

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
LG Electronics Monterrey Mexico, S.A. de C.V .....	16.44	No.
Controladora Mabe, S.A. de C.V./Mabe, S.A. de C.V .....	36.21	NA.
Samsung Electronics Mexico, S.A. de C.V .....	36.65	Yes.
All Others .....	28.02	NA.

### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

### Disclosure

The Department will disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. See 19 CFR 351.224(b).

### Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. See 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Case briefs must present all arguments that continue to be relevant to the Department's final determination, in the submitter's view. See 19 CFR 351.309(c)(2). Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. See 19 CFR 351.310(c). If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department

of Commerce, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: October 26, 2011.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2011-28418 Filed 11-1-11; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[(A-570-973)]

#### **Certain Steel Wheels From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**DATES:** *Effective Date:* November 2, 2011.

**SUMMARY:** The Department of Commerce ("Department") preliminarily determines that certain steel wheels ("steel wheels") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Pursuant to requests from interested parties, we are postponing the final determination and extending the provisional measures from a four-month period to not more than six months.

Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

#### **FOR FURTHER INFORMATION CONTACT:**

Brendan Quinn or Raquel Silva, AD/ CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-5848 or (202) 482-6475, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Initiation**

On March 30, 2011, the Department received an antidumping duty ("AD") petition concerning imports of steel wheels from the PRC filed in proper form by Accuride Corporation and Hayes Lemmerz International, Inc. (collectively, "Petitioners").<sup>1</sup> Based on the Department's request, Petitioners filed supplements to the Petition on April 11, 14 and 15, 2011.

The Department initiated this investigation on April 19, 2011.<sup>2</sup> 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") investigations. The process requires exporters and producers to submit a separate rate application ("SRA")<sup>3</sup> and to demonstrate an absence of both *de jure* and *de facto* government control over their respective export activities. The SRA for this investigation was posted on the Department's Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on April 20, 2011. The due date for filing an SRA was June 27, 2011.

On May 16, 2011, the International Trade Commission ("ITC") determined

<sup>1</sup> See the Petition for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, as amended ("Petition"), filed on March 30, 2011.

<sup>2</sup> See *Certain Steel Wheels From the People's Republic of China: Initiation of Antidumping Duty Investigation*, 76 FR 23294 (April 26, 2011) ("Initiation Notice").

<sup>3</sup> 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://ia.ita.doc.gov/policy/bull05-1.pdf>.

that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of steel wheels from the PRC.<sup>4</sup>

#### Period of Investigation

The period of investigation ("POI") is July 1, 2010, through December 31, 2010. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was March 30, 2011. See 19 CFR 351.204(b)(1).

#### Postponement of Preliminary Determination

On August 5, 2011, Petitioners made a timely request, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(b)(2) and (e) for a 50-day postponement of the preliminary determination. On August 17, 2011, the Department published a postponement of the preliminary AD determination on steel wheels from the PRC.<sup>5</sup>

#### Scope Comments

As discussed in the preamble to the regulations, we set aside a period for interested parties to raise issues regarding product coverage. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department requested all interested parties to submit such comments within 20 calendar days of signature of the *Initiation Notice*. See *Initiation Notice*. As we stated in *Certain Steel Wheels from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 76 FR 55012 (September 6, 2011) ("*CVD Prelim*"), the Department received scope comments on May 9, 2011,<sup>6</sup> from Blackstone/OTR LLC and OTR Wheel Engineering, Inc. (collectively, "Blackstone/OTR"), U.S. importers of the subject merchandise. On May 18, 2011, Petitioners submitted their response to Blackstone/OTR's comments. The *CVD Prelim* states that the Department would be making a preliminary determination regarding the aforementioned scope comments with

the issuance of the AD preliminary determination, and that the determination would be applied to the countervailing duty ("CVD") and AD investigations moving forward. However, the Department intends to address Blackstone/OTR's scope comments and Petitioners' response after the AD preliminary determination is issued. In doing so, we intend to issue a questionnaire to Petitioners regarding whether they produce steel wheels suitable for use for particular applications. We also intend to request information with respect to whether there are any specifications that may differentiate the type of steel wheels Petitioners produce from other types of steel wheels that may be of the same diameters currently covered by the scope.

On June 7, 2011, the Department released a memorandum to the file requesting comment on additional HTSUS categories and language to include in the scope of the AD and CVD investigations, as proposed by U.S. Customs and Border Protection ("CBP").<sup>7</sup> CBP's suggestion involved clarifying the scope's coverage by either adding HTSUS categories that cover steel wheels for non-vehicle applications (e.g., elevators, manufacturing and agricultural machinery) or adding language that states the scope only covers steel wheels for vehicles.

On June 14<sup>8</sup> and 21,<sup>9</sup> 2011, Petitioners submitted comments and rebuttal comments agreeing with CBP's suggestion to include the additional HTSUS numbers to the scope language. In addition, Petitioners state that adding "use" (e.g., "for vehicles") language to the scope is inappropriate, as the scope is intended to cover all steel wheels with a wheel diameter of 18 to 24.5 inches, regardless of use. Petitioners further state that specifying use in the scope language could present CBP classification problems, as well as enable steel wheels of the sizes covered by the scope to evade coverage by being entered as wheels for machinery and then used as wheels for vehicles.

On June 14<sup>10</sup> and 21,<sup>11</sup> 2011, we received comments and rebuttal comments from the government of the PRC ("GOC") on the HTSUS Memorandum. The GOC supported CBP's proposal to clarify the scope language by stating that the scope is only intended to include steel wheels for vehicles. The GOC added that it would be inappropriate for the Department to include the Harmonized Tariff Schedule of the United States ("HTSUS") numbers covering steel wheels for non-vehicle uses because those HTSUS numbers cover products beyond the scope of the investigation.

Because the language of the scope currently covers steel wheels ranging from 18 to 24.5 inches in diameter regardless of use, the Department has preliminarily determined to add all of the HTS categories suggested by CBP to the scope.

#### Scope of the Investigation

The products covered by this investigation are steel wheels with a wheel diameter of 18 to 24.5 inches. Rims and discs for such wheels are included, whether imported as an assembly or separately. These products are used with both tubed and tubeless tires. Steel wheels, whether or not attached to tires or axles, are included. However, if the steel wheels are imported as an assembly attached to tires or axles, the tire or axle is not covered by the scope. The scope includes steel wheels, discs, and rims of carbon and/or alloy composition and clad wheels, discs, and rims when carbon or alloy steel represents more than fifty percent of the product by weight. The scope includes wheels, rims, and discs, whether coated or uncoated, regardless of the type of coating.

Imports of the subject merchandise are provided for under the following categories of the HTSUS: 8708.70.05.00, 8708.70.25.00, 8708.70.45.30, and 8708.70.60.30. Imports of the subject merchandise may also enter under the following categories of the HTSUS: 8406.90.4580, 8406.90.7500, 8420.99.9000, 8422.90.1100, 8422.90.2100, 8422.90.9120, 8422.90.9130, 8422.90.9160, 8422.90.9195, 8431.10.0010, 8431.10.0090, 8431.20.0000, 8431.31.0020, 8431.31.0040, 8431.31.0060, 8431.39.0010,

<sup>4</sup> See Investigation Nos. 701-TA-478 and 731-TA-1182 (Preliminary): *Certain Steel Wheels from China*, 76 FR 29265 (May 20, 2011) ("ITC Preliminary Determination").

<sup>5</sup> See *Certain Steel Wheels from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 76 FR 50995 (August 17, 2011).

<sup>6</sup> See Letter from Blackstone/OTR entitled "Comments on Scope of Investigation: Certain Steel Wheels from the People's Republic of China," dated May 9, 2011.

<sup>7</sup> See Memorandum to the File entitled "Suggested Additional Harmonized Tariff Schedule Categories," dated June 7, 2011 ("HTSUS Memorandum").

<sup>8</sup> See Letter from Petitioners entitled "Certain Steel Wheels from the People's Republic of China: Response to Request to Add HTS Categories to Scope Definition," dated June 14, 2011.

<sup>9</sup> See Letter from Petitioners entitled "Certain Steel Wheels from the People's Republic of China: Rebuttal to Comments from the Government of China Regarding the Addition of HTS Categories to the Scope Definition," dated June 21, 2011.

<sup>10</sup> See Letter from the GOC entitled "Certain Steel Wheels from China: Comments on CBP Proposal for Additional HTS Categories," dated June 14, 2011.

<sup>11</sup> See Letter from the GOC entitled "Certain Steel Wheels from China: Rebuttal Comments on CBP Proposal for Additional HTS Categories," dated June 21, 2011.

8431.39.0050, 8431.39.0070, 8431.39.0080, 8431.43.8060, 8431.49.1010, 8431.49.1060, 8431.49.1090, 8431.49.9030, 8431.49.9040, 8431.49.9085, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, 8433.90.1000, 8433.90.5020, 8433.90.5040, 8436.99.0020, 8436.99.0090, 8479.90.9440, 8479.90.9450, 8479.90.9496, 8487.90.0080, 8607.19.1200, 8607.19.1500, 8708.70.1500, 8708.70.3500, 8708.70.4560, 8708.70.6060, 8709.90.0000, 8710.00.0090, 8714.19.0030, 8714.19.0060, 8716.90.1000, 8716.90.5030, 8716.90.5060, 8803.20.0015, 8803.20.0030, and 8803.20.0060. These HTSUS numbers are provided for convenience and customs purposes only; the written description of the scope is dispositive.

### Non-Market Economy Country

For purposes of initiation, Petitioners submitted an LTFV analysis for the PRC as an NME.<sup>12</sup> The Department's most recent examination of the PRC's market status determined that NME status should continue for the PRC.<sup>13</sup> Additionally, in two recent investigations, the Department also determined that the PRC is an NME country.<sup>14</sup> In accordance with section 771(18)(C)(i) of the Act, the NME status remains in effect until revoked by the Department. The Department has not revoked the PRC's status as an NME country, and we have therefore treated the PRC as an NME in this preliminary determination and applied our NME methodology.

<sup>12</sup> See *Initiation Notice*.

<sup>13</sup> See the Department's memorandum entitled, "Antidumping Duty Investigation of Certain Lined Paper Products from the People's Republic of China ("China")—China's status as a non-market economy ("NME")," dated August 30, 2006. This document is available online at: <http://ia.ita.doc.gov/download/prc-nme-status/prc-lined-paper-memo-08302006.pdf>.

<sup>14</sup> See, e.g., *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 9591 (March 5, 2009) ("Kitchen Racks Prelim"), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009) ("Kitchen Racks Final"); and *Certain Tow Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 4929 (January 28, 2009), unchanged in *Certain Tow Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 29167 (June 19, 2009).

### Selection of Respondents

In accordance with section 777A(c)(2) of the Act, the Department selected the three largest exporters of steel wheels (i.e., Jining Centurion Wheels Manufacturing ("Centurion"), Shanghai Yata Industry Company Limited ("Shanghai Yata") and Zhejiang Jingu Company Limited ("Zhejiang Jingu")), by volume, as the individually examined respondents in this investigation. The Department used volume data from the quantity and value ("Q&V") information submitted by exporters/producers that were identified in the Petition, of which 11 firms filed timely Q&V questionnaire responses.<sup>15</sup> Of the 11 Q&V questionnaire responses, four companies (Zhejiang Jingu, Shanghai Yata, Xiamen Sunrise Wheel Group Co., Ltd. ("Xiamen Sunrise") and Xiamen Topu Import & Export Co., Ltd. ("Xiamen Topu")) filed timely documentation in support of their requests that the Department treat them as two single entities (i.e., 1) Zhejiang Jingu/Shanghai Yata and (2) Xiamen Sunrise/Xiamen Topu) for purposes of respondent selection. Three companies (Centurion, Shandong Xingmin Wheel Co., Ltd. ("Xingmin Wheel"), and Xiamen Sunrise) requested to be treated as voluntary respondents.

The Department issued its antidumping questionnaire to Centurion, Shanghai Yata, and Zhejiang Jingu on June 13, 2011. The Department requested that the respondents provide a response to section A of the Department's questionnaire by July 5, 2011, and a response to sections C and D of the questionnaire by July 20, 2011. From June 30, 2011, until October 6, 2011, the Department granted all respondents several extensions for their submissions.

Centurion submitted its responses to the section A, C and D questionnaires on July 5, July 27, and August 3, 2011, respectively. Centurion submitted responses to the supplemental section A, C and D questionnaires on August 9, September 9, and September 22, 2011, respectively. On September 28, 2011, the Department received Centurion's second supplemental section D questionnaire response. Finally, Centurion submitted its response to the Department's supplemental questionnaire regarding sections A, C, D and surrogate values in two parts: the

first part on October 12 and the second on October 14, 2011.

Zhejiang Jingu and Shanghai Yata submitted their section A and C questionnaire responses on July 15, 2011 and July 27, 2011, respectively. Zhejiang Jingu and its wholly-owned subsidiary, Chengdu Jingu Wheel Co., Ltd., submitted responses to section D of the questionnaire on August 4, 2011. The Department received Zhejiang Jingu and Shanghai Yata's supplemental section A and C questionnaire responses on August 19 and August 29, 2011, respectively. Zhejiang Jingu submitted its supplemental section D questionnaire response in two parts: the first part on September 20 and second part on September 27, 2011. On October 11, 2011, Zhejiang Jingu submitted its response to the Department's supplemental questionnaire regarding surrogate value and factors of production ("FOP") information. Last, on October 17, 2011, Zhejiang Jingu submitted its second supplemental section D questionnaire response.

On July 5, 2011, Xiamen Sunrise, Xiamen Topu, as well as Xingmin Wheel, entities that requested that we select them as voluntary respondents, submitted their responses to section A of the questionnaire. On July 20, 2011, Xiamen Sunrise, Xiamen Topu, as well as Xingmin Wheel submitted their responses to sections C and D of the questionnaire.

### Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on October 3 and October 7, 2011, respectively, Zhejiang Jingu, Shanghai Yata and Centurion requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone the final determination by 60 days. Zhejiang Jingu, Shanghai Yata, and Centurion also requested that the Department extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a four-month period to a six-month period. In accordance with section 733(d) of the Act and 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

<sup>15</sup> See the Department's memorandum entitled, "Antidumping Duty Investigation of Certain Steel Wheels From the People's Republic of China: Respondent Selection," dated June 9, 2011 ("Respondent Selection Memo").

### Critical Circumstances

On August 22, 2011, Petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of steel wheels from the PRC.<sup>16</sup> On September 26, 2011, Zhejiang Jingu, Shanghai Yata, and Centurion<sup>17</sup> submitted information on their shipments of steel wheels from December 2010 through July 2011, as requested by the Department.<sup>18</sup> In accordance with 19 CFR 351.206(c)(2)(i), because Petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, the Department must issue preliminary critical circumstances determinations not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive."

<sup>16</sup> See Letter from Petitioners entitled "Certain Steel Wheels from the People's Republic of China," dated August 22, 2011 ("Critical Circumstances Allegation").

<sup>17</sup> Though we did not request data from Xiamen Sunrise, it also submitted its monthly shipment data on September 26, 2011.

<sup>18</sup> See Letter from Zhejiang Jingu and Shanghai Yata entitled "AD Investigation of Steel Wheels from China: Critical Circumstances Shipment Data," dated September 26, 2011 ("Zhejiang Jingu's and Shanghai Yata's Monthly Shipment Data") at Exhibit I. See also Letter from Centurion, "Antidumping Duty Investigation of Certain Steel Wheels from China: Response to Request for Monthly Shipment Information Questionnaire," dated September 26, 2011 ("Centurion's Monthly Shipment Data").

Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later (*i.e.*, the comparison period). The comparison period is normally compared to a corresponding period prior to the filing of the petition (*i.e.*, the base period).

In determining whether the above statutory criteria have been satisfied, we examined: (1) The evidence presented in Petitioners' August 22, 2011, Critical Circumstances Allegation, and (2) additional information obtained from Zhejiang Jingu, Shanghai Yata, Centurion, and the ITC.<sup>19</sup>

In accordance with section 733(e)(1)(A)(i) of the Act, to determine whether there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, the Department generally considers current or previous antidumping duty orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to imports of subject merchandise. Petitioners noted that in 2007, India imposed antidumping duties on steel wheels from the PRC that are of a size subsumed within the scope of this petition.<sup>20</sup> The ITC Preliminary Report notes that in March 2007, "India made final determinations and imposed antidumping duties on commercial steel wheels from China in sizes from 16 to 20 inches in nominal diameter."<sup>21</sup> We have reviewed these findings and found that the product coverage overlaps the product coverage of the Department's AD investigation of steel wheels from the PRC. We are not aware of the existence of any additional active antidumping orders or investigations on steel wheels from the PRC in other countries. As a result of the Indian order cited above, the Department finds there is a history of injurious dumping of steel

wheels from the PRC pursuant to section 733(e)(1)(A)(i) of the Act.

In accordance with Section 733(e)(1)(A)(ii) of the Act, to determine whether importers of steel wheels from the PRC knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, the Department must rely on the facts before it at the time the determination is made. The Department generally bases its decision with respect to knowledge on the margins calculated in the preliminary antidumping duty determination and the ITC preliminary injury determination.<sup>22</sup>

The Department normally considers margins of 25 percent or more for export price ("EP") sales and 15 percent or more for constructed export price ("CEP") sales sufficient to impute importer knowledge of sales at LTFV.<sup>23</sup> In this preliminary determination, Centurion has a combined margin of 110.58 percent for its EP and CEP sales.<sup>24</sup> Zhejiang Jingu and Shanghai Yata have a combined margin of 141.38 percent for their sales, all of which were EP transactions.<sup>25</sup> Consistent with Department practice, we based the margin for the separate rate respondents on the average of the margins calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on AFA.<sup>26</sup> Accordingly, we have preliminarily applied to the separate rate companies a margin of 125.98 percent. The PRC entity has a margin of 193.54 percent.<sup>27</sup> Accordingly, we find that the preliminary margins for Centurion, Zhejiang Jingu/Shanghai Yata, the separate rate companies, and

<sup>22</sup> See, e.g., *Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances*, 67 FR 6224, 6225 (February 11, 2002).

<sup>23</sup> See *id.*

<sup>24</sup> See Critical Circumstances Calculation Memorandum at Attachments II and III.

<sup>25</sup> See *id.* See also the *Affiliation* section of this notice, below.

<sup>26</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006) ("PSF"), 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), see also the "Separate Rates" section.

<sup>27</sup> See Critical Circumstances Calculation Memorandum at Attachments II and III. See also, the *The PRC-Wide Entity and PRC-Wide Rate* section, below.

<sup>19</sup> See Critical Circumstances Allegation. See also Zhejiang Jingu's and Shanghai Yata's Monthly Shipment Data and Centurion's Monthly Shipment Data. See also Memorandum to the File, "Antidumping Duty Investigation of Certain Steel Wheels from the People's Republic of China, Critical Circumstances Data and Calculations for the Preliminary Determination," dated October 26, 2011 ("Critical Circumstances Calculation Memorandum"). See also U.S. ITC Publication 4233, *Certain Steel Wheels from China: Investigation Nos. 701-TA-478 and 731-TA-1182(Preliminary)*, May 2011 ("ITC Preliminary Report").

<sup>20</sup> See Volume I of the Petition at 12 and Exhibit I-9.

<sup>21</sup> See ITC Preliminary Report at 24 and VII-6.

the PRC entity are sufficient to impute such knowledge.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, consistent with section 733(e)(1)(A)(ii) of the Act, the Department normally will look to the preliminary injury determination of the ITC.<sup>28</sup> On May 16, 2011, the ITC issued its preliminary affirmative determination for steel wheels from the PRC.<sup>29</sup> Accordingly, based on the above analysis, the Department finds that there is a reasonable basis to believe or suspect that the importers knew or should have known that there was likely to be material injury by reason of sales at LTFV of steel wheels from the PRC from Centurion, Zhejiang Jingu/Shanghai Yata, the separate rate companies, and the PRC entity.

In accordance with section 733(e)(1)(B) of the Act, the Department must determine whether there have been massive imports of the subject merchandise over a relatively short period. Pursuant to 19 CFR 351.206(h), we will not consider imports to be massive unless imports in the comparison period have increased by at least 15 percent over imports in the base period. As discussed above, the Department normally determines the comparison period for massive imports based on the filing date of the petition. Based on the March 30, 2011, filing date, we have determined that April 2011 is the month in which importers, exporters or producers knew or should have known an antidumping duty investigation was likely. Additionally, we have used a period of four months (*i.e.*, April through July 2011) as the period for comparison in preliminarily determining whether imports of the subject merchandise have been massive. We believe that a four-month period is most appropriate as the basis for analysis because using four months captures all data available at this time, based on April 2011 as the beginning of the comparison period. Additionally, a four-month period properly reflects the “relatively short period” set forth in the statute for determining whether imports have been massive.<sup>30</sup> It is our practice to base the critical circumstances analysis on all available data, using base

and comparison periods of no less than three months.<sup>31</sup>

Therefore, we have used all available data in our critical-circumstances analysis for the preliminary determination. In applying the four-month period, we used a base period of December 2010 through March 2011, and a comparison period of April 2011 through July 2011.

#### *Individually Examined Respondents*

The Department used the shipment data of the three individually examined respondents, Zhejiang Jingu and Shanghai Yata (collapsed)<sup>32</sup> and Centurion, to examine the relevant base and comparison periods as identified above. When we compared Zhejiang Jingu and Shanghai Yata’s shipment data during the comparison period with the base period, we found that imports of Zhejiang Jingu and Shanghai Yata’s subject merchandise in the comparison period have not increased by at least 15 percent over imports in the base period, and we do not consider them to be massive, pursuant to section 351.206(h) of the Department’s regulations.<sup>33</sup> When we compared Centurion’s shipment data during the comparison period with the base period, we found that imports of Centurion’s subject merchandise in the comparison period have increased by more than 15 percent over imports in the base period; hence we consider imports of Centurion’s subject merchandise to be massive, pursuant to section 351.206(h) of the Department’s regulations.<sup>34</sup>

#### *Separate Rate Applicants*

For the separate rate applicants, we did not request the monthly shipment information necessary to determine if

there were massive imports. As the basis to measure whether massive imports existed for purposes of critical circumstances, we relied on the experience of the individually examined respondents receiving a separate rate.<sup>35</sup> We calculated the weighted-average percent change in imports in the comparison period over the base period for the individually examined respondents, and we do not find the imports of the separate rate applicants to be massive pursuant to section 351.206(h) of the Department’s regulations.<sup>36</sup>

#### *The PRC Entity*

With respect to imports from the PRC entity, the Department’s general approach is to examine U.S. import data from the ITC’s DataWeb, adjusted to remove shipments by the respondents participating in the investigation.<sup>37</sup> By examining overall imports from the country in question, the Department tries to ascertain whether a massive increase in shipments occurred within a relatively short period following the point at which importers had reason to believe that a proceeding was likely. In this case, according to the Petitioners, the HTSUS numbers listed in the scope of the investigation include both subject merchandise and non-subject merchandise.<sup>38</sup> Thus, we cannot rely on these data in making our “massive imports” determination.<sup>39</sup> Lacking information on whether there was a massive import surge for the PRC entity, we are unable to determine whether there have been massive imports of steel

<sup>35</sup> See, *Certain Oil Country Tubular Goods From the People’s Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117, 59121 (November 17, 2009), unchanged in *Certain Oil Country Tubular Goods from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010) (“OCTG Investigation”).

<sup>36</sup> See *id.*

<sup>37</sup> See, *e.g.*, *Laminated Woven Sacks From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Determination of Critical Circumstances, and Postponement of Final Determination*, 73 FR 5801 (January 31, 2008); and *Drill Pipe from the People’s Republic of China: Notice of Preliminary Affirmative Determination of Critical Circumstances*, 75 FR 49891 (August 16, 2010).

<sup>38</sup> See Petition at Exhibit I-4. The Department’s subsequent preliminary determination to add HTS numbers to the scope of the investigation does not affect the Petitioners’ assertion or our resulting analysis.

<sup>39</sup> See OCTG Investigation.

<sup>28</sup> See, *e.g.*, *Lemon Juice from Argentina: Preliminary Determination of Sales at Less than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 72 FR 20820, 20828 (April 26, 2007).

<sup>29</sup> See ITC Preliminary Determination.

<sup>30</sup> See section 733(e)(1)(B) of the Act.

<sup>31</sup> See, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India*, 69 FR 47111 (August 4, 2004), unchanged in the final determination, *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India*, 69 FR 76916 (December 23, 2004); and *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People’s Republic of China*, 69 FR 20594 (Apr. 16, 2004), and accompanying Issues and Decision Memorandum (“IDM”) at Comment 3.

<sup>32</sup> See the Department’s Memorandum, “Antidumping Duty Investigation of Certain Steel Wheels from the People’s Republic of China: Affiliation and Collapsing of Zhejiang Jingu Company Limited and Shanghai Yata Industry Company Limited” dated concurrently with this notice (“Affiliation and Collapsing Memorandum”) and the “Affiliation” section below.

<sup>33</sup> See Critical Circumstances Calculation Memorandum at Attachment I.

<sup>34</sup> See, *id.*

wheels from the producers included in the PRC entity.<sup>40</sup>

### Critical Circumstances Findings

Based on the above analysis, we preliminarily determine that critical circumstances do not exist for Zhejiang Jingu and Shanghai Yata (collapsed), the separate rate respondents, or the PRC entity. However, we preliminarily determine that critical circumstances do exist with respect to imports from Centurion. After issuance of the preliminary determination, we intend to request updated monthly shipment data from the mandatory respondents, and we will reevaluate our critical circumstances determination after the preliminary determination based on the updated data we receive.

### Surrogate Country

Section 773(c)(1) of the Act directs the Department to base normal value (“NV”) on the NME producer’s FOPs, valued in a surrogate market economy (“ME”) country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall use, to the extent possible, the prices or costs of the FOPs in one or more ME countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the “Factor Valuations” section below.<sup>41</sup>

The Department determined that Colombia, Indonesia, the Philippines, South Africa, Thailand and Ukraine are countries comparable to the PRC in terms of economic development.<sup>42</sup> Once we have identified the countries that are economically comparable to the PRC, we select an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether the data for

valuing FOPs are both available and reliable.

Petitioners, in their August 8, 2011 comments on surrogate country, recommend that the Department select Indonesia as the primary surrogate country, as Indonesia is economically comparable to the PRC and a significant producer of steel and aluminum wheels. Zhejiang Jingu and Shanghai Yata, in their August 8, 2011 comments on surrogate country, state that based on the surrogate value and other information included in the petition, India appears to be a significant producer of identical merchandise and is a reliable source for deriving surrogate country data. Centurion, in its August 8, 2011 comments on surrogate country, recommends that the Department select India as the primary surrogate country. Centurion argues that India is a significant producer of comparable merchandise and represents the best choice in terms of the quality of data available. Centurion also argues that if the Department decides not to choose India as the primary surrogate country, Indonesia should be selected, as it is economically comparable and a significant producer of comparable merchandise. Additionally, Petitioners, Zhejiang Jingu and Shanghai Yata, and Centurion each put import data from Indonesia on the record of this proceeding.

### Economic Comparability

As explained in the Surrogate Country Memorandum, the Department considers Colombia, Indonesia, the Philippines, South Africa, Thailand and Ukraine equally comparable to the PRC in terms of economic development.<sup>43</sup> Therefore, we consider all six countries as having satisfied this prong of the surrogate country selection criteria. Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data or are unsuitable for use for other reasons, we will rely on data from one of these countries.

### Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department’s regulations provide further guidance on what may be considered comparable merchandise.

<sup>43</sup> See Surrogate Country Memorandum.

Given the absence of any definition in the statute or regulations, the Department looks to other sources such as Policy Bulletin 04.1<sup>44</sup> for guidance on defining comparable merchandise. Policy Bulletin 04.1 states that “the terms ‘comparable level of economic development,’ ‘comparable merchandise,’ and ‘significant producer’ are not defined in the statute.”<sup>45</sup> Policy Bulletin 04.1 further states that “in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”<sup>46</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>47</sup> Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.<sup>48</sup> “In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced.”<sup>49</sup> In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.<sup>50</sup>

In evaluating which of the six countries are exporters or producers<sup>51</sup> of identical

<sup>44</sup> See the Department’s Policy Bulletin No. 04.1, regarding, “Non-Market Economy Surrogate Country Selection Process,” (March 1, 2004) (“Policy Bulletin 04.1”), available on the Department’s Web site at <http://ia.ita.doc.gov/policy/bull04-.html>.

<sup>45</sup> See Policy Bulletin 04.1.

<sup>46</sup> See *id.*

<sup>47</sup> Policy Bulletin 04.1 also states that “if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise.” See *id.*, at note 6.

<sup>48</sup> See *Sebacic Acid from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674 (December 15, 1997) and accompanying IDM at Comment 1 (to impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute).

<sup>49</sup> See Policy Bulletin 04.1, at 2.

<sup>50</sup> See *id.*, at 3.

<sup>51</sup> The Department has previously relied on production data for selecting the primary surrogate country. See, *e.g.*, *Wooden Bedroom Furniture from the People’s Republic of China: Preliminary Results of Antidumping Duty New Shipper Review*, 75 FR 9581, 9584 (March 3, 2010), unchanged in *Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review*, 75 FR 44764 (July 29, 2010).

<sup>40</sup> See, *e.g.*, *Notice of Preliminary Affirmative Countervailing Duty Determination and Preliminary Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 7916 (February 15, 2006) (making a preliminary negative critical circumstances determination for lack of a sufficient factual basis).

<sup>41</sup> See the Department’s Memorandum, “Antidumping Duty Investigation of Certain Steel Wheels from the People’s Republic of China (“PRC”): Preliminary Determination Surrogate Value Memorandum,” dated concurrently with this notice (“Surrogate Value Memorandum”).

<sup>42</sup> See the Department’s Memorandum, “Antidumping Duty Investigation of Certain Steel Wheels from the People’s Republic of China: List of Surrogate Countries,” dated June 24, 2011 (“Surrogate Country Memorandum”).

or comparable merchandise, the Department looked to export data obtained from Global Trade Atlas (“GTA”) for HTSUS 8708.70: Wheels Including Parts And Accessories For Motor Vehicles, which covers the merchandise under investigation. The GTA data for the comparable merchandise demonstrates that all the countries in the Surrogate Country Memorandum are producers of comparable merchandise.

#### *Significant Producers of Identical or Comparable Merchandise*

As noted above, Colombia, Indonesia, the Philippines, South Africa, Thailand and Ukraine were exporters of comparable merchandise in 2010. We find that the GTA data demonstrates that these countries were also significant producers of comparable merchandise.<sup>52</sup> Since all countries on the surrogate country list remain qualified, the Department looks to the availability of surrogate value data to determine the most appropriate surrogate country of the two remaining countries.

#### *Data Availability*

When evaluating surrogate value data, the Department considers several factors including whether the surrogate value is publicly available, contemporaneous with the POI, represents a broad market average, from an approved surrogate country, tax and duty-exclusive, and specific to the input. There is no hierarchy among these criteria; it is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.<sup>53</sup> While the record does not contain appropriate surrogate value data from Colombia, the Philippines, South Africa, Thailand or Ukraine, in this case, the record does contain data and a surrogate financial statement for Indonesia. Accordingly, for purposes of the preliminary determination, there is no need for the Department to consider countries not as economically comparable as those identified in the Surrogate Country Memorandum, given the facts of this case. Therefore, we have selected Indonesia as the surrogate country to use in this investigation, and, accordingly, have calculated NV using Indonesian prices to value the respondent’s FOPs, when available and appropriate. See Surrogate Value Memorandum. We have obtained and

relied upon publicly available information wherever possible.

#### **Surrogate Value Comments**

Timely surrogate value submissions were filed on August 19, 2011, by Centurion, Zhejiang Jingu, Shanghai Yata, and Petitioners. Centurion filed rebuttal surrogate values comments on August 26, 2011. For a detailed discussion of the surrogate values used in this LTFV proceeding, see the “Factor Valuation” section below and the Surrogate Value Memorandum.

#### **Affiliation**

Based on the evidence presented in Zhejiang Jingu and Shanghai Yata’s questionnaire responses, we preliminarily find that they are affiliated, pursuant to section 771(33)(E) of the Act. In addition, based on the evidence presented in their respective questionnaire responses, we preliminarily find that Zhejiang Jingu and Shanghai Yata should be treated as a single entity for the purposes of this investigation. This finding is based on the determination that Shanghai Yata, an exporter of subject merchandise, is a wholly-owned subsidiary of Zhejiang Jingu whose operations are fully integrated with those of Shanghai Yata. Further, we find that there is significant potential for manipulation of price or production between the parties pursuant to 19 CFR 351.401(f). For further discussion of the Department’s affiliation and collapsing decision, see the Affiliation and Collapsing Memorandum.

#### **Separate Rates**

In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME investigations.<sup>54</sup> The process requires exporters and producers to submit an SRA.<sup>55</sup> The

<sup>54</sup> See *Initiation Notice*.

<sup>55</sup> See Policy Bulletin 05.1, which states: “while continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applied both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.” See Policy Bulletin 05.1 at 6.

standard for eligibility for a separate rate is whether a firm can demonstrate an absence of both *de jure* and *de facto* government control over its export activities. In this instant investigation, the Department received timely-filed SRAs from eight separate rate applicants.<sup>56</sup> The three individually examined respondents (*i.e.*, Zhejiang Jingu, Shanghai Yata, and Centurion), and the separate rate applicants provided company-specific information, and each stated that it meets the criteria for the assignment of a separate rate.

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate.<sup>57</sup> It is the Department’s policy to assign all exporters of merchandise subject to investigation 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. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588 (May 6, 1991) (“Sparklers”), as further developed in *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”). As information on the record demonstrates that Wuxi Superior is wholly foreign-owned,<sup>58</sup> consistent with our practice, we have not conducted a separate rate analysis of Wuxi Superior.

#### *a. Absence of De Jure Control*

The Department considers the following *de jure* criteria in determining

<sup>56</sup> The separate rate applicants are: (1) Shandong Land Star Import & Export Co., Ltd (“Shandong Land Star”), (2) Shandong Jining Wheel Factory (“Shandong Jining”), (3) Wuxi Superior Wheel Co., Ltd. (“Wuxi Superior”), (4) Xingmin Wheel, (5) Xiamen Sunrise, (6) Jiaying Stone Wheel Co., Ltd. (“Jiaying Stone”), (7) Xiamen Topu, and (8) China Dongfeng Motor Industry Imp. & Exp. Co., Ltd. (“Dongfeng Motor”).

<sup>57</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China*, 71 FR 53079 (September 8, 2006), and *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People’s Republic of China*, 71 FR 29303 (May 22, 2006).

<sup>58</sup> See Wuxi Superior’s SRA dated June 27, 2011.

<sup>52</sup> See Surrogate Value Memorandum.

<sup>53</sup> See Policy Bulletin 04.1.

whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

The evidence provided by all separate rate applicants supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) applicable legislative enactments that decentralize control of the companies; and (3) formal measures by the government decentralizing control of companies. See Shandong Land Star's SRA submissions, dated June 24, 2011 and July 15, 2011; Shandong Jining's SRA submission dated July 6, 2011; Xingmin Wheel's SRA submissions, dated June 27, 2011 and July 21, 2011; Xiamen Sunrise's SRA submissions, dated June 24, 2011 and July 21, 2011; Jiaying Stone's SRA submissions, dated June 28, 2011 and July 21, 2011; Xiamen Topu's SRA submissions, dated June 24, 2011 and July 21, 2011; and Dongfeng Motor's SRA submissions, dated June 24, 2011 and July 27, 2011; as well as Zhejiang Jingu and Shanghai Yata's SRA and section A questionnaire submissions, dated June 27, 2011, July 15, 2011 and August 19, 2011, respectively; and Centurion's section A questionnaire submissions, dated July 5, 2011 and August 8, 2011, where the individually examined respondents and separate rate applicants certified that they had no relationship with any level of the PRC government with respect to ownership, internal management, and business operations.

#### b. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at

22586–87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). 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.

In this investigation, each individually examined respondent and separate rate applicant asserted the following: (1) That the export prices are not set by, and are not subject to, the approval of a governmental agency; (2) they have authority to negotiate and sign contracts and other agreements; (3) they have autonomy from the government in making decisions regarding the selection of management; and (4) they retain the proceeds of their export sales and make independent decisions regarding disposition of profits or financing of losses.

Additionally, each of these companies' SRA responses indicates that its pricing during the POI does not involve coordination among exporters.<sup>59</sup>

Evidence placed on the record of this investigation by Zhejiang Jingu, Shanghai Yata, Centurion, and the separate rate applicants demonstrate an absence of *de jure* and *de facto* government control with respect to their respective exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, we are preliminarily granting a separate rate to these entities.

#### Margin for Separate Rate Companies

As discussed above, the Department received timely and complete separate rate applications from (1) Shandong Land Star, (2) Shandong Jining, (3) Wuxi Superior, (4) Xingmin Wheel, (5) Xiamen Sunrise, (6) Jiaying Stone, (7) Xiamen Topu and (8) Dongfeng Motor, all of which were exporters of steel wheels from the PRC during the POI and were not selected as individually

<sup>59</sup> See Shandong Land Star's SRA submissions dated June 24, 2011 and July 15, 2011; Shandong Jining's SRA submission dated July 6, 2011; Xingmin Wheel's SRA submissions dated June 27, 2011 and July 21, 2011; Xiamen Sunrise's SRA submissions, dated June 24, 2011 and July 21, 2011; Jiaying Stone's SRA submissions, dated June 28, 2011 and July 21, 2011; Xiamen Topu's SRA submissions dated June 24, 2011 and July 21, 2011; and Dongfeng Motor's SRA submissions, dated June 24, 2011 and July 27, 2011; as well as Zhejiang Jingu and Shanghai Yata's SRA and section A questionnaire submissions, dated June 27, 2011, July 15, 2011 and August 19, 2011, respectively; and Centurion's section A questionnaire submissions, dated July 5, 2011 and August 8, 2011.

examined respondents in this investigation. Through the evidence in their respective SRAs, these companies have demonstrated their eligibility for a separate rate. Consistent with the Department's practice, we have established a margin for the separate rate applicants based on the average of the rates we calculated for the individually examined respondents, Centurion and Zhejiang Jingu/Shanghai Yata, excluding any rates that were zero, de minimis, or based entirely on AFA.<sup>60</sup>

#### Application of Facts Otherwise Available and Adverse Facts Available

##### *The PRC-Wide Entity and PRC-Wide Rate*

We issued our request for Q&V information to 19 potential Chinese exporters of the subject merchandise, in addition to posting the Q&V questionnaire on the Department's Web site. See Respondent Selection Memo. While information on the record of this investigation indicates that there are numerous producers/exporters of steel wheels in the PRC, we received only eleven timely filed Q&V responses. Although all exporters were given an opportunity to provide Q&V information, not all exporters provided a response to the Department's Q&V letter. Therefore, the Department has preliminarily determined that there were exporters/producers of the subject merchandise during the POI from the PRC that did not respond to the Department's request for information. We have treated these PRC producers/exporters as part of the PRC-wide entity because they did not apply for a separate rate.<sup>61</sup>

Section 776(a)(2) of the Act provides that, 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 antidumping 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

<sup>60</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

<sup>61</sup> See, e.g., *Kitchen Racks Prelim*, unchanged in *Kitchen Racks Final*.

available in reaching the applicable determination.

Information on the record of this investigation indicates that the PRC-wide entity was non-responsive. Certain companies did not respond to our questionnaire requesting Q&V information. As a result, pursuant to section 776(a)(2)(A) of the Act, we find that the use of facts available ("FA") is appropriate to determine the PRC-wide rate.<sup>62</sup>

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information.<sup>63</sup> We find that, because the PRC-wide entity did not respond to our requests for information, it has failed to cooperate to the best of its ability. Furthermore, the PRC-wide entity's refusal to provide the requested information constitutes circumstances under which it is reasonable to conclude that less than full cooperation has been shown.<sup>64</sup> Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

When employing an adverse inference, section 776 of the Act indicates that the Department may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for adverse facts available ("AFA"), the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party

does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation.<sup>65</sup> As AFA, we have preliminarily assigned to the PRC-wide entity a rate of 193.54 percent, the highest calculated rate from the *Initiation Notice*.<sup>66</sup> The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA. The Department's reliance on the petition rate to determine an AFA rate is subject to the requirement to corroborate secondary information, discussed in the Corroboration section below.

#### Corroboration

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 as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described as "information derived from the petition that gave rise to the investigation or review, the final determination concerning merchandise subject to this investigation, or any previous review under section 751 concerning the merchandise subject to this investigation."<sup>67</sup> To "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. Independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.<sup>68</sup>

The AFA rate that the Department used is from the *Initiation Notice*. To corroborate the AFA margin that we have selected, we compared this margin to the margin we found for the individually examined respondents. We calculated that the margin of 193.54 percent has probative value because it is in the range of the control number (CONNUM)-specific margins that we found for the Centurion and Zhejiang Jingu/Shanghai Yata during the period of investigation.<sup>69</sup> Given that numerous PRC-wide entities did not respond to the Department's requests for information, the Department concludes that the petition rate of 193.54 percent, as total AFA for the PRC-wide entity, is sufficiently adverse to prevent the PRC-wide entity from benefitting from its lack of cooperation.<sup>70</sup> Accordingly, we find that the rate of 193.54 percent is corroborated to the extent practicable within the meaning of section 776(c) of the Act.

#### Date of Sale

19 CFR 351.401(i) states that, "in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." In *Allied Tube*, the CIT noted that a "party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisf[y]' the Department that 'a different date better reflects the date on which the exporter or producer establishes the material terms of sale.'" *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) ("*Allied Tube*"). Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter

*Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

<sup>69</sup> See Memorandum from the Department entitled "Investigation of Certain Steel Wheels from the People's Republic of China: Analysis of the Preliminary Determination Margin Calculation for Zhejiang Jingu Company Limited ("Jingu") and Shanghai Yata Industry Company Limited ("Yata")," dated October 26, 2011; see also Memorandum from the Department entitled "Investigation of Certain Steel Wheels from the People's Republic of China: Analysis of the Preliminary Determination Margin Calculation for Jining Centurion Wheels Manufacturing Co., Ltd. and Centurion Wheel Manufacturing Company," dated October 26, 2011.

<sup>70</sup> See SAA at 870.

<sup>62</sup> See *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 (January 31, 2003), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

<sup>63</sup> See *Statement of Administrative Action*, accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Rep. No. 103-316, 870 (1994) ("SAA"); see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000).

<sup>64</sup> See *Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) ("*Nippon Steel*") (providing an explanation of the "failure to act to the best of its ability" standard and 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").

<sup>65</sup> See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying IDM, at "Facts Available."

<sup>66</sup> See *Initiation Notice*, 76 FR 23297.

<sup>67</sup> See *Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China*, 73 FR 6479, 6481 (February 4, 2008), quoting SAA at 870.

<sup>68</sup> See *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*

or producer establishes the material terms of sale.<sup>71</sup> The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms.<sup>72</sup>

For sales by all three respondents, consistent with 19 CFR 351.401(i), we used the commercial invoice date as the sale date because record evidence indicates that the terms of sale were set until the time when the commercial invoice was issued.<sup>73</sup>

### Fair Value Comparisons

To determine whether sales of steel wheels to the United States by the respondents were made at LTFV, we compared EP and CEP to NV, as described in the “Constructed Export Price,” “Export Price,” and “Normal Value” sections of this notice.

### U.S. Price

#### Constructed Export Price

In accordance with section 772(a) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d). In accordance with section 772(a) of the Act, we used CEP for a portion of Centurion’s U.S. sales because the merchandise subject to this investigation was sold directly to an affiliated purchaser located in the United States.

We calculated CEP for Centurion based on delivered prices to unaffiliated purchasers in the United States. We made deductions from the U.S. sales price, where applicable, for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included such expenses as foreign inland freight from the plant to the port of exportation, international freight, marine insurance,

other U.S. transportation, U.S. customs duty, U.S. inland freight from port to the warehouse, and U.S. inland freight from the warehouse to the customer. In accordance with section 772(d)(1) of the Act, the Department deducted credit expenses, inventory carrying costs and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. Finally, we deducted CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act.<sup>74</sup>

#### Export Price

In accordance with section 772(a) of the Act, we used EP for Zhejiang Jingu’s, Shanghai Yata’s, and Centurion’s U.S. sales, where applicable. We calculated EP based on the packed prices to unaffiliated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, for any movement expenses (e.g., foreign inland freight from the plant to the port of exportation, domestic brokerage, etc.) in accordance with section 772(c)(2)(A) of the Act. Where foreign inland freight or foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate value rates from Indonesia. Where U.S. inland freight or U.S. brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate value rates for those U.S. services. See “Factor Valuation” section below for further discussion of surrogate value rates.

In determining the most appropriate surrogate values to use in a given case, the Department’s stated practice is to use period-wide price averages, prices specific to the input in question, prices that are net of taxes and import duties, prices that are contemporaneous with the POI, and publicly available data.<sup>75</sup> We valued foreign brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods from Indonesia where foreign brokerage and handling were provided by PRC service providers or paid for in renminbi. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by truck in Indonesia as reported in “Doing Business 2011: Indonesia” published by the World Bank.<sup>76</sup> We used a similar price list

from “Doing Business 2011: United States” to value brokerage and handling fees incurred in the United States. To value truck freight, the Department used a price list for domestic shipments from the Indonesian shipping company, PT Mantap Abiah Abadi. We determined the average cost for shipment from 12 cities to Jakarta by truck, using Google maps to determine overland distance. To value domestic water freight, the Department also used PT Mantap Abiah Abadi’s price list. We determined the average price of shipment from 11 cities to Jakarta by boat, using <http://www.sea-distances.com>, to calculate the port-to-port sailing distance.

To value international ocean freight and U.S. inland freight, the Department used quotes from China Container Line Ltd. (a Hong Kong company) for the shipment of various consumer products, as obtained on the Descartes Carrier Rate Retrieval Database (“Descartes”). For international ocean freight, the Department used departure and destination ports, container size and gross shipment weight of three reported shipments of subject merchandise by respondents. For U.S. inland freight, the Department used ports of import and customer city locations, container size, and gross shipment weight of three reported shipments of subject merchandise by respondents. The data obtained from Descartes can be accessed via <http://www.descartes.com/>. The Descartes database is a Web-based service, which publishes the ocean freight rates of numerous carriers. In prior proceedings, we rejected the Descartes database as an ocean freight surrogate value source because the data did not appear to be publicly available.<sup>77</sup> Upon reexamination, however, we found that this database is accessible to government agencies without charge, in compliance with Federal Maritime Commission regulations and, thus, we now find that this is a publicly-available source. In addition to being publicly available, the Descartes data reflect rates for multiple carriers, report rates on a daily basis, additionally, the price data obtained are based on routes that closely correspond to those used by respondents, and are specific to the merchandise subject to this investigation. Therefore, the Descartes data is product-specific, publicly available, a broad-market average, and contemporaneous with the period of the segment. Accordingly, the

<sup>71</sup> See 19 CFR 351.401(i); see also *Allied Tube*, 132 F. Supp. 2d 1087, 1090–1092.

<sup>72</sup> See *Carbon and Alloy Steel Wire Rod from Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying IDM at 5; *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying IDM at Comment 2.1.

<sup>73</sup> See, e.g., Zhejiang Jingu’s section A response at 24–25 and Exhibit 6; see also Shanghai Yata’s section A response at 22 and Exhibit 4; see also Centurion’s section A response at A–22–A–23 and Exhibit A–2.

<sup>74</sup> See Surrogate Value Memorandum.

<sup>75</sup> See, e.g., *Certain Cased Pencils from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 38366 (July 6, 2006), and accompanying IDM at Comment 1.

<sup>76</sup> See Surrogate Value Memorandum.

<sup>77</sup> See, e.g., *Fresh Garlic from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Final Results of New Shipper Reviews*, 71 FR 26329 (May 4, 2006) and accompanying IDM at Comment 7.

Descartes data is the best available source for valuing international freight on the record because it provides rates that are representative of the entire period of the investigation and a broad representation of product-specificity.

However, while the Department finds that the Descartes data is the most superior source for valuing international freight on the record, to make the source less impractical, we had to define certain parameters in our selection of data. The Department has calculated the period-average international freight rate by obtaining rates from multiple carriers for a single day in each quarter of the period of the segment. For any rate that the Department determined was from a non-market economy carrier, the Department has not included that rate in the period-average international freight calculation. Additionally, any charges included in the rate that are covered by brokerage and handling charges that the respondent incurred or are included in the reported market economy purchase or the appropriate surrogate value, the Department has not included these charges in the calculation.<sup>78</sup>

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an 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 the 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. See, e.g., *Kitchen Racks Prelim*, 71 FR at 19703 (unchanged in *Kitchen Racks Final*).

In accordance with 19 CFR 351.408(c)(1), the Department normally will use publicly available information to find an appropriate surrogate value to value FOPs, but when a producer sources an input from an ME and pays for it in an ME currency, the Department may value the factor using the actual price paid for the input. See 19 CFR 351.408(c)(1); see also *Shakeproof Assembly Components Div of Ill v. United States*, 268 F.3d 1376, 1382–1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

#### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOP

data reported by respondents during the POI. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values (except as discussed below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data.<sup>79</sup> As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indonesian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). A detailed description of all surrogate values used for Centurion and Zhejiang Jingu/Shanghai Yata can be found in the Surrogate Value Memorandum.

For the preliminary determination, in accordance with the Department's practice, we used data from the Indonesian Import Statistics and other publicly available Indonesian sources in order to calculate surrogate values for Centurion's and Zhejiang Jingu's FOPs (direct materials, energy, and packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive.<sup>80</sup> The record shows that data in the Indonesian import statistics, as well as those from the other Indonesian sources, are contemporaneous with the POI, product-specific, and tax-exclusive.<sup>81</sup> In those instances where we could not obtain publicly available information contemporaneous to the

POI with which to value factors, we adjusted the surrogate values using, where appropriate, the Indonesian WPI as published in the Organization for Economic Co-operation and Development's StatExtracts database library, accessed via <http://www.stats.oecd.org/Index.aspx>.<sup>82</sup>

Furthermore, with regard to the Indonesian import-based surrogate values, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from India, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.<sup>83</sup>

Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.<sup>84</sup> Rather, the Department bases its decision on information that is available to it at the time it makes its determination.<sup>85</sup> In addition, there exists no record evidence in this case to suggest that these prices are not subsidized. Therefore, we have not used prices from these countries in calculating the Indonesian import-based surrogate values. Additionally, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could

<sup>82</sup> See, e.g., *Kitchen Racks Prelim*, 74 FR at 9600, unchanged in *Kitchen Racks Final*.

<sup>83</sup> See, e.g., *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-Year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying IDM at 4–5; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying IDM at 17, 19–20; and *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, 66 FR 50410 (October 3, 2001), and accompanying IDM at 23.

<sup>84</sup> See Omnibus Trade and Competitiveness Act of 1988, Conference Report to accompany H.R. Rep. 100–576 at 590 (1988) reprinted in 1988 U.S.C.A.N. 1547, 1623–24; see also *Preliminary Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007).

<sup>85</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008), unchanged in *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 (September 24, 2008).

<sup>79</sup> See, e.g., *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying IDM at Comment 6; and *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying IDM at Comment 5.

<sup>80</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

<sup>81</sup> See Surrogate Value Memorandum.

<sup>78</sup> See Surrogate Value Memorandum.

not be certain that they were not from either an NME country or a country with general export subsidies.<sup>86</sup>

Previously, the Department used regression-based wages that captured the worldwide relationship between *per capita* GNI and hourly manufacturing wages, pursuant to 19 CFR 351.408(c)(3), to value the respondent's cost of labor in NME cases. However, on May 14, 2010, the Court of Appeals for the Federal Circuit ("CAFC"), in *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1372 (Fed. Cir. 2010) ("*Dorbest*"), invalidated 19 CFR 351.408(c)(3). As a consequence of the CAFC's ruling in *Dorbest*, the Department no longer relies on the regression-based wage rate methodology described in its regulations.

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME antidumping proceedings.<sup>87</sup> In *Labor Methodologies*, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics ("*Yearbook*").

In this preliminary determination, the Department calculated direct, indirect, and packing labor inputs using the wage method described in *Labor Methodologies*. To value respondents' labor inputs, the Department relied on data reported by Indonesia to the ILO in Chapter 5B of the Yearbook because Indonesia's 6A data is not available. The

Department further finds the two-digit description under ISIC–Revision 3 ("34—Manufacture of motor vehicles, trailers, and semi-trailers") to be the best available information on the record, as it includes a four-digit description ("3430—Manufacture of parts and accessories for motor vehicles and their engines"), which is specific to the industry being examined, and is therefore derived from industries that produce comparable merchandise. Accordingly, relying on Chapter 5B of the Yearbook, the Department calculated the labor input using labor data reported by Indonesia to the ILO under Sub-Classification 34 of the ISIC–Revision 3 standard, in accordance with Section 773(c)(4) of the Act. For this preliminary determination, the calculated industry-specific wage rate is 9,830.98 Rupiah per hour. Because this wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by respondents.<sup>88</sup> A more detailed description of the wage rate calculation methodology is provided in the Surrogate Value Memorandum.

We valued electricity using the average electricity rate for industry in 2009, obtained from the Indonesia Ministry of Energy and Mineral Resources' "2010 Handbook of Energy & Economic Statistics of Indonesia."

The Department valued natural gas using data obtained from EnergyBiz Magazine's January/February 2006 edition, in which the American Chemistry Council's data for Indonesian natural gas prices of January 2006 are

cited. To value steam, the Department calculated 14.52 percent of the value of natural gas (obtained as described above), by volume.<sup>89</sup>

To value factory overhead, selling, general, and administrative expenses, and profit, we used the audited financial statement of PT Prima Alloy Steel Universal Tbk, a producer of comparable merchandise, covering the fiscal period January 1, 2010, through December 31, 2010. The Department may consider other publicly available financial statements for the final determination, as appropriate.

**Currency Conversion**

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

**Verification**

As provided in section 782(i)(1) of the Act, we intend to verify the information from Zhejiang Jingu, Shanghai Yata, and Centurion, upon which we will rely in making our final determination.

**Combination Rates**

In the *Initiation Notice*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation.<sup>90</sup> This practice is described in Policy Bulletin 05.1.

**Preliminary Determination**

The weighted-average dumping margin percentages are as follows:

Exporter	Producer	Percent margin
Zhejiang Jingu Company Limited .....	Zhejiang Jingu Company Limited .....	141.38
Shanghai Yata Industry Company Limited .....	Zhejiang Jingu Company Limited .....	141.38
Jining Centurion Wheels Manufacturing Co., Ltd .....	Jining Centurion Wheels Manufacturing Co., Ltd .....	110.58
Shandong Land Star Import & Export Co., Ltd .....	Shandong Shengtai Wheel Co., Ltd .....	125.98
Shandong Jining Wheel Factory .....	Shandong Jining Wheel Factory .....	125.98
Wuxi Superior Wheel Co., Ltd .....	Wuxi Superior Wheel Co., Ltd .....	125.98
Shandong Xingmin Wheel Co. Ltd .....	Shandong Xingmin Wheel Co. Ltd .....	125.98
Xiamen Sunrise Wheel Group Co., Ltd .....	Jining Centurion Wheels Manufacturing Co., Ltd .....	125.98
Jiaxing Stone Wheel Co., Ltd .....	Jiaxing Stone Wheel Co., Ltd .....	125.98
Xiamen Topu Import & Export Co., Ltd .....	Xiamen Sunrise Wheel Group Co., Ltd .....	125.98
Xiamen Topu Import & Export Co., Ltd .....	Jining Centurion Wheels Manufacturing Co., Ltd .....	125.98
China Dongfeng Motor Industry Imp. & Exp. Co., Ltd .....	Dongfeng Automotive Wheel Co., Ltd .....	125.98
PRC-Wide Entity .....	.....	193.54

<sup>86</sup> See *id.*

<sup>87</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) ("*Labor Methodologies*").

<sup>88</sup> See Surrogate Value Memorandum.

<sup>89</sup> See, e.g., *Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Reviews*, 74 FR 14772 (April 1, 2009), unchanged in *Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 74 FR 65520 (December 10, 2009).

<sup>90</sup> See *Initiation Notice*.

**Disclosure**

We will disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of steel wheels from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** with the exception of those exported by Centurion. Because we have preliminarily found that critical circumstances exist with regard to exports by Centurion, we will instruct CBP to suspend liquidation of covered entries entered, or withdrawn from warehouse, for consumption up to 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this preliminary determination; (2) for all PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the PRC-wide rate; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension of liquidation instructions will remain in effect until further notice.

Additionally, as the Department has determined in its Certain Steel Wheels From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination, 76 FR 55012 (September 6, 2011) ("CVD Prelim") that the merchandise under investigation exported by Zhejiang Jingu and Shanghai Yata benefitted from export subsidies, we will instruct CBP to require an antidumping cash deposit or posting of a bond equal to the amount by which the NV exceeds the U.S. price for Zhejiang Jingu and Shanghai Yata, as indicated above, minus the amount determined to constitute an export subsidy. See, e.g., *Notice of Final Determination of Sales at Less Than*

*Fair Value: Carbazole Violet Pigment 23 From India*, 69 FR 67306, 67307 (November 17, 2007).

**International Trade Commission Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV and our partial affirmative decision of critical circumstances. Section 735(b)(2) of the Act requires the ITC to 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 coated paper, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

**Public Comment**

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs. See 19 CFR 351.309. A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time (ET) within 30 days after the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Ave., NW.,

Washington, DC 20230, at a time and location to be determined. See 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing.

We will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: October 26, 2011.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2011-28413 Filed 11-1-11; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Science Advisory Board**

**AGENCY:** Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of open meeting.

**SUMMARY:** The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

**TIME AND DATE:** The meeting will be held Tuesday, November 29, 2011 from 9 a.m. to 5:30 p.m. and Wednesday, November 30, 2011, from 8:30 a.m. to 2:30 p.m. These times and the agenda topics described below are subject to change. Please refer to the Web page <http://www.sab.noaa.gov/Meetings/meetings.html> for the most up-to-date meeting agenda.

**PLACE:** The meeting will be held at the Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington, DC Please check the SAB Web site <http://www.sab.noaa.gov> for directions to the meeting location.

Status: The meeting will be open to public participation with a 15 minute