A-570-918
ARP: 3/25/08 – 9/30/09
Public Document
IA/NME/9: IG/JS

May 9, 2011

MEMORANDUM TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Steel Wire Garment Hangers from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the First Antidumping Duty Administrative Review

---

SUMMARY:

We have analyzed the case and rebuttal briefs of interested parties in the first administrative review of the antidumping duty order on steel wire garment hangers from the People's Republic of China ("PRC"). As a result of our analysis, we have made changes to Steel Wire Garment Hangers from the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review, 75 FR 68758 (November 9, 2010) ("Preliminary Results"). We recommend that you approve the positions described in the "Discussion of the Issues" section of this Issues and Decision Memorandum. Below is the complete list of the issues in this antidumping duty administrative review for which we received comments and rebuttal comments from interested parties:

General Issues
Comment 1: Treatment of Sales with Negative Margins
Comment 2: Surrogate Financial Ratios
Comment 3: Calculation of the Separate Rate Margin

Company-Specific Issues

Dingli
Comment 4: Whether to Assign Adverse Facts Available ("AFA") to Dingli
- **A. U.S. Customs and Border Protection ("CBP") Data on the Record**
- **B. Hanger Quantity Conversions**
- **C. Hydrochloric Acid ("HCL") Consumption**
- **D. Weight of Packing Cartons**
- **E. Sale of Machinery**
- **F. Changes to Margin Calculation Per Verification Findings**

Comment 5: Calculation of Domestic Movement Expenses
Comment 6: Byproduct Offset for Scrap Iron Buckets

Wells
Comment 7: Calculation of Domestic Movement Expenses

BACKGROUND:

The merchandise covered by the order are steel wire garment hangers as described in the "Scope of the Order" section of the Preliminary Results. The period of review ("POR") is March 25, 2008, through September 30, 2009. In accordance with 19 CFR 351.309(c)(ii), we invited parties to comment on our Preliminary Results.

Before the Preliminary Results, M&B Metal Products Co., Inc. ("Petitioner") alleged that Shaoxing Dingli Metal Clotheshorse Co., Ltd. ("Dingli") did not report its full universe of sales to the Department.[1] Although we stated in the Preliminary Results that "there is no CBP documentation that any of the alleged unreported sales entered the United States for consumption,"[2] on March 17, 2011, we nonetheless placed on the record certain entry data obtained from U.S. Customs and Border Protection ("CBP") with respect to Dingli and its sales to a specific importer. We also solicited comments from interested parties regarding this CBP data. Both Petitioner and Dingli filed comments regarding these data on March 21, 2011. Dingli filed rebuttal comments on March 23, 2011.

On March 23, 2011, Shanghai Wells Hanger Co., Ltd. ("Wells")[3] filed a case brief. On March 24, 2011, Petitioner, Dingli, Fabricare[4], and the Shaoxing Metal Companies[5] filed case briefs. On March 30, 2011, pursuant to 19 CFR 351.302(d), we rejected Petitioner's case brief because it contained unsolicited, untimely filed new factual information that has not been previously placed on the record of this review.[6] On March 31, 2011, Petitioner re-submitted its case brief without the rejected new factual information. On April 1, 2011, Petitioner filed a letter requesting the Department of Commerce ("Department") to reopen the record and allow the new

[1] See Petitioner's comments dated August 27, 2010; see also Preliminary Results 75 FR at 68765.
[2] See Preliminary Results 75 FR at 68765.
[3] In the Preliminary Results, we preliminarily found that Wells, Hong Kong Wells Limited ("HK Wells"), and Hong Kong Wells Limited (USA) ("Wells USA") are affiliated, pursuant to sections 771(33)(A), (E), and (F) of the Tariff Act of 1930, as amended ("Act"). In addition, we also preliminarily found that Wells and HK Wells should be treated as a single entity for the purposes of this administrative review. See Preliminary Results 75 FR at 68759. For the final results, we continue to find that Wells, HK Wells, and Wells USA are affiliated pursuant to sections 771(33)(A), (E), and (F) of the Act. We also continue to find that Wells and HK Wells comprise a single entity, pursuant to 19 CFR 351.401(f)(1) and (2). See id.
[4] Fabricare Choice Distributors Group is a U.S. importer of subject merchandise.
[5] The Shaoxing Metal Companies are: Shaoxing Gangyuan Metal Manufactured Co. Ltd., Shaoxing Tongzhou Metal Manufactured Co. Ltd., and Shaoxing Andrew Metal Manufactured Co., Ltd. We have determined that these three companies comprise a single entity, pursuant to 19 CFR 351.401(f)(1) and (2). See Preliminary Results 75 FR at 68766; see also Steel Wire Garment Hangers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 47587, 47589 ("Hangers LTFV"). For the final results, we continue to find that Shaoxing Gangyuan Metal Manufactured Co. Ltd., Shaoxing Tongzhou Metal Manufactured Co. Ltd., and Shaoxing Andrew Metal Manufactured Co., Ltd. comprise a single entity, as determined in the underlying investigation, pursuant to 19 CFR 351.401(f)(1) and (2) and in the Preliminary Results. See Preliminary Results 75 FR at 68766.
[6] See Department's Letter dated March 30, 2011, explaining our rejection of Petitioner's case brief and informing all interested parties to destroy their copies.

factual information to be placed on the record. On April 1, 2011, Petitioner, Dingli[7], and the Shaoxing Metal Companies filed rebuttal briefs. On April 4, 2011, after reviewing the Petitioner's April 1, 2011 letter and the facts and circumstances of this administrative review, the Department determined that, pursuant to 19 CFR 351.302(b), there was good cause to extend the time limits for submitting new factual information and, as a result, informed Petitioner that we would accept its submission. On April 5, 2011, Petitioner submitted the new factual information and on April 8, 2011, Petitioner filed comments regarding this information. On April 12, 2011, Dingli filed rebuttal comments to Petitioner's new factual information.[8] Lastly, the Department did not hold a public hearing pursuant to 19 CFR 351.310(d) because all requests for a public hearing were withdrawn by interested parties.

DISCUSSION OF THE ISSUES:

General Issues

Comment 1: Treatment of Sales with Negative Margins

Dingli and Fabricare's Case Briefs

- The Department should not "zero" respondents' negative dumping margins in the final results, by reducing the negative margins to zero in the margin calculation program.
- The practice of "zeroing" is contrary to law, under sections 771(35)(A) and (B) of the Act because the Act directs the Department to aggregate positive and negative individual dumping margins and divide that by the aggregate export prices ("EP") and constructed export prices ("CEP").
- The Department's failure to adopt the same treatment of negative margins in administrative reviews as it does in antidumping investigations is inconsistent with the application of the statute.
- The Department should follow the WTO dispute-settlement reports ("WTO reports"), which find the denial of offsets by the United States to be inconsistent with its obligations.
- Dingli argues that the Department ought to apply a consistent interpretation of section 771(35) of the Act to administrative reviews and investigations, and the Department should not employ its "zeroing" methodology in this administrative review based on the recent Court of Appeals for the Federal Circuit ("CAFC") decision in Dongbu Steel Co., Ltd. v. United States, No. 2010-1272, Slip Op. (Fed. Cir. 2011) ("Dongbu").

Petitioner's Rebuttal Brief

- The Department just recently rejected arguments regarding its "zeroing" methodology.[9]
- The Department should continue to adhere to its current, court-sanctioned "zeroing" methodology.

[7] On April 5, 2011, Dingli filed a letter stating that Petitioner's rebuttal brief dated April 1, 2011, contained new factual information with respect to Sterling Tools Limited's financial statements, which had not been presented by any parties in affirmative arguments. Dingli states that this constitutes new factual information, and should be stricken from the record.

[8] On April 14, 2011, Petitioner filed comments arguing that Dingli's rebuttal comments to Petitioner's new information dated April 5, 2011, contained new information and ought to be rejected.

[9] See Certain Steel Nails From the People's Republic of China: Final Results of the First Antidumping Duty Administrative Review, 76 FR 16379 (March 23, 2011) and accompanying Issues and Decision Memorandum at Comment 7 ("Nails AR1 Final").

- The Department's proposed changes to the "zeroing" methodology are merely proposed modifications that do not have the force of law or practice, unless formally adopted.

Department's Position:

We have not changed our calculation of the weighted-average dumping margin as suggested by the respondent for these final results.

Section 771(35)(A) of the Act defines "dumping margin" as the "amount by which the normal value exceeds the export price or constructed export price of the subject merchandise." Outside the context of antidumping investigations involving average-to-average comparisons, the Department interprets this statutory definition to mean that a dumping margin exists only when normal value ("NV") is greater than EP or CEP. As no dumping margins exist with respect to sales where NV is equal to or less than EP or CEP, the Department will not permit these non-dumped sales to offset the amount of dumping found with respect to other sales. The CAFC has held that this is a reasonable interpretation of the statute.[10]

Section 771(35)(B) of the Act defines "weighted-average dumping margin" as "the percentage determined by dividing the aggregate dumping margins determined for a specific exporter or producer by the aggregate export prices and constructed export prices of such exporter or producer." The Department applies these sections by aggregating all individual dumping margins, each of which is determined by the amount by which NV exceeds EP or CEP, and dividing this amount by the value of all sales. The use of the term "aggregate dumping margins" in section 771(35)(B) of the Act is consistent with the Department's interpretation of the singular "dumping margin" in section 771(35)(A) of the Act as applied on a comparison-specific level and not on an aggregate basis. At no stage of the process is the amount by which EP or CEP exceeds the NV permitted to offset or cancel out the dumping margins found on other sales.

This does not mean that non-dumped sales are disregarded in calculating the weighted-average dumping margin. It is important to note that the weighted-average margin will reflect any non-dumped merchandise examined during the period of review: the value of such sales is included in the denominator of the weighted-average dumping margin, while no dumping amount for non-dumped merchandise is included in the numerator. Thus, a greater amount of non-dumped merchandise results in a lower weighted-average margin.

The CAFC explained in Timken that denial of offsets is a "reasonable statutory interpretation given that it legitimately combats the problem of masked dumping, wherein certain profitable sales serve to mask sales at less than fair value."[11] As reflected in that opinion, the issue of so-called masked dumping was part of the policy reason for interpreting the statute in the manner interpreted by the Department. No U.S. court has required the Department to demonstrate "masked dumping" before it is entitled to invoke this interpretation of the statute and deny offsets to dumped sales.[12]

We disagree with Dingli's and Fabricare's arguments based on WTO WTO Reports. As an initial matter, the CAFC has stated that WTO Reports are without effect under U.S. law, "unless

[10] See, e.g., Timken Co. v. United States, 354 F.3d 1334, 1342 (Fed. Cir. 2004) ("Timken").
[11] See Timken, 354 F.3d at 1343.
[12] See, e.g., Timken, 354 F.3d at 1343; see also NSK Ltd. v. United States, 510 F.3d 1375, 1379-80 (Fed. Cir. 2007) ("NSK").

and until such a {report} has been adopted pursuant to the specified statutory scheme" established in the Uruguay Round Agreements Act ("URAA").[13] Congress has established a specific statutory scheme under 19 U.S.C. § 3538 for addressing the implementation of the WTO Reports. As is clear from the discretionary nature of this scheme, Congress did not intend for the WTO Reports to automatically trump the Department's exercise of discretion in applying the statute.[14] Additionally, as part of the URAA process, Congress has provided a procedure through which the Department may change a regulation or practice in response to WTO Reports.[15] Concerning the denial of offsets in administrative reviews, the United States has not employed this statutory procedure.

In 2007, the Department implemented a modification of its calculation of weighted-average dumping margins when using average-to-average comparisons in antidumping investigations.[16] With this modification, the Department's interpretation of the statute with respect to non-dumped comparisons was changed within the limited context of investigations using average-to-average comparisons. The Department's interpretation of the statute was unchanged in other contexts. Recognizing that the change in the Department's interpretation of the statute was limited to investigations using average-to-average comparisons, the CAFC upheld the Department's interpretation as applied in an investigation using average-to-average comparisons as a reasonable interpretation of ambiguous statutory language.[17] In addition, the CAFC recently upheld, as a reasonable interpretation of ambiguous statutory language, the Department's continued application of zeroing in the context of an administrative review completed after the implementation of the Final Modification.[18] In that case, the Department had explained that the changed interpretation of the ambiguous statutory language was limited to the context of investigations using average-to-average comparisons and was made pursuant to statutory authority for implementing an adverse WTO report. We find that our determination in this administrative review is in accordance with the CAFC's recent decision in SKF. We also disagree with Dingli's argument that the CAFC's recent decision in Dongbu requires the Department to change its methodology to this administrative review. Unlike the circumstances examined in Dongbu, the Department is providing a reasoned explanation for the changed interpretation of statute subsequent to the Final Modification whereby we interpret section 771(35) of the Act differently for certain investigations (when using average-to-average comparisons) and administrative reviews. For that reason, we find that the present administrative review is distinguishable from the proceeding before the CAFC in Dongbu.

Accordingly, and consistent with the Department's interpretation of the Act described above, in the event that any of the export transactions examined in this review are found to exceed NV, the amount by which the price exceeds NV will not offset the dumping found in respect of other transactions.

---

[13] See Corus Staal BV v. Department of Commerce, 395 F.3d 1343, 1347-49 (Fed. Cir. 2005), cert. denied, 126 S. Ct. 1023 (2006); accord Corus Staal BV v. United States, 502 F.3d 1370, 1375 (Fed. Cir. 2007); and NSK, 510 F.3d 1375, 1380.
[14] See 19 U.S.C. § 3538(b)(4).
[15] See 19 U.S.C. § 3533(g).
[16] See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation, 71 FR 77722 (December 27, 2006) ("Final Modification").
[17] See U.S. Steel Corp., v Gallatin Steel Co., 621 F.3d 1351 (Fed. Cir. 2010) Rehearing, en banc, denied by United States Steel Corp. v. United States, 2011 U.S. App. LEXIS 4499 (Fed. Cir. 2011).
[18] See SKF USA Inc., v. United States, 630 F.3d 1365 (Fed. Cir. 2011) ("SKF").

Comment 2: Surrogate Financial Ratios

Dingli's and Fabricare's Case Briefs

- The Department should not use Lakshmi Precision Screws' ("Lakshmi") financial statements because Lakshmi has benefitted from actionable subsidies and its production experience is different from the respondents.
- Lakshmi is also a company that produces specialized products that exceed the production processes required of a low-commodity product like hangers.

Dingli's Case Brief

- The Department should continue to use Nasco Steels Private Limited's ("Nasco") financial statements for the final results.

Petitioner's Rebuttal Brief

- The Department should reject the financial statements placed on the record by Fabricare because these companies either do not produce comparable merchandise or the financial statements are incomplete.
- The Department should not use the financial statements of M/S Narayan Wires Pvt. Ltd. ("Narayan") because it consumed a small percentage of steel wire rod in comparison to steel wire consumption.
- The Department should discontinue using Nasco's financial statements for the final results because it only listed consumption of wire rod during the 2008-2009 period rather than purchases of wire rod. Further, Nasco's consumption of wire rod accounted for a small percentage of direct material used as compared to its consumption of hot-rolled sheet, a reason used by the Department in a recent case for rejecting Nasco's financial statements.[19]
- If the Department discontinues using Lakshmi's financial statements to calculate surrogate financial ratios for the final results, then it should instead use Sterling Tools' ("Sterling") financial statements.

Department's Position:

We agree with Dingli and Fabricare, in part, with respect to not using Lakshmi's financial statements to calculate surrogate financial ratios for the final results. Section 773(c)(1) of the Act states that "the valuation of the factors of production shall be based on the best available information regarding the values of such factors..." In choosing surrogate financial ratios, it is the Department's practice to use data from market-economy ("ME") surrogate companies based on the "specificity, contemporaneity, and quality of the data."[20] As in the underlying investigation, we examined all the financial statements on the record to determine whether wire rod was listed as a raw material input, which would support a determination that the company produces wire products by drawing its own wire from wire rod.[21] Therefore, the Department has determined that those financial statements for companies which clearly identify wire rod as a raw

[19] See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 36656 (July 24, 2009) ("Kitchen Racks") and accompanying Issues and Decision Memorandum at Comment 10.

[20] See Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances,71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

[21] See Hangers LTFV at Comment 3.

material should be considered the best available information to calculate the surrogate financial ratios because such statements most accurately reflect the production experience of the respondents.[22]

As stated above, pursuant to section 773(c) of the Act, the Department is directed to value an NME respondent's factors of production ("FOPs") based on the "best available information" from an appropriate ME country or countries. In selecting surrogate financial ratios, the Department's practice is to examine the specificity, contemporaneity, and quality, of the various data sets on the record of a particular proceeding.[23] Additionally, pursuant to 19 CFR 351.408(c)(4), in calculating a respondent's manufacturing overhead, general expenses, and profit, our practice is to use non-proprietary financial statements of companies producing identical or comparable merchandise from the primary surrogate country, some of which may contain evidence of subsidization.[24] Because all of the financial statements on the record are for the same time period, April 1, 2008, through March 31, 2009, which is contemporaneous with the POR, none of these financial statements have been disqualified under the contemporaneity prong of our selection criteria.

Further, where we have reason to believe or suspect that the company producing comparable merchandise may have benefitted from countervailable subsidies, the Department may consider that the financial ratios derived from that company's financial statements are less representative of the financial experience of the relevant industry than the ratios derived from financial statements of a company that do not contain evidence of subsidization. Consequently, the Department does not rely on financial statements where there is evidence that the company received countervailable subsidies and there is other more reliable and representative data on the record for purposes of calculating the surrogate financial ratios.[25] For these final results, the Department has reason to believe or suspect that Lakshmi may have benefitted from subsidies found to be countervailable by the Department.[26] As a result, and because we find that there are other financial statements on the record of this administrative review that are more reliable and representative of the respondents' production experience, the Department finds that it is appropriate to reject Lakshmi's financial statements as a surrogate for the financial ratios. Additionally, we are making a similar determination with respect to the financial statements for Usha Martin, which we also have reason to believe or suspect may have benefitted from subsidies which the Department has found to be countervailable. Specifically, upon review of Usha Martin's financial statements, the Department noted that the company profited from the DEPB subsidy program[27], which we have found actionable in the past.[28]

---

[22] See id.

[23] See, e.g., Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 76 FR 15297 (March 21, 2011) and accompanying Issues and Decision Memorandum at Comment 1.

[24] See id.; see also 19 CFR 351.408(c)(4) and section 773(c)(4) of the Act.

[25] See Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 75 FR 36630 (June 28, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

[26] Specifically, we have noted that Lakshmi's financial statements specifically discuss the export promotion capital goods scheme. See Lakshmi's financial statements at 43 and 66; see also Nails AR1 Final at Comment 3 and Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India, 71 FR 45034 (August 8, 2006).

[27] See Petitioner's June 1, 2010, Factor Value Submission at Exhibit 5, page 49.

[28] See Prestressed Concrete Steel Wire Strand From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 28560 (May 21, 2010) ("PC Strand") and accompanying Issues and Decision Memorandum at Comment 1A, where we rejected Usha Martin's 2008-9 financial statements and identical to those

Upon review of all the financial statements on the record, the Department disagrees with Fabricare's suggestion that we use any of the following financial statements placed on the record: Precision Wires India Limited ("Precision Wires"), Ram Ratna Wires Ltd. ("Ram Ratna"), Bansidhar Granites Pvt. Ltd. ("Bandsidhar"), Deccan Wires & Welding Products Pvt. Ltd. ("Deccan"), J&K Wire & Steel Industries (P) Ltd. ("J&K"), Narayan, R.J. Engineering Company Pvt. Ltd. ("R.J."), and Sri Ananda Subbaraya Wire Products Pvt. Ltd. ("Sri Ananda").

With respect to Precision Wires and Ram Ratna, a review of these companies' financial statements shows that they are producers of copper wire.[29] The Department's reasoning to reject these two financial statements is twofold: 1) these companies produce copper wire, which is not comparable to the steel wire rod used by the respondents in their production of subject merchandise; and 2) wire (copper or steel) is a finished product for these two companies, which is not comparable to a garment hanger – a downstream product made from wire. Because our practice has been to reject financial statements of surrogate producers whose production processes are not comparable to the production process of the respondents[30], we are rejecting the financial statements of Precision Wires and Ram Ratna, which are not representative of the production processes and experience of the respondents in this case. This disqualification is consistent with the Department's determination in the underlying investigation where we stated that "the financial statements of producers of wire should not be used for purposes of calculating surrogate financial ratios because wire hangers are a downstream product of wire requiring additional manufacturing processes."[31]

We disqualified J&K, Bandsidhar and Sri Ananda and Deccan because these financial statements were deficient or incomplete, thus unsuitable for calculating surrogate financial ratios.[32] The Department has a preference for using complete financial statements in order to ensure the greatest accuracy possible when calculating financial ratios.[33] Moreover, these identical financial statements were also recently rejected in another case for the same reasons.[34]

---

on the record in this review; see also Final Affirmative Countervailing Duty Determination: Carbazole Violet Pigment 23 From India, 69 FR 67231 (November 17, 2004) and accompanying Issues and Decision Memorandum at Comment IV(A).

[29] See Dingli's Factor Value Submission dated June 1, 2010, at Exhibit 1 (Precision Wires India Ltd.) and Exhibit 2 (Ram Ratna Wires Ltd). Precision's financial statement notes copper wire on pages 32-33. Ram Ratna's financial statement mentions its production of copper wire on pages 3-4 and 26-27.

[30] See, e.g., Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 60725 (October 1, 2010) ("CPT LTFV") and accompanying Issues and Decision Memorandum at Comment 2; see also Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 70 FR 6836 (February 9, 2005) and accompanying Issues and Decision Memorandum at Comment 1.

[31] See Hangers LTFV at Comment 3.

[32] See Fabricare's Factor Value Submission dated June 1, 2010, at Exhibits 1-4 and 6-7.

[33] The Department has an established practice of rejecting incomplete financial statements for the calculation of surrogate financial ratios. See, e.g., CPT LTFV at Comment 2; see also Certain Tissue Paper Products From the People's Republic of China: Final Results and Partial Rescission of the 2007-2008 Antidumping Duty Administrative Review and Determination Not To Revoke in Part, 74 FR 52176 (October 9, 2009) ("Tissue Paper 2009") and accompanying Issues and Decision Memorandum at Comment 5. This preference has recently been upheld in a case before the Court of International Trade ("CIT"). See Home Prods. Int'l v. United States, 675 F. Supp. 2d 1192 (CIT 2009).

[34] See Certain Steel Nails from the People's Republic of China: Final Results of the First New Shipper Review, 75 FR 34424 (June 17, 2010) ("Nails NSR 2010") and accompanying Issues and Decision Memorandum at Comment 4 (where the Department found that the 2008-09 financial statements of J&K, Bansidhar, Deccan, and Sri Ananda "are incomplete because they lack certain critical components").

Specifically, Bandsidhar's financial statements were missing the "notes to accounts" or notes to financial statements, noted as "Schedule 12."[35] Deccan's financial statements were similarly missing the "notes to accounts or notes to financial statements."[36] J&K's financial statements were missing the balance sheet.[37] Lastly, Sri Ananda's financial statements were missing the totals for energy production generation and steel consumption during the period, as well as a Schedule 16, which should contain the "notes to the financial statements."[38] Each of these missing sections is critical to a thorough evaluation of the information contained in the financial statements. Therefore, the Department will continue not to rely on these four financial statements because there are alternative sources available on the record that do not have these deficiencies, and, as a result, these financial statements are not the best available information on the record.

We disqualified RJ because the financial statements did not show whether the company used steel wire versus steel wire rod as main input, nor did the financial statements indicate whether the company even produced wire-based merchandise.[39] Therefore, we have determined that RJ's financial statements do not constitute the best available information because we cannot determine whether this company produced comparable merchandise produced from steel wire rod.[40] We also determined that the Narayan data does not constitute the best available information because that company's financial statements indicate that it produced steel wire, rather than a downstream, wire-based product.[41]

We are also rejecting the six financial statements submitted by Petitioner after the Preliminary Results after finding that they also do not constitute the best available information on the record to serve as in calculating the surrogate financial ratios. Specifically, Sundram Fasteners Ltd.'s financial statements do not indicate whether wire or wire rod are used as the main input.[42] Further, as was recently noted in Nails AR1 Final, and as we again find here, Sundram's cost structure shows a majority production of merchandise (i.e., pump accessories) which are not at all comparable to the subject merchandise.[43] We have also declined to use any of the financial statements of the five Thai companies that Petitioner placed on the record. First, none of the poorly translated financial statements indicate whether steel wire rod was used a material input.[44] Second, the Department selected India as the primary surrogate country and the record contains financial statement of Nasco, an Indian company that satisfies all of our preferred criteria for surrogate financial statements.

---

[35] See Fabricare's Factor Value Submission dated June 1, 2010, at Exhibit 1.
[36] See id., at Exhibit 2.
[37] See id., at Exhibit 3.
[38] See id., at Exhibit 7.
[39] See Fabricare's Factor Value Submission dated June 1, 2010, at Exhibit 6.
[40] See Nails NSR 2010 at Comment 4 where we stated that "financial statements of R.J. Engineering…indicate they do not produce a downstream, wire-based fastening product.
[41] See Fabricare's Factor Value Submission dated June 1, 2010, at Exhibit 4. This determination is consistent with our finding in the underlying investigation where we selected surrogate companies' financial statements with a clear indication that steel wire rod was a main input in their manufacturing processes of a downstream product. See Hangers LTFV and accompanying Issues and Decision Memorandum at Comment 3. See also Nails NSR 2010 at Comment 4 where we stated that Narayan's 08-09 financial statements show that it only produced wire during the reporting period.
[42] See Petitioner's Factor Value Submission dated December 22, 2010, at Exhibit 4, pages 61-63, which indicates "steel" as a material input, rather than steel wire rod or steel wire, and a majority production of various pump assemblies. See also Nails AR1 Final at Comment 3.
[43] See id.
[44] See Petitioner's Factor Value Submission dated December 22, 2010.

Finally, we disagree with Petitioner regarding the appropriateness of using Sterling's financial statements in place of Nasco's. Citing to Kitchen Racks, Petitioner contends in its rebuttal brief that Nasco should not be used for the final results because Nasco consumed a smaller proportion of wire rod compared to hot-rolled sheet in its production process, thus not reflective of the respondents' production processes. However, we are not persuaded by Petitioner's argument because the Sterling financial statements show no quantity and value for wire rod consumption at all for 2008-2009.[45] Indeed, Sterling's financial statements show only a raw material consumption quantity and value for "straight length bar."[46] In contrast to Petitioner's argument against using Nasco, we note that, while Nasco's financial statements indicate that it consumed less wire rod than hot-rolled sheet as a raw material, it did actually consume wire rod, whereas Sterling did not. Further, among all the other financial statements on the record, Nasco's financial statements: are complete, are contemporaneous, indicate production of a downstream product continuously manufactured from wire rod, and are from the primary surrogate country selected at the Preliminary Results.[47] Accordingly, after comparing the quality of all of the various financial statements on the record of this review, we find that only the Nasco financial statements constitute the best available information.

Consequently, for the final results of this review, the Department will discontinue using Lakshmi's financial statements for the reason described above. Rather, we will calculate the surrogate financial ratios using only Nasco's financial statements because we find that only these financial statements constitute a reliable and representative data source in that: 1) they are complete and contemporaneous; 2) they are from the primary ME surrogate country and a company that produces products comparable to subject merchandise (i.e., downstream products manufactured from steel wire rod); and 3) we have no reason to believe or suspect that Nasco may have benefitted from subsidies we have found to be countervailable. Consistent with the Nails AR1 Amended Final, we have adjusted certain line items in the surrogate financial ratio calculations.[48] Specifically, for the final results, we have intentionally excluded the opening and closing stock of scrap in Schedule 5, we have moved "carriage" in Schedule 12 from excluded to raw materials, we have excluded "commissions on sales" in Schedule 13, and we have moved "furniture and fixture" depreciation costs in Schedule 4 from manufacturing overhead to selling, general, and administrative costs.[49]

Comment 3: Calculation of the Separate Rate Margin

Shaoxing Metal Companies' Case Brief

- In the event that the Department calculates de minimis margins for Wells and Dingli, the Department should include those de minimis margins in the calculation of the separate rate assigned to non-individually examined respondents.

[45] See Petitioner's Factor Value Submission dated June 21, 2010, at Exhibit 9, page 46.
[46] See id.
[47] See Fabricare's Factor Value Submission dated June 1, 2010, at Exhibit 5.
[48] See Certain Steel Nails From the People's Republic of China: Amended Final Results of the First Antidumping Duty Administrative Review, 76 FR 23279 (April 26, 2011) ("Nails AR1 Amended Final").
[49] These changes are consistent with our practice. See Nails AR1 Amended Final. See also "Memorandum to Catherine Bertrand, Program Manager, Office 9, from Joshua Startup, Analyst, Office 9; First Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Surrogate Values for the Final Results," dated concurrently with this memorandum, for a detailed discussion of these changes.

Petitioner's Rebuttal Brief

- The Department should not deviate from its methodology in calculating separate rate margins for companies not selected for individual examination. The Department did not calculate any de minimis or zero margins in the Preliminary Results of this review.

Shaoxing Metal Companies' Rebuttal Brief

- If the Department assigns AFA to any of the mandatory respondents for the final results, the rate for the separate rate companies should be based on the mandatory respondent with no adverse inferences assigned because the separate rate companies have been fully cooperative during the proceeding.

Department's Position:

In the instant review, pursuant to section 777A(c)(2) of the Act, the Department limited its examination to the exporters and producers accounting for the largest volume of subject merchandise from the exporting country that can be reasonably examined.[50] Consequently, the Department selected two mandatory respondents.[51]

As we have previously stated, the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not selected for examination where the Department limited its examination in an administrative review, pursuant to section 777(A)(c)(2) of the Act.[52] The Department's practice in this regard, in cases involving limited selection based on exporters accounting for the largest volumes of trade, has been to weight-average the rates for the selected companies excluding zero and de minimis rates and rates based entirely on AFA. Generally, we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not examine in an administrative review. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or de minimis margins or any margins based on total FA. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, de minimis, or based on total FA, we may use any reasonable method for assigning the rate to non-selected respondents. One method that section 735(c)(5)(B) of the Act contemplates as a possibility is "averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated." See section 735(c)(5)(B) of the Act.

In the Preliminary Results, we stated that because using the weighted-average margin based on the calculated net U.S. sales values for Wells and Dingli would allow these two respondents to deduce each other's business proprietary information and thus cause an unwarranted release of such information, we cannot assign to the separate rate companies the weighted-average margin based on the calculated net U.S. sales values from these two respondents.[53] Consequently, we calculated the separate rate margin using the ranged total U.S. sales values Wells and Dingli

[50] See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 74 FR 61658 (November 25, 2009) ("Initiation Notice").
[51] See "Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, from Josh Startup, Analyst; First Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Selection of Respondents for Individual Review," dated February 12, 2010.
[52] See Preliminary Results 75 FR at 68762.
[53] See id.

reported in the public versions of their questionnaire responses.[54] In using these publicly-ranged values, we continue to find that this approach is more consistent with the intent of section 735(c)(5)(A) of the Act and our use of section 735(c)(5)(A) of the Act as guidance when we establish the rate for respondents not examined individually in an administrative review.

However, for the final results, the Department has calculated a de minimis margin for Wells and a margin above de minimis and not based entirely on AFA for Dingli. The Department's practice in assigning a separate rate when we calculate de minimis or zero margins for any selected respondent, is to assign a non-de minimis, non-zero, non-total AFA margin calculated for any other respondent, to the separate rate respondents.[55] Therefore, we will not alter our established practice[56] with respect the separate rate margin calculation methodology. For the final results, we have assigned Dingli's non-de minimis, non-zero, non-total AFA margin to the companies not selected for individual examination as the separate rate.

Company-Specific Issues

Dingli

Comment 4: Whether to Assign AFA to Dingli

A. CBP Data on the Record

Dingli's Comments

- The CBP data placed on the record by the Department on March 17, 2011, conclusively shows that none of Dingli's sales to Mexico during the POR entered the customs territory of the United States. As a result, the Department should conclude for the final results that no third-country sales should be used in the margin calculation.

Petitioner's Comments

- The CBP data placed on the record by the Department shows that Dingli sold hangers to a particular customer and that these hangers were shipped to the United States; it is Dingli's responsibility to provide evidence demonstrating that these shipments are not U.S. sales.
- Because Dingli has not demonstrated that these are not U.S. sales, the Department should use AFA to determine Dingli's margin. Further, because Dingli has obstructed the administrative review and failed to cooperate with the Department's requests for information, the application of an adverse inference is warranted.

---

[54] See id.

[55] See Nails AR1 Final at 16381-16382; see also Drill Pipe From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances, 76 FR 1966, 1970 (January 11, 2011) ("Drill Pipe"), where the Department assigned a mandatory respondent's calculated rate, with a partial adverse inference, as the separate rate margin where the other respondents' calculated rates were de minimis.

[56] See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews, 74 FR 11349-50 (March 17, 2009) (where the Department stated "For the exporters subject to review that are determined to be eligible for separate-rate status, but were not selected as mandatory respondents, the Department normally establishes a weighted-average margin based on an average of the rates it calculated for the mandatory respondents, excluding any rates that are zero, de minimis, or based entirely on facts available. In this proceeding, there is only one such mandatory respondent, QVD. Accordingly, the rate calculated for QVD is applied as the rate for Agifish and Anvifish.").

Dingli's Rebuttal Comments

- Petitioner's allegations are based on speculation while ignoring the facts on the record.

Department's Position:

We disagree with Petitioner regarding the alleged implications of the entry documents that we placed on the record on March 17 and March 18, 2011.[57] Petitioner has been alleging Dingli's participation in fraudulent activities since August 2010[58], and requested the Department to conduct on-site verifications of Dingli's facility in the PRC and that of its U.S. affiliate. Although the Department thoroughly addressed Petitioner's allegations in the Preliminary Results[59], we honored Petitioner's multiple requests to conduct verifications of Dingli and its U.S. affiliate.[60]

Section 776(a) of the Act provides that, if an interested party: (A) withholds information requested by the Department; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 776(b) of the Act authorizes the Department to use an adverse inference with respect to an interested party if the Department finds that the party failed to cooperate by not acting to the best of its ability to comply with a request for information. Specifically, the statute directs the Department to rely on information derived from: 1) the petition; 2) the final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record.

We find that, pursuant to sections 776(a) and (b) of the Act, there is no justification to assign facts available ("FA") or an adverse inference to Dingli with respect to this issue. Of the many standard verification procedures performed at the on-site verifications of Dingli and its U.S. affiliate, the Department conducted completeness exercises which tested whether all U.S. sales during the POR were properly reported to the Department. Further, these completeness tests were verified against our quantity and value analyses, also conducted at verification. The results of these analyses and tests were clearly documented in our verification reports, where we stated that the completeness tests yielded no discrepancies.[61] Because the entry documents and data placed on the record on March 17 and 18, 2011, are business proprietary information, we are

---

[57] See "Memorandum to the File from Irene Gorelik, Analyst, Office 9; Entry Documents for Shaoxing Dingli Metal Clotheshorse Co., Ltd.," dated March 17, 2011, and "Memorandum to the File from Irene Gorelik, Analyst, Office 9; Entry Documents for Shaoxing Dingli Metal Clotheshorse Co., Ltd.," dated March 18, 2011.

[58] See Petitioner's comments dated August 27, 2010.

[59] See Preliminary Results 75 FR at 68765.

[60] From February 22 to February 25, 2011, we verified Dingli's CEP sales responses in the United States. See "Memorandum to the File through Catherine Bertrand, Program Manager, Office 9, from Irene Gorelik, Senior Case Analyst, Office 9, and Joshua Startup, Analyst, Office 9, re: Verification of the Sales Response of Shaoxing Dingli Metal Clotheshorse Co., Ltd., in the Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China ("PRC")," dated March 16, 2011 ("CEP Report"). Then, from March 7 to March 11, 2011, we verified Dingli's EP sales and FOP responses. See "Memorandum to the File through Catherine Bertrand, Program Manager, Office 9 from Irene Gorelik, Senior Case Analyst, Office 9, and Joshua Startup, Analyst, Office 9, re: Verification of the Sales and Factors Response of Shaoxing Dingli Metal Clotheshorse Co., Ltd. in the Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China ("PRC")," dated March 17, 2011 ("EP Report").

[61] See id.

unable to specify in this public document the reasons supporting our determination. However, we are able to state here that the results of verification and the evidentiary record show that there were no instances of Dingli under-reporting POR sales of subject merchandise to the United States or any evidence of Dingli withholding any information we may have requested.[62]

Consequently, for the final results of this administrative review, we find that there is no evidence on the record to warrant an application of FA or an adverse inference to Dingli's reported sales of subject merchandise to the United States. Specifically, we were able to verify the U.S. sales information placed on the record by Dingli, and therefore, we find that the application of facts available (with an adverse inference or otherwise) is not warranted.[63]

B. Hanger Quantity Conversions

Petitioner's Case Brief

- During its verification of Dingli, the Department discovered numerous discrepancies in the total quantity of hangers reported by Dingli in its sales database. Dingli was on notice that sales quantities must be reported in number of hangers and not number of cartons. The Department should apply AFA to Dingli's hanger quantity conversion errors in the sales database, as it appears the errors were deliberate.

Dingli's Rebuttal Brief

- Petitioner's argument that Dingli deliberately forced a quantity conversion error has no factual basis. The error was a simple computational error with the Microsoft Excel spreadsheet where the per-piece hanger quantity was calculated per the Department's request.
- This computational error was overlooked by all parties, including Dingli, Petitioner, and even the Department.
- This computational error has no effect on the fact that the quantity and value of sales, which are reported on a per-carton basis, were fully verified by the Department.
- The computational error can be easily fixed by simply multiplying the "CONCOUTU" field by the "QTYU" field in the sales database.

Department's Position:

We disagree with Petitioner's argument that AFA is warranted with respect to Dingli's quantity conversion errors in the sales database. First, contrary to Petitioner's allegation, there is no evidence on the record that Dingli intentionally miscalculated the hanger quantities in the sales database.[64]

As described above in Comment 4A, the threshold for the application of sections 776(a) and (b) have not been met with respect to these computational errors. The record does not contain any evidence that Dingli's computational error was intentional or that Dingli failed to cooperate with our requests for information. Further, we note that, while the spreadsheet contained a

[62] For a detailed discussion of this issue, see "Memorandum to the File from Josh Startup, Analyst, Office 9; First Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Final Analysis Memo for Shaoxing Dingli Metal Clotheshorse Co., Ltd.," ("Dingli Final Analysis Memo") dated concurrently with this memorandum.
[63] See section 776(a)(2)(D) of the Act.
[64] See CEP Report and EP Report.

computational error due to a wrong formula applied using two fields of the sales database, the actual relevant data (hangers per carton and quantity) within the two fields being multiplied have been fully verified by the Department. Thus, we find that the threshold under section 776(a) of the Act has not been met. Although the per-hanger quantity field has computational errors, we find that the significance of this error does not trigger the application of FA or AFA under sections 776(a) and (b) of the Act. Specifically, this is not a situation where information that we requested is not available on the record with which to correct the error, see section 776(a)(1) of the Act, or where Dingli failed to cooperate with our requests for information to the best of its abilities. Consequently, with respect to the per-piece hanger quantity reported in field "QTYHU" in the sales database, for these final results,we intend to manually correct the formula by multiplying the "CONCOUTU" and "QTYU" fields.[65]

C. HCL Consumption

Petitioner's Case Brief

- During verification, the Department discovered that Dingli failed to report all of its consumption of HCL during the POR. Specifically, Dingli did not provide an invoice for its consumption of the input during one month of the POR. The Department should apply AFA to Dingli's under-reported consumption of HCL for this month.

Dingli's Rebuttal Brief

- Based on the de minimis effect of any correction made to HCL consumption, there is no reason to make the correction for the final results.

Department's Position:

We agree with Petitioner, in part, with respect to appropriately applying partial AFA to Dingli's margin calculation program for the final results. In making this determination, the Department first assessed whether the use of FA is justified, and then, whether the criteria for an adverse inference have been met, pursuant to section 776 of the Act. We determine that Dingli's failure to report the total POR consumption of HCL satisfies the criteria under sections 776(a)(A) and (B) of the Act. In doing so, pursuant to sections 782(d) and (e) of the Act, we have determined to apply facts otherwise available in reaching the applicable determination. Further, pursuant to section 776(b), as described above in Comment 4A, we are applying an adverse inference with respect the missing data.

We have determined that it is appropriate to apply partial AFA to Dingli's under-reported POR consumption of HCL. The Department found at verification that Dingli failed to report certain consumption of HCL, which was used to produce subject merchandise during the POR. Therefore, we find that Dingli withheld information requested by the Department; therefore, in accordance with section 776(a)(2)(A) of the Act, for the final results, we have determined that the use of facts otherwise available is warranted in determining the margin for Dingli. As described above, Dingli failed to provide the full POR consumption of HCL, despite several requests from the Department that it do so during the administrative review through supplemental questionnaire responses. Consequently, we find that Dingli failed to act to the best of its ability in providing the requested information that was in its sole possession and that the application of an adverse inference is appropriate, pursuant to section 776(b) of the Act. Thus, as an adverse inference, we will use the highest reported monthly quantity of HCL consumption

[65] See "Dingli Final Analysis Memo."

from the POR as the adverse inference in applying a proxy quantity for the unreported quantity, notwithstanding the effect on the margin, as argued by Dingli.[66]

D. Weight of Packing Cartons

Petitioner's Case Brief

- During verification the Department found inconsistencies in Dingli's reported carton weights and actual carton weights, therefore, the Department should apply partial AFA to the weight of cartons reported by Dingli in the FOP database.

Dingli's Rebuttal Brief

- Packing materials weighed at verification rarely match the reported weights due to such factors as differences in humidity or temperature, which may affect the glue and paper used to construct the cartons.
- The Department did not consider the differences in reported weight versus verified weight as an under-reporting of packing materials.
- Because the effects of any corrections to the reported carton weights are so small, any adjustment would result in an inconsequential change.
- If the Department makes any corrections to the carton weights, it should do so on a weight basis, not based on the percentage difference.

Department's Position:

We disagree with Petitioner's assertion that a difference in the reported weight of cartons versus the verified weight of cartons warrants the application of partial AFA.

As described above in Comment 4A, the threshold for the application of sections 776(a) and (b) have not been met with respect to the weight of cartons. Based on the criteria within the statute, we find that there is no justification to assign facts otherwise available or to apply an adverse inference to any minute differences in reported carton weight versus verified carton weight. Although the Department noted the reported carton weight differed from the verified carton weights in the verification report[67], we find that the verified carton weights are reasonably similar to the reported carton weights, such that any changes to the margin calculation program are unnecessary, as we have stated in past cases.[68] Further, assigning FA or AFA is not warranted because Dingli did not provide information which could not be verified and Dingli did not fail to cooperate to the best of its abilities with our requests for information.

[66] See "Dingli Final Analysis Memo" for further details.

[67] See EP Report, where the Department did not include the packing weight differences as a "verification finding" at page 2 under "Summary of Issues." Further, there was no discernible pattern of under-reporting packing material weights, as the EP Report indicates that one other packing material weight was over-reported, while yet another material weighed the same at verification as the reported weight.

[68] See, e.g., Heavy Forged Hand Tools From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not To Revoke in Part, 67 FR 57789 (September 12, 2002) ("HFHT 2002"), and accompanying Issues and Decision Memorandum at Comment 19 (where we made no changes to packing weights for the final results, when "the actual packing weights proved to be reasonably similar to the reported weights.")

E. Sale of Machinery

Petitioner's Comments[69]

- The new factual information that Petitioner submitted on April 5, 2011, contains evidence of contradictory statements made by Dingli's U.S. affiliate at different times (including the CEP verification) regarding certain sales of certain machinery which calls into question the veracity of Dingli's and the U.S. affiliate's reported information.
- As a result, the Department should apply AFA to Dingli's margin calculation program because these contradictory statements raise doubts about the accuracy, completeness, and reliability of the information reported by Dingli's U.S. affiliate during the review and at another point in time prior to the review.[70]

Dingli's Rebuttal Comments[71]

- Petitioner has misinterpreted the information in the CEP Report regarding the U.S. affiliate's sale of machinery, which is not contradictory to the new factual information Petitioner placed on the record on April 5, 2011.
- The alleged contradictions regarding the sales of machinery argued by Petitioner are irrelevant and have no bearing on this case, as there is no incentive for either Dingli or its U.S. affiliate to mislead the Department about the affiliate's pre-POR sale of machinery.

Department's Position:

We disagree with Petitioner's argument that AFA ought to be assigned to Dingli due to an alleged contradiction of statements made by Dingli's U.S. affiliate regarding the sale of some machinery. As described above in Comment 4A, the threshold for the application of sections 776(a) and (b) have not been met with respect to the alleged contradiction in information supplied by the U.S. affiliate at verification. There is no evidence on the record that the U.S. affiliate: (1) withheld information requested by the Department; (2) failed to provide information within the deadlines established, or in the form and manner requested by the Department; (3) significantly impeded a proceeding; or (4) provided information that cannot be verified. Furthermore, Dingli and its U.S. affiliate have been cooperative during this review, with no evidence on the record to the contrary and acted to the best of its ability to comply with our requests for information.

We find that it is not appropriate to assign FA or an adverse inference to Dingli pursuant to sections 776(a) and (b) of the Act. First, at the on-site verification of Dingli's U.S. affiliate, the Department requested a sampling of documentation regarding the sale of certain types of machinery. We note that we did not request an exhaustive listing of all sales of all types of

[69] As noted above in the "Background" section, the Department re-opened the record after the case briefs and rebuttal briefs were filed to allow Petitioner to submit new factual information which it indicated is relevant to this administrative review. See Petitioner's Comments Dated April 5, 2011, and April 8, 2011. These comments contain business proprietary information and cannot be disclosed within this public document.

[70] As these statements are business proprietary information, they are discussed in full within Dingli's analysis memorandum. See "Memorandum to the File from Josh Startup, Case Analyst: Program Analysis for the Final Results of Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Shaoxing Dingli Metal Clotheshorse Co., Ltd.," dated May 9, 2011 ("Dingli Final Analysis Memo") for further details.

[71] The Department also allowed interested parties to rebut, correct, or clarify comments submitted by Petitioner on April 5, 2011. These rebuttal comments contain business proprietary information and cannot be disclosed within this public document.

machinery or equipment;[72] nor is the Department required to do so. Further, with respect to the information presented by Petitioner on April 5, 2011, we note that the statements made by the U.S. affiliate also do not indicate an exhaustive listing of all types of machinery that it sold.[73]

We note that the statute is silent on the requirements to verify all data at verification (i.e., all sections of the responses), it does not distinguish among areas of verification, and it does not set forth the hierarchy of verification preferences for various sections of the responses. Petitioner had ample opportunity to provide comments to Dingli's responses regarding the sale of the U.S. affiliate's machinery well before the verification began. Furthermore, as noted in previous cases, with respect to section 782(i) of the Act, which states that the Department shall verify "all information relied upon . . ."[74]

The Department's verification obligations have been clarified in decisions made by the CIT. Specifically, the CIT has determined that "Commerce was not required to use or verify all information it received from {the respondents}. It is enough for Commerce to receive and verify sufficient information to reasonably and properly make its determination."[75] The CIT has stated that "verification is an audit process that selectively tests the accuracy and completeness of a respondent's submission."[76] Also of significance here is that the CIT viewed all sections of the response to be one submission; different sections of the response do not require separate verifications.[77] The court has also explained that "{a} verification is a spot check and is not intended to be an exhaustive examination of the respondent's business. {Commerce} has considerable latitude in picking and choosing which items it will examine in detail."[78] Similarly, in another case, the court found that "Congress has afforded Commerce a degree of latitude in implementing its verification procedures . . . . Moreover, '{t}he decision to select a particular {verification} methodology rests solely within Commerce's sound discretion.'"[79]

We did not focus our CEP verification of the U.S. affiliate on the exhaustive listing of all the types of machinery the company may or may not have sold prior to this company's affiliation with Dingli.[80] Nor does it bear any relevance on the margin calculation for the final results, as the U.S. affiliate's pre-affiliation sale of machinery, to whomever, has no affect on Dingli's reported sales and FOPs, as the U.S. affiliate is an affiliated re-seller of subject merchandise, with no indications on the record that it produced or further manufactured subject merchandise during the POR.[81] Consequently, we find that the application of AFA to Dingli is unwarranted in this respect.

---

[72] See CEP Report at 4.
[73] See Petitioner's Submission dated April 5, 2011, at Attachment A.
[74] See, e.g., Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Revocation of an Order in Part, 74 FR 44819 (August 31, 2009) and accompanying Issues and Decision Memorandum at Comment 2.
[75] See Hercules, Inc. v. United States, 673 F. Supp. 454, 470 (CIT 1987).
[76] See Floral Trade Council v. United States, 822 F. Supp. 766, 771 (CIT 1993).
[77] See id. at 772 (finding the Commerce need not "...verify each item in {respondent's} questionnaire...").
[78] See NTN Bearing Corp. of Am. v. United States, 186 F. Supp. 2d 1257, 1296 (CIT 2002).
[79] See PPG Indus. Inc. v. United States, 781 F. Supp. 781, 787 (CIT 1991).
[80] The official date of affiliation between Dingli and this U.S. company is business proprietary information. See Dingli Analysis Memo for a detailed discussion.
[81] See Dingli's Supplemental Section A questionnaire response dated April 14, 2010, at 7. Dingli responded to the Department's satisfaction regarding our question about the affiliate's sale of machinery. We had no further questions on this issue.

F. Changes to Margin Calculation Per Verification Findings

Based on the Department's verification findings, we have made certain corrections to Dingli's reported data for the final results' margin calculation.[82] No parties commented on these verification findings.

First, at the CEP verification of Dingli's U.S. affiliate, we noted that a number of sales observations were reported as both EP and CEP sales.[83] For the final results, we will remove these specific EP sales, as these same sales observations were already properly reported in the database as CEP sales and would constitute "double-reporting" of sales if not removed. We provide a detailed explanation of this change to the margin calculation program in "Dingli Final Analysis Memo."

Second, at the CEP verification of Dingli's U.S. affiliate, we noted that inventory carrying costs and imputed credit expenses were incorrectly reported for a small number of sales observations.[84] Due to the minor nature of these errors, we will correct the inventory carrying costs and imputed credit expenses for these specific sales. We provide a detailed explanation of this change to the margin calculation program in "Dingli Final Analysis Memo."

Comment 5: Calculation of Domestic Movement Expenses

Dingli's Case Brief

- The Department should correct the calculation of the domestic movement expenses such that the truck freight and brokerage and handling are on the same unit of measurement basis as the quantity variable.

- No other interested parties commented on this issue.

Department's Position:

We agree with Dingli that we did not properly convert the quantity variable of the merchandise to the same unit of measurement as the surrogate values for domestic truck freight and brokerage and handling. We provide a detailed explanation of this change to the margin calculation program in "Dingli Final Analysis Memo."

Comment 6: Byproduct Offset for Scrap Iron Buckets

Dingli's Case Brief:

- The Department should grant the byproduct offset for Dingli's sales of scrap iron buckets because they are used and sold as a result of the production process.

[82] See CEP Report at 2.
[83] See id., at 2, 8-9. The number of "double-reported" sales observations is business proprietary information. See Dingli Analysis Memo for a detailed discussion.
[84] See id., at 2, 11-12. The number of sales observations is business proprietary information. See Dingli Analysis Memo for a detailed discussion.

Petitioner's Rebuttal Brief:

- The Department should continue to deny the offset for scrap iron buckets because these are packing materials for material inputs and not part of Dingli's manufacturing process.

Department's Position:

We agree with Petitioner that the Department correctly denied Dingli a byproduct offset for scrap iron buckets in the Preliminary Results. The Department's established practice is to grant byproduct offsets only for products generated during the production of subject merchandise.[85] Additionally, as Petitioner noted, the Department's Non-Market Economy Questionnaire at Section D states that offsets are granted for merchandise that is "either sold or reintroduced into production during the POI/POR, up to the amount of that byproduct/co-product actually produced during the POI/POR".[86]

According to Dingli, scrap iron buckets are "the leftover containers from the paint, coating powder, and thinner," which are then resold.[87] According to this description, Dingli buys the raw materials that are packaged in these iron buckets which are emptied of the raw materials and then simply sold off as scrap. Consequently, it appears from Dingli's own description that these iron buckets for which it is seeking an offset to the NV, is a packing material. Because the Department's practice to only grant offsets to byproducts generated in the production of subject merchandise, which generally does not include packing materials for a particular input, we continue to find that the scrap iron buckets are not generated during the production of subject merchandise, and thus, are not eligible as an offset to the NV.

Wells

Comment 7: Calculation of Domestic Movement Expenses

Wells' Case Brief

- The Department should correct the calculation of the domestic movement expenses such that the truck freight and brokerage and handling are on the same unit of measurement basis as the quantity variable.

- No other interested parties commented on this issue.

Department's Position:

We agree with Wells that we did not properly convert the quantity variable of the merchandise to the same unit of measurement as the surrogate values for domestic truck freight and brokerage and handling. We provide a detailed explanation of this change to the margin calculation program in "Wells Final Analysis Memo."

---

[85] See PC Strand at Comment 1C, where the respondent, Xinhua Metal, argued for an offset for scrap tie wire used to tie purchased wire rod together. However, the Department determined that, "{b}ecause the scrap tie wire is not generated during the production of PC strand, the Department is not granting Xinhua Metal a by-product offset for scrap tie wire."; see also, e.g., Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, 74 FR 16838 (April 13, 2009) and accompanying Issues and Decision Memo at Comment 17.

[86] See Non-Market Economy Questionnaire at Section D, Field No. 6, dated February 12, 2010.

[87] See Dingli's Supplemental Questionnaire Response dated August 4, 2010, at 3.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above changes and positions, and adjusting the margin calculation program accordingly. If accepted, we will publish the final results of review and the final dumping margins in the Federal Register.

AGREE_____ DISAGREE_____

_____
Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

_____
Date