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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-090

Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that certain steel wheels 12 to 16.5 inches in diameter (certain steel wheels) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less-than-fair-value (LTFV).

DATES: Effective [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Kyle Clahane or Charles Doss, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5449 or (202) 482-4474, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 2019, Commerce published the *Preliminary Determination* of sales at LTFV of certain steel wheels from China in the *Federal Register*.<sup>1</sup> A complete summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full

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<sup>1</sup> See *Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances*, 84 FR 16643 (April 22, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

discussion of the issues raised by the parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>2</sup>

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and ACCESS is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.<sup>3</sup> Accordingly, the deadline for the final determination of this investigation is July 1, 2019.

#### Period of Investigation

The period of investigation is January 1, 2018 through June 30, 2018.

#### Scope of the Investigation

The products covered by this investigation are certain steel wheels 12 to 16.5 inches in diameter from China. For a complete description of the scope of this investigation, *see* Appendix I of this notice.

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<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for Final Affirmative Determination in the Antidumping Duty Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>3</sup> See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

## Scope Comments

During the course of this investigation and the concurrent countervailing duty (CVD) investigation of certain steel wheels from China, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and set aside a period of time for parties to address scope issues in scope case and rebuttal briefs.<sup>4</sup> Commerce has reviewed the briefs submitted by interested parties, considered the arguments therein. For a summary of the scope comments and rebuttal responses submitted to the record for this final determination, along with the accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.<sup>5</sup> As a result, we have made changes to the scope of the investigations, including additional clarifying language.<sup>6</sup>

## Final Affirmative Determination of Critical Circumstances

In the *Preliminary Determination*, Commerce preliminarily determined, pursuant to section 733(e) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206, that critical circumstances exist with respect to imports of certain steel wheels from Changzhou Chungang Machinery Co., Ltd. (Chungang Machinery), a non-individually examined company receiving a separate rate, and the China-wide entity. For this final determination, we continue to find that critical circumstances exist for Chungang Machinery and the China-wide entity, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206. For a full description of the methodology and results of Commerce's analysis, *see* the Issues and Decision Memorandum.

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<sup>4</sup> *See* Memorandum, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Scope Decision Memorandum," dated April 15, 2019.

<sup>5</sup> *See* Memorandum, "Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Final Scope Comments Decision Memorandum," dated July 1, 2019 (Final Scope Decision Memorandum).

## Analysis of Comments Received

All issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding, other than those issues related to scope, are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce are in the Issues and Decision Memorandum, is attached at Appendix II.

## Methodology

Commerce conducted this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) and (b) of the Act, we have relied upon facts otherwise available, with adverse inferences (AFA), for the China-wide entity, which includes each of the three companies selected for individual examination: Xiamen Sunrise Wheel Group Co., Ltd. (Sunrise), Xingmin Intelligent Transportation System Co., Ltd. (Xingmin), and Zhejiang Jingu Co., Ltd. (Zhejiang Jingu). As AFA, we assigned the highest margin alleged in the Petition of 44.35 percent.<sup>7</sup> We find a single entity, Chungang Machinery, which was not selected for individual examination in this investigation, to have demonstrated eligibility for a separate rate. Because none of the mandatory respondents are receiving a separate rate and we are determining the China-wide rate based on AFA, we look to section 735(c)(5)(B) of the Act for guidance and are, consistent with that provision, using “any reasonable method” to determine the rate for exporters that are not being individually examined and found to be entitled to a separate rate. As “any reasonable method,” we continue to find it appropriate to assign the simple average of the Petition rates (*i.e.*, 38.27 percent) to Chungang Machinery, the separate rate applicant not individually examined. For a full description of the methodology underlying Commerce’s final determination, *see* the Issues and Decision Memorandum.

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<sup>7</sup> See Commerce’s letter, “Less-Than-Fair-Value Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People’s Republic of China: Respondent Selection,” dated October 11, 2018

### Changes Since the Preliminary Determination

Based on our analysis of the comments received, we did not make changes to the antidumping margin calculations set forth in the *Preliminary Determination*.<sup>8</sup> For a discussion of these comments, *see* the Issues and Decision Memorandum.

### China-Wide Entity and Use of Adverse Facts Available

For the reasons explained in the *Preliminary Determination*, we continue to find that the use of AFA, pursuant to sections 776(a) and (b) of the Act, is appropriate and are applying a rate based entirely on AFA to the China-wide entity.<sup>9</sup> Commerce did not receive timely responses to its quantity and value (Q&V) questionnaire, separate rate applications, or separate rate supplemental questionnaires from certain exporters and/or producers of subject merchandise that were named in the petition and to which Commerce issued Q&V questionnaires.<sup>10</sup> Sunrise, Xingmin, and Zhejiang Jingu, which were selected as a mandatory respondents in this investigation, each indicated their intent to withdraw participation from this investigation, and were thus deemed non-responsive.<sup>11</sup> As these non-responsive companies in China did not demonstrate that they are eligible for separate rate status, Commerce continues to consider them to be a part of the China-wide entity. Consequently, we continue to find that the China-wide entity withheld requested information, significantly impeded the proceeding, and also failed to cooperate to the best of its ability, and thus we are continuing to base the China-wide entity's rate on AFA.

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<sup>8</sup> However, we note that the cash deposit rate listed in the "Final Determination" section, *infra*, changed from the *Preliminary Determination*, as a result of the changes in the concurrent CVD investigation.

<sup>9</sup> The China-wide entity includes mandatory respondents Xiamen Sunrise Wheel Group Co., Ltd. (Sunrise), Xingmin Intelligent Transportation System Co., Ltd. (Xingmin), and Zhejiang Jingu Co., Ltd. (Zhejiang Jingu).

<sup>10</sup> *See* Preliminary Decision Memorandum at 13.

<sup>11</sup> *Id.*

### China-Wide Rate

In selecting the AFA rate for the China-wide entity, Commerce's practice is to select 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.<sup>12</sup> Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) The highest dumping margin alleged in the petition; or, (b) the highest calculated dumping margin of any respondent in the investigation.<sup>13</sup> For the final determination, we are assigning the China-wide entity, as AFA, the highest petition margin of 44.35 percent. We have corroborated the dumping margin alleged in the Petition to the extent practicable.<sup>14</sup>

### Combination Rates

In the *Initiation Notice*, Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation.<sup>15</sup> For the final determination, we continue to find that Chungang Machinery is eligible for a separate rate. Pursuant to section 735(c)(5)(A) of the Act, Commerce's practice is to assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available. Because we are determining the China-wide rate (of which the mandatory respondents are a part) based entirely on AFA, we look to section

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<sup>12</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethyl Cellulose from Finland*, 69 FR 77216 (December 27, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethyl Cellulose from Finland*, 70 FR 28279 (May 17, 2005).

<sup>13</sup> See, e.g., *Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17436, 17438 (March 26, 2012); *Final Determination of Sales at Less Than Fair Value: Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum.

<sup>14</sup> See Preliminary Decision Memorandum at 17.

<sup>15</sup> See *Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 45095 (September 5, 2018) (*Initiation Notice*), and accompanying Initiation Checklist; see also *Preliminary Determination*, 84 FR at 16644.

735(c)(5)(B) of the Act for guidance and “any reasonable method” to determine the rate for exporters that are not being individually examined and found to be entitled to a separate rate. As “any reasonable method,” we find it appropriate to assign the simple average of the Petition rates (*i.e.*, 38.27 percent) to the separate rate applicant not individually examined.<sup>16</sup> Thus, consistent with our normal practice, we have assigned to the non-individually examined separate-rate company, Chungang Machinery, the simple average of the Petition rates, *i.e.*, 38.27 percent.

#### Final Determination

Commerce determines that the following weighted-average dumping margins exist for the period January 1, 2018 through June 30, 2018:

<b>Exporter/Producer</b>	<b>Weighted-Average Margin (percent)</b>	<b>Cash Deposit Rate (Adjusted for Subsidy Offsets) (percent)</b>
Changzhou Chungang Machinery Co., Ltd.	38.27	16.57
China-Wide Entity	44.35	22.65

#### Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with its final determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, in this investigation, Commerce has applied total AFA to the mandatory respondents in this investigation in accordance with section 776 of the Act, and the applied AFA rate is based solely on the Petition, and the rate assigned to the separate rate

<sup>16</sup> See *Initiation Notice* 83 FR at 45098 and accompanying Initiation Checklist. Commerce revised the petitioner’s calculated petition margins so that the adjusted petition margins are 44.35, 37.24, 43.12, 42.28, 37.32, 30.48, 36.11, and 35.27 percent. The simple average of these margins is 38.27 percent.

company was a simple average of the Petition rates. Therefore, there are no calculations to disclose.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of certain steel wheels from China, as described in Appendix I of this notice, from the separate rate company, Chungang Machinery, and the China-wide entity, including Sunrise, Xingmin, and Zhejiang Jingu, and, in accordance with section 735(c)(4) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of certain steel wheels from China which were entered, or withdrawn from warehouse, for consumption on or after January 22, 2019, which is 90 days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion CVD proceeding when CVD provisional measures are in effect. Accordingly, where Commerce makes an affirmative determination for domestic subsidy pass-through or export subsidies, Commerce offsets the calculated estimated weighted-average dumping margin by the appropriate rate(s). We have made an affirmative final determination for export subsidies for certain respondents and all others in the companion CVD investigation. However, suspension of liquidation for provisional measures in the companion CVD case has been discontinued; therefore, we are not instructing CBP to collect cash deposits based upon the adjustment for those export subsidies at this time.

Pursuant to section 735(c)(1)(B)(ii) of the Act, Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which NV exceeds U.S. price as follows:

(1) the cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified for that combination in the table; (2) for all combinations of exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the China-wide entity; and (3) for all non-Chinese exporters of the merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter. These suspension of liquidation instructions will remain in effect until further notice.

#### International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will 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, or sales (or the likelihood of sales) for importation of certain steel wheels from China no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information

disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

*/S/ Jeffrey I. Kessler*

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Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

July 1, 2019

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Date

## Appendix I

### Scope of the Investigation

The products subject to these investigations are certain on-the-road steel wheels, discs, and rims for tubeless tires with a nominal wheel diameter of 12 inches to 16.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 12 inches to 16.5 inches within the scope are generally for road and highway trailers and other towable equipment, including, inter alia, utility trailers, cargo trailers, horse trailers, boat trailers, recreational trailers, and towable mobile homes. The standard widths of certain on-the-road steel wheels are 4 inches, 4.5 inches, 5 inches, 5.5 inches, 6 inches, and 6.5 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope.

The scope includes rims and discs for certain on-the-road steel wheels, whether imported as an assembly, unassembled, or separately. The scope includes certain on-the-road steel wheels regardless of steel composition, whether clad or not clad, whether finished or not finished, and whether coated or uncoated. The scope also includes certain on-the-road steel wheels with discs in either a “hub-piloted” or “stud-piloted” mounting configuration, though the stud-piloted configuration is most common in the size range covered.

All on-the-road wheels sold in the United States must meet Standard 110 or 120 of the National Highway Traffic Safety Administration’s (NHTSA) Federal Motor Vehicle Safety Standards, which requires a rim marking, such as the “DOT” symbol, indicating compliance with applicable motor vehicle standards. See 49 CFR 571.110 and 571.120. The scope includes certain on-the-road steel wheels imported with or without NHTSA’s required markings.

Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem or rims imported as an assembly with a tire mounted on the rim and/or with a valve stem are included in the scope of these investigations. However, if the steel wheels or rims are imported as an assembly with a tire mounted on the wheel or rim and/or with a valve stem attached, the tire and/or valve stem is not covered by the scope.

The scope includes rims, discs, and wheels that have been further processed in a third country, including, but not limited to, the painting of wheels from China and the welding and painting of rims and discs from China to form a steel wheel, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in China.

Excluded from this scope are the following:

- (1) Steel wheels for use with tube-type tires; such tires use multi piece rims, which are two-piece and three-piece assemblies and require the use of an inner tube;
- (2) aluminum wheels;
- (3) certain on-the-road steel wheels that are coated entirely in chrome. This exclusion is limited to chrome wheels coated entirely in chrome and produced through a chromium electroplating process, and does not extend to wheels that have been finished with other processes, including, but not limited to, Physical Vapor Deposition (PVD);
- (4) steel wheels that do not meet Standard 110 or 120 of the NHTSA’s requirements other than the rim marking requirements found in 49 CFR 571.110S4.4.2 and 571.120S5.2;

- (5) steel wheels that meet the following specifications: steel wheels with a nominal wheel diameter ranging from 15 inches to 16.5 inches, with a rim width of 8 inches or greater, and a wheel backspacing ranging from 3.75 inches to 5.5 inches; and
- (6) steel wheels with wire spokes.

Certain on-the-road steel wheels subject to these investigations are properly classifiable under the following category of the Harmonized Tariff Schedule of the United States (HTSUS): 8716.90.5035 which covers the exact product covered by the scope whether entered as an assembled wheel or in components. Certain on-the-road steel wheels entered with a tire mounted on them may be entered under HTSUS 8716.90.5059 (Trailers and semi-trailers; other vehicles, not mechanically propelled, parts, wheels, other, wheels with other tires) (a category that will be broader than what is covered by the scope). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

## **Attachment II**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Affirmative Determination of Critical Circumstances
- VI. Changes Since the Preliminary Determination
- VII. Adjustments to Cash Deposit Rates for Export Subsidies
- VIII. Use of Facts Otherwise Available and Adverse Inferences
- IX. Discussion of the Issues
  - Comment 1: Selection of the AFA Rate
  - Comment 2: Whether Critical Circumstances Exist
- X. Recommendation