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June 1, 2015

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Aluminum Extrusions from the
People's Republic of China; 2013-2014

SUMMARY

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on aluminum extrusions from the People's Republic of China (PRC) in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is May 1, 2013 through April 30, 2014. The Department selected the following companies as mandatory respondents: Guangzhou Jangho Curtain Wall System Engineering Co., Ltd. (Guangzhou Jangho) and Jangho Curtain Wall Hong Kong Ltd. (Jangho Hong Kong) (collectively, Jangho), Union Industry (Asia) Co., Ltd. (Union), and Guang Ya Aluminium Industries Co., Ltd., Foshan Guangcheng Aluminium Co., Ltd., Kong Ah International Company Limited, and Guang Ya Aluminium Industries (Hong Kong) Ltd. (collectively, Guang Ya Group); Guangdong Zhongya Aluminium Company Limited, Zhongya Shaped Aluminium (HK) Holding Limited, and Karlton Aluminum Company Ltd. (collectively, Zhongya); and Xinya Aluminum & Stainless Steel Product Co., Ltd. (Xinya) (collectively, Guang Ya Group/Zhongya/Xinya).¹ The Department preliminarily finds that Union did not make sales of subject merchandise at less than normal value (NV). In addition, the Department preliminarily determines that Jangho and Guang Ya Group/Zhongya/Xinya failed to cooperate by not acting to the best of their abilities to comply with the Department's requests for information, warranting the application of facts otherwise available with adverse inferences, pursuant to sections 776(a) and 776(b) of the Act. As

¹ In prior segments of this proceeding the Department found that the Guang Ya Group, Zhongya, and Xinya were affiliated with each other and should be treated as a single entity. See, e.g., *Aluminum Extrusions From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission, in Part, 2010/12*, 79 FR 96 (January 2, 2014) (2010-2012 Final Results) and *Aluminum Extrusions From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 78784 (December 31, 2014) (2012-2013 Final Results).



application of adverse facts available (AFA), we preliminarily determine that both companies have not provided sufficient evidence on the record that a separate rate is warranted as to their merchandise. Accordingly, we determine that Jangho and Guang Ya Group/Zhongya/Xinya are part of the PRC-wide entity. We also preliminarily determine that one company, Xin Wei Aluminum Company Limited (Xin Wei), had no shipments of subject merchandise during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless otherwise extended, we intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Background

On May 1, 2014, the Department published a notice of opportunity to request an administrative review of the AD order on aluminum extrusions from the PRC (*Order*)² for the period of May 1, 2013, through April 30, 2014.³ On June 27, 2014, the Department initiated a review of 155 companies.⁴ On December 4, 2014, we extended the time limit for the preliminary results of review, pursuant to section 751(a)(3)(A) of the Act, until June 1, 2015.⁵ On January 29, 2015, the Department rescinded this review with respect to 116 companies.⁶ As such, these preliminary results cover 39 companies for which an administrative review was initiated and not rescinded.

Respondent Selection

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

On August 13, 2014, the Department placed CBP data for the companies listed in the *Initiation Notice* on the record of the review and stated that, because of inconsistencies in the data, we

² See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) (*Order*).

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 79 FR 24670 (May 1, 2014).

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 36462 (June 27, 2014) (*Initiation Notice*).

⁵ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Aluminum Extrusions from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated December 4, 2014.

⁶ See *Aluminum Extrusions From the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review*, 80 FR 4868 (January 29, 2015).

intended to use quantity and value (Q&V) questionnaires for the purpose of respondent selection.⁷ We issued Q&V questionnaires on August 14, 2014.⁸

On October 24, 2014, the Department issued its respondent selection memorandum, in which it explained that, because of the large numbers of exporters or producers involved in this review, as well as resource constraints, it would not be practicable to examine all of the companies individually.⁹ Rather, the Department determined, pursuant to section 777A(c)(2)(B) of the Act, that it would limit its examination to the exporters accounting for the largest volume of the subject merchandise from the exporting country that could be reasonably examined. The Department further determined that it could only reasonably examine two exporters in this review.¹⁰ Accordingly, the Department selected Jangho and Guang Ya Group/Zhongya/Xinya for individual examination because they were the two largest exporters of the subject merchandise to the United States, by volume, during the POR.¹¹ On October 27, 2014, the Department issued its standard non-market economy (NME) antidumping questionnaires to Jangho and Guang Ya Group/Zhongya/Xinya.¹²

On November 6, 2014, the Guang Ya Group informed the Department it was withdrawing from participating in this review.¹³ On December 19, 2014, the Department issued a second respondent selection memorandum, in which we stated that we were selecting Union as a mandatory respondent because, of the remaining respondents, Union accounted for the largest volume of exports of subject merchandise to the United States during the POR.¹⁴ On December 22, 2014, the Department issued its standard NME antidumping questionnaire to Union.¹⁵

Jangho filed its separate rate application (SRA) on August 26, 2014,¹⁶ its section A questionnaire response on November 21, 2014,¹⁷ and its section C and D questionnaire responses on December 29, 2014.¹⁸ The Aluminum Extrusion Fair Trade Committee (Petitioner) provided comments on

⁷ See Memorandum to Melissa G. Skinner, “Analysis of CBP Data and Identification of Companies to Receive Q&V Questionnaires,” dated August 13, 2014 (CBP Data Memorandum).

⁸ See Memorandum to the File, “Issuance of Quantity and Value Questionnaires,” dated August 18, 2014.

⁹ See Memorandum to Melissa G. Skinner, “Selection of Respondents for the Third Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People’s Republic of China,” dated October 24, 2014 (First Respondent Selection Memorandum), at 4.

¹⁰ *Id.* at 6-7.

¹¹ *Id.* at 7.

¹² See Letter from the Department to Jangho, dated October 27, 2014, and Letter from the Department to Guang Ya Group/Zhongya/Xinya, dated October 27, 2014.

¹³ See Letter from Guang Ya Group to the Department, “Aluminum Extrusions from the PRC: Withdrawal of Participation by the Guang Ya Group,” dated November 6, 2014.

¹⁴ See Memorandum to Richard O. Weible, “Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People’s Republic of China: Second Respondent Selection Memorandum,” dated December 19, 2014, at 4.

¹⁵ See Letter from the Department to Union, dated December 22, 2014.

¹⁶ See Letter from Jangho to the Department, “Separate Rate Application; Administrative Review – Jangho; Aluminum Extrusions from China,” dated August 26, 2014.

¹⁷ See Letter from Jangho to the Department, “Section A Questionnaire Response; Administrative Review – Jangho; Aluminum Extrusions from China,” dated November 21, 2014 (Jangho’s AQR).

¹⁸ See Letter from Jangho to the Department, “Section C and Section D Questionnaire Responses; Administrative Review – Jangho; Aluminum Extrusions from China,” dated December 29, 2014 (Jangho’s CQR and Jangho’s DQR).

Jangho's AQR on December 5, 2014¹⁹ and on Jangho's CQR and DQR on January 12, 2015.²⁰ On March 10, 2015, the Department issued a supplemental questionnaire covering Jangho's SRA, Jangho's AQR, and Jangho's CQR and DQR.²¹ Jangho submitted its response to the section D portion of the supplemental questionnaire on April 6, 2015,²² and its response to the remainder of the supplemental questionnaire on April 14, 2015 and April 15, 2015.²³ On May 5, 2015, Petitioner filed pre-preliminary results comments with respect to Jangho.²⁴

On August 26, 2014, Union submitted its SRA and on September 2, 2014, Union filed a supplement to its SRA.²⁵ On January 12, 2015, Union submitted its section A response and its response to the Department's "double remedy" questionnaire issued pursuant to section 777A(f) of the Act.²⁶ On January 26, 2015, Petitioner submitted comments on Union's Section A Response.²⁷ On February 3, 2015, Union submitted its section C and D questionnaire responses.²⁸ On February 27, 2015, Petitioner submitted comments on Union's Section C Response and Union's Section D Response.²⁹ On April 13, 2015, the Department issued to Union its SRA and section A, C, and D supplemental questionnaire.³⁰ On April 29, 2015, Union

¹⁹ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Deficiency Comments on Jangho's Section A Response," dated December 5, 2014.

²⁰ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Comments on Jangho's Section C and D Questionnaire Responses," dated January 12, 2015.

²¹ See Letter from the Department to Jangho, "Aluminum Extrusions from the People's Republic of China: 2013-2014 Administrative Review of Antidumping Duty Order: First Supplemental Questionnaire for Separate Rate Application and Section A, C and D Questionnaire Response," dated March 10, 2015 (Jangho Supplemental Questionnaire).

²² See Letter from Jangho to the Department, "Supplemental Questionnaire Section D Response: Jangho Group; Aluminum Extrusions from the People's Republic of China," dated April 6, 2015 (Jangho's Supplemental DQR).

²³ See Letter from Jangho to the Department, "Supplemental Questionnaire SRA, Section A, and Section C Response: Jangho Group; Aluminum Extrusions from the People's Republic of China," dated April 14, 2015 (Jangho's Supplemental SRA, AQR, CQR) and Letter from Jangho to the Department, "Supplemental Questionnaire SRA, Section A, and Section C Response: Jangho Group: Supplement to Response; Aluminum Extrusions from the People's Republic of China," dated April 15, 2015.

²⁴ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Pre-Preliminary Comments on Jangho" dated May 5, 2015.

²⁵ See Letter from Union to the Department, "Aluminum Extrusions from the People's Republic of China: Separate Rate Application," dated August 26, 2014 and Letter from Union to the Department, "Aluminum Extrusions from the People's Republic of China: Submission of Form 7501 for the Separate Rate Application," dated September 2, 2014 (collectively, Union's SRA).

²⁶ See Letter from Union to the Department, "Aluminum Extrusions From The People's Republic of China: Response to Section A and Double Remedy Questionnaire," dated January 12, 2015 (Union's Section A Response and Union's Double Remedy Response).

²⁷ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Comments on Union's Section A Response," dated January 26, 2015.

²⁸ See Letter from Union to the Department, "Aluminum Extrusions From The People's Republic of China: Response to Sections C and D Questionnaires," dated February 3, 2015 (Union's Section C Response and Union's Section D Response).

²⁹ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Comments on Union's Sections C-D Questionnaire Response," dated February 27, 2015.

³⁰ See Letter from the Department to Union, "Aluminum Extrusions from the People's Republic of China (2013-2014 Administrative Review): Supplemental Questionnaire for Separate Rate Application and Sections A, C and D Questionnaire Responses," dated April 13, 2015.

submitted its response to the SRA and section A, C, and D supplemental questionnaire.³¹ On April 30, 2015, the Department issued to Union its second SRA and section A, C, and D supplemental questionnaire.³² On May 6, 2015, Union submitted its response to the second SRA and section A, C, and D supplemental questionnaire.³³ On May 19, 2015, Petitioner filed pre-preliminary results comments with respect to Union.³⁴

Scope of the Order

The merchandise covered by this *Order* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged,

³¹ See Letter from Union to the Department, "Aluminum Extrusions From The People's Republic of China: Response to Supplemental Questionnaire," dated April 29, 2015 (Union's First Supplemental Response).

³² See Letter from the Department to Union, "Aluminum Extrusions from the People's Republic of China (2013-2014 Administrative Review): Supplemental Questionnaire for Separate Rate Application and Sections A, C and D Questionnaire Responses," dated April 30, 2015.

³³ See Letter from Union to the Department, "Aluminum Extrusions From The People's Republic of China: Response to Supplemental Questionnaire," dated May 6, 2015.

³⁴ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Pre-Preliminary Comments on Union Industry (Asia) Co.," dated May 19, 2015.

mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, etc.), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods ‘kit’ defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a “finished goods kit.” A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ‘as is’ into a finished product. An imported product will not be considered a ‘finished goods kit’ and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 mm or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of this *Order* are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8708.80.65.90, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.30, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.³⁵

The Department is conducting two scope inquiries concerning aluminum extrusions made from 5 series aluminum alloy. Petitioner (Aluminum Extrusions Fair Trade Committee) advocates that the Department impose a certification requirement related to these products, which the Department is considering in the context of these scope proceedings. Parties that wish to file comments on this potential certification requirement must do so on the record of these scope

³⁵ See *Order*.

proceedings.³⁶ The final scope rulings, including our decision with respect to the certification issue, are currently due July 7, 2015.

DISCUSSION OF THE METHODOLOGY

Affiliation and Collapsing

In accordance with sections 771(33)(A) and (F) of the Act and with 19 CFR 351.401(f), we previously determined that the Guang Ya Group, Zhongya, and Xinya should be treated as a single entity.³⁷ No interested party has provided new evidence in this review to refute the Department's determination in the *Final Determination*, *2010-2012 Final Results*, and *2012-2013 Final Results* to collapse the Guang Ya Group, Zhongya, and Xinya.

In the *Initiation Notice*, the Department stated it “will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.*, investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes.”³⁸ In the First Respondent Selection Memorandum, the Department treated the Guang Ya Group, Zhongya, and Xinya as a single entity based on our prior determination that the Guang Ya Group, Zhongya, and Xinya were all affiliated with each other and should be treated as a single entity.³⁹

As noted above, after the Department issued its antidumping questionnaire to Guang Ya Group/Zhongya/Xinya, the Guang Ya Group submitted a letter stating that it was withdrawing from participating in this review. Zhongya and Xinya did not respond to the Department's antidumping questionnaire. Due to the failure of the Guang Ya Group, Zhongya, and Xinya to respond to the Department's antidumping questionnaire, either individually or collectively, we have limited information on the record of this review related to affiliation and collapsing. Therefore, based on our prior determinations, we preliminarily find the entities comprising the Guang Ya Group and the entities comprising Zhongya are respectively affiliated pursuant to sections 771(33)(A) and (F) of the Act, and that the Guang Ya Group, Zhongya and Xinya are affiliated pursuant to sections 771(33)(A) and (F) of the Act, as we did in all prior segments of

³⁶ See Letter from Trending Imports LLC to the Department, “Aluminum Extrusions from the People's Republic of China: Trending Imports LLC Request for Scope Ruling Concerning 5050 Alloy Extrusions,” dated December 12, 2013, and Letter from Kota International, LTD to the Department, “Antidumping Duty and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Scope Ruling Request,” dated October 21, 2013.

³⁷ See *Aluminum Extrusions From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 18524 (April 4, 2011) (*Final Determination*) and accompanying Issues and Decision Memorandum at Comment 4; *2010-2012 Final Results* and accompanying Issues and Decision Memorandum at Comment 4; and *2012-2013 Final Results* and accompanying Issues and Decision Memorandum at Comment 2; see also *Zhaoqing New Zhongya Aluminium Co., Ltd. v. United States*, No. 14-00043, Slip Op. 15-50 (CIT May 27, 2015). See also *Zhaoqing New Zhongya Aluminum Co., Ltd. et al v. United States*, 887 F. Supp. 2d 1301, 1310 (CIT 2012).

³⁸ See *Initiation Notice*, 79 FR at 36463.

³⁹ See First Respondent Selection Memorandum at 6-7.

this proceeding.⁴⁰ Additionally, because no interested party has placed new evidence on the record of this administrative review refuting the facts on the records of each of the prior segments of this proceeding regarding the potential for manipulation of price or production of subject merchandise, we preliminarily find, pursuant to 19 CFR 351.401(f), that there exists the potential for manipulation of price or production of subject merchandise.⁴¹ Thus, we preliminarily find that the Guang Ya Group, Zhongya, and Xinya should continue to be treated as a single entity, consistent with the *Final Determination, 2010-2012 Final Results*, and *2012-2013 Final Results*.

Preliminary Determination of No Shipments

One company remaining under review for these preliminary results, Xin Wei, timely submitted a certification indicating that it had no sales, shipments, or entries of subject merchandise during the POR.⁴² Consistent with our practice, the Department requested that CBP conduct a query on potential shipments made by Xin Wei during the POR;⁴³ CBP provided no evidence that contradicted Xin Wei's claim of no shipments. Based on Xin Wei's no-shipment certification and our analysis of the CBP information, we preliminarily determine that Xin Wei had no shipments during the POR. However, consistent with our practice in NME cases, the Department is not rescinding this review, in part, but intends to complete the review with respect to Xin Wei and issue appropriate instructions to CBP based on the final results of the review.⁴⁴

Non-Market Economy Country

The Department considers the PRC to be an NME country.⁴⁵ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding contested such treatment. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Separate Rates

Pursuant to section 771(18)(C)(i) of the Act, a designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that

⁴⁰ See *Final Determination* and accompanying Issues and Decision Memorandum at Comment 4; *2010-2012 Final Results* and accompanying Issues and Decision Memorandum at Comment 4; and *2012-2013 Final Results* and accompanying Issues and Decision Memorandum at Comment 2.

⁴¹ *Id.*

⁴² See Letter from Xin Wei to the Department, "Aluminum Extrusions from the People's Republic of China: Certification of No Sales, Shipments, or Entries," dated August 26, 2014.

⁴³ See Customs e-mail message number 5044307, dated February 13, 2015.

⁴⁴ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65695 (October 24, 2011).

⁴⁵ See, e.g., *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results*, 76 FR 62765, 62767-68 (October 11, 2011), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 77 FR 21734 (April 11, 2012).

all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.⁴⁶

In the *Initiation Notice*, the Department notified parties of the application process by which exporters may obtain separate-rate status in an NME proceeding.⁴⁷ It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,⁴⁸ as further developed by *Silicon Carbide*.⁴⁹ However, if the Department determines that a company is wholly foreign-owned, then an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether it is independent from government control.⁵⁰

Companies that submit an SRA or separate-rate certification (SRC) which are subsequently selected as mandatory respondents must respond to all parts of the Department's questionnaire in order to be eligible for separate rate status.⁵¹ Although Jangho submitted an SRA and responded to sections A, C, and D of the Department's antidumping questionnaire, its responses to the Department's original questionnaire and supplemental questionnaire were grossly deficient. The supplemental questionnaire issued to Jangho pertained to many deficiencies in Jangho's initial filings, including the information needed to make a separate rate determination. Specifically, with respect to the separate rate issue: documents that Jangho submitted in its supplemental questionnaire response relating to its first sale documentation contained numbers which differed from those on the same documents submitted in its original questionnaire response, thus calling into question the legitimacy of those documents; and Jangho did not provide the business license for Jangho's parent company, even though specifically instructed by the Department's supplemental questionnaire to do so.⁵² As a result, as we address further below in the section "Application of Facts Available and Use of Adverse Inference," we preliminarily determine as AFA that Jangho did not demonstrate its eligibility for a separate rate in this review.

In addition, because Guang Ya Group/Zhongya/Xinya failed to provide a response to the Department's questionnaire, as we address further below, we also preliminarily determine as AFA that Guang Ya Group/Zhongya/Xinya is not eligible for a separate rate in this review.

⁴⁶ 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).

⁴⁷ See *Initiation Notice*, 79 FR at 36463-64.

⁴⁸ 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*).

⁴⁹ 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*).

⁵⁰ See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

⁵¹ See *Initiation Notice*, 79 FR at 36464.

⁵² See Jangho Supplemental Questionnaire and Jangho's Supplemental SRA.

Of the remaining companies still under review for these preliminary results, in addition to Union, the Department received timely-filed SRAs or a separate-rate certification (SRC) from 12 companies.⁵³

Separate-Rate Applicant with No Evidence of Suspended Entries during the POR

One separate-rate applicant, Yuanda, submitted an SRA that did not contain evidence of a suspended entry of subject merchandise during the POR, as shown by a CBP entry summary form (CBP Form 7501).⁵⁴ Thus, the Department issued Yuanda a supplemental questionnaire requesting that it provide evidence of a suspended entry made during the POR.⁵⁵ In its response, referring to the entry documentation in its SRA, Yuanda stated that it had not declared this entry as type “03” (*i.e.*, subject to antidumping and/or countervailing duties) because its position at the time of entry was that the merchandise was not subject to antidumping and countervailing duties.⁵⁶ Yuanda explained that on March 26, 2013, it had filed a scope ruling request with the Department to determine whether curtain wall units and components subject to a contract to provide a complete curtain wall for a building were excluded from the AD and countervailing duty (CVD) orders on aluminum extrusions from the PRC.⁵⁷ Yuanda further explained that the Department initiated a formal scope inquiry on May 10, 2013, and therefore, at the time of the entry in question, no determination had been made on Yuanda’s scope ruling request.⁵⁸ Yuanda stated that while the Department determined on March 27, 2014 that Yuanda’s merchandise is subject to the AD and CVD orders on aluminum extrusions from the PRC, Yuanda continues to dispute this finding.⁵⁹ Referring to certain information it provided to CBP, Yuanda claims there is no deficiency with respect to the entry documentation provided in its SRA, and therefore argues the Department should assign it a separate rate.⁶⁰

Despite Yuanda’s assertion that no determination had been made at the time of the entry in question as to whether the merchandise constituted subject merchandise, the Department previously determined, during the AD and CVD investigations on aluminum extrusions from the

⁵³ The 12 companies are: Allied Maker Limited (Allied Maker); Changzhou Changzheng Evaporator Co., Ltd. (Changzheng Evaporator); Dongguan Aoda Aluminum Co., Ltd. (Dongguan Aoda); Justhere Co., Ltd. (Justhere); Kam Kiu Aluminium Products Sdn Bhd (Kam Kiu); Kromet International Inc. (Kromet); Metaltek Group Co., Ltd. (Metaltek Group); Permasteelisa South China Factory (Permasteelisa China); Permasteelisa Hong Kong Ltd. (Permasteelisa Hong Kong); Shenyang Yuanda Aluminium Industry Engineering Co., Ltd. (Yuanda); Taishan City Kam Kiu Aluminium Extrusion Co., Ltd. (Taishan City Kam Kiu); and tenKsolar (Shanghai) Co., Ltd. (tenKsolar (Shanghai)).

⁵⁴ See Letter from Yuanda and Yuanda USA Corporation to the Department, “Aluminum Extrusions from the People’s Republic of China: Separate Rate Application,” dated August 25, 2014.

⁵⁵ See Letter from the Department to Yuanda and Yuanda USA Corporation, “Aluminum Extrusions from the People’s Republic of China: Supplemental Questionnaire,” dated May 12, 2015.

⁵⁶ See Letter from Yuanda and Yuanda USA Corporation to the Department, “Aluminum Extrusions from the People’s Republic of China: Response to the Department’s May 12, 2015 Separate Rate Questionnaire,” dated May 21, 2015 at 2.

⁵⁷ *Id.*

⁵⁸ *Id.* at 2-3.

⁵⁹ *Id.* at 3.

⁶⁰ *Id.* at 3 and Attachment 1.

PRC that Yuanda's curtain walls parts are subject to both the AD *Order* and CVD order.⁶¹ Further, as Yuanda has pointed out, the Department found on March 27, 2014, that curtain wall units that are produced and imported pursuant to a contract to supply a complete curtain wall system are within the scope of the AD and CVD orders on aluminum extrusions from the PRC.⁶² Based on the Department's determination in the investigation, the record evidence appears to indicate that Yuanda should have declared the entry in question, and any other such entries, as type "03" entries upon import. Because Yuanda did not declare these entries as type "03" at the time of importation, the Department intends to share this information with CBP.

Further, in keeping with the Department's determination in the *2010-2012 Final Results*, we find that "the requirement for a suspended AD/CVD entry is consistent with the retrospective nature of duty assessment under U.S. law and the stated purpose of administrative reviews to 'review, and determine the amount of any antidumping duty' to be assessed upon imports of subject merchandise entered during the applicable period of review."⁶³ Thus, we cannot grant Yuanda a separate rate for these preliminary results because it has not demonstrated its eligibility for a separate rate, due to the lack of evidence of a suspended entry during the POR. The evidence on the record shows that Yuanda has no reviewable entries during the POR. The Department intends to issue a supplemental questionnaire to Yuanda to ascertain whether Yuanda has reclassified the entries in question as type "03" entries.

⁶¹ See Memorandum from Susan Kuhbach to Ronald K. Lorentzen re: Preliminary Determination: Comments on the Scope of the Investigation, dated October 27, 2010 at 4 and 11-12 (Comment 6), as attached to Memorandum to the File, "Placing Information from this Proceeding's Investigation on the Record of This Administrative Review," dated May 26, 2015. This scope determination was unchanged in the Final Determination. See *Final Determination*, 76 FR at 18524.

⁶² See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Scope Ruling on Curtain Wall Units that are Produced and Imported Pursuant to a Contract to Supply a Curtain Wall," dated March 27, 2014.

⁶³ See section 751(a)(1)(B) of the Act and *2010-2012 Final Results* and accompanying Issues and Decision Memorandum at Comment 8; see also *Dofasco Inc. v. United States*, 390 F.3d 1370, 1372 (CAFC 2004) (stating that the purpose of the administrative review is to determine the duty liability for the review period).

Other Separate-Rate Applicants

The remaining separate rate companies, including Union, demonstrated that they had a suspended entry during the POR,⁶⁴ and one company, Kromet, certified in its SRC that it exported or sold subject merchandise to the United States during the POR.⁶⁵ These companies variously stated that they are wholly foreign-owned enterprises, are joint ventures between Chinese and foreign companies, or are wholly Chinese-owned companies. Therefore, the Department must analyze whether these respondents are wholly foreign-owned, as claimed, or demonstrate an absence of both *de jure* and *de facto* governmental control over export activities, as appropriate.

Separate-Rate Recipients⁶⁶

Wholly Foreign-Owned

Seven separate-rate applicants provided evidence in their SRAs/SRC that they are wholly owned by individuals or companies located in a market economy (ME) country.⁶⁷ Therefore, because

⁶⁴ See Letter from Allied Maker to the Department, “Aluminum Extrusions from the People’s Republic of China: Separate Rate Application,” dated August 27, 2014 (Allied Maker’s SRA) and Letter from Allied Maker to the Department, “Aluminum Extrusions from the People’s Republic of China: Separate Rate Application Supplemental Response,” dated May 26, 2015; Letter from Changzheng Evaporator to the Department, “Aluminum Extrusions from the People’s Republic of China: Separate Rate Application,” dated August 27, 2014 (Changzheng Evaporator’s SRA); Letter from Dongguan Aoda to the Department, “Aluminum Extrusions from the People’s Republic of China: Separate Rate Application,” dated August 25, 2014 (Dongguan Aoda’s SRA); Letter from Justhere to the Department, “Aluminum Extrusions from the People’s Republic of China: Separate Rate Application,” dated August 27, 2014 (Justhere’s SRA) and Letter from Justhere to the Department, “Aluminum Extrusions from the People’s Republic of China: Separate Rate Application Supplemental Response,” dated May 21, 2015; Letter from Kam Kiu and Taishan City Kam Kiu to the Department, “Aluminum Extrusions From the People’s Republic of China: Separate Rate Application,” dated August 26, 2014 (Kam Kiu’s SRA); Letter from Metaltek Group to the Department, “Aluminum Extrusions from the People’s Republic of China: Separate Rate Application,” dated August 27, 2014; Letter from Permasteelisa North America Corp., Permasteelisa China, and Permasteelisa Hong Kong to the Department, “Aluminum Extrusions From the People’s Republic of China: Separate Rate Application,” dated September 2, 2014 (Permasteelisa’s SRA); Letter from tenKsolar (Shanghai) to the Department, “Aluminum Extrusions from the People’s Republic of China – Separate Rate Application,” dated August 26, 2014; and Union’s SRA. While Kam Kiu/Taishan City Kam Kiu were unable to provide a CBP Form 7501, the CBP data on the record shows that Kam Kiu had suspended entries during the POR. See CBP Data Memorandum at 3 and Attachment II.

⁶⁵ See Letter from Kromet to the Department, “Aluminum Extrusions from The People’s Republic of China (Third Antidumping Administrative Review): Separate Rate Certification of Kromet International Inc.,” dated August 26, 2014.

⁶⁶ All companies receiving a separate rate are hereby referred to collectively as the separate-rate recipients.

⁶⁷ The wholly foreign-owned separate-rate applicants are: Kam Kiu and Taishan City Kam Kiu; Kromet; Metaltek Group; Permasteelisa China and Permasteelisa Hong Kong; and tenKsolar (Shanghai). The Department intends to limit which company is assigned an exporter-specific rate for the following companies and reasons. (1) Because Kam Kiu and Taishan City Kam Kiu’s SRA indicates that Taishan City Kam Kiu is only a producer, the Department intends to assign a company-specific rate only to the exporter, Kam Kiu. See Kam Kiu’s SRA at 6. (2) Because Permasteelisa China and Permasteelisa Hong Kong’s SRA indicates that Permasteelisa China is only a producer, the Department intends to assign a company-specific rate only to the exporter, Permasteelisa Hong Kong. See Permasteelisa’s SRA at 6 and 18. Courts have recognized that antidumping duty rates in NME proceedings are appropriately tied to the exporter, not the producer. See *Michaels Stores, Inc. v. United States*, 766 F.3d 1388, 1391-93 (Fed. Cir. 2014)

they are wholly foreign-owned, and we have no evidence indicating that the PRC controls their export activities, an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether these companies are independent from government control.⁶⁸ Accordingly, we preliminarily grant a separate rate to these companies.

Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

Union and four other separate-rate applicants, Allied Maker, Changzheng Evaporator, Dongguan Aoda, and Justhere, stated that they are joint ventures or wholly Chinese-owned companies. Therefore, the Department must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

Absence of De Jure Control

The Department 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.⁶⁹

The evidence provided by Union and these four other companies in their respective SRAs supports a preliminary finding of the absence of *de jure* governmental control based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) and there are formal measures by the government decentralizing control of companies.⁷⁰

Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.⁷¹ The Department 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 the Department from granting a separate rate.

⁶⁸ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104-05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).

⁶⁹ See *Sparklers*, 56 FR at 20589.

⁷⁰ See Allied Maker's SRA, Changzheng Evaporator's SRA, Dongguan Aoda's SRA, Justhere's SRA, and Union's SRA.

⁷¹ 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).

In this review, Union and the four other companies asserted the following: (1) that the export prices are not set by, and are not subject to, the approval of a governmental agency; (2) they have authority to negotiate and sign contracts and other agreements; (3) they have autonomy from the government in making decisions regarding the selection of management; and (4) they retain the proceeds of their export sales and make independent decisions regarding disposition of profits or financing of losses.⁷² Additionally, Union's and the four separate-rate applicants' responses indicate that their pricing during the POR does not involve coordination among exporters.⁷³

Evidence placed on the record of this review by Union and these four additional exporters demonstrates an absence of *de facto* government control with respect to their respective exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, we are preliminarily granting a separate rate to Union and these four other entities.

Rate for Non-Examined Separate-Rate Recipients

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate-rate respondents which we did not examine individually in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference that we not calculate an all-others rate using rates for individually-examined respondents which are zero, *de minimis*, or based entirely on facts available. Accordingly, the Department's usual practice in determining the rate for separate-rate respondents not selected for individual examination has been to average the weighted-average dumping margins for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.⁷⁴ Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the all-others rate, including "averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated."

In previous administrative reviews, the Department has determined that a "reasonable method" to use when the rates for the respondents selected for individual examination are zero, *de minimis*, or based entirely on facts available, is to assign non-examined separate rate recipients the average of the most recently-determined weighted-average dumping margins that are not

⁷² See Allied Maker's SRA, Changzheng Evaporator's SRA, Dongguan Aoda's SRA, Justhere's SRA, and Union's SRA.

⁷³ *Id.*

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

zero, *de minimis*, or based entirely on facts available. These rates may be from the investigation, a prior administrative review, or a new shipper review.⁷⁵

For these preliminary results, the rates we determined for the mandatory respondents were either zero, *de minimis*, or based on entirely on facts available. Specifically, for these preliminary results, we calculated a margin of zero percent for Union and based Jangho's and Guang Ya Group/Zhongya/Xinya's margins entirely on facts available. Therefore, we preliminarily determine to apply the rate assigned to the separate-rate recipients in the investigation of this proceeding, which is based on the most recently-determined weighted-average dumping margins that are not zero, *de minimis*, or based entirely on facts available, to the non-examined separate-rate companies in the instant review. This determination is consistent with precedent⁷⁶ and the most reasonable method to determine the separate rate.⁷⁷ Pursuant to this method, we are assigning the margin of 32.79 percent, the most recent margin calculated for the non-examined separate-rate respondents,⁷⁸ to the non-examined separate-rate respondents in the instant review.

The PRC-Wide Entity

As explained below in the section "Application of Facts Available and Use of Adverse Inference," mandatory respondents Jangho and Guang Ya Group/Zhongya/Xinya failed to cooperate by not acting to the best of their abilities to comply with requests for information, warranting the application of facts otherwise available with adverse inferences, pursuant to sections 776(a) and 776(b) of the Act. Accordingly, the Department preliminarily finds, based on AFA, that a separate rate is not warranted for those companies. Because a separate rate is not warranted for those companies, we have preliminarily determined that the PRC-wide entity also includes Jangho and Guang Ya Group/Zhongya/Xinya.

In addition, 14 companies still subject to these preliminary results are not eligible for separate-rate status because they did not submit separate-rate applications or certifications,⁷⁹ and one

⁷⁵ See, e.g., *Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results and Preliminary Partial Rescission of Fifth Antidumping Duty Administrative Review*, 76 FR 8338, 8342 (February 14, 2011), unchanged in *Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940 (August 19, 2011); see also *Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 49460, 49463 (August 13, 2010).

⁷⁶ *Id.*

⁷⁷ This is also consistent with the Department's determination in prior segments of this proceeding. See *2010-2012 Final Results*, 79 FR at 99 and *2012-2013 Final Results*, 79 FR at 78786.

⁷⁸ This margin is from the less-than-fair-value investigation. See *Aluminum Extrusions From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 18524, 18530 (April 4, 2011).

⁷⁹ These 14 companies are: Aluminicaste Fundicion de Mexico; China Zhongwang Holdings, Ltd.; Classic & Contemporary Inc.; Dongguan Golden Tiger; Dongguan Golden Tiger Hardware Industrial Co., Ltd.; Gold Mountain International Development, Ltd.; Golden Dragon Precise Copper Tube Group, Inc.; Metaltek Metal Industry Co., Ltd.; Nidec Sankyo Singapore Pte. Ltd.; Press Metal International Ltd.; tenKsolar, Inc.; Tianjin Jinmao Import & Export Corp., Ltd.; WTI Building Products, Ltd.; and Zahoqing China Square Industry Limited/Zhaoqing China Square Industry Limited.

company still under review, Yuanda, submitted a separate-rate application that did not demonstrate eligibility for a separate rate. As a result, the Department preliminarily finds these 15 companies are also part of the PRC-wide entity.

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this administrative review.⁸⁰ Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. No party requested a review of the PRC-wide entity in the instant review. Pursuant to our change in policy regarding conditional review of the PRC-wide entity, the entity, which includes Jangho, Guang Ya Group/Zhongya/Xinya, and the 15 companies referenced above, is not currently under review. As such, the PRC-wide rate from the previous administrative review remains unchanged, and the PRC-wide entity is receiving a margin of 33.28 percent.⁸¹

Application of Facts Available and Use of Adverse Inference

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

Section 782(c)(1) of the Act provides that if an interested party “promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner,” the Department shall consider the ability of the interested party and may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person an opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

One company, Zhaoqing New Zhongya Aluminum Co., Ltd. (New Zhongya), was determined to have been succeeded by Guangdong Zhongya Aluminum Company Limited (Guangdong Zhongya) in a changed circumstances review. *See Aluminum Extrusions From the People's Republic of China: Final Results of Changed Circumstances Review*, 77 FR 54900 (September 6, 2012). Thus, despite the fact that a review was initiated of New Zhongya, it is not being included among these 14 companies because its successor in interest, Guangdong Zhongya, is part of the Guang Ya Group/Zhongya/Xinya single entity.

⁸⁰ *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) (*Conditional Review of NME Entity*).

⁸¹ *See 2012-2013 Final Results*, 79 FR at 78787.

Section 782(e) of the Act states that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Further, section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available. In addition, the SAA explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁸² Further, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.⁸³ In *Nippon Steel*, the Court of Appeals for the Federal Circuit (Federal Circuit) provided an explanation of the “failure to act to the best of its ability,” stating that the ordinary meaning of “best” means “one’s maximum effort,” and that the statutory mandate that a respondent act to the “best of its ability” requires the respondent to do the maximum it is able to do.⁸⁴ The Federal Circuit acknowledged, however, that while there is no willfulness requirement, “deliberate concealment or inaccurate reporting” would certainly be sufficient to find that a respondent did not act to the best of its ability, although it indicated that inadequate responses to agency inquiries “would suffice” as well.⁸⁵ Compliance with the “best of its ability” standard is determined by assessing whether a respondent has put forth its maximum effort to provide the Department with full and complete answers to all inquiries in an investigation.⁸⁶ The Federal Circuit further noted that, while the standard does not require perfection and recognizes that mistakes sometimes occur, it does not condone inattentiveness, carelessness, or inadequate record keeping.⁸⁷

Below we discuss the application of facts available, and the use of adverse inferences, with respect to Jangho and Guang Ya Group/Zhongya/Xinya, in these preliminary results.

Jangho

Jangho provided a response to the Department’s original questionnaire, but that response was grossly deficient.⁸⁸ Pursuant to section 782(d) of the Act, we thus issued an extensive supplemental questionnaire to Jangho to address the myriad deficiencies contained in all parts of

⁸² See *Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. 103-316, Vol. 1, 103d Cong. at 870 (1994) (SAA).

⁸³ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan*, 65 FR 42985 (July 12, 2000); *Antidumping Duties, Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (CAFC 2003).

⁸⁴ See *Nippon Steel*, 337 F. 3d at 1382.

⁸⁵ *Id.* at 1380.

⁸⁶ *Id.* at 1382.

⁸⁷ *Id.*

⁸⁸ See Jangho’s AQR, Jangho’s CQR, and Jangho’s DQR; see also Jangho’s SRA.

its questionnaire response and SRA.⁸⁹ Jangho failed to remedy the bulk of these deficiencies in its supplemental questionnaire response.⁹⁰ For example, Jangho failed to report factors of production (FOPs) for each affiliate/plant that produced the subject merchandise, rendering its reported FOPs inaccurate, and Jangho also failed to provide a usable U.S. sales database, even after we asked Jangho to address specific issues in our supplemental questionnaire.⁹¹ These deficiencies, among others, are discussed in detail in the Jangho AFA Memorandum, dated concurrently with this notice.⁹²

The Department preliminarily finds the use of facts otherwise available is warranted with respect to Jangho in accordance with sections 776(a)(2)(B), (C), and (D) of the Act, because Jangho failed to provide information in the form and manner requested by the Department, and therefore significantly impeded the proceeding. Furthermore, for the information which Jangho did provide, a large amount of that information would not be verifiable.⁹³

Pursuant to section 776(b) of the Act, the Department also preliminarily determines that Jangho failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information, because, as noted above, Jangho twice failed to provide accurate information, and information in a usable format, to the Department. Thus, an adverse inference is warranted. Therefore, we are applying total AFA to Jangho for these preliminary results and have determined that a separate rate is not warranted for Jangho. Absent a finding that a separate rate is warranted for Jangho, we are preliminarily determining that Jangho is part of the PRC-wide entity. As part of the PRC-wide entity, the rate for the PRC-wide entity from the previous administrative review applies to Jangho's merchandise -- 33.28 percent. This rate remains unchanged pursuant to our current policy, which states that there is no conditional review of the PRC-wide entity.⁹⁴

Guang Ya Group/Zhongya/Xinya

After we selected Guang Ya Group/Zhongya/Xinya as a mandatory respondent, Guang Ya Group/Zhongya/Xinya withdrew from participation in this review and did not respond to the Department's questionnaire. The Department preliminarily finds the use of facts otherwise available is warranted with respect to Guang Ya Group/Zhongya/Xinya in accordance with sections 776(a)(2)(A) and (C) of the Act, because Guang Ya Group/Zhongya/Xinya withheld information that was requested and, by not providing requested information, significantly impeded the proceeding.

Pursuant to section 776(b) of the Act, the Department preliminarily finds that, through its actions, Guang Ya Group/Zhongya/Xinya failed to cooperate by not acting to the best of its

⁸⁹ See Jangho Supplemental Questionnaire.

⁹⁰ Jangho's Supplemental DQR and Jangho's Supplemental SRA/AQR/CQR.

⁹¹ *Id.*

⁹² See Memorandum to Abdelali Elouaradia, "2013-2014 Preliminary Results of the Antidumping Duty Administrative Review of Aluminum Extrusions from the People's Republic of China; Application of Adverse Facts Available for Jangho," dated June 1, 2015 (Jangho AFA Memorandum).

⁹³ *Id.*

⁹⁴ See *Conditional Review of NME Entity*, 78 FR at 65970.

ability to comply with the Department's requests for information. As such, an adverse inference is warranted.

Therefore, we are applying total AFA to Guang Ya Group/Zhongya/Xinya for these preliminary results and have determined that there is insufficient information on the record to substantiate that a separate rate is warranted for Guang Ya Group/Zhongya/Xinya. Absent a finding that a separate rate is warranted for Guang Ya Group/Zhongya/Xinya, we are preliminarily determining that Guang Ya Group/Zhongya/Xinya is also part of the PRC-wide entity. As part of the PRC-wide entity, the rate for the PRC-wide entity from the previous administrative review applies to Guang Ya Group/Zhongya/Xinya's merchandise -- 33.28 percent. This rate remains unchanged pursuant to our current policy, which states that there is no conditional review of the PRC-wide entity.⁹⁵

Surrogate Country and Surrogate Value Data

On February 18, 2015, the Department placed on the record its memorandum containing the list of surrogate countries.⁹⁶ On March 6, 2015, the Department placed on the record its letter to interested parties requesting surrogate country and surrogate value (SV) information.⁹⁷ On March 27, 2015, Jangho submitted its comments on surrogate country selection.⁹⁸ Also on March 27, 2015, Petitioner submitted its comments on surrogate country selection.⁹⁹ On April 6, 2015, Jangho submitted its surrogate country rebuttal comments.¹⁰⁰ On April 7, 2015, Petitioner submitted its surrogate country rebuttal comments.¹⁰¹ On April 17, 2015, Jangho submitted SV information.¹⁰² Also on April 17, 2015, Petitioner submitted SV information.¹⁰³ On April 28, 2015, Petitioner submitted rebuttal SV comments.¹⁰⁴ On May 8, 2015, Petitioner submitted a recalculation of Thai labor data (correcting an error in its April 17, 2015 SV information).¹⁰⁵ On

⁹⁵ See *id.*

⁹⁶ See Memorandum to Richard Weible, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Aluminum Extrusions ("AE") from the People's Republic of China ("China")," dated February 18, 2015 ((Surrogate-Country Memorandum).

⁹⁷ See Letter from the Department to All Interested Parties, "Aluminum Extrusions from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," dated March 6, 2015.

⁹⁸ See Letter from Jangho to the Department, "Aluminum Extrusions for the People's Republic of China; Jangho – Comments on Surrogate Country Selection," dated March 27, 2015 (Jangho's SC Comments).

⁹⁹ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Comments on Surrogate Country Selection," dated March 27, 2015 (Petitioner's SC Comments).

¹⁰⁰ See Letter from Jangho to the Department, "Aluminum Extrusions for the People's Republic of China; Jangho – Rebuttal Comments on Surrogate Country Selection," dated April 6, 2015 (Jangho's SC Rebuttal Comments).

¹⁰¹ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Rebuttal Surrogate Country Comments," dated April 7, 2015 (Petitioner's SC Rebuttal Comments).

¹⁰² See Letter from Jangho to the Department, "Surrogate Value Information: Guangzhou Jangho Curtain Wall System Engineering Co., Ltd. and Jangho Curtain Wall Hong Kong Ltd.," dated April 17, 2015 (Jangho's SV Comments).

¹⁰³ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Submission of Surrogate Value Information," dated April 17, 2015 (Petitioner's SV Comments).

¹⁰⁴ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Submission of Rebuttal Surrogate Value Information," dated April 28, 2015.

¹⁰⁵ See Letter from Petitioner to the Department, "Aluminum Extrusions from the People's Republic of China: Recalculation of Thai Labor Data," dated May 8, 2015.

May 22, 2015, Jangho submitted revised rebuttal SV information.¹⁰⁶ On May 27, 2015, Petitioner submitted final SV information.¹⁰⁷

Surrogate Country

When the Department is examining imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOP), valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.¹⁰⁸ The Department determined that Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine are countries whose per capita gross national incomes (GNI) are comparable to the PRC in terms of economic development.¹⁰⁹ The sources of the SVs we have used in this review are discussed under the "Normal Value" section below.

Petitioner originally argued that either Romania or Thailand ought to be selected as the most appropriate surrogate country for the Department because Thailand is the largest producer of merchandise that is identical or comparable to the merchandise under review and claimed Romania is likewise a large producer of such merchandise.¹¹⁰ Moreover, Petitioner contended that Romania and Thailand have the best available information upon which to base the calculation of SVs, including multiple financial statements, for the purposes of calculating surrogate financial ratios.¹¹¹ Petitioner later argued that either South Africa or Thailand ought to be selected as the most appropriate surrogate country for the Department (in effect abandoning its argument with respect to Romania by not placing any Romanian SV data on the record).¹¹² Petitioner contended that Bulgaria was not a significant producer of merchandise identical or comparable to that under review.¹¹³

¹⁰⁶ Jangho originally attempted this submission on April 28, 2015, but the submission was rejected by the Department with allowance for refiling under certain conditions. See Letter from the Department to Jangho, "Aluminum Extrusions from the People's Republic of China 2013-2014 Antidumping Administrative Review," dated May 20, 2015; see also Memorandum to the File, "Aluminum Extrusions from the People's Republic of China 2013-2014 Antidumping Administrative Review: Request to Reject Certain Documents in IA ACCESS," dated May 20, 2015.

¹⁰⁷ Petitioner originally attempted this submission on May 4, 2015, but the submission was rejected by the Department with allowance for refiling under certain conditions. See Letter from the Department to Petitioner, "Aluminum Extrusions from the People's Republic of China 2013-2014 Antidumping Administrative Review," dated May 20, 2015; see also Memorandum to the File, "Aluminum Extrusions from the People's Republic of China 2013-2014 Antidumping Administrative Review: Request to Reject Certain Documents in IA ACCESS," dated May 20, 2015. The Department reconsidered its rejection; see Memorandum to the File, "Aluminum Extrusions from the People's Republic of China 2013-2014 Antidumping Administrative Review: Instructions for Resubmission of Document," dated May 26, 2015.

¹⁰⁸ See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (*Policy Bulletin*).

¹⁰⁹ See Surrogate-Country Memorandum at 2.

¹¹⁰ See Petitioner's SC Comments at 2-3.

¹¹¹ *Id.*, at 5-10.

¹¹² See Petitioner's SV Comments at 2-3.

¹¹³ See Petitioner's SC Rebuttal Comments at 2-4.

Jangho argued that Bulgaria ought to be selected as the most appropriate surrogate country for the Department because the Department finds Bulgaria to be at a level of economic development comparable to that of China and SV data for Bulgaria are available and reliable.¹¹⁴ Jangho submitted SVs and financial statements from three Bulgarian companies. Jangho rebutted Petitioner's contention that Bulgaria was not a significant producer of merchandise identical or comparable to that under review by the Department's definition of the term.¹¹⁵

Economic Comparability

As explained in our Surrogate-Country Memorandum, the Department considers Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine all to be comparable to the PRC in terms of economic development. Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, are not reliable sources of publicly-available SV data, or are not suitable for use based on other reasons, we will rely on data from one of these countries.¹¹⁶ Because none of these conditions exist, we consider all six countries identified in the Surrogate-Country Memorandum as having met this prong of the surrogate country selection criteria.

Significant Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. While the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"¹¹⁷ it does not preclude reliance on additional or alternative metrics. Moreover, neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the *Policy Bulletin* 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."¹¹⁸ Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.¹¹⁹ Further, when selecting a surrogate country, the statute requires

¹¹⁴ See Jangho's SC Comments at 1-5.

¹¹⁵ See Jangho's SC Rebuttal Comments at 2-5.

¹¹⁶ See, e.g., *Fresh Garlic From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 73980 (December 12, 2012) and accompanying Preliminary Decision Memorandum at 8-12, unchanged in *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 36168 (June 17, 2013).

¹¹⁷ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).

¹¹⁸ See *Policy Bulletin* at 2.

¹¹⁹ *Id.* 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." *Id.*, at note 6.

the Department to consider the comparability of the merchandise, not the comparability of the industry.¹²⁰

“In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced. How the Department does this depends on the subject merchandise.”¹²¹ In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

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.¹²²

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.¹²³

In this review, nothing on the record shows that any of the six potential surrogate countries identified in the Surrogate-Country Memorandum does not have significant exports of comparable merchandise.¹²⁴ Petitioner has argued that Bulgaria ought not be considered a significant producer because: (1) Bulgaria has only two producers of aluminum extrusions; (2) there are only seven extrusion presses in Bulgaria; and (3) 60 percent of the world's producers have production capacities greater than that of Bulgaria (which is 26,000 MT).¹²⁵ We do not find these factors persuasive, however, in determining whether Bulgaria is a significant producer of subject merchandise.

First, it is not the Department's practice to exclude potential surrogate countries from consideration based on comparisons of export volumes between countries.¹²⁶ A country might be a significant producer and export little of its merchandise, while another might produce very little, but export all of its merchandise. Accordingly, a comparison of two countries' export volumes alone could lead to skewed results.

Second, the Department notes that the legislative history provides that the term “significant producer” includes any country that is a significant “net exporter,” but it does not preclude

¹²⁰ See *Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65676 (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.”).

¹²¹ See *Policy Bulletin* at 2.

¹²² *Id.*, at 3.

¹²³ See section 773(c) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1999).

¹²⁴ See, *e.g.*, Petitioner's SC Comments at Exhibit 1, and Jangho's SC Comments Exhibit 1; we see no data on the record concerning the level of South African exports.

¹²⁵ See Petitioner's SC Rebuttal Comments at 3-4.

¹²⁶ See, *e.g.*, *Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and accompanying Issues and Decision Memorandum at Comment 7.

reliance on additional or alternative metrics. Neither the statute, regulations nor legislative history provide guidance on how to prioritize the importance of net exportation/importation against that of exports of comparable/identical merchandise.¹²⁷ Further, we do not find that Bulgaria's ranking and the 26,000 MT capacity estimated by Petitioner's sources demonstrate that the country is an insignificant producer of aluminum extrusions.

Thus, because the information on the record does not show that Bulgaria, or any of the other potential surrogate countries, are not significant producers of subject merchandise, and in light of the fact that each country exports a significant amount of comparable merchandise, the Department has reviewed the availability, quantity and quality of SV data to determine the most appropriate surrogate country from the aforementioned list for purposes of this administrative review.

Data Availability

When evaluating SV data, the Department considers several factors, including whether the SV data are publicly available, contemporaneous with the POR, representative of broad-market averages, from an approved surrogate country, tax and duty-exclusive, and specific to the input.¹²⁸ There is no hierarchy among these criteria. It is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.¹²⁹ Because neither data nor surrogate financial statements exist on the record for Ecuador, Romania, or Ukraine, we will not consider these countries further for primary surrogate-country-selection purposes at this time. Available data from Bulgaria, South Africa, and Thailand have been placed on the record of this review, and parties to the proceeding placed financial statements from each of these countries on the record of this review.¹³⁰ For Bulgaria, because Jangho's products differ widely from those of Union, the SV information they submitted does not include FOPs for the majority of Union's FOPs. We are therefore unable to consider Bulgaria as the primary surrogate country based on the quality and applicability of those data.¹³¹ Our analysis shows little or no distinction between South Africa and Thailand with regard to contemporaneity of financial data, to similarity/difference of products to Union, or to subsidization. However, the South African labor data on the record are dated three years prior to the POR¹³². We find that attempts to tie these labor rates to the POR by means of South African consumer price index (CPI) information are less exact than specific 2014 wage rates promulgated by the Thai government (in that CPIs reflect prices of goods or services to

¹²⁷ See *Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review; 2011-2012*, 78 FR 33341 (June 4, 2013) and accompanying Issues and Decision Memorandum at Comment 2.

¹²⁸ See, e.g., *Certain Activated Carbon from the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review*, 77 FR 67337 (November 9, 2012), and accompanying Issues and Decision Memorandum at 8.

¹²⁹ See *Policy Bulletin*.

¹³⁰ Petitioner placed the financial statements of two Thai companies and one South African company on the record of this review; Jangho placed the financial statements of three companies from Bulgaria on the record of this review. See the "Factor Valuation" section below for a discussion of each of these companies.

¹³¹ See Memorandum from Mark Flessner to Abdelali Elouaradia entitled, "Antidumping Duty Administrative Review of Aluminum Extrusions from the People's Republic of China: Selection of a Surrogate Country; 2013-2014," dated June 1, 2015 (Surrogate Country Selection Memorandum).

¹³² See Petitioner's SV Comments at Exhibit SA-3.

consumers rather than wages paid by employers). The outdated South African labor statistics, when compared to the contemporaneous Thai labor statistics, makes Thailand more suitable as a surrogate country – in large part because labor is the largest single input in the FOPs.

The Department preliminarily finds that Thailand is the appropriate surrogate country to use in this review in accordance with section 773(c)(4) of the Act. The Department has based its decision on the following facts: (1) Thailand has both usable financial statements and the best quality data available for labor rates (a significant input into the subject merchandise); (2) Thailand is at a level of economic development comparable to that of the PRC; and (3) Thailand is a significant producer of comparable merchandise. As a consequence, Thailand provides the best available information of data to value FOPs.

Date of Sale

Section 351.401(i) of the Department’s regulations states that:

In identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer’s records kept in the ordinary course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.¹³³

Union reported invoice date as date of sale.¹³⁴ No record evidence contested this assertion. Therefore, in accordance with 19 CFR 351.401(i), we preliminarily find that we should use the invoice date as the date of sale for Union’s sales of subject merchandise.

Comparisons to Normal Value

To determine whether Union’s sales of aluminum extrusions to the United States were made at less than fair value, we compared Union’s export price (EP) to NV, as described in the “Export Price” and “Normal Value” sections below.¹³⁵

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (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, the Department examines whether to compare weighted-average NVs to the EP or CEP of individual export transactions (the average-to-

¹³³ See 19 CFR 351.401(i); see also *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (upholding the Department’s rebuttable presumption that invoice date is the appropriate date of sale).

¹³⁴ See Union’s Section A Response at 11-12.

¹³⁵ Union reported no constructed export price (CEP) sales. See Union’s Section C Response at Exhibit C-1.

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 the Department's examination of this question in the context of administrative reviews, the Department 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.¹³⁶ In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.¹³⁷ The Department finds that the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.¹³⁸ The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of prices for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer 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 being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP or CEP and NV for the individual dumping margins.

¹³⁶ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and accompanying Issues and Decision Memorandum at Comment 1.

¹³⁷ See, e.g., *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013) and accompanying Issues and Decision Memorandum at Comment 3. See also Memoranda to Paul Piquado, Assistant Secretary for Import Administration, from Abdelali Elouaradia, Director of AD/CVD Operations Office 4, entitled "Less Than Fair Value Investigation of Xanthan Gum from Austria: Post-Preliminary Analysis and Calculation Memorandum," "Less Than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Neimenggu Fufeng Biotechnologies Co., Ltd. (*aka* Inner Mongolia Fufeng Biotechnologies Co., T Jd.) and Shandong Fufeng Fermentation Co., Ltd.," and "Less Than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Deosen Biochemical Ltd.," all dated March 4, 2013.

¹³⁸ Differential pricing was also used in the recent AD administrative review of steel nails from the PRC. See *Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 80 FR 18816 (April 8, 2015), and accompanying Decision Memorandum at 22.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group were found to have passed the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the 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, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-A method only. If the difference between the two calculations is meaningful, this demonstrates that the A-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the A-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments 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.

B. Results of the Differential Pricing Analysis

For Union, based on the results of the differential pricing analysis, the Department finds that less than 33 percent of its export sales pass the Cohen's *d* test; this does not confirm the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods.¹³⁹ Therefore, the Department did not consider an alternative comparison method to the A-A method, and no additional argument to the contrary has been placed on the record. Accordingly, we preliminarily determine to use the A-A method to calculate the weighted-average dumping margin for Union.¹⁴⁰

Export Price

The Department considers the U.S. prices of certain sales by Union to be EPs in accordance with section 772(a) of the Act because they were the prices at which the subject merchandise was first sold before the date of importation by the exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States. We calculated EPs based on prices to unaffiliated purchaser(s) in the United States.

In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and brokerage and handling. Where foreign inland freight or foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on SV rates from Thailand. *See* "Factor Valuation" section below for further discussion of SV rates.¹⁴¹

Value-Added Tax

In 2012, the Department 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

¹³⁹ *See* Memorandum from Mark Flessner to the File, "2013-2014 Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Analysis of the Preliminary Results Margin Calculation for Union Industry (Asia) Co., Ltd.," dated June 1, 2015 (Union Preliminary Analysis Memorandum).

¹⁴⁰ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average CEPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

¹⁴¹ In determining the most appropriate surrogate values to use in a given case, the Department's stated practice is to use period-wide price averages, prices specific to the input in question, prices that are net of taxes and import duties, prices that are contemporaneous with the POR, and data that is publicly available. *See, e.g., Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 38366 (July 6, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

(VAT) in certain non-market economies in accordance with section 772(c)(2)(B) of the Act.¹⁴² The Department 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, the Department will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.¹⁴³ Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department 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.¹⁴⁴

The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one. However, Union reports that, as a Hong Kong company, it is not subject to PRC VAT.¹⁴⁵ Accordingly, we made no adjustment to EP for un-refunded VAT.

Normal Value

Section 773(c)(1) of the Act provides that the Department 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, the Department 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. The Department's questionnaire requires that Union provide information regarding the weighted-average FOPs across all of the company's plants and/or suppliers that produce the merchandise under consideration, not just the FOPs from a single plant or supplier. This methodology ensures that the Department's calculations are as accurate as possible.¹⁴⁶ Under section 773(c)(3) of the Act, FOPs used by Union in the production of aluminum extrusions 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. The Department based NV on Union's reported FOPs for materials, energy, and labor.

Union's affiliated producer, Changzhou Sunsea Machinery and Hardware Co., Ltd. (Sunsea), reported it generated aluminum scrap during the production of merchandise under

¹⁴² 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) (Methodological Change for Implementation of Section 772(c)(2)(B) of the Act).

¹⁴³ *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 Issues and Decision Memorandum at Comment 5.A.

¹⁴⁴ *Id.*

¹⁴⁵ See Union's Section C Response at 33.

¹⁴⁶ 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 Issues and Decision Memorandum at Comment 19.

consideration.¹⁴⁷ Sunsea established that it sold the aluminum by-product that it produced during the POR.¹⁴⁸ Therefore, for these preliminary results, we granted Sunsea a by-product offset for reintroduced aluminum scrap.¹⁴⁹

Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by Union, the Department calculated NV based on the FOPs reported by Union and its suppliers and tollers for the POR. The Department used contemporaneous Thai import data and other publicly available Thai sources in order to calculate SVs for Union's FOPs.

To calculate NV, the Department multiplied Union's reported per-unit FOPs by publicly-available SVs.¹⁵⁰ The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.¹⁵¹

The Department adjusted input prices by including freight costs, as appropriate, to render them delivered prices. Specifically, to Thai import SVs reported on a cost, insurance, and freight basis, the Department added a surrogate freight cost using the shorter of: (i) the reported distance from the domestic supplier to the factory; or (ii) the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the CAFC in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997). Additionally, where necessary, the Department adjusted SVs for inflation and exchange rates, and the Department converted all applicable FOPs to a per-kg basis.

Furthermore, with regard to the Thai import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of imports from India, Indonesia, 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.¹⁵² Therefore, it is reasonable to infer that all exports to all

¹⁴⁷ See Union's Section D Response at 19.

¹⁴⁸ *Id.*, at Exhibit D-9.1; see also Union's First Supplemental Response at 35-35 and Exhibit S-35.

¹⁴⁹ See Union Preliminary Analysis Memorandum.

¹⁵⁰ See Memorandum to the File, "2013-2014 Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Factor Valuation Memorandum for the Preliminary Results of Review," dated concurrent with this memorandum (Preliminary Factor Valuation Memorandum).

¹⁵¹ 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 Issues and Decision Memorandum at Comment 2.

¹⁵² See, e.g., *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.

markets from these countries may be subsidized.¹⁵³ Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.¹⁵⁴ Rather, the Department bases its decision on information that is available to it at the time it makes its determination. 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 the Department could not be certain that they were not from either an NME country or a country with general export subsidies.¹⁵⁵ Therefore, we have not used prices from these countries in calculating the Thai import-based SVs.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs, but when a producer sources an input from a ME and pays for it in ME currency, the Department may value the factor using the actual price paid for the input.¹⁵⁶ Union reported no purchase of inputs from ME suppliers paid for in a market economy currency.

The record shows that data in the Thai import statistics, as well as those from the other Thai sources, are contemporaneous with the POR, product-specific, and tax-exclusive. The Department used Thai import statistics published by the Global Trade Atlas (GTA) and other publicly-available Thai sources to value the raw materials, energy, and packing inputs that Union used to produce subject merchandise during the POR.

On June 21, 2011, the Department announced its new methodology to value the cost of labor in NME countries.¹⁵⁷ In *Labor Methodologies*, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that Chapter 6A: Labor Cost in Manufacturing, from the International Labour Organization (ILO) Yearbook of Labour Statistics (Yearbook), as compared to Chapter 5B data of the ILO Yearbook, was the preferred source where another source was not more appropriate. In these preliminary results, the Department

¹⁵³ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7.

¹⁵⁴ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988); see also *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30763 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007).

¹⁵⁵ 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).

¹⁵⁶ See 19 CFR 351.408(c)(1); see also *Shakeproof Assembly Components, Div. of Ill. Tool Works, Inc. v. United States*, 268 F.3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

¹⁵⁷ See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*). This notice followed the Court of Appeals for the Federal Circuit decision in *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1372 (CAFC 2010), finding that the "[regression-based] method for calculating wage rates {as stipulated by 19 CFR 351.408(c)(3)} uses data not permitted by {the statutory requirements laid out in section 773 of the Act (i.e., 19 U.S.C. § 1677b(c))}."

calculated the labor input using data from the *Labour Force Survey* promulgated by the Economic and Social Statistics Bureau of the National Statistics Office of Thailand, dated July 11, 2014 (*2014 Labour Force Survey*). The Department further determined that Table 15, “Employee by Average Wage, Fringe Benefit, Industry, Whole Kingdom,” at industry category 3, “Manufacturing,” is the best available information because it is derived from industries that produce comparable merchandise.¹⁵⁸ Although the *2014 Labour Force Survey* data are not from the ILO, the Department finds that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, the Department decided to change the use of the ILO Chapter 6A data from the use of ILO Chapter 5B data on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.¹⁵⁹

The Department did not, however, preclude all other sources for evaluating labor costs in NME antidumping proceedings. Rather, we continue to follow our practice of selecting the “best available information” to determine SVs for inputs, such as labor. Thus, we find that the *2014 Labour Force Survey* data are the best available information for valuing labor for this segment of the proceeding. Specifically, the *2014 Labour Force Survey* data are more contemporaneous than the ILO Chapter 6A data from Thailand (whose latest available statistics are for 2008). Additionally, the *2014 Labour Force Survey* data are industry-specific, and reflect all costs related to labor, including wages, benefits, housing, and training. For these preliminary results, we have calculated the wage rate as 91.1844 Baht/hour. As stated above, the Department used the *2014 Labour Force Survey* data reported by Thailand’s National Statistics Office, which reflects all costs related to labor, including wages, benefits, housing, and training.

Pursuant to *Labor Methodologies*, the Department’s practice is to consider whether financial ratios reflect labor expenses that are included in other elements of the respondent’s factors of production (*e.g.*, general and administrative expenses). However, the financial statements used to calculate financial ratios in this review were insufficiently detailed to permit the Department to determine whether any labor expenses were included in other components of NV. Therefore, in this review, the Department made no adjustment to these financial statements.¹⁶⁰

We valued electricity using contemporaneous Thai data from the Board of Investment of Thailand available its governmental web site: www.boi.go.th/index.php?page=utility_costs. These data pertain to all uses but are segregated into sections dealing with industrial consumption. We used Schedule 3, “Medium General Service.”¹⁶¹

We valued truck freight expenses using average truck rates from the World Bank publication *Doing Business in Thailand 2014* for transportation of a standard 10,000 kg container load from Bangkok to the nearest international port at Khlong Toei.¹⁶²

¹⁵⁸ See Preliminary Factor Valuation Memorandum.

¹⁵⁹ See *Labor Methodologies*.

¹⁶⁰ See, *e.g.*, *Hand Trucks and Certain Parts Thereof From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 3779 (January 23, 2014), unchanged in *Hand Trucks and Certain Parts Thereof From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 44008 (July 29, 2014).

¹⁶¹ See Preliminary Factor Valuation Memorandum.

¹⁶² *Id.*

We valued brokerage and handling expenses using a price list of export procedures necessary to export a standardized 20-foot cargo container of goods from Thailand, as published in the World Bank publication *Doing Business in Thailand 2014*.¹⁶³

Section 351.408(c)(4) of the Department's regulations directs the Department to value overhead, general, and administrative expenses (SG&A) and profit using non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. In this review, Petitioner submitted the financial statements of the following companies:

- Hulamin, Limited (Hulamin), a South African producer of aluminum extrusions and other aluminum products.¹⁶⁴
- United Aluminum Industry (United Aluminum), a Thai producer of aluminum extrusions and other aluminum products.¹⁶⁵
- Tostem Thai Company (Tostem), a Thai producer of aluminum extrusions and other aluminum products.¹⁶⁶

Jangho placed the financial statements of the following company on the record:

- Alcomet AD (Alcomet), a Bulgarian manufacturer of aluminum extrusions.¹⁶⁷
- Czech-plast Ltd. (Czech-plast), a Bulgarian manufacturer of aluminum extrusions.¹⁶⁸
- Preciz Al Energy (Preciz) a Bulgarian manufacturer of curtain walls.¹⁶⁹

As stated above, Jangho's products differ widely from those of Union. Consequently, Jangho did not submit FOPs for the majority of Union's FOPs. We were therefore unable to consider Bulgaria as the primary surrogate country based on the quality and applicability of those data.¹⁷⁰ Regardless of the potential usability of the financial statements of Alcomet, Czech-plast, or Preciz (which we do not address), we have a usable financial statement of comparable or identical merchandise from the primary surrogate country. We intend to follow the regulatory preference stated in 19 CFR 351.408(c)(4) and decline to use those statements.

Likewise, regardless of the potential usability of the financial statement of Hulamin (which we do not address), we do not select South Africa as the surrogate country because the labor data on the record is markedly inferior to that of Thailand.¹⁷¹ As stated above, we have a usable financial statement of comparable or identical merchandise from the primary surrogate country. Here also we intend to follow the regulatory preference stated in 19 CFR 351.408(c)(4) and decline to use this statement.

¹⁶³ *Id.*

¹⁶⁴ *See* Petitioner's SV Comments at Exhibit SA-8.

¹⁶⁵ *Id.*, at Exhibit TH-6.

¹⁶⁶ *Id.*

¹⁶⁷ *See* Jangho's SV Comments at 2 and Exhibit 2.

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *See* Surrogate Country Selection Memorandum.

¹⁷¹ *Id.*

Tostem's financial statements are not appropriate for calculating surrogate financial ratios because these statements reveal that Tostem received a subsidy that the Department has previously found to be countervailable. Specifically, Tostem's statements refer to the receipt of a benefit from the Thailand Board of Investment listed as "investment promotion," which is a countervailable subsidy.¹⁷² Therefore we decline to use these statements.

Accordingly, we preliminarily used United Aluminum's financial statements to value overhead, SG&A, and profit. The company is a producer of comparable products. There is no record evidence to indicate that it received benefits that the Department has previously determined to be countervailable. Moreover, United Aluminum is located in the primary surrogate country and the audited financial statements are complete and sufficiently detailed to disaggregate materials, labor, overhead, and SG&A expenses.

For a complete listing of all the inputs and a detailed discussion about our SV selections, *see* Preliminary Factor Valuation Memorandum.

Adjustments for Countervailable Subsidies

In determining whether an adjustment under section 777A(f) of the Act was appropriate in this administrative review, the Department examined (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise; (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period; and (3) whether the Department 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.¹⁷³ For a subsidy meeting these criteria, the statute requires the Department to reduce the antidumping duty by the estimated amount of the increase in the weighted average dumping margin subject to a specified cap.¹⁷⁴

Union, the only mandatory respondent for which we calculated a margin, reported that prices to the U.S. customer did not change in response to changes in cost.¹⁷⁵ Union also reported that neither it nor its affiliated producer benefitted from any of the subsidies under review in the concurrent CVD proceeding of aluminum extrusions from the PRC.¹⁷⁶ To determine whether to grant a domestic pass-through adjustment for the separate rate respondents, the Department relies on the experience of the mandatory respondents examined in this review, subject to section 777A(f)(2) of the Act. In this case, none of the mandatory respondents established eligibility for the adjustment. Therefore, for these preliminary results, the Department did not make an adjustment pursuant to section 777A(f) of the Act for countervailable domestic subsidies for Union or the separate-rate recipients.

¹⁷² *See* Petitioner's SV Comments at Exhibit TH-3, Note 23; "investment promotion" has been found to be a countervailable subsidy, *see Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013) and accompanying Issues and Decision Memorandum at 7-12.

¹⁷³ *See* section 777A(f)(1)(A)-(C) of the Act.

¹⁷⁴ *See* section 777A(f)(1)-(2) of the Act.

¹⁷⁵ *See* Union's Double Remedy Response at X-3—X-4.

¹⁷⁶ *Id.*, at X-8—X-11.

Pursuant to section 772(c)(1)(C) of the Act, the Department made an adjustment for countervailable export subsidies. For Union, an adjustment has been made to its reported U.S. price.¹⁷⁷ For the companies eligible for a separate rate that were not individually examined in this administrative review, since all of these companies participated in the second CVD administrative review,¹⁷⁸ an adjustment has been made to the assigned separate rate based on the countervailable export subsidy found for the non-selected companies in the final results of the second CVD administrative review (or its own calculated rate, in the case of Kromet).

For the PRC-wide entity, since the entity is not currently under review, its rate is not subject to change; as a result, the margin net of subsidies is that determined in the *2012-2013 Final Results*.¹⁷⁹

See Attachment 1 for calculations showing the export subsidies and margins net of adjustments for the separate rate companies not subject to individual examination.

Currency Conversion

Where necessary, the Department 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.

¹⁷⁷ See Union Preliminary Analysis Memorandum.

¹⁷⁸ See *Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78788, 78789-90 (December 31, 2014).

¹⁷⁹ See *2012-2013 Final Results*, 79 FR at 78787. As the rate for the PRC-wide entity is not subject to change in the instant review, the margin from the *2012-2013 Final Results* that we are applying to the PRC-wide entity in the instant review is net of countervailable domestic and export subsidies.

Attachment 1

Adjustments for Countervailable Export Subsidies

	A	B	C	D	E	F
	Exporter	Weighted-Average Dumping Margin 2013-2014 POR (POR3)	AD Margin Source	Status in CVD POR2	Export Subsidy from CVD POR2 ¹	Margin Net of Adjustments ²
1						
2		A			B	A-B
3	Allied Maker Limited	32.79%	Avg. of petition rates	Non-selected company	0.28%	32.51%
4	Changzhou Changzheng Evaporator Co., Ltd.	32.79%	Avg. of petition rates	Non-selected company	0.28%	32.51%
5	Dongguan Aoda Aluminum Co., Ltd.	32.79%	Avg. of petition rates	Non-selected company	0.28%	32.51%
6	Justhere Co., Ltd.	32.79%	Avg. of petition rates	Non-selected company	0.28%	32.51%
7	Kam Kiu Aluminium Products Sdn Bhd ³	32.79%	Avg. of petition rates	Non-selected company	0.28%	32.51%
8	Kromet International Inc.	32.79%	Avg. of petition rates	Individually examined	0.55%	32.44%
9	Metaltek Group Co., Ltd.	32.79%	Avg. of petition rates	Non-selected company	0.28%	32.51%
10	Permasteelisa Hong Kong Ltd.	32.79%	Avg. of petition rates	Non-selected company	0.28%	32.51%
11	tenKsolar (Shanghai) Co., Ltd.	32.79%	Avg. of petition rates	Non-selected company	0.28%	32.51%
12	Union Industry (Asia) Co., Ltd. ⁴	n/a	Own data (calculated)	Non-selected company	0.28%	0.00%
13						
14						

¹We assigned the export subsidies as follows. For the company which was individually examined in CVD POR2, we assigned that company's own calculated rate from CVD POR2, and for the non-selected companies in CVD POR2, we assigned the non-selected rate from CVD POR2 (i.e., the simple average of the CVD POR2 mandatory respondents).

²Margin net of adjustments is for cash deposit and liquidation instructions to be issued to CBP. For the PRC-wide entity, the net margin is that determined in AD POR2 (see 2012-2013 Final Results, 79 FR at 78787); since the PRC-wide entity is not currently under review, the entity's rate is not subject to change.

³Taishan City Kam Kiu Aluminium Extrusion Co., Ltd. was a non-selected company in CVD POR2. In the instant AD review, Taishan City Kam Kiu Aluminium Extrusion Co., Ltd. and Kam Kiu Aluminium Products Sdn Bhd filed a joint separate-rate application. From the separate-rate application, it is apparent that Kam Kiu Aluminium Products Sdn Bhd is the exporter and Taishan City Kam Kiu Aluminium Extrusion Co., Ltd. is the producer.

⁴Union's adjustment, per the statute, was made in the margin program on a sales-specific basis.