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October 23, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Certain Steel Threaded Rod from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Third Antidumping Duty Administrative Review

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SUMMARY

The Department of Commerce ("the Department") has analyzed the comments submitted by Petitioner[1] and Respondent[2] in the third administrative review of the antidumping duty order on certain steel threaded rod from the People's Republic of China ("PRC"). Following the *Preliminary Results*[3] and the analysis of the comments received, we made changes to the antidumping duty margin calculations for the final results. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

SCOPE

The merchandise covered by the order is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold–drawn, cold–rolled, machine straightened, or otherwise cold–finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to the order are non–headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

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[1] Vulcan Threaded Products Inc. ("Petitioner").
[2] Jiaxing Brother Fastener Co., Ltd., RMB Fasteners Ltd., and IFI & Morgan Ltd. ("RMB/IFI Group").
[3] *See Certain Steel Threaded Rod from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21101 (April 9, 2013) ("*Preliminary Results*").

Included in the scope of the order are steel threaded rod, bar, or studs, in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056[4], 7318.15.5090, and 7318.15.2095 of the United States Harmonized Tariff Schedule ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of the order are: (a) threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials ("ASTM") A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, or ASTM A320 Grade L7.

BACKGROUND

The Department published the *Preliminary Results* on April 9, 2012.[5] The period of review ("POR") is April 1, 2011, through March 31, 2012. In accordance with 19 CFR 351.309(c)(1)(ii), we invited parties to comment on our *Preliminary Results*. On June 24, 2013,

[4] HTS 7318.15.5056 was not listed in the scope for the *Preliminary Results* but should have been included in the scope. *See Certain Steel Threaded Rod from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 4389 (January 22, 2013).

[5] *See id.*

we received case briefs from Petitioner, and RMB/IFI Group.[6] On July 1, 2013, we received rebuttal briefs from Petitioner and RMB/IFI Group.[7]

DISCUSSION OF THE ISSUES

COMMENT 1: SELECTION OF SURROGATE COUNTRY

A. Comparable Level of Economic Development

Petitioner's Arguments

- The *per capita* Gross National Income ("GNI") data shows that Thailand ($4,120) is the country that is the most comparable to the PRC ($4,260) in terms of 2010 GNI data.

RMB/IFI Group's Arguments

- The Department considered Colombia, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine to be potential surrogate countries because all of these countries are equally economically comparable to the PRC.

Department's Position: As explained below, the Department continues to select Thailand as the primary surrogate country for these final results. Because the Department treats the PRC as a non-market economy ("NME"), when calculating normal value ("NV"), section 773(c)(4) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to value the factors of production ("FOPs"), to the extent possible, in a surrogate country that is (a) at a level of economic development comparable to the PRC and (b) a significant producer of comparable merchandise.[8] The Act specifically directs the Department to identify one or more countries that are "at a *level* of economic development comparable to that of the nonmarket economy country."[9] Section 773(c)(4)(A) of the Act is silent with respect to how or on what basis the Department may make this determination, but is the Department's long standing practice to use *per capita* GNI data reported in the World Bank's World Development Report. GNI is the primary indicator of a country's level of economic development.[10]

In the *Preliminary Results*, the Department determined that Colombia, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine were countries at the PRC's level of economic

[6] *See* Petitioner's "Third Administrative Review of Certain Steel Threaded Rod from China—Petitioner's Case Brief," (June 24, 2013); and "RMB/IFI Group's Steel Threaded Rod from the People's Republic of China: Case Brief," (June 24, 2013).
[7] *See* Petitioner's "Third Administrative of Certain Steel Threaded Rod from China—Petitioner's Rebuttal Brief," (July 1, 2013); and RMB/IFI Group's "Steel Threaded Rod from the People's Republic of China: Rebuttal Brief," (July 1, 2013).
[8] *See also* Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin 04.1").
[9] Section 773(c)(4)(A) of the Act (emphasis added).
[10] *See, e.g., Pure Magnesium from the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 75 FR 80791 (December 23, 2010) ("*Magnesium from the PRC*") and accompanying Issues and Decision Memorandum at Comment 4.

development.[11] The GNIs for the potential surrogates listed in the Surrogate Country Memorandum range from $2,050 to $6,100.[12] The PRC's GNI during the POR was $4,260.[13] The Department continues to find that, based on GNI, these seven countries are at the PRC's level of economic development and are likely to have good data availability and quality, *i.e.*, the specificity of these countries' data are more likely to assist the Department in its valuation of inputs.

Petitioner argues that Thailand is the "most comparable" surrogate country to the PRC in terms of level of economic development, but we reject that characterization. The Department's list is not exhaustive; there are other countries that could be reasonably viewed as being at the PRC's level of economic development. The number of such countries would depend on how broadly the statutory term "level" is interpreted. The Department considers all countries on its list of countries which are determined to be at the PRC's level of economic development to equally satisfy the statutory requirement that they be "at a level of economic development comparable to that of the NME country." Accordingly, there is no requirement under section 773(c)(4) of the Act that the Department must select a country with the closest GNI to the PRC's GNI. Furthermore, the Department disagrees with the view that proximity of GNI makes a surrogate country "more comparable" even amongst surrogate countries that are at the same level of economic development as the PRC. Other factors, such as the public availability of price data and/or the extent of the production of comparable merchandise within surrogate countries may weigh into the Department's selection of a surrogate. Such an analysis is reasonable and consistent with the Act.[14]

B. Significant Producer of Comparable Merchandise

Petitioner's Arguments

- The Department noted under HTSUS 7318.15, "Threaded Screws and Bolts Nesoi, With or Without Their Nuts or Washers, Of Iron Or Steel," that all countries on the surrogate country list were significant producers of comparable merchandise.
- HTSUS 7318.15 is a broad category and includes non-comparable merchandise.
- HTSUS 7318.15.50.56, "Continuously Threaded Rod: Other," is specific to steel threaded rod. Data show that the United States imported from Thailand six million kilogram ("kg") of merchandise under this HTSUS number whereas the United States did not import any merchandise from Ukraine under this HTSUS number.
- The Department should use HTSUS 7318.15.50.56 to conduct its significant producer analysis, which shows that Thailand is the best surrogate country for valuation purposes.

RMB/IFI Group's Arguments

[11] *See Preliminary Results* and accompanying Decision Memorandum at "Surrogate Country" section.
[12] *See* Letter to All Interested Parties, from Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, "Third Administrative Review of Steel Threaded Rod from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments," (August 16, 2012) at Attachment 1.
[13] *See id.*
[14] *See, e.g., Magnesium from the PRC*, and accompanying Issues and Decision Memorandum at Comment 4.

- Did not comment on this issue.

Department's Position: The Department disagrees with Petitioner that it should conduct its significant producer analysis using data for imports into the United States under HTSUS 7318.15.50.56. Generally, the Department, when making a determination of significant production within a country identified as a potential surrogate country, looks at a country's exports, rather than U.S. import data in making its evaluation. Also, HTSUS 7318.15.50.56 is only one of the four HTSUS categories covered by the scope of the antidumping duty order.[15] The Department finds that it is appropriate in this case to conduct its significant producer analysis using export data for the broader category of HTSUS 7318.15, which covers exports for all four HTSUS categories included in the scope of the antidumping duty order.[16]

The Department obtained export data using the Global Trade Atlas ("GTA") for HTSUS 7318.15: Threaded Screws And Bolts Nesoi, With Or Without Their Nuts Or Washers, Of Iron Or Steel, and, based upon its significant producer analysis, continues to find that Colombia, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine are all significant producers of comparable merchandise.

Accordingly, the Department finds that there is substantial record evidence that all of the above listed countries are significant producers of comparable merchandise. Further, the Department's practice is not to pick the surrogate country based on which country is the "most significant producer" but whether the country is a significant producer and has the best available information, as discussed below.[17]

C. Data Considerations

RMB/IFI Group's Arguments
- Import prices from Thailand are tainted by Thai Customs' manipulation of the entered values, making Thailand an inappropriate source for SVs.
- The National Trade Estimate Reports on Foreign Trade Barriers for 2011, 2012, and 2013, issued by the United States' Office of the Trade Representative express significant concern about the lack of transparency of Thailand's customs barriers and arbitrary import valuation policy.
- *The U.S. Department of Commerce, U.S Commercial Service, Doing Business in Thailand: 2012 Country Commercial Guide for U.S. Companies*, also expressed concern about the lack of transparency of Thailand's customs barriers and inconsistent application of Thailand's valuation methodology.

[15] *See* "Scope" section, *supra*.
[16] *See id.*
[17] *See, e.g.*, *Frontseating Service Valves From the People's Republic of China; 2010-2011 Antidumping Duty Administrative Review; Final Results*, 77 FR 67334 (November 9, 2012), and accompanying Issues and Decision Memorandum at Comment 1; *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the New Shipper Review*, 77 FR 27435 (May 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

- U.S. companies and exporters, such as the FedEx Country Report on Thailand ("FedEx Report"), express significant concern about Thailand's manipulation of entered values, which uses indicative prices instead of the transaction value to determine the customs value.
- These reports, which are all from authoritative sources, do not indicate that the manipulation of Thai import values is confined to only a certain type of commodity.
- The Department's findings in *Xanthan Gum from the PRC* are incorrect because the record evidence shows that the Thai Customs Department's manipulation of entered values on imports is pervasive.[18]
- An analogous situation to the Thai Customs' manipulation of import prices arises when the Department has reason to believe or suspect that import prices from certain countries might be dumped or subsidized because of recognized, generally available, non-industry specific export subsidies in those countries.
- In *Xanthan Gum from the PRC*, the Department explained that it could exclude all exports from Thailand, South Korea, India, and Indonesia of all products because there was some past evidence that those countries benefitted from export subsidies.[19] Accordingly, the findings of the U.S. Trade Representative, as supported by the Department and Federal Express, are enough to satisfy the same "reason to suspect or believe" standard with regard to Thai imports and this import data should not be used for these final results.
- The U.S. Court of International Trade ("CIT") has also expressly found that the Department must consider government intervention in the surrogate country that increases potential SVs to be equally as distortive as government actions that presumably decrease SVs.[20]
- The Department cannot accept Petitioner's assertion that Thailand is an acceptable surrogate market economy country when Petitioner has filed petitions alleging that the steel threaded rod industry in Thailand is dumping.
- The record evidence supports a finding that Ukraine is the best surrogate country for valuing RMB/IFI Group's FOPs.
- In the *Nails AR3 Final Results*, the Department found that the Ukrainian import data constituted country-wide data representing broad-market averages.[21]
- The Ukrainian import data consist of prices available country-wide and represent a broad-market average irrespective of the fact that Russia was a major exporter of steel inputs in Ukraine.

Petitioner's Arguments

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[18] *See Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) ("*Xanthan Gum from the PRC*"), and accompanying Issues and Decision Memorandum at Comment 1.

[19] *See Xanthan Gum from the PRC*, and accompanying Issues and Decision Memorandum at Comment 4.

[20] *See Yantai Oriental Juice Co. v. United States*, 26 CIT 605, 613-14 (2002).

[21] *See Certain Steel Nails from the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2010-2011*, 78 FR 16651 (March 18, 2013) ("*Nails AR3 Final Results*"), and accompanying Issues and Decision Memorandum at Comment 1.C.

- The Department has selected Thailand as the primary surrogate country in other proceedings.
- In *Xanthan Gum from the PRC*, the Department rejected the argument that Thailand suffers from fatal flaws as a surrogate country,[22] due to the lack of transparency of Thailand's customs barriers and arbitrary import valuation policy.

Department's Position: As explained above, the Department considers Colombia, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine to satisfy the economically-comparable and significant-producer criteria for surrogate country selection purposes. Policy Bulletin 04.1 states that, if more than one country satisfies these criteria for surrogate country selection purposes, "then the country with the best factors data is selected as the primary surrogate country." Importantly, Policy Bulletin 04.1 explains further that "data quality is a critical consideration affecting surrogate country selection" and that "a country that perfectly meets the requirements of economic comparability and significant producer is not of much use as a primary surrogate if crucial factor price data from that country are inadequate or unavailable."

Section 773(c)(1) of the Act instructs the Department to value the FOPs based upon the best available information from an appropriate market-economy ("ME") country or a country that the Department considers appropriate. When considering what constitutes the best available information, the Department considers several criteria, including whether the SV is: publicly available; contemporaneous with the POR; representative of a broad-market average; from an approved surrogate country; tax- and duty-exclusive; and specific to the input.[23] The Department's preference is to satisfy the breadth of the aforementioned selection criteria.[24] Moreover, 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 of valuing the FOPs.[25] As there is no hierarchy for applying the above-mentioned principles, the Department must weigh available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the "best" available SV for each input.[26]

When calculating import-based, per-unit surrogate values, the Department disregards import prices that it has reason to believe or suspect may be dumped or subsidized. It is the Department's practice, guided by the legislative history, not to conduct a formal investigation to ensure that such prices are not dumped or subsidized; rather, the Department bases its decision

[22] *See Xanthan Gum from the PRC,* and accompanying Issues and Decision Memorandum at Comment 4.
[23] *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 (September 8, 2006) ("*Lined Paper from the PRC*") and accompanying Issues and Decision Memorandum at Comment 3.
[24] *See, e.g., Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 51940, 51943 (August 19, 2011) and accompanying Issues and Decision Memorandum at Comment 2.
[25] *See Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review,* 71 FR 40477 (July 17, 2006) and accompanying Issues and Decision Memorandum at Comment 1 ("*Mushrooms from the PRC*"); *see also Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review,* 67 FR 19546 (April 22, 2002) and accompanying Issues and Decision Memorandum at Comment 2.
[26] *See Mushrooms from the PRC* and accompanying Issues and Decision Memorandum at Comment 1.

on information that is available to it at the time it makes its determination. That said, the Department must find specific and objective evidence to support its reason to believe or suspect the existence of dumping or subsidies.

The Department has SV data on the record of this segment of the proceeding for two of the countries that meet the economically-comparable and significant-producer criteria for surrogate country selection purposes (*i.e.,* Thailand and the Ukraine). The Department disagrees with RMB/IFI Group's assertion that Thai import statistics in general are unreliable. RMB/IFI Group correctly notes that the Department's practice when valuing FOPs using import statistics for any surrogate country is to exclude imports from Indonesia, South Korea, Thailand, and India because those countries maintain broadly available, non-industry specific export subsidies.[27]

Nevertheless, we do not find that the broadly available, non-industry specific export subsidies offered to Thai companies impact the surrogate values in this case, as the Department is using Thai import prices to value SVs, which do not benefit from such export subsidies. The Department excludes imports from Thailand in the calculation of surrogate values when using import data for other surrogate countries (*i.e.,* India, Indonesia, South Korea and Thailand's exports are excluded because there is reason to believe their exports benefitted from export subsidies), but the Department has never previously determined that Thailand is itself unsuitable as a surrogate country because of the presence of export subsidies.[28]
Regarding the alleged customs manipulation of Thai import prices, although the reports cited by RMB/IFI Group indicate that the United States has expressed concern over the practices of Thailand's Customs Department officials, we cannot conclude from the reports that the entirety of the Thai import data under consideration should therefore, be rejected as unreliable. As indicated in *Xanthan Gum from the PRC*, while these reports express concern about Thailand's Customs Department's valuation of imports, they do not provide conclusive evidence to reject the entirety of the Thai import data as unreliable.[29] Finally, while RMB/IFI Group notes that an antidumping duty investigation is currently underway with respect to Thai steel threaded rod, the Department has made no final determination in that case and, more importantly, that case concerns exports from Thailand to the United States, and not an analysis of imports into Thailand from other countries.

With regard to Ukraine, we agree with RMB/IFI Group that while the source of the ME imports into Ukraine may come primarily from one country, (*i.e.,* Russia), this does not render the prices unrepresentative of a broad-market average. It is the Department's practice that country-wide data represents broad-market averages, and the Department does not focus on the number of countries that are represented in the import data. Here, the Global Trade Atlas ("GTA") import data from Ukraine represent prices available country-wide in Ukraine and thus are broad-market averages.

[27] *See Preliminary Results* and accompanying Preliminary Decision Memorandum at "Factor Valuations" section.
[28] *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part; 2010-2011*, 78 FR 22513 (April 16, 2013) and the accompanying Issues and Decision Memorandum at comment 4.
[29] *See Xanthan Gum from the PRC* and accompanying Issues and Decision Memorandum at Comment 3.

In sum, the Department finds that Thai and Ukrainian data are appropriate for consideration for surrogate valuation purposes because each offers ata that are: (1) publicly available; (2) contemporaneous with the POR; (3) represent a broad-market average; (4) from an approved surrogate country; and (5) tax- and duty exclusive.

1) Steel Surrogate Values

RMB/IFI Group's Arguments

- The Ukrainian HTS tariff schedule provides classifications for steel wire rod and round bar that cover all the steel inputs that RMB/IFI Group uses in its production of subject merchandise.
- The Department found that the import data from Ukraine is specific to the percentage of the carbon content for RMB/IFI Group's primary input, steel wire rod.
- There are Ukrainian domestic prices for wire rod and round bar from the Ukrainian source, Metal Expert, which were used in the *Nails AR3 Preliminary Results*.[30]
- The Metal Expert domestic price data are actual transaction prices, specific by diameter and carbon content to the types of steel wire rod and round bar used by RMB/IFI Group.
- The Metal Expert data also corroborates the GTA import data for steel wire rod and round bar from Ukraine, which are in concordance with world prices for steel wire rod published by the World Bank's World DataBank, Global Economic Monitor Commodities.
- The Thai import prices for steel wire rod and round bar are contradicted by the World Bank GEM commodity prices and Thai domestic price quotes compiled by a market researcher, which are considerably lower in value as compared to Thai import prices.[31]

Petitioner's Arguments

- RMB/IFI Group's argument that Thai import data for steel wire rod are aberrational should be rejected because the Department used AUVs for steel wire rod and round bar that were based on significant imports.
- The data from RMB/IFI Group's market researcher is a compilation of price quotes where the quality and representativeness of this data are unknown, unlike the publicly available, published GTA data.

Department's Position: In valuing FOPs, section 773(c)(1) of the Act instructs the Department to use "the best available information" from the appropriate market economy country. As steel threaded rod is a type of steel fastener drawn from wire rod or round bar, these steel inputs constitute most of the material cost and are the most important factors in proper valuation of steel threaded rod.[32] In applying the Department's SV selection criteria, the Department has found in numerous NME cases that import data are reliable information for valuation purposes because

[30] *See Certain Steel Nails from the People's Republic of China: Preliminary Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 77 FR 53845, 53848-49 (September 4, 2012) ("*Nails AR3 Preliminary Results*").
[31] *See* the RMB/IFI Group's Surrogate Value Submission for Final Results, (May 17, 2013) at Exhibits 26 and 27.
[32] *See* the Department's Final Analysis Memorandum for RMB/IFI Group, (October 7, 2013) at Exhibit 1.

they consist of average import prices, are representative of prices within the POR, and are both product-specific and tax-exclusive.[33]

With respect to the GTA import data on the record, both Thai and Ukrainian import statistics are divided by several grades of carbon steel based on carbon content and can be specifically matched to the grade of steel wire rod and round bar consumed by RMB/IFI Group during the POR. Thus, the Thai and the Ukrainian import statistics are equally specific to the grade of steel inputs consumed by RMB/IFI Group. In terms of public availability, quality, and contemporaneity, we also find that the Thai and Ukrainian import statistics equally meet the Department's criteria in selecting SVs. For valuing steel wire rod and round bar, we do not find the Ukrainian Metal Expert prices offered by RMB/IFI Group to be the best available information when compared to the import statistics on the record of this review. Although the Metal Expert data are publicly available and representative of a broad-market average, RMB/IFI Group acknowledges that the particular Ukrainian Metal Expert data cited in its case brief as its primary choice for the SV are outside the POR, unlike the steel import statistics on the record. Further, while its secondary choice of Ukrainian Metal Expert data corresponds to the POR, those data only pertain to steel wire rod with diameters of 6.5 mm and 8 mm, while RMB/IFI Group actually consumed steel wire rod and round bar in diameters from 6.6 mm to 70 mm for the production of steel threaded rod. Additionally, the Department finds that the Metal Expert data do not cover the full carbon content range for steel wire rod and round bar used by RMB/IFI Group in producing the subject merchandise.[34] While the Metal Expert data covers a carbon content range of .14-.22 percent, RMB/IFI Group reported that the products it used had a carbon content range of less than 0.2 percent for steel wire rod and round bar.[35] Specifically, as noted in RMB/IFI Group's verification report, it used steel wire rod and round bar with carbon content ranges of 0.06 percent to 0.19 percent.[36] The Metal Expert data do not include prices for steel wire rod and round bar with carbon contents of less than 0.14 percent. In contrast, the Thai and Ukrainian import statistics are divided by several grades of carbon steel based on carbon content and cover carbon content ranges of less than 0.14 percent.[37] Accordingly, the Department finds that the Metal Expert data are not as specific to the types of steel wire rod and round bar used by RMB/IFI Group in the production of the subject merchandise.

With respect to RMB/IFI Group's assertion that the Thai GTA import data for steel wire rod and round bar are "contradicted" by other pricing information, we do not find the lower prices it cited to be evidence that the GTA information is distorted or misrepresentative. Consistent with the Department's practice,[38] and as indicated by the CIT, an interested party must introduce evidence

[33] *See, e.g.*, *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 59217 (September 27, 2010) and accompanying Issues and Decision Memorandum at Comment 19.
[34] *See Nails AR3 Final Results* and accompanying Issues and Decision Memorandum at Comment 1.D.
[35] *See* the RMB/IFI Group's Supplemental Section C Response, (January 4, 2013) at 2.
[36] *See* Verification Report at Exhibit 22.
[37] *See* Surrogate Value Memo at Exhibit 3.
[38] *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 Comments 3 and 4.

in support of any claim that a value is aberrational or distortive.[39] If a party presents sufficient evidence to demonstrate a particular SV is aberrational or distortive, and thus not reliable, the Department will assess all relevant price information on the record, including appropriate benchmark data, in order to accurately value the input in question.[40] The information RMB/IFI Group placed on the record simply indicates that the average of the values it collected are lower than the Thai GTA import prices. RMB/IFI Group did not provide annual data from prior years demonstrating that the value from the POR is aberrational or distortive compared to other years. Accordingly, we do not find that in RMB/IFI Group's arguments or cited data to support a finding that the Thai steel wire rod and round bar SVs are aberrational or distortive such that they should be rejected as unreliable.

2) Surrogate Financial Ratios

Ukranian Financial Statements

Petitioner's Arguments

- RMB/IFI Group has submitted three versions of the fiscal year ("FY") 2011 financial statements of the Ukrainian company, PJSC Dneprometiz ("Dneprometiz"). These different versions contain contradictory information about the company and render the financial statements unusable.
- The annual report of Dneprometiz's parent company, Severstal, casts doubt on the reliability of the Dneprometiz data because the Severstal annual report lists potential subsidies received by the company during the period of review.
- Dneprometiz does not produce steel threaded rod and thus there are no Ukrainian financial statements on the record from a company that produces identical merchandise.

RMB/IFI Group's Arguments

- The Department's findings in *Nails AR3 Final Results* are not correct because Dneprometiz is a public joint stock company, and traded on a stock exchange.[41]
- Ukraine's Securities and Stock Market approved the current "Regulation on the Disclosure of Information by Issuers of Securities" on December 19, 2006, which required that information shall be disclosed and if made public, published and submitted to the Commission.
- A Ukrainian law firm confirmed that Dneprometiz's financial statements are publicly available because the statements published on the official website of Dneprometiz are identical to the financial statements published on the website of the National Committee of the Fund Market and Stock Exchange.[42]
- While the Dneprometiz financial statements submitted prior to the *Preliminary Results* are slightly different from the versions submitted later, the later versions should be reliable as they are the published versions from Ukraine's stock exchange.

[39] *See Trust Chem. Co. v. United States*, 791 F. Supp. 2d 1257, 1264-65 (CIT 2011) ("*Trust Chem*").
[40] *See id.*
[41] *See Nails AR3 Final Results,* and accompanying Issues and Decision Memorandum at Comment 1.D.a .
[42] *See* the RMB/IFI Group's Submission, "Confirmation of Public Available of Financial Statements," (May 17, 2013) at 1st email exchange.

- In *Nails AR3 Final Results*, the Department found that circumstances of Dneprometiz's ownership structure were not indicative of "distorted market trends in the Ukrainian market or {that} Russia has influence over the imported price of steel products."[43]
- It would be inappropriate to substitute the financial ratios from Severstal in place of Dneprometiz's financial statements because Severstal is not a Ukrainian company and is not at an economic level comparable to the PRC. The Department's well-established policy is to derive all SVs from a single surrogate country.[44]
- Additionally, Severstal is an integrated steel producer that produces primary steel products (*i.e.,* ingots, billets, and blooms) that are not comparable to the subject merchandise.
- The CIT also found in *Brother Fastener* that producers of steel wire are comparable to RMB/IFI Group's production of subject merchandise.[45]
- The production processes that Dneprometiz uses are comparable to those of RMB/IFI Group because Dneprometiz's main workshops include a steel wire workshop, a metal coating workshop, and a workshop for production of items from wire.

Thai Financial Statements

Petitioner's Arguments

- The record includes the financial statements of a Thai company, Tycoons Corporation ("Tycoons"), which is a manufacturer of identical merchandise—threaded rod.
- Thailand is the only surrogate country that is a producer of identical merchandise and the Department has a stated preference for surrogate financial data from producers of identical merchandise.
- The record evidence shows that Tycoons did not benefit from countervailable subsidies and is the best surrogate data on the record for calculating the financial ratios.
- The Department is aware that the Thai government grants "promotional privileges" under the Investment Promotion Act ("IPA"). However, the mere fact that a company received a grant does not automatically disqualify its financial statements from use as a surrogate.
- If the Tycoons financial statements are found to be unusable, there are other usable Thai financial statements on the record from producers of comparable merchandise.
- Although RMB/IFI Group argues that one of these companies, Advanex (Thailand) Ltd. ("Advanex"), received promotional privileges from the Thai Board of Investment ("BOI"), this was only for an income tax exemption which was not specific to a region or contingent on exports.

RMB/IFI Group's Arguments

- There are financial statements for four Thai companies on the record: (1) Tycoons; (2) Advanex; (3) Dynamic Spring Co., Ltd. ("Dynamic Spring"); and (4) General Spring Center Co., Ltd. ("General Spring"). The Department properly rejected the financial

[43] *See Nails AR 3 Final Results,* and accompanying Issues and Decision Memorandum at Comment 1.C.
[44] *See Clearon Corp. v. United States*, Slip Op. 2013-22, at 12-13 (CIT 2013).
[45] *See Jiaxing Brother Fastener Co., Ltd. v. United States*, 751 F. Supp 2d 1345, 1358-59 (CIT 2010) ("*Brother Fastener*").

statements of Advanex, Dynamic Spring, and General Spring because these companies do not produce comparable merchandise.

- In *Hangers 2010-2011 Final Results*, the Department rejected the financial statements for Tycoons, Advanex, Dynamic Spring, and General Spring, because these companies did not produce comparable merchandise and there was no evidence that Tycoons draws wire rod.[46]
- There is no evidence that Dynamic Spring or General Spring purchased any input other than finished wire to produce springs. Thus, they are not producers of comparable merchandise.
- Tycoons' financial statements are also unusable because there is evidence that Tycoons received subsidies from the Thai BOI. The Department has recently found the BOI's tax and duty exemptions to be investment promotions that are countervailable programs.[47]
- In *Galvanized Steel Wire from the PRC Prelim Determination*, the Department rejected using Tycoons' financial statements because Tycoons received two different tax exemptions that fall under the Investment Promotion Act ("IPA").[48]
- There is also evidence that Advanex received BOI subsidies in the form of import duty tax exemptions and income tax exemptions. For this reason alone, the Department must disregard Advanex's 2011 and 2012 financial statements.

Department's Position: The Department's criteria for choosing financial statements for the calculation of surrogate financial ratios are based on the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.[49] Moreover, for valuing overhead, selling, general and administrative ("SG&A") expenses, and profit, the Department uses non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.[50] Further, the courts have recognized the Department's discretion when choosing appropriate companies' financial statements to calculate surrogate financial ratios.[51]

[46] *See Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2010-2011*, 78 FR 28803 (May 16, 2013) ("*Hangers 2010-2011 Final Results*") and accompanying Issues and Decision Memorandum at Comment 1.D.

[47] *See Certain Frozen Warmwater Shrimp from Thailand: Preliminary Countervailing Duty Determination,* 78 FR 33350 (June 4, 2013) and accompanying Decision Memorandum at 14-21.

[48] *See Galvanized Steel Wire from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 76 FR 68407, 68419 (November 4, 2011) ("*Galvanized Steel Wire from the PRC Prelim Determination*"), unchanged in *Galvanized Steel Wire From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17430 (March 26, 2012).

[49] *See, e.g., 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) and accompanying Issues and Decision Memorandum at Comment 3.

[50] *See* 19 CFR 351.408(c)(4).

[51] *See, e.g., FMC Corp. v. United States*, 27 CIT 240, 251 (CIT 2003) (stating that the Department "has wide discretion in choosing among various surrogate sources"), *aff'd FMC Corp. v. United States*, 87 Fed. Appx. 753 (CAFC 2004).

In the original investigation, the Department found that downstream products that are drawn from wire rod are comparable merchandise to steel threaded rod.[52] With respect to the financial statements placed on the record from Thailand, while RMB/IFI Group correctly noted that the Department did not select any of the same Thai companies in the recent *Hangers 2010-2011 Final Results* (choosing companies from the Philippines instead), each antidumping duty administrative review proceeds *de novo*, and determinations in that review are based upon the record as developed during the course of that particular segment of that proceeding.[53] Here, while the financial statements of Advanex,[54] Dynamic Spring, and General Spring do not indicate that they draw steel wire rod, record information indicates that Tycoons is a producer of identical merchandise, (*i.e.*, threaded rod).[55] Moreover, no party submitted information on the record disputing the fact that Tycoons is a producer of identical merchandise.

With respect to the issue of subsidies, the Department agrees with RMB/IFI Group that the Department's practice is not to rely on financial statements where there is evidence that the company received countervailable subsidies and there are other more reliable and representative data on the record for purposes of calculating the surrogate financial ratios.[56] While RMB/IFI Group alleges that Tycoons benefitted from countervailable subsidies under the IPA, Tycoons' financial statements do not contain any reference to any of the specific programs that were found to be countervailable.[57] The Department's finding of countervailable subsidies with regard to a prior set of Tycoons' statements in another segment of another proceeding does not automatically disqualify Tycoons' financial statements in the segment of this proceeding because the information may differ for each proceeding. Specifically, Tycoons' financial statements from *Galvanized Steel Wire from the PRC Prelim Determination* were from 2010, whereas Tycoons' statements on the record of this proceeding are from 2011.[58] Accordingly, the Department's findings that Tycoons' statements included evidence of subsidies in *Galvanized Steel Wire from the PRC Prelim Determination* does not apply to the financial statements on the record of this review. Thus, for these final results, the Department finds that the Thai data include usable financial statements from a company, Tycoons, that produces identical merchandise—threaded rod.

[52] *See Certain Steel Threaded Rod from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 8907 (February 27, 2009) and accompanying Issues and Decision Memorandum at Comment 1.
[53] *See Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 14499 (March 12, 2012) and accompanying Issues and Decision Memorandum at Comment 1; *see also Shandong Huarong Mach. Co. v. United States*, 29 CIT 484, 491 (2005) ("{E}ach administrative review is a separate segment of proceedings with its own unique facts.").
[54] Although Advanex's financial statements have been discredited because there is no indication that Advanex produces comparable merchandise, the Department also finds that there is record evidence that Advanex benefitted from a countervailable subsidy. Specifically, Advanex's financial statements have revenue broken out by BOI and non-BOI revenue, and also references Decree B.E. 2544. *See* Petitioner's Surrogate Value Submission, (January 16, 2013) at Exhibit 4B. *See also 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 5.
[55] *See* Petitioner's January 16, 2013, submission at Exhibits 4 and 5.
[56] *See* Omnibus Trade and Competitiveness Act of 1988, H.R. Rep. No. 576, 100th Cong., 2d Sess., at 590-91 (1988).
[57] *See* Petitioner's Surrogate Value Submission, at Exhibit 4A.
[58] *See Galvanized Steel Wire from the PRC Prelim Determination*, 76 FR at 68419.

With respect to the available financial statements placed on the record from Ukraine, in the *Preliminary Results*, the Department found that Dneprometiz's financial statements were not publicly available based on the analysis of the recent *Nails AR3 Final Results*, and no new information was submitted to the contrary prior to the *Preliminary Results*.[59] Following the *Preliminary Results*, RMB/IFI Group submitted extensive information arguing that Dneprometiz's financial statements are publicly available, specifically showing the accessibility of the statements both from the company website as well as from the Ukrainian stock exchange.[60] We examined the information submitted by RMB/IFI Group and confirmed that we were able to access the statements online.

However, the Department finds that the Ukrainian company, Dneprometiz, is not a producer of identical merchandise. Instead, the record evidence shows that Dneprometiz is only a producer of comparable merchandise (*i.e.*, steel fasteners). The Department has a preference for selecting the financial statements of a producer of identical merchandise over a producer of comparable merchandise when such information is available.[61] For example, in *Certain Cased Pencils*, the Department chose the data for one country over another country because the selected country's data included financial statements from an identical producer which better approximated the production experience of the respondent.[62] Accordingly, the Ukrainian company, Dneprometiz, is a less preferable choice for calculating the surrogate financial ratios because Dneprometiz is only a producer of comparable merchandise while the Thai company, Tycoons, is a producer of identical merchandise.

Moreover, the Department finds that significant discrepancies exist between the version of Dneprometiz's statements submitted prior to the *Preliminary Results* and the version of Dneprometiz's statements submitted following the *Preliminary Results*. Critically, the income statements submitted from the Market Publishers website and from the Ukrainian stock exchange show two different sets of figures.[63] As a result of these differences, the two versions of the statements now support two different sets of financial ratios for the same company.[64] The researcher retained by RMB/IFI Group speculates that the differences were due to the final auditing requirement before submission to the stock exchange commission, and that the version

[59] *See Nails AR3 Final Results,* and accompanying Issues and Decision Memorandum at Comment 1. Besides Dneprometiz, the RMB/IFI Group placed on record the financial statements of another Ukrainian company, Arcelor Mittal Kryviy Rih ("Kryviy Rih"). *See* RMB/IFI Group's Surrogate Values Submission for Final Results, (May 17, 2013) at Exhibits 6-8. Because record information indicates that this company engages in the production of steel reinforcing bar and steel wire rod, not downstream products of wire rod that are drawn from wire rod, the Department does not find that Kryviy Rih is a producer of comparable merchandise to steel threaded rod.

[60] *See* the RMB/IFI Group's May 17, 2013 submission at Exhibits 2-5.

[61] *See Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Determination to Revoke Order in Part*, 78 FR 42932 (July 18, 2013) ("*Certain Cased Pencils*") and accompanying Issues and Decision Memorandum at Comment 1.

[62] *See id.*

[63] *See* the RMB/IFI Group's January 16, 2013 submission at Exhibit 4; *see* also RMB/IFI Group's May 17, 2013 submission at Exhibits 3-4.

[64] *See id.*

submitted to the stock exchange should be reliable.[65] The Department does not find that this assertion adequately explains the significant material changes in almost all line items of the income statements given that the published version from the Ukrainian stock exchange and the version from the Market Publishers website were dated one day apart. Moreover, the discrepancies occurred in both the current year figures as well as the prior year figures.[66] The Department finds that if the changes were due to auditing, we would expect to see such discrepancies address and explained in the auditor's notes. Moreover, both of the financial statements appear to be audited, but both contain different figures for the same periods, casting doubt on the contents of each. Given these unresolved differences, the Department cannot conclude that the published version from the Ukrainian stock exchange is reliable, especially as both versions were accompanied by auditor's notes attesting to the reliability of each version. Accordingly, the Department does not find the Dneprometiz's financial statements to be reliable for calculating the surrogate financial ratios for the final results.

In sum, the Department finds that Tycoons' financial statements mirror the production experience of RMB/IFI Group, they are publicly available, contemporaneous with the POR, and sufficiently detailed and reliable, unlike the Ukrainian Dneprometiz's financial statements, to allow the Department to calculate the surrogate financial ratios. Therefore, the Department finds that the Tycoons' financial statements are the best available information for calculating the surrogate financial ratios for these final results.

Department's Position for Surrogate Country:

While the Department finds that Thailand and Ukraine both satisfy the economically-comparable and significant-producer criteria for surrogate country selection purposes, in terms of the overall quality of data available for SVs, Thailand offers superior quality of data for surrogate financial ratios and offers usable data to value all the FOPs necessary for the final results. As noted above, there are reliable financial statements on the record from a Thai producer of identical merchandise, steel threaded rod. In contrast, the Ukrainian data consists of unreliable statements from a comparable producer, Dneprometiz, and another set of statements from a company, Kryviy Rih, that is not a producer of comparable merchandise. Accordingly, the Department finds that selecting Thailand as the primary surrogate country would allow the Department to best approximate the production experience of the respondent, RMB/IFI Group. Therefore, the Department has determined to continue to select Thailand as the primary surrogate country for these final results.

COMMENT 2: ADJUSTMENTS TO FINANCIAL RATIOS

RMB/IFI Group's Arguments

- The Department should not value energy costs in RMB/IFI Group's FOP database because these costs are not broken out in Tycoons' financial statements.

[65] *See* RMB/IFI Group's Submission on Resubmit Confirmation of Public Availability of Financial Statements, (June 19, 2013) at Attachment 1

[66] *See id.*

- It is the Department's practice to remove energy costs from the FOP database when the surrogate financial statements do not break out energy from the costs of goods sold.

Petitioner's Arguments

- Did not comment on this issue.

Department's Position: As stated above, the Department has determined that the Tycoons' financial statements constitute the best available information for calculating the surrogate financial ratios. In the *Preliminary Results*, the Department stated that because electricity is not broken out in Tycoons' financial statements, the Department is not valuing electricity in RMB/IFI Group's margin calculation.[67] The Department will exclude the electricity FOP where electricity is not specifically identified in the financial statements.[68] This exclusion is based on the notion that these energy inputs are used in the general running of the business, *i.e.* in offices, bathrooms, and other facilities, as opposed to being used in the direct production of the subject merchandise. Since the *Preliminary Results*, the Department finds that no interested party has submitted evidence showing that electricity is broken out in Tycoons' financial statements. Accordingly, as in the *Preliminary Results*, the Department will not separately value electricity as an FOP in RMB/IFI Group's margin calculation for these final results.

COMMENT 3: CORRECTIONS TO MARGIN CALCULATION

Petitioner's Arguments

- The Department's verification of RMB/IFI Group identified mistakes in the reported international freight, distance from the plant to the port of exportation, and the weights of packing materials, which should be corrected.

RMB/IFI Group's Arguments

- The verification report does not address errors regarding international freight and thus Petitioner has failed to identify the alleged errors regarding international freight.
- The Department noted no discrepancies in the verification report except for a minor difference regarding the distance from plant to port.
- In the verification report, the Department found only minor differences in the weights for three types of packing materials. The differences do not result in a material difference in the antidumping margin calculation and thus the Department should decline to make an adjustment.

Department's Position: The Department agrees with Petitioner that the mistakes identified in the verification report regarding international freight, distance from plant to the port of exportation, and the weights of the packing materials should be corrected. With respect to international

[67] *See Preliminary Results* and accompanying Preliminary Decision Memorandum at "Factor Valuations" section.
[68] *See 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 Memorandum at Comment 2 (stating that "{the Department} has concluded that energy is recorded as part of . . .factory overhead. Therefore, . . .for the final determination, we have excluded respondents' energy expenses in the calculation of normal value . . . .") .

freight, at verification the Department accepted revised international freight expenses for certain observations as minor corrections.[69] The Department has requested and received from RMB/IFI Group a revised U.S. sales database that includes the revised international freight expenses.[70] The Department intends to use this revised U.S. sales database in the final results.

With respect to the distance from the plant to the port of exportation and the weights of certain packing materials, at verification, the Department noted a minor difference in the distance from plant to port and the weights of certain packing materials.[71] It is the Department's practice to make adjustments to the respondent's reported data when such an adjustment would result in a more accurate antidumping duty margin.[72] Accordingly, the Department will make adjustments to the reported distance from plant to port and to the weights of certain packing materials for the final results to obtain a more accurate antidumping duty margin for RMB/IFI Group.

COMMENT 4: REJECTED STEEL THREADED ROD

Petitioner's Arguments

- At verification, the Department noted that rejected finished rod was used for packing the subject merchandise.
- The Department should adjust the U.S. sales database by increasing the reported weight of the subject merchandise by the weight of the rejected threaded rod.

RMB/IFI Group's Arguments

- The rejected rod is accounted for in the FOPs because it is included in the yield loss ratio for steel wire rod and round bar.
- To account for the rejected rod would result in double-counting.
- If the Department does choose to increase the FOP database by the weight of the rejected rod, the Department should also give RMB/IFI Group an offset based on the amount of the SV for steel wire rod of the same weight.

Department's Position: The Department agrees with RMB/IFI Group that the rejected rod is already accounted for in the margin calculation, as the FOPs for the production of all threaded rod, including rejected rod, have been reported. The rejected rod is a part of the yield loss during the manufacturing process, and as RMB/IFI Group has not separately claimed an offset for the rejected rod, in order to avoid double-counting, the Department has not adjusted the weight of the finished merchandise as requested by Petitioner.

COMMENT 5: ASSESSMENT RATES

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[69] *See* Memorandum to the File, from Julia Hancock and Jerry Huang, Case Analysts, AD/CVD Operations, Office 9, Subject: Verification of Sales and Factors of Production Responses of the RMB/IFI Group: Certain Steel Threaded Rod from the People's Republic of China (May 31, 2013) ("Verification Report") at 2.
[70] *See* RMB/IFI Group's Revised Database, (July 26, 2013) at Attachment.
[71] *See* Verification Report at 22 and 33.
[72] *See Canned Pineapple from Thailand*, 68 FR 65247 (November 19, 2003) and accompanying Issues and Decision Memorandum at Comment 13.

Petitioner's Arguments[73]

- At verification, the Department found errors for certain U.S. Customs and Border Protection ("CBP") entries that were sales of subject merchandise.
- The Department should pass this information along to CBP for investigation and enforcement action.
- Additionally, the Department should adjust its calculation for these entries by applying an adverse inference.
- Based on the limited sample taken at verification, the Department should apply the highest calculated rate, 206 percent, for these importers.
- The Department should also notify CBP that there could more errors in CBP entries that are subject merchandise because RMB/IFI Group could not obtain entry documentation for these entries from most of its customers.
- The Department should obtain from CBP a list of all types of entries and make a similar adverse adjustment to all entries that have errors.

RMB/IFI Group's Arguments

- The Department verified that RMB/IFI Group was not responsible for importation of the subject merchandise.
- The Department verified that RMB/IFI Group cooperated fully in this review and thus there is no basis for the Department to apply an adverse inference to RMB/IFI Group or its importers.
- The Department has no legal authority to assign assessment rates to importers that do not match the rate assigned to the exporter, RMB/IFI Group. The Department must issue assessment instructions based on its review of RMB/IFI Group's sales for this review.

Department's Position: Petitioner is correct that, at verification, the Department found errors for certain CBP entries of subject merchandise sold by RMB/IFI Group. However, the Department finds that such concern is properly addressed under CBP's authority under 19 U.S.C. 1592 to investigate fraud, gross negligence, and negligence. The Department intends to reference the errors identified at verification as well as the status of entries at issue here when it issues the liquidation instructions to CBP. Moreover, to address the concern raised by Petitioner and our findings at verification, consistent with normal practice, the Department will provide CBP any relevant information, as appropriate, to assist that agency in fulfilling its statutory mission relating to antidumping duty and countervailing duty collection and enforcement.

COMMENT 6: SURROGATE VALUE FOR INLAND FREIGHT

RMB/IFI Group's Arguments

- The Department should calculate inland freight costs using Ukrainian data. Specifically, the inland freight distance should be calculated using an average distance from Kiev to seaports in the Atlantic Ocean and Baltic Sea.

[73] Because Petitioner's argument contains significant business proprietary information, for further description of the issue, please *see* Petitioner's Case Brief and Verification Report.

- The Department should use *Doing Business 2013: Ukraine* instead of *Doing Business 2012: Ukraine* for valuing movement expenses because *Doing Business 2013: Ukraine* is more contemporaneous.
- The container size and container weight used to calculate the inland freight were not based on RMB/IFI Group's actual experience but instead based on a hypothetical container weight of a 20-foot container based on a 10 MT weight.
- The Department should calculate inland freight based on the actual experience of RMB/IFI Group, which is an average of 17,000 kg shipped in 20-foot containers.

Petitioner's Arguments

- The Department should not adjust the SVs for movement charges to assume a greater weight than the standard weight used in the surrogate source.
- The Department's calculation considers a number of components to arrive at a per-unit value and the Department should not revise it to incorporate unsubstantiated assumptions.

Department's Position: As noted above, the Department has chosen Thailand as the primary surrogate country for these final results and is relying on Thailand for all SVs.

The Department finds that, of the information available on the record, *Doing Business 2012: Thailand*, published by the World Bank, is the best available source for valuing RMB/IFI Group's movement costs.[74] The data from the World Bank study are publicly available, specific to the costs in question, and represent a broad-market average. Moreover, the prices used by the Department are specific to the types of movement costs incurred by respondents, namely truck freight. The Department also finds that the data are contemporaneous because they overlap the POR and are based on the primary surrogate country that the Department has selected. Therefore, this data source meets the Department's criteria for selecting SV.

The Department disagrees with RMB/IFI Group that the denominator for this SV should be based on the experience of RMB/IFI Group. Specifically, to calculate this per unit value, because the SV is based on the *Doing Business 2012: Thailand* data, the Department used the weight of 10 MT for a standard container as described in the methodology section of the *Doing Business* publication as the denominator for our calculation.[75] The Department finds that it should continue to use the weight of 10 MT for a standard container because this is the weight reported in the *Doing Business* publication and the SV calculation must be internally consistent with the original data's reporting methodology. The Department notes that mixing different sources of data within the ratio calculation would add inconsistency to the calculation, which would yield a distorted result.

COMMENT 7: SURROGATE VALUE FOR BROKERAGE AND HANDLING ("B&H")

RMB/IFI Group's Arguments

[74] *See* Petitioner's September 7, 2012, submission at Exhibit 35.

[75] *See Certain Steel Nails from the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2010-2011*, 78 FR 16651 (March 18, 2013) and accompanying Issues and Decision Memorandum at Comment 3.R.

- The World Bank's hypothetical weight of 10,000 kg is not representative of each country's experience because this weight is used across 185 countries.
- The Department's statement that this weight is a typical, average, or representative weight is not accurate because the World Bank acknowledges that *Doing Business* is not a statistical survey.
- If the Department uses World Bank data to value B&H, the Department should use RMB/IFI Group's average actual weight of 17,000 kg for a 20-foot container.
- The "Document Preparation" fee of $235 in the B&H calculation for *Doing Business Ukraine* is much higher than the document, certificate and administrative fees for the freight forwarder, Hapag-Loyd, for shipments originating from Kiev being shipped to North America.
- The "Document Preparation" fee is high because it includes a cost of procuring an export letter of credit ("L/C") for the buyer's payment of the shipped merchandise. There are emails from the World Bank that confirm that the "Documentation Preparation" fee includes the cost of an export L/C.
- RMB/IFI Group obtained from the World Bank the cost of document processing fees for all countries listed in the surrogate country list. Because data from Ukraine were unavailable, RMB/IFI Group collected the average cost of obtaining an export L/C from several Ukraine banks.
- The Department should deduct the cost of the export L/C from the B&H AUV reported in the *Doing Business* for the selected surrogate country because RMB/IFI Group does not use export L/C as a method of payment.
- It is the Department's policy to not consider L/C fees to be B&H expenses and thus such fees should not be included in the B&H AUV.[76]

Petitioner's Arguments

- The Department should not adjust the SVs for movement charges to assume a greater weight than the standard weight used in the surrogate source.
- The Department's calculation considers a number of components to arrive at a per-unit value and the Department should not revise it to incorporate unsubstantiated assumptions.

Department's Position:

The Department finds that, of the information available on the record, *Doing Business 2012: Thailand*, published by the World Bank, is the best available source for valuing RMB/IFI Group's B&H costs. Similar to the calculation of truck freight, the Department finds that in calculating this SV for B&H, we should not depart from the World Bank publication and rely upon the experience of RMB/IFI Group instead. The Department finds that it should continue to use the weight of 10 MT for a standard container because this is the weight used in the *Doing Business* publication and thus the SV calculation must be internally consistent with the original data's reporting basis. The Department finds that mixing different sources of data in the B&H calculation would add inconsistency to the ratio calculation, which would yield a distorted result.

[76] *See Final Results of Administrative Review of the Antidumping Duty Order on Hand Trucks from the People's Republic of China*, 75 FR 29314 (May 25, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

Furthermore, we note that the *Doing Business 2012: Thailand* data are specific in identifying the types of B&H costs covered. The "Trading Across Borders" page from the study provides specific cost breakdowns for document preparation, customs clearance, and ports and terminal handling. RMB/IFI Group correctly notes that the study assumes payment is by L/C and the time and cost for issuing and securing a L/C is included in the value. As RMB/IFI Group demonstrated that they do not export by L/C, the Department has, accordingly, deducted the necessary costs of securing a L/C.[77]

COMMENT 8: REVOCATION FOR RMB/IFI GROUP

RMB/IFI Group's Arguments

- The Department should revoke the antidumping duty order with respect to RMB/IFI Group because it has sold the subject merchandise below normal value and in commercial quantities in the last three administrative reviews.

Petitioner's Arguments

- The Department should reject RMB/IFI Group's argument that it should revoke the antidumping duty order with respect to RMB/IFI Group because a positive antidumping duty margin was calculated for RMB/IFI Group in the preliminary results.
- The Department has rescinded the regulatory provision which previously allowed for company-specific revocation of antidumping duty orders.[78]

Department's Position: Pursuant to section 751(d) of the Act, the Department "may revoke, in whole or in part" an antidumping duty order upon completion of a review under section 751(a) of the Act. The Department's regulations outline certain procedural requirements for a party to request revocation in part, and RMB/IFI Group has satisfied the requisite criteria. Turning to the merits of RMB/IFI Group's request, the Department considers the following criteria in determining whether to revoke an antidumping duty order in part: (a) whether the company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years, (b) whether the company has agreed in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to revocation, sold the subject merchandise at less than NV, and (c) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping.[79]

Although Petitioner is correct that the Department rescinded the regulatory provision which previously allowed for company-specific revocation, the Department finds that the rescission

[77] *See* Memorandum to the File through Scot T. Fullerton, Program Manager, Office 9, from Jerry Huang, Case Analyst, Office 9, "Antidumping Duty Administrative Review of Certain Steel Threaded Rod from the People's Republic of China: Surrogate Values for the Final Results," (October 7, 2013) at 2 and Attachment 2.
[78] *See Modification to Regulation Concerning the Revocation of Antidumping and Countervailing Duty Orders*, 77 FR 29875 (May 21, 2012) ("*Modification to Revocation*").
[79] *See* 19 CFR 351.222(b)(2)(i)(A)-(C) (2012).

was effective for reviews that were initiated on or after June 20, 2012.[80] However, the Department notes that this administrative review was initiated on May 29, 2012,[81] and thus the previous regulatory provision that allowed for company-specific revocation applies to this administrative review.

For these final results, RMB/IFI Group's dumping margin is not zero or *de minimis*. Additionally, RMB/IFI Group did not receive a zero or *de minimis* margin in the amended final results of the second administrative review.[82] As such, the Department finds that RMB/IFI Group has not met the criteria listed in 19 CFR 351.222(b)(2)(i) and, thus, is not eligible for revocation.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above 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__________

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

23 OCTOBER 2013
Date

[80] *See Modification to Revocation*, 77 FR 29875.
[81] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 31568 (May 29, 2012).
[82] *See Certain Steel Threaded Rod from the People's Republic of China: Amended Final Results of the Antidumping Duty Administrative Reviews; 2010-2011*, 78 FR 4389 (January 22, 2013).