SUPPLEMENTARY INFORMATION:

Background

At the request of interested parties, on September 22, 2009, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 74 FR 48224 (September 22, 2009). The review covers the period August 1, 2007, through July 31, 2008. The preliminary results for this administrative review are currently due no later than May 10, 2010.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. In this case, we note the deadline for completion of this administrative review has been extended by an additional seven days because of hazardous weather. *See* February 12, 2010 Memorandum, "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm." However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the 245 day time period for the preliminary results up to a maximum of 365 days.

The Department has determined it is not practicable to complete this review within the statutory time limit because we require additional time to gather and analyze information relating to both Foshan Shunde's and Since Hardware's factors of production, and to verify Foshan Shunde's and Since Hardware's questionnaire responses. Accordingly, the Department is extending the time limits for completion of the preliminary results of this administrative review until no later than September 7, 2010, which is 365 days from the last day of the anniversary month of this order, plus the seven-day extension for hazardous weather. We intend to issue the final results in this review no later than 120 days after publication of the preliminary results.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: February 21, 2010.

John Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–9849 Filed 4–27–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–888]

Floor-Standing, Metal Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

DATES: *Effective Date:* April 28, 2010.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–4475 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

At the request of interested parties, on September 22, 2009, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 74 FR 48224 (September 22, 2009). The review covers the period August 1, 2008, through July 31, 2009. The preliminary results for this administrative review are currently due no later than May 10, 2010.

Extension of Time Limits for Preliminary Results

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This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: April 21, 2010.

John Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–9859 Filed 4–27–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–956]

Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination

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

DATES: *Effective Date:* April 28, 2010.

SUMMARY: The Department of Commerce (the "Department") preliminarily determines that certain seamless carbon and alloy steel standard, line, and pressure pipe from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended (the "Act"). The estimated dumping margins are shown

in the "Preliminary Determination" section of this notice.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Zev Primor, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 482–4162 or 482–4114, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 16, 2009, the Department received an antidumping duty ("AD") petition concerning imports of certain seamless carbon and alloy steel standard, line, and pressure pipe ("seamless pipe") from the PRC filed in proper form by United States Steel Corporation ("U.S. Steel") and V&M Star L.P. *See* Petition for the Imposition of Antidumping Duties: Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China, dated September 16, 2009 ("Petition"). On September 28, 2009, TMK IPSCO and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union also entered the proceeding as petitioners (collectively, together with U.S. Steel and V&M Star L.P., "Petitioners"). The Department initiated the AD investigation on seamless pipe from the PRC on October 6, 2009. *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 74 FR 52744 (October 14, 2009) ("*Initiation Notice*").

In the *Initiation Notice,* the Department stated its intent to select respondents based on responses to quantity and value ("Q&V") questionnaires. *See Initiation Notice,* 75 FR at 52747. On October 7, 2009, the Department requested Q&V information from the 84 companies identified in the petition as potential producers or exporters of seamless pipe from the PRC. *See* "Respondent Selection in the Antidumping Duty Investigation of Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China," dated November 5, 2009 ("Respondent Selection Memorandum"). The Department received timely responses to its Q&V questionnaire from the following companies: (1) Tianjin Pipe International Economic and Trading Corporation ("TPCO"); (2) Hengyang Steel Tube Group Int'l Trading Inc. ("Hengyang"); (3) Pangang Group Chengdu Iron & Steel Co., Ltd.; (4) Zhejiang Jianli Company Limited; (5) Yangzhou Chengde Steel Tube Co., Ltd.; (6) Xigang Seamless Steel Tube Co., Ltd.; (7) HeBei Hongling Seamless Steel Pipes Manufacturing Co., Ltd.; (8) Jiangyin City Changjiang Steel Pipe Co., Ltd.; and (9) Yangzhou Lontrin Steel Tube Co., Ltd. The Department confirmed that 77 of the 84 companies received the Q&V questionnaire, while the results from the international courier service's shipment tracking showed that two Q&V questionnaires were "arranged for delivery," and five were returned to the Department or not delivered due to incorrect addresses provided by Petitioners. *See* Respondent Selection Memorandum.

On November 2, 2009, the International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain seamless carbon and alloy steel standard, line, and pressure pipe from the PRC. *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From China, Investigation Nos. 701–TA–469 and 731–TA–1168 (Preliminary),* 74 FR 57521 (November 6, 2009).

On November 5, 2009, the Department selected TPCO and Hengyang as the mandatory respondents. *See* Respondent Selection Memorandum. On November 6, 2009, the Department issued an antidumping questionnaire to both companies. On November 10, 2009, U.S. Steel submitted comments to the Department regarding the physical characteristics of subject merchandise that it argued should be used in comparing sales prices with normal value ("NV").

TPCO and Hengyang submitted timely responses to the Department's questionnaires and supplemental questionnaires between December 2009 and April 2010. Hengyang responded to the Department's questionnaire on behalf of itself, Xigang Seamless Steel Tube Co., Ltd., and Wuxi Seamless Special Pipe Co., Ltd. (collectively "Xigang"), exporters/producers of subject merchandise, claiming that the companies are affiliated and should be treated as a single entity. The Department received properly filed separate-rate applications for Jiangyin City Changjiang Steel Pipe Co., Ltd. ("Jiangyin City"), Pangang Group Chengdu Iron & Steel Co., Ltd. ("Pangang Group"), Yangzhou Lontrin Steel Tube Co., Ltd. ("Yangzhou Lontrin"), and Yangzhou Chengde Steel Tube Co., Ltd. ("Yangzhou Chengde") from November 7, 2009, through December 14, 2009.

The Department issued supplemental questionnaires to, and received responses from, TPCO, Hengyang, Yangzhou Chengde, and Yangzhou Lontrin between October 2009 and April 2010. U.S. Steel submitted comments to the Department on the questionnaire and/or supplemental questionnaire responses of TPCO, Hengyang and the separate rate applicant Yangzhou Chengde between February and March 2010.

On January 7, 2010, the Department released a memorandum to interested parties which listed potential surrogate countries and invited interested parties to comment on surrogate country and surrogate value selection. *See* Memorandum to Howard Smith, Program Manager, AD/CVD Operations Office 4, from Kelly Parkhill, Acting Director for Policy, Office of Policy, "Request for A List of Surrogate Countries for an Antidumping Duty Investigation of Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China," dated January 7, 2010 ("Office of Policy Surrogate Country List Memorandum"). The countries identified in that memorandum as being at a level of economic development comparable to the PRC for the specified period of investigation ("POI") are India, the Philippines, Indonesia, Thailand, Ukraine, and Peru. On January 20, 2010, the Department received comments on surrogate country selection and surrogate value information from Petitioners. On February 16, 2010, TPCO and Hengyang submitted surrogate value and surrogate country comments. Petitioners, TPCO and Hengyang stated that the Department should select India as the surrogate country for this investigation. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, *see* the "Surrogate Country" section below.

On January 22, 2010, Petitioners requested postponement of the preliminary determination. On February 8, 2010, the Department postponed this preliminary determination by fifty days pursuant to section 733(c)(1)(A) of the Tariff Act. *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation,* 75 FR 6183 (February 8, 2010). Moreover, as explained in the memorandum from the Deputy Assistant Secretary for Import

Administration, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010. Based on this memorandum, the revised deadline for the preliminary determination in this investigation is April 21, 2010.

On January 7, 2010, U.S. Steel made a critical circumstances allegation with respect to TPCO and Hengyang. On March 3, 2010, U.S. Steel supplemented its critical circumstances allegation. Based on U.S. Steel's critical circumstances allegation, between March 4 and March 22, 2010, we requested and received shipment data from TPCO and Hengyang. Moreover, on March 18, 2010, U.S. Steel submitted a targeted dumping allegation with respect to TPCO and Hengyang.

Given record information indicating that TPCO is affiliated with one of its U.S. customers, on March 3, 2010, we requested that TPCO submit to the Department a section C database which includes all downstream sales of subject merchandise made by TPCO's affiliated U.S. customer during the POI. In response to this request, on March 15, 2010, TPCO stated that it was unable to provide such downstream sales. Moreover, on March 25, 2010, we requested once again that TPCO submit to the Department the downstream sales for the customer in question, and provide additional information pertaining to TPCO's corporate structure and affiliations. On March 26, 2010, TPCO requested an extension of time, until April 9, 2010, to submit the downstream sales of its U.S. customer. In response to TPCO's request, the Department granted TPCO the aforementioned extension of time for submitting the downstream sales, until April 9, 2010. In response to the Department's request, on March 29 and April 5, 2010, TPCO submitted additional information regarding its corporate structure and affiliations, and reported that it asked its U.S. customer with which the Department considered it to be affiliated to provide the downstream sales in question.

On April 9, 2010, instead of reporting the downstream sales requested by the Department, TPCO submitted a letter stating that it would be able to report the downstream sales of its U.S. customer, but it needed an additional extension of time to report the sales. On April 16, 2010, the Department rejected TPCO's second request for an extension of time to submit the downstream sales of the U.S. customer in question. Despite the Department's decision not to grant TPCO an extension of time to submit the downstream sales data, on April 19, 2010, TPCO submitted that data and requested that the Department reconsider its decision not to extend the deadline for supplying the data. On April 21, the Department rejected the downstream sales data and removed the data from the record.

On March 26, 2010, TPCO, Hengyang, and U.S. Steel submitted pre-preliminary comments on the selection of surrogate values and other issues discussed in the relevant sections of this **Federal Register** notice, below.

Moreover, on April 9, 2010, TPCO and Hengyang requested that the Department postpone the final determination in this case. *See* the "Postponement of Final Determination" section of this notice below.

Period of Investigation

The POI is January 1, 2009, through June 30, 2009. This period corresponds to the two most recently completed fiscal quarters prior to the month in which the petition was filed (*i.e.,* September 2009). *See* 19 CFR 351.204(b)(1).

Scope of the Investigation

The merchandise covered by this investigation is certain seamless carbon and alloy steel (other than stainless steel) pipes and redraw hollows, less than or equal to 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (*e.g.,* hot-finished or cold-drawn), end finish (*e.g.,* plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish (*e.g.,* bare, lacquered or coated). Redraw hollows are any unfinished carbon or alloy steel (other than stainless steel) pipe or "hollow profiles" suitable for cold finishing operations, such as cold drawing, to meet the American Society for Testing and Materials ("ASTM") or American Petroleum Institute ("API") specifications referenced below, or comparable specifications. Specifically included within the scope are seamless carbon and alloy steel (other than stainless steel) standard, line, and pressure pipes produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, ASTM A–1024, and the API 5L specifications, or comparable specifications, and meeting the physical parameters described above, regardless of application, with the exception of the exclusion discussed below. Specifically excluded from the scope of the investigation are unattached couplings. The merchandise covered by the investigation is currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers: 7304.19.1020, 7304.19.1030, 7304.19.1045, 7304.19.1060, 7304.19.5020, 7304.19.5050, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, and 7304.59.8070.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise subject to this scope is dispositive.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of the signature date of that notice. *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997). *See also Initiation Notice,* 75 FR at 52744–45.

On October 27, 2009, the Department received comments from Wyman-Gordon Inc. ("Wyman-Gordon"), a U.S. manufacturer of extruded seamless pipe for oil and gas and power generation applications. Wyman-Gordon maintained that Petitioners do not produce seamless pipe made to ASTM–335 specifications, which is covered by the scope of this investigation, and that it is the only U.S. manufacturer of seamless pipe with nominal wall-thickness greater than 1.594 inches. In response, on November 9, 2009, Petitioners refuted Wyman-Gordon's allegations, asserting that there are at least five other U.S. companies producing seamless steel pipe made to ASTM–335 specifications; namely, Mach Industrial Group, Rockwell Collins Rollmet, Timken, U.S. Steel, and Michigan Seamless Tube. Petitioners

also refuted Wyman-Gordon's contention that it is the only U.S. producer of seamless pipe with a wall thickness greater than 1.594 inches. In support of their argument, Petitioners provided documentation indicating that they produce seamless standard and line pipe of less than 16 inches in outside diameter that has a wall-thickness equal to or greater than 1.594 inches. *See* Exhibit 3 of Petitioners' November 9, 2009, submission. Petitioners further argued that Wyman-Gordon's contention that it is the only U.S. producer of seamless steel pipe manufactured through use of the extrusion process, does not comport with the fact that U.S. producers, such as Michigan Seamless Tube, use a draw bench and stationary die to control the diameter in very close tolerance. Moreover, citing *Light-Walled Rectangular Pipe and Tube from Mexico: Notice of Final Determination of Sales at Less than Fair Value,* 69 FR 53677 (September 2, 2004) and the accompanying Issues and Decision Memorandum at Comment 5 ("*Light-Walled from Mexico*"), Petitioners argued that the Department has repeatedly stated that "the statute does not require that petitioners currently produce every type of product that is encompassed by the scope of the investigation." According to Petitioners, the product is included in the scope if it is part of the same like product. Finally, Petitioners maintained that Wyman-Gordon's proposed alterations to the scope of the investigation would pose a significant risk of circumvention of the AD order (if imposed) and should, therefore, be rejected by the Department.

On February 3, 2010, Sumitomo Corporation of America ("SCOA") argued that mechanical tubing produced to ASTM A–519 specifications should not be covered by the scope of the investigation because such mechanical tubing is not similar to any of the products covered by the scope. SCOA further argued that this type of mechanical tubing was excluded from an AD investigation covering products from Japan that are identical to the products covered in this investigation. Thus, SCOA argued that mechanical tubing should be excluded from the scope of this investigation.

On April 5, 2010, one of the Petitioners, V&M Star L.P. objected to SCOA's request to exclude its mechanical tubing from the scope of the investigation. V&M Star L.P contended that: (1) Mechanical tubing is not specifically excluded from the scope; (2) SCOA's product meets the physical parameters described in the scope; and (3) products can be certified to multiple specifications. Thus, products conforming to the specifications listed in the scope, or comparable specifications, that otherwise meet the physical parameters identified in the scope should be considered covered by the scope even if they are certified to a specification not specifically listed in the language of the scope of the investigation.

The Department finds that Wyman-Gordon's argument, with respect to seamless pipe produced to ASTM–335 specifications, involves the question of whether the petition was filed by or on behalf of the domestic industry. *See* section 732(c)(4) of the Act. Pursuant to section 732(c)(4)(E) of the Act, interested parties may submit comments regarding industry support before initiation, and a determination regarding industry support shall not be reconsidered after the Department's initiation of an investigation. In this case, Wyman-Gordon's comments were submitted after initiation and therefore we will not reconsider our determination as to industry support at this stage of the proceeding. Moreover, we agree with Petitioners that the statute does not require the petitioners to currently produce every type of product that is encompassed by the scope of the investigation. *See Light-Walled from Mexico* at Comment 5. Accordingly, the Department has not reconsidered Petitioners' standing with respect to seamless pipe produced to ASTM–335 specifications, and made no changes to the scope of the investigation based on Wyman-Gordon's allegation.

With respect to SCOA's argument regarding mechanical tubing, the Department agrees with Petitioners that if a product conforms to the specifications in the scope or a comparable specification, and it meets the physical parameters identified in the scope, it is covered by the scope of the investigation. SCOA has failed to demonstrate that's its product does not conform to the scope of this investigation. *See* "Scope of the Investigation" section above.

Separate Treatment for Hengyang and Xigang

As indicated above, the Department selected Hengyang as one of the mandatory respondents in this investigation. In responding to the Department's antidumping questionnaire, Hengyang independently treated itself and Xigang as a single entity, *i.e.,* collapsed itself with Xigang. Hengyang primarily based its decision to collapse itself with Xigang on the fact that a third party, the holding company Hunan Valin Iron and Steel Group Co., Ltd., maintains common ownership in both Hengyang and Xigang.

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

The Department preliminarily concludes that the totality of the record evidence does not support collapsing Hengyang and Xigang into a single entity, pursuant to 19 CFR 351.401(f)(1). Accordingly, the Department preliminarily based its margin calculation only on the information submitted pertaining to Hengyang. For further discussion on the Department's decision not to collapse Hengyang with Xigang, see the memorandum to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Operations "Affiliation and Single Entity Status of Certain Respondents in the Antidumping Duty Investigation of Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe ("Seamless Pipe") from the People's Republic of China ("PRC"), dated April 19, 2010.

Targeted Dumping Allegation

As noted above, on March 18, 2010, U.S. Steel submitted targeted dumping allegations with respect to Hengyang and TPCO, requesting that the Department apply the average-to-transaction methodology in calculating the margin for these companies.[1] For Hengyang, U.S. Steel maintained that there are patterns of export prices ("EP") for comparable merchandise that differ significantly among regions and time

[1] *See* U.S. Steel's targeted-dumping allegation regarding "Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China Seamless" dated March 18, 2010.

periods. Petitioners relied on the Department's targeted-dumping test in the *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea,* 72 FR 60630 (October 25, 2007) ("*CFS*"). Alternatively, in the event the Department determines not to use the targeted dumping test employed in *CFS,* Petitioners applied the Department's test in *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value,* 73 FR 33985 (June 16, 2008), and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 33977 (June 16, 2008) (collectively, "*Nails*"). Petitioners alleged that under this test, there is a pattern of EPs for comparable merchandise that differ significantly among regions.

The statute allows the Department to employ the average-to-transaction margin calculation methodology in an investigation under the following circumstances: (1) There is a pattern of export prices that differ significantly among purchasers, regions, or periods of time; and (2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. *See* section 777A(d)(1)(B) of the Act.

The Department notes that its current methodology for determining whether targeted dumping exists is based on the methodology applied in *Nails.* Consequently, the Department has, preliminarily, considered only the part of Petitioners' allegation which is based on the Department's methodology in *Nails. 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, 59118 (November 17, 2009), as amended in *Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Amended Preliminary Determination of Sales at Less Than Fair Value,* 74 FR 69065 (December 30, 2009). Since the Department has preliminarily determined not to collapse Hengyang and Xigang, the Department's evaluation of Petitioners' targeted dumping allegation regarding Hengyang was based solely on Hengyang's U.S. sales during the POI. After analyzing Hengyang's U.S. sales, we found no evidence of a pattern of EPs for comparable merchandise that differ significantly among regions. *See* Analysis Memorandum for Hengyang, dated April 21, 2010.

Petitioners also alleged targeted dumping with respect to TPCO. Applying the P/2 test, Petitioners alleged a clear pattern of price differences among regions. Additionally, using the *Nails* test, Petitioners alleged a pattern of prices for comparable merchandise that differ significantly by time period.[2] As stated above, the current methodology for determining whether targeted-dumping exists is based on the methodology applied in *Nails.* Consequently, the Department has, preliminarily, considered only the part of Petitioners' allegation which is based on the Department's methodology in *Nails.*

Petitioners divided the POI into six separate months and submitted each month to the *Nails* test. Petitioners contend that the results of this test show a pattern of prices for TPCO's sales in a certain time period that differ significantly from its prices of comparable merchandise in other months of the POI.[3]

After analyzing TPCO's U.S. sales, we found no evidence of a pattern of prices for comparable merchandise that differ significantly among time periods. *See* Analysis Memorandum for TPCO, dated April 21, 2010.

Critical Circumstances

As stated above, on January 7, 2010, U.S. Steel made a critical circumstances allegation with respect to TPCO and Hengyang, which it supplemented on March 3, 2010. After reviewing the record evidence, the Department preliminarily finds that there is reason to believe or suspect that critical circumstances exist for imports of subject merchandise from Hengyang and the PRC-wide entity but not for TPCO or the separate rate companies, which includes Xigang. Specifically, the Department finds that: (A) In accordance with section 733(e)(1)(A)(ii) of the Act, 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) in accordance with section 733(e)(1)(B) of the Act, Hengyang and the PRC-wide entity had massive imports during a relatively short period. *See* Memorandum to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations from Abdelali Elouaradia, Director, Office 4, "Antidumping Duty Investigation of Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances," dated April 21, 2010.

Non-Market Economy Treatment

The Department considers the PRC to be a non-market economy ("NME") country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review,* 68 FR 7500 (February 14, 2003), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review,* 68 FR 70488 (December 18, 2003). No party has challenged the designation of the PRC as an NME country, and the Department has not revoked the PRC's status as an NME country. Therefore, in this preliminary determination, we have treated the PRC as an NME country and applied our current NME methodology.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOP") valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOP, the Department shall utilize, to the extent possible, the prices or costs of the FOP in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed in the "Normal Value" section below.

The Department determined that India, the Philippines, Indonesia, Thailand, Ukraine and Peru are countries comparable to the PRC in terms of economic development. *See* Office of Policy Surrogate Country List Memorandum. Once countries that are economically comparable to the PRC

[2] *Id.* at Exhibit 3b.

[3] *Id.*

have been identified, 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 FOP is both available and reliable. *See id.* On January 20, 2010, Petitioners filed comments urging the Department to select India as a surrogate country and claiming that India is a significant producer of merchandise comparable to the merchandise under investigation. Specifically, Petitioners noted that the *Simdex Steel Tube Manufacturers Worldwide Guide* identifies no less than 76 Indian producers of tubular products and the *Steel Statistical Yearbook 2008* reported that in 2007 India exported 1.36 million metric tons of tubular products. *See* Petitioners' January 20, 2010 submission at 6 and Exhibits A and B. Petitioners, TPCO, and Hengyang also submitted information on the record demonstrating that the Department can value the major FOP for subject merchandise using reliable, publicly available data from Indian sources. *See* Petitioner's January 20, 2010, surrogate country and surrogate value comments. *See also* TPCO's and Hengyang's February 16, 2010, surrogate value and surrogate country comments, respectively. No other party provided comments on the record concerning the appropriate surrogate country.

Based on evidence placed on the record, we have determined that it is appropriate to use India as a surrogate country pursuant to section 773(c)(4) of the Act based on the following: (1) It is at a level of economic development comparable to the PRC; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India that we can use to value the FOP. *See* Petitioner's January 20, 2010, surrogate country and surrogate value comments. *See also,* surrogate value and surrogate country comments from TPCO and Hengyang, dated February 16, 2010. Thus, to calculate NV, we are using Indian prices, when available and appropriate, to value the FOP of TPCO and Hengyang. We have obtained and relied upon publicly available information wherever possible. *See* Surrogate Value Memorandum, dated April 21, 2010 ("Surrogate Value Memorandum").

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an AD investigation, interested parties may submit publicly available information to value the FOP within 40 days after the date of publication of the preliminary determination.[4]

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. The process requires exporters and producers to submit a separate-rate status application.[5]

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 AD rate. It is the Department's policy to assign all exporters of subject merchandise 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 the *Notice of 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 *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

Separate Rate Recipients[6]

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

The mandatory respondents, TPCO and Hengyang, and the separate rate applicants, Jiangyin City, Pangang Group, Yangzhou Lontrin, Yangzhou Chengde, and Xigang (collectively, "Chinese SR Applicants") provided evidence that they are wholly Chinese-owned companies. The Department has analyzed whether TPCO, Hengyang and the Chinese SR Applicants have demonstrated the absence of *de jure* and *de facto* governmental control over their respective export activities.

a. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export license; (2) 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 TPCO, Hengyang and the Chinese SR Applicants supports a preliminary finding of absence of *de jure* governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of Chinese companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.

b. Absence of *De Facto* Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to *de facto*

[4] In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

[5] *See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries* (April 5, 2005), available at *http://ia.ita.doc.gov*, 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."

[6] All separate rate applicants receiving a separate rate are hereby referred to collectively as the "SR Recipients."

governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental 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 governmental control which would preclude the Department from assigning separate rates.

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

Therefore, the evidence placed on the record of this investigation by TPCO, Hengyang, and the Chinese SR Applicants demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide.* Accordingly, the Department has preliminarily granted a separate rate to TPCO, Hengyang and the Chinese SR Applicants. *See* "Preliminary Determination" section below.

Margins for Separate Rate Applicants Not Individually Examined

Through the evidence in their applications, the Chinese SR Applicants have demonstrated their eligibility for a separate rate. *See* the "Separate Rates" section above. Normally, the separate rate is determined based on the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding zero and *de minimis* margins or margins based entirely on adverse facts available ("AFA"). *See* section 735(c)(5)(A) of the Act. In this case, we have applied an average of the rates calculated for TPCO and Hengyang to the Chinese SR Applicants for purposes of the preliminary determination.

Partial Adverse Facts Available for TPCO

As discussed above, the Department selected TPCO as a mandatory respondent. Based on record information, we have preliminarily determined that TPCO is affiliated with a U.S. customer to which it sold subject merchandise during the POI pursuant to sections 771(33)(E), (F) and (G) of the Act. For a full discussion of the affiliation issue, the details of which are proprietary, see the memorandum from Abdelali Elouaradia to John M. Andersen, dated concurrently with this notice ("Affiliation Memorandum").

In the antidumping questionnaire issued to TPCO in the instant investigation on November 6, 2009, the Department explained the definition of affiliation, pursuant to Section 771(33) of the Act, and requested that TPCO state whether it made shipments or sales to unaffiliated parties, affiliated parties or both, during the POI, and whether it had any affiliates located in the United States or that exported merchandise to the United States which would fall under the description of merchandise covered by the scope of the proceeding. *See* the Department's November 6, 2009, questionnaire ("Antidumping Questionnaire"). In its Antidumping Questionnaire, the Department also instructed TPCO to exclude its U.S. sales to affiliated resellers, and report instead the resales to the first unaffiliated customer. *Id.* However, despite the fact that as early as November 17, 2009, TPCO should have been aware that the downstream sales in question may need to be reported given that it faced a parallel issue in the oil country tubular goods AD investigation, and notwithstanding the Department's instructions to TPCO in the instant investigation not to report sales to affiliated customers in its response to the Department's Antidumping Questionnaire, TPCO reported subject merchandise sales to the affiliated U.S. customer in question instead of reporting the downstream sales of that affiliated U.S. customer. *See 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) and accompanying Issues and Decision Memorandum at Comment 9.

As noted above, given record information indicating that TPCO is affiliated with one of its U.S. customers, on March 3, 2010, we requested that TPCO submit to the Department a section C database which includes all downstream sales of subject merchandise made by TPCO's affiliated U.S. customer during the POI. In the aforementioned request, the Department also alerted TPCO to the fact that if it failed to submit the downstream sales of its U.S. customer, the Department may apply AFA to TPCO. Nevertheless, in response to the Department's request, on March 16, 2010, TPCO stated that it was unable to provide such downstream sales because the records for the customer were not available to TPCO. On March 25, 2010, we placed additional information on the record regarding the U.S. customer at issue (*see* the Affiliation Memorandum) and once again requested that TPCO submit to the Department the downstream sales of the customer in question. We again notified TPCO that if it failed to submit the downstream sales of the customer in question, the Department may base TPCO's dumping margin on AFA. As indicated above, TPCO requested an extension of time, until April 9, 2010, to submit the downstream sales of its U.S. customer. In response to TPCO's request, the Department granted it the full extension of time to submit such downstream sales. On March 29, 2010, TPCO informed the Department that it had "officially requested" that its customer provide its downstream sales. In response to the Department's latest request for the downstream sales of TPCO's affiliated U.S. customer, on April 9, 2010, TPCO reported that it would be able to provide the downstream sales but needed an extension of time until two days before the fully-extended due date of the preliminary determination to provide them. On April 16, 2010, the Department rejected TPCO's request for an additional extension of time to submit the downstream sales of the U.S. customer in question.

Section 776(a) of the Act provides that the Department shall apply "facts otherwise available" ("FA") if (1) necessary information is not on the record, or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the

Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. *See SAA* at 870. *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) ("*Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products*"). Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. *See* section 776(b) of the Act.

Although TPCO and its affiliated U.S. customer indicated they can provide the requested downstream sales two days before the due date for this preliminary determination, their repeated failure to provide the downstream sales, despite the Department's multiple requests for the data, means that all the information necessary for the Department to calculate an accurate dumping margin for TPCO is not on the record and available for use in the preliminary determination. Moreover, before such information is used by the Department, the Department requires time to analyze the data and has to have an opportunity to issue supplemental questionnaires and allow interested parties to comment on the data. TPCO and its affiliated U.S. customer have foreclosed these steps by their actions. Section 772(a) and (b) of the Act requires the Department to base its margin calculations on the price at which subject merchandise is first sold to unaffiliated U.S. purchasers. Since TPCO failed to provide the requested downstream sales to unaffiliated U.S. customers by the (extended) deadlines, this necessary information was not available on the record and thus, we have determined, pursuant to section 776(a)(1) and (2)(B) of the Act, that it is appropriate to base TPCO's preliminary dumping margin, in part, on FA.

Furthermore, in selecting from among the FA, we have determined, pursuant to section 776(b) of the Act, that it is appropriate to use an adverse inference because TPCO failed to cooperate by not acting to the best of its ability to comply with a request for information. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."[7] The Court of Appeals Federal Circuit ("CAFC"), in *Nippon,* provided an explanation of the "failure to act to the best of its ability" standard, stating that the ordinary meaning of "best" means "one's maximum effort," and that the statutory mandate that a respondent act to the "best of its ability" requires the respondent to do the maximum it is able to do.[8] The CAFC indicated that inadequate responses to agency inquiries "would suffice" as a basis for finding that a respondent has failed to cooperate to the best of its ability.[9] Compliance with the "best of its ability" standard is determined by assessing whether a respondent has put forth its maximum effort to provide the Department with full and complete answers to all inquiries in an investigation.[10]

TPCO's response to the Department's initial request for the downstream sales was simply to state that it has no control over the U.S. customer and no access to the customer's records. Based on TPCO's later submissions, it appears that TPCO did not officially request that its customer provide the requested information until as late as March 29, 2010, or 26 days after the Department requested this information. Within 11 days thereafter, on April 9, 2010, TPCO informed the Department that its customer had agreed to provide the requested information, and that such information could be submitted to the Department in 10 days, on April 19, 2010. The record indicates that TPCO's delay in seeking the requested information accounts for as much as 26 days, which has prevented the Department from timely receiving the requested information. Once TPCO made the request, TPCO's customer agreed to provide the information and could have done so within as little as 21 days. Accordingly, we have preliminarily determined that TPCO failed to cooperate by putting forth its maximum effort to obtain the data and, hence, has not acted to the best of its ability to comply with a request for information. This has prevented the timely submission of the information such that even if the Department had further extended the deadline, such submission would have been too late for the Department to examine it for purposes of this preliminary determination. Therefore, for the preliminary determination, we have determined that it is appropriate to use adverse inferences in selecting the FA on which to base TPCO's dumping margin, in part. We have selected, as partial AFA, the highest control number-specific dumping margin calculated for TPCO. No corroboration of this rate is necessary because the information we are relying on as partial AFA was obtained in the course of this investigation and is not secondary information.

The PRC-Wide Entity

The Department has data indicating that there were more exporters of seamless pipe from the PRC than those responding to our request for Q&V information during the POI. *See* Respondent Selection Memorandum. We issued our request for Q&V information to 84 potential Chinese exporters of the merchandise under investigation, in addition to posting the Q&V questionnaire on the Department's Web site. While information on the record of this investigation indicates that there are other producers/exporters of seamless pipe in the PRC, we received only nine timely filed Q&V responses. *See id.* 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 merchandise under investigation 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 qualify for a separate rate. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China,* 70 FR 77121, 77128 (December 29, 2005), unchanged in *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).

Section 776(a)(2) of the Act provides that the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination if an interested party withholds information that has been requested by the Department. As noted above, the PRC-

[7] *See* SAA at 870.

[8] *See Nippon Steel Corporation v. United States,* 337 F.3d 1373, 1382 (Fed. Cir. 2003) ("*Nippon*").

[9] *Id.* at 1380.

[10] *Id.* at 1382.

wide entity withheld information requested by the Department. As a result, pursuant to section 776(a)(2)(A) of the Act, we find it appropriate to base the PRC-wide dumping margin on facts otherwise available. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam,* 68 FR 4986 (January 31, 2003), unchanged in *Notice of Final Antidumping Duty 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).

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. *See SAA* at 870. *See also, Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products,* 65 FR 5510, 5518 (February 4, 2000). Since the PRC-wide entity did not respond to the Department's requests for information, the Department has concluded that the PRC-wide entity has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

Section 776(b) of the Act authorizes the Department to rely upon, as AFA: (1) Information derived from the petition; (2) the final determination from the LTFV investigation; (3) a previous administrative review; or (4) any other information placed on the record. In selecting a rate for AFA, the Department selects one that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." *See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909 (February 23, 1998). It is the Department's practice to select, as AFA, the higher of: (a) the highest margin alleged in the petition or (b) the highest calculated rate for any respondent in the investigation, to the extent that it can be corroborated (assuming the rate is based on secondary information). *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 Issues and Decisions Memorandum at "Facts Available." In the instant investigation, as AFA, we have preliminarily assigned to the PRC-wide entity, the highest corroborated margin alleged in the Petition, which is 98.37 percent. The dumping margin for the PRC-wide entity applies to all entries of the merchandise under investigation except for entries of subject merchandise produced and exported by the SR Recipients.

Corroboration of Information

Section 776(c) of the Act provides that, when the Department relies on secondary information as facts available rather than on information obtained in the course of an investigation, 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."[11] 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.[12]

The AFA rate that the Department used for the PRC-wide entity is from the Petition. Based on our examination of information on the record, including U.S. prices and NVs, we find that there is a sufficient basis to find that the Petition margin selected as the AFA rate, 98.37 percent, has probative value. In addition, since we have selected a margin that is within the range of CONNUM-specific margins calculated for the mandatory respondents in this proceeding, it can be considered to have probative value. *See* Hengyang and TPCO Analysis Memoranda. Petitioners' methodology for calculating the U.S. price and NV in the Petition is discussed in the *Initiation Notice.* Accordingly, we conclude that the highest Petition margin that can be corroborated within the meaning of the statute is 98.37 percent, which is sufficiently adverse so as to induce cooperation as an uncooperative party does not benefit from its failure to cooperate.[13]

Fair Value Comparisons

In accordance with section 777A(d)(1)(A)(i) of the Act, to determine whether the mandatory respondents TPCO and Hengyang sold seamless pipe to the United States at LTFV, we compared the weighted-average EP or constructed export price ("CEP") of seamless pipe, as appropriate, to the NV of seamless pipe, as described in the "U.S. Price," and "Normal Value" sections of this notice.

U.S. Price

TPCO

In accordance with section 772(b) of the Act, we based the U.S. price for TPCO's sales on CEP because these sales were made by TPCO's U.S. affiliates. In accordance with section 772(c)(2)(A) of the Act, we calculated CEP by deducting, where applicable, the following expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States: Foreign movement expenses, international freight, marine insurance, and U.S. movement expenses, including brokerage and handling, U.S. duty, stevedore and inspection expenses. Further, in accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), where appropriate, we deducted from the starting price the following selling expenses associated with economic activities occurring in the United States: Credit expenses and indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. We based movement expenses on either surrogate values or actual expenses. For a detailed description of all adjustments, *see* TPCO

[11] *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.

[12] *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 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).

[13] *See Wire Decking from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination* 75 FR 1597, 1603 (January 12, 2010).

Analysis Memorandum, dated April 21, 2010.

Hengyang

In accordance with section 772(a) of the Act, we based the U.S. price for Hengyang's sales on EP because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation, and the use of constructed export price was not otherwise warranted.

We calculated EP based on the packed cost and freight or delivered prices to unaffiliated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, for the following movement expenses: Domestic inland freight, domestic brokerage and handling, international freight, and marine insurance. For details regarding our EP calculations, and for a complete discussion of the calculation of the U.S. price for Hengyang, see "Antidumping Duty Investigation of Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Hengyang Steel Tube Group Int'l Trading Inc., Hengyang Valin Steel Tube Co., Ltd., and Hengyang Valin MPM Tube Co., Ltd., Analysis Memorandum for the Preliminary Determination (April 21, 2010) ("Hengyang Analysis Memorandum").

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from a NME country 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. Thus, in accordance with section 773(c)(1)(B) of the Act, because NV could not be determined under section 773(a) of the Act, we valued FOP based on the inputs employed by Hengyang to manufacture subject merchandise during the POI. Specifically, we calculated NV by adding together the value of the FOP, general expenses, profit, and packing costs.

In accordance with section 773(c) of the Act, we calculated NV based on the FOP reported by TPCO and Hengyang. We valued the FOP using prices and financial statements from the surrogate country, India. If market economy suppliers, who were paid in a market economy currency, supplied over 33 percent of the total volume of a material input purchased from all sources during the POI, pursuant to Department practice, we based the input value on the actual price charged by the supplier. *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716 (October 19, 2006); *Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China: Final Results of the 2007–2008 Administrative Review of the Antidumping Duty Order,* 75 FR 8301 (Feb. 24, 2010) and accompanying Issues and Decision Memorandum at Comment 7. *See also* TPCO Analysis Memorandum and Hengyang Analysis Memorandum.

In selecting surrogate values, we followed, to the extent practicable, the Department's practice of choosing values which are non-export average values, contemporaneous with, or closest in time to, the POI, product-specific, and tax-exclusive. *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). We also considered the quality of the source of surrogate information in selecting surrogate values. *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Preliminary Results of the 2007–2008 Administrative Review of the Antidumping Duty Order,* 74 FR 32539 (July 8, 2009), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2007–2008 Administrative Review of the Antidumping Duty Order,* 75 FR 844 (January 6, 2010).

We valued material inputs and packing materials by multiplying the amount of the factor consumed in producing subject merchandise by the average unit value ("AUV") of the factor. We derived the AUV of the factor from Indian import statistics. In addition, we added Chinese domestic freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the CAFC's decision in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–1408 (Fed. Cir.1997). *See* Surrogate Value Memorandum. Where we could only obtain surrogate values that were not contemporaneous with the POI, we inflated (or deflated) the surrogate values using the Indian Wholesale Price Index (WPI) as published in the International Financial Statistics of the International Monetary Fund.

Further, in calculating surrogate values from Indian imports, we disregarded imports from Indonesia, South Korea, and Thailand because in other proceedings the Department found that these countries maintain broadly available, non-industry-specific export subsidies. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields from the People's Republic of China,* 67 FR 11670 (March 15, 2002); *see also 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 and accompanying Issues and Decision Memorandum at Comment 7 (April 16, 2004).[14] Therefore, it is reasonable to infer based on information available that all exports to all markets from these countries may be subsidized, and we have not used prices from these countries in calculating the Indian import-based surrogate values.

We valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication entitled "Electricity Tariff & Duty and Average Rates of Electricity Supply in India", dated March 2008. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. As the rates listed in this source became effective on a variety of different dates, we are not adjusting the average

[14] In addition, we note that legislative history explains that the Department is not required to conduct a formal investigation to ensure that such prices are not subsidized. *See* Omnibus Trade and Competitiveness Act of 1988, Conference Report to accompany H.R. Rep. 100–576 at 590 (1988) reprinted in U.S.C.C.A.N. 1547, 1623–24. As such, it is the Department's practice to base its decision on information that is available to it at the time it makes its determination. *See e.g., 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 (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).

value for inflation. *See* Surrogate Value Memorandum.

We valued natural gas using 2008–2009 data from the Gas Authority of India Ltd. Since the data are contemporaneous with the POI, we did not adjust the data for inflation.

For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), we valued labor using the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in December 2009, available at *http://ia.ita.doc.gov/wages/index.html.* Since this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by Hengyang. *See* Surrogate Value Memorandum.

We valued truck freight expenses using a per-unit average rate calculated from data on the infobanc Web site: *http://www.infobanc.com/logistics/logtruck.htm.* The logistics section of this Web site contains inland freight truck rates between many large Indian cities. The value is contemporaneous with the POI. *See* Surrogate Value Memorandum.

We valued brokerage and handling using a simple average of the brokerage and handling costs reported in public submissions filed in three antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Navneet Publications (India) Ltd. in the 2007–2008 administrative review of certain lined paper products from India, Essar Steel Limited in the 2006–2007 antidumping duty administrative review of hot-rolled carbon steel flat products from India, and Himalaya International Ltd. in the 2005–2006 administrative review of certain preserved mushrooms from India. Since the resulting value is not contemporaneous with the POI, we inflated the rate using the WPI. *See* Surrogate Value Memorandum.

We valued international freight using purchase prices.

To value marine insurance, the Department used data from RGJ Consultants (*http://www.rjgconsultants.com/*). This source provides information regarding the per-value rates of marine insurance of imports and exports to/from various countries. *See* Surrogate Value Memorandum.

We valued factory overhead, selling, general, and administrative ("SG&A") expenses, and profit using the financial statements of ISMT (FY 2008–2009), provided in Exhibit SV–44 of TPCO's February 16, 2010, submission, OCTL (FY 2008–2009), provided in Exhibit 1 of Hengyang's February 12, 2010, submission, and Tata (FY 2008–2009), provided in Exhibit SV–1 of Petitioners' January 20, 2010. *See* Surrogate Value Memorandum. As discussed below, we found all three financial statements to be complete, legible, publicly-available, contemporaneous with the POI, and from producers of either identical or comparable merchandise. However, while all three of the financial statements at issue are contemporaneous, none of them meet all of the Department's criteria. For example, while Hengyang and TPCO are not as integrated as Tata in that neither conduct their own mining, both are much more integrated than OCTL, whose primary input is formed pipes and tubes. Further, we found that two of the three potential surrogate companies, ISMT and Tata, benefitted from actionable subsidies during this period. When the Department has reason to believe or suspect that a company may have received countervailable subsidies, financial ratios derived from that company's financial statements may not constitute the best available information with which to calculate surrogate financial ratios. Nevertheless, the Department has used financial statements with some evidence of subsidies when the circumstances of the particular case warranted. *See e.g., Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews,* 72 FR 19174 (April 17, 2007) and accompanying Issues and Decision Memorandum at Comment 1. In this case, we have determined that solely relying on the financial statement of OCTL, a statement that does not evidence actionable subsidies, would not constitute the best available information in selecting surrogate financial ratios since it would not reflect expenses incurred to produce steel. Therefore, given the Department's preference for using multiple financial statements in order to determine surrogate financial ratios for manufacturing overhead, SG&A expenses, and profit, the Department has used the average of the audited financial statements of all three Indian producers, ISMT, OCTL and Tata, to calculate surrogate financial ratios for TPCO and Hengyang for purposes of the preliminary determination.

In accordance with 19 CFR 351.301(c)(3)(i), interested parties may submit publicly available information with which to value FOP in the final determination within 40 days after the date of publication of the preliminary determination.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information 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. *See Initiation Notice,* 75 FR at 52748. This change in practice is described in *Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries,* available at *http://ia.ita.doc.gov/.*

Preliminary Determination

The Department preliminarily determines that the weighted-average dumping margins are as follows:

Exporter and producer	Weighted-average margin (percent)
Tianjin Pipe International Economic and Trading Corporation. Produced by: Tianjin Pipe (Group) Corporation	32.39
Hengyang Steel Tube Group Int'l Trading Inc. Produced by: Hengyang Valin Steel Tube Co., Ltd., and Hengyang Valin MPM Tube Co., Ltd	91.93
Xigang Seamless Steel Tube Co., Ltd. Produced by: Xigang Seamless Steel Tube Co., Ltd., and Wuxi Seamless Special Pipe Co., Ltd	62.16
Jiangyin City Changjiang Steel Pipe Co., Ltd. Produced by: Jiangyin City Changjiang Steel Pipe Co., Ltd	62.16
Pangang Group Chengdu Iron & Steel Co., Ltd. Produced by: Pangang Group Chengdu Iron & Steel Co., Ltd	62.16
Yangzhou Lontrin Steel Tube Co., Ltd. Produced by: Yangzhou Lontrin Steel Tube Co., Ltd	62.16

Exporter and producer	Weighted-average margin (percent)
Yangzhou Chengde Steel Tube Co., Ltd. Produced by: Yangzhou Chengde Steel Tube Co., Ltd	62.16
PRC-Wide Rate	98.37

Disclosure

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

Suspension of Liquidation

As noted above, the Department has found that critical circumstances exist with respect to imports of subject merchandise from Hengyang and the PRC-wide entity, but not with respect to TPCO and the separate rate applicants, including Xigang. Therefore, 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 seamless pipe from Hengyang and the PRC-wide entity entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct CBP to suspend liquidation of all entries of seamless pipe from TPCO and the Chinese SR Applicants [15] entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Also, we will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated above.

Additionally, as the Department has determined that the merchandise under investigation, exported by TPCO and Hengyang, benefitted from an export subsidy, we will instruct CBP to require an AD cash deposit or posting of a bond equal to the weighted-average amount by which the NV exceeds the U.S. export price, as indicated above, reduced by the export subsidy determined for TPCO and Hengyang in the companion countervailing duty investigation. *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination,* 75 FR 9163 (March 1, 2010) ("*CVD Prelim*"); *also 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). We will assign the average cash deposit rate, adjusted for the export subsidies from the *CVD Prelim,* to the Chinese SR Applicants. The suspension of liquidation instructions will remain in effect until further notice.

[15] As noted above, the Chinese SR Applicants are Jiangyin City Changjiang Steel Pipe Co., Ltd., Pangang Group Chengdu Iron & Steel Co., Ltd., Yangzhou Lontrin Steel Tube Co., Ltd., Yangzhou Chengde Steel Pipe Co., Ltd. and the Xigang companies (Xigang Seamless Steel Tube Co., Ltd., and Wuxi Seamless Special Pipe Co., Ltd.).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to 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 seamless pipe, or sales (or the likelihood of sales) for importation, of the subject merchandise under investigation 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 the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, no later than five days after the deadline for submitting case briefs. *See* 19 CFR 351.309(c)(1)(i) and (d)(1). A 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. If a request for a hearing is made, we intend to hold the hearing three days after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties that 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, Room 1870, 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. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on April 9, 2010, TPCO and Hengyang requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days and extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a 4-month period to a 6-month period. In accordance with section 733(d) of the Act and 19 CFR 351.210(b), 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** because: (1) Our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist. Suspension of liquidation will be extended accordingly.

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

Dated: April 21, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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