



A-570-900
POR: 11/01/2018-10/31/2019
Public Document
E&C/OI: BH/TES

March 15, 2021

MEMORANDUM TO: Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Diamond Sawblades and Parts Thereof from the People's Republic of China: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (China) covering the period of review (POR) November 1, 2018 through October 31, 2019. Commerce preliminarily determines that sales of subject merchandise by mandatory respondent subject to this review, Chengdu Huifeng New Material Technology Co., Ltd. (Chengdu Huifeng), were not made at prices below normal value (NV) and sales of subject merchandise by mandatory respondent Wuhan Wanbang Laser Diamond Tools Co., Ltd. (Wuhan Wanbang) were made at prices below NV.

II. BACKGROUND

On November 4, 2009, Commerce published in the *Federal Register* an AD order on diamond sawblades from China.¹ On November 1, 2019, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the order.²

On January 17, 2020, based on timely requests for an administrative review, Commerce initiated an administrative review of forty-six exporters/producers.³ On February 20, 2020, we selected

¹ See *Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea: Antidumping Duty Orders*, 74 FR 57145 (November 4, 2009).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 84 FR 58690 (November 1, 2019).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014 (January 17, 2020) (*Initiation Notice*).

Chengdu Huifeng and Wuhan Wanbang as the mandatory respondents for individual examination in this review.⁴

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.⁵ On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.⁶ On October 19, 2020, Commerce extended the time limit for issuing the preliminary results of this review by 120 days, to no later than March 19, 2021.⁷ On March 3, 2021, the Diamond Sawblades Manufacturers' Coalition (the petitioner) submitted pre-preliminary comments.⁸ On March 15, 2021, Chengdu Huifeng and Wuhan Wanbang submitted pre-preliminary comments.⁹ We are conducting this review in accordance with section 751(a)(1)(B) and (a)(2)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213.

III. SCOPE OF THE ORDER

The products covered by the order are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of the order are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of the order. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of the order. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of the order. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the order. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from

⁴ See Memorandum, "Antidumping Duty Administrative Review of Diamond Sawblades and Parts Thereof from the People's Republic of China: Respondent Selection," dated February 20, 2020 (Respondent Selection Memorandum).

⁵ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

⁶ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

⁷ See Memorandum, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review, 2017-2018," dated August 14, 2019.

⁸ See Petitioner's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Pre-Preliminary Determination Comments," dated March 3, 2021.

⁹ See Chengdu Huifeng and Wuhan Wanbang's Letter, "Diamond Sawblades and Parts Thereof from China: Respondents' Pre-Preliminary Comments," dated March 15, 2021.

the scope of the order. Merchandise subject to the order is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, Commerce included the 6804.21.00.00 HTSUS classification number to the customs case reference file, pursuant to a request by U.S. Customer and Border Protection (CBP).¹⁰ Pursuant to requests by CBP, Commerce included to the customs case reference file the following HTSUS classification numbers: 8202.39.0040 and 8202.39.0070 on January 22, 2015, and 6804.21.0010 and 6804.21.0080 on January 26, 2015.

The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

IV. PRELIMINARY DETERMINATION OF NO SHIPMENTS

On January 30, 2020, Commerce placed CBP data on the record of this review.¹¹ On February 14, 2020, Commerce received timely no-shipment certifications from three companies: Bosun Tools Co., Ltd., Danyang Weiwang Tools Manufacturing Co., Ltd., and Weihai Xiangguang Mechanical Industrial Co., Ltd.¹²

Subsequently, we sent inquiries to CBP requesting that it inform us if it had any information related to shipments of subject merchandise from these three companies during the POR.¹³ CBP responded and we placed CBP's response on the record on July 2, 2020.¹⁴ Bosun Tools Co., Ltd., submitted rebuttal factual information on July 9, 2020.¹⁵ Based on the record evidence submitted, we preliminarily determine that these three companies had no shipments during the POR.

Consistent with our practice, we find that it is not appropriate to rescind the review with respect to these three companies but, rather, to complete the review and issue appropriate instructions to CBP based on the final results of this review.¹⁶ Should evidence contrary to these no-shipment claims arise, we will revisit this issue in the final results.

¹⁰ See *Diamond Sawblades and Parts Thereof from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 76128, 76130 (December 6, 2011).

¹¹ See Commerce's Memorandum to All Interested Parties, dated January 30, 2020.

¹² See Bosun Tools Co., Ltd.'s Letter, "Diamond Sawblades from the People's Republic of China Separate Rate Certification," dated February 14, 2020; see also Danyang Weiwang Tools Manufacturing Co., Ltd.'s Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Submission of Statement of No Shipments," dated February 14, 2020; and Weihai Xiangguang Mechanical Industrial Co., Ltd.'s Letter, "No Shipment Letter for Weihai Xiangguang Mechanical Industrial Co., Ltd.: Diamond Sawblades and Parts Thereof from the People's Republic of China (Review Period: 11/1/18-10/31/19)," dated February 14, 2020.

¹³ See CBP message numbers 0094406, 0094409, and 0094410, dated April 3, 2020 (ACCESS barcodes 3962143-01, 3962145-01, and 3962146-01).

¹⁴ See Commerce's Letter to All Interested Parties, dated July 2, 2020.

¹⁵ See Bosun Tools Co., Ltd.'s Letter, "Diamond Sawblades from the People's Republic of China - Bosun Comments on CBP Data," dated July 9, 2020.

¹⁶ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

V. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country Status

Commerce considers China to be a non-market economy (NME) country.¹⁷ In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding contested NME treatment for China. Therefore, for the preliminary results of this review, we treated China as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

B. Surrogate Country

In antidumping proceedings involving NME countries, pursuant to section 773(c)(1) of the Act, we generally base NV on the value of the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by Commerce. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, we use, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.¹⁸

We determined that Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey are countries whose *per capita* gross national incomes (GNI) are at the same level of economic development as the China.¹⁹ On February 21, 2020, we requested comments from interested parties regarding the selection of a surrogate country and surrogate values (SVs).²⁰ In response, the petitioner suggested selecting Turkey or Thailand as a surrogate country, and Chengdu Huifeng and Wuhan Wanbang (collectively, the respondents) recommended selecting Brazil as the surrogate country.²¹

¹⁷ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

¹⁸ See Enforcement and Compliance Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin) available at <http://enforcement.trade.gov/policy/index.html>.

¹⁹ See Commerce's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China; 2018-2019: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated February 21, 2020 (Request Letter) at attached Commerce Memorandum, "List of Surrogate Countries for Antidumping Investigations and Reviews from the People's Republic of China," dated August 15, 2019 (Policy Memorandum).

²⁰ See, generally Request Letter.

²¹ See Petitioner's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Comments on Surrogate Country Selection," dated July 1, 2020 at 2; see also Chengdu Huifeng's and Wuhan Wanbang's Letter, "Diamond Sawblades and Parts Thereof from China: Comments on Surrogate Country Selection," dated July 1, 2020 at 2.

1. Same Level of Economic Development

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 (a) either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.²²

As stated above, we determined that Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey are each at the same level of economic development as China in terms of *per capita* GNI during the POR.²³ Interested parties provided surrogate value information for Brazil, Thailand, and Turkey; however, we find that Thailand is not at the same level of economic development as China based on per capita GNI because its per capita GNI is lower than the lowest per capita GNI provided in the Policy Memorandum.

2. Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce to value FOPs in a surrogate country that is a significant producer of comparable merchandise. 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, we look to other sources such as the Enforcement and Compliance Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (Policy Bulletin 04.1), for guidance on defining comparable merchandise. The Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."²⁴ If identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.²⁵ Further, when selecting a surrogate country, the statute requires us to consider the comparability of the merchandise, not the comparability of the industry.²⁶

The statute grants us discretion to examine various data sources for determining the best available information.²⁷ Moreover, while the legislative history provides that the term

²² See Policy Memorandum.

²³ *Id.*

²⁴ See Policy Bulletin 04.1, which is available on the Enforcement and Compliance website at <http://enforcement.trade.gov/policy/bull04-1.html>.

²⁵ The Policy Bulletin also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise," see Policy Bulletin 04.1 at n.6.

²⁶ See *Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65676 (December 15, 1997) ("Thus, to 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.")

²⁷ See section 773(c) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

“significant producer” includes any country that is a significant “net exporter,”²⁸ it does not preclude reliance on additional or alternative metrics. In this review, because production data of comparable merchandise are not available, we first analyzed exports of comparable merchandise from the six potential surrogate countries, as a proxy for production data. In this review, we preliminarily determine that merchandise described under HTS code 8202.39 (“Circular Saw Blades Of Base Metal With Working Part Of Material Other Than Steel, And Parts”) is identical or comparable to the merchandise covered by this review. This analysis shows that four of the six countries identified in the Policy Memorandum as being at the same level of economic development as China have exports of HTS code 8202.39 during the POR. Additionally, Thailand, another country for which we received SV data, has exports of HTS code 8202.39 during the POR. Therefore, we find that Brazil, Malaysia, Mexico, Russia, and Thailand are significant producers of comparable or identical merchandise.

3. Data Considerations

When evaluating SV data, we consider several factors including whether the SV is publicly available, contemporaneous with the POR, representative of a broad-market average, from an approved surrogate country, tax- and duty-exclusive, and specific to the input.²⁹ There is no hierarchy among these criteria. It is our practice to consider carefully the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.³⁰

As an initial matter, interested parties have provided surrogate value data for Brazil, Mexico, Russia, Thailand, and Turkey. However, only Brazil satisfies the full breadth of our surrogate country selection criteria. Specifically, among the countries listed in the Policy Memorandum, only Brazil is at the same level of economic development as China, is a significant producer of comparable or identical merchandise, and has useable data. There is information on the record which allows us to apply surrogate values from Brazil to all direct materials, packing materials, byproducts, and energy inputs.³¹ We valued labor in Brazil using data from Trading Economics, which compiles the monthly wages in manufacturing obtained from the Instituto Brasileiro De Geografia E Estatistica.³² Publicly available data from Brazil, which are on the record, provide for calculations of inland truck freight and domestic brokerage and handling (B&H).

Additionally, we have considered whether the appropriate surrogate value for diamond powder is based on mesh-sized synthetic diamond powders or on individual stones. Record information indicates that Chengdu Huifeng purchases and consumes the former rather than the latter.³³ For

²⁸ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).

²⁹ See Policy Bulletin 04.1.

³⁰ *Id.*; see also *Certain Steel Threaded Rod from the People’s Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013), and accompanying Issues and Decision Memorandum (IDM) at 7.

³¹ See Preliminary SV Memo at Exhibit 2.

³² *Id.*; see also Chengdu Huifeng’s and Wuhan Wanbang’s Letter, “Diamond Sawblades and Parts Thereof from China: Initial Surrogate Value Submission,” dated July 16, 2020 at Exhibit 6.

³³ See Chengdu Huifeng’s Letter, “Diamond Sawblades and Parts Thereof from the People’s Republic of China: Chengdu Huifeng’s Third Supplemental Response,” dated February 25, 2021 (Chengdu Huifeng 3SQR) at 7.

this reason, we have valued diamond powder using HTS 7105.10, which covers dust and powder of natural or synthetic diamond.

Where possible, we used information from a country at the same level of economic development as China, *i.e.*, Brazil, to value FOPs. However, there was insufficient record evidence to value surrogate financial ratios with information from Brazil. Specifically, the only Brazilian financial statement on the record is the financial statement for Usinas Siderurgicas de Minas Gerais S.A. (USIMINAS), which is an integrated steel mill.³⁴ We preliminarily determine that USIMINAS' financial statement is not an appropriate source for financial ratios because USIMINAS is a large steel fabricating company that produces a wide variety of steel products. Moreover, USIMINAS' financial statement is consolidated with multiple subsidiary companies. Accordingly, we preliminarily determine that USIMINAS does not produce comparable merchandise nor does its financial statement reflect the financial experience of Chengdu Huifeng. The only other information available on the record for calculating financial ratios is from Thailand and we preliminarily determine that it is useable because Thailand was also identified as a producer of comparable or identical merchandise above. Although the petitioner placed on the record the financial statements of four Thai companies, we have preliminarily used the financial statements of Thai Gulf Abrasives Co., Ltd. - Thailand (Thai Gulf). We decline to rely on the other companies' financial statements because those financial statements lack sufficient detail to calculate surrogate financial ratios.³⁵ This is consistent with our determination in the prior administrative review, where we used the financial statements of Thai Gulf and declined to rely on the other companies' financial statements for the same reason.³⁶

Given the foregoing, we preliminarily select Brazil as the primary surrogate country. Brazil is at the same level of economic development as China; it is a significant producer of comparable merchandise; and the record contains publicly available and reliable data from Brazil for all of the FOPs reported by Chengdu Huifeng, except surrogate financial ratios. Although Thailand is not at the same level of economic development as China, it is a significant producer of comparable merchandise and provides the only useable financial statement for use in valuing surrogate financial ratios. For details on the selected SVs, *see* the "Normal Value" section of this memorandum and the Preliminary Surrogate Value Memorandum.³⁷

³⁴ See Chengdu Huifeng's and Wuhan Wanbang's Letter, "Diamond Sawblades and Parts Thereof from China: Additional Surrogate Value Submission," dated February 17, 2021 at Attachment 8.

³⁵ See Petitioner's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Initial Surrogate Value Submission," dated July 16, 2020 at Exhibits THA-9A through THA-12C.

³⁶ See, *e.g.*, *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 71308 (November 9, 2020), and accompanying IDM at Comment 3.

³⁷ See Memorandum "Diamond Sawblades and Parts Thereof from the People's Republic of China: Surrogate Values for the Preliminary Results of Review; 2018-2019," dated concurrently with this memorandum (Preliminary Surrogate Value Memorandum).

Separate Rates

In AD proceedings involving NME countries, Commerce relies on a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single AD rate.³⁸ Thus, Commerce will assign all exporters this single rate unless an exporter can demonstrate that it is sufficiently independent from the government such that it is entitled to a separate rate. Commerce assigns separate rates in NME proceedings only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities under a test developed by Commerce.³⁹

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of litigation involving other segments of this proceeding, in which the CIT found Commerce's existing separate rates analysis deficient in circumstances where a government-owned and controlled entity had significant ownership in the respondent exporter.⁴⁰ Following the Court's reasoning, in recent proceedings involving other antidumping duty orders, we have concluded that where a government entity holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority ownership holding in and of itself means that the government exercises, or has the potential to exercise, control over the company's operations generally.⁴¹ 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 profit distribution of the company.

In the *Initiation Notice*, Commerce notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.⁴² Commerce received from

³⁸ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); and *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 at Comment 35.

³⁹ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*); see also *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586-87 (May 2, 1994) (*Silicon Carbide*).

⁴⁰ See, e.g., *Final Results of Redetermination pursuant to Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), and available at <http://enforcement.trade.gov/remands/12-147.pdf>, *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*); see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013), and accompanying Preliminary Decision Memorandum (PDM) at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying IDM at Comment 1. .

⁴¹ See, e.g., *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.

⁴² See *Initiation Notice*, 84 FR at 2160.

the respondents selected for individual examination in this review, Chengdu Huifeng⁴³ and Wuhan Wanbang,⁴⁴ information pertaining to the companies' eligibility for a separate rate. Commerce also received from two respondents not selected for individual examination in this review information pertaining to each company's eligibility for a separate rate.⁴⁵

1. Absence of *De Jure* Control

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.⁴⁶

The evidence provided by Chengdu Huifeng, the Jiangsu Fengtai Single Entity, Wuhan Wanbang, and Zhejiang Wanli Tools Group Co., Ltd. (Zhejiang Wanli), supports a preliminary finding of an absence of *de jure* government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) legislative enactments decentralizing control of the companies; and (3) formal measures by the government decentralizing control of the companies.⁴⁷

2. Absence of *De Facto* Control

As stated in previous cases, there is some evidence that certain enactments of the Chinese central government have not been implemented uniformly among different sectors and/or jurisdictions in China.⁴⁸ Therefore, Commerce determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of government control which would preclude Commerce from assigning separate rates. Commerce typically considers the following four factors in evaluating whether a respondent is subject to *de facto* government

⁴³ See Chengdu Huifeng's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Submission of Separate Rate Certification," dated February 18, 2020 (Chengdu Huifeng SRC); see also Chengdu Huifeng's section A response dated March 24, 2020, (Chengdu Huifeng AQR) at 2-10.

⁴⁴ See Wuhan Wanbang's letter dated March 24, 2020 (Wuhan Wanbang's A1QR) at 1-8 and Wuhan Wanbang's letter dated April 7, 2020 (Wuhan Wanbang's A2QR) at 3.

⁴⁵ See Zhejiang Wanli Tools Group Co., Ltd.'s Letter, "Diamond Sawblades and Parts Thereof from The People's Republic of China: Separate Rate Certification," dated February 18, 2020 (Zhejiang Wanli SRC); and the Jiangsu Fengtai Single Entity's Letter, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Submission of Separate Rate Certification," dated February 25, 2020 (Jiangsu Fengtai Single Entity SRC).

⁴⁶ See *Sparklers*, 56 FR at 20589; see also *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Rescission of Review in Part, and Preliminary Intent to Rescind New Shipper Review; 2015-2016*, 82 FR 26435 (June 7, 2017) (*15/16 FCTM Prelim*) and accompanying PDM at 8-9, unchanged in *15/16 FCTM Final*.

⁴⁷ See Chengdu Huifeng SRC at 5, and Chengdu Huifeng AQR at 2-10; the Jiangsu Fengtai Single Entity SRC at 4-5; Wuhan Wanbang SRA at 6-13; and Zhejiang Wanli SRC at 4.

⁴⁸ See *Silicon Carbide*, 59 FR at 22586-87; see also *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review; 2012-2013*, 79 FR 60134 (October 6, 2014), and accompanying PDM at "Separate Rates," unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2012-2013*, 79 FR 75535 (December 18, 2014).

control of its export functions: (1) whether the export prices are set by, or subject to the approval of, a government agency; (2) whether the respondent has the 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.⁴⁹

Chengdu Huifeng, the Jiangsu Fengtai Single Entity, Wuhan Wanbang, and Zhejiang Wanli, have each made the following assertions: (1) they establish their own export prices; (2) they negotiate contracts without guidance from any government entities or organizations; (3) they make their own personnel decisions; and (4) they retain the proceeds of their export sales, use profits according to their business needs, and have the authority to sell their assets and to obtain loans.⁵⁰ Based on the information on the record of this review, Commerce preliminarily determines that there is an absence of *de facto* governmental control over the export activities of Chengdu Huifeng, the Jiangsu Fengtai Single Entity, Wuhan Wanbang, and Zhejiang Wanli.

Because Commerce finds that Chengdu Huifeng, the Jiangsu Fengtai Single Entity, Wuhan Wanbang, and Zhejiang Wanli, operate free of *de jure* and *de facto* governmental control, we preliminarily determine that they satisfy the criteria for a separate rate.⁵¹

3. Separate Rate for Eligible Non-Selected Respondents

In accordance with section 777A(c)(2)(B) of the Act, we selected Chengdu Huifeng and Wuhan Wanbang for individual examination because we did not have the resources to examine all companies for which a review was requested.⁵²

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual separate rate respondents not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a ME investigation, for guidance when calculating the rate for separate rate respondents which were not individually examined in an administrative review. Section 735(c)(5)(A) of the Act provides that the estimated all-others rate in a market economy investigation shall be an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually examined, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. Moreover, section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis*, or determined entirely under section 776 of the Act, we may use "any reasonable

⁴⁹ See *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); see also *Silicon Carbide*, 59 FR at 22586-87.

⁵⁰ See *Bosun Tools SRC* at 8-9; see also *Chengdu Huifeng SRC* at 5; *Chengdu Huifeng AQR* at 2-10; *Jiangsu Fengtai Single Entity SRC* at 5; *Wuhan Wanbang A1QR* at 5-8; and *Zhejiang Wanli SRC* at 5.

⁵¹ The Jiangsu Fengtai Single Entity is comprised of Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd.; Jiangsu Fengtai Tools Co., Ltd.; and Jiangsu Fengtai Sawing Industry Co., Ltd. See, e.g., *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 17527, 17528 (April 20, 2018) (7th Review Final).

⁵² See Respondent Selection Memorandum.

method” for assigning the rate to all other respondents not individually examined, “including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.” The SAA explains that the “expected method” under section 735(c)(5)(B) of the Act “will be to weight-average the zero and *de minimis* margins and margins determined pursuant to the facts available, provided that volume data is available.”⁵³

In this administrative review, given that we have calculated a preliminary rate of zero for Chengdu Huifeng and we have preliminarily assigned a rate to Wuhan Wanbang based entirely on facts otherwise available with an adverse inference (AFA), *i.e.*, 82.05 percent,⁵⁴ we have preliminarily assigned a simple average of the two rates to the non-selected respondents eligible for a separate rate, consistent with the guidance in section 735(c)(5)(B) of the Act and our practice in NME cases.⁵⁵ Specifically, we assigned the preliminary rate of 41.03 percent to the following non-selected respondents eligible for a separate rate:⁵⁶

Jiangsu Fengtai Single Entity
Zhejiang Wanli Tools Group Co., Ltd.

4. China-Wide Entity

Upon the initiation of this review, we provided an opportunity for all companies listed in the *Initiation Notice* that wish to qualify for separate rate status in this review to complete, as appropriate, either a separate rate application (SRA) or Separate rate certification (SRC).⁵⁷ We preliminarily find that thirty-eight companies listed in the *Initiation Notice* are part of the China-wide entity because they did not submit an SRA, SRC, or no-shipment letter. The following companies are considered to be part of the China-wide entity:

ASHINE Diamond Tools Co., Ltd.
Danyang City Ou Di Ma Tools Co., Ltd.
Danyang Hantronic Import & Export Co., Ltd.
Danyang Huachang Diamond Tools Manufacturing Co., Ltd.
Danyang Like Tools Manufacturing Co., Ltd.
Danyang NYCL Tools Manufacturing Co., Ltd.
Danyang Tsunda Diamond Tools Co., Ltd.
Guilin Tebon Superhard Material Co., Ltd.
Hangzhou Deer King Industrial and Trading Co., Ltd.

⁵³ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) at 883 (SAA).

⁵⁴ See “Adverse Facts Available” section, below.

⁵⁵ See *Albemarle Corp. v. United States*, 821 F.3d 1345 (Fed. Cir. 2016); see also *Xanthan Gum from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 82 FR 11428 (February 23, 2017) (*Xanthan Gum*), and accompanying IDM at Comment 4.

⁵⁶ See *Albemarle*, 821 F.3d 1345; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results, Preliminary Determination of No Shipments, and Partial Rescission of the Antidumping Duty Administrative Review; 2015-2016*, 82 FR 42785 (September 12, 2017), and accompanying PDM at 9-10.

⁵⁷ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 1329, 1331-32 (January 11, 2018) (“All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below.”)

Hangzhou Kingburg Import & Export Co., Ltd.
Hebei XMF Tools Group Co., Ltd.
Henan Huanghe Whirlwind Co., Ltd.
Henan Huanghe Whirlwind International Co., Ltd.
Hong Kong Hao Xin International Group Limited
Hubei Changjiang Precision Engineering Materials Technology Co., Ltd.
Hubei Sheng Bai Rui Diamond Tools Co., Ltd.
Huzhou Gu's Import & Export Co., Ltd.
Jiangsu Huachang Diamond Tools Manufacturing Co., Ltd.
Jiangsu Inter-China Group Corporation
Jiangsu Youhe Tool Manufacturer Co., Ltd.
Orient Gain International Limited
Pantos Logistics (HK) Company Limited
Pujiang Talent Diamond Tools Co., Ltd.
Qingdao Hyosung Diamond Tools Co., Ltd.
Qingyuan Shangtai Diamond Tools Co., Ltd.
Qingdao Shinhan Diamond Industrial Co., Ltd.
Quanzhou Zhongzhi Diamond Tool Co., Ltd.
Rizhao Hein Saw Co., Ltd.
Saint-Gobain Abrasives (Shanghai) Co., Ltd.
Shanghai Jingquan Industrial Trade Co., Ltd.
Shanghai Starcraft Tools Co., Ltd.
Sino Tools Co., Ltd.
Wuhan Baiyi Diamond Tools Co., Ltd.
Wuhan Sadia Trading Co., Ltd.
Wuhan ZhaoHua Technology Co., Ltd.
Xiamen ZL Diamond Technology Co., Ltd.
ZL Diamond Technology Co., Ltd.
ZL Diamond Tools Co., Ltd.

Under Commerce's policy regarding conditional review of the China-wide entity,⁵⁸ the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in this review, the entity is not under review, and the entity's rate of 82.05 percent is not subject to change.⁵⁹

C. Adverse Facts Available

1. Statutory Framework

Sections 776(a)(1) and (2) of the Act provide that, if necessary information is missing from the record, or if an interested party: (A) withholds information that has been requested by

⁵⁸ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013).

⁵⁹ See, e.g., *7th Review Final*, 83 FR at 17528.

Commerce, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the AD statute, or (D) provides such information but the information cannot be verified, Commerce shall, subject to section 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 with an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses from that party, 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.

2. Use of Facts Available

We preliminarily determine that Wuhan Wanbang's U.S. sales databases are unreliable and cannot be used to calculate an accurate weighted average dumping margin. Because the analysis leading to this conclusion is proprietary, *see* the Wuhan Wanbang Preliminary Analysis Memorandum for a discussion of how we arrived at this determination.⁶⁰ We preliminarily determine that necessary information is not available on the record, that Wuhan Wanbang failed to provide such information in the form and manner requested, and that Wuhan Wanbang significantly impeded this proceeding by not providing a U.S. sales database that can be used to calculate an accurate antidumping margin. Accordingly, we preliminarily determine that use of facts available is warranted in determining the dumping margin of the China-wide entity, pursuant to sections 776(a)(1) and (a)(2)(B)-(C) of the Act.

3. Use of Adverse Inferences

Section 776(b) of the Act provides that Commerce, in selecting from among the facts otherwise available, may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. As discussed in detail in the Wuhan Wanbang Preliminary Analysis Memorandum, we have offered Wuhan Wanbang multiple opportunities to remedy its response.⁶¹ Given Wuhan Wanbang's

⁶⁰ *See* Memorandum, "Administrative Review of the Antidumping Duty Order on Diamond Sawblades and Parts Thereof from the People's Republic of China; 2018-2019: Preliminary Results Analysis Memorandum for Wuhan Wanbang Laser Diamond Tools Co., Ltd.," dated concurrently with this memorandum (Wuhan Wanbang Preliminary Analysis Memorandum).

⁶¹ *Id.*

failure to provide the requested information in the form and manner requested, we conclude that Wuhan Wanbang was not cooperative to the best of its ability.⁶² Therefore, we preliminarily find that Wuhan Wanbang failed to cooperate to the best of its ability and 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).⁶³

4. Selection and Corroboration of the AFA Rate

In applying an adverse inference, Commerce may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.⁶⁴ 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.⁶⁵ Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding,⁶⁶ and Commerce may use any dumping margin from any segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins.⁶⁷ The AFA rate we used in the last completed administrative review in which we used AFA is the China-wide rate of 82.05 percent.⁶⁸ Accordingly, we preliminarily determine that the AFA rate is 82.05 percent for purposes of this review. This rate does not need to be corroborated because it is from a previous segment of this proceeding.⁶⁹

D. Fair Value Comparisons

To determine whether sales of subject merchandise by Chengdu Huifeng were made at less than NV, we compared their export prices (EP) to NV, as described in the “Export Price” and “Normal Value” sections below.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce determines whether to compare weighted-average NVs with the EPs or CEPs of individual sales

⁶² See *Nippon Steel Corp. 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 in which it is reasonable to conclude that less than full cooperation has been shown.”)).

⁶³ *Id.*, 337 F.3d at 1382-83.

⁶⁴ See section 776(b) of the Act

⁶⁵ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1 (SAA) at 870

⁶⁶ See section 776(c)(2) of the Act.

⁶⁷ See section 776(d)(1)-(2) of the Act.

⁶⁸ See *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 64331, 64331-32 (December 14, 2018). This rate is the China-wide rate for the preliminary results of this review

⁶⁹ See section 776(c)(2) of the Act.

(i.e., the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce’s examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.

In numerous investigations, Commerce applied a “differential pricing” analysis for determining whether application of the A-T method is appropriate in a particular situation pursuant to section 777A(d)(1)(B) of the Act and 19 CFR 351.414(c)(1).⁷⁰ Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this 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 A-A 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 EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (i.e., zip codes) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between 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.,

⁷⁰ See, e.g., *Polyethylene Terephthalate Resin from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 19696 (May 4, 2018), unchanged in *Polyethylene Terephthalate Resin from Taiwan: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 83 FR 48287 (September 24, 2018); *Large Diameter Welded Pipe from Canada: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 43649 (August 27, 2018), unchanged in *Large Diameter Welded Pipe from Canada: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6378 (February 27, 2019); and *Cast Iron Soil Pipe from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 83 FR 44567 (August 31, 2018), unchanged in *Cast Iron Soil Pipe from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6767 (February 28, 2019).

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

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

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

2. Results of the Differential Pricing Analysis

For Chengdu Huifeng, based on the results of the differential pricing analysis, Commerce preliminarily finds that 69.5 percent of the value of U.S. sales pass the Cohen's *d* test,⁷¹ and confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the A-A method and the weighted-average dumping margin calculated using the alternative comparison method based on applying the A-T method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the A-A method for all U.S. sales to calculate the weighted-average dumping margin for Chengdu Huifeng.

E. U.S. Price

For Chengdu Huifeng, in accordance with section 772(a) of the Act, we based U.S. prices on EP because the record information indicates that the first sales to unaffiliated purchasers were made prior to importation and CEP was not otherwise warranted. We calculated EPs based on the packed free-on-board (FOB)-China-port price to the first unaffiliated purchaser in the United States. In accordance with section 772(c) of the Act, we calculated net EPs by deducting foreign inland-freight expenses and foreign brokerage and handling expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States. We based all movement expenses reported on surrogate values because a Chinese company provided the movement services.

Commerce's practice in NME cases is to adjust EP and CEP for the amount of any un-refunded (herein, "irrecoverable") value-added tax (VAT), in accordance with section 772(c)(2)(B) of the Act.⁷² 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.⁷³ 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.⁷⁴

⁷¹ See Memorandum, "Administrative Review of the Antidumping Duty Order on Diamond Sawblades and Parts Thereof from the People's Republic of China; 2018-2019: Preliminary Results Analysis Memorandum for Chengdu Huifeng New Material Technology Co., Ltd.," dated concurrently with this memorandum (Chengdu Huifeng Preliminary Analysis Memorandum).

⁷² See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481, 36483-84 (June 19, 2012) (*Methodological Change*).

⁷³ *Id.*; see also *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014), and accompanying IDM at Comment 5.A.

⁷⁴ See *Methodological Change*, 77 FR at 36483.

Commerce's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the amount (or rate) of the irrecoverable VAT tax on subject merchandise; and (2) reducing U.S. price by the amount (or rate) determined in step one. Information placed on the record of this review by the respondent indicates that, according to the Chinese VAT schedule, prior to April 1, 2019, the standard VAT levy is 16 percent and the rebate rate for subject merchandise is 13 percent and, starting on April 1, 2019, the standard VAT levy is 13 percent and the rebate for subject merchandise is 13 percent.⁷⁵ For the purposes of these preliminary results, therefore, we removed from U.S. price for Chengdu Huifeng the appropriate amount related to VAT.⁷⁶

F. Date of Sale

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, Commerce normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁷⁷ Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.⁷⁸

Chengdu Huifeng reported that the invoice date is the date at which the price and quantity are set with its customer.⁷⁹ However, because certain Chengdu Huifeng U.S. sales had shipment dates that preceded the date of invoice, Chengdu Huifeng reported the earlier of the invoice date and shipment date as the date of sale, consistent with Commerce's practice.⁸⁰ Therefore, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale, in accordance with our regulations and practice.

G. Normal Value

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

⁷⁵ See Chengdu Huifeng's sections C and D response, dated April 17, 2020 (Chengdu Huifeng CDQR) at C-38.

⁷⁶ For details on our price adjustments related to VAT, see Chengdu Huifeng Preliminary Analysis Memorandum, dated concurrently with this memorandum.

⁷⁷ 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)).

⁷⁸ See, e.g., *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009).

⁷⁹ See Chengdu Huifeng AQR at 14-15; see also Chengdu Huifeng CDQR at C-15.

⁸⁰ See Chengdu Huifeng 3SQR at Exhibit S3-3.

because the presence of government controls on various aspects of NMEs render price comparisons and the calculation of production costs invalid under its normal methodologies.⁸¹

In accordance with section 773(c) of the Act, we relied on the FOP data reported by the respondents for the POR. We calculated NV by adding together values for the FOPs, general expenses, profit, and packing costs. Specifically, we valued materials, labor, and packing by multiplying the reported per-unit rates for the FOPs consumed in producing the subject merchandise by the average per-unit surrogate values described below. We added freight costs for the material inputs. We calculated the freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the decision by the United States Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-1408 (Fed. Cir. 1997), which held that Commerce has discretion to choose a methodology to determine freight components if it does not substantially overvalue total freight expenses. We increased the calculated costs of the FOPs by adding surrogate general expenses and profit.⁸²

VII. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act and 19 CFR 351.415 based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.

⁸¹ See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744, 39754 (July 11, 2005), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006).

⁸² See Preliminary Surrogate Value Memorandum.

VIII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

3/15/2021

X



Signed by: CHRISTIAN MARSH
Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance