



A-570-062  
Administrative Review  
POR: 02/20/2018 – 07/31/2019  
**Public Document**  
E&C/OVIII: SK/MB

June 18, 2020

**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 Antidumping  
Duty Administrative Review: Cast Iron Soil Pipe Fittings from the  
People's Republic of China; 2018-2019

---

## 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 cast iron soil pipe fittings (soil pipe fittings) from the People's Republic of China (China) for the period of review (POR) February 20, 2018 through July 31, 2019. This administrative review was initiated on 11 companies, including two mandatory respondents, Qinshui Shunshida Casting Co., Ltd. (Shunshida), and Wor-Biz Industrial Product Co., Ltd. (Anhui)<sup>1</sup> (Wor-Biz).

We preliminarily determine that Wor-Biz made sales of subject merchandise at prices below normal value (NV), and consider Shunshida to be part of the China-wide entity. In addition, we preliminarily determine that five companies, including Wor-Biz, are eligible for a separate rate and that six companies, including Shunshida, are part of the China-wide entity.

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

---

<sup>1</sup> On January 8, 2020, Commerce determined that Wor-Biz Industrial Product Co., Ltd. (Anhui) is the successor-in interest to Wor-Biz Trading Co., Ltd. (Anhui) and is therefore entitled to that company's cash deposit rate with respect to entries of subject merchandise. See *Cast Iron Soil Pipe Fittings from the People's Republic of China: Final Results of Changed Circumstances Review*, 85 FR 881 (January 8, 2020).



Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of the accompanying *Federal Register* notice of these preliminary results, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h), unless this deadline is extended.

## II. BACKGROUND

On August 31, 2018, Commerce published the AD *Order* on soil pipe fittings from China.<sup>2</sup> On August 2, 2019, we published a notice of opportunity for interested parties to request that Commerce conduct an administrative review of the *Order*.<sup>3</sup> On August 30, 2019, we received requests from the petitioner<sup>4</sup> and Wor-Biz to conduct an administrative review for a total of 11 companies.<sup>5</sup> On October 7, 2019, we published the initiation notice in the *Federal Register*.<sup>6</sup>

From October through November 2019, we received separate rate certifications (SRCs) from four companies, and no separate rate applications (SRAs).<sup>7</sup> In November 2019, Commerce selected Shunshida and Wor-Biz as mandatory respondents<sup>8</sup> and issued each respondent the initial AD questionnaire.<sup>9</sup> Shunshida did not respond to the initial AD questionnaire. In February and March 2020, we issued additional questionnaires to Wor-Biz, to which Wor-Biz timely responded.<sup>10</sup>

From January through May 2020, we solicited and received comments from interested parties

---

<sup>2</sup> See *Cast Iron Soil Pipe Fittings from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 83 FR 44570 (August 31, 2018) (the *Order*).

<sup>3</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 37834 (August 2, 2019).

<sup>4</sup> The petitioner is the Cast Iron Soil Pipe Institute.

<sup>5</sup> See Petitioner's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Request for Administrative Review"; and Wor-Biz's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Request for Administrative Review," both dated August 30, 2019.

<sup>6</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 53411 (October 7, 2019) (*Initiation Notice*).

<sup>7</sup> See Shijiazhuang Asia Casting Co., Ltd.'s October 21, 2019 SRC (Asia Casting's SRC); see also Dalian Lino F.T.Z Co., Ltd.'s October 21, 2019 SRC (Lino's SRC); Dalian Metal I/E Co., Ltd.'s November 6, 2019 SRC (Dalian Metal's SRC); Dinggin Hardware Co., Ltd.'s November 6, 2019 SRC (Dinggin's SC).

<sup>8</sup> See Memorandum, "2018-2019 Antidumping Duty Administrative Review of Cast Iron Soil Pipe Fittings from the People's Republic of China: Respondent Selection," dated November 5, 2019.

<sup>9</sup> See, e.g., Memorandum, "Mail Confirmation Receipt of Antidumping Duty Questionnaire for the First Administrative Review of Cast Iron Soil Pipe Fittings from China: Qinshui Shunshida Casting Co., Ltd.," dated November 7, 2019; see also Memorandum, "Delivery Confirmation Receipt of Antidumping Duty Questionnaire for the First Administrative Review of Cast Iron Soil Pipe Fittings from the People's Republic of China: Qinshui Shunshida Casting Co., Ltd.," dated January 7, 2020; and Commerce's Letter, "Antidumping Duty Questionnaire," both dated November 6, 2019 (Initial Questionnaires).

<sup>10</sup> See, e.g., Commerce's Letter, "Antidumping Duty Administrative Review of Cast Iron Soil Pipe Fittings from the People's Republic of China: Sections A, C and D Supplemental Questionnaire," dated February 13, 2020. See also Wor-Biz's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China; Submission of 1<sup>st</sup> Supplemental Response, Q.13-19," dated March 13, 2020, and Wor-Biz's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China; Submission of 1<sup>st</sup> Supplemental Response, Q.1-12," dated March 20, 2020 (collectively, Wor-Biz's SQR).

regarding the selection of surrogate value (SV) data, in accordance with 19 CFR 351.408(c).<sup>11</sup>

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these preliminary results until June 22, 2020.<sup>12</sup>

### **III. PERIOD OF REVIEW**

The POR is February 20, 2018 through July 31, 2019.

### **IV. SCOPE OF THE ORDER**

The merchandise covered by the order is cast iron soil pipe fittings, finished and unfinished, regardless of industry or proprietary specifications, and regardless of size. Cast iron soil pipe fittings are nonmalleable iron castings of various designs and sizes, including, but not limited to, bends, tees, wyes, traps, drains (other than drain bodies), and other common or special fittings, with or without side inlets.

Cast iron soil pipe fittings are classified into two major types – hubless and hub and spigot. Hubless cast iron soil pipe fittings are manufactured without a hub, generally in compliance with Cast Iron Soil Pipe Institute (CISPI) specification 301 and/or American Society for Testing and Materials (ASTM) specification A888. Hub and spigot pipe fittings have hubs into which the spigot (plain end) of the pipe or fitting is inserted. Cast iron soil pipe fittings are generally distinguished from other types of nonmalleable cast iron fittings by the manner in which they are connected to cast iron soil pipe and other fittings.

Excluded from the scope are all drain bodies. Drain bodies are normally classified in subheading 7326.90.86.88 of the Harmonized Tariff Schedule of the United States (HTSUS).

The cast iron soil pipe fittings subject to the scope of this order are normally classified in subheading 7307.11.0045 of the HTSUS: Cast fittings of nonmalleable cast iron for cast iron soil pipe. They may also be entered under HTSUS 7324.29.0000 and 7307.92.3010. The HTSUS

---

<sup>11</sup> See Commerce Letter, “Request for Surrogate Country and Surrogate Value Comments and Information,” dated January 15, 2020 (Surrogate Comments Request); see also Petitioner’s Letter, “Cast Iron Soil Pipe Fitting from the People’s Republic of China: Comments on Surrogate Country,” dated February 5, 2020 (Petitioner’s SC Comments); Wor-Biz’s Letter, “Certain Cast Iron Soil Pipe Fitting from China: Primary Surrogate Country Comments,” dated February, 5, 2020 (Wor-Biz’s SC Comments); Petitioner’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Comments and Information on Surrogate Values,” February 18, 2020 (Petitioner’s SV Comments); Petitioner’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: 30-day Comments on Surrogate Value,” dated April 6, 2020 (Petitioner’s 30-Day SV Comments); Wor-Biz’s Letter, “Certain Cast Iron Soil Pipe Fittings from China: Surrogate Value Submission,” dated April 6, 2020; Wor-Biz’s Letter, “Certain Cast Iron Soil Pipe Fitting from China: Additional Surrogate Value Submission,” dated May 26, 2020 (Wor-Biz’s Additional SV Comments); Petitioner’s Letter, “Cast Iron Soil Pipe Fittings from the People’s Republic of China: Re-filed Response to Wor-Biz’s Second 30-day Comments on Surrogate Value,” dated June 8, 2020 (Petitioner’s Rebuttal Comments).

<sup>12</sup> See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19,” dated April 24, 2020.

subheadings and specifications are provided for convenience and customs purposes only; the written description of the scope of this order is dispositive.

## V. SELECTION OF RESPONDENTS

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

In the *Initiation Notice*, we notified the public that, in the event we limited the number of respondents for individual examination, we intended to select respondents based on CBP data for U.S. imports of subject merchandise during the POR.<sup>13</sup> On October 15, 2020, we placed CBP data for imports made during the POR under the HTSUS numbers listed in the scope of the *Order*, on the record of this administrative review, and requested comments on the data for use in respondent selection.<sup>14</sup> We received no comments on the CBP data and respondent selection.

On November 5, 2020, we issued the respondent selection memorandum which explained that, pursuant to 777A(c)(2) of the Act, because of the large number of exporters and producers involved in the administrative review and given our resource constraints, it was not practicable to examine all companies under review individually.<sup>15</sup> Accordingly, we determined that we could only reasonably examine two exporters. Pursuant to section 777A(c)(2)(B) of the Act, we selected in alphabetical order Shunshida and Wor-Biz as the mandatory respondents in this administrative review because, based on the CBP entry data, they were the two largest exporters of subject merchandise by volume during the POR.<sup>16</sup>

## VI. DISCUSSION OF THE METHODOLOGY

### A. Non-Market Economy Country Status

Commerce considers China to be a non-market-economy (NME) country.<sup>17</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country

---

<sup>13</sup> See *Initiation Notice*.

<sup>14</sup> See Memorandum, "Release of Customs and Border Protection Data," dated October 15, 2020.

<sup>15</sup> See Memorandum, "2018-2019 Antidumping Duty Administrative Review of Cast Iron Soil Pipe Fittings from the People's Republic of China: Respondent Selection," dated November 5, 2020 (Respondent Selection Memo).

<sup>16</sup> See Respondent Selection Memo at Attachment 1.

<sup>17</sup> 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, "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).

shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of these preliminary results.

## B. Separate Rate Determinations

Pursuant to section 771(18)(C) of the Act, in proceedings involving NME countries, Commerce maintains the rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single AD rate.<sup>18</sup> It is Commerce's policy to assign all exporters of the merchandise subject to review in an NME proceeding a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, Commerce analyzes each exporting entity in an NME proceeding under the test established in *Sparklers*,<sup>19</sup> as amplified by *Silicon Carbide*,<sup>20</sup> and further refined by *Diamond Sawblades*.<sup>21</sup> However, if Commerce determines that a company is wholly foreign-owned, then an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether it is independent from government control.<sup>22</sup>

In order to demonstrate separate rate status eligibility, Commerce normally requires entities for whom a review was requested and who were assigned a separate rate in a previous segment

---

<sup>18</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, available at <http://ia.ita.doc.gov/policy/bull05-1.pdf>; 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); and *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)) (f).

<sup>19</sup> 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*).

<sup>20</sup> 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*).

<sup>21</sup> See *Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China* (May 6, 2013) in *Advanced Technology & Materials Co., Ltd. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012), sustained, *Advanced Technology & Materials Co. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), aff'd, Case No. 2014-1154 (Fed. Cir. 2014) (*Diamond Sawblades*). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013), and accompanying Preliminary Decision Memorandum (PDM) at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

<sup>22</sup> See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews*, 79 FR 4327 (January 27, 2014); see also *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

of this proceeding, to submit an SRC stating that they continue to meet the criteria for obtaining a separate rate.<sup>23</sup> For entities that were not assigned a separate rate in a previous segment of a proceeding, to demonstrate eligibility, Commerce requires an SRA.<sup>24</sup>

As noted above, five companies, including one of the mandatory respondents, filed timely SRCs, and no companies submitted SRAs in this review. Commerce also received a complete response to the section A portion of the NME AD questionnaire from the mandatory respondent, Wor-Biz, which contained information pertaining to the company's eligibility for a separate rate. Commerce received an SRC from the following four companies that were not selected for individual examination:

1. Dalian Lino F.T.Z. Co., Ltd.
2. Dalian Metal I/E Co., Ltd.
3. Dinggin Hardware (Dalian) Co., Ltd.
4. Shijiazhuang Asia Casting Co., Ltd.

Wor-Biz, Dalian Lino F.T.Z Co., Ltd. (Dalian Lino), Dalian Metal I/E Co., Ltd. (Dalian Metal), Dinggin Hardware (Dalian) Co., Ltd., (Dinggin) and Shijiazhuang Asia Casting Co., Ltd.(Asia Casting) reported being either Chinese-foreign joint venture companies or wholly Chinese-owned companies.<sup>25</sup> In accordance with our practice, we analyzed whether these companies demonstrated the absence of *de jure* and *de facto* governmental control over their export activities.

a. Absence of *De Jure* Control

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control over export activities of companies.<sup>26</sup>

The evidence provided by Wor-Biz, Dalian Lino, Dalian Metal, Dinggin, and Asia Casting supports a preliminary finding of the absence of *de jure* government control of export activities based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) legislative enactments decentralizing control over

---

<sup>23</sup> See *Initiation Notice*.

<sup>24</sup> *Id.*

<sup>25</sup> See Wor-Biz's December 10, 2019 Section A Questionnaire Response (Wor-Biz's AQR); see also Dalian Lino's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China; A-570-062; Separate Rate Certification," dated October 21, 2019 (Dalian Lino's SRC); Dalian Metal's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China, 1<sup>st</sup> Administrative Review; Separate Rate Certification of Dalian Metal I/E Co., Ltd.," dated November 6, 2019 (Dalian Metal's SRC); Dinggin's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China, 1<sup>st</sup> Administrative Review; Separate Rate Certification of Dinggin Hardware (Dalian) Co., Ltd.," dated November 6, 2019 (Dinggin's SRC); and Asia Casting's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China; A-570-062; Separate Rate Certification," dated October 21, 2019 (Asia Casting's SRC).

<sup>26</sup> See *Sparklers*, 56 FR at 20589.

export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of the companies.<sup>27</sup>

b. Absence of *De Facto* Control

Typically, Commerce considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices (EPs) are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.<sup>28</sup> As stated in previous cases, there is evidence that certain enactments of the Chinese central government have not been implemented uniformly among different sectors and/or jurisdictions in China.<sup>29</sup> Therefore, Commerce has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude Commerce from assigning separate rates.<sup>30</sup>

The evidence provided by Wor-Biz, Dalian Lino, Dalian Metal, Dinggin and Asia Casting noted above supports a preliminary finding of the absence of *de facto* government control based on the following: (1) the companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.<sup>31</sup>

Therefore, Commerce preliminarily finds that the evidence placed on the record of this review demonstrates an absence of *de jure* and *de facto* government control with respect to the export functions of Wor-Biz, Dalian Lino, Dalian Metal, Dinggin and Asia Casting.<sup>32</sup> Thus, Commerce preliminarily finds that these companies have established that each qualifies for a separate rate under the criteria established by *Diamond Sawblades*, *Silicon Carbide* and *Sparklers*.

3. China-Wide Entity

The record indicates that certain Chinese companies did not respond to Commerce's requests for information. Specifically, Commerce did not receive a questionnaire response, no-shipments

---

<sup>27</sup> See Dalian Lino's SRC; see also Dalian Metal's SRC; Dinggin's SRC; Wor-Biz's AQR at 2-10; and Asia Casting's SRC.

<sup>28</sup> See, e.g., *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).

<sup>29</sup> See, e.g., *Silicon Carbide*, 59 FR at 22586-87.

<sup>30</sup> *Id.*

<sup>31</sup> See Wor-Biz's AQR; see also Dalian Lino's SRC; Dalian Metal's SRC; Dinggin's SRC; and Asia Casting's SRC.

<sup>32</sup> See Wor-Biz's AQR; see also Dalian Lino's SRC; Dalian Metal's SRC; Dinggin's SRC; and Asia Casting's SRC.

certification, SRA, or SRC from six companies that were named in the *Initiation Notice*.<sup>33</sup> Therefore, for the preliminary results of this administrative review, we consider these six companies to be part of the China-wide entity, including Shunshida, a mandatory respondent in this review.

Because no party requested a review of the China-wide entity and Commerce no longer considers the China-wide entity as an exporter conditionally subject to administrative reviews, Commerce is not conducting a review of the China-wide entity.<sup>34</sup> Thus, the rate for the China-wide entity (*i.e.*, 360.30 percent) is not subject to change pursuant to this review.<sup>35</sup>

### C. Weighted-Average Dumping Margin for Non-Examined Separate-Rate Companies in the Administrative Review

As stated above in the “Selection of Respondents” section of this memorandum, Commerce selected the two largest exporters of subject merchandise by volume during the POR as mandatory respondents in this administrative review: Shunshida and Wor-Biz. Nine additional exporters also remain subject to review as non-individually examined respondents.

The statute and Commerce’s regulations do not address the establishment of a separate rate to be applied to companies not selected for individual examination when Commerce limits its examination pursuant to section 777A(c)(2) of the Act. Under section 735(c)(5)(A) of the Act, which refers to the establishment of the all-others rate in market economy less-than-fair-value investigations, and which we look to for guidance in determining the rate for non-individually examined separate rate respondents in NME administrative reviews, the all-others rate is normally “an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely {on the basis of facts available (FA)}.” Accordingly, Commerce’s usual practice in determining the rate for separate-rate respondents not selected for individual examination, has been to average the weighted-average dumping margins for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on FA.<sup>36</sup>

In this administrative review, we have preliminarily calculated a weighted-average dumping margin for Wor-Biz and consider Shunshida to be part of the China-wide entity. Because Wor-Biz’s weighted-average margin is the only calculated POR margin available, we are

---

<sup>33</sup> These companies are Shunshida, Shanxi Zhongrui Tianyue Trading Co., Ltd.; Richang Qiaoshan Trade Co., Ltd.; Hebei Metals & Engineering Products Trading Co., Ltd; Golden Orange International Ltd; Yangcheng County Huawang Universal.

<sup>34</sup> 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, 65969-70 (November 4, 2013).

<sup>35</sup> See the Order at 44572.

<sup>36</sup> 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).

preliminarily assigning this rate to the non-examined respondents which qualify for a separate rate in this review.

#### D. Surrogate Country and Surrogate Value Data

On January 15, 2020, Commerce sent interested parties a letter inviting comments on: (1) the non-exhaustive list of countries that Commerce determined are at the same level of economic development as China based on annual per capita gross national income (GNI), (2) surrogate country selection, and (3) SV data to be used in the administrative review.<sup>37</sup> In February 2020, we received comments from interested parties regarding the selection of SV data for use in the preliminary results of this review.<sup>38</sup>

##### 1. Surrogate Country Selection

When Commerce investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by Commerce. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.<sup>39</sup> As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because, either (a) they are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons.<sup>40</sup> 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.<sup>41</sup> To determine which countries are at the same level of economic development, Commerce generally relies on GNI data from the World Bank's World Development Report.<sup>42</sup> Further, Commerce will normally value all FOPs from a single surrogate country.<sup>43</sup>

On August 15, 2019, Commerce identified Malaysia, Turkey, Russia, Mexico, Brazil, and Bulgaria, pursuant to section 773(c)(4) of the Act, as countries that are at the same level of

---

<sup>37</sup> See Surrogate Comments Request.

<sup>38</sup> See Petitioner's SC Comments; see also Wor-Biz's SC Comments; Petitioner's SV Comments; Petitioner's 30-Day SV Comments; Wor-Biz's 30-Day SV Comments; Wor-Biz's Additional SV Comments; and Petitioner's Rebuttal Comments.

<sup>39</sup> See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin).

<sup>40</sup> *Id.*

<sup>41</sup> See Surrogate Comments Request.

<sup>42</sup> *Id.*

<sup>43</sup> See 19 CFR 351.408(c)(2).

economic development as China based on per capita 2018 GNI data available in the World Development Report provided by the World Bank.<sup>44</sup>

On February 5, 2020, Wor-Biz, the mandatory respondent, submitted comments in which they suggested Commerce rely on Brazil as the surrogate country in this review.<sup>45</sup> Also on February 5, 2020, the petitioner submitted comments in which they stated they did not object to any of the countries in Commerce's Surrogate Country Memo, but recommended either Malaysia or Mexico as the surrogate country in this review.<sup>46</sup> In their SV comments, the petitioner provided only Malaysian data with which to value the FOPs.<sup>47</sup> On April 6, 2020, the petitioner submitted surrogate values and financial ratios for Malaysia, while Wor-Biz submitted surrogate values and financial ratios for Brazil.<sup>48</sup> On May 26, 2020, Wor-Biz submitted additional SV comments, providing surrogate values and financial ratios for South Africa.<sup>49</sup> On June 8, 2020 the petitioner submitted rebuttal comments.<sup>50</sup> Our surrogate country analysis follows below.

As indicated above, when selecting among several potential surrogate countries, Commerce's practice, in accordance with section 773(c)(1) of the Act, is to select a country that provides SV data which are product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and are free of taxes and duties.<sup>51</sup> There is no hierarchy among these criteria. It is Commerce's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis with respect to valuing the FOPs.<sup>52</sup>

## 2. Economic Comparability

As explained in the Surrogate Comments Request, Commerce considers Malaysia, Turkey, Russia, Mexico, Brazil, and Bulgaria to be at the same level of economic development as China.<sup>53</sup> Therefore, we consider all six countries as having satisfied this prong of the surrogate country selection criteria.<sup>54</sup> Because South Africa is not on this list, it does not satisfy this prong of the surrogate country selection criteria.<sup>55</sup>

---

<sup>44</sup> See Surrogate Comments Request.

<sup>45</sup> See Wor-Biz's SC Comments.

<sup>46</sup> See Petitioner's SC Comments.

<sup>47</sup> See Petitioner's SV Comments.

<sup>48</sup> See Petitioner's 30-Day SV Comments; see also Wor-Biz's 30-Day SV Comments.

<sup>49</sup> See Wor-Biz's Additional SV Comments.

<sup>50</sup> See Petitioner's Rebuttal Comments.

<sup>51</sup> See *Qingdao Sea- Line Trading Co. v. United States*, 766 F.3d 1378, 1386 (Fed. Cir. 2014) (*Qingdao*); see also *Fuwei Films (Shandong) Co. v. United States*, 837 F. Supp. 2d 1347, 1350-51 (Ct. Int'l Trade 2012); and *First Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010), and accompanying IDM at Comment 1.

<sup>52</sup> See, e.g., *Certain Steel Threaded Rod from the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013), and accompanying IDM at 7.

<sup>53</sup> See Surrogate Comments Request.

<sup>54</sup> See Section 773(c)(4)(A) of the Act.

<sup>55</sup> See Surrogate Comments Request.

### 3. Significant Producer of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce to value FOPs in a surrogate country that is a significant producer of comparable merchandise; however, neither the statute nor Commerce's regulations define "significant" or "comparable." Given the absence of any definition in the statute or regulations, Commerce looks to other sources such as the Policy Bulletin for guidance. Commerce's practice is to evaluate whether production is significant based on characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics) and to determine whether merchandise is comparable on a case-by-case basis.<sup>56</sup> Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter," it does not preclude reliance on additional or alternative metrics.<sup>57</sup> Where there is no production information, Commerce has relied upon export data from potential surrogate countries. With respect to comparability of merchandise, the Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."<sup>58</sup> Where there is no evidence of production of identical merchandise in a potential surrogate country, Commerce has determined whether merchandise is comparable to the subject merchandise on the basis of similarities in physical form and the extent of processing or on the basis of production factors (physical and non-physical) and factor intensities.<sup>59</sup> Because these characteristics are specific to the merchandise in question, the standard for "significant producer" will likely vary from case to case.<sup>60</sup> Based on the information placed on the record of this administrative, Commerce determines that Malaysia, Mexico, and Brazil are all significant producers of comparable merchandise.<sup>61</sup>

### 4. Data Availability

The Policy Bulletin states that if more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, Commerce selects the primary surrogate country "with the best factors data."<sup>62</sup> Section 773(c)(1) of the Act instructs Commerce to value the FOPs based upon the best available information from an ME country or countries that Commerce considers appropriate. When evaluating SV data, Commerce considers several factors including whether SV data are publicly available, contemporaneous with the POR,

---

<sup>56</sup> See, e.g., *Xanthan Gum from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2252 (January 10, 2013), and accompanying PDM at 7-8, unchanged in *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) (*Xanthan Gum*).

<sup>57</sup> See *Conference Report to the 1988 Omnibus Trade & Competitiveness Act*, H.R. Rep. No. 100-576 (1988) at 590.

<sup>58</sup> See Policy Bulletin at 3.

<sup>59</sup> *Id.*

<sup>60</sup> See Policy Bulletin at 1-2; see also *Hardwood and Decorative Plywood from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying IDM at Comment 7.

<sup>61</sup> See Petitioner's SC Comments at 2; see also Wor-Biz's SC Comments.

<sup>62</sup> See Policy Bulletin at 2.

representative of a broad-market average, tax- and duty-exclusive, and specific to the input.<sup>63</sup> There is no hierarchy among these criteria, and it is Commerce's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.<sup>64</sup> However, Commerce's preference is to satisfy the breadth of these aforementioned selection factors,<sup>65</sup> and to value all FOPs in the primary surrogate country.<sup>66</sup>

We considered the SV data on the record and found that Malaysia is the only potential surrogate country for which the record contains usable data for valuing all of the cooperative mandatory respondent's FOPs.<sup>67</sup> Further, we find that the Malaysian data and financial statements on the record are of an acceptable quality for use as SVs.<sup>68</sup> The Malaysian data generally are publicly available, contemporaneous with the POR, representative of broad-market averages, tax- and duty-exclusive, and specific to the inputs being valued. Thus, Commerce finds that the Malaysian SV data satisfy the criteria for selecting SVs.

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

#### E. Date of Sale

Pursuant to 19 CFR 351.401(i), Commerce normally will use the invoice date as the date of sale unless Commerce is satisfied that a different date better reflects the date on which the material terms of the sale are established. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>69</sup> Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.<sup>70</sup>

---

<sup>63</sup> See *Qinqdao*, 766 F.3d at 1386; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2010-2011*, 78 FR 17350 (March 21, 2013), and accompanying IDM at Comment I(C).

<sup>64</sup> See Policy Bulletin.

<sup>65</sup> *Id.*

<sup>66</sup> See *Jiaying Bro. Fastener Co. v. US*, 822 F.3d 1289, at 1294 (Fed. Cir. 2016); see also *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part*, 77 FR 63791 (October 17, 2012), and accompanying IDM at Comment 9.

<sup>67</sup> See Memorandum, "Antidumping Duty Administrative Review of Cast Iron Soil Pipe Fittings from the People's Republic of China; 2018-2019: Surrogate Values for the Preliminary Results," dated concurrently with this memorandum (Preliminary SV Memorandum).

<sup>68</sup> *Id.*

<sup>69</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

<sup>70</sup> See, e.g., *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester*

Wor-Biz reported the date of invoice as the date of sale for all U.S. sales because the material terms of sale (*i.e.*, price and quantity) are not final until issuance of the invoice.<sup>71</sup> Consistent with our regulatory presumption of invoice date as the date of sale and because the evidence does not demonstrate that the material terms of sale were established on another date,<sup>72</sup> we used Wo-Biz's invoice date as the date of sale for its U.S. sales.

### G. Comparisons to Normal Value

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

#### 1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern our examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.<sup>73</sup>

Commerce has applied a "differential pricing" analysis for determining whether application of the A-T method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>74</sup> Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in these preliminary results. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can

---

*Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009).

<sup>71</sup> See Wor-Biz's AQR at 13; see also Wor-Biz's December 23, 2019, Section C Questionnaire Response at 11-12.

<sup>72</sup> See 19 CFR 351.401(i).

<sup>73</sup> See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012), and the accompanying IDM at Comment 1; see also *JBF RAK LLC v. United States*, 790 F.3d 1358, 1363-65 (Fed. Cir. 2015) ("the fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties") (*citations omitted*).

<sup>74</sup> See, e.g., *Xanthan Gum LTFV Final Determination*; *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); see also *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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

The differential pricing analysis used in these preliminary results was affirmed by the Court of Appeals for the Federal Circuit (CAFC) as in accordance with law in *Apex Frozen Foods Private Ltd. v. United States*.<sup>75</sup> That analysis examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EPs (or CEPs) and NV for the individual dumping margins.

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

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

---

<sup>75</sup> See *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 1322 (CIT 2014), *aff’d*, 862 F. 3d 1322 (Fed. Cir. 2017) (*Apex*).

purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

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

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.<sup>76</sup>

## 2. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, Commerce preliminarily finds that 60.50 percent of Wor-Biz's U.S. sales<sup>77</sup> pass the Cohen's *d* test and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, 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 sales identified as passing the Cohen's *d* test and the A-A method to those sales identified as not passing the Cohen's *d* test. Thus, for these preliminary results, Commerce is

---

<sup>76</sup> As noted above, the CAFC has affirmed much of Commerce's differential pricing methodology. *See Apex*, 862 F. 3d 1322. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

<sup>77</sup> *See* Memorandum, "Antidumping Duty Administrative Review of Cast Iron Soil Pipe Fittings from the People's Republic of China; 2018-2019: Preliminary Results Margin Calculation for Wor-Biz Industrial Product, Co., Ltd. (Anhui)," dated concurrently with this memorandum (Wor-Biz Preliminary Calculation Memorandum).

applying the A-A method for all U.S. sales to calculate the weighted-average dumping margin for Wor-Biz.<sup>78</sup>

## H. U.S. Price

### 1. Export Price

In accordance with section 772(a) of the Act, EP is “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under section 772(c) of the Act. We calculated EP for Wor-Biz’s reported sales to the United States because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted.<sup>79</sup> In accordance with section 772(c)(2)(A) of the Act, where appropriate, we deducted from the starting price (gross unit price) to unaffiliated purchasers expenses for foreign inland freight and foreign brokerage and handling.<sup>80</sup> Because these expenses were provided by an NME vendor, we valued them using SVs, as appropriate.<sup>81</sup> Additionally, in accordance with section 772(c)(2)(B) of the Act, we deducted any irrecoverable value-added tax (VAT) from the starting price, as explained below.

### 2. Value-Added Tax

Commerce’s recent practice in NME cases is to adjust EP (or the CEP) for the amount of any unrefunded (herein irrecoverable) value-added tax (VAT) in certain non-market economies, in accordance with section 772(c)(2)(B) of the Act.<sup>82</sup> Commerce has previously explained that, when an NME government imposes an export tax, duty, or other charges 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.<sup>83</sup> Where the irrecoverable VAT is a fixed percentage of EP or CEP, Commerce explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.<sup>84</sup>

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

---

<sup>78</sup> *Id.*

<sup>79</sup> See Wor-Biz’s AQR; *see also* Wor-Biz’s First SQR.

<sup>80</sup> See Wor-Biz Preliminary Calculation Memorandum.

<sup>81</sup> See Preliminary SV Memorandum.

<sup>82</sup> See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481 (June 19, 2012).

<sup>83</sup> *Id.*; *see also Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014), and accompanying IDM at Comment 5.A.

<sup>84</sup> *Id.*

production inputs and raw materials (“input VAT”) as well as (2) collect VAT on sales of their output (“output VAT”).

Firms calculate input VAT and output VAT for tax purposes on a company-wide (not transaction-specific) basis, *i.e.*, in the case of input VAT, on the basis of *all input purchases* regardless of whether used in the production of goods for export or domestic consumption, and in the case of output VAT, on the basis of *all sales to all markets*, foreign and domestic. Thus, a firm might pay the equivalent of \$60 million in total input VAT across all input purchases and collect \$100 million in total output VAT across all sales. In this situation, however, the firm would remit to the government only \$40 million of the \$100 million in output VAT collected on its sales because of a \$60 million credit for input VAT paid that the firm can claim against output VAT.<sup>85</sup> As a result, the firm bears no “VAT burden (cost)”: the firm through the credit is refunded or recovers all of the \$60 million in input VAT it paid, and the \$40 million remittance to the government is simply a transfer to the government of VAT paid by (collected from) the buyer with the firm acting only as an intermediary. Thus, the cost of output VAT falls on the buyer of the good, not on the firm.

This would describe the situation under Chinese law except that producers in China, in most cases, do not recover (*i.e.*, are not refunded) the total input VAT they paid. Instead, Chinese tax law requires a *reduction in or offset to* the input VAT that can be credited against output VAT. The formula for this reduction/offset is provided in Article 5 of the 2012 Chinese government tax regulation, *Circular on Value-Added Tax and Consumption Tax Policies on Exported Goods and Services (2012 VAT Circular)*.<sup>86</sup>

$$\text{Reduction/Offset} = (P - c) \times (T_1 - T_2),$$

where,

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

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

T<sub>1</sub> = VAT rate; and,

T<sub>2</sub> = refund rate specific to the export good.

Using the example above, if P = \$200 million, c = 0, T<sub>1</sub> = 17% and T<sub>2</sub> = 10%, then the reduction/offset = (\$200 million - \$0) x (17% - 10%) = \$200 million x 7% = \$14 million. Chinese law then requires that the firm in this example calculate creditable input VAT by subtracting the \$14 million from total input VAT, as specified in Article 5.1(1) of the *2012 VAT Notice*:

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

Using again the example above, the firm can credit only \$60 million – \$14 million = \$46 million of the \$60 million in input VAT against output VAT. Since the \$14 million is not creditable (legally recoverable), it is not refunded to the firm. Thus, the firm incurs a cost equal to \$14 million, which is calculated on the basis of FOB export value at the *ad valorem* rate of T<sub>1</sub> – T<sub>2</sub>.

---

<sup>85</sup> The credit, if not exhausted in the current period, can be carried forward.

<sup>86</sup> See Wor-Biz’s SQR at Exhibit AC-7.

This cost therefore functions as an “export tax, duty, or other charge” because the firm does not incur it *but for* exportation of the subject merchandise, and under Chinese law must be recorded as a cost of exported goods.<sup>87</sup> It is for this “export tax, duty, or other charge” that Commerce makes a downward adjustment to U.S. price under section 772(c) of the Act.<sup>88</sup>

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

The VAT treatment under Chinese law of exports of goods described above concerns only export sales that are *not* subject to output VAT, the situation where the firm collects no VAT from the buyer, which applies to most exports from China. However, the *2012 VAT Circular* provides for a limited exception in which export sales of certain goods are, under Chinese law, deemed domestic sales for tax purposes and are thus subject to output VAT at the full rate.<sup>89</sup> The formulas discussed above from Article 5 of the *2012 VAT Circular* do not apply to firms that export these goods, and there is therefore no reduction in or offset to their creditable input VAT. For these firms creditable input VAT = total input VAT, *i.e.*, these firms recover all of their input VAT. At the same time, export sales of these firms are subject to an explicit output VAT at the full rate,  $T_1$ .<sup>90</sup> Commerce must therefore deduct this tax from U.S. price<sup>91</sup> under section 772(c) of the Act to ensure tax-neutral dumping margin calculations.<sup>92</sup>

As such, in the initial questionnaires, Commerce instructed the mandatory respondents to report VAT on the subject merchandise sold to the United States during the POR and to identify which

---

<sup>87</sup> Article 5(3) of the *2012 VAT Circular* states: “If the tax refund rate is lower than the applicable tax rate, the tax for the difference calculated accordingly shall be included in the cost of exported goods and labor services.”

<sup>88</sup> Because the \$14 million is the amount of input VAT that is not refunded to the firm, it is sometimes referred to as “irrecoverable input VAT.” However, that phrase is perhaps misleading because the \$14 million is not a fraction or percentage of the VAT the firm paid on purchases of inputs used in the production of exports. If that were the case, the value of production inputs, not FOB export value, would appear somewhere in the formula in Article 5 of the *2012 VAT Circular* as the tax basis for the calculation. The value of production inputs does not appear in the formula. Instead, as explained above, the \$14 million is simply a cost imposed on firms that is tied to export sales, as evidenced by the formula’s reliance on the FOB export value as the tax basis for the calculation. The \$14 million is a reduction in or offset to what is essentially a tax credit, and it is calculated based on and is proportional to the value of a company’s export sales. Thus, “irrecoverable input VAT” is in fact, despite its name, an export tax within the meaning of section 772(c) of the Act.

<sup>89</sup> See *2012 VAT Circular*, Article 7. For these goods, the VAT refund rate on export is zero.

<sup>90</sup> See *2012 VAT Circular*, Article 7.2(1).

<sup>91</sup> Commerce will divide the VAT-inclusive export price by  $(1 + T)$ , where  $T$  is the applicable VAT rate.

<sup>92</sup> Pursuant to sections 772(c) and 773(c) of the Act, the calculation of NV based on FOPs in NME antidumping cases is calculated on a VAT-exclusive basis, so U.S. price must also be calculated on a VAT-exclusive basis to ensure tax neutrality.

taxes are unrefunded upon export. Record information indicates that according to the China VAT schedule, the standard VAT levy during the POR was 17 percent during one portion of the POR, 16 percent during another portion of the POR, and 13 percent during the final portion, while the rebate rates were 9 and 13 percent during the POR.<sup>93</sup>

Consistent with our standard methodology, for purposes of these preliminary results, we based the calculation of irrecoverable VAT on the difference between the standard levy (*i.e.*, 17, 16 or 13 percent) and rebate rates, applied to an FOB price at the time of exportation.<sup>94</sup> Thus, because the VAT rebate rates on exports changed during the POR, we used two different rebate rates (*i.e.*, 9 or 13 percent). We deducted from the gross unit price an amount for irrecoverable VAT equal to eight, seven, three or zero percent of the gross unit price, as applicable, consistent with section 772(c)(2)(B) of the Act.<sup>95</sup>

### 3. Countervailable Export Subsidies

Section 772(c)(1)(C) of the Act states that U.S. price “shall be increased by the amount of any countervailing duty imposed on the subject merchandise ... to offset an export subsidy.”<sup>96</sup> Commerce determined in the companion countervailing duty (CVD) investigation on soil pipe fittings that Wor-Biz benefitted from an export subsidy of 0.23 percent.<sup>97</sup> Therefore, we increased U.S. export prices by 0.23 percent for Wor-Biz in this review.<sup>98</sup>

#### I. Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine the NV using a FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Commerce bases NV in an NME context on FOPs because the presence of government controls on various aspects of NME countries renders price comparisons and the calculation of production costs invalid under Commerce’s normal methodologies.<sup>99</sup> Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). Under section 773(c)(3) of the Act, FOPs include, but are not

---

<sup>93</sup> See, *e.g.*, Wor-Biz SQR at 7-10 and Exhibit AC-7.

<sup>94</sup> See, *e.g.*, *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012-2013*, 80 FR 33241 (June 11, 2015), and accompanying IDM at Comment 5.

<sup>95</sup> See Wor-Biz Preliminary Calculation Memorandum.

<sup>96</sup> See *Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 38076, 38077 (July 1, 2010), and accompanying IDM at Comment 1.

<sup>97</sup> See *Cast Iron Soil Pipe Fittings from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 83 FR 32075 (July 11, 2018), and accompanying IDM at V.5. “Other Subsidies”; see also *Cast Iron Soil Pipe Fittings from the People's Republic of China: Countervailing Duty Order* 83 FR 44566 (August 31, 2018).

<sup>98</sup> See Wor-Biz Preliminary Calculation Memorandum.

<sup>99</sup> See, *e.g.*, *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006).

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.<sup>100</sup> We used the FOPs reported by Wor-Biz for materials, energy, labor, by-products, packing and freight. In accordance with section 773(c) of the Act and 19 CFR 351.408(c)(1), we calculated NV by multiplying the reported per-unit FOP consumption rates by publicly available SVs.<sup>101</sup>

## 1. Factor Valuation Methodology

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

As noted above, when selecting from among the available information for valuing FOPs, Commerce's practice is to select, to the extent practicable, SVs which are publicly available, broad-market averages, contemporaneous with the POR or closest in time to the POR, product-specific, and tax- and duty-exclusive.<sup>102</sup> In all instances, we valued FOPs using publicly available information that was contemporaneous with the POR; therefore, we did not adjust the SVs using inflation indices. In addition, as discussed in more detail below, where appropriate, we adjusted input prices by including freight costs to render the prices delivered prices. An overview of the SVs used to calculate the weighted-average dumping margins for Wor-Biz is provided below.

### a. Direct and Packing Materials

The record indicates that import statistics from the primary surrogate country, Malaysia, which are available through the *Global Trade Atlas*, are generally contemporaneous with the POR, publicly available, product-specific, tax- and duty-exclusive, and representative of a broad-market average.<sup>103</sup> Thus, we based SVs for Wor-Biz's direct materials and packing materials on these import values, except where noted below.<sup>104</sup>

Pursuant to section 773(c)(5) of the Act and Commerce's long-standing practice, Commerce disregards SVs if it has a reason to believe or suspect the source data may be comprised of subsidized prices. In this regard, Commerce has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry-specific export

---

<sup>100</sup> See section 773(c)(3)(A)-(D) of the Act.

<sup>101</sup> See Wor-Biz Preliminary Calculation Memorandum.

<sup>102</sup> See, e.g., *Electrolytic Manganese Dioxide from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008), and the accompanying IDM at Comment 2; see also *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).

<sup>103</sup> See Preliminary SV Memorandum.

<sup>104</sup> *Id.*

subsidies.<sup>105</sup> Based on the existence of the subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, we find that it is reasonable to infer that all exporters from India, Indonesia, South Korea, and Thailand may have benefitted from these subsidies. Therefore, we have not used prices from those countries in calculating the Malaysian import-based SVs.

Additionally, consistent with our practice, Commerce disregarded data from NME countries when calculating Malaysian import-based per-unit SVs.<sup>106</sup> Commerce also excluded from the calculation of Malaysian import-based per-unit SVs imports labeled as originating from an “unidentified” country because Commerce could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.<sup>107</sup>

We added to the Malaysian import SVs surrogate freight costs calculated using the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest port to the factory that produced the subject merchandise, where appropriate. This adjustment is in accordance with the CAFC’s decision in *Sigma Corp.*<sup>108</sup> We valued truck freight expenses using average truck rates from the World Bank’s report, *Doing Business 2020: Malaysia* (Doing Business).<sup>109</sup> This World Bank report gathers information concerning the distance and cost to transport a containerized shipment weighing 15 metric tons from the peri-urban area of the economy’s largest business city to the country’s major port.

#### b. Labor

In NME AD proceedings, Commerce prefers to value labor solely based on data from the primary surrogate country.<sup>110</sup> In *Labor Methodologies*, Commerce determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, Commerce determined that Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor (*i.e.*, wages,

---

<sup>105</sup> See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying IDM at 7-19; see also *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying IDM at 1; *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.

<sup>106</sup> 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).

<sup>107</sup> *Id.* Additional countries excluded are Belarus; China; Georgia; Moldova; Turkmenistan; and Vietnam.

<sup>108</sup> See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997) (*Sigma Corp.*).

<sup>109</sup> See Preliminary SV Memorandum.

<sup>110</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

benefits, housing, training, etc.) is the preferred source where another source is not more appropriate.<sup>111</sup>

However, for these preliminary results, Commerce valued the labor input using data from the Malaysia Department of Statistics data for the POR published by Trading Economics.<sup>112</sup> Although the Malaysia Department of Statistics data are not from the ILO, we find that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, we decided to change to the use of ILO Chapter 6A from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.<sup>113</sup> We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Consistent with section 773(c)(1) of the Act, we continue to follow our practice of selecting the “best available information” to determine SVs for inputs, such as labor.<sup>114</sup> In this case, we find that the Malaysian Department of Statistics data for the POR are the best available information for valuing labor because the data are contemporaneous with the POR, industry-specific, and reflect all costs related to labor, including wages, benefits, housing, and training.

### c. Financial Ratios

Commerce’s criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, their comparability to the respondent’s experience, and whether they are publicly available.<sup>115</sup> Moreover, to value factory overhead, selling, general, and administrative (SG&A) expenses and profit, Commerce normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.<sup>116</sup> In addition, the CIT has held that in the selection of surrogate producers, Commerce may consider how closely the surrogate producers approximate the NME producer’s experience.<sup>117</sup>

With respect to financial statements, the record contains two sets of financial statements for Malaysian producers of comparable merchandise, Auto Cast Sdn. Bhd (Auto Cast) and BL Castings (M) Sdn. Bhd. (BL Castings), for the fiscal year ending December 31, 2018. As noted above, Commerce’s preference is to value all FOPs in a single surrogate country pursuant to 19 CFR 351.408(c)(2). Accordingly, because we have two useable financial statements from the primary surrogate country Malaysia, *i.e.*, those of Autocast and BL Castings, we have

---

<sup>111</sup> *Id.*

<sup>112</sup> See Petitioner’s SV Comments at 2; *see also* Preliminary SV Memorandum.

<sup>113</sup> See *Labor Methodologies*.

<sup>114</sup> See, e.g., *Xanthan Gum*, and accompanying IDM at Comment 6-C; *see also Drawn Stainless Steel Sinks from the People’s Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013), and accompanying IDM at Comment 3.

<sup>115</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People’s Republic of China*, 70 FR 24502 (May 10, 2005), and accompanying IDM at Comment 3.

<sup>116</sup> See *Diamond Sawblades* and accompanying IDM at Comment 2; *see also* section 773(c)(4) of the Act; and 19 CFR 351.408(c)(4).

<sup>117</sup> See *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-54 (CIT 2002); *see also Persulfates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005), and accompanying IDM at Comment 1.

preliminarily used the average of the financial ratios derived from these two financial statements to calculate the surrogate financial ratios.<sup>118</sup>

#### J. Adjustment Under Section 777A(f) of the Act

In applying section 777A(f) of the Act in this administrative review, Commerce examines: (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise. For a subsidy meeting these criteria, the statute requires Commerce to reduce the AD duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap. In conducting this analysis, Commerce has not concluded that concurrent application of NME ADs and CVDs necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

In order to examine the effects of concurrent countervailable subsidies in calculating an antidumping margin for the cooperative mandatory respondent in this review, Commerce requested that Wor-Biz submit information with respect to subsidies relevant to its eligibility for an adjustment to the calculated weighted-average dumping margin.<sup>119</sup> Commerce requested this information in order to examine whether the respondent demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacture; and (2) a cost-to-price link, *e.g.*, respondent's prices changed as a result of changes in the cost of manufacture.

In this case, Wor-Biz did not submit information with respect to subsidies relevant to its eligibility for an adjustment to the calculated weighted-average dumping margin. Accordingly, we made no adjustment for double remedies to Wor-Biz's margin for the preliminary results.

#### K. Currency Conversion

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

---

<sup>118</sup> See Preliminary SV Memorandum.

<sup>119</sup> See Commerce's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China; 2018-2019: Double Remedies Supplemental Questionnaire," dated February 13, 2020; *see also* Wor-Biz's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Double Remedies Questionnaire," dated February 24, 2020.

**VII. RECOMMENDATION**

We recommend applying the above methodology for these preliminary results.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

X



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