LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT—Continued

[9/8/2009 through 11/6/2009]

| Firm | Address | Date accepted for filing | Products |
|---|---|---|---|
| B & B Precise Products, Inc ... | 25 Neck Road, Benton, ME 04901. | 10/29/2009 | Aircraft rotating components. |
| Hermance Machine Company | 178 Campbell Street, Williamsport, PA. | 10/30/2009 | Machines from small powermatic saws to large CNC routers. Also, installation and servicing of this machinery. |
| Escape Velocity Systems, Inc | 2520 55th Street, Suite 204, Boulder, CO 80301. | 11/3/2009 | Development and integration of enterprise resource planning (ERP) software for businesses. |
| Accra-Fab, Inc ..... | 23201 E Apple Way Dr., Liberty Lake, WA 99019. | 11/4/2009 | Component parts. |
| Advance Corporation ..... | 8200 97th Street South, Cottage Grove, MN 55016. | 10/9/2009 | Plaques for awards. |
| Felton Brush Incorporation ..... | 7 Burton Drive, Londonderry, NH 03053. | 11/4/2009 | Highly engineered sub-assemblies through a broad range of fabrication capabilities. |
| Bentonville Casting Company, Inc. | 1019 South East 8th St., Bentonville, AR 72712–6413. | 11/4/2009 | Gray and ductile iron castings according to customer specifications. |
| Bevolo Gas & Electric Lights Inc. | 521 Conti St., New Orleans, LA 70130. | 11/4/2009 | Commercial lighting fixtures. |
| Insinger Machine Company .... | 6245 State Road, Philadelphia, PA 19135. | 11/4/2009 | Commercial dishwashing machines and other food product machinery. |
| Choice Precision Machine, Inc | 4380 Commerce Drive, Whitehall, PA 18052. | 11/4/2009 | Custom precision machined parts for multiple industries. |
| QDP Manufacturing Solutions, Inc. | 1150 McKinley Street, Anoka, MN 55303. | 11/4/2009 | Metal machined parts for hydraulic components. |
| American Hollow Boring Company. | 1901 Raspberry Street, Erie, PA 16502. | 11/4/2009 | Centrifugal pipe molds for the soil pipe industry. |
| B & J Manufacturing Corporation. | 55 Constitution Drive, Taunton, MA 02780. | 11/4/2009 | Brass giftware and electroplating service. |
| Highwood USA LLC ..... | 87 Tide Road, Tamaqua, PA 18252. | 11/4/2009 | Urethane and other foam products. |
| Turnbow Trailers Inc ..... | 115 West Broadway, Oilton, TX 74052. | 11/6/2009 | Trailers for the transportation of goods. |

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Office of Performance Evaluation, Room 7009, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: November 10, 2009.

**Bryan Borlik,**

*Program Director, TAA for Firms.*

[FR Doc. E9–27522 Filed 11–16–09; 8:45 am]

**BILLING CODE 3510–24–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–943]**

### 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

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

**DATES:** *Effective Date:* November 17, 2009.

**SUMMARY:** The Department of Commerce (''Department'') preliminarily determines that certain oil country tubular goods (''OCTG'') 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:** Paul Stolz or Eugene Degnan, 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) 482–4474 or 482–0414, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Initiation

On April 8, 2009, Maverick Tube Corporation, United States Steel Corporation, TMK IPSCO, V&M Star L.P., V&M Tubular Corporation of America, Wheatland Tube Corp., Evraz Rocky Mountain Steel, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (collectively, ''Petitioners''), filed a petition in proper form on behalf of the domestic industry and workers

producing OCTG, concerning imports of OCTG from the PRC (''Petition'').[1] The Department initiated this investigation on April 28, 2009.[2]

On June 10, 2009, the United States International Trade Commission (''ITC'') issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the PRC of OCTG. The ITC's determination was published in the **Federal Register** on June 10, 2009.[3]

**Scope Comments**

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice. See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296 27323 (May 19, 1997); *see also Initiation Notice,* 72 FR at 20672. We received no comments from interested parties on issues related to the scope.

**Period of Investigation**

The period of investigation (''POI'') is October 1, 2008 through March 31, 2009. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (April 2009).[4]

**Comment From Government of China**

On October 29, 2009, the Government of the PRC filed a submission to the Department alleging that the Department cannot lawfully apply its non-market economy (''NME'') antidumping methodology to the PRC in the less than fair value investigation of OCTG, while simultaneously applying the countervailing duty (''CVD'') law to the PRC in the parallel CVD OCTG investigation.[5]

The Department disagrees with this claim that application of the NME provisions of the Act concurrently with application of the countervailing duty provisions of the Act is precluded by any provision of law. Accordingly, the Department preliminarily determines to continue to follow its practice in several recent less than fair value investigations of merchandise from China by applying the NME provisions of the Act in accordance with the terms of those provisions, while concurrently conducting the countervailing duty investigation of the same merchandise in accordance with the relevant terms of the Act. Additionally, we note that the GOC assertion relies on GPX International Tire Corp. v United States, Slip Op. 2009–103 (CIT 2009), which is not a final judgment of the Court.

**Respondent Selection**

In the *Initiation Notice,* the Department stated that it intended to select respondents based on quantity and value (''Q&V'') questionnaires.[6] On April 30, 2009 and May 7, 2009, the Department requested Q&V information from the 212 companies that Petitioners identified as potential exporters or producers of OCTG from the PRC.[7] Additionally, the Department posted the Q&V questionnaire for this investigation on its Web site at *http://www.trade.gov/ia.*

The Department received timely Q&V responses from 43 exporters that shipped merchandise under investigation to the United States during the POI, and from four companies who stated that they had no shipments of merchandise under investigation to the United States during the POI. On July 1, 2009, the Department selected Jiangsu Changbao Steel Tube Co., Ltd. (''Changbao'') and Tianjin Pipe International Economic and Trading Corporation (''TPCO'') as mandatory respondents in this investigation.[8] The Department sent its antidumping duty questionnaire to Changbao and TPCO on July 1, 2009.

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

Pursuant to section 735(a)(2) of the Act, on November 3, 2009, and November 4, 2009, respectively, Changbao and TPCO requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone the final determination by 60 days. Changbao and TPCO also each 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 requests 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.

**Targeted Dumping Allegation**

On September 21, 2009, Petitioners requested that the Department extend the deadline for the submission of targeted dumping allegations to October 16, 2009, stating that they required additional time to analyze data because TPCO had just recently submitted an almost entirely new U.S. sales database, and Petitioners believed significant questions remained regarding whether Changbao had reported the full universe of its U.S. sales. The Department granted Petitioners' request, and on October 16, 2009, Petitioners filed allegations of targeted dumping which were based on the p/2 targeted dumping methodology used in the less than fair value investigation of coated free sheet paper from the Republic of Korea. *See 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). However, the current targeted dumping methodology used by the Department is the methodology employed 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) (''*Nails*'').

Given the timing of the allegations, the Department was unable to address the targeted dumping allegations for this preliminary determination. The Department will request that the Petitioner file additional information, in conformance with the methodology used in *Nails,* after the preliminary determination. We intend to then issue a preliminary finding regarding these allegations, after the preliminary determination but with sufficient time to allow all parties time to comment before the final determination.

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[1] *See* Petition for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, as Amended, filed on April 8, 2009.

[2] *See Oil Country Tubular Goods From the People's Republic of China: Initiation of Antidumping Duty Investigation,* 74 FR 20671 (May 5, 2009) (''*Initiation Notice*'').

[3] *See Certain Oil Country Tubular Goods From China,* 74 FR 27559 (June 10, 2009); *see also Certain Oil Country Tubular Goods From China: Investigation Nos. 701–TA–463 and 731–TA1159* (*Preliminary*) USITC Publication 4081 (June 2009).

[4] *See* 19 CFR 351.204(b)(1).

[5] *See* Certain Oil Country Tubular Goods From the People's Republic of China: Simultaneous Application of the Department's Current Non-Market Economy Antidumping Methodology and Countervailing Duty Law to China (October 29, 2009).

[6] *See Initiation Notice,* 74 FR at 20676.

[7] *See* Petition at Vol 1., Exhibit I–6.

[8] *See* July 1, 2009, Memorandum to Wendy J. Frankel, Director, Office 8, from Eugene Degnan, Acting Program Manager, Office 8, regarding Selection of Respondents for the Antidumping Investigation of Certain Oil Country Tubular Goods From the People's Republic of China (''Respondent Selection Memo'').

**Critical Circumstances**

On April 8, 2009, Petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of OCTG from the PRC. On October 2, 2009, TPCO and Changbao submitted information on their exports of OCTG from November 2008 through August 2009, as requested by the Department.[9] 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.'' 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). The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may establish the base and comparison periods based on the earlier date.[10] In their critical circumstances allegation, the petitioners allege that exporters and producers had reason to believe a proceeding covering OCTG from the PRC would likely be instituted as of July 2008.[11] Consequently, the petitioners request that the Department use January through June 2008 as the base period and July through December 2008 as the comparison period.

In this allegation, the petitioners assert that producers and exporters had reason to believe a proceeding was likely well in advance to the ultimate filing of the petition based on the following events: An October 2007 conference presentation alluding to a possible ''trade case;'' [12] the Department's November 2007 CVD determinations covering carbon quality steel pipe and light-walled rectangular pipe and tube; Canada's March 2008 imposition of antidumping (''AD'') and CVD on ''seamless carbon or alloy steel oil and gas well casings;'' [13] a March 2008 statement from a PRC distributor of OCTG that ''only the issuing of anti-dumping duties will be able to cut imports from China;'' the Department's initiation of AD and CVD proceedings on certain circular welded carbon quality steel line pipe from the Republic of Korea and the PRC; the May and June affirmative findings by the ITC and the Department regarding the above-mentioned pipe cases; a June 2008 Associated Press article which states that the other pipe rulings ''could be the first of a wave of victories by U.S. companies battling Chinese imports;'' and, in July 2008, the European Union (''EU'') initiated AD investigations of seamless tubular products from the PRC.[14] The petitioners allege that these events culminated in the July 21, 2008, warning by Hou Yin of China Iron & Steel Association that ''the U.S. may start an anti-dumping investigation on Chinese seamless pipes soon.'' [15]

Although the Department has found producers and exporters had reason to believe that a proceeding was likely prior to a petition being filed in prior cases,[16] the evidence put forth by the petitioners in this case does not indicate that producers and exporters here had reason to believe that a proceeding was likely as of July 2008. The petitioners point to a litany of events dating back to October 2007 to indicate that the industry was on notice of a potential case. The petitioners point primarily to a reported statement by a representative of the China Iron & Steel Association that ''the U.S. may start an anti-dumping investigation on Chinese seamless pipes soon, following the EU.'' [17] This statement, taken in the context of the other events cited by the petitioners, is not enough to demonstrate that producers, exporters, and importers of OCTG from the PRC had, or should have had, reason to believe the filing of a petition was likely as of July 2008. The events cited by the petitioners, unlike the events the Department has relied on in similar cases,[18] are speculative and do not refer

[9] *See* Letter from TPCO, ''TPCO's Submission of Monthly Shipment Information: Certain Oil Country Tubular Goods (OCTG) from China,'' dated October 2, 2009, (TPCO's Monthly Shipment Data) at Attachment I. *See also* Letter from Changbao, ''Antidumping Duty Investigation: Certain Oil Country Tubular Goods from the People's Republic of China (A–570–943)—Critical Circumstances Questionnaire Response,'' dated October 2, 2009, (Changbao's Monthly Shipment Data) at 3.

[10] *See* 19 CFR 351.206(i).

[11] *See* Volume IV of the petition at 3–8.

[12] *See* Volume IV of the petition at 4 and page 15 of Exhibit V, which states, in relevant part: ''Those who believe that OCTG prices could spike also argue that a trade case could soon be filed against Chinese OCTG producers. But that case may be hard to argue with imports in general declining and mills reporting strong profits.''

[13] *http://www.cbsa-asfc.gc.ca/sima-lmsi/mif-mev-eng.html#SeamlessCasing*

[14] *See* Volume IV of the Petition (''Critical Circumstances Allegation'') at 3–7 and Exhibits IV–1 through IV–7.

[15] *See* Critical Circumstances Allegation at 6–7 and Exhibit IV–8.

[16] *See, e.g., 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), and accompanying Issues and Decision Memorandum at Comment 7 (finding reason to believe a case was likely based upon widely disseminated newspaper articles stating: ''America's catfish industry, stung by dropping prices triggered by a flood of cheaper fish from Vietnam, is gearing up for a possible antidumping campaign'' and ''Vietnamese seafood exporters are entering a new war on the U.S. market, as American rivals are lobbying on an anti-dumping taxation''); and *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Germany,* 67 FR 55802 (August 30, 2002), and accompanying Issues and Decision Memorandum at Comment 6 (finding reason to believe a case was likely based upon trade publication which ''alerted steel wire rod importers, exporters, and producers the proceedings concerning the subject merchandise were likely in a number of countries'').

[17] *See* Volume IV of the petition at Exhibit IV–8.

[18] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China,* 69 FR 70997 (December 8, 2004) at Comment &A. *See also 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 the final determination, *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets*

Continued

specifically to subject merchandise. Therefore, we find that the petitioners have not demonstrated that importers, exporters, or producers, had reason to believe, at some time prior to the beginning of the proceeding that a proceeding covering OCTG from the PRC was likely.

In further determining whether the above statutory criteria have been satisfied, we examined: (1) The evidence presented in Petitioners' April 8, 2009, petition and (2) additional information obtained from TPCO and Changbao.[19]

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 Canada placed an antidumping duty order on seamless carbon or alloy steel oil and gas well casings effective March 10, 2008.[20] We have reviewed this order and found that the product coverage overlaps the product coverage of the Department's AD investigation of OCTG from the PRC. We are not aware of the existence of any additional antidumping orders on OCTG from the PRC, whether in the United States or other countries. However, as a result of the Canadian order cited above, the Department finds there is a history of injurious dumping of OCTG 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 OCTG 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.

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.[21] In this preliminary determination, TPCO has a margin of 34.86 percent for CEP sales and 58.01 percent for EP sales. Changbao has a margin of zero percent for its sales, all of which were EP transactions.[22] Consistent with Department practice, we base the margin for the separate-rate respondents on the average of the margins calculated for the mandatory respondents, excluding any rates that are zero, *de minimis,* or based entirely on AFA.[23] Accordingly, because Changbao's preliminary margin was zero, we have preliminarily applied to the separate-rate companies a margin of 36.53 percent, based on TPCO's margin. The PRC Entity has a margin of 99.14 percent.[24] We find that the preliminary antidumping duty margin for Changbao is not sufficient to impute knowledge to its importers of sales at LTFV of OCTG from the PRC. However, we find that the preliminary margins for TPCO, the separate-rate companies and 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.[25] On June 10, 2009, the ITC issued its preliminary affirmative determination for OCTG from the PRC.[26] 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 OCTG from the PRC from TPCO, 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 April 8, 2009 filing date, we have determined that April 2009 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 five months as the period for comparison in preliminarily determining whether imports of the subject merchandise have been massive. We believe that a five-month period is most appropriate as the basis for analysis because using five months captures all data available at this time, based on April 2007 as the beginning of the comparison period. Additionally, a five-month period properly reflects the ''relatively short period'' set forth in the statute for determining whether imports have been massive.[27] 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.[28]

*from the Socialist Republic of Vietnam,* 68 FR 37116 (June 23, 2003).

[19] *See* TPCO's Monthly Shipment Data and Changbao's Monthly Shipment Data.

[20] *See* Volume IV of the April 8, 2008 Petition at 9 and Exhibit IV–3 at 6.

[21] *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).

[22] *See* Memorandum to the File, ''Antidumping Investigation of Certain Oil Country Tubular Goods from the People's Republic of China, Critical Circumstances Data and Calculations for the Preliminary Determination,'' dated January 24, 2008 (''Critical Circumstances Calculation Memorandum''), at Attachments II and III.

[23] *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.

[24] *Id.*

[25] *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).

[26] *See Investigation Nos. 701–TA–463 and 731–TA–1159 (Preliminary), Certain Oil Country Tubular Goods from China; Determinations, 74 FR 27559, June 10, 2009 (''ITC Preliminary Determination''*).

[27] *See* section 733(e)(1)(B) of the Act.

[28] *See 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 at Comment 3.

Therefore, we have used all available data in our critical-circumstances analysis for the preliminary determination. In applying the five-month period, we used a base period of November 2008 through March 2009, and a comparison period of April 2009 through August 2009.

*Mandatory Respondents*

The Department used the shipment data of TPCO and Changbao to examine the relevant base and comparison periods as identified above. When we compared these companies' import data during the comparison period with the base period, we found that imports fell during the comparison period over the base period.[29] Therefore, because imports in the comparison period have not increased by at least 15 percent over imports in the base period, we do not consider them to be massive pursuant to section 351.206(h) of the Department's regulations.

*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 mandatory respondents receiving a separate rate. When we compared the weighted-average import data during the comparison period with the weighted average import data during the base period for the mandatory respondents, we found that the weighted-average volume of imports of OCTG in the comparison period did not have an increased volume of exports over the base period of greater than 15 percent.[30] In applying this result to the separate rate applicants, 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.

*The PRC Entity*

Because the PRC entity did not respond to our Q&V questionnaire, we were unable to obtain shipment data from the PRC entity for purposes of our critical-circumstances analysis and there is, therefore, no verifiable information on the record with respect to its export volumes. Section 776(a)(2) of the Act provides that:

If an interested party or any other person (A) withholds information that has been requested by the administering authority or the Commission under this title, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(I) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

The statute requires that certain conditions be met before the Department may resort to the facts otherwise available. When the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. Because the PRC entity did not respond to the Department's request for information, we find that the PRC entity withheld requested information and, thus, significantly impeded this proceeding. Therefore, we have preliminarily determined to use facts available, in accordance with section 776(a)(2)(A) and (C) of the Act in determining whether there were massive imports of merchandise produced by the PRC entity.

Section 776(b) of the Act provides that if the Department finds that the respondent ''has failed to cooperate by not acting to the best of its ability to comply with a request for information {the Department} may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' We have determined that, in not responding to the Department's questionnaires, the PRC entity has not acted to the best of its ability and an adverse inference is warranted.'' Thus, we have made an adverse inference that there were massive imports from the PRC entity over a relatively short period.

In this case, the HTS numbers listed in the scope of the investigation include both subject merchandise and non-subject merchandise, and thus, we were not able to distinguish the amounts of shipments accounted for by the mandatory and separate rate respondents from the amount of shipments accounted for by the PRC Entity with respect to subject merchandise.'' [31] Accordingly, we were not able to use the U.S. Census Bureau data to corroborate our adverse inference. However, as the SAA states, ''The fact that corroboration may not be practicable in a given circumstance will not prevent the agencies from applying an adverse inference under subsection (b).'' [32] We will make a final determination concerning critical circumstances for all producers/exporters of subject merchandise from the PRC when we make our final dumping determination in this investigation.

*Critical Circumstances Findings*

Based on the above analysis, we preliminarily determine that critical circumstances do not exist for Changbao, TPCO or the separate-rate respondents. Further, we preliminarily determine that critical circumstances do exist with respect to imports of the PRC entity.

**Separate Rate Applications**

Between May 15, 2009, and July 7, 2009, we received timely-filed separate-rate applications (''SRA'') from 38 companies.

**Product Characteristics & Questionnaires**

In the *Initiation Notice,* the Department asked all parties in this investigation for comments on the appropriate product characteristics of OCTG to be reported in response to the Department's antidumping questionnaires. On May 18, 2009, we received comments from Petitioners and TPCO regarding product characteristics. On May 26, 2009, Petitioners provided rebuttal comments concerning the appropriate product characteristics.

On July 1, 2009, the Department issued its antidumping duty questionnaire to TPCO and Changbao. TPCO submitted its Section A response to the Department's questionnaire on July 30, 2009, and Sections C and D responses on August 20 and 24, 2009, respectively. Changbao submitted its Section A response to the Department's questionnaire on July 29, 2009, and Sections C and D responses on August 19, 2009. The Department issued several supplemental questionnaires to both Changbao and TPCO between August and October 2009. Both parties

[29] *See* Critical Circumstances Calculation Memorandum at Attachment I.

[30] *See* Critical Circumstances Calculation Memorandum at Attachment I.

[31] *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in coils from Japan, Part II,* 64 FR 30574, 30585 (June 8, 1999).

[32] *See* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session, Vol. 1 (1994) at 870.

responded timely to those supplemental questionnaires.

**Surrogate Country Comments**

On July 31, 2009, the Department determined that India, the Philippines, Indonesia, Colombia, Thailand and Peru are countries comparable to the PRC in terms of economic development, and requested comments on surrogate country selection from the interested parties in this investigation.[33] On September 1, 2009, Petitioners submitted surrogate country comments stating that the Department should select India as a surrogate country and TPCO indicated that it did not object to the use of India as a surrogate country. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, *see* ''Surrogate Country'' section below.

**Surrogate Value Comments**

On September 11, 2009, TPCO and Changbao submitted surrogate value comments. On September 14, 2009, Petitioners submitted surrogate value comments. On September 18, 2009, Changbao submitted rebuttal comments to Petitioner's September 14, 2009 submission. On September 18, 2009, Petitioners submitted rebuttal comments to TPCO's September 11, 2009, surrogate value submission and rebuttal comments to TPCO and Changbao's September 11, 2009, surrogate value submissions.

**Scope of Investigation**

The merchandise covered by the investigation consists of certain oil country tubular goods (''OCTG''), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (''API'') or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock. Excluded from the scope of the investigation are casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise covered by the investigation is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The OCTG coupling stock covered by the investigation may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, and 7304.59.80.80.

The HTSUS subheadings are provided for convenience and customs purposes only, the written description of the scope of the investigation is dispositive.

**Non-Market Economy Country**

For purposes of initiation, Petitioners submitted LTFV analyses for the PRC as an NME. *See Initiation Notice,* 74 FR at 20674. The Department considers the PRC to be a NME country. *See Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30760 (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). In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. The Department has not revoked its determination that the PRC is an NME country, and no party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

**Surrogate Country**

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

The Department determined that India, the Philippines, Indonesia, Colombia, Thailand and Peru are countries comparable to the PRC in terms of economic development.[34] Once the countries that are economically comparable to the PRC 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 FOPs is both available and reliable.[35] In their September 1, 2009, submission, Petitioners argued that the Department should select India as a surrogate country because it satisfies the statutory requirements for the selection of a surrogate country since it is at a level of economic development that is

[33] *See* Letter to All Interested Parties, ''Antidumping Duty Investigation of Oil Country Tubular Goods from the People's Republic of China: Request for Comments on the Selection of a Surrogate Country and Surrogate Values,'' dated August 14, 2009, attaching the Memorandum to Wendy J. Frankel, ''Request for a List of Surrogate Countries for an Investigation of Oil Country Tubular Goods (''OCTG'') from the People's Republic of China (''PRC''),'' dated July 31, 2009.

[34] *See* Memorandum to Wendy J. Frankel, ''Request for a List of Surrogate Countries for an Investigation of Oil Country Tubular Goods (''OCTG'') from the People's Republic of China (''PRC'') (''Office of Policy Surrogate Countries Memorandum''), dated July 31, 2009.

[35] *See id.*

comparable to the PRC, and is a significant producer of merchandise comparable to the merchandise under investigation. Petitioners also noted that the Department can readily value the major factors of production for subject merchandise using reliable, publicly available data from Indian sources.[36] TPCO stated that it did not object to Petitioners' request that the Department select India as the primary surrogate country for this investigation.[37] No other party provided comments on the record concerning the surrogate country.

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 similar level of economic development pursuant to section 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India that we can use to value the FOPs.[38] Thus, we have calculated normal value (''NV'') using Indian prices when available and appropriate to the FOPs of the OCTG producers. We have obtained and relied upon publicly available information wherever possible.[39]

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

**Affiliations**

*TPCO*

Based on the evidence on the record in this investigation, including information presented in TPCO's questionnaire responses, we preliminarily find that TPCO is affiliated with Companies A and B pursuant to section 771(33)(F) of the Act. The identity of these companies is business proprietary information (''BPI''); for further discussion on these companies, see Certain Oil Country Tubular Goods from the People's Republic of China: Tianjin Pipe International Economic and Trading Corporation Analysis Memorandum for the Preliminary Determination (November 4, 2009) (''TPCO Analysis Memo'')

**Separate Rates**

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. 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* '').[41] 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.

Between May 15, 2009, and July 7, 2009, we received timely-filed SRAs from 38 companies (hereinafter referred to as ''SR Applicants'').[42] However, one

[36] *See* letter from Petitioners, ''Oil Country Tubular Goods from the People's Republic of China: Surrogate Country Selection,'' dated September 1, 2009.

[37] *See* letter from TPCO, ''TPCO's Surrogate Country Comments: Certain Oil Country Tubular Goods (OCTG) from China,'' dated September 1, 2009.

[38] *See* letter from TPCO, ''TPCO's Surrogate Country Comments: Certain Oil Country Tubular Goods (OCTG) from China,'' dated September 1, 2009, *see also* letter from Petitioners, ''Certain Oil Country Tubular Goods from the People's Republic of China: Surrogate Values,'' dated September 11, 2009; letter from TPCO, ''TPCO's Surrogate Country Comments: Certain Oil Country Tubular Goods (OCTG) from China,'' dated September 11, 2009; letter from Changbao, ''Antidumping Investigation: Certain Oil Country Tubular Goods from the People's Republic of China (C–570–944)—Comments on Surrogate Values,'' dated September 11, 2009. In addition, *see also* letter from Maverick, ''Certain Oil Country Tubular Goods from the People's Republic of China: Reply to Respondents' Surrogate Value Submissions,'' dated September 18, 2009; letter from Petitioners, ''Selection of Surrogate Values in Certain Oil Country Tubular Goods from the People's Republic of China,'' dated September 18, 2009; and, letter from Changbao, ''Antidumping Investigation: Certain Oil Country Tubular Goods from the People's Republic of China (A–570–944)—Response to Petitioners' Comments Regarding Surrogate Values,'' dated September 18, 2009.

[39] *See* Memorandum to Wendy J. Frankel, ''Oil Country Tubular Goods from the People's Republic of China: Surrogate Value Memorandum'' (November 4, 2004) (''Surrogate Value Memorandum'').

[40] 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.

[41] *See also* Policy Bulletin 05.1, which states: '' [w]hile 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 applies 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.''

[42] The 38 separate-rate applicants are: (1) Angang Group Hong Kong Co., Ltd.; (2) Angang Steel Co., Ltd.; and Angang Group International Trade Corporation; (3) Anhui Tianda Oil Pipe Co., Ltd.; (4) Anshan Zhongyou Tipo Pipe & Tubing Co., Ltd.; (5) Baotou Steel International Economic and Trading Co., Ltd.; (6) Benxi Northern Steel Pipes Co., Ltd.; (7) Chengdu Wanghui Petroleum Pipe Co. Ltd.; (8) Dalipal Pipe Company; (9) Faray Petroleum Steel Pipe Co. Ltd.; (10) Freet Petroleum Equipment Co., Ltd. of Shengli Oil Field, The Thermal Recovery Equipment, Zibo Branch; (11) Hengyang Steel Tube Group International Trading, Inc.; (12) Huludao Steel Pipe Industrial Co., Ltd.; (13) Jiangsu Chengde Steel Tube Share Co., Ltd.; (14) Jiangyin City Changjiang Steel Pipe Co., Ltd.; (15) Pangang Group Beihai Steel Pipe Corporation; (16) Pangang Group Chengdu Iron & Steel; (17) Qingdao Bonded Logistics Park Products International Trading Co., Ltd.; (18) Qiqihaer Bonded Logistics Park Products International Trading Co., Ltd.; (19) Shandong Dongbao Steel Pipe Co., Ltd.; (20) ShanDong HuaBao Steel Pipe Co., Ltd.; (21) Shandong Molong Petroleum Machinery Co., Ltd.; (22) Shanghai Metals & Minerals Import & Export Corp.; (23) Shanghai Zhongyou Tipo Steel Pipe Co., Ltd.; (24) Shengli Oil Field Freet Petroleum Equipment Co., Ltd.; (25) Shengli Oil Field Freet Petroleum Steel Pipe Co., Ltd.; (26) Shengli Oilfield Highland Petroleum Equipment Co., Ltd.; (27) Shengli Oilfield Shengji Petroleum Equipment Co., Ltd.; (28) Tianjin Lifengyuanda Steel Group Co., Ltd.; (29) Tianjin Seamless Steel Pipe Plant; (30) Tianjin Tiangang Special Petroleum Pipe Manufacturer Co., Ltd.; (31) Wuxi Baoda Petroleum Special Pipe Manufacturing Co., Ltd.; (32) Wuxi Seamless Oil Pipe Co., Ltd.; (33) Wuxi Sp. Steel Tube Manufacturing Co., Ltd.; (34) Wuxi Zhenda Special Steel Tube Manufacturing Co., Ltd.; (35) Xigang Seamless Steel Tube Co., Ltd.; (36) Yangzhou Lontrin Steel Tube Co., Ltd.; (37) Zhejiang JianLi Enterprise Co., Ltd.; and (38) Shengli Oil Field Freet Import & Export Trade Co., Ltd. (which submitted a separate-rate application but subsequently discovered that shipments of subject merchandise were not made during the POI. Therefore, because this company had no shipments of subject

Continued

SR Applicant, Shengli Oil Field Freet Import & Export Trade Co., Ltd., did not have any shipments of the merchandise under investigation during the POI, and so is not eligible for consideration for a separate rate. The remaining SR Applicants have all stated that they are either joint ventures between Chinese and foreign companies, or are wholly Chinese-owned companies. Therefore, the Department must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

*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 licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. The mandatory respondents and SR Applicants provided evidence demonstrating: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[43] *See* their respective separate rate applications, on file in the central records unit at the Department of Commerce, *see also* Changbao's July 29, 2009, Section A questionnaire response and TPCO's July 30, 2009, Section A questionnaire response.

*b. Absence of De Facto Control*

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* 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.[44] 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 mandatory respondents and the SR Applicants provided evidence demonstrating: (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. *See* their respective separate rate applications, on file in the central records unit at the Department of Commerce, *see also* Changbao's July 29, 2009, Section A questionnaire response and TPCO's July 30, 2009, Section A questionnaire response.

The evidence placed on the record of this investigation by the mandatory respondents and 37 of the SR Applicants demonstrates an absence of *de jure* and *de facto* government control with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide.* As a result, we have preliminarily granted Changbao and TPCO and each of these 37 SR Applicants (hereinafter referred to as the ''Separate Rate Companies''), separate-rate status.

**The PRC-Wide Entity**

The Department has data that indicate there were more exporters of OCTG from the PRC than those indicated in the response to our request for Q&V information during the POI. *See Respondent Selection Memorandum.* We issued our request for Q&V information to 212 potential Chinese exporters of the merchandise under investigation, in addition to posting the Q&V questionnaire on the Department's website. While information on the record of this investigation indicates that there are other producers/exporters of OCTG in the PRC, we received only 43 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 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).

**Application of Adverse Facts Available and the PRC-Wide Rate**

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 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. *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).

merchandise during the POI, they are not eligible for a separate-rate).

[43] *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR at 20589* (May 6, 1991).

[44] *See Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585* (May 2, 1994); *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).

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,* H.R. Rep. No. 103–316, 870 (1994); *see also 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). 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. 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. *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 21, 2000) and accompanying Issues and Decision Memorandum, at Comment 1. As AFA, we have preliminarily assigned to the PRC-wide entity a rate of 99.14 percent, the highest calculated rate from the petition. 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 rates to determine an AFA rate is subject to the requirement to corroborate secondary information.

**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 FA, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' [45] The SAA provides that to ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value.[46] The SAA also states that 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.[47] To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[48]

As AFA the Department has preliminarily selected the rate of 99.14 from the Petition.[49] Petitioners' methodology for calculating the EP and NV in the petition is discussed in the initiation notice.[50] To corroborate the AFA margin we have selected, we compared that margin to the margins we found for the respondents. We found that the margin of 99.14 percent has probative value because it is in the range of margins we found for the mandatory respondents. Accordingly, we find that the rate of 99.14 percent is corroborated within the meaning of section 776(c) of the Act.

**Margin for the Separate-Rate Companies**

Consistent with the Department's practice, we have established an average margin for the Separate-Rate Companies based on the rates we calculated for Changbao and TPCO (the mandatory respondents), excluding any rates that are zero, *de minimis,* or based entirely on AFA.[51] The Separate-Rate Companies are listed in the ''Suspension of Liquidation'' section of this notice.

**Date of Sale**

19 CFR 351.401(i) states that, ''[i]n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business.'' In *Allied Tube,* the Court of International Trade (''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) (''*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 or producer establishes the material terms of sale. *See* 19 CFR 351.401(i); *see also Allied Tube,* 132 F. Supp. 2d at 1090–1092. 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. *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 Issue and Decision Memorandum at Comment 1; *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 Issues and Decision Memorandum at Comment 1.

On May 22, 2009, Petitioners submitted a letter to the Department alleging that U.S. distributors of Chinese OCTG testified before the ITC that there was a six-month lag between the order date and entry-date of the subject merchandise into the United States.[52] Further, Petitioners contended that the U.S. customers of Chinese OCTG were required to place a significant down payment on their orders. Moreover,

[45] *See* SAA at 870.

[46] *See id.*

[47] *See id.*

[48] *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 *Final Results of Antidumping Duty Administrative Reviews and Termination in Part: 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,* 62 FR 11825 (March 13, 1997).

[49] *See Notice of Initiation,* 74 FR at 20676.

[50] *See Notice of Initiation,* 72 FR at 43593.

[51] *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.

[52] *See* Petitioners' Letter to the Department: Certain Oil Country Tubular Goods from the People's Republic of China: Request that the Department Collect Additional Data from the Respondents (May 22, 2009).

Petitioners claimed that the U.S. prices for OCTG dropped during the POI, and that raw material input costs for OCTG declined significantly as well. Petitioners argued that, as a result of the above, if respondents reported U.S. sales of subject merchandise on the basis of invoice date, the Department's standard NME methodology would compare U.S. sales whose prices were set six months prior to the POI with costs that were established during the POI. Thus, Petitioners requested that the Department direct respondents to report the following information in the questionnaire response and U.S. sales database: Sales of subject merchandise to the United States that had a contract or sale order date within the POI, and the dates of the contract and sale orders for these sales, and the contract and sale order dates for the U.S. sales that were shipped or invoiced during the POI.

Based on Petitioners' allegation, the Department issued a supplemental questionnaire on July 1, 2009, requesting the above information (''Date of Sale Questionnaire'').[53] The Department did not, however, require that the respondents submit the data associated with the above information in their U.S. sales database.

In their July 22, 2009, responses to the Date of Sale Questionnaire, both TPCO and Changbao argued that the invoice date is the earliest date at which terms of sale are finalized.[54]

On July 23, 2009, Petitioners submitted another letter to the Department which argued that respondents did not sufficiently describe how changes in quantity and price were established, and again requested that the Department require respondents to report: Each sale that has a contract or purchase order (''PO'') date within the POI; each sale that has an invoice during the POI; and, for CEP sales, each sale with an agreement made during the POI and also each sale with an invoice during the POI. The Department did not, however, issue another date of sale questionnaire.

TPCO reported the date of the commercial invoice to the first unaffiliated party as the date of sale for both CEP and EP sales. Changbao also reported the date of the commercial invoice to the first unaffiliated party as the date of sale for its EP sales. Upon examination of the information in the Date of Sale Questionnaires, and the respondents' Section C and supplemental Section C responses, the Department found no evidence contrary to TPCO's or Changbao's assertions that invoice date was the appropriate date of sale. Thus, the Department used invoice date as the date of sale for this preliminary determination.[55]

**Fair Value Comparison**

To determine whether sales of certain OCTG to the United States by TPCO and Changbao were made at less than fair value, we compared EP or CEP, as applicable, to NV, as described in the ''U.S. Price'' and ''Normal Value'' sections of this notice.

**Constructed Export Price**

In accordance with section 772(b) of the Act, we based the U.S. price for certain of TPCO's sales on CEP because these sales were made by TPCO's U.S. affiliates,[56] Company A, and Company B. In accordance with section 772(c)(2)(A) of the Act, we calculated CEP by deducting, where applicable, the following expenses from the gross unit price charged to the first unaffiliated customer in the United States, foreign movement expenses, and U.S. movement expenses, including U.S. duties, U.S. warehousing, and inventory carrying cost. 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 other direct 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 (where paid for in a market economy currency and performed by a market economy provider). For details regarding our CEP calculations, and for a complete discussion of the calculation of the U.S. price for TPCO, *see* TPCO Analysis Memo.

**Export Price**

In accordance with section 772(a) of the Act, we based the U.S. price for certain of TPCO's sales, and all of Changbao's sales, on EP because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation. In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act.

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 TPCO and Changbao, *see* TPCO Analysis Memo and Certain Oil Country Tubular Goods from the People's Republic of China: Jiangsu Changbao Steel Tube Co., Ltd. Analysis Memorandum for the Preliminary Determination (November 4, 2000) (''Changbao Analysis Memo'').

In its October 19, 2009, Supplemental Section C response, Changbao reported certain sales to unaffiliated resellers in the PRC. This information was unsolicited by the Department. Changbao stated that it is not a party to the contracts between its Chinese customers and their U.S. customers, is not involved in negotiating the U.S. price or other terms of sale, and the unaffiliated reseller takes title to the merchandise before exporting to the United States and receives payment from the U.S. customer. Changbao further provided a purchase contract between itself and one of these unaffiliated PRC resellers.[57] Based upon the record evidence, we have determined that these are not Changbao's U.S. sales. Further, Changbao has not claimed that these are its U.S. sales. Accordingly, for the preliminary determination, we have excluded these sales from the margin calculation.

TPCO describes the customer for its EP sales, Company C, as an unaffiliated customer. However, record evidence indicates that Company C may be affiliated with TPCO. Because the record is not clear, we have determined to preliminarily treat these U.S. sales as EP sales and to include them in our margin calculation. However, we intend to further examine this issue after the preliminary determination to determine their appropriate treatment for purposes

[53] *See* Letter from the Department: Less-Than-Fair-Value Investigation of Certain Oil Country Tubular Goods (''OCTG'') from the People's Republic of China (''PRC''): Date of Sale Questionnaire (July 1, 2009) to TPCO, Changbao and Lifengyuanda.

[54] *See* TPCO Analysis Memo and Changbao Analysis Memo for a more thorough discussion of this issue involving BPI information.

[55] *See id.*

[56] The identity of these companies is business proprietary; for further discussion of these companies, *see* TPCO Analysis Memo.

[57] *See* Changbao's October 19, 2009, Supplemental Section C response at 1–3.

of the final determination in this investigation.

**Normal Value**

We compared NV to weighted-average EPs and CEPs in accordance with section 777A(d)(1) of the Act. Further, 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 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. The Department bases NV on the FOPs because the presence of government controls on various aspects of an NME renders price comparisons and the calculation of production costs invalid under its normal methodologies.

The Department's questionnaire requires that the respondent provide information regarding the weighted-average FOPs across all of the company's plants that produce the subject merchandise, not just the FOPs from a single plant. This methodology ensures that the Department's calculations are as accurate as possible.[58] The Department calculated the FOPs using the weighted-average factor values for all of the facilities involved in producing the subject merchandise for each exporter. The Department calculated NV for each matching control number (''CONNUM'') based on the factors of production reported from each of the exporters' suppliers and then averaged the supplier-specific NVs together, weighted by production quantity, to derive a single, weighted-average NV for each CONNUM exported by each exporter.

**Factor Valuation Methodology**

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by TPCO and Changbao. 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. *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 Issues and Decision Memorandum 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 Issues and Decision Memorandum at Comment 5. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian 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 TPCO and Changbao can be found in Certain Oil Country Tubular Goods from the People's Republic of China: Surrogate Value Memorandum for the Preliminary Determination (November 4, 2000) (''Surrogate Value Memorandum'') (November 4, 2009).

For this preliminary determination, in accordance with the Department's practice, we used data from the Indian Import Statistics and other publicly available Indian sources in order to calculate surrogate values for TPCO and Changbao'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. *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). The record shows that data in the Indian Import Statistics, as well as those from the other Indian sources, are contemporaneous with the POI, product-specific, and tax-exclusive. *See* Surrogate Value Memorandum. 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 Indian Wholesale Price Index (''WPI'') as published in the International Financial Statistics of the International Monetary Fund.

Furthermore, with regard to the Indian 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 Indonesia, 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. *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China,* 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7. 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. *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.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). Rather, the Department bases its decision on information that is available to it at the time it makes its determination. *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). Therefore, we have not used prices from these countries in calculating the Indian import-based surrogate values. Additionally, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an ''unspecified'' country were excluded

[58] *See, e.g., Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People's Republic of China,* 68 FR 61395 (October 28, 2003), and accompanying Issues and Decision Memorandum at Comment 19.

from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies. *See id.*

Additionally, TPCO reported that during the POI, it purchased certain inputs from a market economy supplier and paid for the inputs in a market economy currency. The Department has a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources during the period. In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted-average market economy purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy suppliers during the period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the market economy purchase price with an appropriate surrogate value (''SV'') according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption. When a firm has made market economy input purchases that may have been dumped or subsidized, are not *bona fide,* or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid market economy purchases meet the 33-percent threshold. *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716, 61717–18 (October 19, 2006). *See* TPCO Analysis Memo.

For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2008, *see Corrected 2007 Calculation of Expected Non-Market Economy Wages,* 73 FR 27795 (May 14, 2008), and *http://ia.ita.doc.gov/wages/index.html.* The source of these wage-rate data on the Import Administration's Web site is the Yearbook of Labour Statistics 2005, ILO (Geneva: 2007), Chapter 5B: Wages in Manufacturing. Because 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 the respondents.

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.

We valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India (''CEA'') in its publication titled Electricity Tariff & Duty and Average Rates of Electricity Supply in India, dated July 2006. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. Petitioners suggested that the Department rely on March 2009 CEA data.[59] However, we preliminarily find that we cannot rely on the suggested data as we are unable to separate duty rates from the March 2009 CEA data.

Because water is essential to the production process of the merchandise under consideration, the Department considers water to be a direct material input, not overhead, and thus valued water with a surrogate value according to our practice. *See Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People's Republic of China,* 68 FR 61395 (October 23, 2003), and accompanying Issues and Decision Memorandum at Comment 11. The Department valued water using data from the Maharashtra Industrial Development Corporation (*http://midcindia.org*) as it includes a wide range of industrial water tariffs. This source provides 378 industrial water rates within the Maharashtra province through June 2009: 189 of the water rates were for the ''inside industrial areas'' usage category and 189 of the water rates were for the ''outside industrial areas'' usage category.

We continued our recent practice to value brokerage and handling using a simple average of the brokerage and handling costs that were reported in public submissions that were filed in three antidumping duty cases. Specifically, the Department 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. The Department inflated the brokerage and handling rate using the appropriate WPI inflator. *See* Surrogate Value Memorandum.

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.

We calculated factory overhead, selling general and administrative expenses (''SG&A''), and profit percentages for TPCO using the financial statements of Tata Steel Limited (''Tata'') as of March 31, 2009, because Tata is a producer of comparable merchandise, and is at a level of integration much more similar to TPCO's than the other surrogate company for whom we have usable financial statements: Oil Country Tubular Ltd. (''OCTL''). We used the financial statements of OCTL as of March 31, 2009, to value factory overhead, SG&A and profit for Changbao because OCTL, like Changbao, is a non-integrated producer of identical and comparable merchandise. Both financial statements are contemporaneous with the POI. The Department may consider other publicly available financial statements for the final determination, as appropriate.

Regarding surrogate values for steel billets, Petitioners argue that the Department should use HTS 7207.20.30 to value TPCO's and Changbao's reported steel billets. The HTS category subheading 7207.20.30 encompasses ''seamless tube'', semi-finished steel products, with a carbon content greater than or equal to 20 percent. According to the Petitioners, these steel billets, what Petitioners refer to as ''commodity grade'' steel billets, have more exacting physical and chemical requirements than standard steel billets. Petitioners argue that OCTG production requires the use of this premium steel billet (*e.g.,* with a carbon content greater than or equal to 20 percent) and that therefore, the appropriate HTS for TPCO and

[59] Available at *http://www.cea.nic.in/e&c/Estimated%20Average%20Rates%20of%20Electricity.pdf.*

Changbao's steel billets is 7207.20.30.[60] Petitioners also argue that 7207.20.30 is the appropriate HTS subheading as TPCO's and Changbao's subject merchandise is ''seamless OCTG'' which requires ''seamless tube'' steel billets.[61]

Changbao argues that the steel billets it uses to produce the subject merchandise are non-alloy and contain less than 25 percent carbon content. Changbao has provided technical specifications purporting to demonstrate this. Accordingly, Changbao argues that the proper HTS is 7224.90.91, as its steel billets are excluded from the HTS 7207.20.30 subheading and are, rather, comprised of the characteristics more appropriately encompassed by HTS subheading 7224.90.91.

TPCO, in its surrogate value submission, suggested 7207.20.90 as the appropriate HTS subheading for the steel billets purchased and used for producing its subject merchandise. Petitioners argue that, although TPCO's suggested HTS subheading encompasses the ''carbon content greater than or equal to 20 percent'' characteristic, it nonetheless falls into the ''other'' group and is thus less specific than 7207.20.30. Finally, Petitioners point out that both HTS subheadings suggested by TPCO and Changbao are basket category subheadings.[62]

We preliminarily determine to value both Changbao's and TPCO's billets with the HTS number proffered by each respondent, respectively (*i.e.,* HTS is 7224.90.91 for Changbao and HTS 7207.20.90 for TPCO). Changbao and TPCO are the parties with access to their respective technical specifications and mill test certifications, and so have access to the most specific information possible to correctly determine the surrogate value most specific to their own billets. Accordingly, we preliminarily determine to use TPCO and Changbao's respective HTS subheading suggestions, but intend to pursue this issue at verification.

**Shorter Cost Averaging Periods**

On May 22, 2009, Petitioners, using data from business proprietary sources, alleged that OCTG prices, and the cost of raw material inputs used to produce subject merchandise, decreased dramatically during the POI.[63] Petitioners claimed that in similar instances in other cases, the Department has used shorter cost-averaging periods when calculating normal value (*i.e.,* the Department calculated cost of production or constructed values on a quarterly basis for comparison to sales prices, rather than using a POI or period of review (POR) average).[64] Accordingly, Petitioners requested that the Department require respondents to report their material input usage rates on a monthly basis for both the POI and the six months preceding the POI. They also requested that the Department calculate normal value using monthly consumption periods and monthly surrogate values rather than a POI-average of inputs and surrogate values.

To date, the Department has not considered using shorter cost periods in an NME case. The Department has used shorter cost periods in market-economy (''ME'') cases where we determined that actual production costs changed significantly during the POI/POR, and where there was evidence of a linkage between the actual cost changes and the sales prices in a given POI/POR.[65] In an NME context, except in limited circumstances when inputs are purchased from market-economy suppliers, the Department calculates normal value using surrogate values in lieu of actual input costs. Thus, because the use of the shorter cost periods would not more accurately reflect experience of the respondent operating in the NME during the period under examination, we continue to base costs on POI-average surrogate values rather than the shorter cost periods.

Because it is not clear how the shorter cost averaging period methodology employed in ME cases can fit methodologically or analytically in an NME context, we preliminarily continue to base normal value on the POI average surrogate values and input consumption rates, rather than shorter cost periods, for this investigation. We invite parties to comment on these issues and on what facts warrant the use of shorter cost averaging periods in this case, for the final determination.

**Currency Conversion**

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 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,* 74 FR 20676. This practice is described in *Policy Bulletin 05.1,* available at *http://ia.ita.doc.gov/.*

**Preliminary Determination**

The weighted-average dumping margins are as follows:

| Exporter | Producer | Weighted-average margin |
|---|---|---|
| Jiangsu Changbao Steel Tube Co., Ltd | Jiangsu Changbao Steel Tube Co., Ltd. and Jiangsu Changbao Precision Steel Tube Co., Ltd. | 0.00 |
| Tianjin Pipe International Economic and Trading Corporation | Tianjin Pipe (Group) Corporation | 36.53 |
| Angang Group Hong Kong Co., Ltd | Angang Steel Co. Ltd | 36.53 |
| Angang Steel Co., Ltd., and Angang Group International Trade Corporation. | Angang Steel Co. Ltd | 36.53 |
| Anhui Tianda Oil Pipe Co., Ltd | Anhui Tianda Oil Pipe Co., Ltd | 36.53 |
| Anshan Zhongyou Tipo Pipe & Tubing Co., Ltd | Anshan Zhongyou Tipo Pipe & Tubing Co., Ltd | 36.53 |
| Baotou Steel International Economic and Trading Co., Ltd | Baotou Steel International Economic and Trading Co., Ltd | 36.53 |

[60] *See* Petitioner's September 14, 2009, Surrogate Value Submission.

[61] *See* Petitioner's September 21, 2009, Surrogate Value Rebuttal Submission.

[62] *Id.*

[63] *See* Petitioners' Letter to the Department: Certain Oil Country Tubular Goods from the People's Republic of China: Request that the Department Collect Additional Data from the Respondents (May 22, 2009).

[64] *See* 19 CFR 351.414(d)(3): Time period over which weighted average is calculated. When applying the average-to-average method, the Secretary normally will calculate weighted averages for the entire period of investigation or review, as the case may be. However, when normal values, export prices, or constructed export prices differ significantly over the course of the period of investigation or review, the Secretary may calculate weighted averages for such shorter period as the Secretary deems appropriate.

[65] *See, e.g., Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review,* 73 FR 75398 (December 11, 2008) and accompanying Issues and Decision Memorandum at Comment 4.

| Exporter | Producer | Weighted-average margin |
|---|---|---|
| Benxi Northern Steel Pipes Co., Ltd | Benxi Northern Steel Pipes Co., Ltd | 36.53 |
| Chengdu Wanghui Petroleum Pipe Co. Ltd | Chengdu Wanghui Petroleum Pipe Co. Ltd | 36.53 |
| Dalipal Pipe Company | Dalipal Pipe Company | 36.53 |
| Faray Petroleum Steel Pipe Co. Ltd | Faray Petroleum Steel Pipe Co. Ltd | 36.53 |
| Freet Petroleum Equipment Co., Ltd. of Shengli Oil Field, The Thermal Recovery Equipment, Zibo Branch. | Freet Petroleum Equipment Co., Ltd. of Shengli Oil Field, The Thermal Recovery Equipment, Zibo Branch. | 36.53 |
| Hengyang Steel Tube Group International Trading, Inc | Hengyang Valin MPM Tube Co., Ltd.; Hengyang Valin Steel Tube Co., Ltd. | 36.53 |
| Huludao Steel Pipe Industrial Co., Ltd./Huludao City Steel Pipe Industrial Co., Ltd. | Huludao Steel Pipe Industrial Co., Ltd./Huludao City Steel Pipe Industrial Co., Ltd. | 36.53 |
| Jiangsu Chengde Steel Tube Share Co., Ltd | Jiangsu Chengde Steel Tube Share Co., Ltd | 36.53 |
| Jiangyin City Changjiang Steel Pipe Co., Ltd | Jiangyin City Changjiang Steel Pipe Co., Ltd | 36.53 |
| Pangang Group Beihai Steel Pipe Corporation | Pangang Group Beihai Steel Pipe Corporation | 36.53 |
| Pangang Group Chengdu Iron & Steel | Pangang Group Chengdu Iron & Steel | 36.53 |
| Qingdao Bonded Logistics Park Products International Trading Co., Ltd. | Shengli Oilfield Highland Petroleum Equipment Co., Ltd.; Shandong Continental Petroleum Equipment Co., Ltd.; Aofei Tele Dongying Import & Export Co., Ltd.; Highgrade Tubular Manufacturing (Tianjin) Co., Ltd.; Cangzhou City Baohai Petroleum Material Co., Ltd. | 36.53 |
| Qiqihaer Bonded Logistics Park Products International Trading Co., Ltd. | Qiqihaer Bonded Logistics Park Products International Trading Co., Ltd. | 36.53 |
| Shandong Dongbao Steel Pipe Co., Ltd | Shandong Dongbao Steel Pipe Co., Ltd | 36.53 |
| ShanDong HuaBao Steel Pipe Co., Ltd | ShanDong HuaBao Steel Pipe Co., Ltd | 36.53 |
| Shandong Molong Petroleum Machinery Co., Ltd | Shandong Molong Petroleum Machinery Co., Ltd | 36.53 |
| Shanghai Metals & Minerals Import & Export Corp./Shanghai Minmetals Materials & Products Corp. | Jiangsu Changbao Steel Pipe Co., Ltd.; Huludao Steel Pipe Industrial Co., Ltd.; Northeast Special Steel Group Qiqihaer Haoying Steel and Iron Co., Ltd.; Beijing Youlu Co., Ltd. | 36.53 |
| Shanghai Zhongyou Tipo Steel Pipe Co., Ltd | Shanghai Zhongyou Tipo Steel Pipe Co., Ltd | 36.53 |
| Shengli Oil Field Freet Petroleum Equipment Co., Ltd | Freet Petroleum Equipment Co., Ltd. of Shengli Oil Field, The Thermal Recovery Equipment, Zibo Branch; Faray Petroleum Steel Pipe Co., Ltd.; Shengli Oil Field Freet Petroleum Steel Pipe Co., Ltd. | 36.53 |
| Shengli Oil Field Freet Petroleum Steel Pipe Co., Ltd | Freet Petroleum Equipment Co., Ltd. of Shengli Oil Field, The Thermal Recovery Equipment, Zibo Branch; Tianda Oil Pipe Co., Ltd; Wuxi Fastube Dingyuan Precision Steel Pipe Co., Ltd. | 36.53 |
| Shengli Oilfield Highland Petroleum Equipment Co., Ltd | Tianjin Pipe Group Corp.; Goods & Materials Supply Dept. of Shengli Oilfield SinoPEC; Dagang Oilfield Group New Century Machinery Co. Ltd.; Tianjin Seamless Steel Pipe Plant; Baoshan Iron & Steel Co. Ltd. | 36.53 |
| Shengli Oilfield Shengji Petroleum Equipment Co., Ltd | Shengli Oilfield Shengji Petroleum Equipment Co., Ltd. | 36.53 |
| Tianjin Xingyuda Import and Export Co., Ltd. & Hong Kong Gallant Group Limited. | Tianjin Lifengyuanda Steel Group Co., Ltd | 36.53 |
| Tianjin Seamless Steel Pipe Plant | Tianjin Seamless Steel Pipe Plant | 36.53 |
| Tianjin Tiangang Special Petroleum Pipe Manufacturer Co., Ltd. | Tianjin Tiangang Special Petroleum Pipe Manufacturer Co., Ltd. | 36.53 |
| Wuxi Baoda Petroleum Special Pipe Manufacturing Co., Ltd | Wuxi Baoda Petroleum Special Pipe Manufacturing Co., Ltd | 36.53 |
| Wuxi Seamless Oil Pipe Co., Ltd | Wuxi Seamless Oil Pipe Co., Ltd | 36.53 |
| Wuxi Sp. Steel Tube Manufacturing Co., Ltd | Wuxi Precese Special Steel Co., Ltd | 36.53 |
| Wuxi Zhenda Special Steel Tube Manufacturing Co., Ltd | Huai'an Zhenda Steel Tube Manufacturing Co., Ltd | 36.53 |
| Xigang Seamless Steel Tube Co., Ltd | Xigang Seamless Steel Tube Co., Ltd.; Wuxi Seamless Special Pipe Co., Ltd. | 36.53 |
| Yangzhou Lontrin Steel Tube Co., Ltd | Yangzhou Lontrin Steel Tube Co., Ltd | 36.53 |
| Zhejiang Jianli Co., Ltd. & Zhejiang Jianli Steel Tube Co., Ltd | Zhejiang Jianli Co., Ltd.; Zhejiang Jianli Steel Tube Co., Ltd | 36.53 |
| PRC-wide Entity * | | 99.14 |

* Shengli Oil Field Freet Import & Export Trade Co., Ltd. is part of the PRC-wide entity.

**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**

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 subject merchandise exported by TPCO and produced by Tianjin Pipe (Group) Corporation, entered, or withdrawn from warehouse, for consumption on or after 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 NV exceeds U.S. price, as indicated above.

Additionally, as the Department has determined in its *Certain Oil Country Tubular Goods From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination*, 74 FR 47210 (September 15, 2009) (''*CVD Prelim*'') that the merchandise under investigation, exported by TPCO,

benefitted from an export subsidy, we will instruct CBP to require an antidumping cash deposit or posting of a bond equal to the weighted-average amount by which the NV exceeds the U.S. price for TPCO, 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).

We will instruct CBP not to suspend liquidation or require a cash deposit or the posting of a bond for imports of OCTG from the PRC exported and produced by Changbao, because we have calculated a margin of zero percent for Changbao.

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of subject merchandise exported by the separate-rate respondents, in the exporter/producer combination identified above, entered, or withdrawn from warehouse, for consumption on or after 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 NV exceeds U.S. price, as indicated above.

For the two separate-rate companies in this investigation that also participated as mandatory respondents in the CVD investigation (*i.e.*, Wuxi Seamless Oil Pipe Co., Ltd., and Zhejiang Jianli Co., Ltd. & Zhejiang Jianli Steel Tube Co., Ltd.), because it was determined in the *CVD Prelim.* that these companies did not benefit from any export subsidy, we will not make an adjustment to the antidumping duty rate of these companies for purposes of cash deposits.

For the remaining separate-rate companies, we will instruct CBP to adjust the dumping margin by the amount of export subsidies included in the All Other rate from the *CVD Prelim.*

Further, because we found critical circumstances with regard to the PRC-wide entity, we will instruct CBP to suspend liquidation of merchandise under consideration exported by the PRC-wide entity and entered or withdrawn from warehouse, for consumption commencing 90 days prior to the date of this preliminary determination, and we will instruct CBP to require an antidumping duty cash deposit or the posting of a bond for each entry.

These suspension of liquidation instructions will remain in effect until further notice.

**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 less than fair value. 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 certain OCTG, or sales (or the likelihood of sales) for importation, of the 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 on which the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs and must be received no later than five days after the deadline date for case briefs. *See* 19 CFR 351.309(c)(i) and (d). 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, and if requested, we will hold a public hearing, 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 shortly 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 location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

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, 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.

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

Dated: November 4, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E9–27574 Filed 11–16–09; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Foreign–Trade Zones Board

**Docket 48–2009**

**Foreign–Trade Zone 89 - Las Vegas, Nevada**

### Application for Expansion

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Nevada Development Authority, grantee of Foreign–Trade Zone 89, requesting authority to expand its zone to include a site in the City of North Las Vegas, Nevada. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 9, 2009.

FTZ 89 was approved by the Board on November 7, 1983 (Board Order 227, 48 FR 51665, 11/10/83) and expanded on December 4, 1989 (Board Order 452, 54 FR 50787, 12/11/89) and March 11, 1994 (Board Order 688, 59 FR 12893, 3/18/94). The general–purpose zone currently consists of six sites in the Las Vegas, Nevada area: *Site 1*: (23 acres) -- Las Vegas Convention Center, Clark County; *Site 3*: (two parcels, 317 acres and 120,000 sq. ft.) -- within the Hughes Airport Center Industrial Park, adjacent to McCarran International Airport; *Site 4*: (37 acres) -- North Las Vegas Business Center, North Las Vegas; *Site 5*: (516 acres) -- AMPAC Development Company - Gibson Business Park, Clark County; *Site 6*: (160 acres) -- Las Vegas International Air Cargo Center at McCarran International Airport, Clark County; and, *Site 7*: World Jewelry Center, Union Park Center, Las Vegas, Nevada.

The applicant is requesting authority to expand the zone to include a new site in the City of North Las Vegas (Clark County): Proposed Site 8 (365 acres) the City View Business Park located west of the intersection of Interstate 15 and State Road 604. The site will provide warehousing and distribution services to area businesses. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case–by-case basis.