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May 2, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

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

SUBJECT: Decision Memorandum for Preliminary Results of 2011-2012 Antidumping Duty Administrative Review: Frontseating Service Valves from the People's Republic of China

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SUMMARY

In response to requests from interested parties, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on frontseating service valves ("FSVs") from the People's Republic of China ("PRC") for the period of review ("POR") April 1, 2011, through March 31, 2012. The Department preliminarily finds that Zhejiang DunAn Hetian Metal Co., Ltd. ("DunAn") did not have reviewable transactions during the POR. In addition, we preliminarily determine that Zhejiang Sanhua Co., Ltd. ("Sanhua") made sales of subject merchandise at less than normal value ("NV") during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless otherwise extended, we intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act").

<u>Background</u>

On September 2, 2011, the Department published a notice of opportunity to request an administrative review of the antidumping order on FSVs from the PRC for the POR April 1, 2011, through March 31, 2012.[1] On April 13, 2012, the Department received a request for

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 19621 (April 2, 2012)

review of DunAn and Sanhua from Parker-Hannifin Corporation ("Parker-Hannifin"), Petitioner in the underlying investigation.[2] On April 27, 2012, Sanhua requested a review of itself.[3]

On May 29, 2012, the Department initiated an administrative review of the antidumping duty order on FSVs from the PRC.[4] On July 19, 2012, DunAn submitted a timely no shipments certification.[5]

On December 11, 2012, we extended the time limit for the preliminary results of review by 120 days, pursuant to section 751(a)(3)(A) of the Act, to May 2, 2013.[6]

Scope of the Order

The merchandise covered by this order is frontseating service valves, assembled or unassembled, complete or incomplete, and certain parts thereof. Frontseating service valves contain a sealing surface on the front side of the valve stem that allows the indoor unit or outdoor unit to be isolated from the refrigerant stream when the air conditioning or refrigeration unit is being serviced. Frontseating service valves rely on an elastomer seal when the stem cap is removed for servicing and the stem cap metal to metal seat to create this seal to the atmosphere during normal operation.[7]

For purposes of the scope, the term "unassembled" frontseating service valve means a brazed subassembly requiring any one or more of the following processes: the insertion of a valve core pin, the insertion of a valve stem and/or O ring, the application or installation of a stem cap, charge port cap or tube dust cap. The term "complete" frontseating service valve means a product sold ready for installation into an air conditioning or refrigeration unit. The term "incomplete" frontseating service valve means a product that when sold is in multiple pieces, sections, subassemblies or components and is incapable of being installed into an air conditioning or refrigeration unit as a single, unified valve without further assembly.

The major parts or components of frontseating service valves intended to be covered by the scope under the term "certain parts thereof" are any brazed subassembly consisting of any two or

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[2] *See* letter from Parker-Hannifin, "Frontseating Service Valves from the People's Republic of China: Request for Initiation of Antidumping Administrative Review," dated April 13, 2012.
[3] *See* letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A-570-933; Request for §751 Administrative Review of Exports by Zhejiang Sanhua Co., Ltd.," dated April 27, 2012.
[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 31568 (May 29, 2012) ("*Initiation Notice*").
[5] *See* letter from DunAn, "No Shipment Letter for Zhejiang DunAn Hetian Metal Co., Ltd.: Third Annual Administrative Review of the Antidumping Duty Order on Frontseating Service Valves from the People's Republic of China, A-570-933 (POR: 04/01/11-03/31/12)," dated July 19, 2012.
[6] *See* Memorandum to Christian Marsh entitled, "Frontseating Service Valves from the People's Republic of China: Extension of Deadline for the Preliminary Results of Antidumping Duty Administrative Review," dated December 11, 2012.
[7] The frontseating service valve differs from a backseating service valve in that a backseating service valve has two sealing surfaces on the valve stem. This difference typically incorporates a valve stem on a backseating service valve to be machined of steel, where a frontseating service valve has a brass stem. The backseating service valve dual stem seal (on the back side of the stem), creates a metal-to-metal seal when the valve is in the open position, thus, sealing the stem from the atmosphere.

more of the following components: a valve body, field connection tube, factory connection tube or valve charge port. The valve body is a rectangular block, or brass forging, machined to be hollow in the interior, with a generally square shaped seat (bottom of body). The field connection tube and factory connection tube consist of copper or other metallic tubing, cut to length, shaped and brazed to the valve body in order to create two ports, the factory connection tube and the field connection tube, each on opposite sides of the valve assembly body. The valve charge port is a service port via which a hose connection can be used to charge or evacuate the refrigerant medium or to monitor the system pressure for diagnostic purposes.

The scope includes frontseating service valves of any size, configuration, material composition or connection type. Frontseating service valves are classified under subheading 8481.80.1095, and also have been classified under subheading 8415.90.80.85, of the Harmonized Tariff Schedule of the United States ("HTSUS"). It is possible for frontseating service valves to be manufactured out of primary materials other than copper and brass, in which case they would be classified under HTSUS subheadings 8481.80.3040, 8481.80.3090, or 8481.80.5090. In addition, if unassembled or incomplete frontseating service valves are imported, the various parts or components would be classified under HTSUS subheadings 8481.90.1000, 8481.90.3000, or 8481.90.5000. The HTSUS subheadings are provided for convenience and customs purposes, but the written description of the scope of this proceeding is dispositive.

DISCUSSION OF THE METHODOLOGY

Nonmarket Economy Country

The Department considers the PRC to be a nonmarket economy ("NME") country.[8] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Separate Rates

Pursuant to section 771(18)(C)(i) of the Act, a designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.[9]

In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.[10] It is the

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[8] *See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results*, 76 FR 62765, 62767-68 (October 11, 2011), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 77 FR 21734 (April 11, 2012).

[9] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006).

[10] *See Initiation Notice*, 77 FR at 31569.

Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,[11] as further developed by *Silicon Carbide*.[12] However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME"), then a separate rate analysis is not necessary to determine whether it is independent from government control.[13]

The Department received a separate-rate certification and completed Section A response to the NME antidumping questionnaire from Sanhua, which contained information pertaining to its eligibility for a separate rate.[14] Sanhua's submission does not indicate that Sanhua is wholly foreign-owned or located in a market economy ("ME").[15] Therefore, the Department must analyze whether Sanhua can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[16]

The evidence provided by Sanhua supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses;[17] (2) there are applicable legislative enactments decentralizing control of the companies;[18] and (3) there are formal measures by the government decentralizing control of companies.[19]

b. Absence of De Facto Control

[11] *See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*")

[12] *See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*").

[13] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China,* 72 FR 52355, 52356 (September 13, 2007).

[14] *See* letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A-570-933; Separate Rate Certification by Zhejiang Sanhua Co., Ltd., dated July 19, 2012 ("Sanhua Separate-Rate Certification"); *see also* letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A-570-933; Response to Section A of the Department's Antidumping Duty Questionnaire by Zhejiang Sanhua Co., Ltd.," dated July 19, 2012 ("AQR").

[15] *See* Sanhua Separate-Rate Certification at 4 and Exhibit SRC-1.

[16] *See Sparklers*, 56 FR at 20589.

[17] *See* Sanhua's AQR at A-2 through A-8; *see also* Exhibits A-3 and A-4 of Sanhua's AQR.

[18] *See* Sanhua's AQR at A-5 and Exhibit A-2.

[19] *See* Sanhua AQR at A-7 to A-8.

Typically, the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[20] The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

For Sanhua, we determine that the evidence on the record supports a preliminary finding of *de facto* absence of government control based on record statements and supporting documentation showing the following: (1) Sanhua sets its own export prices independent of the government authority; (2) Sanhua retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) Sanhua has the authority to negotiate and sign contracts and other agreements; and (4) Sanhua has autonomy from the government regarding the selection of management.[21]

The evidence placed on the record of this review by Sanhua supports a finding of an absence of *de jure* and *de facto* government control with respect to its exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, we are preliminarily granting Sanhua separate-rate status.

Surrogate Country and Surrogate Value Data

On August 30, 2012, the Department sent interested parties a letter inviting comments on surrogate country selection and surrogate value ("SV") data.[22] The Department received surrogate country and SV comments and data from Petitioner and Sanhua.[23]

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[20] *See Silicon Carbide*, 59 FR at 22586-87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).
[21] *See* Sanhua's AQR at A-8 to A-13.
[22] *See* the Department's Letter to All Interested Parties, "2011-2012 Administrative Review of the Antidumping Duty Order on Frontseating Service Valves from the People's Republic of China: Request for Comments on the Selection of a Surrogate Country and Surrogate Values," dated August 30, 2012.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOP"), valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[24] The Department determined that Colombia, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine are countries whose per capita gross national incomes ("GNI") are comparable to the PRC in terms of economic development.[25] The sources of the SVs we have used in this review are discussed under the "Normal Value" section below.

Petitioner's Surrogate-Country Selection Comments argue that Thailand is the most appropriate surrogate country because it is a significant producer of merchandise that is identical to the merchandise under review.[26] Moreover, Petitioner notes that Thailand's *per capita* GNI is

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[23] *See* Letter from Petitioner, "Petitioner's Comments on Surrogate Country Selection in the Third Administrative Review of Certain Frontseating Service Valves from the People's Republic of China: Case No. A-570-933," dated September 17, 2012 ("Petitioner's Surrogate-Country Selection Comments"); Letter from Petitioner, "Petitioner's Supplemental Comments on Surrogate Country Selection in the Third Administrative Review of Certain Frontseating Service Valves from the People's Republic of China: Case No. A-570-933," dated September 27, 2012 ("Petitioner's Supplemental Surrogate-Country Selection Comments"); Letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A-570-933; Comments on Selection of Surrogate Country by Zhejiang Sanhua Co., Ltd.," dated September 17, 2012 ("Sanhua's Surrogate-Country Selection Comments); letter from Petitioner, "Petitioner's Comments on Surrogate Values of Production in the Third Administrative Review of Certain Frontseating Service Valves from the People's Republic of China: Case No. A-570-933," dated October 16, 2012 ("Petitioner's Surrogate-Value Comments"); letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A-570-933; Surrogate Value Information Submission by Zhejiang Sanhua Co., Ltd.," dated October 16, 2012 ("Sanhua's Surrogate-Value Comments"); letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A-570-933; Addendum for Surrogate Value Information Submission by Zhejiang Sanhua Co., Ltd.," date October 18, 2012 ("Sanhua's Surrogate-Value Addendum"); letter from Petitioner, "Petitioner's Rebuttal Comments on Zhejiang Sanhua Co., Ltd.'s Surrogate Value Information Submission in the Third Administrative Review of Certain Frontseating Service Valves from the People's Republic of China: Case No. A-570-933," dated October 26, 2012 ("Petitioner's Rebuttal Surrogate-Value Comments"); letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A-570-933; Rebuttal Surrogate Value Information Submission by Zhejiang Sanhua Co., Ltd.," dated October 26, 2012 ("Sanhua's Rebuttal Surrogate-Value Comments"); letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A-570-933; Rebuttal Comments on Petitioner's October 26, 2012, Submission by Zhejiang Sanhua Co., Ltd.," dated November 5, 2012 ("Sanhua's Second Rebuttal Comments"); letter from Petitioner, "Petitioner's Additional Surrogate Value Submission in the Third Administrative Review of Certain Frontseating Service Valves from the People's Republic of China: Case No. A-570-933," dated February 19, 2013 ("Petitioner's Second Rebuttal Surrogate-Value Comments"); Frontseating Service Values from the People's Republic of China; A-570-933; Rebuttal Surrogate Value Information Submission by Zhejiang Sanhua Co., Ltd., dated March 1, 2012 ("Sanhua's Third Surrogate-Value Rebuttal Comments").

[24] *See* Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("*Policy Bulletin*").

[25] *See* Memorandum to Eugene Degnan, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Frontseating Service Valves ("FSV") from the People's Republic of China ("China")," dated August 29, 2012 ("Surrogate-Country Memorandum") at 2.

[26] *See* Petitioner's Surrogate-Country Selection Comments at 2.

almost identical to that of the PRC.[27] In addition, Petitioner notes that World Trade Atlas ("WTA") data is available for the direct materials, energy, and packaging inputs used in the manufacture of the subject merchandise.[28]

Sanhua's Surrogate-Country Selection Comments argue that Indonesia is the most appropriate surrogate country because the Department determined that Indonesia is at a level of economic development that is comparable to that of the PRC.[29] In addition, Sanhua claims that Indonesia has usable SV information for which there is no impediment, such as subsidization.[30]

Economic Comparability

As explained in our Surrogate-Country Memorandum, the Department considers Colombia, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine all to be comparable to the PRC in terms of economic development.[31] Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, are not reliable sources of publicly-available SV data, or are not suitable for use based on other reasons, we will rely on data from one of these countries.[32] Therefore, we consider all seven countries identified in the Surrogate-Country Memorandum as having met this prong of the surrogate country selection criteria.

Significant Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. While the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[33] it does not preclude reliance on additional or alternative metrics. Moreover, neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[34] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in

[27] *Id.*
[28] *Id.* at 3.
[29] *See* Sanhua's Surrogate-Country Selection Comments at 2.
[30] *Id.*
[31] *See* Surrogate Country Memorandum at 2.
[32] *See, e.g., Certain Steel Wheels From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 76 FR 67703, 67708 (November 2, 2011), unchanged in *Certain Steel Wheels From the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances*, 77 FR 17021 (March 23, 2012).
[33] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).
[34] *See Policy Bulletin* at 2.

selecting a surrogate country.[35] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[36]

"In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced. How the Department does this depends on the subject merchandise."[37] In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

> In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.[38]

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.[39]

In this case, the record shows that all of the potential surrogate countries identified in the Surrogate-Country Memorandum have significant exports of the comparable merchandise.[40] Thus, because none of the potential surrogate countries have been definitively disqualified through the above analysis, the Department looks to the availability of SV data to determine the most appropriate surrogate country.

Data Availability

When evaluating SV data, the Department considers several factors including whether the SV data is publicly available, contemporaneous with the POR, representative of broad-market averages, from an approved surrogate country, tax and duty-exclusive, and specific to the input.[41] There is no hierarchy among these criteria. It is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[42] Because neither data nor surrogate financial statements exist on the record for

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[35] *Id.* The *Policy Bulletin* also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.* at note 6.

[36] *See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65676 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

[37] *See Policy Bulletin* at 2.

[38] *Id.* at 3.

[39] *See* section 773(c) of the Act; *see also Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1999).

[40] *See* Petitioner's Surrogate-Country Selection Comments at 2.

[41] *See, e.g., Certain Activated Carbon from the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review*, 77 FR 67337 (November 9, 2012), and accompanying Issues and Decision Memorandum at 8.

[42] *See Policy Bulletin.*

Colombia, Peru, South Africa, or Ukraine, we will not consider these countries further for primary surrogate-country-selection purposes at this time. Indonesia, the Philippines, and Thailand, however, have data available, and parties to the proceeding placed financial statements from each of these countries on the record of this review.[43] However, as discussed below under "Factor Valuations," the Department has preliminarily determined that none of these financial statements are useable for the purposes of determining the surrogate financial ratios. Therefore, the Department placed the financial statements for FVC Philippines, Inc. ("FVC Philippines"), a producer of valves in the Philippines, on the record of this review.[44] FVC Philippines was used in the determination of the surrogate financial ratios in the final results of the immediately-preceding review.[45]

Further, an examination of Petitioner's recommended HTS category for brass bar and rod in Thailand (HTS 74072100000, bars, rods and profiles of copper-zinc base alloys (brass)),[46] and Sanhua's recommended HTS category for brass bar and rod in Indonesia (HTS 7407210000, copper bars, rods and profiles; bars, rods and profiles of copper-zinc base alloys (brass); profiles of refined copper of copper-zinc base alloys (brass)),[47] reveals that the HTS categories in Thailand and Indonesia, unlike the one in the Philippines,[48] both include profiles, which are at a higher level of manufacturing than brass bar and rod.[49] As a consequence, the Department finds that the HTS category for brass bar and rod in the Philippines provides the best quality data to value the most significant input into subject merchandise.

[43] Petitioner placed the financial statements of five Thai companies on the record of this review: *see* Petitioner's Surrogate-Value Comments at Attachment 5; *see also* Petitioner's Rebuttal Surrogate-Value Comments at Attachments 3 and 5; and Petitioner's Additional Surrogate-Value Comments at Attachments 1 and 2. Sanhua placed the financial statements of one company from Indonesia and one company from the Philippines on the record of this review. *See* Sanhua's Surrogate-Value Comments at Attachment SV 3a and SV 4f.

[44] *See* Memorandum to the File, "2011-2012 Administrative Review of the Antidumping Duty Order on Frontseating Service Valves from the People's Republic of China: Placing Surrogate-Value Information from the 10-11 Period of Review ("POR") on the Record of the Instant Review," dated concurrent with this memorandum. *See* our discussion of the financial statements in the "Factor Valuation" section below for further details concerning FVC Philippines.

[45] *See Frontseating Service Valves from the People's Republic of China: Preliminary Results of the 2010-2011 Antidumping Duty Administrative Review*, 77 FR 26489, 26495 (May 4, 2012), unchanged in the final, *Frontseating Service Valves from the People's Republic of China; 2010-2011 Antidumping Duty Administrative Review; Final Results,* 77 FR 67334 (November 9, 2012) (*"Final Results 2010-2011 Review"*), and accompanying Issues and Decision Memorandum at Comment 4.

[46] *See* Petitioner's Surrogate-Value Comments at Exhibit A.

[47] *See* Sanhua's Surrogate-Value Comments at SV-1a.

[48] HTS 7407211000, copper bars, rods and profiles; bars, rods and profiles of copper-zinc base alloys (brass); bars and rods. *See* Sanhua Surrogate-Value Comments at Exhibit SV-4a. *See* Preliminary Factor Valuation Memorandum at Attachment 2.

[49] *See* Sanhua's Rebuttal Surrogate-Value Comments at Exhibit 2, citing the *Explanatory Notes for the World Customs Organization, Harmonized Commodity, Description and Coding System, Fourth Edition (2007),* Chapter 74, Copper and articles thereof, note 1(e):

> Rolled, extruded, drawn, forged or formed products, coiled or not, of a uniform cross-section along their whole length, which do not conform to any of the definitions of bars, rods, wire, plates, sheets, strip, foil, tubes or pipes. The expression also covers cast or sintered products, of the same forms, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

The Department finds that the Philippines is the appropriate surrogate country to use in this review in accordance with section 773(c)(4) of the Act. The Department has based its decision on the following facts: (1) the Philippines is at a level of economic development comparable to that of the PRC; (2) the Philippines is a significant producer of comparable merchandise; (3) the Philippines has the best quality data available for valuing brass bar and rod, the most significant inputs into the subject merchandise; and (4) as explained below in "Factor Valuations," the Philippines is the sole country for which we have useable audited financial statements. As a consequence, the Philippines provides the best opportunity to use quality, publicly-available data to value FOPs

Date of Sale

Section 351.401(i) of the Department's regulations states that:

> In identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.[50]

After examining the questionnaire responses and the sales documentation Sanhua placed on the record, we preliminarily find that we should follow our regulatory presumption and use the invoice date as the date of sale for Sanhua because no party has demonstrated that the material terms of sale were established on another date. To the contrary, the record evidence indicates that the terms of sale were set at the time when the commercial invoice was issued.[51]

Comparisons to Normal Value

To determine whether Sanhua's sales of FSVs to the United States were made at less than fair value, we compared Sanhua's constructed export price ("CEP") to NV, as described in the "Constructed Export Price" and "Normal Value" sections below.

A. *Determination of Comparison Method*

Pursuant to 19 CFR 351.414(c)(1) (2012), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average CEPs (or export prices ("EPs") ("the average-to-average ('A-A') method") unless the Secretary determines that another method is appropriate in a particular situation. In antidumping investigations, the Department examines whether to use the average-to-transaction ("A-T") method as an alternative comparison method

[50] 19 CFR 351.401(i); *see also Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (upholding the Department's rebuttable presumption that invoice date is the appropriate date of sale).
[51] *See*, Sanhua's AQR at A-18.

using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping investigations.[52] In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[53] The Department finds the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of CEPs (or EPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods.[54] If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (*i.e.*, zip codes) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between CEP (or EP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* test is applied when the test and comparison groups of data each

[52] *See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012).
[53] *See* Memoranda to Paul Piquado, Assistant Secretary for Import Administration, from Abdelali Elouaradia, Director of AD/CVD Operations Office 4, entitled "Less Than Fair Value Investigation of Xanthan Gum from Austria: Post-Preliminary Analysis and Calculation Memorandum", "Less Than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Neimenggu Fufeng Biotechnologies Co., Ltd. (*aka* Inner Mongolia Fufeng Biotechnologies Co., T Jd.) and Shandong Fufeng Fermentation Co., Ltd.", and "Less Than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Deosen Biochemical Ltd," all dated March 4, 2013.
[54] As noted above, differential pricing was used in recent investigations. It was also used in the recent antidumping duty administrative review of polyester staple fiber from Taiwan. *See Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) and accompanying Decision Memorandum.

have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of CEPs that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of CEPs that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-A method only. If the difference between the two calculations is meaningful, this demonstrates that the A-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the A-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. *Results of the Differential Pricing Analysis*

For Sanhua, based on the results of the differential pricing analysis, the Department finds that 79.2 percent of Sanhua's export sales confirm the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods.[55] However, the Department determines that the A-A method can appropriately account for such differences because there is no meaningful difference between the weighted-average dumping margin calculated using the A-A method and when using the A-T method.[56] Accordingly, the Department has determined to use the A-A method in making comparisons of CEP and NV for Sanhua.[57]

Constructed Export Price

In accordance with section 772(b) of the Act, the CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d) of the Act. In accordance with section 772(b) of the Act, we used CEP for Sanhua's sales because the sales were made by U.S. affiliates in the United States.

We calculated CEP based on delivered prices to unaffiliated purchasers in the United States. We made adjustments, where applicable, to the reported gross unit prices for billing adjustments and early payment discounts, to arrive at the price at which the subject merchandise is first sold in the United States to an unaffiliated customer. We made deductions from the U.S. sales price for movement expenses in accordance with section 772(c)(2) of the Act. These included, where applicable, foreign inland freight from plant to the port of exportation, foreign brokerage and handling, ocean freight, marine insurance, U.S. inland freight from port of importation to the warehouse, U.S. freight from warehouse to customer, U.S. warehousing, U.S. customs duty, and U.S. brokerage and handling. In accordance with section 772(d)(1) of the Act, the Department deducted, where applicable, commissions, credit expenses, inventory carrying costs, and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. In accordance with section 772(d) of the Act, we calculated Sanhua's credit expenses and inventory carrying costs based on its short-term interest rate. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.[58]

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[55] *See* Memorandum to the File, "Frontseating Service Valves ("FSVs") from the People's Republic of China ("PRC"): Analysis Memorandum for the Preliminary Results of the 2011-2012 Administrative Review: Zhejiang Sanhua Co., Ltd. ("Sanhua")," ("Sanhua Preliminary Analysis Memorandum"), at Attachment 5, page 41.

[56] See Preliminary Analysis Memorandum at Attachment 5, page 64.

[57] In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average CEPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

[58] For a detailed description of all adjustments, *see* Preliminary Analysis Memorandum.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(e) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. The Department's questionnaire requires that Sanhua provide information regarding the weighted-average FOPs across all of the company's plants and/or suppliers that produce the merchandise under consideration, not just the FOPs from a single plant or supplier. This methodology ensures that the Department's calculations are as accurate as possible.[59] Under section 773(c)(3) of the Act, FOPs used by Sanhua in the production of FSVs include, but are not limited to, (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department based NV on Sanhua's reported FOPs for materials, energy, and labor.

Sanhua reported its generated brass and copper scrap during the production process of merchandise under consideration and requested an offset for this scrap.[60] Sanhua established that it sold all of the brass and copper scrap that it produced during the POR.[61] Therefore, for these preliminary results, we have granted Sanhua a by-product offset for brass and copper scrap because it demonstrated that there is commercial value to this scrap.[62]

Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by Sanhua, the Department calculated NV based on the FOPs reported by Sanhua for the POR. The Department used Philippine import data and other publicly available Philippine sources in order to calculate SVs for Sanhua's FOPs. To calculate NV, the Department multiplied Sanhua's reported per-unit FOPs by publicly-available SVs.[63] The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-

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[59] *See, e.g., Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People's Republic of China*, 68 FR 61395 (October 28, 2003), and accompanying Issue and Decision Memorandum at Comment 19.

[60] *See* Sanhua's response, "Frontseating Service Valves from the People's Republic of China; A-570-933; Response to Section D of the Department's Antidumping Duty Questionnaire by Zhejiang Sanhua Co., Ltd." DQR, dated August 20, 2012 ("Sanhua's DQR") at D-17 to D-19 and at Exhibit D-10a.

[61] *See* Sanhua's DQR at D-17 to D-19 and at Exhibits D-10d and D-10e.

[62] *See* Sanhua's Preliminary Analysis Memorandum.

[63] *See* Memorandum to the File, "2011-2012 Administrative Review of the Antidumping Duty Order on Frontseating Service Valves from the People's Republic of China: Factor Valuation Memorandum for the Preliminary Results of Review," dated concurrent with this memorandum ("Preliminary Factor Valuation Memorandum").

specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.[64]

The Department adjusted input prices by including freight costs, as appropriate, to render them delivered prices. Specifically, to Philippine import SVs reported on a cost, insurance, and freight basis, the Department added a surrogate freight cost using the shorter of: (i) the reported distance from the domestic supplier to the factory; or (ii) the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997). Additionally, where necessary, the Department adjusted SVs for inflation and exchange rates, and the Department converted all applicable FOPs to a per-gram basis.

Furthermore, with regard to the Philippine import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, India, South Korea, and Thailand may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.[65] Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.[66] Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.[67] Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an "unspecified" country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.[68] Therefore, we have not used prices from these countries in calculating the Philippine import-based SVs.

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[64] *See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

[65] *See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

[66] *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7.

[67] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988); *see also Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30763 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007).

[68] *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005).

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs, but when a producer sources an input from a ME and pays for it in ME currency, the Department may value the factor using the actual price paid for the input.[69] Sanhua reported that it did not purchase inputs from ME suppliers for the production of the merchandise under consideration.[70]

The record shows that data in the Philippine import statistics, as well as those from the other Philippine sources, are contemporaneous with the POR, product-specific, and tax-exclusive.[71] In those instances where we could not obtain publicly available Philippine data contemporaneous to the POR with which to value factors, we adjusted the SVs using, where appropriate, inflation factors derived from the Philippine Producer Price Index ("PPI"), as published in the International Monetary Fund's *International Financial Statistics*.[72] The Department used Philippine Import Statistics from the Global Trade Atlas ("GTA") and other publicly available Philippine sources to value most raw materials, energy, and packing inputs that Sanhua used to produce subject merchandise during the POR, except where listed below.
The Department valued brazing rods using separate SVs for phosphorus, copper, and silver.[73] In this instance, all imports of phosphorus into the Philippines during the POR were from the PRC or India.[74] As a consequence, the import values of phosphorus into the Philippines are not useable for the purposes of determining the SV for brazing rods. Therefore, we valued phosphorus using GTA values from Indonesia.[75] In accordance with section 773(c)(4) of the Act, the Department has determined that Indonesia is at a level of economic development comparable to the PRC and is a significant producer of merchandise comparable to the subject merchandise.[76] In addition, and consistent with our practice,[77] we find that the GTA import data with respect to Indonesia represent non-export average values, and are contemporaneous with the POR, product-specific, and tax-exclusive.

In these preliminary results, the Department calculated the labor input using data on industry-specific labor cost from the primary surrogate country (*i.e.,* the Philippines), as described in *Labor Methodologies*.[78] The Department relied on the ILO's Yearbook Chapter 6A labor cost data for the Philippines for the year 2008, because this is the most recent Chapter 6A data

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[69] *See* 19 CFR 351.408(c)(1); *see also Shakeproof Assembly Components, Div. of Ill. Tool Works, Inc. v. United States*, 268 F.3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).
[70] *See* Sanhua's DQR at D-7.
[71] *See* Factor Valuation Memorandum at 2-4.
[72] *See id.* at Attachments 1 and 3.
[73] *See* Sanhua Preliminary Analysis Memorandum at page 5.
[74] *See* Factor Valuation Memorandum at Attachment 2a.
[75] *See* Factor Valuation Memorandum at Attachment 2b.
[76] *See* Surrogate Country List; *see also* Petitioner's Surrogate Country Selection Letter at 2 (showing that Indonesia had exports of 23 million USD of comparable merchandise during the POR).
[77] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).
[78] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) ("*Labor Methodologies*").

available for the Philippines. The Department further determined that the two-digit description under ISIC-Revision 3-D ("28-Manufacture of Fabricated Metal Products") is the best available information because it is specific to the industry being examined and, therefore, is derived from industries that produce comparable merchandise. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using labor cost data reported by the Philippines to the ILO under Sub-Classification 28 of the ISIC-Revision 3-D, in accordance with section 773(c)(4) of the Act. For further information on the calculation of the wage rate, *see* Factor Valuation Memorandum.

The ILO data from Chapter 6A of the Yearbook, which was used to value labor, reflects all costs related to labor, including wages, benefits, housing, training, *etc.* Pursuant to *Labor Methodologies,* the Department's practice is to consider whether financial ratios reflect labor expenses that are included in other elements of the respondent's FOPs (*e.g.,* general and administrative expenses).[79] The financial statements used to calculate financial ratios in this review were sufficiently detailed to allow the Department to isolate labor expenses from other expenses such as selling, general, and administrative expenses. Therefore, the Department revised its calculation of surrogate financial ratios consistent with *Labor Methodologies* to exclude items incorporated in the labor wage rate data in Chapter 6A of the ILO data. As a result, bonuses and other forms of compensation included in the ILO's calculation of wages are now excluded from our calculation of labor in our surrogate financial ratios.[80]

We valued electricity using contemporaneous Philippine data from *The Cost of Doing Business in Camarines Sur* available at the Philippine government's web site for the province: *http://www.camarinessur.gov.ph.* These data pertained only to industrial consumption.[81]

We valued water using an average of the basic rates charged by The Philippines Maynilad for Business Group II (mostly industrial) users. These rates were in effect in 2011 and do not include taxes or surcharges. We did not inflate the rate since all data points are contemporaneous with the POR.[82]

We valued truck freight expenses by averaging the rates charged by the Confederation of Truckers Association of the Philippines, Inc. and the distances to 92 destinations within the Philippines. The rates reflect prices in effect in 2011.[83]

We valued brokerage and handling expenses using a price list of export procedures necessary to export a standardized cargo of goods in the Philippines, as published in the World Bank's *Doing Business 2013, Economy Profile: Philippines* publication.[84]

[79] *See id.* at 36094.
[80] *See* Preliminary Factor Valuation Memorandum at Attachment 7.
[81] *See id.* at Attachment 5.
[82] *See id.* at Attachment 6.
[83] *See id.* at Attachment 8.
[84] *See id.* at Attachment 9.

We valued marine insurance using a price quote for July 2010, which we obtained from RJG Consultants. RJG Consultants is a ME provider of marine insurance. We inflated the rates to the POR by applying the Philippine PPI.[85]

19 CFR 351.408(c)(4) directs the Department to value overhead, general, and administrative expenses ("SG&A") and profit using non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. In this review, Petitioner submitted the 2011 financial statements of the following companies:

- **DunAn Metals (Thailand) Co., Ltd. ("DunAn Thailand")**: a Thai producer of cooling equipment and spare parts, and a wholly-owned subsidiary of DunAn;[86]

- **Halcyon Technology Public Company Limited ("Halcyon Technology")**: a Thai corporation engaged in manufacturing, customized production, and distribution of polycrystalline diamond cutting tools to serve the manufacturers of electronic parts and the auto parts industries;[87]

- **Patkol Public Company Limited ("Patkol"):** a Thai producer of machinery and equipment, and a supplier of engineering services in the ice making, commercial cool-store, and freezing industries; a producer of dairy, tuna, shrimp, and alcoholic beverage processing equipment; and a supplier of services for the on-site fabrication, transportation, and installation of tanks and/or plant and tank relocation. Patkol is also a supplier of sanitary stainless steel machinery and equipment, including high velocity stainless steel pumps, pipes, tees, bends, valves, and fittings, which are imported from Europe and the United States. It is also a supplier of spare parts for evaporative condensers, axial fans, Luang Chi cooling towers, tube ice machines and block ice plants, equipment for refrigeration systems, refrigeration spare parts, and ammonia gas detectors, as well as a reseller of refrigeration pumps and spare parts from Germany.[88]

- **Emori Environmental Products Co., Ltd. ("Emori Environmental")**: a Thai re-seller of valves for water supply, water treatment system, waste water treatment system, piles, and all kinds of construction projects.[89]

- **Tozen Thailand Co., Ltd. ("Tozen Thailand")**: a Thai re-seller of rubber expansion joints, stainless steel expansion joints and flexible hoses; vibration isolators, industrial

[85] *See id.* at Attachment 10.
[86] *See* Petitioner's Surrogate-Value Comments at Exhibit F. *See also* Memorandum to the File, "2011-2012 Administrative Review of the Antidumping Duty Order on Frontseating Service Valves from the People's Republic of China: Websites of the Financial Statement Companies," dated May 2, 2013 ("Websites of the Financial-Statement Companies") at Attachment 1.
[87] *See* Petitioner's Surrogate-Value Rebuttal Comments at Exhibit 3. *See also* Memorandum to the File, "2011-2012 Administrative Review of the Antidumping Duty Order on Frontseating Service Valves from the People's Republic of China: Websites of the Financial Statement Companies," dated May 2, 2013 ("Websites of the Financial-Statement Companies") at Attachment 2.
[88] *See* Petitioner's Surrogate-Value Rebuttal Comments at Exhibit 5. *See also* Websites of the Financial-Statement Companies at Attachment 3.
[89] *See* Petitioner's Second Rebuttal Surrogate-Value Comments at Exhibit 1. See also Websites of the Financial-Statement Companies at Attachment 4.

rubber hoses, composite hoses, butterfly valves, ball valves, check valves, gate valves, and y-strainers.[90]

Sanhua placed the financial statements of the following companies on the record:

- **PT Tembaga Mulia Semanan TBK ("PT Tembaga Mulia")**: an Indonesian company that manufactures copper rod and wire and aluminum rod and wire products.[91]

- **Falcon Metal Corporation ("Falcon Metal")**: a Philippine company that manufactures, produces, and buys and sells, on a wholesale basis, metal products such as faucets, cocks, valves, elbow fittings, mufflers, pipes, and other similar articles.[92]

We have declined to use any of the financial statements submitted by the parties during the course of this review. We did not use DunAn Thailand's financial statements because: (1) DunAn Thailand received an exemption from corporate income tax,[93] under the Investment Promotion Act ("IPA") of B.E. 2520 (IPA Sec. 31), that the Department has previously determined to constitute a countervailable subsidy;[94] (2) DunAn Thailand's purchased a significant portion of its raw materials from affiliated parties in the PRC, thus its production experience does not reflect ME costs;[95] (3) DunAn's financial statements do not report production and SG&A expenses in sufficient detail to allow us to calculate surrogate financial ratios;[96] and, (4) it is not located in our primary surrogate country. Therefore, because we have usable statements from the Philippines on the record, we decline to depart from the preference stated in the regulation to value all FOPs using a single surrogate country.[97]

We did not use Halcyon Technology's and Patkol's financial statements because (1) they did not produce merchandise that is identical or comparable to the subject merchandise; (2) they are not located in our primary surrogate country; (3) they received a benefit under IPA Sec. 31, which the Department has previously determined to constitute a countervailable subsidy;[98] (4) Patkol

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[90] *See* Petitioner's Second Rebuttal Surrogate-Value Comments at Exhibit 2. See also Websites of the Financial-Statement Companies at Attachment 5.

[91] *See* Sanhua's Surrogate-Value Comments at Exhibit SV 3a. See also Websites of the Financial-Statement Companies at Attachment 6.

[92] *See* Sanhua's Surrogate-Value Comments at Exhibit SV 4f, note 1. *See* also Websites of the Financial-Statement Companies at Attachment 7.

[93] *See* Petitioner's Surrogate-Value Comments at Exhibit F, note 14.

[94] *See Final Negative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Thailand*, 70 FR 13462 (March 21, 2005); *see also Ball Bearings and Parts Thereof From Thailand: Final Results of Countervailing Duty Administrative Review*, 61 FR 729 (January 6, 1997).

[95] *See* Petitioner's Surrogate-Value Comments at Exhibit F, note 9.

[96] *See id.* at Income Statement.

[97] See 19 CFR 351.408(c); see also Clearon Corp. v. United States, No. 08-00364, 2013 WL 646390, at *6 (Ct. Int'l Trade Feb. 20, 2013) (acknowledging that the Department's preference is reasonable because "deriving the surrogate data from one surrogate country limits the amount of distortion introduced into its calculations"); see also Peer Bearing Co.-Changshan v. United States, 804 F.Supp.2d 1337, 1353 (Ct. Int'l Trade 2011) (citation omitted) ("the preference for use of data from a single surrogate country could support a choice of data as the best available information where the other available data 'upon a fair comparison, are otherwise seen to be fairly equal.'") Bristol Metals L.P. v. United States, 703 F.Supp.2d 1370, 1374 (Ct. Int'l Trade 2010).

[98] *See* Petitioner's Surrogate-Value Rebuttal Comments at Exhibit 3 for Halcyon and at Exhibit 5 for Paktol.

did not receive a qualified opinion from its auditor;[99] and (5) Patkol was in a bankruptcy proceeding during the POR.[100]

We did not use Emori Environmental's or Tozen Thailand's financial statements because there is no information on the record indicating that either company produces merchandise comparable to the merchandise under review. Specifically, an examination of each of the audited financial statements shows that neither company incurred depreciation expenses for production equipment; rather, these companies included depreciation only for office furniture, office machinery, computer equipment, and vehicles.[101] Consequently, these companies appear to be sales offices, rather than producers of comparable merchandise. Moreover, neither of these companies is located in the primary surrogate country. In addition, Emori Environmental did not obtain a qualified opinion from its auditor.[102]

We did not use PT Tembaga Mulia because it did not produce merchandise that is identical or comparable to the subject merchandise; instead, it produced only inputs to subject merchandise.[103] Moreover, because we have a usable financial statement for a producer of comparable merchandise from the primary surrogate country, we intend to follow the regulatory preference stated in 19 CFR 351.408(c) and decline to use this statement.

Finally, we did not use Falcon Metal because Falcon Metal's financial statements do not identify the type of merchandise produced or the raw materials used in its production process.[104] We reached a similar conclusion with respect to these same statements in the last review.[105] Moreover, there is no other information on the record that answers these questions with respect to Falcon Metal.

Accordingly, because the parties have not submitted any usable financial statements at this point in the review, we have preliminarily determined to use the 2010 audited financial statements of FVC Philippines as the basis for calculating the surrogate financial ratios in this review. FVC Philippines produces valves and earned a profit during the 2010 fiscal reporting period.[106] There is no record evidence to indicate that it received benefits that the Department has previously determined to be countervailable. Further, its audited financial statements are complete and sufficiently detailed to disaggregate materials, labor, overhead, and SG&A expenses.[107]

For a complete listing of all the inputs and a detailed discussion about our SV selections, *see* Factor Valuation Memorandum.

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[99] *See* Petitioner's Surrogate-Value Rebuttal Comments at Exhibit 5, at Auditor's Report, and notes 6 and 9 to the financial statements.
[100] *See* Petitioner's Surrogate-Value Rebuttal Comments at Exhibit 5, at Auditor's Report; and notes 3, 6, 19 and 39 to the financial statements.
[101] *See* Petitioner's Second Rebuttal Surrogate-Value Comments at Exhibit 1, note 3 for Emori Environmental, and Petitioner's Second Rebuttal Surrogate-Value Comments at Exhibit 2, note 10 for Tozen Thailand.
[102] Petitioner's Second Rebuttal Surrogate-Value Comments at Exhibit 1, "Report of Certified Auditor."
[103] *See* Sanhua's Surrogate-Value Comments at Exhibit SV 3a, note 1.
[104] *See* Sanhua's Surrogate-Value Comments at Exhibit SV 4f.
[105] *See Final Results 2010-2011 Review* and accompanying Issues and Decision Memorandum at Comment 4.
[106] *See* Memorandum to the File, "Placing Surrogate-Value Information from the 10-11 Period of Review ("POR") on the Record of the Instant Review," dated concurrent with this memorandum, at Attachment I.
[107] *See id. See also* Preliminary Factor Valuation Memorandum at Attachment 7.

Currency Conversion

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Conclusion

We recommend applying the above methodology for these preliminary results.

✓
Agree ____________ Disagree ____________

Paul Piquado
Assistant Secretary
for Import Administration

2 MAY 2013
(Date)