



A-570-126
Investigation
POI: 07/01/2019 – 12/31/2019
Public Document
E&C/Office III: KS

DATE: October 23, 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: Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Decision Memorandum for the Preliminary Affirmative Determination of Sales at the Less-Than-Fair-Value

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that certain non-refillable steel cylinders (non-refillable cylinders) from the People’s Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On March 27, 2020, we received an antidumping duty (AD) petition concerning imports of non-refillable cylinders from China,¹ which was filed in proper form by Worthington Industries (the petitioner). We initiated this investigation on April 16, 2020.²

In the *Initiation Notice*, Commerce notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy (NME) investigations.³ The process requires exporters and producers to submit a separate rate application (SRA) that demonstrates an absence of both *de jure* and *de facto* government control over their export

¹ See Petitioner’s Letter, “Petition for the Imposition of Antidumping and Countervailing Duties on Certain Non-Refillable Steel Cylinders from the People’s Republic of China,” dated March 27, 2020 (the Petition).

² See *Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 85 FR 22402 (April 22, 2020) (*Initiation Notice*).

³ *Id.* at 22405.

activities. We received timely SRAs from eight applicants, including both mandatory respondents, as discussed in the “Separate Rates” section.

In the *Initiation Notice*, we notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of certain non-refillable steel cylinders to be reported in response to Commerce’s AD questionnaire.⁴ On May 6, 2020, the petitioner submitted comments regarding the physical characteristics of the subject merchandise to be used for reporting purposes.⁵ On May 18, 2020, Ningbo Eagle Machinery & Technology Co., Ltd. (Ningbo Eagle), an interested party and Chinese exporter of the subject merchandise, submitted rebuttal comments on the petitioner’s proposed product characteristics.⁶ On June 3, 2020, after analyzing the comments and rebuttals from the interested parties regarding physical characteristics of the merchandise, Commerce determined the physical characteristics to use in the investigation.⁷ On May 8, 2020, Commerce received timely scope comments from the petitioner.⁸ On August 4 and 12, 2020, the petitioner provided additional comments and modified its prior request to add language to the existing scope.⁹ We preliminarily determine to amend the scope of the investigation to include the petitioner’s requested language. *See* Preliminary Scope Decision Memorandum and accompanying preliminary determination *Federal Register* notice.¹⁰

In the *Initiation Notice*, we stated that we would base the selection of respondents for individual examination on responses to quantity and value (Q&V) questionnaires sent to each potential respondent named in the Petition. On April 17, 2020, we issued the Q&V questionnaires via Federal Express (FedEx) to 11 of the 15 producers/exporters of certain non-refillable steel cylinders from China identified in Exhibit GEN-7 of the petition.¹¹ Four companies were not mailed Q&V questionnaires, either because the petitioner did not provide complete address information for that producer/exporter, or because FedEx does not currently deliver to that producer/exporter’s zip code.¹² Additionally, Commerce uploaded an electronic copy of the Q&V questionnaire to the Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) website, inviting parties that did not receive a Q&V questionnaire by mail to file a Q&V response. We received timely Q&V responses from seven producers/exporters of

⁴ *Id.* at 22403.

⁵ *See* Petitioner’s Letter, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China – Petitioner’s Comments on the Important Product Characteristics and Product Matching Hierarchy,” dated May 6, 2020.

⁶ *See* Ningbo Eagle’s Letter, “Non-Refillable Steel Cylinders from the People’s Republic of China: Rebuttal Comments on Product Characteristics,” dated May 18, 2020.

⁷ *See* Commerce’s Letter, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Comments on Product Characteristics,” dated June 3, 2020.

⁸ *See* Petitioner’s Letter, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China – Petitioner’s Scope Comments,” dated May 8, 2020 .

⁹ *See* Petitioner’s Letters, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China – Petitioner’s Updated Scope Comments,” dated August 4, 2020; and “Certain Non-Refillable Steel Cylinders from China – Petitioner’s Response to Request for Additional Scope Clarification Comments,” dated August 12, 2020.

¹⁰ *See* Memorandum, “Antidumping and Countervailing Duty Investigations on Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Preliminary Scope Decision Memorandum,” dated concurrently with this memorandum (Preliminary Scope Decision Memorandum).

¹¹ *See* Commerce’s Letter, “Issuance of Quantity and Value Questionnaire,” dated April 17, 2020; *see also* Memorandum, “Issuance of Quantity and Value Questionnaires,” dated April 20, 2020.

¹² *Id.*; *see also* Memorandum, “Quantity and Value Questionnaire Delivery; Proof of Delivery of Initial Questionnaire; Undeliverable Q&V Addresses,” dated May 13, 2020.

subject merchandise and did not receive a response from five of the eight companies that FedEx confirmed received Q&V questionnaires.

On May 11, 2020, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of non-refillable steel cylinders from China.¹³

On May 22, 2020, based on responses to Q&V questionnaires, we selected the two exporters accounting for the largest volume of non-refillable steel cylinders during the period of investigation (POI) for individual examination: Sanjiang Kai Yuan Co. Ltd (SKY) and Wuyi Xilinde Machinery Manufacture Co., Ltd. (Wuyi Xilinde).¹⁴ On May 26, 2020, Commerce issued the AD questionnaire to SKY and Wuyi Xilinde.¹⁵ SKY and Wuyi Xilinde submitted timely responses to the AD Questionnaire (sections A through D) from June 22, 2020 through September 22, 2020.¹⁶ We issued supplemental questionnaires to each company and received timely responses to these supplemental questionnaires from July 30, 2020 through October 5, 2020.¹⁷

On May 28, 2020, we placed on the record a list of potential surrogate countries and invited interested parties to comment on the selection of the primary surrogate country and to provide

¹³ See *Non-Refillable Steel Cylinders from China; Determination*, 85 FR 29484 (May 15, 2020).

¹⁴ See Memorandum, “Less-Than-Fair-Value Investigation of Non-Refillable Steel Cylinders from the People’s Republic of China: Respondent Selection,” dated May 22, 2020 (Respondent Selection Memo).

¹⁵ See Commerce’s Letters, “Antidumping Duty Investigation: Non-Refillable Steel Cylinders from the People’s Republic of China – Request for Information,” dated May 26, 2020.

¹⁶ See SKY’s Letters, “Certain Non-Refillable Steel Cylinders from China; A-570-126; Response to Section A of the Initial Questionnaire,” dated June 23, 2020 (SKY’s AQR); and “Certain Non-Refillable Steel Cylinders from China; A-570-126; Response to Section C and D and Appendix VI of the Initial Questionnaire,” dated July 9, 2020 (SKY’s CDQR); see also Wuyi Xilinde’s Letters, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Submission of Wuyi Xilinde Machinery Manufacture Co., Ltd.’s Section A Response,” dated June 23, 2020 (Wuyi Xilinde’s AQR); “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Submission of Wuyi Xilinde Machinery Manufacture Co., Ltd.’s Section C Response and Sales Reconciliation,” dated July 9, 2020 (Wuyi Xilinde’s CQR); and “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Submission of Wuyi Xilinde Machinery Manufacture Co., Ltd.’s Section D Response and Cost Reconciliation,” dated July 16, 2020.

¹⁷ See SKY’s Letters, “Certain Non-Refillable Steel Cylinders from China; A-570-126; Response to Department’s Supplemental Questionnaire due on July 30, 2020,” dated July 30, 2020; “Less-Than-Fair-Value Investigation of Non-Refillable Steel Cylinders from the People’s Republic of China: Section C Supplemental Questionnaire,” dated August 10, 2020 (SKY’s SCQR); “Certain Non-Refillable Steel Cylinders from China; A-570-126; Format Sheet,” dated August 31, 2020; “Certain Non-Refillable Steel Cylinders from China; A-570-126; Response to Department’s Supplemental Questionnaire due on September 4, 2020,” dated September 4, 2020; “Certain Non-Refillable Steel Cylinders from China; A-570-126; Response to Department’s Supplemental Section C Questionnaire issued on September 24, 2020,” dated September 24, 2020; and “Certain Non-Refillable Steel Cylinders from China; A-570-126; Response to Department’s Supplemental Section D Questionnaire issued on September 24, 2020,” dated October 5, 2020; see also Wuyi Xilinde’s Letters, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Submission of Wuyi Xilinde Machinery Manufacture Co., Ltd.’s Supplemental Section A Response,” dated August 19, 2020; “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Submission of Wuyi Xilinde Machinery Manufacture Co., Ltd.’s Supplemental Sections C & D Response,” dated August 31, 2020 (Wuyi Xilinde’s SCDQR); and “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Submission of Wuyi Xilinde Machinery Manufacture Co., Ltd.’s Second Supplemental Section D Response,” dated September 30, 2020.

surrogate value (SV) information.¹⁸ On June 4 and June 30, 2020, Commerce received comments from SKY on the level of economic development of the countries included on the list of potential surrogate countries.¹⁹ On June 8 and June 23, 2020, the petitioner submitted rebuttal comments on the selection of the surrogate country.²⁰ On July 30, August 5, September 17, and September 22, 2020, the petitioner submitted SV information, and on July 30 and September 23, 2020, Wuyi Xilinde and SKY submitted SV data.²¹

On August 7, 2020, the petitioner submitted a timely request to postpone the preliminary determination in this investigation.²² On August 26, 2020, Commerce published in the *Federal Register* the notice of postponement of the deadline for the preliminary determination, in accordance with section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), until no later than 190 days after the initiation of the investigation, *i.e.*, October 23, 2020.²³

On September 29, 2020, and October 2, 2020, the petitioner submitted pre-preliminary comments in advance of Commerce's preliminary determination.²⁴

We are conducting this investigation in accordance with section 733(b) of the Act.

¹⁸ See Memorandum, "Antidumping Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated May 28, 2020 (Surrogate Country Memorandum).

¹⁹ See SKY's Letters, "Certain Non-Refillable Steel Cylinders from China; A-570-126; Comments on Economic Comparability," dated June 4, 2020 (SKY's Economic Comparability Comments); and "Certain Non-Refillable Steel Cylinders from China; A-570-126; Comments on Selection of Surrogate Country," dated June 30, 2020 (SKY's Surrogate Country Selection Comments).

²⁰ See Petitioner's Letters, "Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Comments on the List of Certain Countries at the Same Level of Economic Development," dated June 8, 2020 (Petitioner's Initial Surrogate Country Comments); and "Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Comments on Surrogate Country Selection," dated June 30, 2020 (Petitioner's June 30 Surrogate Country Selection Comments).

²¹ See Petitioner's Letters, "Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Submission of Surrogate Values," dated July 30, 2020 (Petitioner's Initial SV Comments); "Non-Refillable Steel Cylinders from China – Petitioner's Resubmission of Surrogate Value Information," dated August 6, 2020 (Petitioner's August 6 SV Comments); "Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Submission of Updated Malaysian Financial Statements," dated September 17, 2020; and "Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Submission of Additional Surrogate Values," dated September 22, 2020 (Petitioner's Additional Surrogate Values); *see also* SKY's Letter, "Certain Non-Refillable Steel Cylinders from China; A-570-126; Surrogate Value Submission," dated September 23, 2020 (SKY's SV Submission); *see also* Wuyi Xilinde's Letters, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Submission of Initial Surrogate Values," dated July 30, 2020 (Wuyi Xilinde's Initial SV Comments); and "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Submission of Additional Surrogate Values," dated September 23, 2020 (Wuyi Xilinde's Additional SV Values).

²² See Petitioner's Letter, "Non-Refillable Steel Cylinders from China – Petitioners' Request for Postponement of Preliminary Antidumping Determination," dated August 7, 2020.

²³ See *Non-Refillable Steel Cylinders from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 85 FR 52548 (August 26, 2020).

²⁴ See Petitioner's Letters, "Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Comments Regarding The Department's Upcoming Preliminary Determination For Sanjiang Kai Yuan Company Limited;" and "Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Comments Regarding The Department's Upcoming Preliminary Determination For Wuyi Xilinde Machinery Manufacture Company Limited," each dated September 28, 2020; *see also* "Non-Refillable Steel Cylinders from the People's Republic of China – Petitioner's Supplemental Comments Regarding The Department's Upcoming Preliminary Determination," dated October 1, 2020.

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 March 2020.²⁵

IV. SCOPE OF INVESTIGATION

The products covered by this investigation are certain non-refillable steel cylinders from China. For a full description of the scope of the investigation, *see* the accompanying preliminary determination *Federal Register* notice at Appendix I.

V. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,²⁶ in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).²⁷ As noted above, certain interested parties commented on the scope of this investigation, as published in the *Initiation Notice*. For a summary of the product coverage comments and our accompanying analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.

VI. DISCUSSION OF THE METHODOLOGY

A) *Non-Market Economy Country*

Commerce considers China to be an NME country.²⁸ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Further, as part of this investigation, Commerce has received no request to reconsider its determination that China is an NME country. Therefore, we continue to treat China as an NME country for purposes of this preliminary determination.

B) *Surrogate Country*

Generally, when Commerce investigates 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 (FOP), valued using a surrogate market economy (ME) country or countries that Commerce considers to be at the same level of economic development as the NME country and a significant producer of comparable merchandise. Specifically, section 773(c)(4) of the Act states that Commerce shall utilize, to the extent possible, in valuing the FOPs, 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

²⁵ See 19 CFR 351.204(b)(1).

²⁶ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

²⁷ See *Initiation Notice*, 85 FR at 22403.

²⁸ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying decision memorandum, *China's Status as a Non-Market Economy*.

merchandise.²⁹ 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 SV data; or (c) are not suitable for use based on other reasons.³⁰ Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at the same level of economic development as the NME, Commerce generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.³¹ Further, Commerce normally values all FOPs in a single surrogate country.³² 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.³³

Commerce determined that Malaysia, Turkey, Russia, Mexico, Brazil, and Bulgaria are countries at the same level of economic development as China based on *per capita* GNI.³⁴ The petitioner submits that Commerce should select Malaysia or Mexico as the primary surrogate country (noting a preference for Malaysia), noting that while five countries identified on the list have known production of comparable steel cylinders (Brazil, Bulgaria, Malaysia, Mexico, and Turkey) based on publicly-available information and export data,³⁵ and are thus appropriate for consideration as the primary surrogate,³⁶ only Mexico, Malaysia, and Turkey are net exporters of comparable merchandise,³⁷ and that both Malaysia and Mexico offer sufficient publicly-available information with which to value respondents' factors of production.³⁸ SKY submits that, while all countries identified on the list are economically comparable to China, only Turkey, Brazil, Mexico, and Malaysia are exporters of product in HTS 7311.00 ("Containers For Compressed Or Liquefied Gas Of Iron Or Steel"; *i.e.*, the HTS provision in which non-refillable cylinders are classified), and because neither Russia nor Bulgaria exported such products during the POI, these

²⁹ See Policy Bulletin 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>.

³⁰ See *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2014-2015*, 82 FR 18115 (April 17, 2017), and accompanying Issues and Decision Memorandum (IDM) at 12 (Comment 2) ("These financial statements provide quality, audited data by which to calculate surrogate financial ratios and, unlike certain financial statements described above, do not pose an issue relating to 'other income' or 'other revenue.'"); see also *Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 31953 (July 10, 2018), and accompanying Preliminary Decision Memorandum at 21 ("Commerce's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information").

³¹ See Policy Bulletin 04.1.

³² See 19 CFR 351.408(c)(2).

³³ See Policy Bulletin 04.1.

³⁴ See Surrogate Country Memorandum at Attachment 1.

³⁵ See Petitioner's Initial Surrogate Country Comments at 2.

³⁶ Petitioner's Initial Surrogate Country Comments identify producers of comparable steel cylinder products in each country except for Russia. Export data of HTS 7311.00 under which subject merchandise (as well as comparable cylinders) are classified provided by both the petitioner and SKY, shows that only Brazil, Malaysia, Mexico, and Turkey had exports of identical or comparable merchandise during the POI.

³⁷ See Petitioner's June 30 Surrogate Country Selection Comments at 4 (citing to export date provided in Petitioner's Initial Surrogate Country Comments at 4).

³⁸ See Petitioner's Initial SV Comments; see also Petitioner's Pre-Prelim Comments.

two countries are not significant producers of comparable goods.³⁹ Though SKY later submitted SV information to value its FOPs from Bulgaria and Mexico, SKY did not identify a preference for selection as the primary surrogate.⁴⁰ Wuyi Xilinde submits that Commerce should select Bulgaria as the primary surrogate country in this investigation in providing SV information for this purpose, but did not provide specific comment regarding why Bulgaria represents the best available information for this purpose or information as to how selection of Bulgaria satisfies the economic comparability or significant producer criteria.⁴¹

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, section 773(c)(1) of the Act is silent with respect to how Commerce may determine that a country is at a comparable level of economic development as the NME country or what methodology Commerce must use in evaluating this criterion. 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.”⁴²

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

In this investigation, we issued a memorandum identifying Bulgaria, Brazil, Mexico, Malaysia, Russia and Turkey as countries at the same level of economic development as China, based on *per capita* gross national economic income.⁴³ No party to this investigation provided information or argument that these countries are not economically comparable to China.⁴⁴ Therefore, we consider all six countries as having met this prong of the surrogate country selection criteria. The countries identified are not ranked and are considered equivalent in terms of economic comparability.

³⁹ See SKY’s Surrogate Country Selection Comments at 2 and Attachment SC-1. We note that, though the export data source that SKY provided to the record did not list exports under HTS 7311.00 for Russia or Bulgaria, export data provided by the petitioner indicated that both countries have exports in this category. See Petitioner’s Initial Surrogate Country Comments at 5.

⁴⁰ See SKY’s Letter, “Certain Non-Refillable Steel Cylinders from China; A-570-126; Surrogate Value Submission,” dated September 23, 2020.

⁴¹ See Wuyi Xilinde’s Initial SV Comments; see also Wuyi Xilinde’s Additional SV Values.

⁴² See *Jiaying Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

⁴³ See Surrogate Country Request at Attachment I.

⁴⁴ SKY’s initial comments on economic comparability asserted that the World Bank data used to identify the six economically comparable countries is for January 1, 2018 through December 31, 2018; thus, other sources of data may provide more up-to-date data and, in the absence of such data, Commerce should expand the band of countries considered to be economically comparable with China to include all countries from Thailand on the lower end of the band to Poland on the high end of the band. See SKY’s Economic Comparability Comments. However, SKY did not provide further information to substantiate that other countries should be considered economically comparable or significant producers, or otherwise advocate that a specific country should be considered for selection (nor was surrogate data provided for this purpose). As such, we have not considered further countries as economically comparable to China for the purposes of primary surrogate country selection for this preliminary determination.

2. Significant Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor Commerce's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, Commerce looks to other sources such as the Policy Bulletin 04.1 for guidance on defining comparable merchandise. The Policy Bulletin 04.1 states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."⁴⁵ Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.⁴⁶ Further, when selecting a surrogate country, the statute requires Commerce to consider the comparability of the merchandise, not the comparability of the industry.⁴⁷ "In cases where the identical merchandise is not produced, Commerce must determine if other merchandise that is comparable is produced. How Commerce does this depends on the subject merchandise."⁴⁸ In this regard, Commerce recognizes that any analysis of comparable merchandise must be done on a case-by-case basis.⁴⁹ Further, the statute grants Commerce discretion to examine various data sources for determining the best available information.⁵⁰ Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"⁵¹ it does not preclude reliance on additional or alternative metrics. It is Commerce's practice to evaluate whether production is significant based on characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics).⁵²

The record of this investigation contains publicly-available information regarding the existence of producers of comparable steel cylinder products in Brazil, Bulgaria, Malaysia, Mexico, and Turkey.⁵³ Further, export data submitted to the record indicates that Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey are exporters of the merchandise covered by the Harmonized Tariff

⁴⁵ See Policy Bulletin 04.1 at 2.

⁴⁶ *Id.* at note ("If considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise.")

⁴⁷ See *Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.")

⁴⁸ See Policy Bulletin 04.1 at 2.

⁴⁹ *Id.*, at 3 ("In other cases, however, where there are major inputs, i.e., inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, e.g., processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.")

⁵⁰ See section 773(c) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F. 3d 1373, 1377 (Fed. Cir. 1990).

⁵¹ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).

⁵² See *Xanthan Gum from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2252 (January 10, 2013), and accompanying Preliminary Decision Memorandum (PDM) at 4-7, unchanged in *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013).

⁵³ See Petitioner's Initial Surrogate Country Comments at 3-4 and Attachments 1-5.

Schedule numbers identified in the scope of this investigation (*i.e.*, HTS 7311.00) during 2019;⁵⁴ though both SKY and the petitioner note that there are no known steel cylinder producers in Russia.⁵⁵ Therefore, because Brazil, Bulgaria, Malaysia, Mexico, and Turkey are known exporters of comparable merchandise, we preliminarily find that Brazil, Bulgaria, Malaysia, Mexico, and Turkey have met the significant producer of comparable merchandise prong of the surrogate country selection criteria.

3. Data Availability

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

The petitioner placed Malaysian and Mexican SV data (with surrogate FOP data sourced from Global Trade Atlas (GTA), a source that is regularly used by Commerce because the data therein meet Commerce's SV criteria) on the record, including three publicly-available financial statements (FSs) from Malaysian surrogate producers and one financial statement from a Mexican surrogate producer.⁶² Wuyi Xilinde placed a complete set of Bulgarian SV data (with surrogate FOP data reported by Eurostat) on the record, and subsequently provided Mexican, Bulgarian, and Malaysian SV data onto the record to value certain additional inputs as well as a financial report for one Bulgarian producer of comparable merchandise.⁶³ SKY placed Bulgarian and Mexican SV data sourced from UN Comtrade data to value its raw material inputs (but provided no further FS information or SV information otherwise to value non-raw material

⁵⁴ *Id.*, at 5.

⁵⁵ *Id.*, at 4; *see also* SKY's June 30 Surrogate Country Comments.

⁵⁶ *See* Policy Bulletin 04.1.

⁵⁷ *Id.*

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

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

⁶⁰ *See* Policy Bulletin 04.1.

⁶¹ *See Mushrooms from China* IDM at Comment 1.

⁶² *See* Petitioner's Initial SV Comments; *see also* Petitioner's August 6 SV Comments; and Petitioner's Additional Surrogate Values.

⁶³ *See* Wuyi Xilinde's Initial SV Comments; *see also* Wuyi Xilinde's Additional SV Values.

FOP inputs).⁶⁴ No parties placed SV information on the record for Brazil, Russia, or Turkey, or argued that these countries should be selected as the surrogate country. Thus, Commerce has not considered Brazil, Russia, or Turkey for surrogate country selection purposes in this investigation.

Regarding data availability with respect to Bulgaria, while Wuyi Xilinde submitted what it purports to be a usable financial statement from a comparable producer, Kolos, Ltd,⁶⁵ we note that the information provided is not an official FS, but rather a report generated by a third party and does not contain an auditor's report or notes and schedules that normally accompany an FS. Further the Kolos information pertains to the fiscal year ending December 31, 2018 and is, therefore, not contemporaneous with the POI. As it is Commerce's preference to use actual and complete financial statements, inclusive of auditor's reports, contemporaneous with the POI,⁶⁶ and in consideration of the fact that both Mexico and Malaysia offer contemporaneous and complete financial statements, we do not find that the selection of Bulgaria offers the best available information from which to derive surrogate financial ratios.⁶⁷

The record contains surrogate financial information from one Mexican company, Grupo Industrial Saltillo (GIS).⁶⁸ In the preceding investigation of propane cylinders from China,

⁶⁴ See SKY's SV Submission.

⁶⁵ See Wuyi Xilinde's Initial SV Comments at Exhibit 8.

⁶⁶ See *Wooden Bedroom Furniture from the People's Republic of China: Final Results of the 2004- 2005 Semi-Annual New Shipper Reviews*, 71 FR 70739 (December 6, 2006), and accompanying IDM at Comment 2) ("In the current review, upon further examination of Jayaraja's financial statements, we have determined that Jayaraja's financial statements lack not a positive number for depreciation, but more significantly, they are missing an auditor's report, which was sufficient cause to disregard surrogate financial statements in Rebar from Belarus, as well as schedules, the auditor's opinions and notes to the financial statements. Thus, our finding with respect to Jayaraja's financial statements that they are inappropriate for use in this review is consistent with *Silicomangnese from Kazakhstan* where we disregarded surrogate financial statements because they lacked certain key reports (e.g., schedules, notes), indicating incomplete financial statements."); see also *Association of American School Paper Suppliers v. United States*, 791 F. Supp. 2d 1292, 1304 (CIT 2011) (quoting *Galvanized Steel Wire from the People's Republic of China and Mexico: Initiation of Antidumping Duty Investigations*, 76 FR 23548 (April 27, 2011) at 23551 (where Commerce rejected incomplete financial statements "as a basis for calculating surrogate financial ratios where the statement is missing key sections, such as sections of the auditor's report, that are vital to our analysis and calculations.")); *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 81 FR 75032 (October 28, 2016), and accompanying IDM at Comment 16 ("In *WBF from China NSR*, the Department disregarded financial statements for a number of reasons, but noted a missing auditor's report as a significant cause. Furthermore, as Petitioner noted, the Department rejected surrogate financial statements, in part, due to missing auditor's statements in *OTR Tires from the PRC* and *Silicomangnese from Kazakhstan*. Our decision not to rely on Thai Iron's financial statements for this final determination is consistent with the aforementioned cases that lacked the auditor's statement, or certain sections of the auditor's statement, for certain financial statements indicating those were incomplete financial statements."); and *Frontseating Service Valves from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 74 FR 10886 (March 13, 2009) (*FSVs from China*), and accompanying IDM at Comment 1 ("We determined that the financial statements of Upadhaya 2007 – 2008 and Brassomatic 2007 –2008 were not suitable for use consistent with the Department's practice not to use incomplete statements..." and "Finally, for purposes of the final determination, we did not use any of the three financial statements that we used in the Preliminary Determination because they were not contemporaneous with the POI...").

⁶⁷ For complete analysis and discussion of Commerce's preliminary decision regarding surrogate country, see Memorandum, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Preliminary Factors Valuation Memorandum," dated concurrently with this memorandum (Preliminary SV Memorandum).

⁶⁸ See Petitioner's August 6 SV Comments at Exhibit Mexico-8.

Commerce noted that GIS is “a conglomerate that designs, produces, and markets products for the auto parts, construction and housewares sectors, the most similar of which is hot-water heaters and large boilers/tanks (and, thus, reflects comparable, not identical, production in that segment).”⁶⁹ However, for the instant investigation, the petitioner notes that “{GIS} no longer manufactures water heaters, but still manufactures steel kitchen items.”⁷⁰ Accordingly, the record does not clearly establish that selection of Mexico as the primary surrogate offers surrogate financial information from a comparable producer. In contrast, Malaysia provides three financial statements (Siraga; KKB Group; and CN Asia). We find that Siraga; KKB Group; and CN Asia are each producers of comparable merchandise in Malaysia.⁷¹ All three Malaysian companies’ financial statements are audited, contemporaneous with the POI, profitable, and show no indication of receipt of subsidies previously found to be countervailable. Therefore, selection of Malaysia over Mexico as the primary surrogate country allows for the use of three financial statements, thus satisfying our preference for multiple financial statements to determine surrogate financial ratios to mitigate any potential distortions that may arise from using those of a single producer.⁷²

Given the above factors, we preliminarily select Malaysia as the primary surrogate country for this investigation. Malaysia is at the same level of economic development as China, is a significant producer of comparable merchandise, and Malaysian data overall represent the best available information for valuing the relevant FOPs because the data are publicly available, contemporaneous, represent a broad market average, are tax and duty exclusive, and specific for the majority of inputs used by the respondents to produce subject merchandise during the POI, including multiple usable financial statements. For further discussion of the sources of the SVs we used in this investigation, *see* the “Normal Value” section and Preliminary SV Memo.

C) *Separate Rates*

In proceedings involving NME countries, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.⁷³ Commerce’s policy is to assign all exporters of subject merchandise that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.⁷⁴ Commerce analyzes whether each entity exporting the subject merchandise is sufficiently

⁶⁹ *See Steel Propane Cylinders from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination Measures*, 83 FR 66675 (December 12, 2018) (*Propane Cylinders China LTFV Prelim*), and accompanying PDM at 10, unchanged in *Steel Propane Cylinders from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 84 FR 29161 (June 21, 2019).

⁷⁰ *See* Petitioner’s SV Comments at 4 and Exhibit Mexico-8.

⁷¹ We note that statements from two of these producers were found to be producers of identical merchandise in the propane cylinders investigation (and we note that propane cylinders are a comparable product to non-refillable cylinders). *See Propane Cylinders China LTFV Prelim* PDM at 11. CN Asia, which was not provided to the record in the propane cylinders investigation, is involved in producing a variety of steel tanks, which we also consider to be comparable merchandise.

⁷² *See* Preliminary SV Memorandum for further discussion.

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

⁷⁴ *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

independent under a test established in *Sparklers*⁷⁵ and further developed in *Silicon Carbide*.⁷⁶ According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If Commerce determines that a company is wholly foreign-owned, the separate rate analysis is not necessary to determine whether that company is independent from government control and therefore eligible for a separate rate.

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the Diamond Sawblades from China AD proceeding, and its determinations therein.⁷⁷ In particular, in litigation involving the Diamond Sawblades from China proceeding, the CIT found Commerce's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.⁷⁸ Following the Court's reasoning, in recent proceedings, we have concluded that where a government holds a majority ownership share, directly or indirectly, in the respondent exporter, the majority holding *per se* means that the government exercises, or has the potential to exercise, control over the company's operations generally.⁷⁹ This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company. Accordingly, we have considered the level of government ownership, where necessary.

⁷⁵ *Id.*

⁷⁶ 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*).

⁷⁷ See *Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China* (May 6, 2013) in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), affirmed in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd* Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). 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 PDM at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying IDM at Comment 1.

⁷⁸ See, e.g., *Advanced Technology I*, 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."); and 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); and 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 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).

⁷⁹ See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying PDM at 5-9; unchanged in *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 79 FR 68860 (November 19, 2014).

1. *Separate Rate Applicants*

In the Initiation Notice, Commerce notified all interested parties that SRAs would be due May 22, 2020. SKY and Wuyi Xilinde submitted information pertaining to their eligibility for a separate rate in their responses to section A of the AD questionnaire.⁸⁰ Furthermore, we received timely filed SRAs from the following applicants:

Hangzhou JM Chemical Co., Ltd. (Hangzhou JM)⁸¹
Ningbo Eagle⁸²
Zhejiang Kin-Shine Technology Co., Ltd. (Kin-Shine)⁸³
T.T. International Co. Ltd. (TTI)⁸⁴
ICOOL International Commerce Limited (ICOOL)⁸⁵
Zhejiang Well Industrial & Trading Co., Ltd (Zhejiang Well)⁸⁶

2. *Separate Rate Analysis*

a. *Absence of De Jure Control*

Commerce considers the following *de jure* criteria when determining whether an individual company will receive 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.⁸⁷

The evidence provided by Hangzhou JM, ICOOL, Kin-Shine, Ningbo Eagle, SKY, TTI, and Wuyi Xilinde supports a preliminary finding of an absence of *de jure* government control for 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

⁸⁰ See SKY's AQR; see also Wuyi Xilinde's AQR.

⁸¹ See Hangzhou JM's Letters, "Hangzhou JM Separate Rate Application in the Antidumping Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China, Case No. A-570-126," dated June 5, 2020 (Hangzhou JM's SRAQR); and "Hangzhou JM Response to SRA Supplemental Questionnaire in the Antidumping Duty Investigation of Certain Non-Refillable Steel Cylinders from the People's Republic of China, Case No. A-570-126," dated July 13, 2020.

⁸² See Ningbo Eagle's Letters, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: SRA," dated June 5, 2020; see also "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental SRA Questionnaire Response," dated July 13, 2020.

⁸³ See Kin-Shine's Letters, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: SRA," dated June 5, 2020 (Kin-Shine's SRAQR); see also "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental SRA Questionnaire Response," dated July 13, 2020.

⁸⁴ See TTI's Letters, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Separate Rate Application," dated May 22, 2020 (TTI's SRAQR); see also "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Supplemental Questionnaire Response – Separate Rate Application," dated July 13, 2020.

⁸⁵ See ICOOL's Letters, "Certain Non-Refillable Steel Cylinders from the People's Republic of China: Separate Rate Application," dated June 5, 2020 (ICOOL's SRAQR); see also "Certain Non-Refillable Steel Cylinders from the People's Republic of China: ICOOL International Commerce Limited's Response to the Separate Rate Application Supplemental Questionnaire," dated July 13, 2020.

⁸⁶ See Zhejiang Well's Letter, "Certain Non-Refillable Steel Cylinders from China; A-570-126; Separate Rate Application," dated June 5, 2020.

⁸⁷ See *Sparklers*, 56 FR at 20589.

legislative enactments decentralizing control of the companies; and (3) the implementation of formal measures by the government decentralizing control over export activities of companies.⁸⁸

b. Absence of De Facto Control

Typically, Commerce considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export 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.⁸⁹ 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 Hangzhou JM; ICOOL; Kin-Shine; Ningbo Eagle; SKY; TTI; and Wuyi Xilinde 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.⁹⁰

Therefore, the evidence placed on the record of this investigation by Hangzhou JM; ICOOL; Kin-Shine; Ningbo Eagle; SKY; TTI; and Wuyi Xilinde demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, Commerce preliminarily grants separate rates to each of these companies.

3. Companies Not Receiving a Separate Rate

Our *Initiation Notice* states the following: “Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.”⁹¹

Jiangsu Kasidi Chemical Machinery Co., Ltd.; Jinhua Sinoblue Machinery Manufacturing Co.; Ltd., Ningbo Runkey CGA Cylinders Co., Ltd.; NINHUA Group Co., Ltd.; Zhejiang Ansheng Mechanical Manufacture Co., Ltd.; and Zhejiang Nof Chemical Co., Ltd. each failed to file a Q&V questionnaire response and, therefore, we are preliminarily not granting these companies a separate rate.

⁸⁸ See, generally, Hangzhou JM’s SRAQR; ICOOL’s SRAQR; Kin-Shine’s SRAQR; Ningbo Eagle’s SRAQR; SKY’s AQR; TTI’s SRAQR; and Wuyi Xilinde’s AQR.

⁸⁹ See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People’s Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

⁹⁰ See, generally, Hangzhou JM’s SRA; ICOOL’s SRA; Kin-Shine’s SRA; Ningbo Eagle’s SRA; SKY’s AQR; TTI’s SRA; and Wuyi Xilinde’s SRA.

⁹¹ See *Initiation Notice*, 85 FR at 22405-6.

With respect to Zhejiang Well, we note that our SRA informs applicants that, “to be considered for separate-rate treatment, the applicant must have a relevant U.S. sale of subject merchandise to an unaffiliated purchaser ... The sale to an unaffiliated purchaser generally must be during the period of investigation or review.”⁹² However, Zhejiang Well’s SRA states that “During the POI, ZWIT did not make any sale of subject merchandise to the United States. The invoice date of the last sale of subject merchandise to the United States was ... prior to the POI.”⁹³ Zhejiang Well separately requests that Commerce modify the period of investigation such that Zhejiang Well’s sales prior to the POI may be considered for the purposes of separate rate eligibility; however, Commerce preliminarily declines to modify the period of investigation. Accordingly, because Zhejiang Well did not demonstrate that it had a relevant U.S. sale to an unaffiliated purchaser during the period of investigation, we preliminarily determine that Zhejiang Well is ineligible for consideration for separate rate status.

D) *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).⁹⁴ However, because we calculated a rate for the two individually investigated respondents in this investigation that are not zero, *de minimis*, or based entirely on facts available, we cannot apply the weighted-average margin using the actual net U.S. sales values and antidumping duty amounts of SKY and Wuyi Xilinde to the separate-rate company because doing so would indirectly disclose business-proprietary information to both of these companies. Alternatively, we have previously applied the simple average of the margins we determined for the selected companies.⁹⁵ In order to strike a balance between our duty to safeguard parties’ business proprietary information and our attempt to adhere to the guidance set forth in section 735(c)(5)(A) of the Act, we calculated a weighted-average margin for non-selected separate rate respondent using the publicly available, ranged total U.S. sales values of the selected respondents, compared the resulting public, weighted-average margin to the simple average of the antidumping duty margins, and used the amount which is closer to the actual weighted average margin of the selected respondents as the margin for the non-selected respondents.⁹⁶ Therefore, we preliminarily assign Hangzhou JM; ICOOL; Kin-Shine; Ningbo Eagle; and TTI a rate of 69.09 percent, which is equal to the weighted average of the rates calculated for the

⁹² See <https://enforcement.trade.gov/nme/nme-sep-rate.html>.

⁹³ See Zhejiang Well’s SRA at 5-6.

⁹⁴ This practice is guided by section 735(c)(5)(A) of the Act, which describes how to calculate the “all others” rate in market economy investigations. 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).

⁹⁵ See e.g., *Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008).

⁹⁶ See, e.g., *Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and accompanying IDM at Comment 1.

mandatory respondents based on their publicly available, ranged U.S. sales values and dumping margins.⁹⁷

E) 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.⁹⁸ This practice is described in Policy Bulletin 05.1.⁹⁹

F) The China-Wide Entity

As discussed above, the record indicates that there were other Chinese exporters and/or producers of the subject merchandise during the POI that did not respond to Commerce's requests for information. Specifically, Commerce did not receive timely responses to its Q&V questionnaire from six Chinese exporters and/or producers of subject merchandise that were named in the Petition and to whom Commerce issued Q&V questionnaires.¹⁰⁰ Because non-responsive Chinese companies have not demonstrated that they are eligible for separate rate status, Commerce finds that they have not rebutted the presumption of government control and, thus, Commerce considers them to be part of the China-wide entity. Furthermore, as explained below, we are preliminarily determining the China-wide rate on the basis of AFA. We have preliminarily assigned the China-wide entity a dumping margin of 114.58 percent. *See* "Selection of the AFA Rate" section, below.

G) Application of Facts Available and Adverse Inferences

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

Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the

⁹⁷ See Memorandum, "Non-Refillable Steel Cylinders from the People's Republic of China – Calculation of Preliminary Dumping Margin for Separate Rate Recipients," dated concurrently with this memorandum.

⁹⁸ See *Initiation Notice*, 85 FR at 22406.

⁹⁹ See Policy Bulletin 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>.

¹⁰⁰ Commerce did not receive a response from the following exporter/producers: Jiangsu Kasidi Chemical Machinery Co., Ltd.; Jinhua Sinoblue Machinery Manufacturing Co., Ltd.; Ningbo Runkey CGA Cylinders Co., Ltd.; Zhejiang Ansheng Mechanical Manufacture Co., Ltd.; Zhejiang Nof Chemical Co, Ltd.; and Ninhua Group Co., Ltd. *See* Respondent Selection Memorandum 2.

deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

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

1. Use of Facts Available

Commerce preliminarily finds that the use of facts available is appropriate for the China-wide entity, which includes certain 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. 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.¹⁰¹

2. Application of Facts Available with an Adverse Inference

Section 776(b) of the Act provides that in selecting from among the facts otherwise available, Commerce may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Commerce finds that the China-wide entity's lack of participation, including the failure of certain parts of the China-wide entity to submit Q&V information, constitutes circumstances under which it is reasonable to conclude that the China-wide entity as a whole failed to cooperate to the best of its ability to comply with Commerce's request for information.¹⁰²

With respect to the missing information, no documents were filed indicating any difficulty providing the information, nor was there a request to allow the information to be submitted in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from among the facts otherwise available with respect to the China-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).¹⁰³

¹⁰¹ 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).

¹⁰² See *Nippon Steel Corporation v. United States*, 337 F. 3d 1373, 1383 (Fed. Cir. 2003) (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 where it is reasonable to conclude that less than full cooperation has been shown)).

¹⁰³ *Id.*, 337 F. 3d 1373, 1382-83.

3. Selection of the AFA rate

In applying an adverse inference, Commerce may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.¹⁰⁴ 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.¹⁰⁵ 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.¹⁰⁶ However, Commerce has used other rates, such as the highest transaction-specific margin of a cooperative respondent, as the basis for the AFA rate where it has determined use of the higher of the highest dumping margin alleged in the petition or the highest rate calculated for a respondent in the investigation would not be fair to the cooperative respondent and where the use of an alternative rate strikes an appropriate balance between the goal of inducing future cooperation by and the rate not being punitive.¹⁰⁷

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.¹⁰⁸ Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise."¹⁰⁹ The SAA clarifies that "corroborate" means that Commerce will satisfy itself that the secondary information to be used has probative value.¹¹⁰ The SAA and Commerce's regulations explain that independent sources used to corroborate such information may include, for example, published price lists, official import statistics and customs data, and information derived from interested parties during the particular investigation.¹¹¹

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.¹¹² Under section 776(d) of the Act, Commerce may use any dumping margin from any segment of the proceeding under the applicable antidumping order when applying an adverse inference, including the highest of such margins. If Commerce is

¹⁰⁴ See section 776(b) of the Act.

¹⁰⁵ See the Statement of Administrative Action, H.R. Rep. No. 103-316, Vol. 1 (1994) (SAA) at 870.

¹⁰⁶ See, e.g., *Certain Uncoated Paper from Indonesia: Final Determination of Sales at Less Than Fair Value*, 81 FR 3101 (January 20, 2016).

¹⁰⁷ See *Biodiesel from Indonesia: Final Determination of Sales at Less Than Fair Value*, 83 FR 8835 (March 1, 2018), and accompanying IDM at Comment 9 (*Biodiesel from Indonesia*); and *Nan Ya Plastics Corp., Ltd. v. United States*, 810 F. 3d 1333, 1345-46 (CAFC 2016) (*Nan Ya*).

¹⁰⁸ See 19 CFR 351.308(d).

¹⁰⁹ See SAA at 870.

¹¹⁰ *Id.*; see also 19 CFR 351.308(d).

¹¹¹ See SAA at 870; see also 19 CFR 351.308(d).

¹¹² See section 776(d)(3) of the Act.

unable to corroborate the highest petition margin using individual transaction-specific margins; Commerce may use the component approach to corroboration.¹¹³

With respect to the AFA rate applied to the China-wide entity, we find it is most appropriate to apply the highest transaction-specific margin of the sole cooperative mandatory respondent, SKY, for the preliminary determination. As noted above, applying the highest transaction-specific margin of a cooperative respondent as a non-cooperative respondent's AFA rate is consistent with our approach in similar circumstances, and has been sustained by the Court of Appeals for the Federal Circuit (CAFC).¹¹⁴ Our normal method for determining the AFA rate would result in applying SKY's weighted-average dumping margin to the China-wide entity as AFA. However, using our usual method here is not only insufficient to induce cooperation, it is also unfair to SKY, because SKY cooperated fully with Commerce in this investigation. Further, we find that the highest petition rate of 53.76 percent is insufficiently adverse to induce cooperation. The SAA explains that where a respondent has failed to cooperate under section 776(b) of the Act, Commerce is "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully," and that one factor that Commerce may consider in selecting adverse facts available is "the extent to which a party may benefit from its own lack of cooperation."¹¹⁵ In considering this factor, we find that applying the petition rate as the China-wide entity's total AFA rate would in fact reward the China-wide entity for being uncooperative, because that rate is lower than fully cooperative respondent SKY's calculated margin. We find that relying on SKY's highest individual dumping margin as the China-wide entity's AFA rate strikes an appropriate balance between the goal of inducing future cooperation, and the rate not being punitive. The individual dumping margin selected does not involve an aberrational sale in terms of the type of product or quantity sold. The individual dumping margin is also within the mainstream of SKY's other calculated rates. Therefore, Commerce has preliminarily applied SKY's highest individual dumping margin of 114.58 percent to the China-wide entity as AFA. Because this rate is based on information that SKY provided in this investigation, it is not secondary information within the meaning of section 776(c) of the Act; thus, Commerce need not corroborate this rate.

H) Date of Sale

In identifying the date of sale of the subject merchandise, Commerce will normally, in accordance with 19 CFR 351.401(i), "use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms.¹¹⁶ Additionally, Commerce may use a date

¹¹³ See, e.g., *Polyester Textured Yarn from India: Final Determination of Sales at Less Than Fair Value*, 84 FR 63843 (November 19, 2019), and accompanying IDM at Comment 7.

¹¹⁴ See *Biodiesel from Indonesia* IDM at Comment 9; and *Nan Ya*, 810 F. 3d 1333, 1345-46 (CAFC 2016).

¹¹⁵ See SAA at 870.

¹¹⁶ See, e.g., *Carbon and Alloy Steel Wire Rod from Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying IDM at Comment 1; see also *Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying IDM at Comment 1.

other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.¹¹⁷

In this investigation, SKY reported the earlier of shipment date or invoice date as the date of sale, since SKY issued invoices for certain sales during the POI after the shipment date.¹¹⁸ Wuyi Xilinde selected the invoice date as the date of sale because the material terms of the sale are no longer subject to change after the invoice is issued.¹¹⁹ Commerce's normal practice is to rely on the earlier of shipment or invoice date as the date of sale.¹²⁰ Therefore, we preliminarily determined to use the earlier of invoice date or shipment date as the date of sale for each respondent.

I) Comparisons to Fair Value

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

1. Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (*i.e.*, the average-to-average (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.¹²¹

In numerous investigations, Commerce applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹²² Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of

¹¹⁷ 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)).

¹¹⁸ See SKY's SCQR at 2.

¹¹⁹ See Wuyi Xilinde's CQR at 11.

¹²⁰ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Brazil*, 67 FR 62134 (October 3, 2002); see also *Lightweight Thermal Paper from Germany: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 34719 (June 18, 2014), and accompanying IDM at Comment 2; and *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007) (*Thai Shrimp Final AD Administrative Review*), and accompanying IDM at Comment 11.

¹²¹ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012), and accompanying IDM at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

¹²² 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); see also *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).

examining whether to apply an alternative comparison method in this administrative review. 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 these preliminary results examines whether there exists a pattern of export prices (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, zip code, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the 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 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 under the "mixed method." 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 segment of the proceeding.¹²³

2. Results of the Differential Pricing Analysis

a. SKY

For SKY, based on the results of the differential pricing analysis, Commerce preliminarily finds that 99.6 percent of the value of U.S. sales pass the Cohen's *d* test,¹²⁴ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. However, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for SKY.

¹²³ The CAFC in *Apex Frozen Foods v. United States*, 862 F. 3d 1322 (Fed. Cir. July 12, 2017) affirmed much of Commerce's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

¹²⁴ See Memorandum, "Non-Refillable Steel Cylinders from the People's Republic of China: SKY's Preliminary Analysis Memorandum," dated concurrently with this memorandum (SKY's Preliminary Analysis Memorandum).

b. Wuyi Xilinde

For Wuyi Xilinde, based on the results of the differential pricing analysis, Commerce preliminarily finds that 77.6 percent of the value of U.S. sales pass the Cohen's *d* test,¹²⁵ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. However, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for this preliminary determination, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Wuyi Xilinde.

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 of all the sales reported by SKY and Wuyi Xilinde. Commerce calculated the EP based on the prices at which subject merchandise was sold to unaffiliated purchasers in the United States.

We calculated EP based on packed prices to unaffiliated customers in the United States. We deducted discounts, where appropriate, and rebates, as appropriate, from the starting prices reported. Commerce made deductions, as appropriate, from the reported U.S. price for movement expenses (*e.g.*, foreign inland freight and brokerage and handling), in accordance with section 772(c)(2)(A) of the Act.¹²⁶ We based movement expenses on SVs where the service was purchased from a Chinese company.¹²⁷

K) Value-Added Tax

In 2012, Commerce announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any un-refunded (herein "irrecoverable") value-added tax (VAT) in certain NME countries in accordance with section 772(c)(2)(B) of the Act.¹²⁸ 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.¹²⁹ 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.¹³⁰

¹²⁵ See Memorandum, "Non-Refillable Steel Cylinders from the People's Republic of China: Wuyi Xilinde's Preliminary Analysis Memorandum," dated concurrently with this memorandum (Wuyi Xilinde's Preliminary Analysis Memorandum).

¹²⁶ See section 772(c)(2)(A) of the Act.

¹²⁷ See "Factor Valuation Methodology" section below.

¹²⁸ 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).

¹²⁹ *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) (*Chloro Isos from China*), and accompanying IDM at Comment 5.A.

¹³⁰ See *Chloro Isos from China* IDM at Comment 5.A.

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 by the amount determined in step one. Information placed on the record of this investigation by SKY and Wuyi Xilinde indicates that according to the Chinese VAT schedule applicable to this POI, the standard VAT levy applicable to the subject merchandise is 13 percent and the applicable rebate rate is 13 percent.¹³¹ Therefore, because the record indicates that there was no difference between the standard VAT rates and the refund rates during the POI, and thus no irrecoverable VAT, no reduction of export sales value is necessary.

L) Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(e) of the Act. When determining NV in an NME context, Commerce will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Commerce's questionnaire requires that the respondents provide information regarding the weighted-average FOPs on a CONNUM-specific basis, using actual quantities, or develop a reasonable methodology, across all of the companies' plants and suppliers that produce the subject merchandise, not just the FOPs from a single plant or supplier.¹³² This methodology ensures that Commerce's calculations are as accurate as possible.¹³³

Commerce 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 used by the respondents in the production of non-refillable cylinders 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. Commerce based NV on the respondents' reported FOPs for materials, energy, and labor.

M) Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by SKY and Wuyi Xilinde. To calculate NV, we multiplied the reported per-unit FOP consumption rates by publicly available SVs. When selecting SVs, we considered, among other factors, the quality, specificity, and contemporaneity of the SV data.¹³⁴ As appropriate, we adjusted FOP costs by including freight costs to make them delivered values. Specifically, we added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the

¹³¹ See SKY's SCQR at 7; see also Wuyi Xilinde's CQR at 33; and Wuyi Xilinde's SCDQR at 4.

¹³² See AD Questionnaire at Section D and D-2.

¹³³ See, e.g., *Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings from the People's Republic of China*, 68 FR 61395 (October 28, 2003), and accompanying IDM at Comment 19.

¹³⁴ 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.

reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.¹³⁵ A detailed description of the SVs used can be found in the Preliminary SV Memorandum.¹³⁶

1. *Direct and Packing Materials*

For this preliminary determination, we are using Malaysian import data, as published by GTA, to calculate SVs for FOPs. In accordance with section 773(c)(1) of the Act, we used the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are: (1) broad market averages; (2) product-specific; (3) tax-exclusive, non-export average values; and (4) contemporaneous with, or closest in time to, the POI.¹³⁷ As appropriate, Commerce adjusted input prices by including freight costs to render them delivered prices. In accordance with section 773(c) of the Act, for subject merchandise produced by the respondents, Commerce calculated NV based on the FOPs they reported for the POI.

Pursuant to section 773(c)(5) of the Act and Commerce's long-standing practice, we have disregarded import prices that we have reason to believe or suspect may be subsidized.¹³⁸ We have reason to believe or suspect that prices of inputs from India, Indonesia, Thailand, and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.¹³⁹ 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 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. Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an "unspecified" country from the average value because Commerce could not be certain that they were not from either an NME country or a country with general export subsidies.¹⁴⁰ Therefore, we have not used prices from these countries either in calculating the Malaysian import-based SVs or in calculating ME input values.

¹³⁵ See *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407-08 (Fed. Cir. 1997).

¹³⁶ See Preliminary SV Memorandum.

¹³⁷ 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.

¹³⁸ See section 773(c)(5) of the Act, as amended in section 505 of the TPEA to permit Commerce to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values; see also, *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).

¹³⁹ See, e.g., *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying IDM at 4-5; see also *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying IDM at 17, 19-20; *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; and *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying IDM at IV.

¹⁴⁰ 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, 75300 (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).

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities, that are produced in an ME and pays in an ME currency, Commerce uses the actual price paid by the respondent to value those inputs, if substantially all of the factor, by total volume, is purchased from the market economy supplier.¹⁴¹ However, in this investigation, both SKY and Wuyi Xilinde reported that all input purchases were sourced from NME sources.

2. Labor

We calculated an hourly labor rate by using data from the Department of Statistics Malaysia.¹⁴²

3. Energy

We preliminarily valued electricity based the POI data from the World Bank's *Doing Business 2020* report.¹⁴³ For industrial gasses (*i.e.*, natural gas, argon, and carbon dioxide), we relied on POI-import statistics from GTA.¹⁴⁴ We preliminarily valued water using tariffs from the National Water Services Commission for Malaysia.¹⁴⁵

4. Movement Expenses

As appropriate, we added freight costs to SVs. Specifically, we added surrogate inland freight costs to import values used as SVs. We calculated freight SVs using the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest port that accommodates ocean-going transport to the factory that produced the subject merchandise, where appropriate.¹⁴⁶

We valued truck freight expenses and foreign brokerage and handling expenses using data from the World Bank's *Doing Business 2020 – Malaysia*.¹⁴⁷

5. Financial Ratios

According to 19 CFR 351.408(c)(4), Commerce is directed to value overhead, selling, general and administrative (SG&A) expenses, and profit using non-proprietary information gathered from producers of merchandise that is identical or comparable to the merchandise under consideration in the surrogate country. Commerce's preference is to derive surrogate overhead expenses, SG&A expenses, and profit using financial statements covering a period that is contemporaneous with the POI, that show a profit, from companies with a production experience similar to the respondents' production experience, and that are not distorted or otherwise unreliable, such as financial statements that indicate the company received subsidies.¹⁴⁸

¹⁴¹ See *Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013).

¹⁴² See Petitioner's August 6 SV Comments at Exhibit Malaysia-4.

¹⁴³ *Id.* at 3 and Exhibit Malaysia-5-A.

¹⁴⁴ *Id.* at Exhibit Malaysia-5-B.

¹⁴⁵ *Id.* at Exhibit Malaysia-5-C.

¹⁴⁶ See *Sigma Corp.*, 117 F. 3d at 1407-08.

¹⁴⁷ See Petitioner's August 6 SV Comments at Malaysia-7; see also Preliminary SV Memorandum.

¹⁴⁸ See *Hand Trucks and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*; 2010-2011, 78 FR 28801 (May 16, 2013), and accompanying IDM at Comment 2; see

To value factory overhead, selling, general, and administrative expenses (SG&A), and profit, we used the 2019 audited public financial statements of CN Asian; KKB; and Siraga, which are producers of comparable merchandise in Malaysia.¹⁴⁹

VII. CURRENCY CONVERSION

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

VIII. ADJUSTMENT FOR COUNTERAVAILABLE EXPORT SUBSIDIES

In AD investigations where there is a concurrent countervailing duty (CVD) investigation, it is Commerce's normal practice to calculate the cash deposit rate for each respondent by adjusting the respondent's weighted-average dumping margin to account for export subsidies found for each respective respondent in the concurrent countervailing duty investigation. Doing so is in accordance with section 772(c)(1)(C) of the Act, which states that U.S. price "shall be increased by the amount of any countervailing duty imposed on the subject merchandise ... to offset an export subsidy."¹⁵⁰

Commerce determined in the preliminary determination of the companion CVD investigation that Wuyi Xilinde benefitted from certain subsidy programs contingent on exports totaling 11.55 percent.¹⁵¹ With respect to SKY (which was not selected as a mandatory respondent in the companion proceeding) and the separate rate companies other than Ningbo Eagle, we find that an export subsidy adjustment of 11.16 percent is warranted because this is the export subsidy rate included in the CVD all-others rate, to which the separate rate companies are subject in the companion CVD proceeding.¹⁵² For Ningbo Eagle (which was selected as a mandatory respondent in the companion proceeding, but is a separate rate respondent in the instant proceeding), we find that an export subsidy adjustment of 10.54 percent is warranted because this is the amount we determined Ningbo Eagle benefitted from certain subsidy programs contingent on export subsidies in the companion CVD proceeding.¹⁵³ For the China-wide entity, which preliminarily received an AFA margin, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, Commerce has adjusted the China-wide entity's

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

¹⁴⁹ See Preliminary SV Memorandum.

¹⁵⁰ 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.

¹⁵¹ See *Certain Non-Refillable Steel Cylinders from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 53323 (August 28, 2020) (*Non-Refillable Cylinders from China CVD Prelim*), and accompanying PDM; see also Memorandum, "Non-Refillable Steel Cylinders from the People's Republic of China: Double Remedies and Export Subsidy Offset Calculation," dated concurrently with this memorandum (Preliminary Subsidies Offset Memorandum)

¹⁵² *Id.*

¹⁵³ *Id.*

AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding,¹⁵⁴ which is the 10.54 percent rate applicable to Ningbo Eagle.¹⁵⁵

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

In applying section 777A(f) of the Act, Commerce examines: (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to 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.¹⁵⁶ For a subsidy meeting these criteria, the statute requires Commerce to reduce the dumping margin by the estimated amount of the increase in the weighted-average dumping margin due to a countervailable subsidy, subject to a specified cap.¹⁵⁷ In conducting this analysis, Commerce has not concluded that concurrent application of NME dumping duties and countervailing duties necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.¹⁵⁸

For purposes of our analysis under sections 777A(f)(1)(A) and (f)(1)(C) of the Act, Commerce requested firm-specific information from the mandatory respondents as part of the initial antidumping questionnaire.¹⁵⁹ The information sought included information regarding whether countervailable subsidies were received during the relevant period, information on costs, and information regarding the respondents' pricing policies and practices. Additionally, the respondents were required to provide documentary support for the information provided. SKY submitted a response to Commerce's firm-specific double remedies questionnaire.¹⁶⁰ The responses received from SKY included information concerning countervailable subsidies received during the relevant period, as well as information regarding its costs and pricing policies and practices. Wuyi Xilinde did not provide a response to the Double Remedies questionnaire and, as such, is not eligible for an offset.

¹⁵⁴ See, e.g., *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; in Part and Postponement of Final Determination*, 80 FR 4250 (January 27, 2015) (*PVLT from China*), and accompanying PDM at 35.

¹⁵⁵ See Preliminary Subsidies Offset Memorandum.

¹⁵⁶ See section 777A(f)(1)(A)-(C) of the Act.

¹⁵⁷ See section 777A(f)(1)-(2) of the Act.

¹⁵⁸ See, e.g., *PVLT from China* and accompanying PDM at section "Adjustment Under Section 777A(f) of the Act" unchanged in *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 FR 34893 (June 18, 2015), and accompanying IDM.

¹⁵⁹ See Commerce's Letters, "Certain Non-Refillable Steel Cylinders from China; AD Investigation: Double Remedy Questionnaire," both dated May 27, 2020.

¹⁶⁰ See SKY's Letter, "Certain Non-Refillable Steel Cylinders from China; A-570-126; Response to Double Remedy Questionnaire," dated June 17, 2020 (SKY's Double Remedies Response).

In accordance with section 777A(f)(1)(A) of the Act, Commerce examines whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise. Commerce found the provision of electricity, and cold-rolled steel for less than adequate remuneration (LTAR) to be countervailable with respect to the class or kind of merchandise in the companion CVD investigation.¹⁶¹ Although SKY is not a mandatory respondent in the companion CVD investigation, it reported receiving countervailable subsidies for the provision of electricity, and cold-rolled steel.¹⁶² SKY also provided monthly POI costs for its purchases of electricity, and cold-rolled steel.¹⁶³ Commerce preliminarily finds that the requirement of section 777A(f)(1)(A) of the Act has been met.

As discussed above, section 777A(f)(1)(B) of the Act requires consideration of whether the countervailable subsidy programs noted above have been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period. In recent investigations, we examined the preliminary report issued by the ITC in order to conduct an analysis under section 777A(f)(1)(B) to determine whether prices of imports of the class or kind of merchandise decreased during the relevant period.¹⁶⁴ Accordingly, for this preliminary determination, we examined the preliminary report issued by the ITC to determine whether section 777A(f)(1)(B) of the Act has been satisfied.¹⁶⁵ With regard to import prices on subject merchandise, the report states as follows:

“By quantity, U.S. imports of NRSCs from China decreased by *** percent from 2017 to 2018, and increased by *** percent from 2018 to 2019, for an overall increase in quantity of *** percent from 2017 to 2019. By value, imports from China decreased by *** percent from 2017 to 2018, and increased by *** percent from 2018 to 2019, for an overall decrease in value of *** percent from 2017 to 2019. Unit values for imports from China decreased by *** percent from 2017 to 2018 and increased by *** percent between 2018 and 2019.”¹⁶⁶

Due to the proprietary nature of the underlying information (which was not the case for other recent investigations where we relied upon such information in our analysis of this prong of the statute), the information is inconclusive with respect to price trends during the relevant period. Nevertheless, the statement that there was an overall increase of quantity from 2017 to 2019 and an accompanying decrease in value over the same period, suggests that prices did decrease during the period. In order to corroborate this trend, we then reviewed U.S. import data for imports under the two primary HTS subheadings listed in the scope (HTS 7311.00.00.60 (Iron Or Steel Pressure Containers, Cert Or Exm Nes) and 7311.00.00.90 (Iron Or Steel Pressure Containers Nesoi) from China during the 6 months of the POI and for each six month period since 2017.¹⁶⁷ A review of this import data shows a general decrease in the average import price

¹⁶¹ See *Non-Refillable Cylinders from China CVD Prelim PDM*.

¹⁶² See SKY’s Double Remedies Response at 2 and 5.

¹⁶³ See SKY’s Double Remedies Response at Exhibits DR-2, and DR-3.

¹⁶⁴ See *Non-Refillable Steel Cylinders from China, Investigation Nos. 701-TA-644 and 731-TA-1494 (Preliminary)*; Publication 5057, May 2020 (*Preliminary ITC Determination*).

¹⁶⁵ *Id.*

¹⁶⁶ *Id.* at IV-3.

¹⁶⁷ See Preliminary Subsidies Offset Memorandum. We note that analysis of import data has been used to satisfy this prong of the analysis for Double Remedies adjustments in administrative reviews where the discussion of price

during the relevant period.¹⁶⁸ Based on this analysis, we preliminarily determine that ITC import data for the subject merchandise shows a general decrease in the U.S. average import price during the relevant period. Thus, Commerce preliminarily finds that the requirement under section 777A(f)(1)(B) of the Act has been met.

Additionally, in accordance with section 777A(f)(1)(C) of the Act, Commerce examined whether SKY demonstrated: (1) a subsidies-to-cost link, *i.e.*, a subsidy effect on the cost of manufacturing (COM) of the merchandise; and (2) a cost-to-price link, *i.e.*, the respondent's prices were dependent on changes in the COM. With respect to the subsidies-to-cost link, in its double remedies questionnaire responses, SKY reported that it consumed electricity, and cold-rolled steel in the production of subject merchandise.¹⁶⁹ Specifically, record shows that SKY's direct material costs and overhead costs are affected by changes in cold-rolled steel and electricity prices.¹⁷⁰ Thus, Commerce preliminarily concludes that SKY established a subsidies-to-cost link because subsidies for the provision of electricity, and cold-rolled steel for LTAR impact its costs for producing subject merchandise.

To demonstrate a cost-to-price link, SKY provided a monthly production cost report, prepared by the company's Financial Department, which is provided for the management to adjust price.¹⁷¹ SKY also provided a price adjustment "WeChat" screenshot where management discussed necessary changes to EP of subject merchandise due to changes to the purchase price of cold-rolled steel, cartons, and valve inputs.¹⁷²

Based on the above, we find that SKY provided evidence to demonstrate the subsidy effect on the COM of the merchandise and the relationship between its purchase price of inputs (cold-rolled steel) and electricity and the sale price of subject merchandise. Because SKY's double remedy responses indicate that factors other than the cost of the inputs for LTAR impact prices to customers (*e.g.*, prevailing market price for the merchandise and expected profit), we have preliminarily applied a documented ratio of cost-price changes for the relevant manufacturing sector as a whole, which is based on data provided by Bloomberg, as the estimate of the extent of subsidy pass-through.¹⁷³ Therefore, we are adjusting SKY's U.S. price for a pass-through adjustment for domestic subsidies in the calculation of the cash deposit rate for SKY. For SKY, we used the subsidy rates applied to the all-other companies in the companion CVD investigation (*i.e.*, average of Wuyi Xilinde and Ningbo Eagle's subsidy rates found in the companion CVD proceeding weighted by POI sales value for each respondent in that proceeding), multiplied by the pass-through rate obtained from Bloomberg, in order to obtain the amount of subsidy passed through and deducted from the calculated dumping margin.¹⁷⁴ Additionally, because SKY is eligible for a domestic pass-through adjustment, we made a domestic pass-through adjustment

trends in the ITC report is not available and/or relevant to the applicable period of review; *see, e.g., Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 44283 (August 23, 2019), and accompanying PDM at 24-26 (unchanged in *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 59770 (November 6, 2019)).

¹⁶⁸ See Preliminary Subsidies Offset Memorandum.

¹⁶⁹ See, generally, SKY's Double Remedies Response.

¹⁷⁰ See SKY's Double Remedies Response at 5.

¹⁷¹ See SKY's July 30 SQR at 1 and Exhibit SDR-1.

¹⁷² *Id.* at 2 and Exhibit SDR-3.

¹⁷³ See Preliminary Subsidies Offset Memorandum.

¹⁷⁴ *Id.*

for the non-selected separate rate respondents using the same domestic pass-through adjustment rates applied to SKY, which is consistent with section 777A(f)(2) of the Act.¹⁷⁵ However, because the separate rate in this AD proceeding reflects an average of Wuyi Xilinde and SKY's dumping margins weighted by the POI sales value for each respondent, and because Wuyi Xilinde did not demonstrate its eligibility for a domestic pass-through adjustment, we adjusted the domestic pass-through adjustment rates applied to the separate rate respondents to remove from this adjustment the percentage corresponding to Wuyi Xilinde's constituent weight in the separate rate calculation.¹⁷⁶ For the China-wide entity, we used the lowest domestic pass-through adjustment rate determined for any party in this investigation pursuant to the adverse inference, which is the zero offset for Wuyi Xilinde, and did not adjust the AD cash deposit rate for the China-wide entity.¹⁷⁷

X. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree

10/23/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

¹⁷⁵ See *Aluminum Extrusions from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 32347 (June 8, 2015), and accompanying PDM at 34, unchanged in *Aluminum Extrusions from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 75060, 75063 (December 1, 2015).

¹⁷⁶ See Preliminary Subsidies Offset Memorandum.

¹⁷⁷ *Id.*; see also *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 75 (January 4, 2016), and accompanying PDM at 25-26, unchanged in *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316, 35318 (June 2, 2016).