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Investigation
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October 6, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination of the
Antidumping Duty Investigation of Certain Polyethylene
Terephthalate Resin from the People's Republic of China

SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain polyethylene terephthalate resin (PET resin) from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2014, through December 31, 2014. The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of the accompanying Federal Register notice.

BACKGROUND

Initiation

On March 10, 2015, the Department received antidumping duty (AD) petitions concerning imports of PET resin from the PRC and several other countries (i.e., Canada, India, and the Sultanate of Oman) in proper form on behalf of DAK Americas, LLC, M&G Chemicals, and Nan Ya Plastics, America (Petitioners).¹ The Department published the initiation of these LTFV investigations and companion countervailing duty (CVD) investigations on April 6, 2015.² On April 30, 2015, the U.S. International Trade Commission (ITC) published its preliminary

¹ See Petitions for the Imposition of Antidumping Duties on Imports of Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman, dated March 10, 2015 (the Petitions).

² See Certain Polyethylene Terephthalate Resin From Canada, the People's Republic of China, India, and the Sultanate of Oman: Initiation of Less-Than-Fair-Value Investigations, 80 FR 18376 (April 6, 2015) (Initiation Notice); see also Certain Polyethylene Terephthalate Resin From the People's Republic of China, India, and the Sultanate of Oman: Initiation of Countervailing Duty Investigations, 80 FR 18369 (April 6, 2015).



determination in which it determined that there is a reasonable indication that an industry in the United States was materially injured by reason of imports from the PRC of PET resin.³

In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in non-market economy (NME) LTFV investigations.⁴ The process requires exporters to submit a separate rate application (SRA)⁵ and to demonstrate an absence of both de jure and de facto government control over their export activities. In the Initiation Notice, we stated that SRAs would be due 30 days after publication of the notice, which fell on May 6, 2015.⁶ In response to requests for extension of that deadline, the Department extended the deadline to May 13, 2015. The Department received timely filed SRAs from Hainan Yisheng Petrochemical Co., Ltd. (HYP),⁷ Zhejiang Wankai New Materials Co., Ltd. (ZWNM),⁸ Dragon Special Resin (XIAMEN) Co., Ltd. (Dragon),⁹ Shanghai Hengyi Polyester Fiber Co., Ltd. (SHPF),¹⁰ Jiangsu Xingye Plastic Co., Ltd. (Xingye),¹¹ Far Eastern Industries (Shanghai) Ltd. (FEIS),¹² and Jiangyin Xingyu New Material Co., Ltd. (Xingyu).¹³ The Department issued supplemental separate rates questionnaires to the five applicants that had not been selected as mandatory respondents (i.e., those other than FEIS and Xingyu), and received responses from Xingye on June 16, 2015; from ZWNM, Dragon, and SHPF on June 24, 2015; and from HYP on June 26, 2015.¹⁴ Both FEIS and Xingyu referred to their SRAs in their

³ See Certain Polyethylene Terephthalate Resin from Canada, China, India, and Oman, 80 FR 24276 (April 30, 2015).

⁴ See Initiation Notice, 80 FR at 18381.

⁵ See Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005) (Policy Bulletin 05.1), available at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

⁶ See Initiation Notice, 80 FR at 18381.

⁷ See Final Version of Letter to the Secretary of Commerce from HYP “Separate Rate Application” (May 14, 2015) (HYP SRA).

⁸ See Final Version of Letter to the Secretary of Commerce from ZWNM “Separate Rate Application” (May 14, 2015) (ZWNM SRA). This filing was made on behalf of not only ZWNM but also Wan Kai Hong Kong International Limited (WKHK), which ZWNM states is an affiliated trading company. However, ZWNM later clarified that ZWNM was the producer and exporter for its sales to the United States. See ZWNM’s Letter to the Secretary of Commerce from ZWNM “SRA Supplemental Questionnaire Response” (June 24, 2015) (ZWNM Supplemental SRA) at 3.

⁹ See Final Version of Letter to the Secretary of Commerce from Dragon “Separate Rate Application” (May 14, 2015) (Dragon SRA).

¹⁰ See Final Version of Letter to the Secretary of Commerce from SHPF “Separate Rate Application” (May 14, 2015) (SHPF SRA).

¹¹ See Final Version of Letter to the Secretary of Commerce from Xingye “Separate Rate Application” (May 14, 2015) (Xingye SRA). Note that we are preliminarily finding Xingye to be part of the same single entity as Xingyu (see “Affiliation/Single Entity” section, below).

¹² See Letter to the Secretary of Commerce from FEIS “Separate Rate Application” (May 13, 2015) (FEIS SRA).

¹³ See Final Version of Letter to the Secretary of Commerce from Xingyu “Separate Rate Application” (May 14, 2015) (Xingyu SRA).

¹⁴ See Letter to the Secretary of Commerce from Xingye “SRA Supplemental Questionnaire Response” (June 16, 2015) (Xingye Supplemental SRA); Letter to the Secretary of Commerce from ZWNM “ZWNM Supplemental SRA Response” (June 24, 2015) (ZWNM Supplemental SRA); Letter to the Secretary of Commerce from Dragon “SRA Supplemental Questionnaire Response” (June 24, 2015) (Dragon Supplemental SRA); Letter to the Secretary of Commerce from SHPF “SRA Supplemental Questionnaire Response” (June 24, 2015) (SHPF Supplemental SRA); and Letter to the Secretary of Commerce from HYP “SRA Supplemental Questionnaire Response” (June 26, 2015) (HYP Supplemental SRA).

responses to Section A of the Department's May 22, 2015 questionnaire.¹⁵ The Department asked additional questions related to the SRAs of FEIS and Xingyu in supplemental Section A questionnaires dated July 6, 2015 and July 22, 2015, respectively, and FEIS and Xingyu submitted responses dated July 22, 2015 and August 7, 2015, respectively.¹⁶ The Department invited Oriental Industries (Suzhou) Limited (OTIZ), an affiliate of FEIS, to submit a SRA in a FEIS supplemental questionnaire response, and it did so.¹⁷ The Department also invited Xingyu to submit SRAs for three additional affiliates, Jiangyin Xingjia Plastic Co., Ltd. (Xingjia), Jiangyin Xingtai New Material Co., Ltd. (Xingtai), and Jiangsu Xingye Polytech Co., Ltd. (Xingye Polytech), and SRAs were filed for each of those firms.¹⁸

As discussed in the "Affiliation/Single Entity" section below, the Department preliminarily determines that FEIS and OTIZ constitute a single entity (henceforward referenced as "FEIS Group," when appropriate) and that Xingyu and its aforementioned affiliates constitute a single entity (henceforward referenced as "Xingyu Group," when appropriate).

Period of Investigation

The POI is July 1, 2014, through December 31, 2014. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was March 2015.¹⁹

Postponement of Preliminary and Final Determinations

On July 31, 2015, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2), the Department published a 50-day postponement of the preliminary AD determination on PET resin from the PRC.²⁰

Pursuant to 19 CFR 351.210(b)(2)(ii), on September 30, 2015, Xingyu, Xingye, Dragon, HYP, ZWNM, and SHPF requested that the Department postpone the final determination, and that provisional measures be fully extended.²¹ On October 2, 2015, FEIS requested the same.²²

¹⁵ See Letter to the Secretary of Commerce from FEIS "Section A Questionnaire Response – Far Eastern Industries (Shanghai) Ltd." (June 19, 2015) (FEIS Section A) at A-2, and Letter to the Secretary of Commerce from Xingyu "Section A Response" (June 30, 2015) (Xingyu Section A) at A-2.

¹⁶ See Letter to the Secretary of Commerce from FEIS "Supplemental Questionnaire Section A Response – Far Eastern Industries (Shanghai) Ltd." (July 22, 2015) (FEIS Supplemental Section A) at SE-3 to SE-9, and Letter to the Secretary of Commerce from Xingyu "Supplemental Section A Response" (August 7, 2015) (Xingyu Supplemental Section A) at 3-9. FEIS also addressed additional questions related to separate rates in its response to the Section A portion of the Department's August 14, 2015 supplemental questionnaire. See "2nd Supplemental Section A Questionnaire Response – Far Eastern Industries (Shanghai) Ltd." (August 26, 2015) (FEIS Second Supplemental Section A) at 2SE-1 to 2SE-2.

¹⁷ See Letter to the Secretary of Commerce from FEIS "Supplemental Section C Response – Far Eastern Industries (Shanghai) Ltd." (September 1, 2015) (FEIS Supplemental Section C).

¹⁸ See Letter to the Secretary of Commerce from Xingyu "Supplemental Section A & D Response" (September 14, 2015) (Xingyu Supplemental Sections AD).

¹⁹ See 19 CFR 351.204(b)(1).

²⁰ See Certain Polyethylene Terephthalate Resin from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation, 80 FR 45640 (July 31, 2015).

²¹ See Letter from Xingyu, Xingye, Dragon, HYP, ZWNM, and SHPF to the Secretary of Commerce "Request for Full Extension of Final Determination" (September 30, 2015) ("Various Parties' Extension Request").

²² See Letter from FEIS to the Secretary of Commerce, "Request to Postpone Final Determination" (October 2,

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because 1) our preliminary determination is affirmative, 2) the requesting exporters account for a significant proportion of exports of the subject merchandise,²³ and 3) no compelling reasons for denial exist, we are granting the parties' requests and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the Federal Register. In this regard, the aforementioned parties submitted requests to extend the provisional measures,²⁴ and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 0.70, but not more than 0.88, deciliters per gram. The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the Preamble to the Department's regulations,²⁵ in our Initiation Notice we set aside a period of time for parties to raise issues regarding product coverage, and requested that parties submit comments by April 20, 2015.²⁶ No parties submitted comments on the scope by that deadline.

Product Characteristics

In the Initiation Notice, we set aside a period of time for parties to raise issues regarding product characteristics. On April 23, 2015, Petitioners, OCTAL SAOC FZC (OCTAL), and FEIS and OTIZ submitted comments on product characteristics.²⁷ On April 30, 2015, Petitioners,

2015) ("FEIS Extension Request").

²³ See Memorandum to Christian Marsh from Abdelali Elouaradia "Antidumping Duty Investigation of Certain Polyethylene Terephthalate Resin (PET Resin) from the People's Republic of China (PRC): Selection of Mandatory Respondents" (May 22, 2015) (Respondent Selection Memo).

²⁴ See 19 CFR 351.210(e)(2); see also Various Parties' Extension Request and FEIS Extension Request.

²⁵ See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997) (Preamble).

²⁶ See Initiation Notice, 80 FR at 18376.

²⁷ See Letter to the Secretary of Commerce from Petitioners, "Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman - Product Matching Comments," dated April 23, 2015; Letter to the Secretary of Commerce from OCTAL, "OCTAL's Comments on Product Characteristics for Model-Matching Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman,

OCTAL, and Dhunseri Petrochem Limited (Dhunseri) submitted rebuttal comments on the product characteristics.²⁸ However, on May 7, 2015, the Department rejected Dhunseri's April 30, 2015 submission as untimely filed affirmative comments on product characteristics and not rebuttal comments. After considering the comments that were submitted, the Department established product characteristics to use as a basis for defining models of the merchandise under consideration sold in the United States: (1) intrinsic viscosity; (2) blend; (3) copolymer/homopolymer; (4) additives; and (5) acetaldehyde content.

Selection of Respondents

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 and producers if it is not practicable to make individual weighted average dumping margin determinations because of the large number of exporters and producers involved in the investigation. When the Department limits the number of exporters examined in an investigation pursuant to section 777A(c)(2) of the Act, section 782(a) of the Act directs the Department to calculate individual weighted average dumping margins for companies not initially selected for individual examination who voluntarily provide the information requested of the mandatory respondents if (1) the information is submitted by the due date specified for the mandatory respondents and (2) the number of exporters/producers subject to the investigation is not so large that any additional individual examination of such exporters/producers would be unduly burdensome to the administering authority and inhibit the timely completion of the investigation.²⁹

In the Initiation Notice, the Department stated its intent to base respondent selection on the responses to quantity and value (Q&V) questionnaires that would be sent to the 35 exporters/producers listed in the Petition.³⁰ In addition, the Department posted the Q&V

Canada, India and China," dated April 23, 2015; and Letter to the Secretary of Commerce from Far Eastern Industries (Shanghai) Ltd. and Oriental Industries (Suzhou) Ltd. to the Department, "Certain Polyethylene Terephthalate Resin From Canada, the People's Republic of China, India, and the Sultanate of Oman: Comments on Product Characteristics," dated April 23, 2015.

²⁸ See Letter to the Secretary of Commerce from Petitioners, "Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman - Product Matching Rebuttal Comments," dated April 30, 2015; Letter to the Secretary of Commerce from OCTAL, "OCTAL's Comments on Product Characteristics for Model-Matching Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman, Canada, India and China," dated April 30, 2015; and Letter to the Secretary of Commerce from Dhunseri Petrochem Limited, "Certain Polyethylene Terephthalate Resin from Canada, China, Oman, and India - Dhunseri Rebuttal Comments on Product Characteristics," dated April 30, 2015.

²⁹ The voluntary respondent provision of the Act was recently revised. See Section 506 of the Trade Preferences Extension Act of 2015, Public Law 114-27 (June 29, 2015); see also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015: Interpretive Rule, 80 FR 46793 (August 6, 2015) (establishing a date of application for the statutory revisions contained in the Trade Preferences Extension Act of 2015).

³⁰ See Volume I of the Petitions at 10 and Exhibit GEN-3. The list of companies identified by the Petitioners identifies three company names twice each, in each instance with variations in addresses or "c/o" identifiers. For each pair of identical names, no information on the record indicates they represent more than one firm. Consequently, the Department concludes that those six listed names represent only three companies, and that the number of possible PRC exporters/producers identified in the Petitions is 32 rather than 35.

questionnaire on its website and, in the Initiation Notice, invited parties that did not receive a Q&V questionnaire from the Department to file a response to the Q&V questionnaire by the applicable deadline if they wished to be included in the pool of companies from which the Department would select mandatory respondents.³¹

Of the 32 distinct firms to which the Q&V questionnaire was sent, it was confirmed that the questionnaire was undeliverable to three of those firms.³² In addition, three companies, two of which had been sent Q&V questionnaires, filed responses indicating they made no U.S. sales or shipments of subject merchandise during the POI.³³ One company to which a Q&V questionnaire was sent filed an improper response, and did not correct its response when given an opportunity to do so.³⁴ Nineteen companies which had been sent a Q&V questionnaire did not file any response.³⁵ For further information about the 20 companies that were sent a Q&V questionnaire and failed to file a proper response, see the “PRC-wide Entity” section, below. Seven companies, all of which had been sent Q&V questionnaires, filed responses identifying their Q&V of U.S. sales.³⁶ One of those companies, Dragon, asked that in the event it were not selected as a mandatory respondent, that it be treated as a voluntary respondent.³⁷

On May 22, 2015, the Department limited the number of respondents selected for individual examination to the two exporters accounting for the largest volume of exports from the PRC to the United States during the POI that could be reasonably examined. Therefore, in accordance with section 777A(c)(2)(B) of the Act, the Department selected the two exporters accounting for the largest volume of PET resin from the PRC during the POI (i.e., Xingyu and FEIS).³⁸

The Department issued its AD NME questionnaire to Xingyu and FEIS on May 22, 2015. FEIS submitted its Section A response dated June 19, 2015.³⁹ Xingyu submitted its Section A

³¹ See Initiation Notice, at 18381.

³² See Memorandum to the File from Tyler Weinhold, Case Analyst, Office VI “Quantity and Value Questionnaires Sent to Identified Producer and Exporters; Identified Producer and Exporters Addresses and Telephone Numbers” (April 15, 2015) (Q&V Tracking Memo). The three names in question are Asia Int’l Enterprise (Hong Kong), Bie Er Te Industrial Co., Ltd., and Conet Industrial Corp., Ltd.

³³ See Respondent Selection Memo at 2. The three firms in question are Guangdong IVL PET Polymer Co., Ltd., Oriental Industries (Suzhou) Ltd., and Giant Flexpack (Taixing) Co., Ltd. Oriental Industries (Suzhou) Ltd. was not sent a Q&V questionnaire.

³⁴ See Respondent Selection Memorandum at 2. The firm in question is China Resources Packaging Materials Co., Ltd.

³⁵ Those 19 firms are the following: (1) Artree (Xiamen) Group, Ltd.; (2) GC Limited; (3) Guangdong Huaye Packing Materials Co.; (4) Jiangsu Huachen Plastic Woven Co., Ltd.; (5) Jiangyin Xingtai New Material Co., Ltd.; (6) Klockner Pentaplast (Suzhou) Specialty Materials Co., Ltd.; (7) LG International Corp.; (8) LPI 3D Printing, Ltd.; (9) Qingdao Zhengdexiang Industry and Trade Co., Ltd.; (10) R&Y International Co., Ltd.; (11) Radiance Electronics Shanghai Co., Ltd.; (12) Sinochem Plastics Co., Ltd.; (13) Wan Kai Hong Kong International, Ltd.; (14) Worldwide Polychem (HK) Ltd.; (15) Xiamen Goodget Enterprise Co., Ltd.; (16) Xiamen Kaiyan Trading Co., Ltd.; (17) Xiaglong Industry Co., Ltd.; (18) Yizheng Petrochemical Fibers; and (19) Zhejiang Henda Trading Company, Ltd.

³⁶ See Respondent Selection Memorandum at 2. The firms in question are: (1) Dragon; (2) FEIS; (3) HYP; (4) Xingye; (5) Xingyu; (6) SHPF; and (7) ZWNM.

³⁷ Despite this request, Dragon did not submit information in accordance with the deadlines and other criteria set forth in section 782(a) of the Act and 19 CFR 351.204(d).

³⁸ See Respondent Selection Memorandum.

³⁹ See FEIS Section A.

response dated June 30, 2015.⁴⁰ Xingyu submitted its Section C response dated July 6, 2015, and its Section D response dated July 9, 2015.⁴¹ FEIS submitted its Section C and D responses dated July 8, 2015,⁴² and corrected two of its Section D exhibits in a submission dated July 17, 2015.⁴³

The Department issued a supplemental Section A questionnaire to FEIS dated July 6, 2015, and FEIS submitted its response dated July 22, 2015.⁴⁴ The Department issued a supplemental Section A questionnaire to Xingyu dated July 22, 2015, and Xingyu submitted its response dated August 7, 2015.⁴⁵ The Department issued a supplemental Section A, C, and D questionnaire to Xingyu dated July 31, 2015, and Xingyu submitted its response dated August 17, 2015.⁴⁶ The Department issued a supplemental section A, C, and D questionnaire to FEIS dated August 14, 2015, and FEIS submitted its response to section A on August 26, 2015,⁴⁷ and its responses to sections C and D dated September 1, 2015 and September 2, 2015, respectively.⁴⁸ The Department issued to FEIS a supplemental questionnaire relating to affiliation dated September 1, 2015, and FEIS submitted its response dated September 11, 2015.⁴⁹ The Department issued to Xingyu a supplemental section A and D questionnaire dated September 4, 2015, and Xingyu submitted its response dated September 14, 2015.⁵⁰ Xingyu submitted pre-preliminary comments on September 25, 2015.⁵¹ Petitioners submitted pre-preliminary comments on September 29, 2015.⁵²

⁴⁰ See Xingyu Section A.

⁴¹ See Letter to the Secretary of Commerce from Xingyu “Section C Response” (July 6, 2015) (Xingyu Section C) and Letter to the Secretary of Commerce from Xingyu “Section D Response” (July 9, 2015) (Xingyu Section D), respectively.

⁴² See Letter to the Secretary of Commerce from FEIS “Section C Questionnaire Response – Far Eastern Industries (Shanghai) Ltd.” (July 8, 2015) (FEIS Section C) and Letter to the Secretary of Commerce from FEIS “Section D Questionnaire Response – Far Eastern Industries (Shanghai) Ltd.” (July 8, 2015) (FEIS Section D), respectively.

⁴³ See Letter to the Secretary of Commerce from FEIS “Revised Section D Exhibits – Far Eastern Industries (Shanghai) Ltd.” (July 17, 2015) (FEIS Correction to Section D).

⁴⁴ See FEIS Supplemental Section A.

⁴⁵ See Xingyu Supplemental Section A.

⁴⁶ See Letter to the Secretary of Commerce from Xingyu “Supplemental Section A, B, and C Response” (August 17, 2015) (Xingyu Supplemental Sections ACD).

⁴⁷ See FEIS Second Supplemental Section A.

⁴⁸ See FEIS Supplemental C and Letter to the Secretary of Commerce from FEIS “Supplemental Section D Response – Far Eastern Industries (Shanghai) Ltd.” (September 2, 2015) (FEIS Supplemental D), respectively.

⁴⁹ See Letter to the Secretary of Commerce from FEIS “Supplemental Questionnaire Response (Affiliation) – Far Eastern Industries (Shanghai) Ltd.” (September 11, 2015) (FEIS Affiliation Response).

⁵⁰ See Xingyu Supplemental Sections AD.

⁵¹ See Letter to the Secretary of Commerce from Xingyu “Pre-preliminary Comments” (September 25, 2015) (“Xingyu Pre-Prelim Comments”).

⁵² See Letter to the Secretary of Commerce from Petitioners “Comments in Advance of the Preliminary Determination” (September 29, 2015) (“Petitioners Pre-Prelim Comments”).

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country

The Department considers the PRC to be an NME country.⁵³ 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. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

Surrogate Country and Surrogate Value Comments

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by the Department. Specifically, 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— (A) at a level of economic development comparable to that of the {NME} country; and (B) significant producers of comparable merchandise."⁵⁴ As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.⁵⁵ To determine which countries are at the same level of economic development, the Department generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.⁵⁶ Further, the Department normally values all FOPs in a single surrogate country.⁵⁷

On May 27, 2015, the Department identified Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine as countries that are at the same level of economic development as the PRC based on per capita 2013 GNI data.⁵⁸ On May 28, 2015, the Department issued a letter to interested parties soliciting comments on the list of countries that the Department determined, based on per capita 2013 GNI, to be at the same level of economic development as the PRC, the

⁵³ 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).

⁵⁴ See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1) available on the Department's website at <http://enforcement.trade.gov/policy/bull04-1.html>.

⁵⁵ See Letter to All Interested Parties "Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information" (May 28, 2015) (Surrogate Country Memorandum).

⁵⁶ Id.

⁵⁷ See 19 CFR 351.408(c)(2).

⁵⁸ See Surrogate Country Memorandum at Attachment I.

selection of the primary surrogate country, as well as provided deadlines for the consideration of any submitted surrogate value information for the preliminary determination.⁵⁹

On June 16, 2015, Petitioners submitted timely comments on the proposed list of countries, and also proposed an additional country for the list, Indonesia.⁶⁰ On June 19, 2015, FEIS submitted rebuttal comments.⁶¹ FEIS argued that Indonesia should not be considered because Petitioners did not establish that Indonesia is a significant producer of comparable merchandise, and because of what FEIS alleged was a substantial difference between Indonesia's per capita GNI and that of the PRC.⁶²

On July 16, 2015, Petitioners, FEIS, and Xingyu each submitted comments on surrogate countries and surrogate values, based on countries identified in the Surrogate Country Memorandum. Petitioners submitted data for South Africa, and FEIS and Xingyu both submitted data for Thailand.⁶³ On July 27, 2015, Petitioners and Xingyu each submitted rebuttal comments on surrogate countries and surrogate values, and FEIS submitted rebuttal comments on surrogate countries.⁶⁴ On September 8, 2015, Petitioners submitted surrogate value comments and information for Thailand, South Africa, and Indonesia.⁶⁵ On that day, Petitioners also submitted an additional document, but that submission was rejected by the Department because it contained untimely filed factual information.⁶⁶ Petitioners later refiled the submission without the untimely factual information, which contained surrogate value data for Mexico.⁶⁷ On September 8, 2015, both Xingyu and FEIS also submitted additional surrogate value

⁵⁹ See Surrogate Country Memorandum.

⁶⁰ See Letter to the Secretary of Commerce from Petitioners "Investigation of Certain Polyethylene Terephthalate Resin from the People's Republic of China – Petitioners' Comments on the Office of Policy Surrogate Country List" (June 16, 2015) (Petitioners' Surrogate Country List Comments).

⁶¹ See Letter to the Secretary of Commerce from FEIS "Polyethylene Terephthalate Resin from People's Republic of China: Rebuttal Economic Comparability Comments" (June 19, 2015) (FEIS Surrogate Country List Rebuttal Comments).

⁶² *Id.* at 1-2.

⁶³ See Letter to the Secretary of Commerce from Petitioners "Petitioners' Comments on the Selection of a Surrogate Country and Surrogate Values" (July 16, 2015) (Petitioners SV Comments), Letter to the Secretary of Commerce from FEIS "Surrogate Country & Value Comments" (July 16, 2015) (FEIS SV Comments), and Letter to the Secretary of Commerce from Xingyu "Surrogate Country Comments and Surrogate Values" (July 16, 2015) (Xingyu SV Comments), respectively.

⁶⁴ See Letter to the Secretary of Commerce from Petitioners "Petitioners' Comments Rebutting, Correcting and Clarifying Respondents' Comments on the Selection of a Surrogate Country and Surrogate Values" (July 27, 2015) (Petitioners SV Rebuttal Comments), Letter to the Secretary of Commerce from Xingyu "Rebuttal Surrogate Country Comments and Surrogate Values" (July 27, 2015) (Xingyu SV Rebuttal Comments), and Letter to the Secretary of Commerce from FEIS "Rebuttal Surrogate Country Comments" (July 27, 2015) (FEIS SV Rebuttal Comments), respectively.

⁶⁵ See Letter to the Secretary from Petitioners "Petitioners' Submission of Surrogate Value Information for Thailand" (September 8, 2015) (Petitioners Thailand SV), Letter to the Secretary from Petitioners "Petitioners' Submission of Supplemental Surrogate Value Information for South Africa" (September 8, 2015) (Petitioners Final South Africa SV), and Letter to the Secretary from Petitioners "Petitioners' Submission of Indonesian Surrogate Values" (September 8, 2015) (Petitioners Indonesia SV).

⁶⁶ See Letter to DAK Americas LLC, M&G Chemicals, and NanYa Plastics Corporation, America, dated September 24, 2015.

⁶⁷ See Letter to the Secretary from Petitioners "Petitioners' Re-Submission of Mexican Surrogate Values" (September 28, 2015) (Petitioners Mexico SV). The re-filed submission omitted the untimely filed factual information.

comments and information related to Thailand.⁶⁸ On September 18, 2015, both Petitioners and Xingyu submitted rebuttal comments on the other's September 8, 2015 submission.⁶⁹

In various surrogate country and value submissions, Petitioners recommend South Africa as the primary surrogate country. They provided surrogate values for inputs based on South Africa import data, with a proposed adjustment for the fact that the South Africa Global Trade Atlas (GTA) import data are on a Free On Board (FOB) basis rather than a Cost, Insurance and Freight (CIF) basis. As noted, Petitioners also submitted SV data for Indonesia and Mexico as potential alternatives to South Africa, including information indicating those countries are significant producers of PET resin. For South Africa, Petitioners recommend use of POI import data for material inputs with the exception of two inputs: purified terephthalic acid (PTA) and nitrogen; for those inputs, petitioners recommended using import data for January 1, 2014 through December 31, 2014 (encompassing six months before the POI, as well as the six months of the POI), because the volumes of imports of each during the POI were negligible.⁷⁰ With regard to financial ratios, Petitioners provided the financial statements for a South African company, KAP Industrial Holdings Limited (KAP), a producer of PET resin products.⁷¹

FEIS recommended Thailand as the surrogate country.⁷² Regarding PTA, FEIS stated that the POI import total for that input for Thailand was negligible, but provided PTA pricing data from a data source called ICIS.⁷³ Xingyu also recommended Thailand as the surrogate country.⁷⁴

Xingyu argued that South African imports of PTA and nitrogen for the twelve-month period proposed by Petitioners are negligible and are not contemporaneous with the POI. Xingyu also suggested that the ICIS data FEIS has proposed for PTA are representative of Thailand PTA prices and establish the unreliability of the prices based on South African import unit values that Petitioners propose using.⁷⁵ Xingyu later submitted a study of PTA prices in Thailand and

⁶⁸ See Letter to the Secretary from Xingyu "Final Surrogate Value Submission" (September 8, 2015) ("Xingyu Final SV") and Letter to the Secretary from FEIS "Factual Submission – Supplemental Surrogate Value Information" (September 8, 2015) ("FEIS Final SV"), respectively.

⁶⁹ See Letter to the Secretary from Petitioners "Petitioners' Rebuttal of Respondent's September 8, 2015 Surrogate Value Submission" (September 18, 2015) (Petitioners Final SV Rebuttal) and Letter to the Secretary from Xingyu "Final Rebuttal Surrogate Value Submission" (September 18, 2015). Note that the Department rejected the latter document because it contained untimely information, and it was resubmitted with the untimely information redacted, see Letter to the Secretary from Xingyu "Refiling – Final Rebuttal Surrogate Value Submission" (September 30, 2015) (Xingyu Final SV Rebuttal).

⁷⁰ See Petitioners SV Comments at 2 (footnote 4) and Petitioners Final South Africa SV at 3-4. For Mexico and Indonesia, petitioners do not refer to any such exceptions to POI SV data, and Xingyu claims that the quantity of PTA imports into Mexico and Indonesia are too small to yield reliable values and the tariff category suggested by petitioners is general and not specific to the input. See Xingyu Final SV Rebuttal at 2.

⁷¹ See Petitioners SV Comments at 4 and Attachment 5. Petitioners also provided financial statements for PET resin producers in Mexico and Indonesia in the submissions referenced above. Xingyu responded that the statement for the Mexican company, Alpek, is a consolidated statement reflecting in part the operations of non-Mexican subsidiaries, that Alpek is more vertically integrated and diversified than Xingyu, and that Alpek is the parent company of one of the Petitioners. See Xingyu Final SV Rebuttal at 2. Regarding the financial statement submitted for the Indonesia company, Xingyu stated that firm makes dissimilar products to those of Xingyu. *Id.* at 2-3.

⁷² See FEIS SV Comments at 2.

⁷³ See FEIS SV Rebuttal Comments at 3-4. See also FEIS SV Comments at Attachment 1.

⁷⁴ See Xingyu SV Comments at 1.

⁷⁵ See Xingyu SV Rebuttal Comments at 4.

information related to the firm that conducted the study.⁷⁶ With regard to financial statements, FEIS provided those of a Thailand producer, Indorama Ventures, a producer of PET resin and related products.⁷⁷ Xingyu commented in support of use of the financial statements of that Thailand producer.⁷⁸ Both FEIS and Xingyu commented that the South African financial statement suggested by Petitioners is for a company that makes a broad range of products differing substantially from PET resin, unlike FEIS and Xingyu and Indorama. FEIS notes that the South African financial statement is for a period not contemporaneous with the POI.⁷⁹ Xingyu later submitted the financial statements of another Thai producer, Thai PET Resin Co., Ltd. (TPRC).⁸⁰

With regard to PTA, Petitioners counter that the ICIS price data were rejected in another recent proceeding because they do not reference Thailand prices and because they were not accompanied by adequate methodological information.⁸¹ Petitioners state price information from the price study submitted by Xingyu is not usable because the Department has a practice of relying on public, published information to value inputs, rather than privately obtained pricing data, and prefers to use import data as a basis for valuing material inputs.⁸² With regard to financial statements, Petitioners stated the financial statements of Indorama Ventures had been rejected by the Department as a source of surrogate financial statements because Indorama Ventures had been found to have received countervailable subsidies. Petitioners further noted that the Indorama Ventures financial statements proposed by FEIS actually identify countervailable subsidies, including some specific to PET resin.⁸³ Petitioners stated that TPRC's financial statement is not usable because of the absence of details needed for financial ratio calculations, because it did not earn an operating profit in 2014 and had a massive loss in the prior fiscal year, and because it is a privately-owned cost center of joint venture partners.⁸⁴

A. Economic Comparability

Consistent with its practice, and section 773(c)(4) of the Act,⁸⁵ the Department identified Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine as countries at the same level of economic development as the PRC based on GNI data published in the World Bank Development Indicators database.⁸⁶ As noted, Petitioners also argued that Indonesia should be

⁷⁶ See Xingyu Final SV at 1 and Exhibits SV-1, SV-2, and SV-3.

⁷⁷ See FEIS SV Comments at Attachment 23.

⁷⁸ See Xingyu SV Rebuttal Comments at 3.

⁷⁹ See FEIS SV Rebuttal Comments at 4-5, and Xingyu Rebuttal Comments at 3-4.

⁸⁰ See Xingyu Final SV at 2 and Exhibit 8.

⁸¹ See Petitioners SV Rebuttal Comments at 4-5, referencing Certain Polyester Staple Fiber From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2012-2013, 80 FR 4542 (January 28, 2015), and accompanying Issues and Decision Memorandum (Comment 2) (PSF 2015).

⁸² See Petitioners Pre-Prelim Comments at 2-4.

⁸³ See Petitioners SV Rebuttal Comments at 14-16, referencing both Certain Polyester Staple Fiber From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, 77 FR 39990, 39992 (July 6, 2012), unchanged in Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 2366 (January 11, 2013) (PSF 2013) and FEIS SV Comments at Attachment 23.

⁸⁴ See Petitioners Final SV Rebuttal at 8-11.

⁸⁵ See Surrogate Country Memorandum.

⁸⁶ Id.

added to the Department’s potential surrogate country list because it is economically comparable to the PRC.⁸⁷ Specifically, Petitioners stated that the per capita gross domestic product (GDP) of Indonesia is comparable to that of some countries on the Department’s proposed surrogate country list.⁸⁸

Section 773(c)(4) of the Act states that the Department “shall utilize, to the extent possible, the prices or costs of {FOPs in one or more market economy countries that are . . . at a level of economic development comparable to that of the {NME} country.” However, the applicable statute does not expressly define the phrase “level of economic development comparable” or what methodology the Department must use in evaluating the criterion. 19 CFR 351.408(b) states that in determining whether a country is at a level of economic development comparable to the NME country, the Department will place primary emphasis on per capita GDP as the measure of economic comparability.⁸⁹ The U.S. Court of International Trade (CIT) has found the use of per capita GNI to be a “consistent, transparent, and objective metric to identify and compare a country’s level of economic development” and “a reasonable interpretation of the statute.”⁹⁰

In this proceeding, the Department identified Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine as potential surrogate countries. Accordingly, unless it is determined that none of these countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons, we will rely on data from one of these countries. Because, as described below, we have preliminarily determined that one or more of these countries are viable options, we will not rely on data from Indonesia, a country which we consider to be less economically comparable to the PRC.

B. Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department’s regulations provide further guidance on what may be considered comparable merchandise. Among the factors we consider in determining whether a country is a significant producer of comparable merchandise is whether the country is an exporter of comparable merchandise. In order to determine whether the above-referenced countries are significant producers of comparable merchandise, the Department’s practice is to examine which countries on the surrogate country list exported merchandise comparable to the merchandise under consideration using export data for the six-digit level harmonized tariff schedule (HTS) code listed in the description of the scope of this investigation (*i.e.*, 3907.60). After reviewing the export data submitted by parties for countries identified in Surrogate Country List, the Department preliminarily determines that Thailand and South Africa are significant producers of comparable merchandise (*i.e.*, exported merchandise under the six-digit basket HTS code

⁸⁷ See Petitioners’ Surrogate Country List Comments at 2.

⁸⁸ *Id.* at 3-4.

⁸⁹ Commerce uses per capita GNI as a proxy for per capita GDP. GNI is GDP plus net receipt of primary income (compensation of employees and property income) from nonresident sources. See Policy Bulletin 04.1.

⁹⁰ See Jiaying Brother Fastener Co. v. United States, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

included in the scope), and, therefore, satisfy the second criterion of section 773(c)(4) of the Act.⁹¹

C. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, the Department selects the primary surrogate country based on data availability and reliability.⁹² When evaluating surrogate value data, the Department considers several factors, including whether the surrogate values are publicly available, contemporaneous with the POI, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.⁹³

As noted above, Petitioners have placed certain potential SV data on the record for South Africa, and FEIS and Xingyu have done so for Thailand.⁹⁴ For most inputs, the data proposed are based upon GTA import data of the respective countries; for others, such as electricity and water, other South Africa or Thailand data sources are recommended by the parties.

The parties raised two primary data availability arguments associated with the information on the record related to South Africa and Thailand surrogate values. One issue relates to the financial statements on the record. As noted, Petitioners submitted the financial statements of a South Africa producer of PET resin, KAP, while FEIS and Xingyu each submitted a financial statement of a Thai producer of PET resin (Indorama and TPRC, respectively).

The Department preliminarily determines the Indorama financial statement is not usable because of evidence of countervailable subsidies, consistent with the Department's finding in PSF 2013.⁹⁵ The Department's usual practice is not to rely on financial statements where there is evidence that the company received countervailable subsidies and there are other, more reliable and representative data on the record for purposes of calculating surrogate financial ratios. While the financial statements of KAP and TPRC are both publicly available, show a net profit (regardless of TPRC's operating loss), and allow for calculation of financial ratios, KAP is more diversified in its operations than TPRC.⁹⁶ Consequently, though both financial statements are usable, we find that the TPRC financial statement is superior to that of KAP because KAP is a diversified company, involved in manufacturing and services unrelated to PET resin or related products, while TPRC, like Xingyu and FEIS, is focused upon PET resin.

A second data availability concern relates to PTA, which Petitioners, FEIS, and Xingyu each acknowledge is one of the major inputs in the PET resin production process. POI imports of

⁹¹ See FEIS SV Comments at Exhibit A; Xingyu SV Comments at Exhibit SV-3; and Petitioners Final South Africa SV at 2.

⁹² See Policy Bulletin 04.1.

⁹³ Id.

⁹⁴ As noted above, Petitioners have also placed SV information on the record for Mexico and Indonesia; however, those data are not discussed here, given that the Department preliminarily finds that data submitted for at least one country on the Department's surrogate country list are usable.

⁹⁵ See PSF 2013.

⁹⁶ Petitioners' claim regarding the absence of an operating profit for TPRC is not pertinent, as the financial statements of TPRC indicate the company earned a net profit..

PTA from non-excluded countries were no more than two kilograms each for both South Africa and Thailand.⁹⁷ As stated above, Petitioners propose the Department use full year 2014 South Africa import data, which for PTA reflect more significant import volumes. The record also contains GTA import data for Thailand that covers the calendar year 2014, and similarly reflects a larger import volume than that for the POI. Xingyu and FEIS propose use of ICIS price list data to value PTA, and Xingyu submitted the aforementioned private price study. However, the Department does not find the ICIS price data or the private price study to be the best available information for valuing PTA, based on considerations identified in PSF 2015⁹⁸ and the fact that the Department prefers to use information reflecting actual transactions (e.g., GTA import data) over price information from private sources such as ICIS price data or the price study submitted by Xingyu.

The Department identified additional data considerations. First, if South Africa were to be used as the surrogate country, additional adjustments would need to be made to nearly all of the proposed SVs to account for the fact that South Africa import data are valued on an FOB basis.⁹⁹ Next, the information on the record relating to inland freight expenses for Thailand is not usable because the source document on the record contains an incomplete English translation.¹⁰⁰ Also, no brokerage and handling expenses data are on the record for Thailand.

Based on the foregoing, we find that Thailand and South Africa each are equally limited with respect to POI value data for PTA, but Thailand is superior given that, unlike the South Africa statement, the Thailand TPRC statement is for a producer of only identical merchandise. Therefore, the Department preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Thailand as the primary surrogate country because Thailand is (1) at the same level of economic development as the PRC and (2) a significant producer of merchandise comparable to the merchandise under consideration such that can be determined from the information available; and (3) contains the best available data for valuing FOPs.

As noted, the record contains Thailand surrogate values for primary inputs in the production of merchandise under consideration. For those FOPs where the record does not contain useable Thailand surrogate values (e.g., inland freight and brokerage and handling), the Department is using other information on the record.¹⁰¹ Therefore, the Department has calculated NV primarily using Thailand surrogate value data when available and appropriate to value respondents' FOPs.¹⁰² An explanation of the surrogate values upon which the Department is preliminarily relying can be found in the "Normal Value" section of this memorandum.

⁹⁷ See, e.g., Petitioners Final South Africa SV at Attachment 1-A RAND and Petitioners Thailand SV at Attachment Thai-1.

⁹⁸ See PSF 2015, and accompanying Issues and Decision Memorandum (Comment 2).

⁹⁹ We note Petitioners have provided information allowing for such adjustments. See Petitioners Final South Africa SV at 1-C RAND and 6 RAND.

¹⁰⁰ See FEIS SV Comments at Attachment 21.

¹⁰¹ See memorandum through Robert James to The File "Antidumping Duty Investigation of Certain Polyethylene Terephthalate Resin from the People's Republic of China – Surrogate Values for the Preliminary Determination" (October 6, 2015) (Preliminary SV Memorandum).

¹⁰² Id.

Separate Rates

In proceedings involving NME countries, the Department maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.¹⁰³ The Department's policy is to assign all exporters of merchandise under consideration that are in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.¹⁰⁴ The Department analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in Sparklers¹⁰⁵ and further developed in Silicon Carbide.¹⁰⁶ According to this separate rate test, the Department will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both de jure and de facto government control over its export activities. If, however, the Department determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

A. Separate Rate Recipients

The following firms submitted SRAs, as mentioned above: FEIS and its affiliate OTIZ,¹⁰⁷ Xingyu and its affiliates Xingye, Xingjia, Xingtai, Xingye Polytech,¹⁰⁸ and HYP,¹⁰⁹ ZWNM,¹¹⁰ Dragon,¹¹¹ and SHPF.¹¹² FEIS and its affiliate OTIZ reported they are wholly-owned by entities located in a market-economy country (i.e., Taiwan).¹¹³ Therefore, as there is no PRC ownership of these two companies, and because the Department has no evidence indicating that these companies are under the control of the PRC government, further analyses of the de jure and de facto criteria are not necessary to determine whether they are independent from government control of their export activities. Therefore, we preliminarily determine that FEIS and OTIZ are eligible for separate rates. For the remaining companies listed above, the Department analyzed whether each of these companies has demonstrated an absence of de jure and de facto government control over their respective export activities. The Department preliminarily determines that each is eligible to receive a separate rate, in accordance with the requirements discussed below.

¹⁰³ See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039, 55040 (September 24, 2008).

¹⁰⁴ See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588, 20589 (May 6, 1991) (Sparklers).

¹⁰⁵ Id.

¹⁰⁶ 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).

¹⁰⁷ See FEIS SRA, FEIS Supplemental Section A at SE-3 to SE-9, FEIS Second Supplemental Section A at 2SE-1 to 2SE-2, and FEIS Supplemental Section C at 2SE-45 and Exhibit 2SE-55.

¹⁰⁸ See Xingyu SRA, Xingyu Supplemental Section A at 3-9, Xingye SRA, Xingye Supplemental SRA, and Xingyu Supplemental Sections AD.

¹⁰⁹ See HYP SRA and HYP Supplemental SRA.

¹¹⁰ See ZWNM SRA and ZWNM Supplemental SRA.

¹¹¹ See Dragon SRA and Dragon Supplemental SRA.

¹¹² See SHPF SRA and SHPF Supplemental SRA.

¹¹³ See FEIS SRA and FEIS Supplemental Section C, respectively.

1. 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) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.¹¹⁴

The evidence provided by the separate rate applicants supports a preliminary finding of an absence of de jure government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.¹¹⁵

2. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to de facto government control of its export functions: (1) whether the 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 the disposition of profits or financing of losses.¹¹⁶ 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 assigning separate rates.

The evidence provided by the separate rate applicants supports a preliminary finding of an absence of de facto government control based on record statements and supporting documentation showing that the companies: (1) set their own prices independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.¹¹⁷

¹¹⁴ See Sparklers, 56 FR at 20589.

¹¹⁵ See Xingyu SRA, Xingyu Supplemental Section A at 3-9, Xingye SRA, Xingye Supplemental SRA, and Xingyu Supplemental Sections AD (for Xingyu and aforementioned affiliates); HYP SRA and HYP Supplemental SRA (for HYP); ZWNM SRA and ZWNM Supplemental SRA (for ZWNM); Dragon SRA and Dragon Supplemental SRA (for Dragon); and SHPF SRA and SHPF Supplemental SRA (for SHPF).

¹¹⁶ See Silicon Carbide, 59 FR at 22586-87; 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).

¹¹⁷ See Xingyu SRA, Xingyu Supplemental Section A at 3-9, Xingye SRA, Xingye Supplemental SRA, and Xingyu Supplemental Sections AD (for Xingyu and aforementioned affiliates); HYP SRA and HYP Supplemental SRA (for HYP); ZWNM SRA and ZWNM Supplemental SRA (for ZWNM); Dragon SRA and Dragon Supplemental SRA (for Dragon); and SHPF SRA and SHPF Supplemental SRA (for SHPF).

Therefore, the evidence placed on the record of this investigation by the separate rate applicants demonstrates an absence of de jure and de facto government control under the criteria identified in Sparklers and Silicon Carbide. Accordingly, the Department preliminarily grants separate rates to the separate rates applicants.

Margin for the Separate Rate Companies

The statute and the Department's regulations do not address the establishment of a separate rate to be applied to individual respondents not selected for individual examination when the Department limits its examination pursuant to section 777A(c)(2) of the Act. Normally, the Department's practice is to assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, de minimis, or based entirely on facts available, using as guidance section 735(c)(5)(A) of the Act.¹¹⁸ For this preliminary determination, we have calculated weighted-average dumping margins for both mandatory respondents which are not zero, de minimis, or based entirely on facts available. Because there are only two relevant weighted-average dumping margins for this preliminary determination, using a weighted-average of these two rates risks disclosure of business proprietary information data. Therefore, the Department has assigned a weighted-average margin using the publicly ranged values submitted by mandatory respondents to the separate rate companies for this preliminary determination.¹¹⁹

Combination Rates

In the Initiation Notice, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.¹²⁰ This practice is described in Policy Bulletin 05.1.

¹¹⁸ See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China, 71 FR 77373, 77377 (December 26, 2006), unchanged in Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China, 72 FR 19690 (April 19, 2007).

¹¹⁹ See Memorandum to the File through Robert James "Preliminary Determination of the Investigation of Certain Polyethylene Terephthalate Resin from the People's Republic of China: Calculation of the Preliminary Margin for Separate Rate Companies" (October 6, 2015). This memorandum contains the Department's comparison of (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly ranged values for merchandise under consideration. See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53663 (September 1, 2010). Based upon that comparison, the Department determines that, (C), a weighted-average using each company's publicly ranged values, is closest to the weighted-average of margins calculated using business proprietary information and, thus, is the most appropriate rate for use in this preliminary determination.

¹²⁰ See Initiation Notice at 18381-2.

The PRC-wide Entity

The record indicates there are PRC exporters and/or producers of the merchandise under consideration during the POI that did not respond to the Department's requests for information. Specifically, as noted in the "Selection of Respondents" section, above, the Department did not receive timely responses to its Q&V questionnaire from 20 PRC exporters and/or producers of merchandise under consideration that were named in the Petition and to whom the Department issued Q&V questionnaires. Because non-responsive PRC companies have not demonstrated that they are eligible for separate rate status, the Department considers them to be part of the PRC-wide entity. Furthermore, as explained below, we preliminarily determine to calculate the PRC-wide rate on the basis of adverse facts available (AFA).

Application of Facts Available and Adverse Inferences

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

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

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.¹²¹ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.¹²²

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

¹²¹ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (June 29, 2015) (TPEA). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015) (Applicability Notice).

¹²² Id., 80 FR at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

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

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise. Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins. The TPEA also makes clear that when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.

A. Use of Facts Available

The Department preliminarily finds that the PRC-wide entity, which includes the 20 PRC exporters and/or producers that did not respond to the Department’s requests for information, failed to provide necessary information, withheld information requested by the Department, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information. Moreover, because the PRC-wide entity failed to provide any information, section 782(d) of the Act is inapplicable. Accordingly, the Department preliminarily determines that use of facts available is warranted in determining the rate of the PRC-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.¹²³

B. Application of Facts Available with an Adverse Inference

Section 776(b) of the Act provides that the Department, in selecting from among the facts otherwise available, may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The Department finds that the PRC-wide entity’s failure to provide the requested information constitutes circumstances under which it is reasonable to conclude that the PRC-wide entity was not fully cooperative.¹²⁴ The PRC-wide entity neither filed documents

¹²³ See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam, 68 FR 4986, 4991 (January 31, 2003), unchanged in Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 68 FR 37116 (June 23, 2003).

¹²⁴ See Nippon Steel Corporation v. United States, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (noting that the Department need not show intentional conduct existed on the part of the respondent, but merely that a “failure to cooperate to the best of a respondent’s ability” existed (i.e., information was not provided “under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.”)).

indicating that it was having difficulty providing the information, nor did it request to submit the information in an alternate form. Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to the PRC-wide entity in accordance with section 776(b) of the Act and 19 CFR 351.308(a).¹²⁵

C. Selection and Corroboration of the AFA rate

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the Petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.¹²⁶ The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value,¹²⁷ although under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.¹²⁸ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used, although under the TPEA, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.¹²⁹ Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.¹³⁰

To determine the appropriate rate for the PRC-wide entity based on AFA, the Department first examined whether the highest petition margin was less than or equal to the highest calculated margin, and determined that the highest petition margin of 206.42 percent was the higher of the two. Next, in order to corroborate 206.42 percent as the potential PRC-wide rate, we first compared it to the highest CONNUM-specific margin calculated for the mandatory respondents.¹³¹ The highest CONNUM-specific margin demonstrates that the petition rate of

¹²⁵ See Nippon Steel Corp. v. United States, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

¹²⁶ See SAA at 870.

¹²⁷ Id.; see also 19 CFR 351.308(d).

¹²⁸ See section 776(c)(2) of the Act; TPEA, section 502(2).

¹²⁹ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997).

¹³⁰ See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

¹³¹ See Memorandum to the File through Robert James, Program Manager, Office VI “Antidumping Duty Investigation of Certain Polyethylene Terephthalate Resin from the People’s Republic of China: Preliminary Analysis Memorandum for Jiangyin Xingyu New Material Co., Ltd.” (October 6, 2015) (“Xingyu Preliminary Analysis Memorandum”), and Memorandum to the File through Robert James, Program Manager, Office VI “Antidumping Duty Investigation of Certain Polyethylene Terephthalate Resin from the People’s Republic of China:

206.42 percent does not have probative value. Therefore, we have determined that we are unable to corroborate the 206.42 percent rate and, therefore, we will instead use the highest calculated CONNUM-specific margin of 145.94 percent as the PRC-wide rate. It is unnecessary to corroborate this rate because it was obtained in the course of this investigation and, therefore, is not secondary information.

The transactions underlying this dumping margin are neither unusual in terms of transaction quantities nor otherwise atypical.¹³² Additionally, the underlying sale(s) is(are) not unusual in terms of the product characteristics. Further, the rate is otherwise reasonable and supported by substantial evidence because it represents an actual rate at which a cooperating respondent sold the merchandise under consideration during the POI¹³³ and “does not lie outside the realm of actual selling practices.”¹³⁴ If during the POI, the cooperating respondent sold the merchandise under consideration at the rate the Department selected, the Department may reasonably determine that a non-responsive, or uncooperative, respondent could have made all of its sales at the same rate.¹³⁵ Therefore, we have preliminarily determined that the Xingyu Group’s CONNUM-specific margin of 145.94 percent, based on data in the current investigation, is not aberrational and is a reasonable AFA rate for the PRC-wide entity for this preliminary determination. The PRC-wide rate applies to all entries of merchandise under consideration except for entries from the Xingyu Group, the FEIS Group, and the other producers/exporters receiving a separate rate, as stated above.

Affiliation/Single Entity

Pursuant to 19 CFR 351.401(f)(1), the Department will treat producers as a single entity, or “collapse” them, where: (1) those producers are affiliated; (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and (3) there is a significant potential for manipulation of price or production. In determining whether a significant potential for manipulation exists, 19 CFR 351.401(f)(2) states that the Department may consider various factors, including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether the operations of the affiliated firms are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

“Collapsing” starts with a determination as to whether two or more companies are affiliated. Section 771(33)(F) of the Act defines affiliated persons to include “two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.” Section

Preliminary Analysis Memo for Far Eastern Industries (Shanghai) Ltd.” (October 6, 2015) (“FEIS Preliminary Analysis Memorandum”).

¹³² See Xingyu Preliminary Analysis Memorandum at Attachment II, and FEIS Preliminary Analysis Memorandum at Attachment II.

¹³³ See Shanghai Taoen International Trading Co., Ltd. v. United States, 360 F. Supp. 2d 1339, 1347-48 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

¹³⁴ See KYD, Inc. v. United States, 607 F.3d 760, 767 (Fed. Cir. 2010).

¹³⁵ See PRC Steel Cylinders LTFV Prelim, 76 FR at 77970-71.

771(33) of the Act further provides that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

Based on the evidence on the record in this investigation, including information submitted by FEIS in its questionnaire responses and SRA, the Department preliminarily finds that FEIS and OTIZ, a producer of merchandise under consideration, are affiliated within the meaning of section 771(33)(F) of the Act. Both companies already produce merchandise under consideration, and nothing on the record suggests that substantial retooling would be necessary to restructure manufacturing priorities. Further, based on the evidence presented in those FEIS submissions, we preliminarily find that FEIS and OTIZ should be treated as a single entity for the purposes of this investigation, pursuant to 19 CFR 351.401(f)(2), because there exists a significant potential for manipulation of price or production.¹³⁶

Based on the evidence on the record in this investigation, including information submitted by Xingyu in its questionnaire responses and SRA, and by Xingye, Xingjia, Xingtai, and Xingye Polytech in their SRA, the Department preliminarily finds that Xingyu and Xingye, Xingjia, Xingtai, and Xingye Polytech, producers of merchandise under consideration, are affiliated within the meaning of section 771(33)(F) of the Act. These companies already produce merchandise under consideration, and nothing on the record suggests that substantial retooling would be necessary to restructure manufacturing priorities. Further, based on the evidence presented in the submissions of Xingyu and its aforementioned affiliates, we preliminarily find that all of these affiliates should be treated as a single entity for the purposes of this investigation, pursuant to 19 CFR 351.401(f)(2), because there exists a significant potential for manipulation of price or production.¹³⁷

Date of Sale

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), “use the date of invoice, as recorded in the exporter or producer’s records kept in the normal course of business” unless a different date better reflects the date on which the material terms of sale (e.g., price and quantity) are established.¹³⁸ FEIS reported sale date based on invoice date of its affiliated reseller.¹³⁹ Xingyu and its affiliate Xingye reported sale date based on their invoice date.¹⁴⁰ FEIS and Xingyu demonstrated that the material terms of sale were established on the invoice date. Thus,

¹³⁶ For a detailed discussion of this issue, including certain business proprietary details, see “Antidumping Duty Investigation of Certain Polyethylene Terephthalate Resin from the People’s Republic of China: Preliminary Affiliation and Collapsing Memorandum for Far Eastern Industries (Shanghai) Ltd.,” dated October 6, 2015 (FEIS Single Entity Memo).

¹³⁷ For a detailed discussion of this issue, including certain business proprietary details, see “Antidumping Investigation of Certain Polyethylene Terephthalate Resin from the People’s Republic of China: Preliminary Affiliation and Collapsing Memorandum for Jiangyin Xingyu New Material Co., Ltd. (Xingyu),” dated October 6, 2015 (Xingyu Single Entity Memo).

¹³⁸ See, e.g., Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.

¹³⁹ See, e.g., FEIS Supplemental Section A at SE-16 to SE-17, and FEIS Supplemental Section C at 2SE-8.

¹⁴⁰ See, e.g., Xingyu Supplemental Section A at 20-21.

consistent with our date of sale regulation, the Department preliminarily determines to use invoice date as the date of sale.¹⁴¹

Fair Value Comparisons

In accordance with section 777A(d)(1)(A) of the Act, the Department compared the weighted-average price of the U.S. sales of the merchandise under consideration to the weighted-average NV to determine whether the mandatory respondents sold merchandise under consideration to the United States at LTFV during the POI.¹⁴²

Export Price

In accordance with section 772(a) of the Act, export price (EP) is “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under section 772(c) of the Act. Consistent with section 772(a) of the Act, the Department has preliminarily defined the U.S. price of merchandise under consideration based on the EP of all of the Xingyu Group sales. All of the Xingyu Group sales were directly to unaffiliated U.S. customers or were through an affiliated reseller not located in the United States.

We note that FEIS’s sales were made through two sales channels. For one channel, FEIS made sales through its affiliated reseller, Worldwide Polychem (HK) Ltd. (“Worldwide”), which is located in Hong Kong. All of the sales under consideration were negotiated by FEIS with the unaffiliated U.S. customers, and the merchandise was shipped directly to U.S. warehouses where they were stored on those customers’ behalf, at the expense of Worldwide. The second sales channel was largely the same, except that these sales involved an intermediate unaffiliated U.S. importer, which was invoiced by FEIS for the merchandise at the same time that Worldwide was invoicing the ultimate unaffiliated U.S. customers. In both sales channels, title remained with FEIS/Worldwide until the goods were delivered to the ultimate U.S. customers’ factories.¹⁴³ We preliminarily determine that all of FEIS’s sales, including those involving the unaffiliated intermediate U.S. importer, are properly classified as EP sales pursuant to section 772(a) of the Act and that the relevant price for our analysis is that between Worldwide and its unaffiliated U.S. customers.

For Xingyu and Xingye, the Department made deductions, as appropriate, from the reported U.S. price for movement expenses (*i.e.*, foreign inland freight, foreign brokerage and handling, international freight, and un-refunded (herein “irrecoverable”) value-added tax (VAT) (*see* below)).¹⁴⁴ The Department based movement expenses on surrogate values where the service was purchased from a PRC company.¹⁴⁵

¹⁴¹ *See* FEIS Preliminary Analysis Memorandum and Xingyu Preliminary Analysis Memorandum, respectively.

¹⁴² *See* “Export Price and “Normal Value” sections below.

¹⁴³ *See* FEIS Supplemental A at SE-3, SE-12 to SE-13, SE-16 to SE-17, SE-18 to SE-21, and SE-23 to SE-25, and FEIS Supplemental C at 2SE-2, 2SE-7, 2SE-8, and 2SE-20.

¹⁴⁴ *See* Xingyu Preliminary Analysis Memorandum.

¹⁴⁵ *See* “Factor Valuation Methodology” section below.

For FEIS, the Department made deductions, as appropriate, from the reported U.S. price for movement expenses (*i.e.*, inland freight from plant to port, foreign brokerage and handling, inland insurance (domestic and U.S.), international freight, marine insurance, demurrage, harbor maintenance, merchandise processing, U.S. duties, U.S. brokerage and handling, U.S. inland freight from port to warehouse, U.S. warehouse, and U.S. inland freight from warehouse to customer), and irrecoverable VAT (*see* below).¹⁴⁶ Some of these expenses were incurred by FEIS's affiliate in Hong Kong, Worldwide.¹⁴⁷ The Department based movement expenses on surrogate values where the service was purchased from a PRC company.¹⁴⁸

Value-Added Tax

In 2012, the Department announced a change of methodology with respect to the calculation of EP and constructed export price (CEP) to include an adjustment of any irrecoverable VAT in certain NME countries in accordance with section 772(c)(2)(B) of the Act.¹⁴⁹ 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.¹⁵⁰ 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.¹⁵¹

The Department's methodology, as explained above and applied in this investigation, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this investigation by FEIS and Xingyu indicates that according to the PRC VAT schedule, the standard VAT levy is 17 percent and the rebate rate for the merchandise under consideration is 13 percent.¹⁵² Consistent with the Department's standard methodology, for purposes of this preliminary determination we based the calculation of irrecoverable VAT on the difference between those standard rates, applied to an FOB EP.¹⁵³

¹⁴⁶ See FEIS Preliminary Analysis Memorandum.

¹⁴⁷ Id.

¹⁴⁸ See "Factor Valuation Methodology" section below.

¹⁴⁹ 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).

¹⁵⁰ 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.

¹⁵¹ Id.

¹⁵² See Xingyu Section C at C-31 and Exhibit C-7, and FEIS Section C at C-47. See also FEIS Supplemental C at 2SE-30 and Exhibit 2SE-39.

¹⁵³ See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012-2013, 80 FR 33241 (June 11, 2015), and accompanying Issues and Decision Memorandum at Comment 5. See also Xingyu Preliminary Analysis Memorandum and FEIS Preliminary Analysis Memorandum.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using the FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.¹⁵⁴ Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), the Department calculated NV based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.¹⁵⁵

Factor Valuation Methodology

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by the individually examined respondents. To calculate NV, the Department multiplied the reported per-unit factor-consumption rates by publicly available surrogate values. When selecting the surrogate values, the Department considered, among other factors, the quality, specificity, and contemporaneity of the data.¹⁵⁶ As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.¹⁵⁷ A detailed description of surrogate values used for respondents can be found in the Preliminary SV Memorandum.¹⁵⁸

For the preliminary determination, the Department is using Thai import data, as published by GTA, and other publicly available sources from Thailand to calculate surrogate values for respondents FOPs.¹⁵⁹ In accordance with section 773(c)(1) of the Act, the Department applied

¹⁵⁴ See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China, 71 FR 19695, 19703 (April 17, 2006), unchanged in Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006).

¹⁵⁵ See section 773(c)(3)(A)-(D) of the Act.

¹⁵⁶ See, e.g., Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum at Comment 9.

¹⁵⁷ See Sigma Corp. v. United States, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

¹⁵⁸ See Preliminary SV Memorandum.

¹⁵⁹ The exception to this are certain inputs purchased from market economy suppliers. For such inputs of the respondent for which a) 85 percent or more of respondent's purchases during the POI were from market economy suppliers of market economy produced material that were paid for in market economy currency, b) were not purchased from India, Indonesia, the Republic of Korea, or Thailand, and c) were purchases from affiliated parties at arm's length prices, the average market economy purchase price was used as the unit value for the input. See, e.g., Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part, 80 FR 34893 (June 18, 2015) (Final Tires), and accompanying Issues and Decision Memorandum at Comment 14. For such inputs of the respondent for which a) less than 85 percent of the purchases

the best available information for valuing FOPs by selecting, to the extent practicable, surrogate values which are (1) non-export average values, (2) contemporaneous with, or closest in time to, the POI, (3) product-specific, and (4) tax-exclusive.¹⁶⁰ The record shows that Thai import data obtained through GTA, as well as data from other Thai sources, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POI.¹⁶¹

The Department continues to apply its long-standing practice of disregarding surrogate values if it has a reason to believe or suspect the source data may be subsidized.¹⁶² In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.¹⁶³ Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from those countries in calculating the Thai import-based surrogate values.

were qualifying market economy purchases, b) were not purchased from India, Indonesia, the Republic of Korea, or Thailand, and c) were purchases from affiliated parties at arm's length prices, we weight-averaged the actual prices paid for the market economy portion and the Thai surrogate value for the NME portion by their respective quantities, and used the resulting weight-averaged unit value for the input. See e.g. Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; In Part and Postponement of Final Determination, 80 FR 4250 (January 27, 2015), and accompanying Decision Memorandum, unchanged at Final Tires. For more discussion of such market economy purchase inputs, see FEIS Preliminary Analysis Memorandum and Xingyu Preliminary Analysis Memorandum.

¹⁶⁰ See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).

¹⁶¹ See Preliminary SV Memorandum.

¹⁶² See section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (June 29, 2015) (amending section 773(c)(5) of the Act to permit Department to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values); see also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793, 46795 (August 6, 2015).

¹⁶³ See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012, 78 FR 42492 (July 16, 2013), and accompanying Issues and Decision Memorandum at 7-19; see also Certain Lined Paper Products From Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order, 76 FR 73592 (November 29, 2011), and accompanying Issues and Decision Memorandum at 1; see also Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012, 79 FR 46770 (August 11, 2014), and accompanying Issues and Decision Memorandum at 4; see also Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum at IV.

Additionally, the Department disregarded data from NME countries when calculating Thai import-based per-unit surrogate values.¹⁶⁴ The Department also excluded from the calculation of Thai import-based per-unit surrogate values imports labeled as originating from an “unidentified” country because the Department could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.¹⁶⁵

In valuing factory overhead, selling, general and administrative (SG&A) expenses, and profit using the TPRC financial statement, we note that energy and labor expenses were not specifically itemized in the cost of goods sold section of the financial statements and were most likely included in the companies’ production expenses.¹⁶⁶ Thus, we were unable to segregate these expenses and, therefore, were unable to exclude energy costs for production from the calculation of the surrogate financial ratios. Accordingly, as we have done in other proceedings, we have disregarded the energy and labor inputs of FEIS and the Xingyu Group in the calculation of normal value, by setting them to zero, in order to avoid double-counting energy costs that have been captured in the surrogate financial ratios, which are discussed below.¹⁶⁷

We did not have usable information on the record for valuing Thai brokerage and handling (B&H) and inland freight. Consequently, we used information on the record for South Africa to value these factors, both sourced from the World Bank publication *Doing Business 2015: South Africa (DB2015)*. The B&H calculations are based on information in a price list in DB2015 of export and import procedures necessary to export or import a standardized cargo of goods in South Africa. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport. With regard to inland freight, DB2015 contains information concerning the cost to transport products in a 20-foot container between the port of Durban and Johannesburg. We calculated the per-unit inland freight costs using the distance between these locations. We calculated a per-kilogram, per-kilometer surrogate inland freight rate based on the methodology used by the World Bank.¹⁶⁸

The Department’s criteria for choosing surrogate financial statements from which we derive the financial ratio are the availability of contemporaneous financial statements, comparability to the respondent’s experience, and publicly available information.¹⁶⁹ Moreover, for valuing factory

¹⁶⁴ See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People’s Republic of China, 69 FR 75294, 75301 (December 16, 2004), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People’s Republic of China, 70 FR 24502 (May 10, 2005).

¹⁶⁵ Id.

¹⁶⁶ See Xingyu Final SV at 2 and Exhibit 8. The KAP financial statements submitted by Petitioners are similar in this regard. See Petitioners SV Comments at 4 and Attachment 5.

¹⁶⁷ See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, 74 FR 16838 (April 13, 2009), and accompanying Issues and Decision Memorandum at Comment 2. See also Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2011-2012, 78 FR 78333 (December 26, 2013) and accompanying Decision Memorandum, unchanged in Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Final Results of the Antidumping Duty Administrative Review; 2011-2012, 79 FR 37715 (July 2, 2014).

¹⁶⁸ See Preliminary SV Memorandum.

¹⁶⁹ See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People’s Republic of China, 70 FR 24502 (May 10, 2005), and accompanying Issues and Decision Memorandum at

overhead, SG&A expenses, and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.¹⁷⁰ In addition, the CIT has held that in the selection of surrogate producers, the Department may consider how closely the surrogate producers approximate the NME producer's experience.¹⁷¹ To value factory overhead, SG&A expenses, and profit, the Department used the 2014 financial statements of TPRC, which is a Thai producer of identical merchandise.¹⁷²

As discussed above, an interested party submitted a financial statement for a company located in Thailand, a country at the same level of economic development as the PRC, that is usable (*i.e.*, the financial statement of TPRC).¹⁷³ Therefore, pursuant to 19 CFR 351.408(c)(2) and in accordance with our preference for valuing all FOPs in the primary surrogate country, we preliminarily determine to calculate surrogate financial ratios using the 2014 financial statements of TPRC.¹⁷⁴

Comparisons to Normal Value

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

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average EPs (the average-to-average ("A-A") method) unless the Department determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to compare weighted-average NVs to the EPs of individual transactions (the average-to-transaction ("A-T") method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In recent investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of A-T comparisons is appropriate in a particular situation

Comment 3.

¹⁷⁰ See, e.g., Diamond Sawblades and Parts Thereof from the People's Republic of China, Final Determination in the Antidumping Duty Investigation, 71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 2; see also section 773(c)(4) of the Act and 19 CFR 351.408(c)(4).

¹⁷¹ See Rhodia, Inc. v. United States, 240 F. Supp. 2d 1247, 1253-1254 (CIT 2002); see also Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 70 FR 6836 (February 9, 2005), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁷² See Preliminary SV Memorandum. See also above.

¹⁷³ See "Data Availability" section, above.

¹⁷⁴ See Preliminary SV Memorandum.

pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.¹⁷⁵ The Department finds that the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. 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.¹⁷⁶

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs for comparable merchandise that differs significantly among purchasers, regions, or time periods. When we find such a pattern 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, which is defined by the parameters within each respondent's reported data fields, *e.g.*, reported consolidated customer code; reported destination code (*e.g.*, zip codes or cities) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau; and quarters within the POI 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 and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* 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. The Cohen's *d* coefficient evaluates 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. One of three fixed thresholds defined by the Cohen's *d* test can quantify the extent of these differences: 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 are considered 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.

¹⁷⁵ 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 Decisions Memorandum at Comment 5; Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 26748 (May 8, 2013), unchanged in Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 70533 (November 26, 2013) and accompanying Issues and Decisions Memorandum at Comments 2-4.

¹⁷⁶ *Id.*

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 meaningful difference in the weighted-average dumping margins occurs 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 and justifications in relation to the above-described DP 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 FEIS, the Department finds that 100 percent of its export sales pass the Cohen’s *d* test, which confirms the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods.¹⁷⁷ However, when comparing the weighted-average dumping margins calculated using the average-to-average method for all U.S. sales with those calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales, there is not a meaningful difference in the results (*e.g.*, relative change

¹⁷⁷ See FEIS Preliminary Analysis Memorandum.

in the results is less than 25 percent). Accordingly, the Department used the A-A method in making comparisons of EP and NV for FEIS for this preliminary determination.¹⁷⁸

For the Xingyu Group, the Department finds that 99.1 percent of its export sales pass the Cohen's *d* test, which confirms the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods.¹⁷⁹ However, when comparing the weighted-average dumping margins calculated using the average-to-average method for all U.S. sales with those calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales, there is not a meaningful difference in the results (e.g., relative change in the results is less than 25 percent). Accordingly, the Department used the A-A method in making comparisons of EP and NV for Xingyu Group for this preliminary determination.¹⁸⁰

Currency Conversion

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

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information used to calculate the rates for Xingyu and FEIS and upon which we will rely in making our final determination.

Adjustments for Countervailable Subsidies

As set forth below, the Department has made certain adjustments to the weighted-average dumping margins to account for countervailable subsidies categorized as export subsidies, under section 772(c)(1)(C) of the Act.

Additionally, in applying section 777A(f) of the Act, the Department has 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

¹⁷⁸ In this preliminary determination, 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 export prices with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

¹⁷⁹ See Xingyu Preliminary Analysis Memorandum.

¹⁸⁰ In this preliminary determination for both FEIS's and Xingyu's sales, 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 export prices with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

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.¹⁸¹ For a subsidy meeting these criteria, the statute requires the Department to reduce the AD by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.¹⁸²

Since the Department has recently started conducting analyses under section 777A(f) of the Act, the Department is continuing to refine its practice in applying this section of the law. The Department examined whether the respondents demonstrated: (1) a subsidies-to-cost link, e.g., subsidy impact on cost of manufacture (COM); and (2) a cost-to-price link, e.g., respondent's prices changed as a result of changes in the COM.

As a result of our analyses, the Department is preliminarily not making a domestic pass-through subsidies adjustment to the calculation of the cash deposit rate for AD duties for FEIS and its single entity affiliate OTIZ or for the PRC-wide entity, but is making such adjustments for Xingyu and its single entity affiliates and for the other separate rate entities.¹⁸³ In making these adjustments, the Department has not concluded that concurrent application of NME ADs and CVDs necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

The Department examined the preliminary report issued by the ITC, which indicates that prices of subject merchandise decreased during the 2012-2014 period.¹⁸⁴ Based on this information, the Department preliminarily finds that prices of imports of the class or kind of merchandise during the relevant period decreased.

FEIS

FEIS failed to establish a subsidies-to-cost linkage for the certain subsidy programs it mentioned in its double remedies questionnaire response. Consequently, we are not making an adjustment to the AD cash deposit rate for domestic pass-through subsidies for FEIS or its single entity affiliate OTIZ.¹⁸⁵

For FEIS and OTIZ, we are making an adjustment to the AD preliminary cash deposit rate of 1.83 percent for the average of the export subsidies calculated for the two mandatory respondents in the CVD proceeding preliminary determination.¹⁸⁶

¹⁸¹ See section 777A(f)(1)(A)-(C) of the Act.

¹⁸² See section 777A(f)(1)-(2) of the Act.

¹⁸³ See below. See also "Certain Polyethylene Terephthalate Resin from the People's Republic of China: Double Remedies Calculation Memorandum" (October 6, 2015) (Double Remedies Calculation Memorandum).

¹⁸⁴ See Certain Polyethylene Terephthalate Resin from Canada, China, India, and Oman, Investigation Nos. 701-TA-531-533 and 731-TA-1270-1273 (Preliminary), Publication 4531, May 2015, at V-6.

¹⁸⁵ See Double Remedies Calculation Memorandum.

¹⁸⁶ Id.

Xingyu

Xingyu established a subsidies-to-cost linkage for the two programs (MEG at LTAR and PTA at LTAR) it referenced in its double remedies questionnaire response.¹⁸⁷ Xingye also established such linkage for those programs.¹⁸⁸ We preliminarily determine Xingyu and its affiliates' responses indicate a subsidies-to-cost linkage for those programs.

In the companion CVD proceeding preliminary determination, the Department determined program-specific rates for Xingyu and its single entity affiliates. Accordingly, the adjustment to account for domestic subsidies is based on those program-specific CVD rates. Because the record indicates that several factors other than the cost of MEG and PTA impact Xingyu's prices to customers,¹⁸⁹ the Department is applying a documented ratio of cost-price changes for the PRC manufacturing sector as a whole, which is based on data from Bloomberg, *i.e.*, 86.07 percent, as the estimate of the extent of domestic subsidy pass-through. Accordingly, we are making an adjustment to the AD preliminary cash deposit rate for estimated domestic pass-through subsidy for Xingyu and its single entity affiliates of 0.91 percent.¹⁹⁰

For Xingyu and its single entity affiliates, we are making an adjustment to the AD preliminary cash deposit rate of the entire 0.80 percent export subsidy amount calculated for them in the preliminary determination of the CVD proceeding.¹⁹¹

Separate Rate Companies

The non-individually examined companies which are eligible for a separate rate, and which were not mandatory respondents in the companion CVD investigation received a dumping margin based on the weighted-average (by publicly ranged quantities) dumping margins of the mandatory respondents in this investigation. In the companion CVD investigation, the Department did not individually examine certain non-mandatory respondents that are preliminarily eligible for separate rates in this AD investigation, and, therefore, those companies were assigned the all-other exporters' rate as determined in the preliminary determination for the CVD investigation.¹⁹²

Accordingly, in this AD investigation, for separate rate exporters that received a non-selected company rate in the companion CVD investigation, the adjustment to account for domestic subsidies is 1.83 percent, based on the 2.13 percent average of the program-specific domestic subsidy pass-through amounts found for the CVD investigation mandatory respondents for the Provision of MEG for LTAR and for Provision of PTA for LTAR, times the Bloomberg pass-through ratio of 86.07 percent. This adjustment is not more than the CVD attributable to these countervailable subsidies for any of these exporters.

¹⁸⁷ Id.

¹⁸⁸ Id. See also Xingyu Supplemental Sections AD at Appendix 4. Note that for Xingyu's other single entity affiliates, no such demonstration was possible, given they had no POI U.S. sales of subject merchandise. Id. at Appendices 5 through 7.

¹⁸⁹ See Double Remedies Calculation Memorandum.

¹⁹⁰ Id.

¹⁹¹ Id.

¹⁹² This includes ZWNM, SHPF, and HYP.

Dragon, which is a mandatory respondent in the companion CVD investigation, also received a dumping margin based on the weighted-average (by publicly ranged quantities) dumping margins of the mandatory respondents in this investigation. As such, the adjustment to the AD preliminary cash deposit rate to account for domestic pass-through subsidies is the same 1.83 percent, based on the 2.13 percent average of the program-specific pass-through amounts found for the CVD investigation mandatory respondents for the Provision of MEG for LTAR and for the Provision of PTA for LTAR, times the Bloomberg pass-through ratio of 86.07 percent. It is appropriate to base the adjustment for Dragon on the experience of all the CVD investigation mandatory respondents rather than the experience of Dragon alone because the average of the program-specific pass-through amounts found for the CVD investigation mandatory respondents is less than the countervailing duty attributable to these countervailable subsidies preliminarily calculated for Dragon in the companion CVD investigation.¹⁹³

In making these adjustments for the separate rate companies, the Department preliminarily determines that the percentage of the CVDs determined to have passed through to U.S. prices is the documented ratio of cost-price changes for the Chinese manufacturing sector as a whole, which is based on data from Bloomberg.¹⁹⁴

For the separate rate companies other than the AD mandatory respondents and Dragon, we are also adjusting the AD preliminary cash deposit rate for the 1.83 percent average of the export subsidies calculated for the two mandatory respondents in the CVD proceeding preliminary determination.¹⁹⁵ For Dragon, we are also adjusting the AD preliminary cash deposit rate for the 2.85 percent export subsidies rate calculated for Dragon in the CVD proceeding preliminary determination.¹⁹⁶ Although Dragon's dumping margin is based on the rates for the mandatory respondents in this investigation, there can be no double remedy applied to Dragon once its AD rate is adjusted for its calculated export subsidy rate.

PRC-wide Entity

For the PRC-wide entity, which received an AFA rate as discussed above, as an extension of the adverse inference applied pursuant to section 776(b) of the Act, the Department has adjusted the PRC-wide entity's AD cash deposit rate by 0.80 percent, the lowest export subsidy rate determined for any party in the companion CVD proceeding, and by 0.00 percent, the lowest estimated domestic subsidy pass-through determined for any party in this investigation (*i.e.*, that determined for FEIS).¹⁹⁷

International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to

¹⁹³ See Final Tires, and accompanying Issues and Decision Memorandum at Comment 5.

¹⁹⁴ See Double Remedies Calculation Memorandum.

¹⁹⁵ Id.

¹⁹⁶ Id.

¹⁹⁷ Id.

make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain PET resin, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

Conclusion

We recommend applying the above methodology for this preliminary determination.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

6 OCTOBER 2015
(Date)