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Investigation
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October 4, 2017

MEMORANDUM TO: Carole Showers
Executive Director, Office of Policy
performing the duties of Deputy Assistant Secretary for
Enforcement and Compliance

FROM: Edward Yang
Senior Director, Office VII
Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Less-Than-Fair-Value Investigation of 100- to 150-Seat Large
Civil Aircraft from Canada

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that 100- to 150-seat large civil aircraft (aircraft) from Canada is, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margin is shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On April 27, 2017, the Department received an antidumping duty (AD) petition covering imports of aircraft from Canada,¹ which was filed in proper form by The Boeing Company (Boeing) (the petitioner). The Department initiated this investigation on May 17 2017.²

In the *Initiation Notice*, the Department notified the public that only one company from Canada, Bombardier, Inc. (Bombardier), was identified in the Petition.³ The petitioner provided an independent source as support for identifying only one producer/exporter of the merchandise under consideration in Canada and the Department knew of no additional producers/exporters of

¹ See Letter to the Honorable Wilbur L. Ross, Jr., Secretary of Commerce, from the petitioner, concerning, “Petitions for the Imposition of Antidumping and Countervailing Duties On 100- To 150-Seat Large Civil Aircraft from Canada -- Petitions for the Imposition of Antidumping and Countervailing Duties” (April 27, 2017) (the Petition).

² See *100- to 150-Seat Large Civil Aircraft from Canada: Initiation of Less-Than-Fair-Value Investigation*, 82 FR 24296 (May 26, 2017) (*Initiation Notice*).

³ See *Initiation Notice*, 82 FR at 24299.



subject merchandise under consideration.⁴ Accordingly, the Department stated that its intention was to examine the sole Canadian producer/exporter identified in the Petition, Bombardier.

The Department invited interested parties to comment on its intention to examine the sole producer/exporter identified in the petition.⁵ The Department received no comments regarding this intention. On June 9, 2017, the Department issued the AD Questionnaire to Bombardier.⁶

Additionally, in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the appropriate physical characteristics of aircraft to be reported in response to the Department's AD questionnaire.⁷ On June 7, 2017, the petitioner and Bombardier submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. On June 19, 2017, the petitioner and Bombardier filed rebuttal comments. After consideration of both parties' suggestions on product characteristics, we incorporated certain product matching characteristics in sections B and C of the AD Questionnaire.⁸

We are conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2016, through March 31, 2017. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was April 2017.⁹

IV. SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is aircraft, regardless of seating configuration, that have a standard 100- to 150-seat two-class seating capacity and a minimum 2,900 nautical mile range, as these terms are defined below.

“Standard 100- to 150-seat two-class seating capacity” refers to the capacity to accommodate 100 to 150 passengers, when eight passenger seats are configured for a 36-inch pitch, and the remaining passenger seats are configured for a 32-inch pitch. “Pitch” is the distance between a point on one seat and the same point on the seat in front of it.

“Standard 100- to 150-seat two-class seating capacity” does not delineate the number of seats actually in a subject aircraft or the actual seating configuration of a subject aircraft. Thus, the number of seats actually in a subject aircraft may be below 100 or exceed 150.

A “minimum 2,900 nautical mile range” means:

⁴ *Id.* at 24299-24300.

⁵ *Id.* at 24300.

⁶ See Department Letter re: Antidumping Duty Questionnaire, dated June 9, 2017 (AD Questionnaire).

⁷ See *Initiation Notice*, 82 FR at 24297.

⁸ See AD Questionnaire.

⁹ See 19 CFR 351.204(b)(1).

- (i) able to transport between 100 and 150 passengers and their luggage on routes equal to or longer than 2,900 nautical miles; or
- (ii) covered by a U.S. Federal Aviation Administration (FAA) type certificate or supplemental type certificate that also covers other aircraft with a minimum 2,900 nautical mile range.

The scope includes all aircraft covered by the description above, regardless of whether they enter the United States fully or partially assembled, and regardless of whether, at the time of entry into the United States, they are approved for use by the FAA.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 8802.40.0040. The merchandise may alternatively be classifiable under HTSUS subheading 8802.40.0090. Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

V. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations,¹⁰ in the *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage.¹¹ We requested that all such comments be filed within 20 calendar days of publication of the *Initiation Notice*.¹²

On June 19, 2017, we received scope comments from Bombardier and Delta Air Lines, Inc. (Delta).¹³ Bombardier argued that the Department should remove the 2,900-nautical mile range criterion from the scope of the investigation. Delta argued that the Department should limit the scope of the investigation to aircraft with a 125- to 150- seat capacity as opposed to the current 100- to 150-seat capacity. On June 29, 2017, the petitioner submitted rebuttal scope comments, opposing Bombardier's and Delta's proposed changes to the language of the scope.¹⁴ According to the petitioner, the Department should not remove the 2,900-nautical mile range and should maintain the existing passenger seat range. On July 17, 2017, Delta filed surrebuttal scope comments.¹⁵ On August 25, 2017, Bombardier requested that the Department allow Bombardier to submit additional scope information.¹⁶ However, prior to receiving the Department's response, Bombardier submitted its scope information on the same day. Therefore, the

¹⁰ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

¹¹ See *Initiation Notice* at 24297.

¹² *Id.*

¹³ See Letter to the Secretary of Commerce from Bombardier "100- To 150-Seat Large Civil Aircraft from Canada: Comments on Scope," dated June 19, 2017; see also Letter to the Secretary of Commerce from Delta "100- To 150-Seat Large Civil Aircraft from Canada: Scope Comments," dated June 19, 2017.

¹⁴ See Letter to the Secretary of Commerce from the petitioner "100- To 150-Seat Large Civil Aircraft from Canada: Petitioner's Rebuttal Comments on Scope," dated June 29, 2017.

¹⁵ See Letter to the Secretary of Commerce from Delta "100- To 150-Seat Large Civil Aircraft from Canada: Rebuttal Comments to Petitioner's Rebuttal Comments on Scope," dated July 17, 2017 (Delta Scope Surrebuttal Comments).

¹⁶ See Letter to the Secretary of Commerce from Bombardier "100- To 150-Seat Large Civil Aircraft from Canada: Request to File New Scope Information," dated August 25, 2017.

Department rejected those comments and removed them from the record of this proceeding.¹⁷ On August 28, 2017, Bombardier renewed its request to file additional scope information.¹⁸ On September 6, 2017, the Department responded to Bombardier's renewed request by asking Bombardier to identify the source and nature of the information, and the date the new scope information became available.¹⁹ On September 8, 2017, Bombardier responded by clarifying the above-referenced information.²⁰ On September 20, 2017, Bombardier provided additional scope comments regarding 2,900 nautical mile criterion in its pre-preliminary determination comments.²¹ On September 27, 2017, Delta provided additional scope comments in its pre-preliminary determination comments.²² On September 28, 2017, the petitioner submitted pre-preliminary rebuttal comments, which addressed Bombardier's scope-related pre-preliminary comments.²³

We have considered the requests noted above. While the Department has the authority to define or clarify the scope of an investigation, it must exercise this authority in a manner which reflects the intent of the petition. Furthermore, the Department generally should not use its authority to define the scope of an investigation in a manner that would thwart the statutory mandate to provide the relief requested in the petition.²⁴ Thus, absent an overarching reason to modify the scope in a petition, the Department accepts the scope as it is written.²⁵ Accordingly, and for the reasons explained in the Preliminary Scope Memorandum, we have not made the changes to the scope advocated by Bombardier and Delta because the petitioner intended that the scope cover the specific products described therein and modifying the language of the scope in the manner that Bombardier and Delta request would not reflect the intent of the Petitions. For further discussion of the scope comments, *see* Preliminary Scope Memorandum.²⁶

¹⁷ See Letter to Bombardier, "Less Than Fair Value Investigation of 100- To 150-Seat Large Civil Aircraft from Canada: New Scope Information," dated August 25, 2017.

¹⁸ See Letter to the Secretary of Commerce from Bombardier "100- To 150-Seat Large Civil Aircraft from Canada: Renewed Request to File New Scope Information," dated August 28, 2017.

¹⁹ See Letter to Bombardier, "Less Than Fair Value Investigation of 100- To 150-Seat Large Civil Aircraft from Canada: Response to Request to File New Scope Information," dated September 6, 2017.

²⁰ See Letter to the Secretary of Commerce from Bombardier "100- To 150-Seat Large Civil Aircraft from Canada: Clarification on Submission of New Scope Information," dated September 8, 2017.

²¹ See Bombardier Pre-Preliminary Comments, at 10-12 and its August 23, 2017, Supplemental Questionnaire Response (SQR), at Exhibits 1B and 2B²² See Letter to the Secretary of Commerce from Delta "100- To 150-Seat Large Civil Aircraft from Canada: Pre-Preliminary Determination Comments," dated September 27, 2017.

²² See Letter to the Secretary of Commerce from Delta "100- To 150-Seat Large Civil Aircraft from Canada: Pre-Preliminary Determination Comments," dated September 27, 2017.

²³ See Letter to the Secretary of Commerce from the petitioner "100- To 150-Seat Large Civil Aircraft from Canada: Pre-Preliminary Rebuttal Comments," dated September 28, 2017.

²⁴ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada*, 67 FR 15539 (April 2, 2002), and accompanying Issues and Decision Memorandum (IDM) under Scope Issues (after Comment 49).

²⁵ *Id.*; see also *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 51788, 51789 (September 5, 2008), unchanged in *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 4913 (January 28, 2009); *Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium from the Russian Federation*, 66 FR 49347 (September 27, 2001), and accompanying IDM at Comment 12; and *Mitsubishi Heavy Industries, Ltd. v. U.S.*, 986 F. Supp. 1428 (CIT 1997).

²⁶ See Memorandum, "100- To 150-Seat Large Civil Aircraft from Canada: Scope Comments Decision

VI. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCE

As noted above, the Department examined Bombardier as the sole mandatory respondent in this investigation. Bombardier did not provide the information requested by the Department in its AD Questionnaire.²⁷ For the reasons stated below, and as described in more detail in the AFA Memorandum, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to Bombardier.

A. Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or if an interested party: (1) withholds information requested by the Department; (2) 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; (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(c)(1) of the Act states that the Department shall consider the ability of an interested party to provide information upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Bombardier did not provide the information requested by the Department's AD Questionnaire.²⁸ As a result, we preliminarily find that the necessary information is not available on the record of this investigation, that Bombardier withheld information the Department requested, that it failed to provide information by the specified deadlines, and that it significantly impeded the proceeding. Moreover, because Bombardier failed to provide the information requested by the Department's questionnaire, section 782(e) of the Act is not applicable. Accordingly, pursuant to sections 776(a)(1) and 776(a)(2)(A), (B), and (C) of the Act, we are relying upon facts otherwise available to determine Bombardier's preliminary estimated weighted-average dumping margin.

B. Use of Adverse Inference

Memorandum for the Preliminary Determination" (Preliminary Scope Memorandum), dated concurrently with this preliminary determination.

²⁷ For further discussion of the Department's preliminary determination to apply facts available to Bombardier, see memorandum, "Application of Adverse Facts Available to Bombardier Inc.," dated October 4, 2017 (AFA Memorandum).

²⁸ *Id.*

Section 776(b) of the Act provides that, if the Department finds that an interested party 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 adverse to the interests of that party in selecting the facts otherwise available. In so doing, and under the TPEA,²⁹ the Department is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.³⁰ In addition, the SAA explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”³¹ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference in selecting from the facts available.³² It is the Department’s practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.³³

We preliminarily find that Bombardier has not acted to the best of its ability to comply with the Department’s request for information. Bombardier failed to provide the information requested in the Department’s AD Questionnaire for the Department to perform the necessary analyses to calculate a weighted-average dumping margin for Bombardier based on its own data.³⁴ Accordingly, the Department concludes that Bombardier failed to cooperate to the best of its ability to comply with a request for information by the Department. Based on the above, in

²⁹ On June 29, 2015, the Trade Preferences Extension Act of 2015 (TPEA) made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act. The amendments to section 776 of the Act are applicable to all determinations made on or after August 6, 2015. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR at 46793, 46794-95 (August 6, 2015). Therefore, the amendments apply to this investigation.

³⁰ *See* section 776(b)(1)(B) of the Act.

³¹ *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) (SAA) at 870; *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

³² *See, e.g., Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27340.

³³ *See, e.g., Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum at 4, unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476 (March 14, 2014).

³⁴ *See* Bombardier’s July 10, 2017 Section A Questionnaire Response; Letter to the Honorable Wilbur L. Ross, Jr. from Bombardier, concerning, “100- to 150-Seat Large Civil Aircraft from Canada: Bombardier Sections B and C Response,” dated July 28, 2017; Letter to the Honorable Wilbur L. Ross, Jr. from Bombardier, concerning, “100- to 150-Seat Large Civil Aircraft from Canada: Bombardier Section D Response,” dated July 31, 2017; Letter to the Honorable Wilbur L. Ross, Jr. from Bombardier, concerning, “Antidumping Investigation of 100- to 150-Seat Large Civil Aircraft from Canada: Response to August 16 Supplemental Questionnaire,” dated August 23, 2017; Department letter re: “Antidumping Duty Investigation of 100- to 150-Seat Large Civil Aircraft from Canada,” dated July 7, 2017.; Department letter re: “Antidumping Duty Investigation of 100- to 150-Seat Large Civil Aircraft from Canada,” dated July 20, 2017; and Department Letter re: Less-Than-Fair-Value Investigation of 100- to-150 Seat Large Civil Aircraft from Canada: Questionnaire, dated August 16, 2017.

accordance with section 776(b) of the Act and 19 CFR 351.308(a), the Department preliminarily determines to use an adverse inference when selecting from among the facts otherwise available.

Bombardier argued that the Department should terminate the investigation or issue a negative preliminary determination because it claims it made no sales of subject merchandise during the POI.³⁵ While, as an interested party, Bombardier may make such alternative arguments, it was still required to submit the information requested by the Department in its AD Questionnaire. Despite the fact that the Department provided additional explanations of the information requests in the AD Questionnaire, even specifically identifying certain transactions for which it required information, Bombardier continued to submit arguments, rather than the requested information, in response to the multiple opportunities it was provided for responding to the AD Questionnaire.

C. Preliminary Estimated Weighted-Average Dumping Margin Based on Adverse Facts Available

Section 776(b) of the Act states that the Department, when employing an adverse inference, may rely upon information derived from the petition, the final determination from the less-than-fair-value investigation, a previous administrative review, or any other information placed on the record.³⁶ In selecting a rate based on 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.³⁷ The Department's practice in an LTFV investigation is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition, or (2) the highest calculated rate of any respondent in the investigation.³⁸

In this investigation, the dumping margin in the petition is 79.82 percent and no rate was calculated for an individually-examined respondent.³⁹ Thus, consistent with our practice, we have selected the only dumping margin alleged in the petition as the AFA rate applicable to Bombardier in this investigation.⁴⁰

D. Corroboration of the AFA Rate

When using facts otherwise available, section 776(c) of the Act provides that, generally, where the Department relies on secondary information (such as the petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review,

³⁵ See AFA Memorandum, dated October 4, 2017.

³⁶ See also 19 CFR 351.308(c).

³⁷ See SAA, at 870.

³⁸ See *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014) and accompanying IDM at Comment 3.

³⁹ See Antidumping Duty Investigation Initiation Checklist: 100- to 150-Seat Large Civil Aircraft from Canada (Canada AD Initiation Checklist).

⁴⁰ See *Certain Polyethylene Terephthalate Resin from India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 13327 (March 14, 2016) and accompanying IDM at Comment 14.

the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.⁴¹ The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value.⁴² To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used,⁴³ although under the TPEA, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party. Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an antidumping order when applying an adverse inference, including the highest of such margins.⁴⁴

Thus, because the AFA rate applied to Bombardier is derived from the Petition and, consequently, is based upon secondary information, the Department must corroborate the rate to the extent practicable. We determined that the dumping margin in the Petition was reliable where, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis.⁴⁵

Specifically, we examined evidence supporting the calculations in the petition and have considered that analysis to determine the probative value of the dumping margin alleged in the Petition for use as AFA for this preliminary determination. During our pre-initiation analysis, we also examined the key elements of the alleged dumping margin calculation (*i.e.*, export price (EP) and constructed value (CV)).⁴⁶ Furthermore, we also examined information from various independent sources provided either in the Petition or, on our request, in the supplements to the Petition that supports key elements of the EP, CV, and normal value (NV) calculation used in the Petition to derive the dumping margin alleged in the Petition.⁴⁷

Based on our examination of the information, as discussed in detail in the Canada AD Initiation Checklist, we consider the petitioner’s EP, CV, and NV calculations to be reliable. Because we obtained no other information that calls into question the validity of the sources of information or the validity of the information supporting the U.S. price, CV, and NV calculations provided in the Petition, based on our examination of the aforementioned information, we preliminarily consider the EP, CV, and NV calculations from the petition to be reliable. Because we confirmed the accuracy and validity of the information underlying the derivation of the dumping margin alleged in the Petition by examining source documents and publicly available

⁴¹ See SAA at 870.

⁴² See *id.*; see also 19 CFR 351.308(d).

⁴³ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

⁴⁴ See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

⁴⁵ See Canada AD Initiation Checklist.

⁴⁶ *Id.*

⁴⁷ *Id.*

information, we preliminarily determine that the dumping margin alleged in the Petition is reliable for the purposes of this investigation.

In making a determination as to the relevancy aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether there are circumstances that would render a dumping margin not relevant. In accordance with section 776(d)(3) of the Act, when selecting an AFA dumping margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party. Because there are no other participating cooperative respondents in this investigation, we relied upon the dumping margin alleged in the petition, which is the only information regarding the aircraft industry reasonably at the Department’s disposal. Furthermore, we preliminarily determine the Petition rate to be relevant because it is derived from information about prices and accounting methodologies used in the aircraft industry.

Accordingly, the Department preliminarily determines that the dumping margin alleged in the petition has probative value, and the Department has corroborated the AFA rate of 76.82 percent to the extent practicable within the meaning of section 776(c) of the Act by demonstrating that the rate: (1) was determined to be reliable in the pre-initiation stage of this investigation (and we have no information indicating otherwise); and (2) is relevant.⁴⁸

⁴⁸ See section 776(c) of the Act and 19 CFR 351.308(c) and (d); see also *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People’s Republic of China*, 73 FR 35652, 35653 (June 24, 2008), and accompanying IDM at Comment 1.

VII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree

10/4/2017

X 

Signed by: CAROLE SHOWERS

Carole Showers
Executive Director, Office of Policy
performing the duties of the Deputy Assistant Secretary
for Enforcement and Compliance