



A-570-104
Investigation
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September 19, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: Scot T. Fullerton
Director, Office VI
Antidumping and Countervailing Duty Operations

SUBJECT: Alloy and Certain Carbon Steel Threaded Rod from the People's
Republic of China: Decision Memorandum for Preliminary
Affirmative Determination of Sales at Less Than Fair Value

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that imports of alloy and certain carbon steel threaded rod (ACSTR) 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 733 of the Tariff Act of 1930, as amended (the Act). The preliminary estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

II. BACKGROUND

On February 21, 2019, we received an antidumping duty (AD) petition covering imports of carbon and alloy steel threaded rod from China,¹ which was filed in proper form on behalf of the Vulcan Steel Products Inc. (the petitioner). We initiated this investigation on March 13, 2019.²

In the "Respondent Selection" section of the *Initiation Notice*, Commerce stated that, after considering the large number of producers and exporters identified in the Petition,³ and

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand," dated February 21, 2019 (Petition). As discussed below under "Scope Comments," the petitioner subsequently clarified the scope of the China AD investigation. Therefore, we refer to the China AD investigation as "alloy and certain carbon steel threaded rod (ACSTR)."

² See *Carbon and Alloy Steel Threaded Rod from India, Thailand, and People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 84 FR 10034 (March 19, 2019) (*Initiation Notice*).

³ See Petition at Volume I Exhibit 13.



considering the resources required to mail quantity and value (Q&V) questionnaires to all companies named in the Petition, Commerce intended to limit the number of Q&V questionnaires based on the U.S. Customs and Border Protection (CBP) data for entries of CASTR from China made under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7318.15.5051 during the period of investigation (POI).⁴ On March 11, 2019, Commerce released the CBP data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.⁵ On March 19, Commerce issued Q&V questionnaires to the 10 largest producers and exporters in the CBP data. Commerce also made the Q&V questionnaire available to any interested parties.^{6,7} We received 11 timely Q&V questionnaire responses.⁸

In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of carbon and alloy steel threaded rod to be reported in response to Commerce's AD questionnaire.⁹ We received comments and rebuttal comments from interested parties concerning the scope of the investigations.¹⁰ We also received comments regarding the appropriate physical characteristics to be used for the purpose of reporting sales of the subject merchandise.¹¹

On April 8, 2019, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of ACSTR from China.¹²

⁴ See *Initiation Notice* 84 FR at 10040.

⁵ See Memorandum, "Less-Than-Fair-Value Investigation of Alloy Steel Threaded Rod from the People's Republic of China: Respondent Selection," dated March 11, 2019 (CBP Data Memo).

⁶ See Commerce's Letter, "Quantity and Value Questionnaire," dated March 19, 2019 (Q&V Questionnaire); see also Commerce's Letter to IFI & Morgan Ltd, "Quantity and Value Questionnaire," dated March 19, 2019; Commerce's Letter to Ningbo Dingtuo, "Quantity and Value Questionnaire," dated March 19, 2019; Commerce's Letter to Ningbo Jinding, "Quantity and Value Questionnaire," dated March 19, 2019; and Commerce's Letter to Junyue, "Quantity and Value Questionnaire," dated March 19, 2019.

⁷ See Memorandum, "Less-Than-Fair-Value Investigation of Alloy Steel Threaded Rod from the People's Republic of China: Quantity and Value Delivery Confirmation," dated April 11, 2019 (Q&V Delivery Confirmation Memo).

⁸ See Memorandum, "Less-Than-Fair-Value Investigation of Alloy Steel Threaded Rod from the People's Republic of China: Respondent Selection," dated April 11, 2019 (Respondent Selection Memorandum), for the list of all companies that filed their response to the Q&V Questionnaire.

⁹ See *Initiation Notice*, 84 FR at 10034.

¹⁰ See IKEA's Letter, "Antidumping Duty Investigations of Carbon and Alloy Steel Threaded Rod from India, Taiwan, Thailand and the People's Republic of China and Countervailing Duty Investigation on Carbon and Alloy Steel Threaded Rod from India and the People's Republic of China -Scope Comments," dated April 3, 2019; see also Petitioner's Letter, "Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand: Rebuttal Scope Comments," dated April 12, 2019.

¹¹ See Petitioner's Letter, "Carbon and Alloy Steel Threaded Rod from China, India, Taiwan, and Thailand: Comments on Product Characteristics," dated April 2, 2019. Commerce received no rebuttal comments regarding product characteristics.

¹² See *Carbon and Alloy Steel Threaded Rod from China, India, Taiwan, and Thailand, Investigation Nos. 701-TA-618-619 and 731-TA-1441-1444*, 84 FR 14971 (April 12, 2019) (Preliminary ITC Determination).

Commerce received timely separate rate applications (SRA) from fifteen companies.

On April 15, 2019, we placed on the record a list of potential surrogate countries and we invited interested parties to comment on the selection of the primary surrogate country and provide surrogate values (SVs) information.¹³ We received comments on the selection of the primary surrogate country and SVs information and rebuttals thereof from the petitioner,¹⁴ Zhejiang Junyue Standard Part Co., Ltd. (Junyue),¹⁵ and Ningbo Zhongjiang High Strength Bolts Co., Ltd. (Zhongjiang).¹⁶

Commerce is conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The POI is July 1, 2018 through December 31, 2018. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was February 2019.¹⁷

IV. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,¹⁸ we set aside a period of time until April 2, 2019, for parties to comment on product coverage (*i.e.*, the scope of this investigation) and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.¹⁹ On July 2, 2019, Commerce issued a memorandum which clarified a typographical error regarding a particular steel specification in the scope of the investigations.²⁰ We received comments concerning the scope of the AD and countervailing duty (CVD) investigations of carbon and alloy steel threaded rod from China, as well as India, Taiwan, and

¹³ See Commerce's Letter, "Less-Than-Fair-Value Investigation of Alloy Steel Threaded Rod from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated April 15, 2019 (Surrogate Country and Values Comments Invitation Letter).

¹⁴ See Petitioner's Letters, "Alloy Steel Threaded Rod from China: Comments on Surrogate Country," dated June 4, 2019 (Petitioner SC Comments), "Alloy Steel Threaded Rod from China: Surrogate Value Comments," dated June 28, 2019 (Petitioner SV Comments), "Alloy Steel Threaded Rod from China: Surrogate Value Rebuttal Comments," dated July 8, 2019 (Petitioner SV Rebuttal Comments).

¹⁵ See Junyue's Letter, "Junyue's Carbon and Alloy Steel Threaded Rod from the People's Republic of China – Surrogate Country Comments (A-570-104)," dated June 4, 2019 (Junyue SC Comments), "Junyue's Carbon and Alloy Steel Threaded Rod from the People's Republic of China – Surrogate Value Submission (A-570-104)," dated June 28, 2019 (Junyue SV Comments).

¹⁶ See Zhongjiang's Letters, "Zhongjiang's Surrogate Country Comments in the Antidumping Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (A-570-104)," dated June 4, 2019 (Zhongjiang SC Comments), and "Zhongjiang's First Surrogate Value Comments in the Antidumping Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (A-570-104)," dated June 28, 2019 (Zhongjiang SV Comments).

¹⁷ See 19 CFR 351.204(b)(1).

¹⁸ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹⁹ See *Initiation Notice*, 84 FR at 10035.

²⁰ See Commerce's Letter, "Carbon and Alloy Steel Threaded Rod from India, Taiwan, Thailand, and the People's Republic of China: Correction of Typographical Error in the Scope Language," dated July 2, 2019.

Thailand, which were also placed on the record of this investigation. The Preliminary Scope Decision Memorandum, issued concurrently with the CVD preliminary determination, includes an explanation of our consideration of the parties' comments and our preliminary modifications to the scope of the investigation.

Because there is an existing AD order on carbon steel threaded rod from China, on September 3, 2019, the petitioner clarified for the record that with respect to ACSTR from China AD investigation only, the products covered are alloy and certain steel threaded rod. Accordingly, the petitioner revised the scope of the China AD investigation to reflect the petitioner's intent concerning the products that should be covered. We provided all interested parties an opportunity to comment on the revised scope.²¹ No interested party submitted comments.

Based on our analysis of the comments and rebuttals we received, we have preliminarily modified the scope of this investigation.²²

V. SCOPE OF THE INVESTIGATION

For a full description of the scope of this investigation, *see* the accompanying *Federal Register* notice at Appendix I.

VI. PRODUCT CHARACTERISTICS

In the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding product characteristics.²³ The petitioner provided comments,²⁴ which we took into consideration in determining the physical characteristics outlined in the AD questionnaire.²⁵ Commerce received no rebuttal comments regarding product characteristics.

VII. SELECTION OF RESPONDENTS

In the *Initiation Notice*, Commerce stated its intent to base respondent selection on the responses to Q&V questionnaires.²⁶ On March 19, 2019, we issued the Q&V questionnaire to the largest 10 producers and exporters identified in the CBP data: six were issued via FedEx to parties which had not entered a notice of appearance; and four were issued via Enforcement and

²¹ See Memorandum, "Phone Conversation with counsel for Vulcan Threaded Products Inc.," dated September 6, 2019 (Proposed Revised Scope Memo).

²² See Preliminary Scope Decision Memorandum for a full discussion of all scope comments; *see also* Proposed Revised Scope Memo.

²³ See *Initiation Notice*, 84 FR at 10035.

²⁴ See Petitioner's Letter, "Carbon and Alloy Steel Threaded Rod from China, India, Taiwan, and Thailand: Comments on Product Characteristics," dated April 2, 2019.

²⁵ See Commerce's Letter, "Product Characteristics the Antidumping Duty Investigations of Carbon and Alloy Steel Threaded Rod from, India, Taiwan, and Thailand, and the People's Republic of China," dated April 26, 2019.

²⁶ See *Initiation Notice*, 84 FR at 10038.

Compliance's ACCESS system to parties which had entered a notice of appearance.²⁷ Of the six Q&V questionnaires sent by FedEx, all six were delivered; however, four were refused by the recipients with no further information from those producers and exporters.²⁸ In addition, we posted the Q&V questionnaire on our website and, in the *Initiation Notice*, invited parties that did not receive a Q&V questionnaire from Commerce to file a response to the Q&V questionnaire by the applicable deadline if they wished to be included in the pool of companies from which Commerce would select mandatory respondents.²⁹ We received 11 timely Q&V questionnaire responses.³⁰ On March 22, 2019, the petitioner submitted comments on respondent selection.³¹

On April 11, 2019, in accordance with section 777A(c)(2)(B) of the Act, we selected the two exporters accounting for the largest volume of ACSTR from China during the POI, *i.e.*, Junyue and Zhongjiang, for individual examination.³² On April 12, 2019, we issued the AD questionnaire to Junyue and Zhongjiang.³³ We received questionnaire responses from Junyue³⁴ and Zhongjiang.³⁵ We then issued supplemental questionnaires to Junyue and Zhongjiang and received responses to these supplemental questionnaires.³⁶ The petitioner submitted comments with respect to the responses submitted by Junyue and Zhongjiang.³⁷

VIII. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country

²⁷ See Q&V Questionnaire.

²⁸ See Q&V Delivery Confirmation Memo.

²⁹ See *Initiation Notice*, 84 FR at 10038; see also Q&V Questionnaire.

³⁰ See Respondent Selection Memorandum for the list of all companies that filed their response to the Q&V Questionnaire.

³¹ See Petitioner's Letter, "Alloy Steel Threaded Rod from China: Comments on Respondent Selection," dated March 22, 2019 (Petitioner Comments).

³² See Respondent Selection Memorandum.

³³ See Commerce's Letter, "Antidumping Duty Questionnaire," dated April 12, 2019 (Antidumping Duty Questionnaire).

³⁴ See Junyue's April 18, 2019 Separate Rate Application (Junyue SRA), see also Junyue's May 17, 2019 Section A Questionnaire Response (Junyue AQR), and Junyue's May 31, 2019 Sections C and D Response (Junyue CDQR).

³⁵ See Zhongjiang's May 16, 2019 Section A Response (Zhongjiang AQR), and Zhongjiang's May 31, 2019 Sections C and D Response (Zhongjiang CDQR).

³⁶ See Junyue's Letters, "Carbon and Alloy Steel Threaded Rod from the People's Republic of China – Supplemental Questionnaire Response," dated July 15, 2019 (Junyue's SQR1) and "Carbon and Alloy Steel Threaded Rod from the People's Republic of China – Second Supplemental Questionnaire Response," dated September 9, 2019 (Junyue's SQR2); see also Zhongjiang's Letter, "Ningbo Zhongjiang First Supplemental Section A & C & D Responses in the Antidumping Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (A-570-104)," July 22, 2019 (Zhongjiang's SQR1).

³⁷ See Petitioner's Letters, "Alloy Steel Threaded Rod from China: Comments on Junyue Sections C and D Responses," dated June 14, 2019; "Alloy Steel Threaded Rod from China: Comments on Section A Response," dated May 28, 2019; and "Alloy Steel Threaded Rod from China: Comments on Zhongjiang Sections C and D Responses," dated June 17, 2019.

Commerce considers China to be a non-market economy (NME) country.³⁸ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of this preliminary determination.

B. Surrogate Country

When Commerce is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by Commerce. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce shall utilize, "to the extent possible, the prices or costs of {FOPs} in one or more ME countries that are: (A) at a level of economic development comparable to that of the {NME} country; and (B) significant producers of comparable merchandise."³⁹ As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME, unless it is determined that none of the countries are viable options because they either: (a) are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available surrogate value (SV) data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at the same level of economic development as the NME, Commerce generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.⁴⁰ Further, Commerce normally values all FOPs in a single surrogate country.⁴¹

On April 15, 2019, Commerce identified Brazil, Kazakhstan, Malaysia, Mexico, Romania, and Russia as countries that are at the same level of economic development as China based on per capita 2017 GNI data, and issued a letter to interested parties soliciting comments on the list of countries that Commerce determined, based on per capita 2017 GNI, to be at the same level of economic development as China, and the selection of the primary surrogate country, as well as providing deadlines for the consideration of any submitted SV information for the preliminary

³⁸ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) and accompanying Preliminary Decision Memorandum (PDM); see also Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017.

³⁹ For a description of our practice, see Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1) available on Commerce's website at <http://enforcement.trade.gov/policy/bull04-1.html>.

⁴⁰ *Id.*

⁴¹ See 19 CFR 351.408(c)(2).

determination.⁴² In response, Junyue recommended Romania,⁴³ Zhongjiang recommended Kazakhstan,⁴⁴ and the petitioner recommended Russia⁴⁵ as the primary surrogate country in this investigation.

Economic Comparability

Consistent with our practice, and section 773(c)(4)(A) of the Act, and as stated above, we identified Brazil, Kazakhstan, Malaysia, Mexico, Romania, and Russia as countries at the same level of economic development as China based on the *per capita* GNI data from the World Bank's World Development Report.⁴⁶ Therefore, we consider all six countries as having met this prong of the surrogate country selection criteria. The countries identified are not ranked and are considered equivalent in terms of economic comparability.

Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor Commerce's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, Commerce looks to other sources such as the Policy Bulletin 04.1 for guidance on defining comparable merchandise. The Policy Bulletin 04.1 states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."⁴⁷ Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.⁴⁸ Further, when selecting a surrogate country, the statute requires Commerce to consider the comparability of the merchandise, not the comparability of the industry.⁴⁹ "In cases where the identical merchandise is not produced, Commerce must determine if other merchandise that is comparable is produced. How

⁴² See Surrogate Country and Values Comments Invitation Letter.

⁴³ See Junyue's Letter, "Carbon and Alloy Steel Threaded Rod from the People's Republic of China – Surrogate Country Comments," dated June 4, 2019 (Junyue's SC Comments).

⁴⁴ See Zhongjiang's Letter, "Zhongjiang's Surrogate Country Comments in the Antidumping Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (A-570-104)," dated June 4, 2019 (Zhongjiang's SC Comments).

⁴⁵ See Petitioner's Letter, "Alloy Steel Threaded Rod from China: Comments on Surrogate Country," dated June 4, 2019 (Petitioner's SC Comments).

⁴⁶ See Surrogate Country and Values Comments Invitation Letter.

⁴⁷ See Policy Bulletin 04.1 at 2.

⁴⁸ The Policy Bulletin 04.1 also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.* at n. 6.

⁴⁹ See *Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

Commerce does this depends on the subject merchandise.”⁵⁰ In this regard, Commerce recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.⁵¹

Further, the statute grants Commerce discretion to examine various data sources for determining the best available information.⁵² Moreover, while the legislative history provides that the term “significant producer” includes any country that is a significant “net exporter,”⁵³ it does not preclude reliance on additional or alternative metrics. It is Commerce’s practice to evaluate whether production is significant based on characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics).⁵⁴

A comparison of production quantities of the comparable merchandise from each potential surrogate country in relation to world production was not possible because the record does not contain production quantities of comparable merchandise from each potential surrogate country. Thus, we sought evidence of production of comparable merchandise in the form of exports of comparable merchandise from the six potential surrogate countries identified above, as a proxy for production data. Export data is one of the sources of data Commerce will consider in determining whether a country is a significant producer of comparable merchandise. We obtained export data from the GTA for entries made under the Harmonized Tariff Schedule (HTS) subheadings 7318.15 (“Other screws and bolts, whether or not with their nuts or washers...”).⁵⁵ All six potential surrogate countries reported export volumes of comparable merchandise in the POI. Therefore, we find that all six potential surrogate countries meet the “significant producer” requirement of section 773(c)(4) of the Act.

Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, Commerce selects the primary surrogate country based on data availability

⁵⁰ See Policy Bulletin 04.1 at 2.

⁵¹ *Id.*, at 3.

⁵² See section 773(c) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

⁵³ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, (1988) at 590.

⁵⁴ See *Xanthan Gum from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2252 (January 10, 2013) and accompanying PDM at 4-7, unchanged in *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013).

⁵⁵ See Preliminary SV Memorandum at Exhibit 1.

and reliability.⁵⁶ When evaluating SV data, Commerce considers several criteria including whether the SV data are publicly available, contemporaneous with the period under consideration, broad-market averages, tax and duty-exclusive, and specific to the inputs being valued.⁵⁷ There is no hierarchy among these criteria.⁵⁸ Commerce's preference is to satisfy the breadth of these aforementioned selection criteria.⁵⁹ Moreover, it is Commerce's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.⁶⁰ Commerce must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the "best" available SV for each input.⁶¹ Additionally, pursuant to 19 CFR 351.408(c)(2), Commerce has a preference for valuing all FOPs in a single surrogate country.

As an initial matter, we preliminarily determine that we have complete and usable SV data on the record for Romania and Russia which are publicly available, contemporaneous with the POI, and generally include tax-exclusive broad market average prices.⁶²

Although the record contains SV data for Kazakhstan, there are no Kazakhstan financial statements on the record. Therefore, Commerce has not further considered Kazakhstan as a potential surrogate country because of our preference to value all FOPs in a single surrogate country. In addition, the record contains a Malaysian financial statement; however, we have not considered this because the record does not contain complete SV data for Malaysia.⁶³

There are multiple Romanian financial statements and one Russian financial statement from producers of comparable merchandise on the record.⁶⁴ The Russian financial statement shows

⁵⁶ See Policy Bulletin 04.1; see also section 773(c)(1) of the Act.

⁵⁷ See Policy Bulletin 04.1.

⁵⁸ See, e.g., *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) (*Mushrooms China*) and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

⁵⁹ See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, 2010-2011*, 78 FR 17350 (March 21, 2013) (*Frozen Fish Fillets March 2013*) and accompanying IDM at Comment I(C).

⁶⁰ See *Mushrooms China* and IDM at Comment 1.

⁶¹ *Id.*

⁶² See Petitioner's Letter, "Alloy Steel Threaded Rod from China: Surrogate Value Comments," dated June 28, 2019 (Petitioner's SV Comments); see also Junyue's Letter, "Carbon and Alloy Steel Threaded Rod from the People's Republic of China – Surrogate Value Submission," dated June 28, 2019 (Junyue's SV Comments); and Zhongjiang's Letter, "Zhongjiang's First Surrogate Value Comments in the Antidumping Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (A-570-104)," dated June 28, 2019 (Zhongjiang's SV Comments).

⁶³ See Zhongjiang SV Comments at Exhibit 11.

⁶⁴ See Petitioner's SV Comments at Exhibit 6; see also Junyue's SV Comments at Exhibit SV-3; "Junyue's Carbon and Alloy Steel Threaded Rod from the People's Republic of China – Final Surrogate Value Submission (A-570-104)," dated August 20, 2019 (Junyue SV Final Comments) Exhibits SV2-5 through 2-8; and "Zhongjiang's Final Surrogate Value Comments in the Antidumping Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (A-570-104)," dated August 20, 2019 (Zhongjiang SV Final Comments) at Exhibits 11A through 11H. .

that the company, Evraz, is a vertically integrated company engaged in steel and mining.⁶⁵ We preliminarily determine that Evraz's financial performance fails to mirror that of a threaded rod producer and is unsuitable for ratio computations because its financial statements are consolidated and, therefore, the resulting ratios are unrepresentative of expenses in any specific stage of production. We preliminarily determine that each of the Romanian financial statements from producers of comparable merchandise on the record are representative of the experience of the threaded rod respondents because they are not companies that have vertically integrated production facilities and more closely mirror the production process of the respondents. Commerce's preference is to use multiple financial statements to determine surrogate financial ratios which allows Commerce to average the factory overhead, SG&A, and profit ratios and, thus, to normalize any potential distortions that may arise from using those of a single producer.⁶⁶ Because Romanian data includes multiple reliable financial statements, data availability and reliability considerations weighs in favor of selecting Romania as the primary surrogate country.

Given the above factors, we have preliminarily selected Romania as the primary surrogate country for this investigation. Romania is at the same level of economic development as China, is a significant producer of comparable merchandise, and has reliable and usable SV data, including multiple financial statements from producers of comparable merchandise which are representative of the experience of the threaded rod respondents. A detailed description of the SVs selected by Commerce is provided in the "Factor Valuation Methodology" section and the Preliminary SV Memorandum.

C. Surrogate Value Comments

On June 28, 2019, the petitioner, Junyue and Zhongjiang, filed surrogate factor valuation comments and SV information with which to value the FOPs in this proceeding.⁶⁷ On July 8, 2019, the petitioner filed rebuttal surrogate factor valuation comments and surrogate value information.⁶⁸ Junyue, Zhongjiang, and the petitioner timely filed additional surrogate factor valuation comments and SV information on August 20, 2019, pursuant to 19 CFR 351.301(c)(3)(i).⁶⁹ For a detailed discussion of the SVs used in this AD investigation, see the "Factor Valuation Methodology" section and the Preliminary SV Memorandum.

D. Separate Rates

⁶⁵ See Petitioner's SV Comments at Exhibit 6.

⁶⁶ See *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2010-2011*, 78 FR 28803 (May 16, 2013), and accompanying IDM at Comment I.D.

⁶⁷ See Petitioner's SV Comments, see also Junyue's SV Comments, and Zhongjiang's SV Comments.

⁶⁸ See Petitioner's SV Rebuttal Comments.

⁶⁹ See Junyue's SV Comments at 2; see also Zhongjiang's SV Comments at 2; and Petitioner's SV Rebuttal Comments at 2.

In proceedings involving NME countries, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.⁷⁰ In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in this investigation.⁷¹ The process requires exporters to submit an SRA and to demonstrate an absence of both *de jure* and *de facto* government control over their export activities. In the *Initiation Notice*, Commerce required that “that respondents submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.”⁷²

Commerce’s policy is to assign all exporters of merchandise under consideration that are in an NME country a single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.⁷³ Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*⁷⁴ and further developed in *Silicon Carbide*.⁷⁵ According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, however, Commerce determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from China AD proceeding, and its determinations therein.⁷⁶ In particular, in litigation involving the diamond sawblades from China proceeding, the U.S. Court of International Trade (CIT) found Commerce’s existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity exercised control

⁷⁰ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).

⁷¹ See *Initiation Notice*, 84 FR at 10034-40.

⁷² See *Initiation Notice*, 84 FR at 10038.

⁷³ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

⁷⁴ *Id.*

⁷⁵ See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

⁷⁶ See *Final Results of Redetermination pursuant to Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), and available at <http://enforcement.trade.gov/remands/12-147.pdf>, *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*); see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying PDM at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying IDM at Comment 1.

over the respondent exporter.⁷⁷ Following the CIT’s reasoning, in recent proceedings, we have concluded that where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the government exercises or has the potential to exercise control over the company’s operations generally.⁷⁸ This may include control over, for example, the selection of board members and management, key factors in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect that a majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company. Accordingly, we have considered the level of government ownership, where necessary.

In the *Initiation Notice*, we stated that SRAs would be due 30 days after publication of the notice, *i.e.*, April 18, 2019. Junyue timely submitted a response to the separate-rates application and also submitted information pertaining to its eligibility for a separate rate in its response to the section A of the AD questionnaire.⁷⁹ Zhongjiang submitted its response to section A of the AD questionnaire, in which it submitted information pertaining to its eligibility for a separate rate.⁸⁰ Furthermore, we received timely filed SRAs from the following applicants:

1. Cooper & Turner (Ningbo) International Trading Co., Ltd. (C&T Ningbo)
2. Ningbo Dingtuo Imp. & Exp. Co., Ltd. (Dingtuo)
3. EC International (Nantong) Co., Ltd. (EC)
4. Jiaxing Genteel Import & Export Co., Ltd. (Jiaxing)
5. Zhejiang Heiter Mfg & Trade Co., Ltd., (Heiter)
6. IFI & Morgan Ltd. (IFI)
7. Ningbo Jinding Fastening Piece Co., Ltd. (Jinding)
8. Zhejiang Morgan Brother Technology Co., Ltd. (Morgan)
9. Ningbo Qunli Fastener Manufacture Co., Ltd. (Qunli)
10. RMB Fasteners Ltd. (RMB)
11. Nantong Runyou Metal Products Co., Ltd. (Runyou)
12. Ningbo Shareway Import & Export, Co., Ltd., (Shareway)

⁷⁷ See, e.g., *Advanced Technology I*, 885 F. Supp. 2d at 1351 (“Further substantial evidence of record does not support the inference that SASAC’s {state-owned assets supervision and administration commission} ‘management’ of its ‘state-owned assets’ is restricted to the kind of passive-investor de jure ‘separation’ that Commerce concludes.”) (footnotes omitted); *id.* at 1355 (“The point here is that ‘governmental control’ in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a ‘degree’ of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to ‘day-to-day decisions of export operations,’ including terms, financing, and inputs into finished product for export.”); *id.* at 1357 (“AT&M itself identifies its ‘controlling shareholder’ as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.”) (footnotes omitted).

⁷⁸ See *Carbon and Certain Alloy Steel Wire Rod from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying PDM at 5-9.

⁷⁹ See Junyue SRA.

⁸⁰ See Zhongjiang AQR.

13. Ningbo Xingsheng Oil Pipe Fittings Manufacture Co., Ltd. (Xingsheng)
14. Ningbo Zhenghai Yongding Fastener Co., Ltd. (Yongding)⁸¹

1. Separate Rate Analysis

We are preliminarily granting the following companies a separate rate, as explained below.

Wholly Foreign-Owned

C&T Ningbo, Heiter, Qunli, Shareway, Genteel, IFI, Morgan, RMB, Xingsheng, Dingtuo, Jinding, and Yongding reported that they are wholly owned by market economy companies located in market economy countries. We preliminarily find C&T Ningbo, Heiter, Qunli, Shareway, Genteel, IFI, Morgan, RMB, Xingsheng, Dingtuo, Jinding, and Yongding to be eligible for separate rates.

Wholly Chinese-Owned Companies

Junyue, EC, Runyou, and Zhongjiang reported that they are wholly owned by Chinese individuals. Therefore, we must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

2. Absence of *De Jure* Control

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.⁸²

The evidence placed on the record of this investigation with respect to Junyue, EC, Runyou, and Zhongjiang supports a preliminary finding of an absence of *de jure* government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.⁸³

⁸¹ See Separate Rate Applications from EC, Genteel, Heiter, IFI, Morgan, Qunli, RMB, Shareway, and Xingsheng dated April 18, 2019; Runyou dated April 19, 2019; and C&T Ningbo, Dingtuo, Jinding, and Yongding dated April 23, 2019.

⁸² See *Sparklers*, 56 FR at 20589.

⁸³ See Separate Rate Applications from EC and Junyue dated April 18, 2019; Runyou dated April 19, 2019; *see also* Zhongjiang AQR.

3. Absence of *De Facto* Control

Typically, Commerce considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the prices are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.⁸⁴ Commerce has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude Commerce from assigning separate rates.

The evidence placed on the record of this investigation with respect to the wholly Chinese-owned companies listed in this section, supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that the companies: (1) set their own prices independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.⁸⁵

Therefore, the evidence placed on the record of this investigation with respect to Junyue, EC, Runyou, and Zhongjiang demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, we preliminarily grant separate rates to the separate rate applicants identified above.

Companies Not Receiving a Separate Rate

Companies who have not submitted a separate rate application will not be granted a separate rate. This includes Jiaxing Xingcheng Electronics Co., Ltd. (Jiaxing), Ningbo Panxiang Imp & Exp Co., Ltd. (Panxiang), Ningbo Zhonglian Fastener Co., Ltd. (Ningbo Fastener), and Ningbo Zhong Xin Angora Spinning Mill (Angora), all of whom refused delivery of our Q&V.⁸⁶

E. Dumping Margin for the Separate Rate Companies

Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate rate respondents which we did not individually examine. Section 735(c)(5)(A) of the Act articulates a preference that we not calculate an all-others rate using rates which are zero, *de*

⁸⁴ See *Silicon Carbide*, 59 FR at 22586-87, and *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

⁸⁵ See Separate Rate Applications from EC and Junyue dated April 18, 2019; Runyou dated April 19, 2019.

⁸⁶ See Q&V Delivery Confirmation Memo.

minimis or based entirely on facts available. Accordingly, Commerce’s usual practice has been to average the weighted-average dumping margins for the individually examined companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.⁸⁷ Section 735(c)(5)(B) of the Act also provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use “any reasonable method” for assigning the all-others rate, including “averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated.”

In this investigation, we calculated rates for Junyue and Zhongjiang that are not zero, *de minimis*, or based entirely on facts available. The rates of Junyue and Zhongjiang are applicable to companies not selected for individual examination and eligible for a separate rate. For non-selected respondents eligible for a separate rate, we cannot apply our normal methodology of calculating a weighted-average margin using the actual net U.S. sales values and antidumping duty amounts of Junyue and Zhongjiang because doing so could indirectly disclose business proprietary information to both of these companies. Alternatively, we have previously applied the simple average of the margins we determined for the selected companies.⁸⁸ In order to strike a balance between our duty to safeguard parties’ business proprietary information and our attempt to adhere to the guidance set forth in section 735(c)(5)(A) of the Act, we calculated a weighted-average margin for non-selected separate rate respondents using the publicly available, ranged total U.S. sales values of the selected respondents, compared the resulting public, weighted-average margin to the simple average of the antidumping duty margins, and used the amount which is closer to the actual weighted-average margin of the selected respondents as the margin for the non-selected respondents.⁸⁹ Accordingly, for the preliminary determination of this investigation, we are assigning the weighted average of the two individually examined respondents’ rates based on their publicly available, ranged U.S. sales values and dumping margins for eligible non-selected respondents. The separate rate for the eligible non-selected respondents is 21.04 percent.⁹⁰

F. Combination Rates

Consistent with the *Initiation Notice*, we calculated combination rates for the respondents that are eligible for a separate rate in this investigation.⁹¹ This practice is described in Policy Bulletin 05.1.

⁸⁷ See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying IDM at Comment 16.

⁸⁸ See, e.g., *Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008).

⁸⁹ See *Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and the accompanying IDM at Comment 1.

⁹⁰ See “Carbon and Alloy Steel Threaded Rod from the People’s Republic of China: Preliminary Calculation of Separate Rate for Eligible Non-Selected Respondents,” dated concurrently with this memorandum.

⁹¹ See *Initiation Notice*, 84 FR at 10038.

G. China-Wide Entity

As discussed above, Jiaxing, Panxiang, Ningbo Fastener, and Angora did not respond to our Q&V and did not establish their eligibility for a separate rate. Because Jiaxing, Panxiang, Ningbo Fastener, and Angora have not demonstrated that they are eligible for separate rate status, Commerce considers them part of the China-wide entity. Furthermore, as explained below, we are determining the preliminary China-wide rate based on adverse facts available (AFA).

H. Application of Facts Available and Adverse Inferences

Section 776(a)(1) and (2) of the Act provides that, if necessary information is missing from the record, or if an interested party: (A) withholds information that has been requested by Commerce, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the statute, or (D) provides such information but the information cannot be verified, Commerce shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the AD investigation, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, in general, when Commerce relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.⁹² Further,

⁹² See Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994) at 870.

Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.⁹³

1. Use of Facts Available

We preliminarily find that the China-wide entity, which includes certain China exporters and/or producers that did not respond to our requests for information, withheld information requested and significantly impeded this proceeding by not submitting the requested information. Specifically, four companies within the China-wide entity failed to respond to our request for Q&V information.⁹⁴ Additionally, we confirmed that these companies refused delivery of the questionnaire.⁹⁵ Thus, necessary information is not on the record and the China-wide entity, which encompasses the parties that failed to respond to the request for Q&V information, has withheld requested information, failed to provide such information in a timely manner or in the form or manner requested, and significantly impeded the proceeding. Therefore, we preliminarily determine that the use of facts available is warranted in determining the rate of the China-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.⁹⁶

2. Application of Facts Available with an Adverse Inference

Section 776(b) of the Act provides that in selecting from among the facts otherwise available, Commerce may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Commerce finds that the China-wide entity’s failure to submit Q&V information constitutes circumstances under which it is appropriate to conclude that the China-wide entity failed to cooperate to the best of its ability to comply with Commerce’s request for information.⁹⁷ Additionally, we confirmed that these companies refused delivery of the questionnaire.⁹⁸ With respect to the missing information, the China-wide entity did not file any document indicating difficulty providing the information or any request to allow the information to be submitted in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from among the facts otherwise available with respect to the China-wide entity, in

⁹³ See sections 776(d)(3)(A) and (B) of the Act.

⁹⁴ See Q&V Delivery Confirmation Memo; see also Respondent Selection Memorandum at 2.

⁹⁵ See Q&V Delivery Confirmation Memo.

⁹⁶ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986, 4991 (January 31, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

⁹⁷ See *Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (*Nippon Steel*) (noting that Commerce need not show intentional conduct existed on the part of the respondent, but merely that a “failure to cooperate to the best of a respondent’s ability” existed (*i.e.*, information was not provided “under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.”)).

⁹⁸ See Q&V Delivery Confirmation Memo.

accordance with section 776(b) of the Act and 19 CFR 351.308(a).⁹⁹

3. Selection and Corroboration of the AFA Rate

In applying an adverse inference, Commerce may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.¹⁰⁰ In selecting an AFA rate, Commerce selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.¹⁰¹ Consistent with sections 776(b)(2) and 776(d)(2), in an investigation, Commerce's practice with respect to the assignment of an AFA rate is to select the higher of: (1) the highest dumping margin alleged in the petition; or (2) the highest calculated dumping margin of any respondent in the investigation.¹⁰² Based on the information on the record, we are able to corroborate the highest petition rate of 59.45 percent.

In attempting to corroborate that rate, we compared the highest petition rate of 59.45 percent to the individually-investigated respondents' highest transaction-specific dumping margins (*see* Section J.2 below) and found the petition rate to be significantly higher than Junyue's highest calculated transaction-specific dumping margins, however, Zhongjiang's highest calculated transaction-specific dumping margin did exceed the highest petition rate. Because we were able to corroborate the highest dumping margin contained in the petition, we assigned to the China-wide entity a dumping margin of 59.45 percent.

I. Date of Sale

In identifying the date of sale of the subject merchandise, Commerce normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business.¹⁰³ Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.¹⁰⁴ Furthermore, we have a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.¹⁰⁵

⁹⁹ *See Nippon Steel*, 337 F.3d at 1382-83.

¹⁰⁰ *See* section 776(b) of the Act.

¹⁰¹ *See* SAA at 870.

¹⁰² *See, e.g., Certain Uncoated Paper from Indonesia: Final Determination of Sales at Less Than Fair Value*, 81 FR 3101 (January 20, 2016).

¹⁰³ *See* 19 CFR 351.401(i).

¹⁰⁴ *Id.*; *see also Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-92 (CIT 2001) ("As elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sale' are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.").

¹⁰⁵ *See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 10670 (March 12, 2018), and accompanying PDM at 6-7, unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 32629 (July 13, 2018).

Junyue reported the commercial invoice date as requested.¹⁰⁶ Junyue explained that it will “use the commercial invoice date as the date of sale because material terms of sales are finalized by the commercial invoice date.”¹⁰⁷

Zhongjiang reported the earlier of the sales invoice date or the date of shipment as the date of sale for its U.S. sales.¹⁰⁸ Zhongjiang explained that “{o}n such date of sale, material terms of sale made to unaffiliated US customers are fixed.”¹⁰⁹

Consistent with 19 CFR 351.401(i), we preliminarily determine to use the earlier of the sales invoice date or the date of shipment as the date of all sales for Zhongjiang.

J. Comparisons to Fair Value

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

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹¹⁰ Commerce finds that the differential pricing analysis used in prior investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of

¹⁰⁶ See Junyue CQR at C-9.

¹⁰⁷ See Junyue AQR at 21.

¹⁰⁸ See Zhongjiang CQR at C-9.

¹⁰⁹ See Zhongjiang AQR at 17.

¹¹⁰ See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

dumping that can occur when Commerce uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of investigation based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that Commerce uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

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

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those

sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this investigation.¹¹¹

2. Results of the Differential Pricing Analysis

For Junyue, based on the results of the differential pricing analysis, we preliminarily find that 94.0 percent of the value of U.S. sales pass the Cohen's *d* test and confirm the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that there is a meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, we are applying the average-to-transaction method for all U.S. sales to calculate the weighted-average dumping margin for Junyue.

For Zhongjiang, based on the results of the differential pricing analysis, we preliminarily find that 60.2 percent of the value of U.S. sales pass the Cohen's *d* test and confirm the existence of a

¹¹¹ The Court of Appeals for the Federal Circuit (CAFC) has affirmed much of Commerce's differential pricing methodology. *See, e.g., Apex Frozen Foods v. United States*, 862 F.3d 1322 (Fed. Cir. 2017). We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which did not pass the Cohen's *d* test. Thus, for this preliminary determination, we are applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Zhongjiang.

K. U.S. Price

1. Export Price Sales

For Junyue's reported sales, in accordance with section 772(a) of the Act, we based the U.S. price of subject merchandise on EP. We calculated EP based on the prices at which subject merchandise was sold to unaffiliated purchasers in the United States.

We made deductions, as appropriate, from the reported U.S. price for discounts and for movement expenses for Junyue, *e.g.*, foreign inland freight expenses, foreign brokerage and handling expenses, international freight, marine insurance.¹¹² We based movement expenses on SVs where the service was purchased from a Chinese company.¹¹³

For Zhongjiang's reported sales, in accordance with section 772(a) of the Act, we based the U.S. price of subject merchandise on EP. We calculated EP based on the prices at which subject merchandise was sold to unaffiliated purchasers in the United States.

We made deductions, as appropriate, from the reported U.S. price for discounts and for movement expenses for Zhongjiang, *e.g.*, foreign inland freight expenses, foreign brokerage and handling expenses, international freight, marine insurance, U.S. inland freight, U.S. customs duties, and U.S. brokerage and handling expenses.¹¹⁴ We based movement expenses on SVs where the service was purchased from a Chinese company.¹¹⁵

2. Value-Added Tax

Commerce's recent practice in NME cases is to adjust EP (or the CEP) for the amount of any unrefunded, (herein irrecoverable) value-added tax (VAT) in certain non-market economies in accordance with section 772(c)(2)(B) of the Act.¹¹⁶ In changing the practice, Commerce explained that, when an NME government imposes an export tax, duty, or other charges on

¹¹² See Section 772(c)(2)(A) of the Act.

¹¹³ See the Factor Valuation Methodology section *infra* at VIII.M.

¹¹⁴ See Section 772(c)(2)(A) of the Act.

¹¹⁵ See the Factor Valuation Methodology section *infra* at VIII.M.

¹¹⁶ See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481 (June 19, 2012).

subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, Commerce will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.¹¹⁷ Where the irrecoverable VAT is a fixed percentage of EP or CEP, Commerce explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.¹¹⁸

VAT is an indirect, *ad valorem* consumption tax imposed on the purchase (sale) of goods. It is levied on the purchase (sale) price of the good, *i.e.*, it is paid by the buyer and collected by the seller. For example, if the purchase price is \$100 and the VAT rate is 15 percent, the buyer pays \$115 to the seller, \$100 for the good and \$15 in VAT. VAT is typically imposed at every stage of production. Thus, under a typical VAT system, firms: (1) pay VAT on their purchases of production inputs and raw materials (input VAT) as well as (2) collect VAT on sales of their output (output VAT).

Firms calculate input VAT and output VAT for tax purposes on a company-wide (not transaction-specific) basis, *i.e.*, in the case of input VAT, on the basis of *all input purchases* regardless of whether used in the production of goods for export or domestic consumption, and in the case of output VAT, on the basis of *all sales to all markets*, foreign and domestic. Thus, a firm might pay the equivalent of \$60 million in total input VAT across all input purchases and collect \$100 million in total output VAT across all sales. In this situation, however, the firm would remit to the government only \$40 million of the \$100 million in output VAT collected on its sales because of a \$60 million credit for input VAT paid that the firm can claim against output VAT.¹¹⁹ As result, the firm bears no "VAT burden (cost)": the firm through the credit is refunded or recovers all of the \$60 million in input VAT it paid, and the \$40 million remittance to the government is simply a transfer to the government of VAT paid by (collected from) the buyer with the firm acting only as an intermediary. Thus, the cost of output VAT falls on the buyer or the good, not on the firm.

This would describe the situation under Chinese law except that producers in China, in most cases, do not recover (*i.e.*, are not refunded) the total input VAT they paid. Instead, Chinese tax law requires a *reduction in or offset to* the input VAT that can be credited against output VAT. This formula for this reduction/offset is provided in Article 5 of the 2012 Chinese government tax regulation, *Circular on Value-Added Tax and Consumption Tax Policies on Exported Goods and Services (2012 VAT Notice)*:¹²⁰

$$\text{Reduction/Offset} = (\mathbf{P} - \mathbf{c}) \times (\mathbf{T}_1 - \mathbf{T}_2),$$

¹¹⁷ *Id.*; see also *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014), and accompanying IDM at Comment 5.A (Chlorinated Isocyanurates VAT Adjustment).

¹¹⁸ See Chlorinated Isocyanurates VAT Adjustment.

¹¹⁹ The credit, if not exhausted in the current period, can be carried forward.

¹²⁰ See Zhongjiang's Letter, "Zhongjiang Section C Response in the Antidumping Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (A-570-104)," dated May 31, 2019 at Exhibit C-5A p.75 (2012 VAT Notice).

where,

P = (VAT-free) FOB value of export sales;

c = value of bonded (duty- and VAT-free) imports of inputs used in the production of goods for export;

T₁ = VAT rate; and,

T₂ = refund rate specific to the export good.

Using the example above, if P = \$200 million, c = 0, T₁ = 17% and T₂ = 10%, then the reduction/offset = (\$200 million - \$0) x (17% - 10%) = \$200 million x 7% = \$14 million.

Chinese law then requires that the firm in this example calculate creditable input VAT by subtracting the \$14 million from total input VAT, as specified in Article 5.1(1) of the *2012 VAT Notice*:

$$\text{Creditable input VAT} = \text{Total input VAT} - \text{Reduction/Offset}$$

Using again the example above, the firm can credit only \$60 million – \$14 million = \$46 million of the \$60 million in input VAT against output VAT. Since the \$14 million is not creditable (legally recoverable), it is not refunded to the firm. Thus, the firm incurs a cost equal to \$14 million, which is calculated on the basis of FOB export value at the *ad valorem* rate of T₁ – T₂. This cost therefore functions as an “export tax, duty, or other charge” because the firm does not incur it *but for* exportation of the subject merchandise, and under Chinese law must be recorded as a cost of exported goods.¹²¹ It is for this “export tax, duty, or other charge” that Commerce makes a downward adjustment to U.S. price under section 772(c) of the Act.¹²²

It is important to note that under Chinese law, the reduction/offset described above is defined in terms of, and applies to, total (company-wide) input VAT across purchases of all inputs, whether used in the production of goods for export or domestic consumption. The reduction/offset does not distinguish the VAT treatment of export sales from the VAT treatment of domestic sales from an input VAT recovery standpoint for the simple reason that such treatment under Chinese law applies to the company as a whole, not specific markets or sales. At the same time, however, the reduction/offset is calculated on the basis of the FOB value of exported goods, so it can be thought of as a tax on the company (*i.e.*, a reduction in the input VAT credit) that the company

¹²¹ *Id.* at Article 5(3) of the *2012 VAT Notice* (stating “{w}here the tax refund rate is lower than the applicable tax rate, the corresponding differential sum calculated shall be included into the cost of exported goods and services”).

¹²² Because the \$14 million is the amount of input VAT that is not refunded to the firm, it is sometimes referred to as “irrecoverable input VAT.” However, that phrase is misleading because the \$14 million is not a fraction or percentage of the VAT the firm paid on purchases of inputs used in the production of exports. If that were the case, the value of production inputs, not FOB export value, would appear somewhere in the formula in Article 5 of the *2012 VAT Notice* as the tax basis for the calculation. The value of production inputs does not appear in the formula. Instead, as explained above, the \$14 million is simply a cost imposed on firms that is tied to export sales, as evidenced by the formula’s reliance on the FOB export value as the tax basis for the calculation. The \$14 million is a reduction in or offset to what is essentially a tax credit, and it is calculated based on and is proportional to the value of a company’s export sales. Thus, “irrecoverable input VAT” is in fact, despite its name, an export tax within the meaning of section 772(c) of the Act.

would not incur but for the export sales it makes, a tax fully allocable to export sales because the firm under Chinese law must book it as cost of exported goods.

The VAT treatment under Chinese law of exports of goods described above concerns only export sales that are *not* subject to output VAT, the situation where the firm collects no VAT from the buyer, which applies to most exports from China. However, the *2012 VAT Notice* provides for a limited exception in which export sales of certain goods are, under Chinese law, deemed domestic sales for tax purposes and are thus subject to output VAT at the full rate.¹²³ The formulas discussed above from Article 5 of the *2012 VAT Notice* do not apply to firms that export these goods, and there is therefore no reduction in or offset to their creditable input VAT. For these firms creditable input VAT = total input VAT, *i.e.*, these firms recover all of their input VAT. At the same time, export sales of these firms are subject to an explicit output VAT at the full rate, T₁.¹²⁴ Commerce must therefore deduct this tax from U.S. price¹²⁵ under section 772(c) of the Act to ensure tax-neutral dumping margin calculations.¹²⁶

As such, in the initial questionnaires, Commerce instructed Junyue and Zhongjiang to report VAT on the subject merchandise sold to the United States during the POI and to identify which taxes are unrefunded upon export.¹²⁷ Information placed on the record of this investigation indicates that according to China VAT schedule, the standard VAT levy during the period July 1, 2018, through December 31, 2018, was 16 percent and the rebate rates for the subject merchandise are five percent before September 15, 2018, and nine percent on or after September 15, 2018, respectively.¹²⁸ Consistent with our standard methodology, for purposes of this preliminary determination we based the calculation of irrecoverable VAT on the difference between those standard rates, applied to a free-on-board price at the time of exportation.¹²⁹ Thus, because the VAT levy and VAT rebate rates on exports are different, we adjusted Junyue's and Zhongjiang's U.S. sales for irrecoverable VAT.

L. Normal Value

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

¹²³ See *2012 VAT Notice*, Article 7. For these goods, the VAT refund rate on export is zero.

¹²⁴ See *2012 VAT Notice*, Article 7.2(1).

¹²⁵ Commerce will divide the VAT-inclusive export price by (1 + T), where T is the applicable VAT rate.

¹²⁶ Pursuant to sections 772(c) and 773(c) of the Act, the calculation of normal value based on factors of production in NME antidumping cases is calculated on a VAT-exclusive basis, so U.S. price must also be calculated on a VAT-exclusive basis to ensure tax neutrality.

¹²⁷ See Antidumping Duty Questionnaire.

¹²⁸ See Junyue CDQR at C-33 and Exhibit C-5; see also Zhongjiang CDQR at C-29 and Exhibit C-5C.

¹²⁹ See *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012-2013*, 80 FR 33241 (June 11, 2015), and accompanying IDM at Comment 5.

controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under Commerce's normal methodologies.¹³⁰ Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), we calculated NV based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials used; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.¹³¹

M. Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by Junyue and Zhongjiang. To calculate NV, we multiplied the reported per-unit FOP consumption rates by publicly available SVs. When selecting SVs, we considered, among other factors, the quality, specificity, and contemporaneity of the SV data.¹³² As appropriate, we adjusted FOP costs by including freight costs to make them delivered values. Specifically, we added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.¹³³ A detailed description of the SVs used can be found in the Preliminary SV Memorandum.¹³⁴

1. Direct and Packing Materials

For the preliminary determination, we used Romanian import data, as published by the GTA, and other publicly available sources from Romania to calculate SVs for FOPs. In accordance with section 773(c)(1) of the Act, we used the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are: (1) broad market averages, (2) product-specific, (3) tax-exclusive, non-export average values, and (4) contemporaneous with, or closest in time to the POI.¹³⁵

¹³⁰ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006).

¹³¹ See section 773(c)(3)(A)-(D) of the Act.

¹³² See, e.g., *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008), and accompanying IDM at Comment 9.

¹³³ See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

¹³⁴ See Preliminary SV Memorandum.

¹³⁵ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

As noted in the “Surrogate Value Comments” and “Data Availability” sections, the parties made several submissions regarding the appropriate surrogate valuation of the respondents’ reported material FOPs. In instances where the parties disagree with respect to the particular Harmonized Tariff System (HTS) subheading under which a particular material input should be valued, we used an HTS subheading selection method based on the best match between the reported physical description and function of the input and the HTS subheading description.¹³⁶

Pursuant to 19 CFR 351.408(c)(1), where a factor is produced in one or more market economy countries, purchased from one or more market economy suppliers and paid for in a market economy currency, Commerce normally will use the prices paid to the market economy suppliers if substantially all (*i.e.*, 85 percent or more) of the total volume of the factor is purchased from the market economy suppliers. Alternatively, when the volume of an NME firm’s purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, Commerce will weight-average the ME purchase price with an appropriate SV, according to their respective shares of the total volume of purchases. When a firm has made ME input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, Commerce will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold.¹³⁷ Neither Junyue nor Zhongjiang had ME purchases that met the 85 percent threshold.

The record shows that for the remaining inputs, Romanian import data obtained through GTA, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POI.¹³⁸

Pursuant to section 773(c)(5) of the Act and Commerce’s long-standing practice, Commerce disregards SVs if it has a reason to believe or suspect the source data may comprise dumped or subsidized prices.¹³⁹ In this regard, Commerce has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.¹⁴⁰ Based on the existence of the subsidy programs that were generally available to all

¹³⁶ See Preliminary SV Memorandum for further discussion.

¹³⁷ See *Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013)

¹³⁸ See Preliminary SV Memorandum.

¹³⁹ See section 773(c)(5) of the Act; see also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).

¹⁴⁰ See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying I&D Memo at 7-19. See also *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying I&D Memo at 1, *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying I&D Memo at 4, *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying I&D Memo at IV.

exporters and producers in these countries at the time of the POI, Commerce finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea, and Thailand may have benefitted from these subsidies. Therefore, we have not used prices from these four countries in calculating the Romanian import-based SVs.

Additionally, we disregarded data from NME countries when calculating Romanian import-based per-unit SVs. We also excluded from the calculation of Romanian import-based per-unit SVs imports labeled as originating from an “unidentified” country because we could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.¹⁴¹

2. Energy

We preliminarily valued electricity at the utility cost of 0.0712 Euro per kwh based on the POI data from European Statistical Data.¹⁴² Because the electricity data are contemporaneous with the POI,¹⁴³ we did not adjust the data for inflation.

We preliminarily valued natural gas using the GTA data for HTS subheading 2711.21. The preliminary SV is 0.3834 Euro per KG.¹⁴⁴

We preliminarily valued water at 3.57 Lei per m³ based on data from the Romanian National Authority for the Regulation of Public Utility Community Services, using rates that would be applicable to the respondent based on its reported usage.¹⁴⁵

We preliminarily valued steam at 0.0556 per KG. To value steam, Commerce calculated 14.52 percent of the surrogate value of natural gas (obtained as described above), consistent with prior practice.¹⁴⁶

¹⁴¹ See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005).

¹⁴² See Preliminary SV Memorandum at Exhibit 2, “Surrogate Value” tab; see also Junyue’s SV Comments at Exhibit SV-6.

¹⁴³ See Junyue’s SV Comments at Exhibit SV-6.

¹⁴⁴ See Preliminary SV Memorandum at Exhibit 2, “Surrogate Value” tab.

¹⁴⁵ See Preliminary SV Memorandum at Exhibit 2, “Surrogate Value” tab; see also Junyue’s SV Comments at Exhibit SV-9.

¹⁴⁶ See *Certain Steel Wheels from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 76 FR 67703, 67714 (November 2, 2011) unchanged in final determination, “*Certain Steel Wheels from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances*,” 77 FR 17021 (March 23, 2012).

3. Movement Expenses

As appropriate, we added freight costs to SVs. Specifically, we added surrogate inland freight costs to import values used as SVs. We calculated freight SVs using the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest port to the factory that produced the subject merchandise, where appropriate.¹⁴⁷

We valued brokerage and handling and inland truck freight expenses using the data from the World Bank Group's *Doing Business – Romania (Doing Business)* and the average of the distances between the factory and the port.¹⁴⁸ The value for truck freight in *Doing Business* is publicly available and the data in *Doing Business* is current as of 2018.¹⁴⁹

To value marine insurance, we used the insurance rate indicated for international shipments of chemicals and hazardous materials from RJG Consultants.¹⁵⁰ Because the data is an *ad valorem* rate, we have not attempted to inflate the data. The preliminary SV for marine insurance is \$0.0103 per \$1.00 value of insurance coverage.

4. Labor

We calculated an hourly labor rate using industry-specific data from the primary surrogate country, Romania. In particular, we relied on industry-specific labor data from the Romania 2018 Institutul National de Statistica.¹⁵¹ We calculated an industry-specific labor cost rate of 12.69 Lei per hour.

5. Financial Ratios.

According to 19 CFR 351.408(c)(4), Commerce is directed to value overhead, selling, general and administrative (SG&A) expenses, and profit using non-proprietary information gathered from producers of merchandise that is identical or comparable to the merchandise under consideration in the surrogate country. Commerce's preference is to derive surrogate overhead expenses, SG&A expenses, and profit using financial statements covering a period that is contemporaneous with the POI, that show a profit, from companies with a production experience similar to the respondents' production experience, and that are not distorted or otherwise unreliable, such as financial statements that indicate the company received subsidies.¹⁵²

¹⁴⁷ See *Sigma Corp.*, 117 F.3d at 1407-08.

¹⁴⁸ See Preliminary SV Memorandum at Exhibit 2, "Surrogate Value" and "B&H" tabs.

¹⁴⁹ *Id.*

¹⁵⁰ See Petitioner SV Comments at Exhibit 7.

¹⁵¹ See Preliminary SV Memorandum at Exhibit 2, "Surrogate Value" and "Labor" tabs, *see also* Junyue's SV Comments at Exhibit SV-5.

¹⁵² See *Hand Trucks and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*; 2010-2011, 78 FR 28801 (May 16, 2013), and accompanying IDM at Comment 2; *see also Certain Kitchen Appliance Shelving and Racks from the People's Republic of China; 2010-2011; Final Results*

To value factory overhead, SG&A, and profit, we used the average of the 2018 audited public financial statements of TMK-ARTROM SA (Atrom), Compa, and Mechanica Sighetu S.A.(Mechanica). We preliminarily determine that these three companies are all Romanian producers of comparable merchandise.¹⁵³

Although we also had audited public financial statements from two other Romanian companies, Subex Industries (Subex), and U.A.M.T. S.A. Oradea (UAMT), we preliminarily determine that these financial statements are less comparable to Junyue's and Zhongjiang's production experience. Specifically, these two financial statements are for entities that produce non-comparable products (*e.g.*, elevator guides, seat parts).¹⁵⁴

6. Scrap Offset

We preliminarily are not granting a scrap offset for Junyue. According to 19 CFR 351.401(b)(1), “{t}he interested party that is in possession of the relevant information has the burden of establishing to the satisfaction of the Secretary the amount and nature of a particular adjustment.” In its supplemental questionnaire response, Junyue reported that it does not maintain records of the generation of scrap.¹⁵⁵ Other than sales records of scrap, Junyue provided no production records, inventory records, or alternative records to support its production of scrap.¹⁵⁶ Therefore, we do not have information supporting Junyue's claim of a scrap offset. Our denial of the scrap offset Junyue claimed is consistent with other cases in which we denied a respondent's claim for a scrap offset because it did not provide any production documents or any alternative documents to prove its scrap production.¹⁵⁷ No other party requested a scrap offset.

N. Currency Conversion

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

of Antidumping Duty Administrative Review, 78 FR 5414 (January 25, 2013), and accompanying IDM at Comment 1.

¹⁵³ See Junyue SV Comments at Exhibit SV-3; *see also* Junyue SV Final Comments at Exhibits SV2-5 and SV2-6; and Zhongjiang SV Final Comments at Exhibits 11A and 11B.

¹⁵⁴ See Junyue SV Final Comments at Exhibits SV2-7 and SV2-8; *see also* Zhongjiang SV Final Comments at Exhibits 11E and 11F.

¹⁵⁵ See Junyue SQR1 at Question 14.

¹⁵⁶ See Junyue CDQR at Exhibit D-4.

¹⁵⁷ See, *e.g.*, *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Results of New Shipper Review; 2012-2013*, 80 FR 41476 (July 15, 2015), and accompanying IDM at Comment 16, and *Electrodes* and accompanying Issues and Decision Memorandum at Comment 7 *compare with* *Diamond Sawblades Final Results 2013-2014* and accompanying IDM at Comment 18, in which we granted the scrap offset based on the reported warehouse-out slips and sales record for scrap.

IX. ADJUSTMENT UNDER SECTION 777A(F) OF THE ACT

In applying section 777A(f)(1) of the Act, Commerce examines: (A) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise; (B) 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 (C) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.¹⁵⁸ As part of its analysis under section 777A(f)(1)(C), Commerce examines whether the respondent demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacture (COM); and (2) a cost-to-price link, *e.g.*, respondent's prices changed as a result of changes in the COM.¹⁵⁹ For a subsidy meeting these criteria, the statute requires Commerce to reduce the AD by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.¹⁶⁰

In conducting this analysis, Commerce has not concluded that concurrent application of NME dumping duties and countervailing duties necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

As a result of our analysis, Commerce is preliminarily not making any adjustments to the calculation of the cash deposit rate for antidumping duties for Junyue, Zhongjiang, and companies that are not being individually examined but preliminarily are being granted separate-rate status in this investigation, pursuant to section 777A(f) of the Act, in the manner described below.

In order to examine the effects of concurrent countervailable subsidies in calculating margins for Junyue and Zhongjiang, Commerce provided the respondent with an opportunity to submit information with respect to subsidies relevant to their eligibility for an adjustment to the calculated weighted-average dumping margins.¹⁶¹ Junyue and Zhongjiang timely submitted their double remedy questionnaire responses.¹⁶² A finding that there is an overlap in remedies and any

¹⁵⁸ See section 777A(f)(1)(A)-(C) of the Act.

¹⁵⁹ See, *e.g.*, *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 36876 (June 8, 2016), and accompanying PDM at 36, unchanged in *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 81 FR 75032 (October 28, 2016).

¹⁶⁰ See section 777A(f)(1)-(2) of the Act.

¹⁶¹ See Commerce's Letter, "Double Remedies Supplemental Questionnaire," dated May 1, 2019.

¹⁶² See Junyue's May 31, 2019 Letter, "Carbon and Alloy Steel Threaded Rod from the People's Republic of China – Double Remedies Questionnaire Response," (Junyue's Double Remedy Response); *see also* Zhongjiang's May 31,

resulting adjustments are 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.¹⁶³

Junyue and Zhongjiang have claimed a domestic pass-through adjustment for wire rod and steel bar,¹⁶⁴ for which Commerce made preliminary affirmative determinations of the government of China's provision for less than adequate remuneration (LTAR) in the concurrent CVD investigation of carbon and alloy steel threaded rod from China.¹⁶⁵ Junyue also claimed a domestic pass-through adjustment for electricity,¹⁶⁶ for which Commerce made preliminary affirmative determinations of the government of China's provision for LTAR in the concurrent CVD investigation.¹⁶⁷ Therefore, we preliminarily determine that section 777A(f)(1)(A) of the Act is satisfied with respect to the wire rod, steel rod bars, and electricity for LTAR programs.

As discussed above, section 777A(f)(1)(B) of the Act requires consideration of whether the countervailable subsidy programs noted above have been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period. In *Passenger Vehicle and Light Truck Tires from China*, we examined the preliminary report issued by the ITC in order to conduct an analysis under section 777A(f)(1)(B) and found prices of imports of the class or kind of merchandise decreased during the relevant period.¹⁶⁸ In *Steel Racks from China*, we also examined U.S. import data in the preliminary report issued by the ITC and did not find a decrease in import prices during the relevant period.¹⁶⁹ Thus, we have examined the preliminary report issued by the ITC to determine whether section 777A(f)(1)(B) of the Act has been satisfied.¹⁷⁰

2019 Letter, "Zhongjiang Double Remedies Response in the Antidumping Duty Investigation on Alloy Steel Threaded Rod from the People's Republic of China (A-570-104)."

¹⁶³ See, e.g., *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part*, 82 FR 28629 (June 23, 2017), and accompanying PDM at 43.

¹⁶⁴ See short cites from 162

¹⁶⁵ See *Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 36578 (July 29, 2019) (CASTR CVD Prelim) and accompanying PDM.

¹⁶⁶ See Junyue's Double Remedy Response, at 4.

¹⁶⁷ See *CASTR CVD Prelim* PDM at 38.

¹⁶⁸ See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; In Part and Postponement of Final Determination*, 80 FR 4250 (January 27, 2015) and accompanying PDM at 33, unchanged in *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 FR 34893 (June 18, 2015) and accompanying IDM; see also *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 FR 34893 (June 18, 2015) and accompanying IDM.

¹⁶⁹ See *Certain Steel Racks and Parts Thereof from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 35595 (July 24, 2019) and accompanying IDM at Comment 5.

¹⁷⁰ See, e.g., *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

Here, while we find that certain countervailable subsidies have been provided with respect to ACSTR, we have not found a reduction in the average import price during the relevant period. To make this determination, we examined the imported subject merchandise price trends contained in the preliminary report issued by the ITC, in which the ITC concluded that: “In general, prices for threaded rod from all sources increased during January 2016 - December 2018.”¹⁷¹ In particular, the ITC preliminary report shows an upward movement in prices during the POI. The ITC preliminary report also shows that U.S. imports from China had an average unit value of \$0.66/lb. in 2016 and 2017, however, that increased to \$0.77/lb. in 2018.¹⁷² Based on this information, Commerce preliminarily finds that import prices of the class or kind of merchandise at issue during that relevant period increased. Accordingly, we preliminarily find that the requirement under section 777A(f)(1)(B) of the Act has not been met because we have not found a reduction in the average import price during the relevant period. Because section 777A(f)(1)(B) of the Act has not been satisfied, we have not further addressed the remaining requirements of section 777A(f) of the Act.

In light of the above, we did not make an adjustment under section 777A(f) of the Act for either Junyue or Zhongjiang.

X. ADJUSTMENT TO CASH DEPOSIT RATE FOR EXPORT SUBSIDIES

In AD investigations where there is a concurrent CVD investigation, it is Commerce’s normal practice to calculate the cash deposit rate for each respondent by adjusting the respondent’s weighted-average dumping margin to account for export subsidies found for each respective respondent in the concurrent countervailing duty investigation. Doing so is in accordance with section 772(c)(1)(C) of the Act, which states that U.S. price “shall be increased by the amount of any countervailing duty imposed on the subject merchandise... to offset an export subsidy.”¹⁷³

Commerce determined in the preliminary determination of the companion CVD investigation that Junyue and Zhongjiang each benefitted from certain subsidy programs contingent on exports totaling 10.54 percent.¹⁷⁴ With respect to the separate rate companies, we find that the export subsidy adjustment of 10.54 percent is warranted because this is the export subsidy rate included in the CVD all-others rate, to which the separate rate companies are subject in the companion CVD proceeding. For the China-wide entity, Commerce has adjusted the China-wide entity’s AD cash deposit rate by the only export subsidy rate determined for any party in the companion CVD proceeding, which is the 10.54 percent rate applicable to Junyue and Zhongjiang.

22948 (May 17, 2018), and accompanying Preliminary Decision Memorandum at “IX. Adjustment Under Section 777A(f) of the Act,” unchanged in *Forged Steel Fittings from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 50339 (October 5, 2018).

¹⁷¹ See *Preliminary ITC Determination* at page V-7, table V-9.

¹⁷² *Id.* at Table IV-2.

¹⁷³ See *Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 38076, 38077 (July 1, 2010), and accompanying IDM at Comment 1.

¹⁷⁴ See *CASTR CVD Prelim* and accompanying PDM at 8 relating to the Export Buyer’s Credit Program.

XI. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree

9/19/2019

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance