DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–965]

Drill Pipe From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, and Postponement of Final Determination

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

DATES: *Effective Date*: August 18, 2010.

SUMMARY: The Department of Commerce ("Department") preliminarily determines that drill pipe from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("Act"), for the period of investigation ("POI") April 1, 2009, through September 30, 2009. The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Toni Dach, Susan Pulongbarit, or Matthew Renkey, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1655, (202) 482–4031, or (202) 482–2312, respectively.

SUPPLEMENTARY INFORMATION:

Initiation

On December 31, 2009, the Department received a petition concerning imports of drill pipe from the PRC filed on behalf of VAM Drilling USA, Inc., Texas Steel Conversion, Inc., Rotary Drilling Tools, TMK IPSCO, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (collectively, "Petitioners"). *See* "Petitions for the Imposition of Antidumping and Countervailing Duties: Drill Pipe from the People's Republic of China," dated December 31, 2009 ("Petition"). The Department initiated this investigation on January 28, 2010. *See Drill Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 75 FR 4531 (January 28, 2010) ("*Initiation*"). On March 2, 2010, 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 drill pipe and drill collars. *See Drill Pipe and Drill Collars from China: Investigation Nos. 701–TA–474 and 731–TA–1176 (Preliminary),* USITC Publication 4127 (March 2010).

Respondent Selection

In the *Initiation,* the Department stated that it intended to select respondents based on quantity and value ("Q&V") questionnaires. *See Initiation,* 75 FR at 4534. On February 22, 2010, the Department requested Q&V information from 71 companies with complete addresses that the Petitioners identified as potential exporters, or producers, of drill pipe from the PRC. Additionally, the Department also posted the Q&V questionnaire for this investigation on its Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html.*

The Department received timely Q&V responses from seven exporters/producers that shipped merchandise under investigation to the United States during the POI.

On March 25, 2010, the Department selected DP-Master Manufacturing Co., Ltd. (the "DP-Master Group"), Baoshan Iron & Steel Co., Ltd. ("Baoshan"), and Shanxi Yida Special Steel Imp. & Exp. Co., Ltd. ("Yida") as individually reviewed respondents in this investigation, because, based on the Q&V responses received by the Department, these companies accounted for the largest volume of drill pipe from the PRC during the POI. *See* Memorandum to James Doyle, Office Director, Office 9, from Susan Pulongbarit, International Trade Analyst, through Scot T. Fullerton, Program Manager, regarding the "Investigation of Drill Pipe from the People's Republic of China: Respondent Selection," dated March 25, 2010 ("Respondent Selection Memo"). The Department issued Section A of the antidumping duty questionnaire to the individually reviewed respondents on April 1, 2010, and Sections C and D on April 7, 2010. Between April 22, 2010, and July 30, 2010, these companies responded to the Department's original and supplemental questionnaires.

Separate Rate Applications

Between March 24, 2010, and April 5, 2010, in addition to those filed by the DP-Master Group, Baoshan, and Yida, we also received timely filed separate-rate applications ("SRAs") from three companies: Shanxi Fenglei Drilling Tools Co., Ltd.; Jiangsu Shuguang Huayang Drilling Tool Co., Ltd.; and Jiangyin Long-Bright Drill Pipe Manufacturing Co., Ltd. (collectively, the "Separate Rate Respondents").

Surrogate Country and Surrogate Value Comments

On April 20, 2010, the Department determined that India, the Philippines, Indonesia, Thailand, Ukraine, and Peru are countries comparable to the PRC in terms of economic development. *See* April 20, 2010, Letter to All Interested Parties, regarding "Antidumping Duty Investigation of Drill Pipe from the People's Republic of China," attaching the April 14, 2010, Memorandum to Scot T. Fullerton, Program Manager, Office 9, AD/CVD Operations, from Kelly Parkhill, Acting Director, Office for Policy, regarding "Request for List of Surrogate Countries for an Antidumping Duty Investigation of Drill Pipe from the People's Republic of China" ("Surrogate Country List").

[9] *See* 19 CFR 351.221(c)(3)(ii); *see also Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Pasta From Turkey*, 74 FR 681 (January 7, 2009).

On May 5, 2010, Baoshan submitted surrogate country comments. 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.

Based on requests from the interested parties, the Department twice extended the deadline for interested parties to submit surrogate value information for consideration for the preliminary determination. Surrogate value comments were due no later than June 11, 2010, with rebuttals due on June 21, 2010. Between June 11, 2010, and June 30, 2010, interested parties submitted surrogate value comments and rebuttal comments.

Postponement of Preliminary Determination

Pursuant to section 733(c) of the Act and 19 CFR 351.205(f)(1), the Department extended the preliminary determination by 50 days. The Department published a postponement of the preliminary determination on June 3, 2010. *See Drill Pipe from the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation,* 75 FR 31425 (June 3, 2010).

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding were extended by seven days. The revised deadline for the preliminary determination of this investigation is now August 5, 2010. *See* Memorandum to the Record regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters, who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On June 17, 2010, and on July 7, 2010, Yida and the DP-Master Group, respectively, requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, Yida and the DP-Master Group requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), 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 this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly. We note that Yida's request is not applicable as it received a zero margin in this preliminary determination.

Period of Investigation

The POI is April 1, 2009, through September 30, 2009. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The products covered by the investigation are steel drill pipe, and steel drill collars, whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes suitable for drill pipe), without regard to the specific chemistry of the steel (*i.e.,* carbon, stainless steel, or other alloy steel), and without regard to length or outer diameter. The scope does not include tool joints not attached to the drill pipe, nor does it include unfinished tubes for casing or tubing covered by any other antidumping or countervailing duty order.

The subject products are currently classified in the following Harmonized Tariff Schedule of the United States ("HTSUS") categories: 7304.22.0030, 7304.22.0045, 7304.22.0060, 7304.23.3000, 7304.23.6030, 7304.23.6045, 7304.23.6060, 8431.43.8040 and may also enter under 8431.43.8060, 8431.43.4000, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.49.0015, 7304.49.0060, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, and 7304.59.8055.[1]

While HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection ("CBP") purposes, the written description of the scope of the investigation is dispositive.

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. See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997); *see also Initiation,* 75 FR at 4532.

On February 12, 2010, the DP-Master Group, along with Downhole Pipe & Equipment, L.P. ("Downhole"), and Command Energy Services International, Ltd. ("Command"), who are U.S. importers of drill pipe from the PRC, filed comments concerning the scope of the antidumping and concurrent countervailing duty investigations. Petitioners also filed scope comments on February 12, 2010. The DP-Master Group, Downhole, and Command submitted rebuttal comments on February 22, 2010. In their submissions, the DP-Master Group, Downhole, and Command requested that the Department amend the scope of these investigations to exclude green tubes, arguing that there is significant overlap between the green tubes that would be used for drill pipe and those that would be used for casing and tubing covered under the scope of the existing antidumping and countervailing duty orders on oil country tubular goods ("OCTGs") from the PRC. Therefore, they contend that all green tubes are subject to the AD and CVD orders on OCTGs from China. *See Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 75 FR 28551 (May 21, 2010); and *Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 75 FR 3203 (January 20, 2010).

[1] Prior to February 2, 2007, these imports entered under different tariff classifications, including HTSUS 7304.21.3000, 7304.21.6030, 7304.21.6045, and 7304.21.6060.

Petitioners concede that there is some overlap between green tubes that would be used for drill pipe and those that would be used for casing and tubing covered under the orders on OCTGs from the PRC, but argue that this overlap is minimal. Petitioners state that there are physical and chemical differences between green tube for drill pipe and green tube for OCTG casing and tubing, but these physical characteristics should not be used to distinguish the merchandise due to the risk of circumvention of the orders. They further argue that CBP would be able to determine the intended use of the products by the importer, as only a few companies in the U.S. process green tubes into drill pipe.

Given the comments submitted by parties, the Department has concerns regarding the imprecision of the definition of "green tubes suitable for drill pipe" currently contained in the scope of the antidumping and concurrent countervailing duty investigations, and how to distinguish upon entry into the United States green tube for drill pipe from green tube covered under the orders on OCTGs from the PRC. At this time, the Department will continue to include "green tubes suitable for drill pipe" in the antidumping and concurrent countervailing duty investigations. However, subsequent to these preliminary results, the Department will request additional information regarding characteristics distinguishing green tube for drill pipe from green tube for casing and tubing covered under the orders on OCTGs from the PRC.[2] Unless specific characteristics are provided which distinguish between green tube for drill pipe and green tube for casing and tubing, all green tubes (other than green tube drill collars) will be removed from the scope of the antidumping and countervailing duty investigations on drill pipe from the PRC and will instead be considered as covered under the existing antidumping and countervailing duty orders on OCTGs from the PRC.

Non-Market Economy Country

For purposes of initiation, Petitioners submitted LTFV analyses for the PRC as a non-market economy ("NME"). *See Initiation,* 75 FR 4533–4534. The Department considers the PRC to be a NME country. *See, e.g., 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) ("*CFS Paper*"). 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. 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 and calculated normal value ("NV") in accordance with Section 773(c) of the Act, which applies to all NME countries.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to calculate NV, 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. As noted above, the Department determined that India, the Philippines, Indonesia, Thailand, Ukraine, and Peru are countries comparable to the PRC in terms of economic development. *See* Surrogate Country List. The sources of the surrogate values we have used in this investigation are discussed under the "Normal Value" section below.

Based on publicly available information placed on the record, the Department determines India to be a reliable source for surrogate values because, pursuant to section 773(c)(4), India is at a comparable level of economic development, is a significant producer of subject merchandise, and has publicly available and reliable data. Moreover, we note that Baoshan argued in its surrogate country comments that India should be selected as the surrogate country and no other interested parties commented on this issue. Accordingly, the Department has preliminarily determined that it is appropriate to select India as the surrogate country for purposes of valuing the FOPs because India meets all of the Department's criteria for surrogate country selection.

Affiliations

Section 771(33) of the Act, provides that: The following persons shall be considered to be "affiliated" or "affiliated persons":

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(B) Any officer or director of an organization and such organization.

(C) Partners.

(D) Employer and employee.

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization.

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act states that: "For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person."

Based on the DP-Master Group's statements[3] that it is affiliated with Jiangyin Liangda Drill Pipe Co., Ltd. ("Liangda"), who produced and supplied drill collars exported by the DP-Master Group, and based on the evidence presented in the DP-Master Groups's questionnaire responses, we preliminarily find that the DP-Master Group is affiliated with Liangda, which was involved in the DP-Master Group's production process, pursuant to section 771(33)of the Act and 19 CFR 351.102(b)(3).

Separate Rates

In proceedings involving NME countries, there is a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 55039, 55040 (September 24, 2008) ("*PET Film*"). 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

[2] This serves as a reminder to all interested parties submitting scope comments to file their scope comments on the record of both this antidumping duty investigation (A–570–965) and the concurrent countervailing duty investigation (C–570–966).

[3] *See, e.g.,* the DP-Master Group's April 29, 2010, section A questionnaire response at 5.

sufficiently independent so as to be entitled to a separate rate. *See, e.g., Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991) ("*Sparklers*"); *see also, Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"), and 19 CFR 351.107(d). However, if the Department determines that a company is wholly foreign-owned or located in a market economy country, then a separate rate analysis is not necessary to determine whether it is independent from government control. *See, e.g., PET Film.*

In the *Initiation,* the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME investigations. *See Initiation,* 75 FR at 4534–4535. The process requires exporters and producers to submit a separate-rate status application. The Department's practice is discussed further in *Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,* (April 5, 2005), ("*Policy Bulletin*"), available at *http://ia.ita.doc.gov/policy/bull05–1.pdf.*[4]

We have considered whether each PRC company that submitted a complete SRA, or a complete Section A Response as a mandatory respondent, is eligible for a separate rate. Because the Separate Rate Respondents and the three individually-reviewed respondents, the DP-Master Group, Baoshan, and Yida, have all stated that they are either joint ventures between Chinese and foreign companies, or are wholly Chinese-owned companies, the Department must analyze whether these companies can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

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

The evidence provided by the DP-Master Group, Baoshan, Yida, and the Separate Rate Respondents supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) applicable legislative enactments decentralizing control of the companies; and (3) other formal measures by the government decentralizing control of companies, *i.e.,* each company's SRA and/or Section A response, dated March 24, 2010, through May 4, 2010, where each individually-reviewed or separate-rate respondent stated that it had no relationship with any level of the PRC government with respect to ownership, internal management, and business operations.

2. 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. *See Silicon Carbide,* 59 FR at 22586–87; *see also, Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

We determine that, for the individually-reviewed respondents and Separate Rate Repondents, the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management. *See, e.g.,* each company's SRA and/or Section A response, dated March 24, 2010, through May 4, 2010.

The evidence placed on the record of this investigation by the individually-reviewed respondents and the Separate Rate Respondents 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 determined that it is appropriate to grant the Separate Rate Respondents a margin based on the experience of the individually-reviewed respondents. In calculating this margin, for the purposes of this preliminary determination we are excluding any *de minimis* or zero rates or rates based on total adverse facts available ("AFA").

Application of Adverse Facts Available, the PRC-Wide Entity, and PRC-Wide Rate

We issued our request for Q&V information to the 71 potential Chinese exporters of the merchandise under investigation identified in the petition, in addition to posting the Q&V questionnaire on the Department's website. However, although all exporters/producers were given an opportunity to submit Q&V responses, we only received seven timely filed Q&V responses in response to our request. 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 and that it is appropriate to treat these non-responsive PRC exporters/producers as part of the PRC-

[4] The *Policy Bulletin* 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." *See Policy Bulletin* at 6.

wide entity because they did not qualify for a separate rate. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China,* 70 FR 77121, 77128 (December 29, 2005), unchanged in *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China,* 71 FR 29303 (May 22, 2006).

Section 776(a)(2) of the Act provides that, 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 ("FA") in reaching the applicable determination.

Because certain potential exporters/producers of merchandise under investigation did not respond to our questionnaire requesting Q&V information, or the Department's request for more information, we have determined that the PRC-wide entity has withheld information requested by the Department and has failed to provide such information by the deadlines for these submissions. As a result, pursuant to sections 776(a)(2)(A) and (B) of the Act, we find that the use of FA is appropriate to determine the PRC-wide rate. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,* 68 FR 4986, 4991 (January 31, 2003), unchanged in *Notice of Final 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, 37120 (June 23, 2003).

Section 776(b) of the Act provides that, in selecting from among the FA, 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 the agency's requests for information. *See Statement of Administrative Action,* accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Rep. No. 103–316, 870 (1994) ("*SAA*"); *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation,* 65 FR 5510, 5518 (February 4, 2000). 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 FA, an adverse inference is appropriate.

When employing an adverse inference, section 776(b) of the Act indicates that the Department may rely upon information derived from the petition,, a previous administrative review, or any other information placed on the record. In selecting a rate for 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, e.g., Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People's Republic of China,* 65 FR 34660 (May 31, 2000) and accompanying Issues and Decision Memorandum at Comment 1. As AFA, we have preliminarily assigned to the PRC-wide entity a rate of 496.69 percent, a rate calculated in the petition which is higher than the highest rate calculated for either of the cooperative respondents. *See Initiation* at 4534. The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA.

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 as "information derived from the petition that gave rise to the investigation or review, the final determination concerning merchandise subject to this investigation, or any previous review under section 751 concerning the merchandise subject to this investigation."[5] To "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. Independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[6]

The AFA rate that the Department used is from the Petition; however, we have updated the labor wage rate used to calculate the Petition rates. The Department's practice is not to recalculate dumping margins provided in petitions, but rather to corroborate the applicable petition rate when applying that rate as adverse facts available. In the instant case, however, the surrogate wage rate used in the Petition was based upon the Department's methodology that the Federal Circuit found unlawful in *Dorbest II.* In light of the Federal Circuit decision to invalidate the wage rate methodology, the Department has adjusted the petition rate using the surrogate value for labor used in this preliminary determination.

Petitioners' methodology for calculating the U.S. price and NV in the Petition is discussed in the *Initiation. See Initiation,* 75 FR at 4533–4534. Based on our examination of information on the record, including examination of the petition export prices and NVs, we find that, for purposes of this investigation, there is not a sufficient basis to consider that certain petition margins have probative value. However, there is a sufficient basis to determine that the petition margin selected does have probative value. In this case, we have selected a margin that is not so much greater than the highest CONNUM-specific margin

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

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

calculated for one of the mandatory respondents in this proceeding that it can be considered to not have probative value. This method of selecting an AFA dumping margin is consistent with the recent preliminary and final determinations involving kitchen appliance shelving and racks from the PRC, prestressed concrete steel wire strand from the PRC, and wire decking from the PRC.[7]

The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." *See Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil,* 67 FR 55792, 55796 (Aug. 30, 2002); *see* also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8932 (Feb. 23, 1998). As guided by the SAA, the information used as AFA should ensure an uncooperative party does not benefit more by failing to cooperate than if it had cooperated fully. *See* SAA at 870. We conclude that using the DP–Master Group's highest transaction-specific margin as a limited reference point, the highest petition margin that can be corroborated within the meaning of the statute is 429.29 percent, which is sufficiently adverse so as to induce cooperation such that the uncooperative companies do not benefit from their failure to cooperate. Accordingly, we find that the rate of 429.29 percent is corroborated within the meaning of section 776(c) of the Act.

Margin for the Separate Rate Companies

The Department received timely and complete SRAs from the Separate Rate Respondents, who are exporters/producers of drill pipe from the PRC, and were not selected for individual review in this investigation. Through the evidence in their applications, these companies have demonstrated their eligibility for a separate rate. *See* the "Separate Rates" section above. Consistent with the Department's practice, as the separate rate, we have established a margin for the Separate Rate Respondents based on the rates we calculated for the individually reviewed respondents, excluding any rates that are zero, *de minimis,* or based entirely on AFA.[8] The companies receiving this rate are listed in the "Preliminary Determination" section of this notice.

Date of Sale

Section 351.401(i) of the Department's regulations state that, "{i}n identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." The Court of International Trade ("CIT") has 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." *See Allied Tube & Conduit Corp. v. United States,* 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) ("*Allied Tube*"). Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter 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, e.g., 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; *see also, 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 2.

Baoshan reported that the date of sale was determined by the contract signed between its affiliated importer and its unaffiliated U.S. customer and provided an affidavit from the unaffiliated customer confirming that the contract date was in fact the date of sale, as the material terms of sale were set at that time. Therefore, the Department has preliminarily determined that Baoshan met its burden to establish that contract date, rather than invoice date, should be used as the date of sale. *See, e.g.,* Baoshan's April 23, 2010, submission.

Yida reported that the date of sale was determined by the date of shipment to its unaffiliated U.S. customer, as there either may be changes to the material terms of sale or cancellations up to that point. In this case, because the Department found no evidence contrary to Yida's claims that shipment date was the appropriate date of sale, the Department has preliminarily determined that Yida met its burden to establish that shipment date, rather than invoice date, should be used as the date of sale. *See, e.g.,* Yida's June 2, 2010, supplemental Section A response at 7.

The DP-Master Group reported that the date of sale was determined by the invoice issued to its unaffiliated U.S. customer. In this case, as the Department found no evidence contrary to the DP-Master Group's claims that invoice date was the appropriate date of sale, the Department used invoice date as the date of sale for this preliminary determination. *See, e.g.,* The DP–Master Group's April 29, 2010, Section A response at 26.

Fair Value Comparison

To determine whether sales of drill pipe to the United States by the DP-Master Group, Baoshan, and Yida were made at less than fair value, we compared the export price ("EP") or constructed export price ("CEP"), as appropriate, to NV, as described in the "U.S. Price," and "Normal Value" sections of this notice.

U.S. Price

A. EP

For the DP-Master Group and Yida, in accordance with section 772(a) of the Act, we based the U.S. price for certain sales on EP because the first sale to an unaffiliated purchaser in the United States was made prior to importation, and the use of CEP was not otherwise warranted. In accordance with section 772(c) of the Act, we calculated EP by deducting the applicable movement expenses and adjustments from the gross unit price. We based these movement expenses on surrogate values

[7] *See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less than Fair Value,* 74 FR 37012 (July 27, 2009)*; Prestressed Concrete Steel Wire Strand From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 28560 *(May 21, 2010);* and *Wire Decking from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 75 FR 32905 (June 10, 2010).

[8] *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).

where a PRC company provided the service and was paid in Renminbi ("RMB") (*see* "Factors of Production" section below for further discussion). For details regarding our EP calculations, *see* the company-specific preliminary analysis memoranda.

B. CEP

In accordance with section 772(b) of the Act, we based the U.S. price for Baoshan's sales on CEP because the first sale to an unaffiliated customer was made by Baoshan's U.S. affiliate. 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, international freight, U.S. transportation expenses, and U.S. customs duties. 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: Indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. We based movement expenses on either surrogate values or actual expenses. For details regarding our CEP calculations, and for a complete discussion of the calculation of the U.S. price for Baoshan, *see* the Baoshan Analysis Memo.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China,* 71 FR 19695, 19703 (April 17, 2006) ("*CLPP*") unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079 (September 8, 2006).

In its questionnaire responses, DP-Master indicated that it self-produces certain packing materials used to pack drill pipe, stating that it owned a company that produced thread protectors and pallet racks, Jiangyin Sanliang Petroleum Machinery Co., Ltd. ("SPM"). In response to the Department's request for all valid business licenses held by DP-Master during the POI, DP-Master provided a separate license for SPM. *See* DP-Master's June 3, 2010 submission at Exhibit 4. Because DP-Master indicated that it self-produces its own pallet racks and a portion of its own thread protectors, it reported the FOPs consumed at SPM *in lieu* of reporting the total consumption of thread protectors and pallet racks, or the intermediate inputs, SPM generated. However, the Department requested that DP-Master report its total consumption of thread protectors and pallet racks. *See* DP-Master's June 8, 2010 submission.

We do not find that record evidence sufficiently supports the claim that DP-Master produced its own thread protectors and pallet racks because SPM operates as a distinct legal entity. Pursuant to *19 CFR 351.401(f),* the Department will collapse producers and treat them as a single entity where (1) those producers are affiliated, (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (3) there is a significant potential for manipulation of price or production. For example, the Department did not collapse a respondent with an affiliated input producer when the affiliate did not have the ability to produce or export similar or identical products, and could not produce such products without substantial retooling. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission,* 73 FR 15479 (March 24, 2008) ("*Fish Fillets*") and accompanying Issues and Decision Memorandum at Comment 5C. As a consequence, when valuing the intermediate input to the merchandise under investigation in its calculation of the NV in *Fish Fillets,* the Department employed a surrogate value, rather than the FOPs used to produce the intermediate input. *See id.* Similarly, because SPM represents a distinct legal entity which is not involved in the production of merchandise under investigation at issue, for this preliminary determination, we are applying a surrogate value, rather than FOPs, to the amount of thread protectors and pallet racks consumed by DP-Master. Because these calculations are proprietary, *see* Memorandum to the File, through Scot T. Fullerton, Program Manager, Office 9, from Toni Dach, Analyst, "Investigation of Drill Pipe from the People's Republic of China: DP-Master Manufacturing Co., Ltd.," dated concurrently with this notice ("DP-Master Analysis Memo").

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by the respondents. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values. In selecting surrogate values, the Department is tasked with using the best available information on the record. *See* section 773(c) of the Act. To satisfy this statutory requirement, we compared the quality, specificity, and contemporaneity of the potential surrogate value 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. The Department's practice is to select, to the extent practicable, surrogate values which are: Publicly available; representative of non-export, broad market average values; contemporaneous with the POI; product-specific; and exclusive of taxes and import duties. *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). As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to the surrogate values derived from Indian Import Statistics 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). For a detailed description of all surrogate values selected in this preliminary determination, *see* Memorandum to the File through Scot Fullerton, Program Manager, Office 9, from Susan Pulongbarit, Analyst, "Investigation of Drill Pipe from the People's Republic of China: Surrogate Values for the Preliminary Results," dated concurrently with this notice ("Surrogate Values Memo").

For this preliminary determination, we concluded that data from Indian Import Statistics and other publicly available Indian sources constitute the best available information on the record for the surrogate values for respondents' raw materials, packing, by-products, and energy. The record shows that data in the Indian Import Statistics, as well as those from the other publicly available Indian sources, are contemporaneous with the POI, product-specific, tax-exclusive, and represent a broad market average. *See* Surrogate Values Memo. In those instances where we could not obtain publicly available information contemporaneous with the POI, consistent with our practice, 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. *See, e.g., PSF,* 71 FR at 77380 and *CLPP,* 71 FR at 19704.

As a consequence of the CAFC's ruling in *Dorbest Limited et al.* v. *United States,* 2009–1257, –1266, CAFC (May 14, 2010), the Department is no longer relying on the regression-based wage rate described in 19 CFR 351.408(c)(3). The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. For this preliminary determination, we have calculated an hourly wage rate to use in valuing respondents' reported labor input by averaging earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise. For an explanation of the Department's calculation of the surrogate value for labor, *see* the Surrogate Values Memo.

In accordance with the *OTCA 1988* legislative history, the Department continues to apply its long-standing practice of disregarding surrogate values if it has a reason to believe or suspect the source data may be subsidized.[9] In this regard, the Department has previously found that it is appropriate to disregard such prices from Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[10] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, the Department finds that it is reasonable to infer that all exporters from Indonesia, South Korea and Thailand may have benefitted from these subsidies.

Additionally, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.

Use of Facts Otherwise Available

Section 776(a) of the Act mandates that the Department use FA if necessary information is not available on the record of an antidumping proceeding or if an interested party or any other person: (A) Withholds information requested by the Department; (B) fails to provide information by the deadlines for submission or in the form and manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding; or (D) provides such information but the information cannot be verified as provided by section 782(i) of the Act.

In this review, the DP-Master Group and Baoshan each reported tolling for certain portions of their production processes. *See, e.g.,* June 1, 2010, DP-Master Group section D questionnaire response at 5–6; and May 25, 2010, Baoshan section D questionnaire response at 7 and 19. Furthermore, although requested to do so by the Department, the DP-Master Group and Baoshan were unable to obtain the data from the unaffiliated tolling companies (the tollers declined to provide the data), and thus did not report the FOPs consumed by these companies for all tolling processes during the production process, which are necessary to the Department's calculation of NV. Therefore, pursuant to section 776(a)(2)(B) of the Act, we have preliminarily determined that the DP-Master Group and Baoshan failed to provide information relevant to the Department's analysis. Thus, the Department has determined that it is necessary to apply FA to value the tolling processes for which factors were not provided by the DP-Master Group and Baoshan. Although the DP-Master Group and Baoshan were unable to obtain actual FOP data for these tolling processes, both respondents submitted estimated FOPs based on their knowledge of the production process. The Department has reviewed these estimated FOPs and believes them to be a reasonable proxy to account for the processing costs associated with the DP-Master Group's and Baoshan's tolled merchandise sold to the United States during the POI, the Department has preliminarily determined to utilize, as FA, the estimated FOPs for the tolled merchandise provided by the DP-Master Group and Baoshan. *See* DP-Master Analysis Memo and Baoshan Analysis Memo.

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,* the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See Initiation,* 75 FR at 4535. This practice is described in the *Policy Bulletin.*

Critical Circumstances

On June 21, 2010, Petitioners filed a timely critical circumstances allegation, pursuant to 19 CFR 351.206, alleging that critical circumstances exist with respect to imports of the merchandise under investigation. *See* letter from Petitioners, regarding "Allegation of Critical Circumstances," dated June 21, 2010 ("Petitioners' Allegation"). Between July 8, 2010, and July 14, 2010,

[9] Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) ("*OTCA 1988*") at 590.

[10] *See, e.g., Expedited Sunset Review of the Countervailing Duty Order on Carbazole Violet Pigment 23 from India,* 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at pages 4–5; *Expedited Sunset Review of the Countervailing Duty Order on Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia,* 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at page 4; *See Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review,* 74 FR 2512 (January 15, 2009) and accompanying Issues and Decision Memorandum at pages 17, 19–20; *See* Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Countervailing Duty Determination, 66 FR 50410 (October 3, 2001) and accompanying Issues and Decision Memorandum at page 23.

the DP-Master Group, Baoshan, and Yida submitted information on its exports from June 2009 through June 2010, as requested by the Department.

In accordance with 19 CFR 351.206(c)(1), when a critical circumstances allegation is filed 30 days or more before the scheduled date of the final determination (as was done in this case), the Department will issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist. Because the critical circumstances allegation in this case was submitted 20 days or more before the date of the preliminary determination, the Department will issue its preliminary findings of critical circumstances not later than the date of the preliminary determination. *See* 19 CFR 351.206(c)(2)(i).

Legal Framework

Section 733(e)(1) of the Act provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether 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.

Further, 19 CFR 351.206(h)(1) provides that, in determining whether imports of the merchandise under investigation 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, 19 CFR 351.206(h)(2) provides that, "{i}n general, unless the imports during the 'relatively short period' * * * have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive." 19 CFR 351.206(i) defines "relatively short period" generally as the period starting on the date the proceeding begins (*i.e.,* the date the petition is filed) and ending at least three months later. This section of the Regulations further provides that, if the Department "finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely," then the Department may consider a period of not less than three months from that earlier time. *See* 19 CFR 351.206(i).

Allegation

In their allegation, Petitioners contend that there is a history of dumping of the merchandise under investigation, as indicated by a European Union finding of dumping and injury, resulting in the imposition of a definitive antidumping duty. *See Certain Seamless Pipes and Tubes, including Drill Pipe, of Iron or Steel Originating in the People's Republic of China,* Council Regulation (EC) No. 926/2009, OJ L 269/19 (October 6, 2009). Petitioners also contend that, based on the dumping margins assigned by the Department in the *Initiation,* importers knew or should have known that the merchandise under investigation was being sold at LTFV. Petitioners further included import statistics for the eight HTSUS subheadings most specific to drill pipe provided in the scope of this investigation for the period October 2009 through March 2010.

Analysis

In determining whether the above statutory criteria have been satisfied in this case, we examined: (1) The evidence presented in Petitioners' Allegation and (2) evidence obtained since the initiation of this investigation.

History of Dumping

In determining whether a history of dumping and material injury exists, the Department generally has considered current or previous antidumping duty orders on the merchandise under investigation from the country in question in the United States and current orders in any other country.[11] In their allegation, Petitioners attached a copy of a European Union antidumping duty order that includes drill pipe. Therefore, the Department finds that there is a history of injurious dumping of the merchandise under investigation from the PRC pursuant to section 733(e)(1)(A)(i) of the Act. As such, an analysis pursuant to 733(e)(1)(A)(ii) of the Act, of whether the importer knew or should have known of dumping and likely injury, is not necessary.

Massive Imports Over a Relatively Short Period

Pursuant to 19 CFR 351.206(h)(2), the Department 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. The Department normally considers a "relatively short period" as the period beginning on the date the proceeding begins and ending at least three months later. *See* 19 CFR 351.206(i). For this reason, the Department normally compares the import volumes of the merchandise under investigation for at least three months immediately preceding the filing of the petition (*i.e.,* the "base period") to a comparable period of at least three months following the filing of the petition (*i.e.,* the "comparison period"). *See id.*

In their allegation, Petitioners noted that they filed the petition on December 31, 2009. Petitioners included in their allegation U.S. import data, which used a three-month base period (October 2009 through December 2009) and a three-month comparison period (January 2010 through March 2010) in showing whether imports were massive. The Department, however, has used a six-month base and comparison period in its analysis, the maximum amount of data which could be collected.[12]

The Department agrees with Petitioners that importers, exporters, or producers had knowledge of an antidumping duty investigation at the date the petition was filed (*i.e.,* December 31, 2009). Therefore, December falls within the base period. We note that the DP–Master Group has submitted information attempting to show that importers, exporters and producers had reason to believe that an antidumping proceeding was likely at an earlier date, June 2009. The DP-Master Group submitted a declaration from the partner and owner of a company involved with drill pipe, drill collar, and other drilling equipment. *See* the DP–Master Group's July 12, 2010, letter in response to the Department's request for shipment data. The declaration references conversations that this individual had with others in the industry regarding fundraising in order to pay for antidumping and countervailing duty investigations.

[11] *See, e.g., Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination,* 74 FR 59117, 59119 (November 17, 2009) ("*OCTG Prelim*"), unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping,* 75 FR 20335 (April 19, 2010).

[12] *See, e.g., 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, 19692 (April 19, 2007).

Although in prior proceedings the Department has found that an earlier knowledge date should apply, because importers, producers and exporters had reason to believe that a proceeding was likely prior to a petition being filed,[13] the evidence put forth by the DP–Master Group in this case does not rise to the level of that provided in those other cases, which included specific, widely available publications. The single declaration submitted by the DP–Master Group, unlike the information the Department has relied on in other cases,[14] is speculative in that it centered on fundraising which might result in a case and does not demonstrate that any action was taken by the DP–Master Group during this alleged early knowledge date. In fact, as described below, the record shows the contrary—massive increases in shipments to the United States after the petition was filed. Therefore, we find that the DP–Master Group has not demonstrated that importers, exporters, or producers, had reason to believe, at some time prior to the filing of the petition that a proceeding covering drill pipe from the PRC was likely.

A. The DP-Master Group, Baoshan, and Yida

The Department requested monthly shipment information from the three individually reviewed respondents in this investigation. We determine that, based on six-month base and comparison periods (July 2009–December 2009, and January 2010–June 2010), imports from the DP–Master Group were massive, while those from Baoshan and Yida were not. Specifically, the DP–Master Group's data show an increase of greater than 15 percent of drill pipe from the PRC from the base to the comparison period, while the data from Baoshan and Yida do not.[15] Thus, pursuant to 19 CFR 351.206(h), we determine that this increase, being greater than 15 percent, shows that imports in the comparison period were massive for the DP–Master Group.

B. Separate Rate Applicants

As noted above, we used six-month base and comparison periods for the individually investigated companies. Because it has been the Department's practice to conduct its massive imports analysis of separate rate companies based on the experience of investigated companies,[16] we did not request monthly shipment information from the separate rate applicants. The Department has relied upon import data from the three individually investigated companies in determining whether there have been massive imports for the separate rate companies. Accordingly, based on the weighted-average of these data, we find that imports in the post-petition period were massive for those companies because the weighted-average increase in volume is greater than 15 percent when comparing the base period to the comparison period. *See* Critical Circumstances Memo. Thus, pursuant to 19 CFR 351.206(h), we determine that this increase, being greater than 15 percent, shows that imports in the comparison period were massive for the separate rate companies.

C. PRC-Wide Entity

Because the PRC-wide entity did not cooperate with the Department by not responding to the Department's antidumping questionnaire, we were unable to obtain shipment data from the PRC-wide entity for purposes of our critical circumstances analysis, and thus there is 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)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding under the Act, or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall, subject to section 782(d) of the Act, use the FA in reaching the applicable determination under this title.

Furthermore, section 776(b) of the Act provides that, if a party has failed to act to the best of its ability, the Department may apply an adverse inference. The PRC-wide entity did not respond to the Department's request for information. Thus, we are using FA, in accordance with section 776(a) of the Act, and, pursuant to section 776(b) of the Act, we also find that AFA is warranted because the PRC-wide entity has not acted to the best of its ability in not responding to the request for information. Accordingly, as AFA we preliminarily find that there were massive imports of merchandise from the PRC-wide entity.[17]

Preliminary Critical Circumstances Determination

Record evidence indicates that there is a history of dumping causing material injury. In addition, record evidence indicates that the DP–Master Group, the separate rate applicants, and the PRC-wide entity had massive imports during a relatively short period. Therefore, in accordance with section 733(e)(1) of the Act, we preliminarily find that there is a reasonable basis to believe or suspect that critical circumstances exist for imports of the merchandise under investigation from the DP–Master Group, the separate rate applicants and the PRC-wide entity in this antidumping duty investigation.

Preliminary Determination

Preliminary weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-Average margin
DP-Master Group.	DP–Master Group.	206.00
Baoshan Iron & Steel Co., Ltd.	Baoshan Iron & Steel Co., Ltd.	7.64

[13] *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").

[14] *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 7A. *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 from the Socialist Republic of Vietnam,* 68 FR 37116 (June 23, 2003).

[15] *See* Memo to The File, from Matthew Renkey, Senior Analyst, through Scot T. Fullerton, Program Manager, regarding "Investigation of Drill Pipe form the People's Republic of China: Critical Circumstances Analysis," dated concurrently with this notice ("Critical Circumstances Memo").

[16] *See, e.g., OCTG,* 74 FR at 59121.

[17] *See OCTG,* 74 FR at 59121.

Exporter	Producer	Weighted-Average margin
Shanxi Yida Special Steel Imp. & Exp. Co., Ltd.	Shanxi Yida Special Steel Group Co., Ltd.	0.00
Shanxi Fenglei Drilling Tools Co., Ltd.	Shanxi Fenglei Drilling Tools Co., Ltd.	106.82
Jiangsu Shuguang Huayang Drilling Tool, Co. Ltd.	Jiangsu Shuguang Huayang Drilling Tool, Co. Ltd.	106.82
Jiangyin Long-Bright Drill Pipe Manufacturing Co., Ltd.	Jiangyin Long-Bright Drill Pipe Manufacturing Co., Ltd.	106.82
PRC-wide Entity.	.....	429.29

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 CBP to suspend liquidation of all entries of drill pipe from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption from the DP–Master Group, Baoshan, the Separate Rate Respondents, and the PRC-wide entity on or after the date of publication of this notice in the **Federal Register**. For Yida, we will not instruct CBP to suspend liquidation of any entries of drill pipe from the PRC as described in the "Scope of Investigation" section that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

The Department has determined in *Drill Pipe From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 75 FR 33245 (June 11, 2010) ("*CVD PRC Drill Pipe Prelim*"), that the merchandise under investigation, exported and produced by the DP–Master Group, benefitted from an export subsidy. Where the merchandise under investigation is also subject to a concurrent countervailing duty investigation, we 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 EP, minus the amount determined to constitute an export subsidy in the companion countervailing duty investigation. *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, 2004). In this case, because the DP–Master Group 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 CEP for the DP–Master Group, minus the amount determined to constitute an export subsidy.

Because Baoshan, Yida, and Separate Rate Companies did not benefit from any export subsidy, we will instruct CBP to require an antidumping cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated above.

For all other entries of drill pipe from the PRC, the following cash deposit/bonding instructions apply: (1) For all PRC exporters of drill pipe which have not received their own rate, the cash-deposit or bonding rate will be the PRC-wide rate; (2) for all non-PRC exporters of drill pipe from the PRC which have not received their own rate, the cash-deposit or bonding rate will be the rate applicable to the exporter/producer combinations that supplied that non-PRC exporter. This suspension of liquidation 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 LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of drill pipe, 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 business days after the date on which the final verification report is issued in this proceeding. Rebuttal briefs limited to issues raised in case briefs must be received no later than five business 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: August 5, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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