

the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 3.90 percent, the all-others rate established in the LTFV investigation.⁹ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order (APO)

This notice serves as the only reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/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 sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 12, 2025.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Results*
- IV. Scope of the *Order*
- V. Discussion of the Issues
 - Comment 1: Whether to Include Certain Movement Expenses in Icdas' Normal Value (NV) Calculation

Comment 2: Whether Commerce Used the Appropriate Date of Sale for Colakoglu
 Comment 3: Whether Commerce Should Utilize the Cohen's *d* Test for Colakoglu
 VI. Recommendation

[FR Doc. 2025-08894 Filed 5-16-25; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 250514-0087; RTID: 0625-XC054]

Alternatives to the Use of Cohen's *d*; Request for Comment

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

ACTION: Notice; request for comment.

SUMMARY: The U.S. Department of Commerce (Commerce) seeks information and public comment on how the administering authority can meet the statutory requirement outlined in section 777A(d)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act), to identify if "there is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time." The U.S. Court of Appeals for the Federal Circuit (Federal Circuit) recently held that it is unreasonable to use the current Cohen's *d* test when the Cohen's *d* test is applied to data that do not satisfy the statistical assumptions of normal distribution, equal variances, and sufficiently numerous data. Commerce seeks information and public comment regarding alternatives to the use of the Cohen's *d* test to define when prices differ significantly among purchasers, regions, and time periods, pursuant to section 777A(d)(1)(B)(i) of the Act.

DATES: Comments must be submitted no later than May 30, 2025.

ADDRESSES: Submit comments, identified by ITA-2025-0004, by either of the following methods to ensure that the comments are received and considered:

- **Electronic Submission:** Submit all electronic comments via the Federal eRulemaking Portal. Go to <https://www.regulations.gov> and type Docket No. ITA-2025-0004 in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Comments may also be submitted by mail or hand delivery/courier, addressed to Christopher Abbott, Deputy Assistant Secretary for Policy and Negotiations, performing the

non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, Room 18022, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. An appointment *must* be made in advance with the APO/Dockets Unit at (202) 482-4920 to submit comments in person by hand delivery or courier.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments and information received are a part of the public record and will generally be posted to <https://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. Commerce will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. Therefore, do not submit confidential business information or otherwise sensitive or protected information.

All comments and information must be in English or be accompanied by a complete English translation to be considered. Commerce will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only. Supporting documents and any comments received on this docket may be viewed at <https://www.regulations.gov/document/ITA-2025-0004>.

Any questions concerning the process for submitting comments should be directed to the Enforcement and Compliance Communications Office at (202) 482-1413 or ECCcommunications@trade.gov.

FOR FURTHER INFORMATION CONTACT: Melissa Porpotage, Enforcement and Compliance Communications Office at (202) 482-1413.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of Commerce (Commerce) administers the antidumping and countervailing duty (AD/CVD) trade remedy laws. Commerce generally calculates dumping margins by one of two methods: (1) by comparing the weighted average of the normal values to the weighted average

⁹ See *Order*, 87 FR at 935.

of the export prices (or constructed export prices) for comparable merchandise (known as the average-to-average method); or (2) by comparing the normal values of individual transactions to the export prices (or constructed export prices) of individual transactions for comparable merchandise (known as the transaction-to-transaction method).¹ The statute also provides for an exception to these two comparison methodologies when Commerce finds that there is a pattern of export prices or constructed export prices for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and where such differences cannot be taken into account using one of the comparison methods described above.² When these criteria are satisfied, Commerce may compare the weighted average of the normal values to the export price (or constructed export price) of individual transactions for comparable merchandise (known as the average-to-transaction method).

The Federal Circuit has held that, if statutory conditions are satisfied, this provision authorizes Commerce to use the average-to-transaction comparison methodology to address “masked” dumping.³ The Federal Circuit further held that under the average-to-average comparison methodology, “sales of low-priced ‘dumped merchandise’ would be averaged with (and offset by) the sales of higher-price ‘masking’ merchandise, giving the impression that no dumping was taking place and frustrating the antidumping statute’s purpose.”⁴ Commerce addresses this concern by comparing the weighted average of the normal values to the export prices (or constructed export prices) of individual transactions for comparable merchandise, if there is a pattern of export prices for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and the administering authority can explain why such differences cannot be taken into account using a method described in paragraph (1)(A)(i) or (ii) of section 777A(d)(1)(B)(i) of the Act. In other words, the average-to-transaction method can be used when two preconditions are met: (1) a pattern of prices that differ significantly exists, and (2) the average-to-average

¹ See section 777A(d)(1)(A) of the Act (19 U.S.C. 1677f-1(d)(1)(A)).

² See section 777A(d)(1)(B) of the Act (19 U.S.C. 1677f-1(d)(1)(B)).

³ See *Apex Frozen Foods Private Ltd. v. United States*, 862 F.3d 1337, 1341 (Fed. Cir. 2017).

⁴ *Id.*; see also generally, *Differential Pricing Analysis: Request for Comments*, 79 FR 26720 (May 9, 2014).

comparison method cannot account for such differences.

In conducting its analysis under section 777A(d)(1)(B)(i) of the Act, Commerce has applied various methodologies,⁵ and is currently applying the Cohen’s *d* test as part of its differential pricing analysis.⁶

Commerce is considering possible alternatives to the current approach for conducting analysis under section 777A(d)(1)(B)(i) of the Act with respect to identifying when prices differ significantly among purchasers, regions, or periods of time.

Accordingly, Commerce solicits public comment and information on potential alternative approaches for analyzing a respondent’s U.S. prices under section 777A(d)(1)(B)(i) of the Act to identify if there is a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or periods of time.

Opportunity for Public Comment and Information

For each submission, please provide comments that specifically address the statutory criteria outlined under section 777A(d)(1)(B)(i) of the Act and include an executive summary of your comments (500-word maximum).

Dated: May 14, 2025.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2025–08914 Filed 5–15–25; 11:15 am]

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⁵ *Id.* (discussing various approaches).

⁶ The Federal Circuit recently held that it is unreasonable to use the current Cohen’s *d* test, as part of its differential pricing analysis, which Commerce utilized for over a decade, when the test is applied to data sets that do not satisfy the statistical assumptions of normal distribution, equal variability, and sufficiently numerous data. See *Marmen Inc. v. United States*, 2025 U.S. App. LEXIS, 9506 (Fed. Cir. April 22, 2025). At this time, this decision is not final and conclusive, as there is a possibility of rehearing and/or appeal, and the Court’s mandate has not been issued. See Notes of Committee on Rules—1998 Amendment (subdivision c)—Fed. Rule of Appellate Procedure 41 (“A court of appeals’ judgment or order is not final until issuance of the mandate; at that time the parties’ obligations become fixed.”); *GPX Int’l Tire Corp. v. United States*, 678 F.3d 1308, 1312 (Fed. Cir. 2012) (“An appellate court’s decision is not final until its mandate issues.”); *Heartland By-Products, Inc. v. United States*, 223 F. Supp 2d 1317, 1332 (CIT 2002) (“Under the Federal Rules of Appellate Procedure, an opinion of the appeals court is not final until it issues its mandate.”). Thus, there is no requirement for specific agency action in response to this decision at this time; however, we are not precluded from seeking public comment regarding potential alternatives to the current approach, which the agency is free to modify, if appropriate, at any time.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–557–833]

Float Glass Products From Malaysia: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of float glass products from Malaysia. The period of investigation is January 1, 2023, through December 31, 2023. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 19, 2025.

FOR FURTHER INFORMATION CONTACT: Mira Warriar or Benjamin Nathan, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8031 or (202) 482–3834, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 8, 2025.¹ On February 20, 2025, Commerce postponed the preliminary determination until May 12, 2025.² On May 7, 2025, the petitioner alleged that, pursuant to section 703(e)(1) of the Act and 19 CFR 351.206, critical circumstances exist with respect to imports of float glass products from Malaysia.³ As the allegation was submitted later than 20 days before the scheduled date of the preliminary determination, Commerce’s intends to issue a separate preliminary critical circumstances determination no later than 30 days after the submission of the

¹ See *Float Glass Products from the People’s Republic of China and Malaysia: Initiation of Countervailing Duty Investigations*, 90 FR 1443 (January 8, 2025) (*Initiation Notice*).

² See *Float Glass Products from the People’s Republic of China and Malaysia: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 90 FR 9963 (February 20, 2025).

³ See Petitioner’s Letter, “Petitioner’s Allegation of Critical Circumstances,” dated May 7, 2025.