



A-570-016
Administrative Review
POR: 8/1/2017-7/31/2018
Public Document
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October 10, 2019

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

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
Antidumping Duty Administrative Review of Certain Passenger
Vehicle and Light Truck Tires from the People's Republic of
China and Rescission, in part; 2017-2018

I. SUMMARY

In response to requests from interested parties, the Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (China) covering the period of review (POR): August 1, 2017 through July 31, 2018. The mandatory respondents in this review are Shandong New Continent Tire Co., Ltd. (New Continent) and Qingdao Odyking Tyre Co., Ltd. (Odyking). We preliminarily determine that New Continent did not sell subject merchandise to the United States at less than normal value (NV) and that Odyking is part of the China-wide entity.

Commerce also preliminarily determines that 17 other companies have each established their entitlement to a separate rate, while two companies have each failed to establish their entitlement to a separate rate. Finally, Commerce is rescinding its review of 21 companies.

If these preliminary results are adopted in our final results of administrative review, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the period of review. Interested parties are invited to comment on these preliminary results. We intend to issue final results of this review no later than 120 days from the date of publication of this notice pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221, unless extended.



II. BACKGROUND

On August 7, 2018, Commerce notified interested parties of the opportunity to request an administrative review of orders, findings, or suspended investigations with anniversaries in the month of August, including the AD order on passenger tires from China.¹ On August 31, 2018, American Pacific Industries, Inc. (API), a U.S. importer of subject merchandise, requested an administrative review of Shandong Achi Tyres Co., Ltd.; Shandong Guofeng Rubber Plastics Co., Ltd.; Shandong Hengyu Science & Technology Co., Ltd.; and Shouguang Firemax Tyre Co., Ltd.² In addition, between August 8 and August 31, 2018, various exporters requested that Commerce conduct administrative reviews of certain exporters covering the period August 1, 2017 through July 31, 2018.³ On October 4, 2018, Commerce published a notice initiating an

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 38682 (August 7, 2018).

² See API's Letter, "American Pacific Industries, Inc; Request for Administrative Review; Case No. A-570-016; Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires for the People's Republic of China," dated August 31, 2018.

³ See Shandong Hongsheng Rubber Technology Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Administrative Review," dated August 8, 2018; *see also* Hankook Tire China Co., Ltd. and Jiangsu Hankook Tire Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China, Case No. A-570-016: Request for Administrative Review," dated August 15, 2018; Winrun Tyre Co., Ltd.'s Letter, "Winrun's Request for AD Administrative Review Passenger Vehicle and Light Truck Tires from China," dated August 27, 2018; Mayrun Tyre (Hong Kong) Limited's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Administrative Review," dated August 28, 2018; Shandong Durrati Rubber Corporation Co., Ltd., Qingdao Fullrun Tyre Corp. Ltd., Shandong Hoahua Tire Co., Ltd., Riversun Industry Limited, Hoahua Orient International Trade Ltd., Windforce Tyre Co., Limited, Tyrechamp Group Co., Limited, Macho Tire Corporation Limited, Shandong Province Sanli Tire Manufactured Co., Ltd., Shandong Longyue Rubber Co., Ltd., Shandong Anchi Tyres Co., Ltd., Qingdao Lakesea Tyre Co., Ltd., Fleming Limited, and Safe&Well (HK) International Trading Limited's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Administrative Review," dated August 28, 2018; Triangle Tyre Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Administrative Review," dated August 29, 2018; Pirelli Tyre Co., Ltd. and Pirelli Tire LLC's Letter, "Pirelli Tyre's Request for Antidumping Administrative Review Passenger Vehicle and Light Truck (PVL) Tires from China," dated August 30, 2018; Anhui Jichi Tire Co., Ltd., Guangrao Taihua International Trade Co., Ltd., Qingdao Keter International Co., Limited, Qingdao Odyking Tyre Co., Ltd., Qingdao Sunfulcess Tyre Co., Ltd., Qingdao Detai International Trading Co., Ltd., Shandong Hengyu Science & Technology Co., Ltd., Shengtai Group Co., Ltd., and Shouguang Firemax Tyre Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Request for Administrative Review," dated August 31, 2018; Cooper Tire & Rubber Company and Cooper (Kunshan) Tire Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China/Request for Third Administrative Review of CKT," dated August 31, 2018; Qingdao Jinhaoyang International Co., Ltd.'s Letter, "Jinhaoyang's Request for AD Administrative Review Passenger Vehicle and Light Truck Tires from China," dated August 31, 2018; Shandong New Continent Tire Co., Ltd.'s Letter, "GDLSK Respondent Request for Administrative Review of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires ("PVL") From the People's Republic of China (A-570-016)," dated August 31, 2018; Bridgestone (TIANJIN) Tire Co., Ltd. and Bridgestone Corporation's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Request for Administrative Review," dated August 31, 2018; Kenda Rubber (China) Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Requests for Administrative Review," dated August 31, 2018; Crown International Corporation, Kinforest Tyre Co., Ltd., and Qingdao Transamerica Tire Industrial Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Requests for Administrative Review," dated August 31, 2018; Tianjin Wanda Tyre Group Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China, A-570-016: Request for Administrative Review (Administrative Review 8/1/2017 – 7/31/2018)," dated

AD administrative review of passenger tires from China covering 42 companies for the POR.⁴

In the *Initiation Notice*, Commerce stated that if a producer or exporter had no exports, sales, or entries during the POR, it must notify Commerce within 30 days of publication of the notice.⁵ None of the companies or company groupings subject to the instant review reported making no shipments during the POR.

In the *Initiation Notice*, Commerce also stated that parties requesting separate rate status must do so within 30 days of publication of the notice (*i.e.*, November 5, 2018).⁶ Certain potential separate rate entities submitted extension requests which Commerce granted.⁷ Thirty companies submitted separate rate applications (SRA) and certifications (SRC) between October and November 2018.⁸

August 31, 2018; and ITG Voma Corporation, Shandong Wanda Boto Tyre Co., Ltd., and Shandong Guofeng Rubber Plastics, Co., Ltd.'s Letter, "Passenger Vehicle and Light Tires from the People's Republic of China: Request for Review – 2017-2018 Review Period," dated August 31, 2018. .

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 50077, 50081-50082 (October 4, 2018) (*Initiation Notice*).

⁵ *Id.* 83 FR at 50077.

⁶ *Id.* 83 FR at 50078.

⁷ See *Pirelli Tyre Co., Ltd.'s Letter, "Pirelli's Request for Extension of Separate Rate Application Deadline Passenger Vehicle and Light Truck Tires from China,"* dated October 23, 2018; *see also* *Shandong Duratti Rubber Corporation Co. Ltd., Qingdao Fullrun Tyre Corp., Ltd., and Shandong Haohua Tire Co, Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China Request for Extension of Time,"* dated October 31, 2018; *Bridgestone (TIANJIN) Tire Co., Ltd. and Bridgestone Corporation's Letter, "Extension Request for Separate Rate Applications Deadline for the 2017-2018 Administrative Review of Passenger Vehicle and Light Truck Tires from China,"* dated November 5, 2018; and *Kinforest Tyre Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck ("PVL") Tires from the People's Republic of China: Request for an Extension of Time,"* dated November 5, 2018.

⁸ See *Shandong New Continent Tire Co., Ltd.'s Letter, "Separate Rate Certification for Shandong New Continent Tire Co., Ltd.: Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China; 2017-2018 AD Administrative Review,"* dated October 12, 2018; *see also* *Guangrao Taihua International Trade Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Separate Rate Certification,"* dated October 19, 2018; *Qingdao Keter International Co., Limited's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Separate Rate Certification,"* dated October 19, 2018; *Qingdao Odyking Tyre Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Separate Rate Certification,"* dated October 19, 2018; *Qingzhou Detai International Trading Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Separate Rate Certification,"* dated October 19, 2018; *Shandong Hengyu Science & Technology Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Separate Rate Certification,"* dated October 19, 2018; *Shengtai Group Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Separate Rate Certification,"* dated October 19, 2018; *Triangle Tyre Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Separate Rate Certification for the Third Administrative Review,"* dated October 25, 2018; *Shandong Hongsheng Rubber Technology Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China – Separate Rate Application,"* dated October 31, 2018; *Kenda Rubber (China) Co., Ltd.'s Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China, 3rd Administrative Review; Separate Rate Certification of Kenda Rubber (China) Co., Ltd.,"* dated October 31, 2018; *Winrun Tyre Co., Ltd.'s Letter, "Winrun's Separate Rate Certification: Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China,"* dated October 31, 2018; *Mayrun Tyre (Hong Kong) Limited's Letter, "Passenger Vehicle and Light Truck Tires from the People's Republic of China – Separate Rate Certification,"* dated October 31, 2018; *Shouguang Firemax Tyre Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's*

Commerce also stated in the *Initiation Notice* that parties may withdraw a request for an administrative review within 90 days of the *Initiation Notice*'s publication.⁹ Shouguang Firemax Tyre Co., Ltd.; Shandong Wanda Boto Tyre Co., Ltd.; Bridgestone (TIANJIN) Tire Co., Ltd.; Bridgestone Corporation; Cooper (Kunshan) Tire Co., Ltd.; Fleming Limited; Guangrao Taihua International Trade Co., Ltd.; Qingdao Keter International Co., Limited; Qingzhou Detai International Trading Co., Ltd.; Shengtai Group Co., Ltd.; Shandong Guofeng Rubber Plastic Co., Ltd.; Shandong Hengyu Science & Technology Co., Ltd.; Qingdao Jinhaoyang International Co., Ltd.; Riversun Industry Limited; Haohua Orient International Trade Ltd.; Windforce Tyre Co., Limited; Tyrechamp Group Co., Limited; Macho Tire Corporation Limited; Qingdao Lakesea Tyre Co., Ltd.; Safe&Well (HK) International Trading Limited; Triangle Tyre Co., Ltd., and U.S. importer API each timely withdrew requests for administrative reviews.¹⁰ Since the

Republic of China – Separate Rate Application,” dated November 1, 2018; Anhui Jichi Tire Co., Ltd.’s Letter, “Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China – Separate Rate Application,” dated November 1, 2018; Qingdao Sunfulcess Tyre Co., Ltd.’s Letter, “Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China – Separate Rate Application,” dated November 1, 2018; Shandong Wanda Boto Tyre Co., Ltd.’s Letter, “Third Administrative Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Separate Rate Certification,” dated November 2, 2018; Cooper (Kunshan) Tire Co., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from the People’s Republic of China/CKT Separate Rate Certification,” dated November 5, 2018; Shandong Anchi Tyres Co., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Separate Rate Certification,” dated November 5, 2018; Shandong Longyue Rubber Co., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from the People’s Republic of China – Separate Rate Certification,” dated November 5, 2018; Shandong Province Sanli Tire Manufactured Co., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Separate Rate Certification,” dated November 5, 2018; Crown International Corporation’s Letter, “Passenger Vehicle and Light Truck Tires from the People’s Republic of China, 3rd Administrative Review; Separate Rate Certification of Crown International Corporation (“CIC”),” dated November 5, 2018; Jiangsu Hankook Tire Co., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from China, Case No. A-570-016: Jiangsu Hankook Tire’s Separate Rate Certification,” dated November 6, 2018; Hankook Tire China Co., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from China, Case No. A-570-016: Hankook Tire China’s Separate Rate Certification,” dated November 6, 2018; Qingdao Transamerica Tire Industrial Co., Ltd.’s Letter, “Certain Passenger Vehicle and Light Truck Tires from the PRC: Separate Rate Application of Qingdao Transamerica Tire Industrial Co., Ltd.,” dated November 6, 2018; Kinforest Tyre Co., Ltd.’s Letter, “Certain Passenger Vehicle and Light Truck Tires from the PRC: Separate Rate Application of Kinforest Tyre Co., Ltd.,” dated November 6, 2018; Qingdao Fullrun Tyre Corp., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from China: Separate Rate Application,” dated November 13, 2018; Shandong Duratti Rubber Corporation Co., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from China: Separate Rate Application,” dated November 13, 2018; Shandong Haohua Tire Co., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from China: Separate Rate Application,” dated November 13, 2018; Pirelli Tyre Co., Ltd. and Pirelli Tire LLC’s Letter, “Pirelli’s Separate Rate Application – Certain Passenger Vehicle and Light Truck Tires from China,” dated November 14, 2018; and Tianjin WandaTyre Group Co., Ltd.’s Letter, “Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China, A-570-016, Administrative Review (8/1/2017 – 7/31/2018),” dated November 19, 2018.

⁹ See *Initiation Notice* 83 FR at 50077-50078.

¹⁰ See Qingdao Jinhaoyang International Co., Ltd.’s Letter, “Jinhaoyang’s Withdrawal of Request for AD Administrative Review (POR3) Passenger Vehicle and Light Truck Tires from China,” dated October 24, 2018; see also API’s Letter, “Passenger Vehicle and Light Truck Tires from People’s Republic of China: Withdrawal of Request for Administrative Review,” dated October 31, 2018; Riversun Industry Limited, Haohua Orient International Trade Ltd., Windforce Tyre Co., Limited, Tyrechamp Group Co., Limited, Macho Tire Corporation Limited, Qingdao Lakesea Tyre Co., Ltd., Fleming Limited, and Safe&Well (HK) International Trading Limited’s Letter, “Passenger Vehicle and Light Truck Tires from the People’s Republic of China – Withdrawal of Request for Review,” dated November 1, 2018; Shandong Guofeng Rubber Plastics Co., Ltd.’s Letter, “Passenger Vehicle and

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (the petitioner) did not request administrative reviews of these entities, and each entity timely filed withdrawal requests for an administrative review of their respective companies, we are rescinding the administrative review with respect to these companies.

On November 28, 2018, we placed U.S. Customs and Border Protection (CBP) import data for the POR on the record, and invited parties to comment regarding the data and respondent selection.¹¹ On December 5, 2018, New Continent submitted comments regarding the CBP data and a request for voluntary treatment if it was not chosen as a mandatory respondent.¹² There were no rebuttal comments filed.

Commerce selected Odyking and New Continent as mandatory respondents on February 27, 2019.¹³ Commerce issued the initial questionnaire to Odyking and New Continent on February 28, 2019.¹⁴ Commerce also issued double remedy questionnaires to Odyking and New Continent on February 28, 2019.¹⁵ On March 15, 2019, Odyking withdrew its

Light Truck Tires from People’s Republic of China: Withdrawal of Request for Administrative Review,” dated November 1, 2018; ITG Voma Corporation’s Letter, “Passenger Vehicle and Light Truck Tires from People’s Republic of China: Withdrawal of Request for Administrative Review,” dated November 1, 2018; API’s Letter, “Passenger Vehicle and Light Truck Tires from People’s Republic of China: Withdrawal of Request for Administrative Review,” dated November 7, 2018; Bridgestone (TIANJIN) Tire Co., Ltd. and Bridgestone Corporation’s Letter, “Passenger Vehicle and Light Truck Tires from People’s Republic of China, A-570-016 (Administrative Review 8/1/2017-7/31/2018): Bridgestone Withdrawal of Request for Administrative Review,” dated November 13, 2018; Triangle Tyre Co., Ltd.’s Letter, “Certain Passenger Vehicle and Light Truck Tires from People’s Republic of China - Withdrawal of Triangle Tyre Request for the Third Administrative Review,” dated December 14, 2018; Cooper Tire & Rubber Company and Cooper (Kunshan) Tire Co., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from People’s Republic of China: Withdrawal of Request for 17-18 Administrative Review of CKT,” dated December 28, 2018; Guangrao Taihua International Trade Co., Ltd., Qingdao Keter International Co., Limited, Qingzhou Detai International Trading Co., Ltd., Shengtai Group Co., Ltd., and Shouguang Firemax Tyre Co., Ltd.’s Letter, “Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China – Withdrawal of Request for Administrative Review,” dated December 30, 2018; API’s Letter, “Passenger Vehicle and Light Truck Tires from People’s Republic of China: Withdrawal of Request for Administrative Review,” dated January 2, 2019; ITG Voma Corporation’s Letter, “Passenger Vehicle and Light Truck Tires from People’s Republic of China: Withdrawal of Request for Administrative Review,” dated January 2, 2019; and Shandong Wanda Boto Tyre Co., Ltd.’s Letter, “Passenger Vehicle and Light Truck Tires from People’s Republic of China: Withdrawal of Request for Administrative Review,” dated January 2, 2019.

¹¹ See Memorandum, “Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: U.S. Customs Entries,” dated November 28, 2018 (CBP data).

¹² See New Continent’s Letter, “GDLSK Comments on CBP Data and Respondent Selection and New Continent Request for Voluntary Respondent Treatment: Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China; 2017-18 AD Administrative Review,” dated December 5, 2018.

¹³ See Memorandum, “Administrative Review of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Respondent Selection Memorandum,” dated February 27, 2019 (Respondent Selection Memorandum).

¹⁴ See Commerce’s Letters, “Antidumping Duty Questionnaire for Odyking,” dated February 28, 2019; and “Antidumping Duty Questionnaire for New Continent,” dated February 28, 2019.

¹⁵ See Commerce Letters, “Double Remedy Questionnaire for Odyking,” dated February 28, 2019; and “Double Remedy Questionnaire for New Continent,” dated February 28, 2019.

participation.¹⁶ New Continent submitted responses to Commerce’s AD questionnaire, the questionnaire regarding double remedies, and supplemental questionnaires from April 2019 through August 2019.¹⁷

In response to Commerce’s April 15, 2019, request for comments on surrogate country (SC) selection and surrogate values (SVs),¹⁸ New Continent and the petitioner each submitted comments regarding SC selection and SVs between May 2019 and August 2019.¹⁹

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from December 22, 2018, through the resumption of operations on January 29, 2019.²⁰ On June 10, 2019, and again on September 6, 2019, Commerce extended the time limit for completing the preliminary results of this review. The current extended deadline for completing the preliminary results of this review is October 10, 2019.²¹

III. PARTIAL RESCISSION OF ADMINISTRATIVE REVIEW

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As noted in the

¹⁶ See Odyking’s Letter, “Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China – Withdrawal from Participation as a Mandatory Respondent,” dated March 15, 2019.

¹⁷ See New Continent’s April 1, 2019 Section A Questionnaire Response (New Continent April 1, 2019 AQR); New Continent’s April 22, 2019 Section C Questionnaire Response (New Continent April 22, 2019 CQR); New Continent’s April 22, 2019 Section D Questionnaire Response (New Continent April 22, 2019 DQR); New Continent’s April 25, 2019 Double Remedy Questionnaire Response (New Continent April 25, 2019 Double Remedies Questionnaire Response); and New Continent’s August 27, 2019 Supplemental Questionnaire Response (New Continent August 27, 2019 SQR).

¹⁸ See Commerce’s Letter, “Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information,” dated April 15, 2019 (Request for SC and SV Comments).

¹⁹ See Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from the People’s Republic of China–Petitioner’s Comments on the List of Potential Surrogate Countries,” dated May 6, 2019 (Petitioner’s May 6, 2019 SC Comments); see also New Continent’s Letter, “New Continent Surrogate Country Comments: Third Administrative Review of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires from the People’s Republic of China,” dated May 6, 2019 (New Continent’s May 6, 2019 SC Comments); Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from the People’s Republic of China–Petitioner’s Surrogate Value Information,” dated June 3, 2019 (Petitioner’s June 3, 2019 SV Comments); New Continent’s Letter, “New Continent First Surrogate Value Comments: Third Administrative Review of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires from the People’s Republic of China,” dated June 3, 2019 (New Continent’s June 3, 2019 SV Comments); Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from the People’s Republic of China–Petitioner’s Rebuttal Surrogate Value Information,” dated June 12, 2019 (Petitioner’s June 12, 2019 Rebuttal SV Comments); and New Continent’s Letter, “New Continent Final Surrogate Value Comments: Third Administrative Review of the Antidumping Duty Order on Passenger Vehicle and Light Truck Tires from the People’s Republic of China,” dated August 19, 2019 (New Continent’s August 19, 2019 Supplemental SV Comments).

²⁰ See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

²¹ See Memoranda, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review–2017-2018,” dated June 10, 2019; “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review – 2017-2018,” dated September 6, 2019.

“Background” section of this memorandum, Shouguang Firemax Tyre Co., Ltd.; Shandong Wanda Boto Tyre Co., Ltd.; Bridgestone (TIANJIN) Tire Co., Ltd.; Bridgestone Corporation; Cooper (Kunshan) Tire Co., Ltd.; Fleming Limited; Guangrao Taihua International Trade Co., Ltd.; Qingdao Keter International Co., Limited; Qingzhou Detai International Trading Co., Ltd.; Shengtai Group Co., Ltd.; Shandong Guofeng Rubber Plastic Co., Ltd.; Shandong Hengyu Science & Technology Co., Ltd.; Qingdao Jinhaoyang International Co., Ltd.; Riversun Industry Limited; Haohua Orient International Trade Ltd.; Windforce Tyre Co., Limited; Tyrechamp Group Co., Limited; Macho Tire Corporation Limited; Qingdao Lakesea Tyre Co., Ltd.; Safe&Well (HK) International Trading Limited; and Triangle Tyre Co., Ltd., each withdrew its request for an administrative review within 90 days of the publication date of the notice of initiation. No other parties requested an administrative review of the order with respect to these entities. Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the AD order on passenger tires from the PRC with respect to the aforementioned parties.

IV. SCOPE OF THE ORDER

The scope of this order is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this order may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P - Identifies a tire intended primarily for service on passenger cars

LT- Identifies a tire intended primarily for service on light trucks

Suffix letter designations:

LT - Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a “P” or “LT” prefix, and all tires with an “LT” suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a “P” or “LT” prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim

Association Year Book, as updated annually, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

(1) racing car tires; such tires do not bear the symbol “DOT” on the sidewall and may be marked with “ZR” in size designation;

(2) new pneumatic tires, of rubber, of a size that is not listed in the passenger car section or light truck section of the Tire and Rim Association Year Book;

(3) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(4) non-pneumatic tires, such as solid rubber tires;

(5) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) the size designation and load index combination molded on the tire’s sidewall are listed in Table PCT-1B (“T” Type Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,

(b) the designation “T” is molded into the tire’s sidewall as part of the size designation, and,

(c) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a “M” rating;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) the size designation molded on the tire’s sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation “ST” is molded into the tire’s sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is “For Trailer Service Only” or “For Trailer Use Only”,

(d) the load index molded on the tire’s sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an "M" rating; or

(ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) the size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not For Highway Service" or "Not for Highway Use",

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a "G" rating, and

(d) the tire features a recognizable off-road tread design.

The products covered by this order are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

V. DISCUSSION OF METHODOLOGY

Non-Market Economy Country

Commerce considers China to be a non-market economy (NME) country.²² In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, Commerce will continue to treat China as an NME country for purposes of these preliminary results of review. Commerce calculated NV using a factors of production (FOP) methodology in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rate Determination

In all proceedings involving NME countries, Commerce maintains a rebuttable presumption that all companies within China are subject to government control and, thus, should be assessed a single weighted-average dumping margin.²³ In the *Initiation Notice*, Commerce notified parties of the application process by which exporters or exporter/producers may obtain separate rate status in NME proceedings.²⁴ It is Commerce's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, Commerce analyzes each exporting entity in an NME country under the test established in *Sparklers*,²⁵ as amplified by *Silicon Carbide*.²⁶ However, if Commerce determines that a company is wholly foreign-owned or located in a market economy (ME) country, then analysis of the *de jure* and *de facto* criteria are not necessary to determine whether the company is independent from government control and eligible for a separate rate.²⁷

²² 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) (citing Memorandum to Gary Taverman, "China's Status as a Non-Market Economy," dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

²³ See *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); see also *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, in Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

²⁴ See *Initiation Notice*, 83 FR at 50078.

²⁵ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*).

²⁶ 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*).

²⁷ See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades* from China AD proceeding, and Commerce’s determinations therein.²⁸ In particular, in litigation involving the *Diamond Sawblades* proceeding, the U.S. Court of International Trade (CIT) found Commerce’s existing separate rate analysis deficient in the circumstances of that case, in which a government-controlled entity had significant ownership in the respondent exporter.²⁹ Based on this, we have concluded that where a government entity holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority ownership holding in and of itself means that the government exercises or has the potential to exercise control over the company’s operations generally, which may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company. Accordingly, we have considered the level of government ownership in our separate rates analysis where necessary.

Separate Rates Applications and Certifications

As noted above, thirty companies subject to this administrative review submitted SRAs or SRCs. However, as discussed above, we are rescinding the review of Shouguang Firemax Tyre Co., Ltd.; Shandong Wanda Boto Tyre Co., Ltd.; Bridgestone (TIANJIN) Tire Co., Ltd.; Bridgestone Corporation; Cooper (Kunshan) Tire Co., Ltd.; Fleming Limited; Guangrao Taihua International Trade Co., Ltd.; Qingdao Keter International Co., Limited; Qingzhou Detai International Trading Co., Ltd.; Shengtai Group Co., Ltd.; Shandong Guofeng Rubber Plastic Co., Ltd.; Shandong Hengyu Science & Technology Co., Ltd.; Qingdao Jinhaoyang International Co., Ltd.; Riversun

²⁸ See *Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People’s Republic of China* (May 6, 2013) in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012), affirmed in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memorandum 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 Issues and Decision Memorandum at Comment 1.

²⁹ See, e.g., *Advanced Technology & Materials Co., Ltd. v. United States*, 885 F. Supp. 2d 1343, 1349 (CIT 2012) (“The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it.”); *id.* at 1351 (“Further substantial evidence of record does not support the inference that SASAC’s {state-owned assets supervision and administration commission} ‘management’ of its ‘state-owned assets’ is restricted to the kind of passive-investor *de jure* ‘separation’ that Commerce concludes.”) (footnotes omitted); *id.* at 1355 (“The point here is that ‘governmental control’ in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a ‘degree’ of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to ‘day-today 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).

Industry Limited; Haohua Orient International Trade Ltd.; Windforce Tyre Co., Limited; Tyrechamp Group Co., Limited; Macho Tire Corporation Limited; Qingdao Lakesea Tyre Co., Ltd.; Safe&Well (HK) International Trading Limited; and Triangle Tyre Co., Ltd. because all relevant requests for review were timely withdrawn. Also, as noted above, we selected New Continent and Odyking as mandatory respondents. The remaining timely filed SRAs/SRCs came from: Anhui Jichi Tire Co., Ltd.; Crown International Corporation; Hankook Tire China Co., Ltd.; Jingsu Hankook Tire Co., Ltd.; Kenda Rubber (China) Co., Ltd.; Kinforest Tyre Co., Ltd.; Mayrun Tyre (Hong Kong) Limited; Pirelli Tyre Co., Ltd.; Qingdao Fullrun Tyre Corp., Ltd.; Qingdao Sunfulness Tyre Co., Ltd.; Qingdao Transamerica Tire Industrial Co., Ltd.; Shandong Anchi Tyres Co., Ltd.; Shandong Duratti Rubber Corporation Co., Ltd.; Shandong Haohua Tire Co., Ltd.; Shandong Hongsheng Rubber Technology Co., Ltd.; Shandong Longyue Rubber Co., Ltd.; Shandong Province Sanli Tire Manufactured Co., Ltd.; and Winrun Tyre Co., Ltd.

Commerce received a complete response to the Section A portion of the NME questionnaire from mandatory respondent New Continent, which contained information pertaining to the company's eligibility for a separate rate.³⁰

1. 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.³¹

The evidence placed on the record of the instant administrative review by New Continent and the remaining SRA/SRC candidates listed above demonstrates an absence of *de jure* government control under the criteria identified in *Silicon Carbide* and *Sparklers*.

2. 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 export sales 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.³² 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 them separate rates.

³⁰ See New Continent April 1, 2019 AQR at 2-8, and Exhibits A-3 through A-5, and A-10.

³¹ See *Sparklers*, 56 FR at 20589.

³² See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

The evidence placed on the record of the instant administrative review by New Continent and the remaining SRA/SRC candidates listed above demonstrates an absence of *de facto* government control under the criteria identified in *Silicon Carbide* and *Sparklers*.

Accordingly, Commerce preliminarily grants separate rate status to New Continent because it has demonstrated that it exercises both *de facto* and *de jure* control of its operations.³³ We are also preliminarily granting separate rate status to the 17 applicants that were each able to document that it either exercised both *de facto* and *de jure* control over its operations or that it was a wholly foreign-owned entity.³⁴

Companies Not Receiving a Separate Rate

Commerce is not granting Odyking separate rate status, due to its withdrawal as a mandatory respondent in the instant administrative review. In addition, we are not granting separate rate status to Pirelli Tyre Co., Ltd. because it failed to demonstrate an absence of *de facto* and *de jure* control over its operations.³⁵

As noted in the “Background” section of the instant memorandum, SRAs/SRCs were due on November 5, 2018. On November 16, 2018, Tianjin Wanda Tyre Group Co., Ltd (Tianjin Wanda) filed an untimely request to file its SRA at a later date.³⁶ Due to its untimely extension request and subsequent untimely filing of its SRA, we are not considering Tianjin Wanda’s eligibility for separate rate status for these preliminary results.

Commerce is treating those companies that it preliminarily finds are not eligible for separate-rate status as part of the China-wide entity.

Separate Rate for Companies Not Individually Examined

Section 777A(c)(1) of the Act directs Commerce to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives Commerce discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to make individual weighted-average dumping margin determinations because of the large number of exporters and producers involved in the review.

In the Respondent Selection Memorandum, Commerce determined, pursuant to section 777A(c)(2) of the Act, that given the large number of producers or exporters for which a review was initiated and Commerce’s current resource constraints, it would not be practicable to

³³ See Memorandum, “Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Preliminary Separate Rate Status,” dated October 10, 2019 (Preliminary Separate Rate Memorandum).

³⁴ *Id.*

³⁵ *Id.*

³⁶ See Tianjin Wanda’s Letter, “Passenger Vehicle and Light Truck Tires from the People’s Republic of China, A-570-016: Request for Extension of Time,” dated November 16, 2018.

individually examine all known exporters/producers.³⁷ Therefore, in accordance with section 777A(c)(2)(B) of the Act, Commerce selected for individual examination the two exporters accounting for the largest volume of subject merchandise exported from China during the POR, New Continent and Odyking.³⁸ However, as noted above, Odyking withdrew as a respondent for this administrative review.

The statute and Commerce's regulations do not address the establishment of a dumping margin for respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when determining the dumping margin for respondents which Commerce did not examine individually in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference not to calculate an all-others rate using dumping margins which are zero, *de minimis* or based entirely on facts available (FA). Accordingly, Commerce's usual practice in determining the dumping margin for separate-rate respondents not selected for individual examination has been to average the weighted-average dumping margins for the individually examined respondents, excluding dumping margins that are zero, *de minimis*, or based entirely on FA.³⁹

In the instant administrative review, New Continent is the only reviewed respondent that received a calculated weighted-average margin. Therefore, Commerce preliminarily determines that New Continent's calculated weighted-average dumping margin will be assigned to all entities that have been granted separate rate status.

Margin for Companies Not Receiving a Separate Rate

As noted above, we initiated administrative reviews for 42 producers/exporters of passenger tires, rescinded the reviews of 21 producers/exporters, granted separate rates to 17 non-selected producers/exporters, and determined that New Continent was eligible for a separate rate. Therefore, there are three entities which do not fall within the abovementioned categories that are still subject to the administrative review. For these remaining three entities that did not demonstrate their eligibility for separate rate status, Commerce finds that they have not rebutted the presumption of government control and, therefore, are considered to be part of the China-wide entity.

³⁷ See Respondent Selection Memorandum at 5.

³⁸ *Id.* at 6.

³⁹ See *Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (CIT 2008) (affirming Commerce's determination to assign a 4.22 percent dumping margin to the separate rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively); see also *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656, 36660 (July 24, 2009).

The China-Wide Entity

Upon initiation of the administrative review, we provided the opportunity for all companies upon which the review was initiated to complete either the separate-rate application or certification.⁴⁰ In NME proceedings, “‘rates’ may consist of a single dumping margin applicable to all exporters and producers.”⁴¹ As explained above in the “Separate Rates” section, all companies within China are considered to be subject to government control unless they are able to demonstrate an absence of government control with respect to their export activities. Such companies are assigned a single AD rate distinct from the separate rate(s) determined for companies that are found to be independent of government control with respect to their export activities. We consider the influence that the government has been found to have over the economy to warrant determining a rate for the entity that is distinct from the rates found for companies that provided sufficient evidence to establish that they operate freely with respect to their export activities.⁴² In this regard, no record evidence indicates that such government influence is no longer present or that our treatment of the China-wide entity is otherwise incorrect.

Commerce’s policy regarding conditional review of the China-wide entity applies to this review.⁴³ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, the entity is not under review and the entity’s rate is not subject to change. As such, the China-wide entity remains subject to a dumping rate of 87.99 percent.⁴⁴

Surrogate Country Selection

Legal and Regulatory Framework

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 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

⁴⁰ See *Initiation Notice*, 83 FR at 50078. The separate-rate application and certification are available at: <http://enforcement.trade.gov/nme/nme-sep-rate.html>.

⁴¹ See 19 CFR 351.107(d).

⁴² See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People’s Republic of China: Final Results of 2005-2006 Administrative Review and Partial Rescission of Review*, 72 FR 56724 (October 4, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

⁴³ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013).

⁴⁴ See *Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 47902, 47906 (August 10, 2015) (Order).

countries that are: (A) at a level of economic development comparable to that of the NME country; and (B) significant producers of comparable merchandise.”⁴⁵

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 (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly-available SV data, or (c) are not suitable for use based on other reasons. 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 a similar level of economic development, Commerce generally relies solely on per capita gross national income (GNI) data from the World Bank’s World Development Report.⁴⁶ In addition, if more than one country satisfies the two criteria noted above, Commerce narrows the field of potential surrogate countries to a single country (pursuant to 19 CFR 351.408(c)(2), Commerce will normally value FOPs in a single surrogate country) based on data availability and quality.

Economic Comparability

Section 773(c)(4) of the Act states that Commerce “shall utilize, to the extent possible, the prices or costs of {FOP}s in one or more market economy countries that are . . . at a level of economic development comparable to that of the {NME} country.” However, the applicable statute does not expressly define the phrase “level of economic development comparable” or what methodology Commerce must use in evaluating the criterion. Commerce’s regulations at 19 CFR 351.408(b) state that, in determining whether a country is at a level of economic development comparable to the NME country, Commerce will place primary emphasis on per capita gross domestic product (GDP) as the measure of economic comparability.⁴⁷ The Court of International Trade (CIT) has found the use of per capita GNI to be a “consistent, transparent, and objective metric to identify and compare a country’s level of economic development” and “a reasonable interpretation of the statute.”⁴⁸

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

Consistent with its practice, and section 773(c)(4)(A) of the Act,⁴⁹ as noted above, Commerce identified Brazil, Kazakhstan, Malaysia, Mexico, Romania, and Russia as countries at the same

⁴⁵ See Commerce 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>.

⁴⁶ *Id.*

⁴⁷ Commerce uses per capita GNI as a proxy for per capita GDP. GNI is GDP plus net receipt of primary income (compensation of employees and property income) from nonresident sources. See Policy Bulletin 04.1.

⁴⁸ See *Jiaying Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

⁴⁹ See Request for SC and SV Comments.

level of economic development as China based on the most current annual issue of *World Development Report* (The World Bank).⁵⁰

We issued a letter to interested parties on April 15, 2019, soliciting comments on the list of countries that Commerce determined, based on per capita GNI, to be at the same level of economic development as China, as well as the selection of the primary surrogate country, and we provided deadlines for the consideration of any submitted SV information for the preliminary results.⁵¹ 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.⁵² As noted in the background section, we received timely comments on surrogate country selection from the petitioner and New Continent.⁵³

Significant Producer of Identical or 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. Among the factors we consider in determining whether a country is a significant producer of comparable merchandise is whether the country is an exporter of comparable merchandise. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, Commerce's practice is to examine which countries on the surrogate country list exported merchandise comparable to the subject merchandise.

In its SC comment filing, the petitioner placed import and export information for two Harmonized Tariff Schedule categories of tires on the record (4011.10 and 4011.20) on the record and suggested that Brazil, Malaysia, Mexico, Romania, and Russia appear to be producers of comparable merchandise.⁵⁴ New Continent placed import and export information on the record for four Harmonized Tariff Schedule categories (4011.10, 4011.20, 4011.99, and 8708.70) and argued that Romania and Brazil were significant producers of comparable merchandise.⁵⁵ Information on the record indicates that Brazil, Mexico, Russia, and Malaysia are significant exporters of merchandise covered by the Harmonized Tariff Schedule categories identified in the scope of this administrative review while Romania is not.⁵⁶ Accordingly, we preliminarily find that Brazil, Mexico, Russia, and Malaysia meet the significant-producer-of-comparable-merchandise prong of the surrogate country selection criteria, as provided in section 773(c)(4)(B) of the Act. However, given the data availability issues (discussed below), we preliminarily

⁵⁰ *Id.* at Attachment.

⁵¹ *Id.*

⁵² *Id.* at Attachment.

⁵³ See Petitioner's May 6, 2019 SC Comments; see also New Continent's May 6, 2019 SC Comments; Petitioner's June 3, 2019 SV Comments; New Continent's June 3, 2019 SV Comments; Petitioner's June 12, 2019 Rebuttal SV Comments; and New Continent's August 19, 2019 Supplemental SV Comments.

⁵⁴ See Petitioner's May 6, 2019 SC Comments at 2.

⁵⁵ *Id.* at Exhibit 2; see also New Continent's May 6, 2019 SC Comments at Exhibits 1-2.

⁵⁶ See Petitioner's May 6, 2019 SC Comments at Exhibit 2; see also New Continent's May 6, 2019 SC Comments at Exhibits 1-2.

determine that Malaysia best meets our selection criteria because it qualifies as a producer of identical merchandise and has better quality data.

Data Availability and Quality

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 and reliability.⁵⁷ When evaluating SV data, Commerce considers several factors, including whether the SVs are publicly available, contemporaneous with the POR, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.⁵⁸ There is no hierarchy among these criteria.⁵⁹ It is Commerce's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.⁶⁰

In its SV filing, the petitioner stated that it supports using Russia as a primary source for reliable surrogate values because Russia is a producer of comparable merchandise and that publicly available Russian data can be used to determine surrogate values for factors of production, financial ratios, and any other costs.⁶¹ The petitioner also included Global Trade Atlas (GTA) data, financial statements, and other sourced material for Russia and Thailand on the record of the instant administrative review for various FOPs.⁶²

In its SV filing, New Continent argued that Commerce should select Malaysia as the surrogate country and placed GTA data, financial statements, and other sourced material for Malaysian FOPs on the record.⁶³

Neither the petitioner nor New Continent placed surrogate value information on the record for Mexico or Brazil.

In its SV rebuttal comments, the petitioner noted that the financial statement New Continent placed on the record in its initial SV filing for Michelin Malaysia SDN. BHD. (Michelin) shows the Michelin is not a production facility.⁶⁴ The petitioner further argued that, in accordance with 19 CFR 351.408(c)(4), Commerce must use information regarding producers of identical or comparable merchandise in the surrogate country.⁶⁵ New Continent in turn placed information on the record that purports to show that the Russian tire company Voltyre-Prom (Voltyre) and Thai manufacturer Goodyear (Thailand) Public Company Limited (Goodyear Thailand) received

⁵⁷ See Policy Bulletin 04.1.

⁵⁸ *Id.*

⁵⁹ See, e.g., *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

⁶⁰ See Policy Bulletin 04.1.

⁶¹ See Petitioner's June 3, 2019 SV Comments at 2.

⁶² *Id.*

⁶³ See New Continent's June 3, 2019 SV Comments.

⁶⁴ See Petitioner's June 12, 2019 Rebuttal SV Comments at 2.

⁶⁵ *Id.* at 3.

subsidies and/or assistance from their respective governments.⁶⁶ New Continent also placed additional Malaysian financial statements on the record for Giti Tire (Malaysia) SDN. BHD. (Giti) and Sun Tyre Industries SDN. BHD. (Sun Tyre).⁶⁷

After reviewing information submitted by the petitioner and New Continent as well as reviewing the GTA data for both Russia and Malaysia, Commerce finds that the Malaysian data are the best available data for valuing the respondent's FOPs. Specifically, the Russian GTA data, which only covered some of the natural rubber used by New Continent, does not provide any usable SVs for natural rubber. The GTA data indicates that Russia imported natural rubber exclusively from Thailand, India, China, Korea, and Vietnam. In accordance with the legislative history of the Omnibus Trade and Competitiveness Act of 1988,⁶⁸ Commerce continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may include subsidies.⁶⁹ Based on the existence of subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, Commerce finds it is reasonable to infer that all exporters from Thailand, India, and Korea may have benefitted from these subsidies.⁷⁰ Additionally, Commerce disregarded data from NME countries including China and Vietnam.⁷¹

Meanwhile, the Malaysian GTA data covers each type of natural rubber used by New Continent as well every other input used by New Continent to produce subject merchandise. However, Commerce excluded imports labeled as originating from an "unidentified" country from the calculation of Malaysian import-based per-unit SVs because Commerce could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.⁷² Commerce also excluded imports labeled as originating from a NME country in the Malaysian import data.

Regarding the financial statements on the record, the Russian Voltyre statement the petitioner placed on the record is from 2016 which is not contemporaneous with the POR of the current administrative review.⁷³ Also, since Thailand is no longer on the surrogate country list for the

⁶⁶ See New Continent's August 19, 2019 Supplemental SV Comments at 1-2 and Exhibits 3 and 4.

⁶⁷ *Id.* at Exhibits 1B and 2B.

⁶⁸ See Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

⁶⁹ See *China Nat'l Mach. Import & Export Corp. v. United States*, 293 F. Supp. 2d at 1334 (CIT 2003), *aff'd* 104 Fed. Appx. 183 (Fed. Cir. 2004).

⁷⁰ See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying IDM at 7-19; *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying IDM at 1; *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying IDM at 4; and *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying IDM at IV.

⁷¹ 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).

⁷² *Id.*

⁷³ See Petitioner's June 3, 2019 SV Comments at Exhibit 18.

instant POR, we will not use the Goodyear Thailand financial statement the petitioner placed on the record. As the petitioner noted in its rebuttal comments, the Michelin financial statement New Continent placed on the record is not suitable for calculating surrogate financial ratios because this company is not a producer of tires.⁷⁴ This is also the reason why Commerce will not use the Giti financial statement New Continent subsequently placed on the record.⁷⁵ As noted previously, New Continent also placed on the record the financial statement of Malaysian company Sun Tyre.⁷⁶ Sun Tyre's financial statement states that the principal activities of the company are "retreading of tyres, dealing in rubber products and investment holding." Sun Tyre's tire retreading activities indicate that the company has a level of manufacturing capabilities that is similar to tire production. Thus, the retreaded tires produced by Sun Tyre can be considered merchandise comparable to the merchandise under consideration in accordance with 19 CFR 351.408(c)(4).⁷⁷

Therefore, because complete SV information is available from Malaysia and the financial statement from Malaysia for Sun Tyre is contemporaneous with the POR, Commerce preliminarily determines that Malaysia data are the best available SV data. For the reasons stated above, Commerce preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Malaysia as the primary surrogate country because Malaysia is (1) at the same level of economic development as China; (2) a significant producer of merchandise comparable to the subject merchandise; and (3) contains the best available data for valuing FOPs. Therefore, Commerce has calculated NV using Malaysian data when available and appropriate to value the respondent's FOPs. A detailed explanation of the SVs used is provided below in the "Normal Value" section of this notice and in the Preliminary Surrogate Value Memorandum.⁷⁸

Date of Sale

Commerce's regulations at 19 CFR 351.401(i) state as follows:

In identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁷⁹

⁷⁴ See New Continent's June 3, 2019 SV Comments at Exhibit 10.

⁷⁵ See New Continent's August 19, 2019 Supplemental SV Comments at Exhibit 1B.

⁷⁶ *Id.* at Exhibit 2B.

⁷⁷ *Id.*

⁷⁸ See Memorandum, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Surrogate Value Memorandum," dated October 10, 2019 (Preliminary Surrogate Value Memorandum).

⁷⁹ See 19 CFR 351.401(i); see also *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (upholding Commerce's rebuttable presumption that invoice date is the appropriate date of sale).

New Continent reported that it and its U.S. affiliate, Comforser Tyre North America LLC (Comforser), use invoice date as the date of sale to the unrelated U.S. customer because the price and quantity are subject to change until the date the invoice is issued to the customer.⁸⁰ Our analysis of New Continent’s sales documentation indicates that there can be changes in price and quantity from the time of the initial order until the issuance of the final invoice.⁸¹ Therefore, we have preliminarily used invoice date as the date of sale for New Continent’s U.S. sales.

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c), in order to determine whether New Continent’s U.S. sales of subject merchandise from China to the United States were made at less than NV, we compared net U.S. sales prices to NV, as described in the “U.S. Price” and “Normal Value” sections below.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) or constructed export prices (CEPs) (the average-to-average (A-A) 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 to the EPs/CEPs of individual transactions (the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce’s examination of this question in the context of administrative reviews, Commerce finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.⁸² In previous investigations and administrative reviews, Commerce applied a “differential pricing” analysis for determining whether the application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.⁸³ Commerce finds the differential pricing analysis used in those recent investigations and administrative reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.⁸⁴ Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and

⁸⁰ See New Continent April 1, 2019 AQR at 11.

⁸¹ See *id.* at Exhibit A-6; see also New Continent August 27, 2019 SQR at Exhibit SC-1.

⁸² See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

⁸³ See *Hardwood and Decorative Plywood from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying Issues and Decision Memorandum at Comment 3; see also *Certain Lined Paper Products from the People’s Republic of China: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 34640 (June 10, 2013), unchanged in *Certain Lined Paper Products from the People’s Republic of China: Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 65274 (October 31, 2013).

⁸⁴ See, e.g., *Activated Carbon from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 26748 (May 8, 2013), unchanged in *Certain Activated Carbon from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 70533 (November 26, 2013), and accompanying Issues & Decision Memorandum at Comment 4.

on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results of review requires a finding of a pattern of prices (*i.e.*, EPs or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names for New Continent. Regions are defined using the reported destination codes (*i.e.* zip codes) for New Continent and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the 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* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* test is applied when the test and comparison groups of data 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 calculated to evaluate the extent to which the net prices to a particular purchaser, region or in a time period differ significantly from the net 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. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group were found to have passed 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 comparison method to all sales as an alternative to the average-to-average comparison 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 comparison method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the

Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

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

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

B. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, we find that 42.70 percent of New Continent's U.S. sales pass the Cohen's *d* test, thereby confirming the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the A-A method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the A-T method to those U.S. sales that passed the Cohen's *d* test and the A-A method to those sales that did not pass the Cohen's *d* test. Accordingly, for these preliminary results, Commerce is applying the A-A method for all U.S. sales to calculate the weighted-average dumping margin for New Continent.⁸⁵

U.S. Price

A. Export Price

In accordance with section 772(a) of the Act, "the term 'export price' (EP) is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated

⁸⁵ See Memorandum, "Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Analysis Memorandum for Shandong New Continent Tire Co., Ltd.," dated October 10, 2019 at "V. Differential Pricing Analysis" (New Continent Preliminary Calculation Memorandum).

purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).” Commerce defined the U.S. price of merchandise under consideration based on the EP for certain sales as reported by New Continent. Commerce calculated the EP based on the prices at which merchandise under consideration was sold to unaffiliated purchasers in the United States. New Continent reported EP sales.⁸⁶

For New Continent’s EP sales, Commerce made deductions, as appropriate, from the reported U.S. price for movement expenses (*i.e.*, domestic and foreign inland freight, brokerage and handling, and international movement expenses). Commerce based movement expenses on surrogate values.

B. Constructed Export Price

In accordance with section 772(b) of the Act, CEP is “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” New Continent reported that it also made CEP sales during the POR through its U.S. affiliate Comforser.

In accordance with section 772(b) of the Act, we calculated CEP for New Continent by deducting from the reported gross unit sales prices movement expenses, where applicable, in accordance with section 772(c)(2)(A) of the Act, indirect selling expenses and credit expenses, all of which relate to commercial activity in the United States, in accordance with section 772(d)(1) of the Act, and CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act.

Value Added Tax

Commerce’s practice in NME cases is to adjust EP or CEP for the amount of any un-refunded value-added tax (VAT), in accordance with section 772(c)(2)(B) of the Act.⁸⁷ Commerce explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, Commerce will reduce the respondent’s EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.⁸⁸ Where the irrecoverable VAT is a fixed percentage of CEP or EP, Commerce explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. CEP or EP downward by this same percentage.⁸⁹ Commerce’s methodology, as explained above and applied in this review,

⁸⁶ See New Continent April 22, 2019 CQR at 14-15.

⁸⁷ See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481, 36483-84 (June 19, 2012) (*Methodological Change*).

⁸⁸ *Id.*

⁸⁹ *Id.*

essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount determined in step one.

New Continent reported that the official VAT rate for exports of subject merchandise was 17 percent from August 1, 2017 to April 30, 2018, and 16 percent from May 1, 2018 to July 31, 2018.⁹⁰ The refund rate was nine percent during the POR, under the applicable Chinese regulations.⁹¹ Thus, New Continent incurred an effective VAT rate of eight percent on exports of domestically-produced passenger tires before the change in the VAT rate, and an effective VAT rate of seven percent after the change in the VAT rate. Because New Continent pays VAT associated with subject merchandise and it is not refunded at these effective VAT rates, Commerce adjusted New Continent's net price for the un-refunded VAT to calculate EP and CEP net of VAT. We note that this is consistent with Commerce's policy and the intent of the statute, that dumping comparisons be tax-neutral.⁹²

Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Commerce bases NV in an NME case on FOPs because the presence of government controls on various aspects of NME countries renders price comparisons and the calculation of production costs unsuitable under Commerce's normal methodologies. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. In accordance with section 773(c) of the Act and 19 CFR 351.408(c)(1), we calculated NV by multiplying the reported per-unit FOPs consumption rates by publicly available SVs.⁹³

Factor Valuation Methodology

In accordance with section 773(c) of the Act, Commerce calculated NV based on FOP data reported by New Continent. Commerce used Malaysian import data and other publicly available Malaysian data in order to calculate SVs for New Continent's FOPs. To calculate NV, Commerce multiplied New Continent's reported per-unit FOP consumption rates by publicly available SVs. When selecting SVs, Commerce considered, among other factors, whether the

⁹⁰ See New Continent April 22, 2019 CQR at 35 and Exhibit C-1.

⁹¹ *Id.* at 36 and Exhibit C-7C.

⁹² See *Methodological Change* (citing *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27369 (May 19, 1997) and SAA at 827); see also *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2011-2012*, 78 FR 78333 (December 26, 2013) and accompanying Preliminary Decision Memorandum at Issue 9, unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 37715 (July 2, 2014).

⁹³ See Preliminary Surrogate Value Memorandum.

SV data on the record were publicly available, broad market averages, contemporaneous with the period under consideration or closest in time to the period, product-specific, and tax-exclusive.⁹⁴

As appropriate, Commerce adjusted input prices by including freight costs to make them delivered values. Specifically, Commerce 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.⁹⁵ An overview of the SVs used to calculate weighted-average dumping margin for New Continent is below. A detailed description of all SVs used to calculate the weighted-average dumping margins for New Continent can be found in the Preliminary Surrogate Value Memorandum.⁹⁶

Direct and Packing Materials

The record shows that GTA import statistics from the primary surrogate country, Malaysia, are generally contemporaneous with the POR, publicly available, product-specific, tax-exclusive, and represent a broad market average.⁹⁷ Thus, we based SVs for New Continent's direct materials, packing materials, and by-products on these import values and, where appropriate, valued other items, such as certain movement expenses, using other publicly available data on the record.⁹⁸

We disregarded certain import values when calculating SVs. We have continued to apply Commerce's long-standing practice of disregarding import prices that we have reason to believe or suspect are subsidized or dumped.⁹⁹ In this regard, Commerce previously found that it is appropriate to disregard prices of imports from India, Indonesia, South Korea, and Thailand because it determined that these countries maintain broadly available, non-industry specific export subsidies.¹⁰⁰ Based on the existence of these subsidy programs that were generally

⁹⁴ 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).

⁹⁵ See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

⁹⁶ See Preliminary Surrogate Value Memorandum.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ See Section 773(c)(5) of the Act (permitting Commerce to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values); see also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015); Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

¹⁰⁰ See, e.g., *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

available to all exporters and producers in these countries at the time of the POR, Commerce finds that it is reasonable to infer that all exporters in India, Indonesia, and South Korea may have benefitted from these subsidies. Therefore, we have not used the prices of Malaysian imports of goods from India, Indonesia, and South Korea in calculating the import-based SVs. Additionally, in selecting import data for SVs, we disregarded prices from NME countries.¹⁰¹ Finally, we excluded from our calculation of the average import value any imports that were labeled as originating from an “unspecified” country, because we could not be certain that they were not from either an NME country or a country with generally available export subsidies.¹⁰²

Utilities

We valued water and electricity using rates from the Malaysian Investment Development Authority. We did not inflate or deflate the rates because they were in effect during the POR.¹⁰³

Labor

We valued New Continent’s labor using 2015 Malaysian labor data for the manufacturing sector from the “Principal Statistics of Manufacturing Industries, 1959-2015, Malaysia.”¹⁰⁴ We inflated the 2015 labor data to make it contemporaneous with the POR.

Movement Services

We valued inland truck freight expenses using charges for domestic truck freight for transporting cargo domestically within Malaysia as published in the World Bank’s *Doing Business in Malaysia 2018*.¹⁰⁵ We did not inflate or deflate the rates because they were in effect during the POR.

We valued brokerage and handling expenses using charges for exporting a standardized cargo of goods from Malaysia as published in the World Bank’s *Doing Business in Malaysia 2018* edition.¹⁰⁶ We did not inflate or deflate the rates because they were in effect during the POR.

We valued international ocean freight expenses using information from Descartes listing charges for ocean freight from China to the west and eastern coasts of the United States.¹⁰⁷

¹⁰¹ See, e.g., *Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 9591, 9600 (March 5, 2009), unchanged in *Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009); and *Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order*, 74 FR 46971 (September 14, 2009).

¹⁰² *Id.*

¹⁰³ See New Continent’s June 3, 2019 SV Comments at Exhibits 4 and 5.

¹⁰⁴ *Id.* at Exhibit 3.

¹⁰⁵ See New Continent Preliminary Calculation Memorandum at Attachment IV.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at Exhibit 7.

We valued marine insurance expenses using a quote from PAF Shipping Insurance listing insurance costs for shipping cargo from China to the United States.¹⁰⁸

Overhead and Financial Expenses

Pursuant to 19 CFR 351.408(c)(4), Commerce values overhead, selling, general and administrative (SG&A) expenses, and profit using publicly available information gathered from producers of identical or comparable merchandise 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 POR, 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.¹⁰⁹

As noted previously, New Continent provided the 2017 financial statement of Sun Tyre.¹¹⁰ We note that the company manufactures comparable merchandise (*e.g.* re-treading tires), and its 2017 financials are contemporaneous with the POR. Therefore, we have preliminarily used the 2017 financial statements of Sun Tyre to value factory overhead, selling, general, and administrative expenses, and profit.¹¹¹

Adjustments Under Section 777A(f) of the Act

In applying section 777A(f) of the Act in this administrative review, we examined: (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted average dumping margin for the class or kind of merchandise.¹¹² For a subsidy meeting these criteria, the statute requires Commerce to reduce the AD duties by the estimated amount of the increase in the weighted average dumping margin subject to a specified cap.¹¹³ 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

¹⁰⁸ *Id.* at Exhibit 8.

¹⁰⁹ 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; *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review*, 78 FR 5414 (January 25, 2013), and accompanying IDM at Comment 1.

¹¹⁰ See New Continent's August 19, 2019 Supplemental SV Comments at Exhibit 2.

¹¹¹ *Id.*

¹¹² See sections 777A(f)(1)(A)-(C) of the Act.

¹¹³ *Id.*

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.¹¹⁴

For purposes of our analysis under sections 777A(f)(1)(A) and (f)(1)(C) of the Act, Commerce requested firm-specific information from New Continent.¹¹⁵ The information sought included information regarding whether countervailed subsidies were received during the relevant period, information on costs, and information regarding the respondents' pricing policies and practices. Additionally, the respondent was required to provide documentary support for the information provided. New Continent submitted a response to Commerce's firm-specific double remedies questionnaire.¹¹⁶ The response included information concerning countervailable subsidies received during the relevant period, as well as information regarding the respondent's costs and pricing policies and practices.

Analysis

Even though New Continent is not a mandatory respondent in the companion CVD administrative review, it reported receiving countervailable subsidies for the provisions of nylon cord, synthetic rubber and butadiene, and natural rubber for LTAR.¹¹⁷ New Continent also provided monthly POR costs for its purchases of nylon cord, synthetic rubber and butadiene, and natural rubber.¹¹⁸

In accordance with section 777A(f)(1)(A) of the Act, Commerce examined whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise. New Continent provided information regarding its monthly costs for the POR associated with its purchases of nylon cord, synthetic rubber and butadiene, and natural rubber.¹¹⁹ Because Commerce found the provision of nylon cord, synthetic rubber and butadiene, and natural rubber for LTAR to be countervailable with respect to the class or kind of merchandise under consideration in the most recently completed companion CVD administrative review, Commerce preliminarily finds that the requirement of section 777A(f)(1)(A) of the Act has been met.¹²⁰

¹¹⁴ See *Cast Iron Soil Pipe Fittings from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances, in Part*, 83 FR 33205 (July 17, 2018), and accompanying Issues and Decision Memorandum at Comment 15.

¹¹⁵ See Commerce's Letter, "Antidumping Duty Administrative Review of the Antidumping Order on Passenger Vehicle and Light Truck Tires from the People's Republic of China: Double Remedy Questionnaire," (February 28, 2019).

¹¹⁶ See New Continent April 25, 2019 Double Remedies Questionnaire Response.

¹¹⁷ *Id.* at 9.

¹¹⁸ *Id.* at Exhibit DR-3.

¹¹⁹ *Id.*

¹²⁰ See *Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2016*, 84 FR 17382 (April 25, 2019) and accompanying Issues and Decision Memorandum; see also *Countervailing Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Results of Countervailing Duty Administrative Review; 2016*, 84 FR 28011 (June 17, 2019) and accompanying Issues and Decision Memorandum.

While countervailable subsidies have been provided with respect to passenger tires,¹²¹ we have not found a general decrease in the U.S. average import price during the relevant period. Section 777A(f)(1)(B) of the Act requires Commerce to determine whether such countervailable subsidies have been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period. To make this determination, we examined International Trade Commission (ITC) import data for the POR.¹²² Based on this information, Commerce preliminarily finds that import prices of the class or kind of merchandise at issue during that relevant period increased.¹²³ As there was no general decrease in the U.S. average import price during the relevant period, we preliminarily find that the requirement under section 777A(f)(1)(B) of the Act has not been met, and hence we did not make an adjustment under section 777A(f) of the Act.

Additionally, in accordance with section 777A(f)(1)(C) of the Act, Commerce examined whether New Continent demonstrated: (1) a subsidies-to-cost link, *i.e.*, a subsidy effect on the cost of manufacturing (COM) the merchandise under consideration; and (2) a cost-to-price link, *i.e.*, respondent's prices were dependent on changes in the COM. With respect to the subsidies-to-cost link, in the Double Remedies Questionnaire Response, New Continent reported that it consumed nylon cord, synthetic rubber and butadiene, and natural rubber in the production of subject merchandise and that it received subsidies for these inputs.¹²⁴

New Continent provided information indicating that the subsidy programs affected its COM. Specifically, it provided information showing its input costs and the effects of those costs on its COM in the form of internal communications among its accounting, management and sales personnel.¹²⁵ In addition, New Continent states that it identifies and monitors the cost fluctuations of these raw materials.¹²⁶ Thus, Commerce preliminarily concludes that New Continent established a subsidies-to-cost link because subsidies for the provision of nylon cord, synthetic rubber and butadiene, and natural rubber for LTAR impact New Continent's costs for producing subject merchandise.

For the cost-to-price link, Commerce examined whether New Continent demonstrated that changes in costs affected, or are taken into consideration when setting, prices. New Continent stated that the company will adjust the sales price of the subject tires when the raw material costs change substantially.¹²⁷ In addition, New Continent states that its finance department reviews cost changes at the request of the sales department.¹²⁸ The sales department, in turn, considers the report compiled by the finance department and decides on the appropriate export price for each product type, taking into consideration the following: (1) cost for major inputs; (2) the market demand and supply of the products requested and the clients' requests; and (3) the

¹²¹ See New Continent April 25, 2019 Double Remedies Questionnaire Response.

¹²² See New Continent Preliminary Calculation Memorandum at Attachment III.

¹²³ *Id.*

¹²⁴ See New Continent April 25, 2019 Double Remedies Questionnaire Response at Exhibit DR-3.

¹²⁵ *Id.* at 10 and Exhibits DR-2 and DR-4.

¹²⁶ *Id.* at 7.

¹²⁷ *Id.*

¹²⁸ *Id.*

expected profit on a given product.¹²⁹ Finally, New Continent provided internal communications describing how prices change in response to costs.¹³⁰

Based on the above, Commerce finds that New Continent provided adequate information to establish a link between subsidies (the provision of nylon cord, synthetic rubber and butadiene, and natural rubber for LTAR), costs, and prices. However, as there was no general decrease in the U.S. average import price during the relevant period, we preliminarily find that the requirement under section 777A(f)(1)(B) of the Act has not been met, and hence we did not make an adjustment under section 777A(f) of the Act.

Export Subsidy Adjustment

Pursuant to section 772(c)(1)(C) of the Act, Commerce increases the U.S. price by the amount of any countervailing duty imposed to offset an export subsidy. We are adjusting New Continent's U.S. net price by increasing it by the export subsidy rate calculated in the most recently completed CVD administrative review.¹³¹

Separate Rate Companies

For the non-individually examined companies eligible for a separate rate, their weighted-average dumping margin is based on the weighted-average dumping margin of New Continent. Therefore, the non-individually examined exporters granted separate rates status will not be granted an adjustment to account for domestic subsidies based on the domestic subsidy pass-through amount determined for New Continent as described above. They will be granted an export subsidy offset pursuant to section 772(c)(1)(C) of the Act.

Currency Conversion

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

¹²⁹ *Id.*

¹³⁰ *Id.* at Exhibits DR-4A and DR-4B.

¹³¹ *See* New Continent Preliminary Calculation Memorandum.

VI. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

10/10/2019

X



Signed by: JEFFREY KESSLER
Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance