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**UNITED STATES – CERTAIN METHODOLOGIES AND THEIR APPLICATION
TO ANTI-DUMPING PROCEEDINGS INVOLVING CHINA**

REQUEST FOR THE ESTABLISHMENT OF A PANEL BY CHINA

The following communication, dated 13 February 2014, from the delegation of China to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

1. On 3 December 2013 the People's Republic of China ("China") requested consultations with the United States of America ("United States") pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") and Article 17 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ("*Anti-Dumping Agreement*").¹

2. Consultations were held on 23 January 2014 with a view to reaching a mutually satisfactory solution. While these consultations assisted in clarifying some of the issues before the parties, they failed to resolve the dispute.

3. Therefore, China respectfully requests, pursuant to Articles 4.7 and 6 of the DSU, Article XXIII of the GATT 1994 and Articles 17.4 and 17.5 of the *Anti-Dumping Agreement*, that the Dispute Settlement Body ("DSB") establish a panel to examine this matter with the standard terms of reference described in Article 7.1 of the DSU.

4. In the following sections, China identifies the specific measures at issue and provides a brief summary of the legal basis of the complaint sufficient to present the problem clearly.

A. Application of the targeted dumping methodology in original investigations

5. In certain anti-dumping investigations involving allegations of so-called "targeted dumping", the United States Department of Commerce ("USDOC") applied a series of steps to determine the existence of a pattern of export prices differing amongst different purchasers, regions, or periods of time (a "relevant pricing pattern"). These steps, key elements of which were first set forth in the USDOC's investigation of *Certain Steel Nails from the People's Republic of China*, are, for convenience, collectively referred to as the "*Nails Test*".

6. In certain determinations in which application of the *Nails Test* led to a determination of what the USDOC considered to be a relevant pricing pattern, the USDOC expressed the view that use of a methodology involving comparisons of a weighted average normal value with a weighted average export price could not properly account for the relevant pricing pattern. On that basis, in relation to the exporter in question, the USDOC adopted a methodology in which a weighted average normal value was compared to the export prices from individual transactions.

¹ The request for consultations was circulated on 16 December 2013 in document WT/DS471/1, G/L/1060, G/ADP/D100/1.

7. In order to determine a margin of dumping for the product as a whole, the USDOC aggregated the results of the transaction-specific weighted average-to-transaction ("W-T") comparisons. However, when aggregating these intermediate comparison results, the USDOC used "zeroing" procedures, whereby it disregarded (*i.e.*, treated as zero) any amounts by which the export price of a given transaction exceeded the weighted average normal value. In addition, in each of the relevant investigations, the USDOC had divided the product group into separate models for purposes of comparing normal value and export prices. The USDOC nonetheless applied the W-T comparison methodology to all US sales of all models sold by the relevant exporters, even though the conditions of the *Nails Test* were only satisfied with respect to certain US sales or models sold by the relevant exporters.

8. China refers collectively to the practices referred to in paragraphs 0 to 0 above as the "targeted dumping methodology". For purposes of this request, the measures at issue include the determinations from anti-dumping investigations and related measures listed in Annex 1 in which the USDOC applied the targeted dumping methodology.

9. China considers that the application of the targeted dumping methodology in the investigations listed in Annex 1 is inconsistent with the obligations of the United States under Article 2.4.2 of the *Anti-Dumping Agreement*, because, *inter alia*:

- a) the steps addressed under the *Nails Test* applied by USDOC in each of the challenged investigations are not appropriate to identify a "pattern of export prices which differ significantly among different purchasers, regions or time periods" in the sense of the second sentence of Article 2.4.2;
- b) the USDOC omitted or otherwise failed to provide a reasoned and adequate explanation as to why the pattern of export prices USDOC purported to identify in each challenged investigation could not be taken into account appropriately by use of a weighted average-to-weighted average ("W-W") or transaction-to-transaction comparison, as required by the second sentence of Article 2.4.2;
- c) the USDOC applied the W-T comparison methodology to *all* US sales by relevant exporters, even though the conditions of the *Nails Test* were only satisfied with respect to certain US sales or models sold by the exporters concerned; and
- d) the USDOC used zeroing procedures when aggregating the results of individual W-T comparisons, thereby failing to determine the margin of dumping for the product as a whole.

B. Application of the targeted dumping methodology in reviews

10. In a recent administrative review, the USDOC applied the targeted dumping methodology, including the *Nails Test*, in order to address allegations of "targeted dumping" involving exports from China. In so doing, the USDOC applied the W-T comparison methodology, with zeroing, in determining the margin of dumping for the exporter's US sales during the period of review.

11. The measures at issue include the review determination and related measures listed in Annex 2.

12. China considers that the use by the USDOC of its targeted dumping methodology in the review phase of anti-dumping proceedings, as described in paragraph 10 above, is inconsistent with Article 9.3 of the *Anti-Dumping Agreement* and Article VI:2 of the GATT 1994, because *inter alia*, by using zeroing procedures, the USDOC fails to ensure that the amount of assessed anti-dumping duties does not exceed the margin of dumping determined for the product as a whole.

C. The Single Rate Presumption for Non-Market Economies

13. In anti-dumping proceedings relating to imports from countries that the United States considers to be non-market economies ("NMEs"), the USDOC presumes that all producers and exporters comprise a single entity under common government control (the "NME-wide entity"), for

which a single margin of dumping, or a single anti-dumping duty rate, is determined. The burden is placed upon the producers and exporters to rebut this presumption, and they may only do so by providing sufficient proof of an absence of government control, in law (*de jure*) and in fact (*de facto*), with respect to their export activities, based on a number of factors comprising the United States' "separate rate" test. China refers to this US rule, as a whole, comprising both the presumption and the separate rate test through which it may be rebutted, as the "Single Rate Presumption".

14. The Single Rate Presumption is a norm of general and prospective application. The Single Rate Presumption is evidenced by consistent application by the USDOC and is applied pursuant to the following measures:

- The regulation set forth in 19 C.F.R. § 351.107(d);
- Import Administration Policy Bulletin Number 05.1 of 5 April 2005; and,
- The Import Administration Antidumping Manual, 2009, Chapter 10.

15. For purposes of this request, the measures at issue include the Single Rate Presumption, as such, and the instruments listed in paragraph 14 above, as such.

16. The measures at issue also include the determinations and related measures listed in Annex 3, in which the Single Rate Presumption was applied.

17. China considers that these measures are inconsistent with the obligations of the United States under the following provisions of the *Anti-Dumping Agreement*:

- a) Article 6.10, because, *inter alia*, the USDOC fails to determine an individual margin of dumping for each known exporter or producer, or for each known exporter or producer to which it limits the examination;
- b) Article 9.2, because, *inter alia*, the USDOC fails to collect anti-dumping duties in the appropriate amounts in each case, and fails to name the suppliers of the product concerned; and
- c) Article 9.4, because, *inter alia*, the USDOC fails to assign exporters or producers not individually investigated a duty not exceeding the weighted average margin of dumping established with respect to the selected exporters or producers, excluding any zero and *de minimis* margins and margins established by resorting to facts available.

D. The NME-Wide Methodology

18. Applying the Single Rate Presumption, the USDOC calculates a single margin of dumping, or a single anti-dumping duty rate, for the NME-wide entity. In doing so, the USDOC applies a number of other practices, to which China refers, collectively, as the "NME-wide methodology". Features of the NME-wide methodology include the following practices:

- The systematic failure to request the information required to determine a margin of dumping for all the producers and exporters comprising the NME-wide entity, or for the NME-wide entity as a whole. China refers to the application of this practice, for ease of reference, as the "failure to request information".
- The systematic failure to allow all producers and exporters comprising the NME-wide entity, or the NME-wide entity as a whole, an appropriate opportunity to make submissions, oral or written, that would allow the USDOC to establish their margin of dumping without resorting to information from a secondary source. China refers to the application of this practice, for ease of reference, as the "failure to provide rights of defense".

- The systematic determination of the margin of dumping for all producers and exporters comprising the NME-wide entity on the basis of facts available, when one or more producers or exporters comprising the NME-wide entity fails to provide information requested of it. China refers to the application of this practice, for ease of reference, as the "recourse to facts available".

19. For purposes of this request, the measures at issue include the determinations and related measures listed in Annex 4, in which the USDOC applied practices described in paragraph 18 above.

20. China considers that these measures are inconsistent with the obligations of the United States under the following provisions of the *Anti-Dumping Agreement*:

- a) Article 6.1, because, *inter alia*, with regard to the failure to request information and the failure to provide rights of defense in the challenged measures, the USDOC failed to request necessary information from producers and exporters, and failed to provide them with ample opportunity to submit relevant evidence;
- b) Article 6.8 and Annex II, because, *inter alia*, with regard to the failure to request information and the failure to provide rights of defense in the challenged measures, the USDOC did not specify in detail the information required from all interested parties, and, with regard to the recourse to facts available in the challenged measures, the USDOC resorted to facts available in making dumping determinations without having requested from the interested parties the information necessary to make such determinations;
- c) Article 6.8 and Annex II, because, *inter alia*, with regard to the recourse to facts available in the challenged measures, the USDOC did not assess the facts properly and objectively in finding that the NME-wide entity failed to cooperate in providing information necessary to determine a margin of dumping for that entity, failed to use the best information available, and failed to exercise special circumspection when basing its findings on information from secondary sources; and
- d) Article 9.4, because, *inter alia*, to the extent that the NME-wide entity was not individually investigated, the anti-dumping duty exceeds the weighted average margin of dumping established with respect to the selected exporters or producers, excluding any zero and *de minimis* margins and margins established by resorting to facts available.

E. The Use of Adverse Facts Available

21. When the USDOC considers that a producer or exporter has failed to cooperate by not acting to the best of its ability, it uses inferences that are "adverse to the interests of that party in selecting from among the facts otherwise available".² China refers to the USDOC's approach as the "Use of Adverse Facts Available".

22. That the USDOC will apply the Use of Adverse Facts Available is a norm of general and prospective application. The Use of Adverse Facts Available is evidenced by consistent application by the USDOC and, in relation to NMEs, the Import Administration Antidumping Manual, 2009, Chapter 10.

23. The Use of Adverse Facts Available is consistently applied pursuant to:

- Section 776(b) of the Tariff Act of 1930, codified at 19 U.S.C. § 1677e(b); and
- Regulations set forth in 19 C.F.R. § 351.308.

24. For purposes of this request, the measures at issue include the Use of Adverse Facts Available, as such, and the instruments listed in paragraph 23 above, as such.

² Section 776(b) of the Tariff Act of 1930, codified at 19 U.S.C. § 1677e(b).

25. The measures at issue also include the determinations and related measures listed in Annex 5 in which the Use of Adverse Facts Available was applied by the USDOC.

26. China considers that these measures are inconsistent with the obligations of the United States under Article 6.8 and Annex II of the *Anti-Dumping Agreement*, because, *inter alia*, in using adverse facts available, the United States fails to use the best information available and special circumspection when basing its findings on information from secondary sources.

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27. China asks that this request be placed on the agenda for the meeting of the DSB scheduled to take place on 26 February 2014.

ANNEX 1
CHALLENGED MEASURES IN INVESTIGATIONS IN WHICH THE USDOC
APPLIED THE TARGETED DUMPING METHODOLOGY (PARA. 8)

(1) ***Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China*** (USDOC investigation number A-570-958)

including:

- o the Final Determination of Sales at Less Than Fair Value, 75 FR 59217 (27 September 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Order, 75 FR 70203 (17 November 2010);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the W-T comparison methodology to determine a dumping margin, dumping margins or an anti-dumping duty rate or rates.

(2) ***Certain Oil Country Tubular Goods from the People's Republic of China*** (USDOC investigation number A-570-943)

including:

- o the Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (19 April 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 75 FR 28551 (21 May 2010);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the W-T comparison methodology to determine a dumping margin, dumping margins or an anti-dumping duty rate or rates.

(3) ***High Pressure Steel Cylinders From the People's Republic of China*** (USDOC investigation number A-570-977)

including:

- o the Final Determination of Sales at Less Than Fair Value, 77 FR 26739 (7 May 2012);
- o the Antidumping Duty Order, 77 FR 37377 (21 June 2012);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the W-T comparison methodology to determine a dumping margin, dumping margins or an anti-dumping duty rate or rates.

ANNEX 2
CHALLENGED MEASURES IN REVIEWS IN WHICH THE USDOC
APPLIED THE TARGETED DUMPING METHODOLOGY (PARA. 11)

(1) ***Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China*** (USDOC investigation number A-570-924)

including:

- o the Final Results of Antidumping Duty Administrative Review; 2010–2011, 78 FR 35245 (12 June 2013);
- o any modification, replacement or amendment to the measure listed above; and
- o any closely connected, subsequent measures that involve the application of the W-T comparison methodology to determine a dumping margin, dumping margins or an anti-dumping duty rate or rates.

ANNEX 3
CHALLENGED MEASURES IN WHICH THE USDOC
APPLIED THE SINGLE RATE PRESUMPTION (PARA. 16)

(1) ***Aluminum Extrusions From the People's Republic of China*** (USDOC investigation number A-570-967)

including:

- o the Final Determination of Sales at Less Than Fair Value, 76 FR 18524 (4 April 2011);
- o the Antidumping Duty Order, 76 FR 30650 (26 May 2011);
- o the Final Results of Antidumping Duty Administrative Review and Rescission, in Part, 2010/12, 79 FR 96 (2 January 2014);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(2) ***Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China*** (USDOC investigation number A-570-958)

including:

- o the Final Determination of Sales at Less Than Fair Value, 75 FR 59217 (27 September 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Order, 75 FR 70203 (17 November 2010);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(3) ***Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China*** (USDOC investigation number A-570-893)

including:

- o the Notice of Final Determination of Sales at Less Than Fair Value, 69 FR 70997 (8 December 2004);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 70 FR 5149 (1 February 2005);
- o the Final Results of Administrative Review; 2011–2012, 78 FR 56209 (12 September 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(4) ***Certain New Pneumatic Off-The-Road Tires from the People's Republic of China (USDOC investigation number A-570-912)***

including:

- o the Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (15 July 2008);
- o the Notice of Amended Final Affirmative Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 73 FR 51624 (4 September 2008);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision, 75 FR 49459 (13 August 2010);
- o the Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part; 2010–2011, 78 FR 22513 (16 April 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(5) ***Certain Oil Country Tubular Goods from the People's Republic of China (USDOC investigation number A-570-943)***

including:

- o the Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (19 April 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 75 FR 28551 (21 May 2010);
- o the Final Results of Antidumping Duty Administrative Review; 2010–2011, 77 FR 74644 (17 December 2012);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(6) ***Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China (USDOC investigation number A-570-979)***

including:

- o the Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part, 77 FR 63791 (17 October 2012);
- o the Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (7 December 2012);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(7) ***Diamond Sawblades and Parts Thereof from the People's Republic of China (USDOC investigation number A-570-900)***

including:

- o the Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances, 71 FR 29303 (22 May 2006);
- o the Antidumping Duty Orders, 74 FR 57145 (4 November 2009);
- o the Final Results of Antidumping Duty Administrative Review; 2009–2010, 78 FR 11143 (15 February 2013);
- o the Final Results of Antidumping Duty Administrative Review; 2010–2011, 78 FR 36166 (17 June 2013);
- o the Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value and Notice of Amended Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision, 78 FR 65289 (31 October 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(8) ***High Pressure Steel Cylinders From the People's Republic of China (USDOC investigation number A-570-977)***

including:

- o the Final Determination of Sales at Less Than Fair Value, 77 FR 26739 (7 May 2012);
- o the Antidumping Duty Order, 77 FR 37377 (21 June 2012);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(9) ***Multilayered Wood Flooring From the People's Republic of China (USDOC investigation number A-570-970)***

including:

- o the Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (18 October 2011);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 76 FR 76690 (8 December 2011);
- o the Amended Antidumping and Countervailing Duty Orders, 77 FR 5484 (3 February 2012);
- o the Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 70267 (25 November 2013) and any final determination in this proceeding;
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(10) ***Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China*** (USDOC investigation number A-570-952)

including:

- o the Final Determination of Sales at Less Than Fair Value, 75 FR 41808 (19 July 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value, 75 FR 51979 (24 August 2010);
- o the Antidumping Duty Orders, 75 FR 53632 (1 September 2010);
- o the Amended Antidumping Duty Orders, 75 FR 56982 (17 September 2010);
- o the Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 10130 (13 February 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(11) ***Polyethylene Retail Carrier Bags From the People's Republic of China*** (USDOC investigation number A-570-886)

including:

- o the Notice of Final Determination of Sales at Less Than Fair Value, 69 FR 34125 (18 June 2004);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value, 69 FR 42419 (15 July 2004);
- o the Antidumping Duty Order, 69 FR 48201 (9 August 2004);
- o the Final Results of Antidumping Duty Administrative Review, 74 FR 6857 (11 February 2009);
- o the Final Results of Antidumping Duty Administrative Review, 74 FR 63718 (4 December 2009);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(12) ***Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China*** (USDOC investigation number A-570-924)

including:

- o the Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (24 September 2008);
- o the Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates, 73 FR 66595 (10 November 2008);
- o the Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 35245 (12 June 2013);
- o any modification, replacement or amendment to the measures listed above; and

- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

(13) ***Wooden Bedroom Furniture From the People's Republic of China (USDOC investigation number A-570-890)***

including:

- o the Final Determination of Sales at Less Than Fair Value, 69 FR 67313 (17 November 2004);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 70 FR 329 (4 January 2005);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value/Pursuant to Court Decision, 71 FR 34305 (14 June 2006);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value/Pursuant to Court Decision, 71 FR 35870 (22 June 2006);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order/Pursuant to Court Decision, 71 FR 67099 (20 November 2006);
- o the Final Results of Antidumping Duty Administrative Review; 2011, 78 FR 35249 (12 June 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of the Single Rate Presumption.

ANNEX 4
CHALLENGED MEASURES IN WHICH THE USDOC
APPLIED ASPECTS OF THE NME-WIDE METHODOLOGY (PARA. 19)

(1) ***Aluminum Extrusions from the People's Republic of China*** (USDOC investigation number A-570-967)

including:

- o the Final Determination of Sales at Less Than Fair Value, 76 FR 18524 (4 April 2011);
- o the Antidumping Duty Order, 76 FR 30650 (26 May 2011);
- o the Final Results of Antidumping Duty Administrative Review and Rescission, in Part, 2010/12, 79 FR 96 (2 January 2014);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(2) ***Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China*** (USDOC investigation number A-570-958)

including:

- o the Final Determination of Sales at Less Than Fair Value, 75 FR 59217 (27 September 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Order, 75 FR 70203 (17 November 2010);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(3) ***Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China*** (USDOC investigation number A-570-893)

including:

- o the Notice of Final Determination of Sales at Less Than Fair Value, 69 FR 70997 (8 December 2004);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 70 FR 5149 (1 February 2005);
- o the Final Results of Administrative Review; 2011–2012, 78 FR 56209 (12 September 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(4) ***Certain New Pneumatic Off-The-Road Tires from the People's Republic of China (USDOC investigation number A-570-912)***

including:

- o the Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (15 July 2008);
- o the Notice of Amended Final Affirmative Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 73 FR 51624 (4 September 2008);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision, 75 FR 49459 (13 August 2010);
- o the Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part; 2010–2011, 78 FR 22513 (16 April 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(5) ***Certain Oil Country Tubular Goods from the People's Republic of China (USDOC investigation number A-570-943)***

including:

- o the Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (19 April 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 75 FR 28551 (21 May 2010);
- o the Final Results of Antidumping Duty Administrative Review; 2010–2011, 77 FR 74644 (17 December 2012);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(6) ***Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China (USDOC investigation number A-570-979)***

including:

- o the Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part, 77 FR 63791 (17 October 2012);
- o the Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (7 December 2012);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(7) ***Diamond Sawblades and Parts Thereof from the People's Republic of China (USDOC investigation number A-570-900)***

including:

- o the Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances, 71 FR 29303 (22 May 2006);
- o the Antidumping Duty Orders, 74 FR 57145 (4 November 2009);
- o the Final Results of Antidumping Duty Administrative Review; 2009–2010, 78 FR 11143 (15 February 2013);
- o the Final Results of Antidumping Duty Administrative Review; 2010–2011, 78 FR 36166 (17 June 2013);
- o the Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value and Notice of Amended Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision, 78 FR 65289 (31 October 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(8) ***High Pressure Steel Cylinders From the People's Republic of China (USDOC investigation number A-570-977)***

including:

- o the Final Determination of Sales at Less Than Fair Value, 77 FR 26739 (7 May 2012);
- o the Antidumping Duty Order, 77 FR 37377 (21 June 2012);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(9) ***Multilayered Wood Flooring From the People's Republic of China (USDOC investigation number A-570-970)***

including:

- o the Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (18 October 2011);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 76 FR 76690 (8 December 2011);
- o the Amended Antidumping and Countervailing Duty Orders, 77 FR 5484 (3 February 2012);
- o the Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 70267 (25 November 2013) and any final determination in this proceeding;
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(10) ***Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China*** (USDOC investigation number A-570-952)

including:

- o the Final Determination of Sales at Less Than Fair Value, 75 FR 41808 (19 July 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value, 75 FR 51979 (24 August 2010);
- o the Antidumping Duty Orders, 75 FR 53632 (1 September 2010);
- o the Amended Antidumping Duty Orders, 75 FR 56982 (17 September 2010);
- o the Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 10130 (13 February 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(11) ***Polyethylene Retail Carrier Bags From the People's Republic of China*** (USDOC investigation number A-570-886)

including:

- o the Notice of Final Determination of Sales at Less Than Fair Value, 69 FR 34125 (18 June 2004);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value, 69 FR 42419 (15 July 2004);
- o the Antidumping Duty Order, 69 FR 48201 (9 August 2004);
- o the Final Results of Antidumping Duty Administrative Review, 74 FR 6857 (11 February 2009);
- o the Final Results of Antidumping Duty Administrative Review, 74 FR 63718 (4 December 2009);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(12) ***Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China*** (USDOC investigation number A-570-924)

including:

- o the Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (24 September 2008);
- o the Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates, 73 FR 66595 (10 November 2008);
- o the Final Results of Antidumping Duty Administrative Review; 2010–2011, 78 FR 35245 (12 June 2013);
- o any modification, replacement or amendment to the measures listed above; and

- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

(13) ***Wooden Bedroom Furniture From the People's Republic of China*** (USDOC investigation number A-570-890)

including:

- o the Final Determination of Sales at Less Than Fair Value, 69 FR 67313 (17 November 2004);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 70 FR 329 (4 January 2005);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value/Pursuant to Court Decision, 71 FR 34305 (14 June 2006);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value/Pursuant to Court Decision, 71 FR 35870 (22 June 2006);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order/Pursuant to Court Decision, 71 FR 67099 (20 November 2006);
- o the Final Results of Antidumping Duty Administrative Review; 2011, 78 FR 35249 (12 June 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of any challenged aspect of the NME-Wide Methodology.

ANNEX 5
CHALLENGED MEASURES IN WHICH THE USE OF ADVERSE FACTS
AVAILABLE WAS APPLIED (PARA. 25)

(1) ***Aluminum Extrusions From the People's Republic of China*** (USDOC investigation number A-570-967)

including:

- o the Final Determination of Sales at Less Than Fair Value, 76 FR 18524 (4 April 2011);
- o the Antidumping Duty Order, 76 FR 30650 (26 May 2011);
- o the Final Results of Antidumping Duty Administrative Review and Rescission, in Part, 2010/12, 79 FR 96 (2 January 2014);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(2) ***Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China*** (USDOC investigation number A-570-958)

including:

- o the Final Determination of Sales at Less Than Fair Value, 75 FR 59217 (27 September 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Order, 75 FR 70203 (17 November 2010);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(3) ***Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China*** (USDOC investigation number A-570-893)

including:

- o the Notice of Final Determination of Sales at Less Than Fair Value, 69 FR 70997 (8 December 2004);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 70 FR 5149 (1 February 2005);
- o the Final Results of Administrative Review; 2011-2012, 78 FR 56209 (12 September 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(4) ***Certain New Pneumatic Off-The-Road Tires from the People's Republic of China (USDOC investigation number A-570-912)***

including:

- o the Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (15 July 2008);
- o the Notice of Amended Final Affirmative Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 73 FR 51624 (4 September 2008);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision, 75 FR 49459 (13 August 2010);
- o the Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part; 2010–2011, 78 FR 22513 (16 April 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(5) ***Certain Oil Country Tubular Goods from the People's Republic of China (USDOC investigation number A-570-943)***

including:

- o the Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (19 April 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 75 FR 28551 (21 May 2010);
- o the Final Results of Antidumping Duty Administrative Review; 2010–2011, 77 FR 74644 (17 December 2012);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(6) ***Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China (USDOC investigation number A-570-979)***

including:

- o the Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part, 77 FR 63791 (17 October 2012);
- o the Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (7 December 2012);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(7) ***Diamond Sawblades and Parts Thereof from the People's Republic of China (USDOC investigation number A-570-900)***

including:

- o the Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances, 71 FR 29303 (22 May 2006);
- o the Antidumping Duty Orders, 74 FR 57145 (4 November 2009);
- o the Final Results of Antidumping Duty Administrative Review; 2009–2010, 78 FR 11143 (15 February 2013);
- o the Final Results of Antidumping Duty Administrative Review; 2010–2011, 78 FR 36166 (17 June 2013);
- o the Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value and Notice of Amended Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision, 78 FR 65289 (31 October 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(8) ***High Pressure Steel Cylinders From the People's Republic of China (USDOC investigation number A-570-977)***

including:

- o the Final Determination of Sales at Less Than Fair Value, 77 FR 26739 (7 May 2012);
- o the Antidumping Duty Order, 77 FR 37377 (21 June 2012);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(9) ***Multilayered Wood Flooring From the People's Republic of China (USDOC investigation number A-570-970)***

including:

- o the Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (18 October 2011);
- o the Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 76 FR 76690 (8 December 2011);
- o the Amended Antidumping and Countervailing Duty Orders, 77 FR 5484 (3 February 2012);
- o the Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 70267 (25 November 2013) and any final determination in this proceeding;
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(10) ***Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China*** (USDOC investigation number A-570-952)

including:

- o the Final Determination of Sales at Less Than Fair Value, 75 FR 41808 (19 July 2010);
- o the Amended Final Determination of Sales at Less Than Fair Value, 75 FR 51979 (24 August 2010);
- o the Antidumping Duty Orders, 75 FR 53632 (1 September 2010);
- o the Amended Antidumping Duty Orders, 75 FR 56982 (17 September 2010);
- o the Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 10130 (13 February 2013);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(11) ***Polyethylene Retail Carrier Bags From the People's Republic of China*** (USDOC investigation number A-570-886)

including:

- o the Notice of Final Determination of Sales at Less Than Fair Value, 69 FR 34125 (18 June 2004);
- o the Notice of Amended Final Determination of Sales at Less Than Fair Value, 69 FR 42419 (15 July 2004);
- o the Antidumping Duty Order, 69 FR 48201 (9 August 2004);
- o the Final Results of Antidumping Duty Administrative Review, 74 FR 6857 (11 February 2009);
- o the Final Results of Antidumping Duty Administrative Review, 74 FR 63718 (4 December 2009);
- o any modification, replacement or amendment to the measures listed above; and
- o any closely connected, subsequent measures that involve the application of adverse facts available.

(12) ***Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China*** (USDOC investigation number A-570-924)

including:

- o the Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (24 September 2008);
- o the Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates, 73 FR 66595 (10 November 2008);
- o the Final Results of Antidumping Duty Administrative Review; 2010–2011, 78 FR 35245 (12 June 2013);
- o any modification, replacement or amendment to the measures listed above; and

- o any closely connected, subsequent measures that involve the application of adverse facts available.

(13) ***Wooden Bedroom Furniture From the People's Republic of China (USDOC investigation number A-570-890)***

including:

- o the Final Determination of Sales at Less Than Fair Value, 69 FR 67313 (17 November 2004);
 - o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 70 FR 329 (4 January 2005);
 - o the Notice of Amended Final Determination of Sales at Less Than Fair Value/Pursuant to Court Decision, 71 FR 34305 (14 June 2006);
 - o the Notice of Amended Final Determination of Sales at Less Than Fair Value/Pursuant to Court Decision, 71 FR 35870 (22 June 2006);
 - o the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order/Pursuant to Court Decision, 71 FR 67099 (20 November 2006);
 - o the Final Results of Antidumping Duty Administrative Review; 2011, 78 FR 35249 (12 June 2013);
 - o any modification, replacement or amendment to the measures listed above; and
 - o any closely connected, subsequent measures that involve the application of adverse facts available.
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