



A-570-121  
Investigation  
POI: 07/01/2019 – 12/31-2019  
**Public Document**  
E&C/OII: JT/WM

August 20, 2020

**MEMORANDUM TO:** Joseph A. Laroski Jr.  
Deputy Assistant Secretary  
for Policy and Negotiations

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

**SUBJECT:** Decision Memorandum for the Preliminary Determination in the  
Less-Than-Fair-Value Investigation of Difluoromethane from the  
People’s Republic of China

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## I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that difluoromethane (R-32) from the People’s Republic of China (China) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2019 through December 31, 2019. The estimated margins of sales at LTFV are shown in the accompanying *Federal Register* notice.

## II. BACKGROUND

On January 23, 2020, Commerce received an antidumping duty (AD) petition concerning imports of R-32 from China, filed in proper form on behalf of Arkema Inc. (the petitioner).<sup>1</sup> On February 12, 2020, Commerce initiated this investigation.<sup>2</sup>

In the *Initiation Notice*, Commerce notified the public that we would select the companies required to respond to our AD questionnaire using data collected via quantity and value (Q&V) questionnaires.<sup>3</sup> On February 14, 2020, we issued Q&V questionnaires to the 19 producers/exporters of subject merchandise in China identified in the Petition. Additionally, Commerce posted the Q&V questionnaire, along with filing instructions, on the Enforcement and

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<sup>1</sup> See Petitioner’s Letter, “Petitions for the Imposition of Antidumping Duties on Imports of Difluoromethane (R-32) from the People’s Republic of China,” dated January 23, 2020 (Petition).

<sup>2</sup> See *Difluoromethane (R-32) from the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 85 FR 10406 (February 24, 2020) (*Initiation Notice*).

<sup>3</sup> See *Initiation Notice*, 85 FR at 10409.



Compliance website.<sup>4</sup> From February 27 through February 29, 2020, Commerce received timely Q&V responses from six of the companies identified in the Petition,<sup>5</sup> as well as from three additional exporters/producers.

In March 2020, the U.S. International Trade Commission (ITC) determined that there is a reasonable indication that an industry in the United States was materially injured by reason of imports from China of R-32.<sup>6</sup> Also in March 2020, Commerce limited the number of respondents selected for individual examination to the two largest producers/exporters of the subject merchandise by volume, Taizhou Qingsong Refrigerant New Material Co., Ltd. (Taizhou Qingsong) and Zibo Feiyuan Chemical Co., Ltd. (Zibo Feiyuan),<sup>7</sup> and issued the AD questionnaire to them.

In April 2020, we received timely separate rate applications (SRAs) from Icool International (Hong Kong) Ltd. (Icool International); Ninhua Group Co., Ltd. (Ninhua Group); Shandong Huaan New Material Co., Ltd. (Shandong Huaan); T.T. International Co., Ltd. (TT International); and Zhejiang Sanmei Chemical Ind. Co., Ltd. (Zhejiang Sanmei).<sup>8</sup> In the same month, we also received responses to section A of the questionnaire (*i.e.*, the section relating to general information) from both of the mandatory respondents.<sup>9</sup>

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<sup>4</sup> See <https://legacy.trade.gov/enforcement/news.asp>.

<sup>5</sup> See Memorandum, “Quantity and Value Delivery Confirmation in the Less-Than-Fair-Value Investigation of Difluoromethane (R-32) from the People’s Republic of China,” dated March 9, 2020 (Q&V Delivery Memorandum). As detailed in this memorandum, Commerce did not receive responses to 13 Q&V questionnaires from five companies which received them and from eight companies which did not (including four which refused delivery). The five non-responding companies which received the Q&V questionnaire are: (1) Jiangsu Sanmei Chemical Industry Co. Ltd. (Jiangsu Sanmei); (2) Jinhua Yonghe Fluorochemical Industry Co. Ltd. (Jinhua Yonghe); (3) Linhai Limin Chemicals Co. Ltd. (Linhai Limin); (4) Meilan Group, including Jiangsu Meilan Chemical Co. Ltd. (Meilan Group); and (5) Zhejiang Quhua Fluor-Chemistry Co., Ltd./ Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd (Zhejiang Fluorine). The eight non-responding companies which did not receive the Q&V questionnaire are: (1) Changshu 3F Zhonghao New Chemical Materials Co. Ltd. (Changshu 3F) (refused delivery); (2) Hangzhou First Chemical Co., Ltd. (Hangzhou First) (refused delivery); (3) Jiangxi Bailian Fluorine Material Co. Ltd. (Jiangxi Bailian) (refused delivery); (4) Sinochem Lantian Trading Co., Ltd.; (5) Sinochem Lantian Fluoro Materials Co., Ltd.; (6) Zhejiang Lantian Environmental Protection Fluoro Materials Co. Ltd.; (7) Zhejiang Quhua Fluorine Chemical Co. Ltd. (Zhejiang Quhua) (refused delivery); and (8) Zibo Aohong Chemical Technology Co. Ltd.

<sup>6</sup> See *Difluoromethane (R-32) from China*, Investigation No. 731–TA–1472 (Preliminary) (March 2020).

<sup>7</sup> See Memorandum, “Less-Than-Fair-Value Investigation of Difluoromethane (R-32) from the People’s Republic of China: Respondent Selection,” dated March 11, 2020 (Respondent Selection Memo).

<sup>8</sup> See Icool International’s Letter, “Difluoromethane (R-32) from the People’s Republic of China – Separate Rate Application,” dated April 8, 2020 (Icool International SRA); Ninhua Group’s Letter, “Difluoromethane (R-32) from the People’s Republic of China – Separate Rate Application,” dated April 8, 2020 (Ninhua Group SRA); Shandong Huaan’s Letter, “Huaan’s Separate Rate Application in the Antidumping Duty Investigation of Difluoromethane (R-32) from the People’s Republic of China,” dated April 8, 2020 (Shandong Huaan SRA); T.T. International’s Letter, “Difluoromethane (R-32) from the People’s Republic of China: Separate Rate Application, (T.T. International SRA)” dated April 8, 2020; and Zhejiang Sanmei’s Letter, “Difluoromethane (R-32) from the People’s Republic of China: Separate Rate Application,” dated April 7, 2020 (Zhejiang Sanmei SRA).

<sup>9</sup> See Taizhou Qingsong’s April 20, 2020 Section A Questionnaire Response (Taizhou Qingsong April 20, 2020 AQR); and Zibo Feiyuan’s April 20, 2020 Section A Questionnaire Response (Zibo Feiyuan April 20, 2020 AQR).

In May 2020, the petitioner made a timely request, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e) for a postponement of the preliminary determination.<sup>10</sup> Subsequently, in the same month, we published in the *Federal Register* a postponement of the preliminary determination until no later than August 20, 2020.<sup>11</sup>

In April 2020 and May 2020, we received responses to sections C and D of the questionnaire (*i.e.*, the sections relating to U.S. sales and factors of production (FOPs), respectively) from both of the mandatory respondents.<sup>12</sup>

In April 2020 through June 2020, we issued supplemental questionnaires to the mandatory respondents, as well as the five companies which submitted SRAs. We received responses to these supplemental questionnaires from May through July 2020.<sup>13</sup>

From June 2020 through July 2020, we received comments from the petitioner and the mandatory respondents regarding the selection of the appropriate surrogate country from which to select surrogate values in the investigation, as well as initial factual information relating to surrogate values from the relevant countries.<sup>14</sup>

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<sup>10</sup> See Petitioner's Letter, "Difluoromethane (R-32) from the People's Republic of China: Petitioner's Request to Postpone Preliminary Determination," dated May 22, 2020.

<sup>11</sup> See *Difluoromethane (R-32) from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 85 FR 34707 (June 8, 2020).

<sup>12</sup> See Taizhou Qingsong's April 28, 2020 Section C Questionnaire Response (Taizhou Qingsong April 28, 2020 CQR); Zibo Feiyuan's April 29, 2020 Section C Questionnaire Response (Zibo Feiyuan April 29, 2020 CQR); Taizhou Qingsong's May 8, 2020 Section D Questionnaire Response (Taizhou Qingsong May 8, 2020 DQR); and Zibo Feiyuan's May 8, 2020 Section D Questionnaire Response (Zibo Feiyuan May 8, 2020 DQR).

<sup>13</sup> See Zibo Feiyuan's May 1, 2020 Supplemental Section A Questionnaire Response (Zibo Feiyuan May 1, 2020 SAQR); Taizhou Qingsong's May 8, 2020 Supplemental Section A Questionnaire Response (Taizhou Qingsong May 8, 2020 SAQR); T.T. International Co., Ltd.'s May 11, 2020 SRA Supplemental Questionnaire Response; Shandong Huaan New Material Co., Ltd.'s May 12, 2020 SRA Supplemental Questionnaire Response; Icool International (Hong Kong) Ltd.'s May 12, 2020 SRA Supplemental Questionnaire Response; Ninhua Group Co., Ltd.'s May 12, 2020 SRA Supplemental Questionnaire Response; Zhejiang Sanmei Chemical Ind. Co., Ltd.'s May 20, 2020 SRA Supplemental Questionnaire Response; Zibo Feiyuan's June 3, 2020 Supplemental Section A and C Questionnaire Response; Taizhou Qingsong's May 8, 2020 Supplemental Section A Questionnaire Response; Taizhou Qingsong's June 8, 2020 Supplemental Section A and C Questionnaire Response; Taizhou Qingsong's July 1, 2020 Supplemental Section D Questionnaire Response; and Zibo Feiyuan's July 6, 2020 Supplemental Section D Questionnaire Response (Zibo Feiyuan July 6, 2020 SDQR).

<sup>14</sup> See Petitioner's Letter, "Difluoromethane (R-32) from the People's Republic of China: Petitioner's Surrogate Country Comments," dated June 12, 2020 (Petitioner Surrogate Country Comments); Taizhou Qingsong and Zibo Feiyuan's Letter, "Less-Than-Fair Value Investigation of Difluoromethane (R-32) from the People's Republic of China: Comments on Surrogate Country Selection," dated June 12, 2020 (Respondents Surrogate Country Comments); Petitioner's Letter, "Difluoromethane (R-32) from the People's Republic of China: Petitioner's Surrogate Country Rebuttal Comments," dated June 19, 2020 (Petitioner Surrogate Country Rebuttal Comments); Taizhou Qingsong and Zibo Feiyuan's Letter, "Less-Than-Fair Value Investigation of Difluoromethane (R-32) from the People's Republic of China: Rebuttal Comments on Surrogate Country Selection," dated June 19, 2020 (Respondents Surrogate Country Rebuttal Comments); Petitioner's Letter, "Difluoromethane (R-32) from the People's Republic of China: Petitioner's Surrogate Value Comments," dated July 2, 2020 (Petitioner Surrogate Value Comments); Taizhou Qingsong and Zibo Feiyuan's Letter, "Less-Than-Fair Value Investigation of Difluoromethane (R-32) from the People's Republic of China: Surrogate Value Submission," dated July 2, 2020 (Respondents Surrogate Value Comments); Petitioner's Letter, "Difluoromethane (R-32) from the People's Republic of China: Petitioner's Rebuttal Surrogate Value Comments," dated July 9, 2020 (Petitioner Surrogate Value Rebuttal Comments); and Taizhou Qingsong and Zibo Feiyuan's Letter, "Less-Than-Fair Value Investigation

On August 19, 2020, we issued final supplemental questionnaires to Taizhou Qingsong and Zibo Feiyuan.<sup>15</sup> Because the response to these questionnaires will not be received in time for consideration in this preliminary determination, we intend to consider the information in our final determination.

### III. PERIOD OF INVESTIGATION

The POI is July 1, 2019 through December 31, 2019. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, which was January 23, 2020.<sup>16</sup>

### IV. SCOPE COMMENTS

In accordance with the *Preamble* to our regulations,<sup>17</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, *i.e.*, scope.<sup>18</sup> We received no comments from interested parties on the scope of the investigation during this period. Thus, Commerce has not modified the scope language as it appeared in the *Initiation Notice*. See the accompanying *Federal Register* notice at Appendix I.

### V. DISCUSSION OF THE METHODOLOGY

#### A. Non-Market Economy Country

Commerce considers China to be a non-market economy (NME) country.<sup>19</sup> In accordance with section 771(18)(C)(i) of the Act, a determination that a country is an NME country shall remain in effect until revoked by the administering authority. Further, no party submitted a request to reconsider China's NME status as part of this investigation. Therefore, we continue to treat China as an NME country for purposes of this preliminary determination.

#### B. Surrogate Country

When Commerce is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered

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of Difluoromethane (R-32) from the People's Republic of China: Supplemental Surrogate Value Submission" dated July 21, 2020 (Respondents Additional Surrogate Value Comments).

<sup>15</sup> See Commerce Letter to Taizhou Qingsong, "Less-Than-Fair-Value Investigation of Difluoromethane (R-32) from the People's Republic of China: Supplemental Questionnaire," dated August 19, 2020, and Commerce Letter to Zibo Feiyuan, "Less-Than-Fair-Value Investigation of Difluoromethane (R-32) from the People's Republic of China: Supplemental Questionnaire," dated August 19, 2020.

<sup>16</sup> See 19 CFR 351.204(b)(1).

<sup>17</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>18</sup> See *Initiation Notice*, 83 FR at 10407.

<sup>19</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)).

to be appropriate by Commerce. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce shall utilize, “to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (A) at a level of economic development comparable to that of the NME country; and (B) significant producers of comparable merchandise.”<sup>20</sup> As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME unless it is determined that none of the countries are viable options because they either: (a) are not significant producers of comparable merchandise; (b) do not provide sufficient reliable sources of publicly available surrogate value 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*.<sup>21</sup> 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.

On May 19, 2020, Commerce issued a letter to the interested parties 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 surrogate value information for the preliminary determination.<sup>22</sup> Commerce identified Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey as countries that are at the same level of economic development as China, based on per-capita 2018 GNI data.<sup>23</sup> We received timely comments on surrogate country selection from the petitioner, Taizhou Qingsong, and Zibo Feiyuan.<sup>24</sup>

The petitioner argues that Commerce should select Russia as the primary surrogate country.<sup>25</sup> As support for its argument, the petitioner notes that Russia is comparable in terms of economic development with China, and also a significant producer of comparable merchandise that offers reliable surrogate value data to value the respondents’ FOPs. Taizhou Qingsong and Zibo Feiyuan argue that Commerce should select Turkey as the primary surrogate country for similar reasons (*i.e.*, Turkey is economically comparable to China, is a significant producer of identical<sup>26</sup> or comparable merchandise, and offers reliable import data to value the respondents’ FOPs).<sup>27</sup>

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<sup>20</sup> 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>.

<sup>21</sup> *Id.*

<sup>22</sup> See Letter, “Less-Than-Fair-Value Investigation of Difluoromethane (R-32) from the People’s Republic of China: Request for Economic Development, Surrogate Country, and Surrogate Value Comments and Information,” dated May 19, 2020 (Surrogate Country Memo).

<sup>23</sup> *Id.*

<sup>24</sup> See Petitioner Surrogate Country Comments; and Respondents Surrogate Country Comments.

<sup>25</sup> See Petitioner Surrogate Country Comments; and Petitioner’s Letter, “Difluoromethane (R-32) from the People’s Republic of China: Petitioner’s Pre-Preliminary Determination Comments,” dated July 24, 2020 at 2-7 (Petitioner Pre-Prelim Comments).

<sup>26</sup> See Respondents Surrogate Country Rebuttal Comments at 2.

<sup>27</sup> *Id.*

## 1. Economic Comparability

Section 773(c)(4) of the Act states that Commerce “shall utilize, to the extent possible, the prices or costs of {FOPs} 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 {comparable} economic development” or what methodology Commerce must use in evaluating the criterion. Commerce’s regulations at section 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.<sup>28</sup> The U.S. 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.”<sup>29</sup>

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 surrogate value 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,<sup>30</sup> as noted above, Commerce identified Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey as countries at the same level of economic development as China based on the most current annual issue of the World Bank’s *World Development Report*.<sup>31</sup>

## 2. Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor Commerce’s regulations provide further guidance on what may be considered comparable merchandise. 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. Parties have placed complete data for Russia and Turkey on the record.<sup>32</sup> No party provided complete surrogate value information for the other countries on the list (*i.e.*, for Brazil, Bulgaria, Malaysia, or Mexico). However, for one input, the petitioner provided surrogate value information for Malaysia.<sup>33</sup> Otherwise, no party argued in favor of using surrogate value information for any of the other countries.

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<sup>28</sup> 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.

<sup>29</sup> See *Jiaying Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

<sup>30</sup> See Surrogate Country Memo.

<sup>31</sup> *Id.*

<sup>32</sup> See Petitioner Surrogate Value Comments; Respondents Surrogate Value Comments; Petitioner Surrogate Value Rebuttal Comments; and Respondents Additional Surrogate Value Comments.

<sup>33</sup> See Petitioner Surrogate Value Comments.

Commerce preliminarily selects Russia as the surrogate country on the grounds that: (1) Russia is economically comparable to China in terms of gross national income per capita; 2) Russia is a significant producer of R-22, a fluorocarbon refrigerant (*i.e.*, merchandise comparable to the merchandise under consideration), as measured by imports of these products into the United States and/or exports from Russia to other countries;<sup>34</sup> and 3) we find Russian surrogate value and financial statement data to be of superior quality when compared to the other available sources on the record.<sup>35</sup>

Information on the record indicates that none of the countries identified as being economically comparable to China are exporters of identical merchandise covered under the harmonized tariff schedule categories identified in the scope of this investigation. Furthermore, although the respondents claimed that Turkey is a significant producer of identical merchandise, respondents provided no evidence to support their claim, and we find no evidence on the record to support this contention.<sup>36</sup> With respect to the subject merchandise, information on the record demonstrates that none of the six countries at the same level of economic development as China produce R-32.<sup>37</sup>

Accordingly, we preliminarily find that Russia meets the significant producer of comparable merchandise prong of the surrogate country selection criteria as provided in section 773(c)(4)(B) of the Act. Furthermore, given the data availability issues (discussed below), we preliminarily determine that Russia better meets our normal selection criteria for surrogate country selection.

### 3. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, Commerce selects the primary surrogate country based on data availability and reliability.<sup>38</sup> When evaluating surrogate value data, Commerce considers several factors, including whether the surrogate values are publicly available, contemporaneous with the POI, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.<sup>39</sup> There is no hierarchy among these criteria.<sup>40</sup> Commerce's preference is to satisfy the

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<sup>34</sup> See Petitioner Surrogate Country Comments; Petitioner Surrogate Country Rebuttal Comments; Petitioner Surrogate Value Comments; Petitioner Surrogate Value Rebuttal Comments; and Petitioner Pre-Prelim Comments.

<sup>34</sup> See Petitioner Surrogate Value Comments.

<sup>35</sup> *Id.*

<sup>36</sup> The respondents provided a webpage with product details of R-404, hosted on a Turkish company's website, as their purported evidence that Turkey is a producer of identical merchandise. However, R-404, is not identical merchandise to R-32. Further, the webpage respondents provided as purported evidence of production merely provides the product details of R-404. Thus, the respondents failed to provide sufficient evidence to support their claim that Turkey is a producer of identical, or even comparable, merchandise. See Respondents Surrogate Country Rebuttal Comments at 2. Moreover, the petitioner provided data showing that Turkey is not a significant producer of fluorocarbon refrigerants, or other fluorocarbon chemicals (*i.e.*, comparable merchandise). See the 2017 IHS report provided in the Petitioner Surrogate Country Comments at Exhibit 1.

<sup>37</sup> See Petitioner Surrogate Country Comments at Exhibit 1.

<sup>38</sup> See Policy Bulletin 04.1.

<sup>39</sup> *Id.*

<sup>40</sup> 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 (IDM) (*Mushrooms from China* IDM) at Comment 1.

breadth of the these aforementioned selection criteria.<sup>41</sup> Moreover, it is Commerce’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.<sup>42</sup> Commerce must weigh the available information with respect to each input value and make a product-specific and case specific decision as to what constitutes the “best” available surrogate value for each input.<sup>43</sup> Additionally, pursuant to 19 CFR 351.408(c)(2), Commerce has a preference for valuing all FOPs in a single surrogate country.

Parties have placed surrogate value data for Russia and Turkey on the record.<sup>44</sup> The petitioner argues that we should use Global Trade Atlas (GTA) and financial statement data from Russia to value the respondents’ FOPs, while the mandatory respondents argue that Commerce should use GTA and financial statement data from Turkey. Commerce preliminarily finds that the Russia data are the best available data for valuing respondents’ FOPs because we have complete, specific Russian GTA data for almost every input used by the respondents.<sup>45</sup> Moreover, the Russian financial data on the record is from a Russian producer of refrigerant gases, which is comparable merchandise to R-32.<sup>46</sup> In contrast, even though we have complete Turkish GTA data for every input used by the respondents, information on the record does not identify Turkey as a significant producer of comparable merchandise.<sup>47</sup> Furthermore, the Turkish financial data on the record are not from a producer of comparable merchandise, but instead an oil, petroleum, and petrochemical refinery company.<sup>48</sup> Therefore, because complete surrogate value information is available from Russia and the Russian financial statements are more reliable because they are from a producer of comparable merchandise, Commerce preliminarily determines that the Russian data are the best available surrogate value data.

Therefore, for the reasons stated above, Commerce preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Russia as the primary surrogate country because Russia is: (1) at a level of economic development comparable to the 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 Russian data when available and appropriate to value respondents’ FOPs.

For a detailed discussion of the surrogate values used in this LTFV proceeding, *see* the “Factor Valuation” section below and the Preliminary Surrogate Value Memo.<sup>49</sup>

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<sup>41</sup> *See, e.g., Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, 2010-2011*, 78 FR 17350 (March 21, 2013), and accompanying IDM at Comment I(C).

<sup>42</sup> *See* Policy Bulletin 04.1.

<sup>43</sup> *See Mushrooms from China* IDM at Comment 1.

<sup>44</sup> *See* Petitioner Surrogate Value Comments; Respondents Surrogate Value Comments; and Petitioner Surrogate Value Rebuttal Comments.

<sup>45</sup> The petitioner provided GTA data from Malaysia to value the FOP for monochlorodifluoro methane (HCFC-22) reported by Taizhou Qingsong because there was no GTA data available for this input. *See* Petitioner Surrogate Value Comments.

<sup>46</sup> *See* Petitioner Surrogate Value Comments at Exhibits 13 and 14.

<sup>47</sup> *See* Petitioner Surrogate Country Comments at Exhibit 1.

<sup>48</sup> *See* Respondents Surrogate Value Comments at Exhibits T-7a and T-7b.

<sup>49</sup> *See* Memorandum, “Less-Than-Fair-Value Investigation of Difluoromethane (R-32) from the People’s Republic of China: Surrogate Value Memorandum for the Preliminary Determination,” dated concurrently with this memorandum (Preliminary Surrogate Value Memo).

### C. Separate Rates

In NME proceedings, there is a rebuttable presumption that companies are subject to government control and, thus, should be assessed a single AD rate.<sup>50</sup> In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in an NME proceeding.<sup>51</sup> It is Commerce's policy to assign exporters of the subject merchandise from an NME country 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 its export activities. 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*,<sup>52</sup> as amplified by *Silicon Carbide*.<sup>53</sup> According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. However, if Commerce determines that a company is wholly foreign-owned, then consideration of the *de jure* and *de facto* criteria is not necessary to determine whether it is independent from government control.<sup>54</sup>

Under the separate rates test, 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.<sup>55</sup>

Further, Commerce typically considers four factors in evaluating whether a 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 the disposition of profits or financing of losses.<sup>56</sup>

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<sup>50</sup> See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); see also *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).

<sup>51</sup> See *Initiation Notice*, 85 FR at 10409.

<sup>52</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>53</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>54</sup> See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007) (*Candles from China*).

<sup>55</sup> See *Sparklers*, 56 FR at 20589.

<sup>56</sup> See *Silicon Carbide*, 59 FR at 22586-89; and *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

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.<sup>57</sup> In particular, we note that in litigation involving the *Diamond Sawblades* proceeding, the CIT found Commerce's existing separate rates analysis deficient in the circumstances of that proceeding, in which a government-controlled entity had significant ownership in the respondent exporter.<sup>58</sup> We have concluded that, where a government entity holds a majority ownership share, either directly or indirectly, in an 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 that a majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company. Accordingly, we have considered the level of government ownership, where necessary.

#### D. Separate Rate Recipients

In accordance with our practice, Commerce analyzed whether each company submitting both a Q&V response and an SRA in this investigation demonstrated the absence of *de jure* and *de facto* governmental control over their respective export activities. In the instant investigation, as discussed below, we preliminarily find no evidence of Chinese government ownership of mandatory respondents Taizhou Qinsong and Zibo Feiyuan, as well as the following companies which submitted SRAs: Icool International; the Ninhua Group; Shandong Huaan, T.T. International; and Zhejiang Sanmei. Further, we preliminarily find that these companies otherwise are entitled to a separate rate in this investigation. Each of these companies stated that they are either Chinese joint-stock limited companies or are wholly Chinese-owned companies.

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<sup>57</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) (*Advanced Technology*), affirmed in *Advanced Technology & Materials Co., Ltd. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), aff'd Case No. 2014-1154 (Fed. Cir. 2014). This remand redetermination is available 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 IDM at Comment 1.

<sup>58</sup> See, e.g., *Advanced Technology*, 885 F. Supp. 2d at 1349 ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); *Id.* at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor *de jure* 'separation' that Commerce concludes.") (footnotes omitted); *Id.* at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations, ' including terms, financing, and inputs into finished product for export."); and *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).

In accordance with our practice, Commerce analyzed whether these companies demonstrated the absence of *de jure* and *de facto* governmental control over their respective export activities.

### 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.<sup>59</sup>

The evidence provided by Taizhou Qingsong; Zibo Feiyuan; Icool International; the Ninhua Group; Shandong Huanan; T.T. International; and Zhejiang Sanmei supports a preliminary finding of an absence of *de jure* government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.<sup>60</sup>

### 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 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 the disposition of profits or financing of losses.<sup>61</sup> Commerce has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude Commerce from assigning separate rates.

The evidence provided by Taizhou Qingsong; Zibo Feiyuan; Icool International; the Ninhua Group; Shandong Huanan; T.T. International; and Zhejiang Sanmei supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that the companies: (1) set their own EPs independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.<sup>62</sup>

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<sup>59</sup> See *Sparklers*, 56 FR at 20589.

<sup>60</sup> See, e.g., Taizhou Qingsong April 20, 2020 AQR at 6-10; Zibo Feiyuan April 20, 2020 AQR at 7-11; Icool International SRA at 5-9; Ninhua Group SRA at 6-9; Shandong Huanan SRA at 7-10; T.T. International SRA at 8-12; and Zhejiang Sanmei SRA at 9-13.

<sup>61</sup> See *Silicon Carbide*, 59 FR at 22586-87; and *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

<sup>62</sup> See, e.g., Taizhou Qingsong April 20, 2020 AQR at 10-18; Zibo Feiyuan April 20, 2020 AQR at 11-18; Icool

Therefore, the evidence placed on the record of this investigation by Taizhou Qingsong; Zibo Feiyuan; Icool International; the Ninhua Group; Shandong Huaan; T.T. International; and Zhejiang Sanmei demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*.<sup>63</sup> Accordingly, we are preliminarily granting separate rates to: Taizhou Qingsong; Zibo Feiyuan; Icool International; the Ninhua Group; Shandong Huaan; T.T. International; and Zhejiang Sanmei.

#### E. Margin for the Separate Rate Companies

Normally, Commerce's practice is to assign to separate rate entities that were not individually examined a rate equal to the average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on adverse facts available (AFA), in accordance with section 735(c)(5)(A) of the Act.<sup>64</sup> The statute further provides that, where all margins are zero rates, *de minimis* rates, or rates based entirely on facts available, Commerce may use "any reasonable method" for assigning the rate to non-selected respondents.<sup>65</sup> Consistent with this practice, for this preliminary determination, we calculated weighted-average dumping margins for the mandatory respondents which are not zero, *de minimis*, or based entirely on facts available. Because there are only two relevant weighted-average dumping margins for this preliminary determination, using a weighted average of these two rates risks disclosure of business proprietary information data. Therefore, Commerce has assigned a weighted-average margin using the publicly ranged quantities submitted by mandatory respondents, Taizhou Qingsong and Zibo Feiyuan, to the separate rate companies for this preliminary determination.<sup>66</sup> This approach is consistent with our practice.<sup>67</sup>

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International SRA at 9-18; Ninhua Group SRA at 9-19; Shandong Huaan SRA at 10-16; T.T. International SRA at 12-20; and Zhejiang Sanmei SRA at 13-22.

<sup>63</sup> See *Sparklers*, 56 FR at 20589; and *Silicon Carbide*, 59 FR at 22586-89; see also, e.g., Taizhou Qingsong April 20, 2020 AQR at 10-17; Zibo Feiyuan April 20, 2020 AQR at 11-18; Icool International SRA at 9-18; Ninhua Group SRA at 9-19; Shandong Huaan SRA at 10-16; T.T. International SRA at 12-20; and Zhejiang Sanmei SRA at 13-22.

<sup>64</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

<sup>65</sup> See section 735(c)(5)(B) of the Act.

<sup>66</sup> See Memorandum, "Less-Than-Fair-Value Investigation of Difluoromethane (R-32) from the People's Republic of China: Preliminary Determination Margin Calculation for Separate Rate Companies," dated concurrently with this memorandum (Preliminary Separate Rates Memo).

<sup>67</sup> See, e.g., *Hardwood and Decorative Plywood from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying IDM at "Separate Rate Companies."

## F. Combination Rates

In the *Initiation Notice*, Commerce stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.<sup>68</sup> This practice is described in Policy Bulletin 05.1.<sup>69</sup>

## G. The China-Wide Entity

The record indicates that there are other Chinese exporters and/or producers of R-32 during the POI that did not respond to Commerce's requests for information. Specifically, Commerce did not receive responses to its Q&V questionnaire from several Chinese exporters and/or producers of R-32 that were named in the Petition.<sup>70</sup> Because non-responsive Chinese companies have not demonstrated that they are eligible for separate rate status, Commerce considers them part of the China-wide entity. Furthermore, as explained in the next section, we preliminarily determine to calculate the China-wide rate on the basis of AFA. We have preliminarily assigned the China-wide entity a dumping margin of 221.06 percent.

### 1. Legal Framework: Application of Facts Available and Adverse Inferences

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

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

Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about

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<sup>68</sup> See *Initiation Notice*, 83 FR 22617.

<sup>69</sup> See Policy Bulletin No. 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005) (Policy Bulletin 05.1) available on Commerce's website at <https://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>70</sup> See Q&V Delivery Memorandum documenting that FedEx delivered the Q&V questionnaires to five companies which failed to provide Q&V questionnaire responses, and it attempted to deliver the Q&V questionnaire to four companies that refused to accept delivery of it. These companies are: Jiangsu Sanmei, Jinhua Yonghe; Linhai Limin, Meilan Group; Zhejiang Quhua Fluor; Changshu 3F; Hangzhou First; Jiangxi Bailian; and Zhejiang Quhua Fluorine.

information an interested party would have provided if the interested party had complied with the request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the Petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.

## 2. Use of Facts Available

Commerce preliminarily finds that the China-wide entity, which includes Chinese exporters and/or producers that did not respond to Commerce's requests for information, failed to provide necessary information, withheld information requested by Commerce, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information; thus, necessary information is not on the record. Accordingly, Commerce preliminarily determines that use of facts available is warranted in determining the rate of the China-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.<sup>71</sup>

## 3. Application of Facts Available with an Adverse Inference

Section 776(b) of the Act provides that Commerce, in selecting from among the facts otherwise available, may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Commerce finds that the China-wide entity's failure to provide the requested information constitutes circumstances under which it is reasonable to conclude that the China-wide entity was not fully cooperative.<sup>72</sup> The China-wide entity neither filed documents indicating that it was having difficulty providing the information, nor did it request to submit the information in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to the China-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).<sup>73</sup>

## 4. Selection and Corroboration of the AFA Rate

When using facts otherwise available, section 776(c) of the Act provides that, where Commerce relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the Petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of

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<sup>71</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986, 4991 (January 31, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

<sup>72</sup> See *Nippon Steel Corporation v. United States*, 337 F. 3d 1373, 1383 (Fed. Cir. 2003) (*Nippon Steel*) (noting that Commerce need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (*i.e.*, information was not provided "under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.")).

<sup>73</sup> See *Nippon Steel*, 337 F. 3d at 1382-83.

the Act concerning the subject merchandise.<sup>74</sup> The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information to be used has probative value,<sup>75</sup> although Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.<sup>76</sup> To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used, although Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.<sup>77</sup>

In applying an adverse inference, Commerce may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.<sup>78</sup> In selecting an AFA rate, Commerce selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.<sup>79</sup> Consistent with sections 776(b)(2) and 776(d)(2) of the Act, in an investigation, Commerce’s practice with respect to the assignment of an AFA rate is to select the higher of: (1) the highest dumping margin alleged in the Petition; or (2) the highest calculated dumping margin of any respondent in the investigation.<sup>80</sup>

In this case, Commerce finds that the preliminary rates calculated for both mandatory respondents are higher than the highest margin alleged in the Petition. Consequently, Commerce determines to base the AFA rate for the China-wide entity on Zibo Feiyuan’s preliminary calculated weighted-average margin of 221.06 percent because it is the highest calculated rate for the purposes of this preliminary determination. Because this rate is not secondary information but is based on information obtained in the course of this investigation, Commerce need not corroborate it, pursuant to section 776(c) of the Act.

#### H. Date of Sale

Section 351.401(i) of Commerce’s regulations states that, in identifying the date of sale of the subject merchandise, Commerce normally will use the date of invoice, as recorded in the exporter’s or producer’s records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date

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<sup>74</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (SAA) at 870.

<sup>75</sup> *Id.*; see also 19 CFR 351.308(d).

<sup>76</sup> See section 776(c)(2) of the Act.

<sup>77</sup> See section 776(d)(3) of the Act; see, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

<sup>78</sup> See SAA at 870.

<sup>79</sup> *Id.*

<sup>80</sup> See, e.g., *Certain Uncoated Paper from Indonesia: Final Determination of Sales at Less Than Fair Value*, 81 FR 3101 (January 20, 2016).

better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>81</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>82</sup>

Therefore, for both Taizhou Qingsong and Zibo Feiyuan, consistent with Commerce's long-standing practice,<sup>83</sup> we preliminarily used the earlier of invoice date or the shipment date as the date of sale for all U.S. sales.<sup>84</sup>

### I. Fair Value Comparisons

In accordance with section 777A(d)(1)(A) of the Act, Commerce compared the weighted-average price of the U.S. sales of subject merchandise to the weighted-average NV to determine whether the mandatory respondents sold subject merchandise to the United States at LTFV during the POI.<sup>85</sup>

### J. Export Price

In accordance with section 772(a) of the Act, Commerce defined the U.S. price of subject merchandise based on the EP for all of the sales reported by Taizhou Qingsong and Zibo Feiyuan. Commerce calculated the EP based on the prices at which subject merchandise was sold to unaffiliated purchasers in the United States.

#### 1. Export Price

For Taizhou Qingsong, we calculated EP based on packed prices to unaffiliated customers in the United States. We made deductions, as appropriate, from the starting price for movement expenses (*i.e.*, foreign inland freight expenses, domestic brokerage and handling expenses, international freight expenses, and marine insurance), in accordance with section 772(c)(2)(A) of the Act. We based movement expenses on surrogate values where the service was purchased from a Chinese company.<sup>86</sup>

For Zibo Feiyuan, we calculated EP based on packed prices to unaffiliated customers in the United States. We made deductions, as appropriate, from the starting price for movement

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<sup>81</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>82</sup> See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007) (*Shrimp from Thailand*), and accompanying IDM at Comment 11; *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.

<sup>83</sup> See, e.g., *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 IDM at Comment 10; and *Steel Beams from Germany* IDM at Comment 2.

<sup>84</sup> See Taizhou Qingsong May 8, 2020 SAQR at 5-6 and Exhibit Supp-A-5; and Zibo Feiyuan May 1, 2020 SAQR at 4.

<sup>85</sup> See "Export Price" and "Normal Value," below.

<sup>86</sup> See "Factor Valuation Methodology," below.

expenses (*i.e.*, foreign inland freight expenses, domestic brokerage and handling expenses, international freight expenses, and marine insurance), in accordance with section 772(c)(2)(A) of the Act. We based movement expenses on surrogate values where the service was purchased from a Chinese company, except in instances where Zibo Feiyuan's purchases of those services from ME suppliers in U.S. dollars was significant; in those instances, we valued the services using the per-unit expense paid to the ME suppliers.

## 2. Value Added Tax (VAT)

In 2012, Commerce announced a change of methodology with respect to the calculation of EP and constructed export price (CEP) to include an adjustment of any irrecoverable VAT in certain NME countries in accordance with section 772(c)(2)(B) of the Act.<sup>87</sup> 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, where the EP and CEP prices include such amount.<sup>88</sup> The amount of irrecoverable VAT is a liability calculated based on the standard VAT rate and the refund rate specific to the exported good. 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 EP or CEP downward by this same percentage.<sup>89</sup>

Commerce's methodology, as explained above and applied in this investigation, incorporates two basic steps: (1) determine the amount of irrecoverable VAT on subject merchandise; and (2) reduce EP or CEP price by the amount determined in step one. Information on the record indicates that there was no difference between the standard VAT rates and the refund rates during the POI.<sup>90</sup> Thus, because there was no irrecoverable VAT during the POI, we made no adjustments to the respondents' EPs for irrecoverable VAT.

## K. Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine NV using the FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home market prices, third country prices, or constructed value under section 773(a) of the Act. Commerce bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under Commerce's normal methodologies.<sup>91</sup> Therefore, in accordance with

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<sup>87</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>88</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>89</sup> *Id.*

<sup>90</sup> See Taizhou Qingsong April 28, 2020 CQR at 29; and Zibo Feiyuan April 29, 2020 CQR at 34.

<sup>91</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).

sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), Commerce calculated NV based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.<sup>92</sup>

## 1. Factor Valuation Methodology

In accordance with section 773(c) of the Act, Commerce calculated NV based on FOP data reported by Taizhou Qingsong and Zibo Feiyuan. To calculate NV, Commerce multiplied the reported per-unit factor-consumption rates by publicly available surrogate values. Commerce's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, surrogate values which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POI, and exclusive of taxes and duties.<sup>93</sup>

When selecting the surrogate values, Commerce considered, among other factors, the quality, specificity, and contemporaneity of the data.<sup>94</sup> As appropriate, Commerce adjusted input prices by including freight costs to make them delivered prices. 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.<sup>95</sup> A detailed description of all surrogate values used for Taizhou Qingsong and Zibo Feiyuan can be found in the Preliminary Surrogate Value Memo.<sup>96</sup>

### a. Direct Materials, Packing Materials, and By-Product

For this preliminary determination, Commerce used Russian import data, as published by GTA, and data from other publicly available sources from Russia, to calculate surrogate values for the respondents' FOPs.<sup>97</sup> In accordance with section 773(c)(1) of the Act, Commerce applied the best available information for valuing FOPs by selecting, to the extent practicable, surrogate values which are: (1) non-export average values; (2) contemporaneous with, or closest in time to, the POI; (3) product-specific; and (4) tax-exclusive.<sup>98</sup> The record shows that Russian import

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<sup>92</sup> See sections 773(c)(3)(A) through (D) of the Act.

<sup>93</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 accompanying IDM at Comment 2.

<sup>94</sup> See, e.g., *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008), and accompanying IDM at Comment 9.

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

<sup>96</sup> See Preliminary Surrogate Value Memo.

<sup>97</sup> We used Russian GTA data to value all FOP except for one input (HCFC-22) reported by Taizhou Qingsong, for which we used Malaysian GTA data. See Preliminary Surrogate Value Memo.

<sup>98</sup> 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).

data obtained through GTA, as well as data from other Russian sources, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POI.<sup>99</sup>

Commerce continues to apply its long-standing practice of disregarding surrogate values if it has a reason to believe or suspect the source data may be dumped or subsidized.<sup>100</sup> In this regard, Commerce has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.<sup>101</sup> Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, Commerce finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, Commerce has not used prices from these countries in calculating Russian import-based surrogate values.

Additionally, Commerce disregarded data from NME countries when calculating Russian import-based per-unit surrogate values.<sup>102</sup> Commerce also excluded imports labeled as originating from an “unidentified” country from the calculation of Russian import-based per-unit surrogate values 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>103</sup>

Pursuant to 19 CFR 351.408(c)(1), where a factor is produced in one or more ME countries, purchased from one or more ME suppliers and paid for in an ME currency, Commerce normally will use the prices paid to the ME suppliers if substantially all (*i.e.*, 85 percent or more) of the total volume of the factor is purchased from the ME suppliers. In those instances where less than substantially all of the total volume of the factor is produced in one or more ME countries and purchased from one or more ME suppliers, Commerce will weight-average the actual prices paid for the ME portion and the surrogate value for the NME portion by their respective quantities. However, neither Taizhou Qingsong nor Zibo Feyuan purchased material inputs that were produced in ME countries, from ME suppliers and paid for in a ME currency during the POI.<sup>104</sup> Therefore, Commerce did not value any material inputs using ME prices in the preliminary determination.

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<sup>99</sup> See Preliminary Surrogate Value Memo.

<sup>100</sup> 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).

<sup>101</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; *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>102</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>103</sup> *Id.*

<sup>104</sup> See Taizhou Qingsong May 8, 2020 DQR at 10; and Zibo Feyuan May 8, 2020 DQR at 7.

Commerce used Russian import statistics from GTA to value raw materials,<sup>105</sup> by-products, and packing materials.

b. Labor

In *Labor Methodologies*,<sup>106</sup> Commerce determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Commerce does not, however, preclude the use of other sources for valuing labor if they represent the best available information. Here, we valued labor using the Russian Federal State Statistics Service's (ROSSTAT's) Annual Report for 2019 for the "average monthly nominal accrued salary" labor cost of "production of chemicals and chemical products."<sup>107</sup>

c. Energy

We valued electricity using data from the World Bank's *Doing Business 2020: Russian Federation* publication. These electricity rates represent publicly available, broad-market averages.<sup>108</sup> We valued water using data from Russia's EMISS national statistics service, based on the AUVs of non-drinking water covering the POI.<sup>109</sup> We valued natural gas using wholesale gas prices applicable throughout the Russian Federation from the *Order of the Federal Antimonopoly Service*.<sup>110</sup>

d. Movement Expenses

We valued truck inland freight and brokerage and handling expenses using data from the World Bank's *Doing Business 2020: Russian Federation* publication. For Taizhou Qingsong, we valued ocean freight expenses using information published by Maersk Line.<sup>111</sup> We did not inflate this value because it is contemporaneous with the POI. For Zibo Feiyuan, we valued ocean freight expenses using the per-unit amount it paid to ME suppliers.<sup>112</sup> We valued marine insurance expenses using a 2010 rate offered by RJG Consultants, an ME provider of marine insurance.<sup>113</sup> The rate is a percentage of the value of the shipment; thus, we did not inflate or deflate the rate.

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<sup>105</sup> As noted above, we used Malaysian GTA data for one input (HCFC-22) reported by Taizhou Qingsong.

<sup>106</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

<sup>107</sup> See Preliminary Surrogate Value Memo.

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

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

<sup>112</sup> See Memorandum, "Preliminary Analysis Memorandum for Zibo Feiyuan," dated August 20, 2020 (Zibo Feiyuan Preliminary Analysis Memorandum).

<sup>113</sup> *Id.*

#### e. Financial Ratios

We valued the financial ratios (factory overhead; selling, general and administrative expenses; and profit) using the 2018 audited financial statements of LLC Halopolymer Kirovo-Cheketsk (Halopolymer), a Russian producer of comparable merchandise (*i.e.*, refrigerant gases).<sup>114</sup>

#### f. By-Product Offset

Taizhou Qingsong provided information regarding its reported by-product of hydrochloric acid (HCL), which indicates that it is appropriate to treat HCL as a by-product for the purpose of this preliminary determination. Specifically, Taizhou Qingsong stated that: (1) HCL production is the unavoidable consequence of the production process of R-32; 2) the relative value of HCL is far lower than that of R-32; 3) HCL is sold with a value and recorded as “operation income – other,” which is separated from the sales revenue of Taizhou Qingsong’s finished products; 4) there are no separate production facilities for HCL and Taizhou Qingsong does not intentionally control the production of HCL; and 5) HCL does not require further processing before it is sold.<sup>115</sup> Therefore, we have preliminarily granted Taizhou Qingsong’s by-product offset claim, consistent with our practice.

Similarly, Zibo Qingsong provided information regarding its reported by-products of HCL, low hydrofluoric acid, and calcium sulfate, which indicates that it is appropriate to treat each of them as by-products for the purpose of this preliminary determination. Specifically, Zibo Feiyuan stated that HCL, calcium sulfate, and low hydrofluoric acid: (1) are produced simultaneously with the main product; 2) are secondary products of the company, not the main goal of the company’s production activities; and 3) are each sold with a value and record as “other operation revenue,” which is separated from the sales revenue of Zibo Feiyuan’s finished products.<sup>116</sup> Therefore, we have preliminarily granted Zibo Feiyuan’s by-product offset claims, consistent with our practice.

### L. Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Taizhou Qingsong’s and Zibo Feiyuan’s sales of the subject merchandise to the United States were made at less than NV, Commerce compared the EPs to the NVs, as described in the “Export Price” and “Normal Value” sections of this memorandum.

#### 1. Determination of Comparison Method

Pursuant to section 777A(d)(1)(A) of the Act and 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs, *i.e.*, the average-to-average method, unless the Secretary determines that another

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<sup>114</sup> *Id.*; see also Petitioner Surrogate Value Comments at Exhibit 14. The petitioner also provided the financial statements for CYDSA, S.A.B. de C.V., a Mexican producer of refrigerant gases. However, given Commerce’s preference to use surrogate values sourced from the selected primary surrogate country, for this preliminary determination we calculated the surrogate financial ratios using data from the Halopolymer financial statements.

<sup>115</sup> See Taizhou Qingsong May 8, 2020 DQR at 19.

<sup>116</sup> See Zibo Feiyuan May 8, 2020 DQR at 13-15; and Zibo Feiyuan July 6, 2020 SDQR at 12-14.

method is appropriate in a particular situation. In LTFV investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales, *i.e.*, the average-to-transaction method, as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In numerous LTFV investigations and AD reviews, Commerce has applied a “differential pricing” analysis for determining whether application of an alternative comparison method 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.<sup>117</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 this investigation. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent’s weighted-average dumping margin.

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

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean, *i.e.*, weighted-average price, of a test group and the mean, *i.e.*, weighted-average price, of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the prices of all other

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<sup>117</sup> See, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large, *i.e.*, 0.8, threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

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

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.<sup>118</sup>

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<sup>118</sup> The Court of Appeals for the Federal Circuit (CAFC) has affirmed much of Commerce's differential pricing methodology. *See, e.g., Apex Frozen Foods v. United States*, 862 F.3d 1322 (Fed. Cir. 2017). We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

2. Results of the Differential Pricing Analysis

For both Taizhou Qingsong and Zibo Feiyuan, based on the results of the differential pricing analysis, Commerce preliminarily finds that more than 66 percent of the value of U.S. sales pass the Cohen’s d test, and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Thus, the results of these tests support consideration of an alternative to the average-to-average (A-A) method based on applying the average-to-transaction (A-T) method to all U.S. sales. However, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping rates calculated using the A-A method and the weighted-average dumping rates calculated using an alternative comparison method based on applying the A-T method to all U.S. sales. Accordingly, Commerce preliminarily determines to use the A-A method for all U.S. sales to calculate the weighted-average dumping rates for both Taizhou Qingsong and Zibo Feiyuan.

**VI. CURRENCY CONVERSION**

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

**VII. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

8/20/2020

X



Signed by: JOSEPH LAROSKI

Joseph A. Laroski Jr.  
Deputy Assistant Secretary  
for Policy and Negotiations