPs.¹⁹⁶

Comment 15: Surrogate Values for Iron Ore and Coke

Xuanshi's Comments

- In the parallel CVD investigation Commerce preliminarily determined, in a post-preliminary decision on new subsidy allegations, that iron ore and coke were obtained for less than adequate remuneration (LTAR) and thus applied a countervailing duty for the difference between the price paid by Xuanshi and the "benchmark" price for such materials.¹⁹⁷
- If Commerce were to apply a surrogate value to these materials without adjusting for this difference, it would result in a double remedy.
- To avoid this, Commerce should adjust the surrogate values by the difference between the actual price paid by Xuanshi and the benchmark price used to calculate the countervailing duty.
- The purpose of the AD calculations is to calculate accurate margins. A methodology which does not consider the application of LTAR to certain inputs in the CVD matter to the inputs in the AD matter is inherently inaccurate.¹⁹⁸
- While Xuanshi did not identify iron ore and coke in response to the December 2017 double remedy questionnaire, the new subsidies questionnaire, which requested information on both iron ore and coke LTAR programs, was not issued until January 2018.

¹⁹⁵ See Amended Petition at Exhibit 11.

¹⁹⁶ See Xuanshi Verification Report.

¹⁹⁷ See Xuanshi's Case Brief at 7 – 9.

¹⁹⁸ *Id.* at 8, citing to *Rhodia, Inc. v. United States*, 25 CIT 1278, 1286 (November 30, 2001) (*Rhodia*).

- Nonetheless, Xuanshi stated in its response to the double remedies questionnaire that the cost of raw materials was a critical part of the cost of manufacture and that iron ore and coal (which includes coke) were among its primary raw materials.
- As the deadline for submitting new factual information had passed, and as Commerce did not issue another double remedy questionnaire, it was impossible for Xuanshi to provide the information for purported subsidies, which had not been investigated at the time of the submission of its double remedy questionnaire response, in any subsequent filing.
- Commerce now has clear evidence of these facts and should adjust the raw material values for iron ore and coke to avoid this double remedy accordingly.

Petitioner's Rebuttal

- While Xuanshi argues that Commerce should use the actual price paid for iron ore and coke in the calculation, there is no mention in Xuanshi's case brief of the statutory provision that is meant to be applied in this situation.¹⁹⁹
- There is a statutory procedure for determining whether an adjustment is warranted for a domestic subsidy, and Xuanshi has not attempted to show that it meets the requirements for such adjustment under the statute.²⁰⁰

Commerce Position:

We disagree with Xuanshi, and find that the company failed to substantiate a subsidies-to-cost link and a cost-to-price link with respect to its purchases of iron ore and metallurgical coke for LTAR during the POI.

In applying section 777A(f) of the Act, Commerce examines (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to the 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 normal value determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.²⁰¹ For a subsidy meeting these criteria, the statute requires Commerce to reduce the AD duty cash deposit rate by the estimated amount of the increase in the weighted-average dumping margin, subject to a specified cap.²⁰²

In conducting this analysis, Commerce has not concluded that concurrent application of NME antidumping duties and countervailing duties necessarily and automatically results in overlapping remedies.²⁰³ 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.²⁰⁴

¹⁹⁹ See Petitioner's Rebuttal Brief at 4 – 5.

²⁰⁰ *Id.* at 5, citing to *Tool Chests – China*, 82 FR 53456 (November 16, 2017) (), and accompanying IDM at 31.

²⁰¹ See section 777A(f)(1)(A) – (C) of the Act.

²⁰² See section 777A(f)(1) – (2) of the Act.

²⁰³ See *Staple Fiber – China*, and accompanying IDM at Comment 2.

²⁰⁴ *Id.*

In order to examine the effects of concurrent countervailable subsidies in calculating antidumping margins for respondents in this investigation, Commerce requested that Xuanshi submit information with respect to subsidies relevant to its eligibility for an adjustment to the calculated weighted-average dumping margin. Commerce issued its double remedy questionnaire to Xuanshi on November 20, 2017, which instructed the company to “provide full documentary support” for each response.²⁰⁵ Xuanshi submitted a response to the questionnaire on December 1, 2017.²⁰⁶ In that response, Xuanshi identified one program that impacts the company’s cost of manufacturing in its books and records: Provision of Electricity for LTAR.²⁰⁷

Following this submission, Commerce examined whether Xuanshi demonstrated: (1) a subsidies-to-cost link, *e.g.*, the subsidy’s impact on the cost of manufacture (COM); and (2) a cost-to-price link, *e.g.*, the COM’s impact on the respondent’s export prices. While Xuanshi noted that the cost of raw materials, including that of iron ore, coal, and electricity, are primary factors when setting and changing the price of exports, the company provided no documentary support for the two former inputs, and little for the latter.²⁰⁸ Commerce determined that, based on the information submitted, Xuanshi failed to substantiate a subsidies-to-cost link and a cost-to-price link with respect to the programs under investigation.²⁰⁹

The essence of Xuanshi’s complaint, however, is that Commerce failed to properly value FOPs, *i.e.*, iron ore and metallurgical coke, because it did not adjust the value for the countervailing duties imposed on those inputs, or otherwise account for the double remedy in the *Preliminary Determination*.²¹⁰ As Xuanshi notes, Commerce initiated an investigation based on new subsidy allegations regarding the provision of iron ore and metallurgical coke for LTAR on December 11, 2017.²¹¹ Pursuant to 19 CFR 351.301(c)(3), Xuanshi had until 30 days before the *Preliminary Determination* to submit information to value FOPs.²¹² Here, that period amounted to over 30 days after the time in which Xuanshi was made aware by Commerce of the initiation of a CVD investigation regarding the provision of iron ore and metallurgical coke for LTAR. As part of its submission to value FOPs, Xuanshi failed to provide Commerce with any information related to a double remedy offset claim with regard to iron ore and metallurgical coke.

Further, if Xuanshi believed that the submission of information related to a double remedy offset claim for these two FOPs would have been improper under 19 CFR 351.301(c)(3), the regulations allow for the submission of factual information not directly related to a questionnaire

²⁰⁵ See Commerce’s Letter, “Antidumping Duty Investigation of Cast Iron Soil Pipe Fittings from the People’s Republic of China: Double Remedies Questionnaire,” dated November 20, 2017 (Double Remedies Questionnaire).

²⁰⁶ See Xuanshi’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: (“Soil Pipe Fittings”); A-570-062; Response to the Department’s Double Remedies Questionnaire,” dated December 1, 2017 (Xuanshi DRQR).

²⁰⁷ *Id.* at 5 – 6.

²⁰⁸ *Id.* at 2.

²⁰⁹ See *Preliminary Determination*, and accompanying PDM at 29 – 30.

²¹⁰ See Xuanshi’s Case Brief at 8.

²¹¹ See Xuanshi’s Case Brief at 8.

²¹² See 19 CFR 351.301(c)(3). In this case, the deadline was extended to January 16, 2018, due to tolling.

response or valuing FOPs.²¹³ As stated in 19 CFR 351.301(c)(5), upon receipt of this type of factual information, Commerce will issue a memorandum accepting or rejecting the information, and further, if accepted, issue a schedule providing for the submission of factual information to rebut, clarify, or correct the factual information.²¹⁴ However, Xuanshi never attempted to file any information related to a double remedy offset claim for iron ore and metallurgical coke under this provision.

While “Commerce has the authority to place documents in the administrative record that it deems relevant, the burden of creating an adequate record lies with interested parties and not with Commerce.”²¹⁵ Contrary to Xuanshi’s assertion that “it was impossible” for the company to provide the requested information pertaining to iron ore and metallurgical coke,²¹⁶ we find there were opportunities for Xuanshi to supplement the record with the information required to substantiate a double remedy offset claim with respect to these inputs.

Based on the foregoing, for the final determination in this investigation, we find that Xuanshi failed to substantiate a subsidies-to-cost link and a cost-to-price link with respect to its purchases of iron ore and metallurgical coke for LTAR during the POI. Should both the CVD and AD investigations on cast iron soil pipe fittings result in orders, the first administrative review, if requested, will provide Xuanshi another opportunity to provide information with respect to a double remedy offset claim.

Comment 16: Calculation of the Slag Iron By-Product Offset

Petitioner’s Comments

- Commerce’s practice is to reject or cap surrogate values for by-product offsets in instances where the surrogate values for the offsets exceed the surrogate values for the inputs.²¹⁷
- The surrogate value for Xuanshi’s iron ore slag by-product exceeds the surrogate value for iron ore and, therefore, should be capped for the final determination.

Xuanshi’s Rebuttal

- The petitioner’s interpretation of *Solar Cells – China* to support its argument is incorrect because Commerce does not follow this practice if the by-product is produced using a mixture of many inputs.²¹⁸
- In addition, the HTS categories for slag, iron ore, and soil pipe fittings are all different, thus the cap is inapplicable. Therefore, the petitioner’s argument is without merit.

²¹³ See 19 CFR 351.301(c)(5); see also 19 CFR 351.102(b)(21)(i) – (iv).

²¹⁴ *Id.* at 19 CFR 351.301(c)(5).

²¹⁵ See *QVD Food Co., Ltd. v. United States*, 658 F.3d 1318, 1324 (CAFC 2011) (*QVD Food*).

²¹⁶ See Xuanshi’s Case Brief at 9.

²¹⁷ See Petitioner’s Case Brief at 58 – 59, citing to *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014-2015*, 82 FR 29033 (June 27, 2017) (*Solar Cells – China*), and accompanying IDM at 28.

²¹⁸ See Xuanshi’s Rebuttal Brief at 19 – 20.

Commerce Position:

For the final determination, we continue to allow Xuanshi a full (uncapped) by-product offset for slag. The petitioner relies on *Solar Cells – China* for the proposition that Commerce caps by-product offsets when the by-product surrogate value exceeds the input’s surrogate value.²¹⁹ Although we agree with the petitioner that we noted this practice in *Solar Cells – China*, we also noted in that case that we do not cap by-product offsets if the by-product is produced using a mixture of other inputs, and it is not being valued with the same HTS category as the main product.²²⁰ Here, Xuanshi reported, and Commerce verified, that its slag is produced from iron ore (domestic and imported), coke, quick lime, and coal.²²¹ Accordingly, per our practice, we are not adjusting our calculation methodology with respect to Xuanshi’s reported slag.

Comment 17: Calculation of the Packing Material Consumption Rates

Petitioner’s Comments:

- Xuanshi reported its consumption of packing materials on a per- KG basis rather than on a per-piece basis. However, because U.S. price is calculated on a per-piece basis, Commerce should multiply Xuanshi’s factor values, including those for packing materials, by weight to yield per-piece consumption values.²²²
- Further, an analysis of the per-KG consumption amounts of packing materials indicated on the record shows that using WEIGHTU would understate the consumption of Xuanshi’s packing factors.
- The record shows that Xuanshi sometimes used the SWEIGHTU field to allocate consumption amounts for packing materials, and at other times used weight values that do not match either to the WEIGHTU or SWEIGHTU fields.²²³
- The petitioner’s calculations prove that Xuanshi did not use the WEIGHTU field when allocating packing material consumption amounts, and further, that using the WEIGHTU field to convert packing material factors would understate normal value.
- Commerce should therefore use the SWEIGHTU field to convert per-KG packing material factors to a per-piece basis, because the record indicates that SWEIGHTU is the most accurate method to convert consumption amounts to a per-piece basis.

Xuanshi’s Rebuttal

- The petitioner’s claims that Xuanshi’s packing materials FOPs require different weights to convert them to a per-piece basis are without merit.²²⁴
- Xuanshi calculated its packing material consumption rates and applied these to the products using the same weights it used to calculate the cost of production.

²¹⁹ See Petitioner’s Case Brief at 58 – 59, citing to *Solar Cells – China*, and accompanying IDM at 28. See also, 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 7.

²²⁰ See *Solar Cells – China*, and accompanying IDM at 28.

²²¹ See Xuanshi Verification Report at 12.

²²² See Petitioner’s Case Brief at 50 – 53.

²²³ *Id.* at 51, citing to Xuanshi Verification Report at VE-13; and Xuanshi CDQR at Exhibit D-6.

²²⁴ See Xuanshi’s Rebuttal Brief at 18 – 19.

- For consistency, Commerce should continue to use the same weights for both the cost of packing materials and the cost of production.
- The petitioner has submitted an overly complicated set of calculations making a series of assumptions to confuse the calculation and to advocate for the use of an alternate weight which they claim is more reliable because it produces a greater consumption amount.²²⁵

Commerce Position:

While we agree with the petitioner that we should convert per-KG packing material factors to a per-piece basis, we find the most appropriate conversion factor to be reported under the WEIGHTU field, as this variable contains the most accurate information with which to calculate per-piece consumption amounts for all inputs, including packing materials.²²⁶

In our six-day on-site verification, we verified the accuracy of the reported weights in the WEIGHTU field of Xuanshi's FOP database by individually weighing various samples of subject merchandise.²²⁷ Additionally, company officials explained in detail the calculation and methodology used to arrive at the reported standard weights, or those reported in the SWEIGHTU field.²²⁸ We further examined Xuanshi's internal documentation and the computer software used to compute SWEIGHTU and track the weights of subject merchandise throughout inventory.²²⁹ We also reviewed the reported amounts of the reported packing materials consumed by Xuanshi during the POI.²³⁰

We verified that the weights reported in the WEIGHTU field are the accurate, actual weights of individual fittings, while the standard weights reported in the SWEIGHTU field are theoretical weights based on sales contracts and primarily used for internal accounting purposes.²³¹ Therefore, we find that the WEIGHTU field provides the most accurate calculation of per-piece consumption amounts for packing materials, as well as for all other material inputs.

Comment 18: Surrogate Values for Inland and Ocean Freight

Xuanshi's Comments

- Commerce should adjust the inland transportation surrogate value for iron ore, coal, and coke to reflect the actual truck size and method of transportation used by Xuanshi.²³²
- In the *Preliminary Determination*, Commerce based the inland transportation surrogate value on *Doing Business 2017: South Africa*, which provided a surrogate value based on a 20-foot container weighing 15 metric tons (MT), transported 570 kilometers (KM) at a cost of \$1,500, and resulting in a rate of 0.00018129 USD/KM/KG applied to each KM/KG of iron ore, coke, coal, and other inputs.²³³

²²⁵ *Id.* at 19.

²²⁶ See Xuanshi Final Calculation Memorandum.

²²⁷ See Xuanshi Verification Report at 10 – 11.

²²⁸ *Id.* at 10 – 11.

²²⁹ *Id.*

²³⁰ *Id.* at 25 – 26.

²³¹ *Id.*

²³² See Xuanshi's Case Brief at 2 – 5 and Footnotes 1 – 2.

²³³ *Id.* at 2, citing to Preliminary SV Memorandum.

- This rate, however, is inaccurate as it greatly overstates the truck freight and does not properly reflect the nature of iron ore, which is generally shipped as bulk cargo, not in 20-foot containers.²³⁴
- Commerce should recalculate the freight rate by taking the total trucking cost of \$1,550, dividing it by the number of KG in the bulk transport vehicle used by Xuanshi, and dividing this result by the 570 KM to produce a surrogate freight value, resulting in a rate of 0.0000799794 USD/KM/KG.²³⁵
- Although Commerce has refused to adjust the inland freight charge in several prior actions, this case presents very different facts. Refusing to make any adjustment here would result in the use by Commerce of a commercially unviable value.²³⁶
- Commerce has an obligation to calculate margins in an accurate manner and the use of a badly distorted value does not comport with this legal obligation.²³⁷
- Additionally, as iron ore, coal, and coke are transported in dry bulk shipments, they are subject to significantly lower ocean dry bulk shipment rates.²³⁸
- The record indicates that dry bulk cargo is carried in large bulk carriers while other dry goods are carried in liner service.²³⁹
- If the dry bulk cargo rates were less {sic} expensive than the container rates, the dry bulk would be carried in containers. As it is not, this is *prima facie* evidence of a lower rate for dry bulk cargo.
- Commerce should therefore use the rate of \$7.50 per MT for the ocean shipping rates used in the final determination.

Petitioner's Rebuttal

- Xuanshi wants Commerce to calculate a surrogate value for inland freight by dividing the cost provided by *Doing Business 2017: South Africa* by a higher number. Xuanshi notes that in the *Hand Trucks – China* decision, Commerce did not adjust the per-unit surrogate value, but Xuanshi argues that the instant case is different.²⁴⁰
- In *Hand Trucks – China*, Commerce left the surrogate value unchanged because there was no information in the record for inland freight costs in the surrogate country other than for shipment volumes of nine MT.²⁴¹
- Likewise, here, while Xuanshi may have put information on the record for inland freight weights in China, it has placed no information on the record for inland freight weights in the surrogate country.

²³⁴ *Id.*, citing to Xuanshi's December 8, 2017 Rebuttal SV Comments, at Exhibit SVR-3.

²³⁵ *Id.* at 3, citing to Xuanshi's December 8, 2017 Rebuttal SV Comments at 4 – 5 and 8; Xuanshi's Rebuttal Pre-Verification Comments, at 3 and Attachment 1; and, Xuanshi Verification Report at Exhibit VE-36.

²³⁶ *Id.* at 3 – 4, citing to *Hand Trucks and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 29720 {sic} (May 25, 2010) (*Hand Trucks – China*), and accompanying IDM at Comment 7.

²³⁷ *Id.* at 4, citing to *Rhodia* at 1286.

²³⁸ *Id.*, citing to Xuanshi's December 8, 2017 Rebuttal SV Comments at Exhibit SVR-3.

²³⁹ *Id.* at Exhibit SVR-2.

²⁴⁰ See Petitioner's Rebuttal Brief at 2, citing to *Hand Trucks – China*, and accompanying IDM at Comment 7.

²⁴¹ *Id.*

- The freight weight calculation methodology in China is irrelevant. There is no basis for calculating a per-unit, per-kilometer inland freight surrogate value other than what is found in *Doing Business*.
- Similarly, Commerce calculated ocean freight surrogate values using data from Freightos, and Xuanshi argues that Commerce should instead use a figure from its rebuttal surrogate value comments.²⁴²
- However, Xuanshi is attempting to propose a speculative surrogate value for ocean freight for an actual, calculated surrogate freight rate provided by Freightos.
- Therefore, while the petitioner maintains that the ocean freight surrogate values from Freightos presented in its December 1, 2017, submission to value FOPs should be used, in any event, Freightos remains the best source of surrogate value for ocean freight.²⁴³

Commerce Position:

We agree with the petitioner. The surrogate values we preliminarily used to value inland and ocean freight represented the best information on the record. The surrogate freight rates we used to calculate inland transportation in the *Preliminary Determination* were derived from *Doing Business 2017: South Africa*, published by the World Bank, which contains inland truck rates between the largest city in South Africa, to the largest seaport.²⁴⁴ We added freight expenses to the cost of each material input to determine total material costs.²⁴⁵ For FOPs valued using trade statistics, we calculated the inland freight rate using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest port to the factory in accordance with *Sigma*.²⁴⁶ The surrogate freight rates we used to calculate ocean freight in the *Preliminary Determination* derived from Freightos, an online provider of market-economy freight quotes.²⁴⁷

The statute directs Commerce to value the FOPs “based on the available information regarding the values of such factors in a market economy country.”²⁴⁸ As the above rates are the only information available on the administrative record specific to the relevant freight costs in the market-economy surrogate country, we find the rates are the best available information on the record to value inland and ocean freight. We therefore have used the same rates for the final determination as we used in the *Preliminary Determination*.

²⁴² *Id.* at 3, citing to Xuanshi’s December 8, 2017 Rebuttal SV Comments at Exhibit SVR-3.

²⁴³ *Id.*, citing to Petitioner’s December 1, 2017 SV Comments at Exhibit III.

²⁴⁴ See Preliminary SV Memorandum at 4, citing to the Amended Petition at Exhibit 8.

²⁴⁵ *Id.*, citing to the *Preliminary Determination*, and accompanying PDM at 25.

²⁴⁶ *Id.* at 4 – 5, citing to *Sigma Corp. v. United States*, 117 F. 3d. 1401 (CAFC 1997) (*Sigma*).

²⁴⁷ *Id.* at 5, citing to Attachment IV and Petitioner’s December 1, 2017 SV Comments at Exhibit III A-B.

²⁴⁸ See *Downhole Pipe & Equipment L.P. v. United States*, 776 F. 3d. 1369, 1375 (CAFC 2015), citing to 19 U.S.C. 1677(c)(1)(B).

IX. Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final determination of the investigation and the final dumping margins in the *Federal Register* and will notify the U.S. International Trade Commission of our determination.

Agree

Disagree

7/5/2018

X



Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

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