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DATE: January 16, 2014

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

FROM: James Maeder
Director, Office II
Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty Administrative Review and New Shipper Reviews (2011-2012): Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China

Summary

We have analyzed the case and rebuttal briefs of interested parties in the 2011-2012 administrative review and two new shipper reviews (NSRs) of the antidumping duty order covering tapered roller bearings and parts thereof, finished and unfinished (TRBs), from the People's Republic of China (PRC). As a result of our analysis, we have made changes to the margin calculations from the preliminary results. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comments from parties:

General Issues

1. Surrogate Value for Truck Freight
2. Using the Annual Report of NSK Bearing Company (Thailand) Limited to Calculate Surrogate Financial Ratios

Changshan Peer Bearing Co. Ltd. Issues

3. Consideration of an Alternative Comparison Method in Administrative Reviews
4. Differential Pricing Analysis
5. Value of Steel Bar for Products Produced by the Peer Bearing Company
6. Factors of Production Used in Determining Normal Value

Haining Automann Parts Co., Ltd. Issue

7. Surrogate Value for Sensors

Background

On July 8, 2013, the Department of Commerce (the Department) published the preliminary results of the 2011-2012 administrative review and NSRs of the antidumping duty order on TRBs from the PRC.[1] The administrative review covers six exporters, of which the Department selected one mandatory respondent for individual examination, Changshan Peer Bearing Co. Ltd. (CPZ/SKF). The NSRs cover subject merchandise produced and exported by Haining Automann Parts Co., Ltd. (Automann) and Zhejiang Zhengda Bearing Co., Ltd. (Zhengda). The period of review (POR) is June 1, 2011, through May 31, 2012.[2]

We invited parties to comment on the Preliminary Results. We received case briefs from The Timken Company (the petitioner), CPZ/SKF, Automann, and Zhengda, and we received rebuttal briefs from the petitioner and CPZ/SKF. After analyzing the comments received, we have changed the weighted-average dumping margins from those presented in the Preliminary Results.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[3] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. Additionally, on November 12, 2013, we extended the final results of the current review by 60 days.[4] If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. Therefore, because the deadline falls on a non-business day, the revised deadline for the final results of this review is now January 21, 2014.

Margin Calculations

We calculated export price (EP), constructed export price (CEP), and normal value (NV) using the same methodology stated in the Preliminary Results, except as follows:

[1] See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2011–2012, 78 FR 40692 (July 8, 2013), and accompanying Preliminary Decision Memorandum (Preliminary Results).

[2] See 19 CFR 351.213(e)(1)(i).

[3] See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

[4] See the Memorandum to Christian Marsh, Deputy Assistant Secretary, AD/CVD Operations, from Blaine Wiltse, Senior International Trade Analyst, Office II, AD/CVD Operations, entitled, "Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review and New Shipper Reviews," dated November 12, 2013.

- We based the surrogate value (SV) for truck freight using the World Bank's Doing Business in Thailand: 2013 because this source is more contemporaneous than the source used in the Preliminary Results and equally valid in all other respects. See Comment 1 below;

- We capped CPZ/SKF's reported freight distances by the reported distance to the nearest port;[5]

- We calculated CPZ/SKF's assessment rate by importer using the information stated in CPZ/SKF's questionnaire responses;[6] and

- We revised Automann's and Zhengda's margin calculations to deduct domestic brokerage and handling expenses.[7]

Scope of the Order

Imports covered by the order are shipments of tapered roller bearings and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.70.6060, 8708.99.2300, 8708.99.4850, 8708.99.6890, 8708.99.8115, and 8708.99.8180. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Discussion of the Issues

General Issues

Comment 1: *Surrogate Value for Truck Freight*

In this review, Automann and Zhengda argue that the Department should no longer value truck freight using information from a 2005 publication from the Thailand Board of Investment, but should instead value truck freight using the World Bank's Doing Business in Thailand: 2013. Automann and Zhengda state that the Department has valued truck freight using this same source

[5] See the January 16, 2014, memorandum from Blaine Wiltse, Senior Analyst, to the file, entitled "Calculation Adjustments for Changshan Peer Bearing Co., Ltd. and Peer Bearing Company for the Final Results" (CPZ/SKF Final Analysis Memo) at 2.

[6] See the CPZ/SKF Final Analysis Memo at 1-2.

[7] See the January 16, 2014, memorandum from Blaine Wiltse, Senior Analyst, to the file, entitled "Calculation Adjustments for Automann for the Final Results" at 2; see also the January 16, 2014, memorandum from Blaine Wiltse, Senior Analyst, to the file, entitled "Calculation Adjustments for Zhengda for the Final Results" at 2.

in a recently completed review.[8] Automann and Zhengda note that the Doing Business in Thailand: 2013 provides data that are more contemporaneous than the source used in the Preliminary Results.

The petitioner did not comment on this issue.

Department's Position:

Section 773(c)(1) of the Tariff Act of 1930, as amended (the Act) instructs the Department to value the factors of production (FOPs) based upon the best available information from a market economy (ME) country or countries that the Department considers appropriate. When considering what constitutes the best available information, the Department considers several criteria, including whether the SV data are contemporaneous, publicly available, tax- and duty-exclusive, representative of a broad market average, and specific to the input.[9] The Department chooses data that satisfy these selection criteria.[10] Moreover, it is the Department's practice to consider carefully the available evidence in light of the particular facts of each industry when undertaking its analysis to value the FOPs.[11] The Department must weigh the 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.[12]

Based on an analysis of the sources on the record to value truck freight, the Department finds that Doing Business in Thailand: 2013 represents the best available data to value truck freight, as it best satisfies each of the criteria that the Department considers when selecting SVs. Specifically, we note that the Doing Business in Thailand: 2013 is contemporaneous with the POR, while the publication from the Thailand Board of Investment is from 2005; moreover, Doing Business in Thailand: 2013 otherwise equally satisfies each of the selection criteria discussed above, as compared to the 2005 data.

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[8] See Sodium Hexametaphosphate From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 59375 (Sept. 27, 2012), and accompanying Issues and Decision Memorandum at Comment 4.

[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 (Sept. 8, 2006) (CLPP 2006) and accompanying Issues and Decision Memorandum at Comment 3.

[10] 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 (Aug. 19, 2011) and accompanying Issues and Decision Memorandum at Comment 2.

[11] 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) (Mushrooms), and accompanying Issues and Decision Memorandum at Comment 1; 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 (Apr. 22, 2002) and accompanying Issues and Decision Memorandum at Comment 2.

[12] See, e.g., Mushrooms at Comment 1.

Comment 2: *Using the Annual Report of NSK Bearing Company (Thailand) Limited to Calculate Surrogate Financial Ratios*

Automann and Zhengda argue that the Department should calculate surrogate financial ratios using the 2011-2012 financial statements of NSK Bearing Company (Thailand) Limited (NSK Bearings) because those financial statements are publicly available and contemporaneous with the POR. Moreover, they assert that NSK Bearings is a producer of identical or comparable merchandise with experience comparable to the respondents' own experience. Finally, Automann and Zhengda note that, in the Preliminary Results, the Department declined to use NSK Bearings' financial statements because of gaps in the translated version of the report; however, they point out that the full translation of these statements is now on the record. In contrast, Automann and Zhengda contend that the financial statements of JTEKT (Thailand) Co., Ltd. (JTEKT) are not the best available information from which to calculate surrogate financial ratios as they are not as contemporaneous. Automann and Zhengda note that JTEKT's information covers only 2011, while the POR extends to June 1, 2012, and NSK Bearings' financial statements cover the period of April 1, 2011 to March 31, 2012.

The petitioner disagrees that NSK Bearings' financial statements are an appropriate source of surrogate financial data because NSK Bearings appears to be an importer and distributor, not a producer, of bearings. The petitioner bases this contention on Note 1 to NSK Bearings' financial statements which states that the main business activity of the company is to import and distribute bearings in Thailand.[13] Furthermore, the petitioner points out that the 2012 Annual Report for NSK Bearings' parent company describes the "Outline of business" for NSK Bearings as "Sales of bearings, automotive components and precision machinery parts{.}"[14] According to the petitioner, 19 CFR 351.408(c)(4) directs the Department to calculate surrogate values for manufacturing overhead, general expenses, and profit using information from producers in the surrogate country of merchandise that is identical or comparable to the subject merchandise. Thus, because NSK Bearings is not a producer of identical or comparable merchandise, the petitioner argues that NSK Bearings' financial statements would be an inappropriate source for calculating surrogate financial ratios.

Department's Position:

After reviewing the information on the record, we continue to find that the financial statements used in the Preliminary Results from JTEKT constitute the best available information with which to value the financial ratios for the final results.

The Department's regulations at 19 CFR 351.408(c)(4) direct the Department to value manufacturing overhead, general expenses, and profit, using "non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country." Furthermore, in choosing surrogate financial ratios, it is the Department's policy to use data from

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[13] See Haining Automann's Post-Preliminary SV Comments, dated July 29, 2013, at Exhibit 2.

[14] See The Timken Company's Rebuttal Post-Preliminary SV Comments, dated August 8, 2013, at Attachment 1, NSK 2012 Annual Report at 77.

ME surrogate companies based on the "specificity, contemporaneity, and quality of the data." [15] While the statute does not define "comparable merchandise," it is the Department's practice, where appropriate, to apply a three-prong test that considers: 1) physical characteristics; 2) end uses; and 3) production processes.[16] In the selection of surrogate producers, the Department may consider how closely the surrogate producers approximate the NME producers' experience.[17] The Courts have held that the Department is neither required to "duplicate the exact production experience of the . . . manufacturers," nor undergo "an item-by-item analysis in calculating factory overhead."[18]

Since the Preliminary Results, Automann placed the completely translated financial statements of NSK Bearings on the record.[19] Upon a review of the translated financial statements, we found no reference to NSK Bearings' production of identical or comparable merchandise; instead NSK Bearings appears to primarily import and distribute bearings.[20] Consequently, because this company's core business does not appear to be based on the production of identical or comparable merchandise, the Department finds that its financial statements are not the best available information on the record from which to calculate surrogate financial ratios.

With respect to JTEKT, the company's principal businesses include production, sale, import, and export of steering units, bearings, and braking system equipment, including auto parts.[21] JTEKT is from a country that appears on our Surrogate Country List[22] and JTEKT is a producer of identical or comparable merchandise.[23] Moreover, no record evidence demonstrates that JTEKT received countervailable subsidies. Additionally, its financial statements are contemporaneous and complete (notwithstanding the fact that the time period for which they provide information does not cover the entire POR). Finally, the company was profitable during the POR.[24] Therefore, based on the foregoing, we continue to find that JTEKT's financial statements, as used in the Preliminary Results, represent the best available information for calculating the surrogate financial ratios.

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[15] See Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (Apr. 19, 2010) (OCTG) and accompanying Issues and Decision Memorandum at Comment 13; see also CLPP 2006 at Comment 1.

[16] See OCTG at Comment 13.

[17] Id.

[18] See Nation Ford Chem. Co. v. United States, 166 F.3d 1373 (Fed. Cir. 1999) at 1377; see also Magnesium Corp. of Am. v. United States, 166 F.3d 1364, 1372 (Fed. Cir. 1999).

[19] See Automann's Post-Preliminary SV Comments, dated July 29, 2013, at Exhibit 2.

[20] Id., at Note 1.

[21] See the petitioner's SV Comments, dated December 21, 2012, (Petitioner's SV Comments) at Exhibit 12a., Note 1.

[22] See Memorandum, to Shawn Thompson, Program Manager, Office 2, from Carole Showers, Director, Office of Policy, regarding Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished (TRBs) from the People's Republic of China (China), dated November 2, 2012 (Surrogate Country List).

[23] See Petitioner's SV Comments at Exhibit 12a, at Note 1.

[24] See Petitioner's SV Comments at Exhibit 12a, at 6.

CPZ/SKF Issues

Comment 3: *Consideration of an Alternative Comparison Method in Administrative Reviews*

In this review, the petitioner alleged that CPZ/SKF engaged in targeted dumping during the POR. However, as detailed in the Preliminary Results, the Department examined this issue using a differential pricing analysis instead of the targeted dumping analysis.[25] Based on the results of the differential pricing analysis, in the Preliminary Results, the Department found that 45 percent of CPZ/SKF's export sales which passed the Cohen's *d* test confirm the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions or time periods,[26] such that the Department should consider whether an alternative comparison method based on applying the average-to-transaction (A-to-T) method to U.S. sales which passed the Cohen's *d* test and applying the average-to-average (A-to-A) method to U.S. sales which did not pass the Cohen's *d* test. Further, the Department determined that the A-to-A method applied to all U.S. sales could not appropriately account for such differences because the resulting weighted-average dumping margin calculated using the A-to-A method and the appropriate alternative comparison method moved across the de minimis threshold (i.e., 0.5 percent).[27] Accordingly, pursuant to 19 CFR 351.414(c)(1), the Department determined to use the appropriate alternative comparison method to calculate the weighted-average dumping margin for CPZ/SKF in the Preliminary Results.[28]

CPZ/SKF contests the Department's legal authority to consider an alternative comparison method in administrative reviews because section 777A(d)(1)(B) of the Act authorizing this analysis pertains only to investigations.[29] CPZ/SKF maintains that Congress intentionally excluded the alternative comparison method in the Act from administrative reviews, thereby prohibiting the Department from applying section 777A(d)(1)(B) of the Act in reviews.[30] Moreover, CPZ/SKF asserts that the Act's differing language for investigations and reviews demonstrates that the statute is unambiguous, prohibiting the Department from considering an alternative comparison method in reviews.

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[25] See Preliminary Results, and accompanying Preliminary Decision Memorandum at 10-12.

[26] See the July 1, 2013, memorandum from Blaine Wiltse, Senior Analyst, to the file, entitled "Calculation Adjustments for Changshan Peer Bearing Co., Ltd. and Peer Bearing Company for the Preliminary Results" (CPZ/SKF Prelim Analysis Memo) at 1-2.

[27] Id.; see also 19 CFR 351.106(c).

[28] See Preliminary Results, and accompanying Preliminary Decision Memorandum at 10-12.

[29] Although CPZ/SKF takes issue with the Department's use of the alternative method in administrative reviews, it argues, nevertheless, that the Department's differential pricing analysis was applied to CPZ/SKF as it was designed and intended to do, and is not flawed, as claimed by the petitioner. See Comment 4 for further details.

[30] In support of this argument, CPZ/SKF cites to Nken v. Holder, 129 S. Ct. 1749, 1759 (2009) (Nken); Hamdan v. Rumsfeld, 548 U.S. 557, 578 (2006) (Hamdan); Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States, 13 F.3d 398, 401 (Fed. Cir. 1994) (Portland Cement); Zenith Electronics Corp. v. United States, 988 F.2d 1573 (Fed. Cir. 1993) (Zenith); and La. Pub. Serv. Comm'n v. FCC, 476 U.S. 355, 374 (1986) (La. Pub. Serv.); Espenschied v. Merit Sys. Prot. Bd., 804 F.2d 1233, 1237 (Fed. Cir. 1986) (Espenschied); and FAG Italia S.p.A. v. United States, 291 F.3d 806, 816 (Fed. Cir. 2002) (FAG Italia).

CPZ/SKF also argues that the Department's regulations and policy considerations cannot override the plain language of the statute. CPZ/SKF recognizes the Department's conclusion that the issue of which comparison method to use is analogous in investigations and reviews,[31] but it argues that this conclusion is flawed because the statute is unambiguous. Accordingly, CPZ/SKF argues that the Department should respect Congress's intent not to consider an alternative comparison method in reviews until Congress itself chooses to modify the Act.[32] Until that time, CPZ/SKF maintains, the Department may not create its own authority to consider an alternative comparison method in administrative reviews based on the lack of a specific statutory prohibition on doing so.

The petitioner disagrees that the Department lacks the authority to consider an alternative comparison method in administrative reviews. The petitioner notes that the Department has already stated that, while the A-to-A method is the default comparison method in administrative reviews, its authority includes "any exceptional or alternative comparison methods determined appropriate to address case-specific circumstances."[33] The petitioner argues that this is consistent with the statute, which, in the case of reviews, provides the Department with ample latitude to determine on a case-by-case basis whether an alternative comparison method may be used (employing the Department's practices in investigations as a guide).[34] Indeed, the petitioner asserts that the Act only instructs the Department that, when determining individual dumping margins, if the Department should compare individual transaction prices for U.S. sales to weighted-average normal values based on foreign like product prices, the latter may be averaged over, at most, a calendar month.[35] The petitioner argues that these instructions explicitly provide guidance as suitable averaging periods for normal values when the Department is making A-to-T comparisons in reviews.

Furthermore, the petitioner contends that the Act's preference for making A-to-T comparisons in reviews is a tool for addressing masked dumping,[36] and this preference is consistent with the Department's 30-year history of using A-to-T comparisons. The petitioner asserts that, while the Department now computes weighted-average dumping margins using the A-to-A method in both administrative reviews and investigations in order to comply with its obligations under the World Trade Organization (WTO), this does not mean that it may no longer determine weighted-average dumping margins using the A-to-T method as an alternative to the standard A-to-A method. To the contrary, the petitioner argues that the statutory criteria justifying A-to-T

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[31] See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101, 8107 (Feb. 14, 2012) (Final Modification for Reviews).

[32] In support of this position, CPZ/SKF cites to GPX International Tire Corp. v. United States, 666 F.3d 732 (Fed. Cir. 2011) (GPX Tire); and Marine Harvest (Chile) S.A. v. United States, 244 F. Supp. 2d 1364, 1379 (CIT 2002) (Marine Harvest).

[33] See Final Modification for Reviews, 77 FR at 8107.

[34] Id., at 8104; see also section 777A(d)(1) and (2) of the Act.

[35] See section 777A(d)(2) of the Act.

[36] See Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act , H.R. Doc. No. 103-316, vol. 1 (1994) at 842.

comparisons over the default reliance on A-to-A comparisons is clearly lawful and equally relevant for administrative reviews.[37]

Finally, the petitioner disagrees with CPZ/SKF's argument that the Department does not have the authority to consider an alternative comparison method in administrative reviews because Congress did not explicitly grant it. According to the petitioner, the cases cited by CPZ/SKF are not on point because CPZ/SKF failed to distinguish between a statutorily-required analysis undertaken in investigations to determine whether an alternative comparison method is appropriate, and the actual calculation of a weighted-average dumping margin using an alternative comparison method. The petitioner contends that the actual language of the statute, combined with the Department's long-standing practice, authorizes the Department to consider an alternative comparison method. Therefore, the petitioner argues that, rather than prohibiting the consideration of an alternative comparison method in reviews, the statute makes clear that this is permitted and, thus, the Department should continue to consider an alternative comparison method for the final results.

<u>Department's Position</u>:

After considering the arguments on this issue, we continue to find that it is appropriate to consider an alternative comparison method in these final results in the same manner as in the <u>Preliminary Results</u>.

We disagree with CPZ/SKF's claim that the Department does not have the statutory authority to consider and use, if appropriate, an alternative comparison method in administrative reviews. Section 771(35)(A) of Act defines "dumping margin" as the "amount by which the normal value exceeds the export price or constructed export price of the subject merchandise." The definition of "dumping margin" calls for a comparison of NV and EP or CEP. Before making the comparison called for, it is necessary to determine how to make the comparison.

CPZ/SKF asserts that the Department has no statutory authority to consider the application of an alternative comparison method in administrative reviews. CPZ/SKF states that Congress made no provision for the Department to consider an alternative comparison method in an administrative review under section 777A(d) of the Act. Indeed, section 777A(d)(1) of the Act applies to "Investigations" and section 777A(d)(2) of the Act applies to "Reviews". Section 777A(d)(1) discusses, for investigations, the standard comparison methods (<u>i.e.</u>, average-to-average or A-to-A method, and transaction-to-transactions or T-to-T method) and then provides for an alternative comparison method (<u>i.e.</u>, average-to-transaction or A-to-T method) that is an exception to the standard methods when certain criteria have been met. Section 777A(d)(2) discusses, for reviews, the maximum length of time over which the Department may calculate weighted-average normal value in administrative reviews when using the A-to-T method. Section 777A(d)(2) does not mandate for the comparison method to be employed in administrative reviews.

[37] <u>See</u> <u>Dongbu Steel Co. v. United States</u>, 365 F.3d 1363, 1372-73 (Fed. Cir. 2011)

To fill this gap in the statute, the Department has promulgated regulations to specify how comparisons between normal value and export price or constructed export price would be made in administrative reviews. With the implementation of the Uruguay Round Agreements Act (URAA), the Department promulgated the 1997 regulations, in which 19 CFR 351.414(c)(2) stated that the Department would normally use the A-to-T comparison method in administrative reviews. In 2010, the Department published its Proposed Modification for Reviews[38] pursuant to section 123(g)(1) of the URAA. This proposal was in reaction to several WTO Dispute Settlement Body panel reports which had found that the denial of offsets for non-dumped sales in administrative reviews was inconsistent with the WTO obligations of the United States. When considering the proposed revisions to 19 CFR 351.414, the Department gave proper notice and opportunity to comment to all interested parties. Pursuant to section 123(g)(1)(D) of the URAA, in September 2011, the U.S. Trade Representative (USTR) submitted a report to the House Ways and Means and Senate Finance Committees which described the proposed modifications, the reasons for the modifications, and a summary of the advice which the USTR had sought and obtained from relevant private sector advisory committees pursuant to section 123(g)(1)(B) of the URAA. Also in September 2011, pursuant to section 123(g)(1)(E) of the URAA, the USTR, working with the Department, began consultations with both congressional committees concerning the proposed contents of the final rule and the final modification. As a result of this process, the Department published the Final Modification for Reviews.[39] These revisions were effective for all preliminary results of review issued after April 16, 2012, as is the situation for this administrative review.

The Department's regulations at 19 CFR 351.414 (b) (2012) describe the methods by which normal value may be compared to export price or constructed export price in antidumping investigations and administrative reviews (i.e., A-to-A, T-to-T, and A-to-T). These comparison methods are distinct from each other. When using T-to-T or A-to-T comparisons, a comparison is made for each export transaction to the United States. When using A-to-A comparisons, a comparison is made for each group of comparable export transactions for which the export prices, or constructed export prices, have been averaged together (i.e., for an averaging group[40]). The Department does not interpret the Act or the SAA to prohibit the use of the A-to-A method in administrative reviews, nor does the Act or the SAA mandate the use of the A-to-T method in administrative reviews. The Department's regulations at 19 CFR 351.414(c)(1) (2012) fill the gap in the statute concerning the choice of a comparison method in the context of administrative reviews. In particular, the Department has determined that in both antidumping investigations and administrative reviews, the A-to-A method will be used "unless the Secretary determines another method is appropriate in a particular case."

The Act, the SAA, and the Department's regulations do not address directly whether the Department should use an alternative comparison method in an administrative review. Indeed, whereas the Act addresses this issue specifically in regards to investigations, the Act

[38] See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings: Proposed Rule; Proposed Modification; Request for Comment, 75 FR 81533 (December 28, 2010) (Proposed Modification for Reviews).

[39] See Final Modification for Reviews, 77 FR at 8101.

[40] See 19 CFR 351.414(d)(2).

conspicuously leaves a gap to fill on this same question in regards to administrative reviews.[41] In light of the Act's silence on this issue, the Department recently indicated that it would use the A-to-A method as the default method in administrative reviews, but would consider whether to use an alternative comparison method in administrative reviews on a case-by-case basis, but declined to "speculate as to either the case-specific circumstances that would warrant the use of an alternative methodology in future reviews, or what type of alternative methodology might be employed."[42] At that time, the Department also indicated that it would look to practices employed by the agency in antidumping investigations for guidance on this issue.[43]

In antidumping duty investigations, the Department examines whether to use an A-to-T method by using a differential pricing analysis consistent with section 777A(d)(1)(B) of the Act, which states:

> The administering authority may determine whether the subject merchandise is being sold in the United States at less than fair value by comparing the weighted average of the normal values to the export prices (or constructed export prices) of individual transactions for comparable merchandise, if
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> (i) there is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and
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> (ii) the administering authority explains why such differences cannot be taken into account using a method described in paragraph (1)(A)(i) or (ii).[44]

Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of an administrative review, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in an administrative review is, in fact, analogous to the issue in antidumping investigations. Accordingly, the Department finds the analysis that has been used in antidumping investigations instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.

The SAA does not demonstrate that the Department may consider the application of an alternative comparison method in investigations only. The SAA does discuss section 777A(d)(1)(A)(i) of the Act, concerning the types of comparison methods that the Department may use in investigations. That provision, however, is silent on the question of choosing a comparison method in administrative reviews. Section 777A(d)(1)(A) of the Act does not require, or prohibit, the Department from adopting a similar or a different framework for choosing a comparison method in administrative reviews as compared to the framework required by the Act in investigations. The SAA states that "section 777A(d)(1)(B) provides for a

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[41] See section 777A(d)(1)(B) of the Act; the SAA, at 842-43; and 19 CFR 351.414.

[42] See Final Modification for Reviews, 77 FR at 8107.

[43] Id., at 77 FR 8102.

[44] See section 777A(d)(1)(B) of the Act.

comparison of average normal values to individual export prices or constructed export prices in situations where an A-to-A or T-to-T methodology cannot account for a pattern of prices that differ significantly among purchasers, regions or time periods."[45] Like the Act, the SAA does not limit the Department to undertake such an examination in investigations only.[46]

We disagree with CPZ/SKF that the Act's silence with regards to application of an alternative comparison methodology in administrative reviews precludes the Department from applying such a practice in administrative reviews. Indeed, the Court of Appeals for the Federal Circuit (CAFC) has stated that the "court must, as we do, defer to Commerce's reasonable construction of its governing statute where Congress leaves a gap in the construction of the statute that the administrative agency is explicitly authorized to fill or implicitly delegates legislative authority, as evidenced by the agency's generally conferred authority and other statutory circumstances."[47] Further, the CAFC has stated that this "silence has been interpreted as 'an invitation' for an agency administering unfair trade law to 'perform its duties in the way it believes most suitable' and courts will uphold these decisions '{s}o long as the {agency}'s analysis does not violate any statute and is not otherwise arbitrary and capricious.'"[48]

CPZ/SKF cites several cases to argue the following principles: 1) that Congress acts intentionally when including and excluding certain language from sections of a statute; 2) that a negative inference should be drawn when Congress excludes certain language; and 3) that the absence of a statutory prohibition does not provide an agency the authority to gap fill.[49] However, CPZ/SKF's reliance on these cases is misplaced. In fact, principles (1) and (2) support the Department's interpretation of the statute, not CPZ/SKF's interpretation. The fact that Congress acted intentionally to include limitations on the comparison method the Department may select in investigations but not reviews leads to an inference that Congress did not intend to place limitations on the Department's authority with respect to reviews. Principle (3) is irrelevant to the case at hand, because it is not our position. That is, it is not the absence of a statutory prohibition, but rather Congress's silence with respect to reviews (in contrast to its expression of intent with respect to investigations) that governs the proper interpretation of the statute. The Act requires the Department to make comparisons between U.S. price and NV in administrative reviews.[50] The statute does not expressly define, nor does it restrict, the Department's selection of comparison methods in administrative reviews.[51] The text of the statute indicates that Congress intended the Department to calculate dumping margins by comparing NV and EP or

[45] See SAA at 843.

[46] Id.

[47] See U.S. Steel Corp. v. United States, 621 F.3d 1351, 1357 (Fed. Cir. 2010) (U.S. Steel Corp).

[48] See Mid Continent Nail Corp. v. United States, 712 F. Supp. 2d 1370, 1376 (CIT 2010) (Mid Continent Nail) citing U.S. Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) (U.S. Steel Group).

[49] See Nken, 129 S. Ct., at 1759; Hamdan, 548 U.S., at 578; Portland Cement, 13 F.3d, at 401; Zenith, 988 F.2d, at 1573; La. Pub. Serv., 476 U.S., at 374; Espenschied, 804 F.2d, at 1237; FAG Italia, 291 F.3d, at 816; GPX Tire, 666 F.3d, at 732; and Marine Harvest, 244 F. Supp. 2d, at 1379.

[50] See section 777A of the Act.

[51] Id.

CEP, without dictating how these comparisons should be made.[52] There can be no question that a comparison method is necessary to fullfil the statutory directive to make a comparison. Accordingly, Commerce necessarily has authority to utilize a comparison method. Congress outlined and limited what methods the Department may use in investigations; however, Congress was silent with regards to administrative reviews.[53] And "[w]hen a statute does not specify 'any Congressionally mandated procedure or methodology for assessment of the statutory tests,'" the agency must "'perform its duties in the way it believes most suitable.'"[54] Consequently, here, Congress did not specify or mandate a methodology for assessment in an administrative review, thereby leaving the decision to the Department.

Because the statue is ambiguous with regards to administrative reviews, the Department has interpreted this statutory structure as "mandating certain criteria for selecting a comparison methodology in original antidumping duty investigations, but leaving the Department considerable discretion in selecting an appropriate comparison methodology in reviews."[55] Additionally, the Department explained that it would consider, on a case-by-case basis, whether a comparison method other than the A-to-A method should be used to calculate the weighted-average dumping margin in an administrative review and would look to its practices in antidumping investigations for guidance.[56] Therefore, contrary to CPZ/SKF's arguments, there is nothing in the statute that mandates how the Department should select a comparison method in administrative reviews. To the contrary, carrying out the purpose of the statute here is a gap-filling exercise appropriately done by the Department given the ambiguous nature of this aspect of the statute.

Consistent with the text of section 777A(d)(1)(B) of the Act and the language of the SAA, the Department has analyzed whether a pattern of U.S. prices that differ significantly existed among customers, time periods, or regions for CPZ/SKF during the POR. Where the Department has determined that there was a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, time periods, or regions in this administrative review, the Department considered whether the standard A-to-A method can account for such differences. When the Department has satisfied both criteria, then it may apply an appropriate, alternative comparison method, consistent with the Act. Accordingly, we have not changed our analysis in these final results for determining whether the A-to-A method is the appropriate comparison method for CPZ/SKF in the administrative review.

We find that the above discussion of the extension of the Act with respect to investigations is a logical, reasonable and deliberative method to fill the silence with regards to administrative

[52] Id.

[53] Id.

[54] See Mid Continent Nail, 712 F. Supp. 2d at 1376-77 (quoting U.S. Steel Group, 96 F.3d at 1362); see also Union Steel v. United States, 713 F.3d 1101, 1107 (Fed. Cir. 2013) ("{I}f the statute is silent or ambiguous with respect to the specific issue," however, "the question for the court is whether the agency's answer is based on a permissible construction of the statute.") (quoting Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc., 467 U.S. 837, 842-43, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984)).

[55] See Final Modification for Reviews at 77 FR 8104.

[56] Id. at 77 FR 8102.

reviews. Therefore, we disagree with CPZ/SKF that the Department lacks the authority to consider whether the A-to-A method or an alternative comparison method is more appropriate for CPZ/SKF in this administrative review.

Comment 4: *Differential Pricing Analysis*

As noted above, the petitioner alleged that CPZ/SKF engaged in targeted dumping during the POR. The petitioner acknowledges that, in investigating this allegation in the Preliminary Results, the Department did not conduct its targeted dumping analysis including the Nails[57] test, but rather it performed a differential pricing analysis which included a Cohen's *d* test as the measure of significance. According to the petitioner, the Department's new methodology is significantly flawed and may result in the masking of dumping; therefore, the petitioner requests that the Department modify its analysis for purposes of the final results.

First, the petitioner presents a hypothetical situation where there are sales of the same product to two different customers where there are lower-priced sales to one customer that are dumped and in large numbers, and then there are fewer sales to a second customer that are at a higher price and not dumped. Further, petitioner stipulates that the higher-priced, non-dumped sales to the second customer are identified as passing the Cohen's *d* test, whereas the lower-priced, dumped sales to the first customer do not pass the Cohen's *d* test. If the Department were to apply an alternative comparison method as it did in these Preliminary Results, then the lower-priced, dumped sales would not be identified as being targeted and have the A-to-T method applied to them. This result, the petitioner contends, is counter to the objective of applying an alternative comparison method, which is to reveal masked dumping.

Second, the petitioner provides another example using the data submitted by CPZ/SKF in its most recent sales and FOP databases. The petitioner claims that the results of this analysis also demonstrates that the differential pricing analysis as applied in the Preliminary Results has failed to reveal masked dumping. Because the information upon which this analysis is based is business proprietary in nature, see the Petitioner Case Brief and the CPZ/SKF Rebuttal Brief for a complete description of this issue.

To address this perceived error, the petitioner argues that, at a minimum, the Department should include in the group of sales that have passed the Cohen's *d* test and to which it applies its A-to-T methodology those sales that pass the test, as well as the other sales of the same product. The petitioner also asserts that the Department should apply the A-to-T method to all U.S. sales in situations where more than 33 percent of U.S. sales pass the Cohen's *d* test. The petitioner contends that using either of these approaches will ensure that dumped sales are not masked by the existence of high-priced sales to a different customer or in a different region or time period.

CPZ/SKF disagrees that the Department's differential pricing analysis is flawed, and it claims that the petitioner's argument is premised on a fundamental misunderstanding of the purpose of

[57] See Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 33977 (June 16, 2008) and Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value, 73 FR 33985 (June 16, 2008) (collectively, Nails).

the new test. According to CPZ/SKF, the relevant statutory language in section 777A(d)(1)(B)(i) of the Act requires the Department to find that a pattern of U.S. prices that differ significantly among purchasers, regions, or time periods exists. The Department has interpreted this language as allowing it to consider both higher-priced sales and lower-priced sales as potentially contributing to a pattern of prices that differ significantly.[58] CPZ/SKF maintains that the Department's goal with this interpretation is to prevent higher-priced sales from offsetting lower-priced ones; in other words, the Department designed its differential pricing analysis to prevent a seller that typically dumps its products from selectively selling at significantly higher-prices to reduce the overall amount of dumping for the POR.

CPZ/SKF maintains that the petitioner does not explain why this approach is unreasonable or inconsistent with the statute, but rather that it merely attempts to muddy the issue by conflating differentially-priced sales with dumped sales. CPZ/SKF asserts that whether a sale is dumped has nothing to do with whether it is differentially priced, and it notes that the Department itself has recently taken the same position.[59] CPZ/SKF contends that the petitioner provided no explanation as to why the Department should change its differential pricing analysis to treat dumped sales that do not contribute to a pattern of price differences as passing the Cohen's *d* test, but instead it reached the illogical conclusion that the Department must treat dumped sales which fail the Cohen's *d* test as if they had passed it. According to CPZ/SKF, the petitioner's example only highlights the absurdity of its argument, because the petitioner uses it as a justification to apply the alternative comparison method broadly to non-differentially-priced sales based on a tiny percentage of differentially-priced ones.

Finally, CPZ/SKF contends that both of the petitioner's "fixes" are flawed, the first because it would essentially result in the application of the A-to-T method to all sales, and the second because it would determine the existence of a pattern of prices that differ significantly based on a factor not found in the Act (i.e., product model). Therefore, CPZ/SKF urges the Department to reject the petitioner's arguments for purposes of the final results.

Department's Position:

After considering the arguments on this issue, we continue to find that it is appropriate to perform the differential pricing analysis in these final results in the same manner as in the Preliminary Results. Based on the results of this differential pricing analysis, pursuant to 19 CFR 351.414(c)(1), we continue to find that 45 percent of CPZ/SKF's export sales confirm the existence of a pattern of CEPs for comparable merchandise that differ significantly among

[58] See Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013) (Xanthan Gum) and accompanying Issues and Decision Memorandum at Comment 3.

[59] See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012, 78 FR 42492 (July 16, 2013) and accompanying Issues and Decision Memorandum at Comment 1 and footnote 66 (where the Department states that "while the respondents claim that the Department should base its determination of whether a pattern of significant price differences exists only on those sales which it finds to be both targeted and 'dumped,' we disagree, given that the Department's pattern analysis only involves the pricing of U.S. sales. Thus, 'dumping' is not at issue because U.S. prices are not compared to NV when determining whether a pattern exists.").

purchasers, regions or time periods.[60] Further, as determined in the Preliminary Results, the Department found that the A-to-A method applied to all U.S. sales could not appropriately account for such differences because the resulting weighted-average dumping margin calculated using the A-to-A method and the appropriate alternative comparison method moved across the de minimis threshold (i.e., 0.5 percent).[61] Accordingly, pursuant to 19 CFR 351.414(c)(1), we determined to use the A-to-T method for CPZ/SKF's U.S. sales passing the Cohen's *d* test and the A-to-A method for CPZ/SKF's U.S. sales not passing the Cohen's *d* test to calculate the weighted-average dumping margin for CPZ/SKF in these final results.

The Department disagrees with the petitioner's argument and conclusion with respect to its hypothetical example involving sales of the same product to two different U.S. customers. The Department agrees with CPZ/SKF's arguments that a pattern of prices that differ significantly may include prices that are higher or lower than the prices to the comparison group. The Department further agrees with CPZ/SKF's argument that when determining whether there exists a pattern of prices that differ significantly, the fact of whether particular sales are dumped is irrelevant. Section 777A(d)(1)(B)(i) of the Act sets forth no such requirement that the U.S. prices be analyzed with respect their corresponding normal values.

To examine the petitioner's hypothetical example, if the U.S. sales to each customer are sufficient to calculate a Cohen's *d* coefficient (i.e., there are at least two sales to each customer and the quantity of sales to the customer which is the basis for the comparison group is at least five percent of the quantity of sales of the comparable merchandise), then the magnitude of the Cohen's *d* coefficient for each customer will be identical because the values used to calculate the Cohen's *d* coefficient, which are based on the prices to the two customers, are identical. The only difference in Cohen's *d* coefficients calculated in this scenario will be that one will be a positive value and one will be a negative value because in one comparison the weighted-average net price to one customer will be greater than the weighted-average net price to the other customer, and the other will be a negative value with the comparison done the other way around. Since passing or not passing the Cohen's *d* test is determined by the magnitude of the Cohen's *d* coefficient, in this scenario for the petitioner's hypothetical example, either all of the U.S. sales will pass the Cohen's *d* test, or none of the U.S. sales will pass the Cohen's *d* test. Therefore, petitioner's conclusion is not possible under this scenario.

An alternative scenario for this hypothetical example would be if the U.S. sales to one or both customers were insufficient to calculate a Cohen's *d* coefficient. In this situation, a Cohen's *d* coefficient will not be calculated for the U.S. customer(s) with insufficient U.S. sales and these sales will not be found to pass the Cohen's *d* test. If a Cohen's *d* coefficient is calculated for one of the U.S. customers, then whether these sales pass the Cohen's *d* test will depend upon the calculated Cohen's *d* coefficient which will be independent of and not prejudiced by the fact that no Cohen's *d* coefficient was calculated for the other U.S. customer. The Department finds that these types of results are reasonable in order to insure that the comparisons made between different customers (or regions or time periods) are made with reliability and are not based on potentially aberrant transaction(s). Although the petitioner's conclusion from its hypothetical

[60] See the CPZ/SKF Prelim Analysis Memo at 1-2.

[61] Id.

example is possible under this scenario, the Department finds that this outcome is reasonable in order to avoid anomalous results.

With respect to the petitioner's example based on CPZ/SKF's data in this administrative review, while this example is not the same as the hypothetical example described above, the conclusions that the petitioner draws from it are equally unfounded. Accordingly, we also disagree that the Department should revise its analysis in order to consider the application of an alternative comparison method.

The Department also disagrees with the petitioner's argument that the Department should lower the threshold to 33 percent for applying the A-to-T method to all U.S. sales as an alternative comparison method. The petitioner's support for such a change are the two examples discussed above, which the Department finds unpersuasive. Absent additional support to consider such a change, the Department continues to find that an appropriate alternative comparison method for CPZ/SKF, based on the results of the Cohen's *d* and ratio tests, is based on applying the A-to-T method to the U.S. sales which pass the Cohen's *d* test and applying the A-to-A method to the U.S. sales which do not pass the Cohen's *d* test.

Comment 5: *Value of Steel Bar for Products Produced by the Peer Bearing Company*

During the POR, CPZ/SKF sold merchandise in the United States which was produced by Changshan Peer Bearing Co. Ltd. when it was under the ownership of the Peer Bearing Company (CPZ/PBCD). In the Preliminary Results, we calculated the NV for these sales using FOPs which were specific to CPZ/PBCD, valued using SVs which are specific to CPZ/PBCD's FOPs.[62]

CPZ/SKF contends that the Department should have used CPZ/SKF's ME purchase prices for steel bar to value CPZ/PBCD's steel bar FOP, just as it did when valuing the steel bar FOP used in the CPZ/SKF-produced merchandise. CPZ/SKF states that it is the Department's policy to use the value of ME purchases for a given FOP when the respondent's ME purchases of that FOP represent 33 percent or more of the total FOP consumed during the POR.[63] According to CPZ/SKF, in determining whether to use a value based on ME purchases or a surrogate value, the Department only looks at purchases of the FOP during the POR, irrespective of when or where the particular FOP used in production of the subject merchandise was purchased.[64] Furthermore, CPZ/SKF argues that the Department's previous decisions in Wooden Bedroom

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[62] See the CPZ/SKF Prelim Analysis Memo at 6.

[63] See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 R 61716, 61718 (Oct. 19, 2006) (Antidumping Methodologies).

[64] Id.; see also Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review and Rescission of Administrative Review, in Part, 77 FR 2271 (Jan. 17, 2012) (TRBs 09/10) and accompanying Issues and Decision Memorandum at Comments 2 and 3 and note 26; Wooden Bedroom Furniture From the People's Republic of China: Final Results and Final Rescission in Part, 76 FR 49729 (Aug. 11, 2011) and accompanying Issues and Decision Memorandum at Comment 20 (Wooden Bedroom Furniture); Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China, 71 FR 29303 (May 22, 2006) (Diamond Sawblades), and accompanying Issues and Decision Memorandum at Comment 23.

Furniture and Diamond Sawblades[65] demonstrate that the Department's policy is to consider only ME purchase information from the current POR. Therefore, CPZ/SKF asserts that, following this policy, if CPZ/SKF were to submit ME purchase information for CPZ/PBCD's FOPs, the Department would not consider it, thereby making it impossible for CPZ/SKF to receive ME treatment for FOPs to products produced in prior PORs. CPZ/SKF contends that this position is inconsistent with the Department's regulations, as outlined in 19 CFR 351.408(c)(1), which state that the Department "normally will value {a} factor using the price paid to the market economy supplier."

According to CPZ/SKF, the Department's policy is grounded in the concern over whether a particular ME purchase price was available to a respondent during the POR, not whether the ME purchase price was representative of the actual input costs of the merchandise sold during the POR. CPZ/SKF contends that it demonstrated that it could obtain a substantial portion of its steel bar at a given ME purchase price, and it points out that the Department used this price to value the steel bar used in all CPZ/SKF-produced TRBs sold during the POR (irrespective of whether those TRBs were produced in a prior period). CPZ/SKF maintains that this ME purchase price is not necessarily representative of the price of steel used in its pre-POR production, just as it may not be representative of the price of steel used by CPB/PBCD. Using this logic, CPZ/SKF concludes that its pre-POR production and CPZ/PBCD production are similarly-situated with respect to CPZ/SKF's ME purchase price, and the Department must provide a rational explanation for treating them differently if it determines to do so.[66]

Finally, CPZ/SKF contends that it could not control how much steel bar CPZ/PBCD purchased from ME sources prior to CPZ/SKF's acquiring it, and, therefore, it would be both fundamentally unfair and arbitrary for the Department to penalize CPZ/SKF for CPZ/PBCD's failure to purchase more steel bar from ME sources during a previous POR. For the foregoing reasons, CPZ/SKF argues that the Department should use its ME purchase prices to value steel bar in all of the TRBs sold during the POR.

According to the petitioner, CPZ/SKF accurately described the Department's practice; however, the petitioner disagrees that CPZ/SKF correctly applied this practice to its own situation. In particular, the petitioner claims that CPZ/SKF fails to take into account the fact that the Department's practice is directed at individual companies (and not companies in general). The petitioner notes that CPZ/PBCD and CPZ/SKF are different producers, a fact not challenged by the respondent. Given this, the petitioner contends that the Department properly followed its practice of using an SV for the steel bar as the best available information for CPZ/PBCD-produced TRBs, as there is nothing on the record showing that CPZ/PBCD purchased any of its FOPs from an ME source.

According to the petitioner, when the Department published in 2006 its policy establishing the 33 percent rule, it made clear that the policy was: 1) meant to be applied to individual producers; and 2) designed to give the Department confidence that the ME purchase price "was reflective of

[65] See Wooden Bedroom Furniture at Comment 23.

[66] See SKF USA Inc. v. United States, 263 F.3d 1369, 1382 (Fed. Cir. 2001); and Nucor Corp. v. United States, 612 F.Supp. 2d 1264, 1306 (CIT 2009).

the firm's total purchases of the input."[67] The petitioner asserts that this rule was carefully crafted to ensure that the potential distortions that may be present in an NME may not have influenced the respondent's purchases at ME prices.

The petitioner argues that the fact that CPZ/PBCD made no ME input purchases suggests that it was not situated to make any such purchases. Moreover, the petitioner claims that the fact that CPZ/PBCD's assets are now owned by CPZ/SKF's parent company, AB-SKF, further suggests that it had a different profile than AB-SKF. Thus, the petitioner contends that CPZ/SKF's ME purchase prices do not constitute the best available information to value CPZ/PBCD's FOPs, and accordingly, the Department appropriately used an SV to value the steel bar in question.

Department's Position:

For the final results, we have continued valuing the steel bar used by CPZ/PBCD with an SV, consistent with our practice.[68] The Department has a rebuttable presumption that ME purchase prices are the best available information for valuing an FOP when the total volume of the FOP purchased by the respondent from all ME sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources.[69] Under this practice, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department uses the weighted-average ME purchase price to value all of the FOP.[70] Alternatively, when the volume of an NME firm's purchases of a particular FOP from ME suppliers during the period of investigation or review does not exceed this 33-percent threshold, the Department weight averages the (weighted-average) ME purchase price and an appropriate SV, using as weights the relative quantities of the FOP purchased from the ME sources and purchased from NME sources.[71] In determining whether ME purchases meet this 33-percent threshold, the Department compares the volume that the respondent purchased from ME sources during the period of investigation or review with the respondent's total purchases during the period.[72]

The Department's practice when selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act is to select, to the extent practicable, SVs which are publicly available, product-specific, representative of a broad market average, tax-exclusive, and

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[67] See Antidumping Methodologies, 71 FR at 61717-19.

[68] See the CPZ/SKF Prelim Analysis Memo at 6; see also Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011, 78 FR 3396 (Jan. 16, 2013) (TRBs 10/11) and accompanying Issues and Decision Memorandum at Comment 5.

[69] See Antidumping Methodologies, 71 FR at 61718-19; Proposed Modification to Regulation Concerning the Use of Market Economy Input Prices in Nonmarket Economy Proceedings, 77 FR 38553, 38554 (June 28, 2012); see also 19 CFR 351.408(c)(1).

[70] See Antidumping Methodologies, 71 FR at 61718-19.

[71] Id.

[72] Id.

contemporaneous with the POR.[73] Consistent with the practice of selecting SVs which are contemporaneous with the POR, where it is appropriate for the Department to use a respondent's weighted-average ME purchase price to value an FOP,[74] the Department relies on those ME purchases which were made during the period of investigation or review.[75] Furthermore, the Department's practice is to use ME purchase prices to value FOPs only for the respondent that demonstrated that it purchased significant amounts of these FOPs from ME suppliers.[76] These practices are consistent with the Department's standard antidumping questionnaire, which directs respondents, in the event that they did not produce the merchandise under consideration, to request FOP data from "the company that produces the merchandise," and also directs respondents to list the inputs "purchased from a market economy supplier and paid for in a market economy currency during the POR."[77]

"CPZ/PBCD" refers to the Changshan Peer Bearing Co. Ltd. when it was under the ownership of the Peer Bearing Company prior to its acquisition by AB SKF (the resulting company being CPZ/SKF). Previously, the Department has found that CPZ/SKF is not the successor-in-interest to CPZ/PBCD,[78] and, therefore, CPZ/SKF and CPZ/PBCD are two separate, unaffiliated parties to this proceeding. The Department has treated CPZ/SKF and CPZ/PBCD as separate entities in each segment of this proceeding since the successor-in-interest determination.[79] Additionally, CPZ/SKF has reported producer-specific FOPs for products which were manufactured both by CPZ/SKF and by CPZ/PBCD.[80] Although the Department prefers contemporaneous production data, the Department may use a producer's pre-POR data when current production data are

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[73] See Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China, 71 FR 16116 (Mar. 30, 2006) and accompanying Issues and Decision Memorandum at Comment 2.

[74] See Antidumping Methodologies, 71 FR at 61718-19

[75] See Wooden Bedroom Furniture at Comment 20 (stating that contemporaneous SVs represent the best available information for valuing the FOPs, as compared to non-contemporaneous ME prices); see also Diamond Sawblades, at Comment 23 (stating that the Department's preference is to consider only prices paid to ME suppliers during the period of investigation (POI), and disregarding ME purchases made prior to the POI in favor of contemporaneous SVs).

[76] See Certain Activated Carbon from the People's Republic of China: Notice of Preliminary Results of the Second Antidumping Duty Administrative Review, and Preliminary Rescission in Part, 75 FR 26927 (May 13, 2010), unchanged in Certain Activated Carbon from the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review, 70 FR 70208 (Nov. 17, 2010).

[77] See Section D of the Department's antidumping questionnaire, "General Explanation: Reporting Requirements" and "Market Economy Inputs."

[78] See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2008–2009 Antidumping Duty Administrative Review, 76 FR 3086, 3087 (January 19, 2011).

[79] See Preliminary Results; see also TRBs 10/11 at Comment 5; TRBs 09/10 at Comments 1 and 2; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review, 76 FR 3086 (Jan. 19, 2011) (TRBs 08/09).

[80] See CPZ/SKF's Section D questionnaire response, dated November 30, 2012 (CPZ/SKF Section D Response); see also CPZ/SKF's supplemental sections C and D, and Section E questionnaire response, dated Feb. 27, 2013; CPZ/SKF's second supplemental sections C and D questionnaire response, dated May 22, 2013.

unavailable.[81] CPZ/SKF provided evidence of its ME purchases of steel bar during the POR, but it provided no documentation relating to ME purchases made by CPZ/PBCD. Moreover, CPZ/PBCD is the company as it existed prior to its acquisition by AB SKF in 2008, meaning that it no longer existed as a producer during the instant POR, and, therefore, could not have made ME purchases during the POR. Because CPZ/SKF and CPZ/PBCD are separate, unaffiliated manufacturers and only CPZ/SKF made ME purchases during the POR, we continue to find it appropriate to value each manufacturer's FOPs using ME purchase prices only when we have evidence of ME purchases made during the POR by that particular manufacturer.

We disagree with CPZ/SKF that the use of CPZ/SKF's weighted-average ME purchase price to value a portion of CPZ/SKF's steel bar demonstrates that these prices are more representative of steel prices during the POR than the SV. The use of ME purchase prices to value a portion of an FOP is only appropriate where the respondent demonstrates that it purchased the FOP from a ME country using a ME currency during the POR, even if the FOP purchased from a ME source is not directly consumed when producing the subject merchandise. If a respondent does not demonstrate this, the Department's practice mandates the use of an SV. We also note that the SV used to value steel bar (i.e., Thai import data under the Thai Harmonized Tariff Schedule subheading 7228.30.10) was suggested by CPZ/SKF as the appropriate SV for steel bar inputs.[82] We continue to find that this SV constitutes the best available information to value CPZ/PBCD's consumption of steel bar. Accordingly, we valued CPZ/PBCD's steel bar consumption using the SV. This is consistent with our determination on this issue in prior segments of this proceeding.[83]

Comment 6: *Factors of Production Used in Determining Normal Value*

The petitioner notes that the FOP database entitled "PEERFOP02," submitted by CPZ/SKF on May 22, 2013, is missing certain steel input data. Accordingly, the petitioner requests that the Department employ facts available to supply the missing data for the final results.

CPZ/SKF acknowledges that its PEERFOP02 database is missing the data in question. However, it contends that the error is irrelevant because the Department did not use the PEERFOP02 database in its preliminary results. Nonetheless, CPZ/SKF contends that, if the Department decides to use the PEERFOP02 database in its final results, it should fill in the missing data using the steel bar FOPs reported in its previous database, PEERFOP01.

Department's Position:

We have examined our calculations and agree that the reporting error is irrelevant because we did not use the PEERFOP02 database in the Preliminary Results. Rather, we used the PEERFOP01 database, which differed from the PEERFOP02 database only in a (faulty) breakout of precision steel from other steel bar inputs. Because we accepted CPZ/SKF's explanation that these steel bar inputs were essentially interchangeable, it was unnecessary to require CPZ/SKF to

[81] See, e.g., TRBs 09/10 at Comment 3.

[82] See CPZ/SKF's Surrogate Value Comments, dated December 21, 2012, at 2.

[83] See TRBs 10/11, at Comment 5; see also TRBs 09/10, at Comment 3.

fix its error. Accordingly, we are continuing to rely on the PEERFOP01 database, which contains complete FOP data, in our final calculations.

Comment 7: *Surrogate Value for Sensors*

In the preliminary results, the Department valued the respondents' FOPs using Thai import data, as reported by the Thai Customs Department and published by Global Trade Atlas (GTA).[84] As part of this calculation, we valued the FOP for Automann's sensors using GTA data for the Harmonized Tariff Schedule (HTS) heading 9029.90, which corresponds to "Parts and Accessories for Revolution Counters, Production Counters, Taximeters, Odometers, Pedometers, Etc., Speedometers, Tachometers and Strobosopes."[85]

Automann does not dispute that Thailand is the appropriate surrogate country in these reviews. However, Automann disagrees with the use of Thai import data to value its sensors, arguing that, instead, it is more appropriate to use Indonesian import data for the same HTS heading. Automann notes that, while the Department prefers to value all FOPs using values from a single surrogate country, it can use SVs from other potential surrogate countries in instances where data from the primary surrogate country are unreliable or aberrational vis-à-vis data from other countries comparable to the PRC.[86] Automann states that "{t}he Department's practice for determining whether an SV is aberrational is to compare it with the data for the input at issue from the other countries found by the Department to be equally comparable."[87] In this case, Automann asserts that the import value reflected in the Thai import data is significantly higher than the values reflected in import data for other potential surrogate countries identified on the Surrogate Countries List and published by GTA (i.e., Costa Rica, Indonesia, Philippines, and South Africa),[88] demonstrating that the Thai import value is aberrational.[89] Automann also contends that imports into Thailand under HTS heading 9029.90 do not represent a broad market average because: 1) 89 percent are from a single country, Japan; and 2) the average unit value

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[84] See the July 1, 2013, memorandum to the file from Stephen Banea, Analyst, entitled "Surrogate Value Memorandum" (Surrogate Value Memo) at 4.

[85] See Surrogate Value Memo, at 5.

[86] In support of this assertion, Automann cites Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 61 FR 65527, 65531 (Dec. 13, 1996) (TRBs 1996) ; Xanthan Gum at Comment 16-A; Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 4386 (Jan. 22, 2013) and accompanying Issues and Decision Memorandum at Comment 7 (Chlorinated Isos); see also CLPP 2006 at Comment 5.

[87] 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) (CVP 23), and accompanying Issues and Decision Memorandum at Comment 4.

[88] The Surrogate Countries List identified Colombia, Costa Rica, Indonesia, Philippines, South Africa, and Thailand as potential surrogate countries. The administrative record of this case contains sensor import data only from five of these six countries (i.e., all but Colombia). See Surrogate Country List.

[89] Specifically, Automann notes that the average unit value of the Thai imports under HTS heading 9029.90 is $132.42/kg, while the values for the same HTS heading from the other possible surrogate countries range from $16.62/kg to $70.94/kg.

(AUV) of the imports from Japan is significantly higher than the AUVs of Japanese imports into the other potential surrogate countries.

Automann argues that, because of these defects, the Department should value sensors using imports of merchandise under HTS heading 9029.90 into Indonesia for the final results. According to Automann, the Indonesian import data represent a broad market average because Indonesia's import volume under this HTS heading was approximately four times the volume of imports into Thailand. Moreover, Automann notes that not only are the Indonesian imports from a variety of countries, but also the AUV of the Indonesian imports is in the middle of the range of the AUVs into the other potential surrogate countries (i.e., Indonesian Rupiah 349,254, or approximately $38.97/kg), making it a more appropriate SV than the Thai AUV.

The petitioner contends that the Department should continue to use the Thai import data for HTS heading 9029.90 to value sensors in the final results because it has an obligation to select SVs based on the best available information. According to the petitioner, the Department has a preference to use data from a single surrogate country that are specific to the FOP in question and that represent tax-exclusive, broad market averages contemporaneous with the POR. The petitioner asserts that the Thai import data meet all of these criteria.

The petitioner disagrees that the Thai import data are aberrational simply because their value is higher than the values for the imports into other countries or that the higher value is sufficient to warrant the selection of an SV from a second surrogate country.[90] The petitioner maintains that there is significant variation in the values of imports under this HTS heading across the globe, and it supports this assertion by pointing to import statistics for HTS heading 9029.90 from a number of countries in addition to those the Department deemed potential surrogates. The petitioner contends that this variation cannot be explained simply by import volumes or exporting market.

The petitioner also disagrees that the fact that the Thai imports were largely from Japan demonstrates that the Thai import data are aberrational. To support this conclusion, the petitioner points to import statistics for products imported into a number of countries under HTS heading 9029.90 showing that the value of Japanese imports to Thailand is within the range of values of imports of Japanese products to other countries.

Finally, the petitioner maintains that Automann's claim that the Thai data do not represent broad market averages because the Thai imports come primarily from one country is flawed. According to the petitioner, the Department normally evaluates factors such as whether the import data in question represent prices available throughout the surrogate country and POR,[91] and Automann has presented no evidence demonstrating that the Thai data are

[90] In support of this claim, the petitioner cites Guandong Chems. Imp. & Exp. Corp. v. United States, 460 F. Supp. 2d 1365 (CIT 2006).

[91] In support of this assertion, the petitioner cites Fresh Garlic from the People's Republic of China: Final Results and Rescission, In Part, Twelfth New Shipper Reviews, 73 FR 56550 and accompanying Issues and Decision Memorandum at 25 (Sept. 29, 2008), and Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination:

unreflective of prices available throughout Thailand. Accordingly, the petitioner maintains that the Department should continue to use Thai import data from GTA for HTS heading 9029.90 to value sensors for purposes of the final results.

Department's Position:

For these final results, we have continued to value sensors using Thai import data, in accordance with 19 CFR 351.408(c)(2), our policy, and consistent with our practice of normally valuing all factors using a single country.[92] In this case, we have determined that Thailand is the appropriate surrogate country,[93] and Automann has not challenged this determination. Automann is correct in its assertion that the Department will use values from other potential surrogate countries when the data from the primary surrogate country are shown to be aberrational or unreliable.[94] However, the data at issue here are not aberrational or unreliable. Rather, after reviewing the data on the records of these reviews, we find that the source data from the primary surrogate country are the best available information.

As stated in our Preliminary Results and noted in Comment 1, above, the Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.[95] In this case, because the Thai import data meet all of these criteria, they are not aberrational or unreliable.[96] Thus, we find no basis to select an alternative SV.

Automann argues that the Thai data are inappropriate for two reasons: 1) the AUV for imports of sensors into Thailand differs too widely from the AUV of imports into four of the other countries on the Surrogate Countries List (and thus the AUV is not reliable); and 2) the Thai imports are predominantly from one country (and thus the AUV does not represent a broad market average). We disagree on both counts.

To reach this conclusion, we reviewed the data on the record for POR imports of sensors into Thailand. We found that these imports came from 28 countries, with AUVs which varied widely in value.[97] While the majority of these imports were indeed of Japanese origin – and the overall

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Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42,672, 42,684 (July 16, 2004).

[92] See Policy Bulletin 04.1; see also Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order In Part; 2010-2011, 78 FR 42932 (July 18, 2013) and accompanying Issues and Decision Memorandum at Comment 1 (where the Department valued all FOPs from the primary surrogate country, with the exception of one FOP for which data were unavailable in the primary surrogate country).

[93] See Preliminary Results and accompanying Preliminary Decision Memorandum at 9.

[94] See TRBs 1996, 61 FR at 65531; Xanthan Gum at Comment 16-A; and CLPP 2006 at Comment 5.

[95] See, e.g., Preliminary Results and Preliminary Decision Memorandum at 15.

[96] Specifically, the Thai SV is calculated using 2011 GTA data compiled by Thai Customs Department for the HTS category specific to sensors, and it is comprised of a multitude of data points.

[97] See Automann's August 14, 2013, case brief at Attachment 1.

AUV was close to the AUV of Japanese imports for this reason – we found nothing unusual about the import data themselves which would call their reliability into question.[98] Rather, we noted that the AUVs from the 28 countries were distributed relatively evenly, with 14 higher than the overall average and 14 lower.[99] Moreover, we noted that this fact pattern was repeated with respect to the imports into the other countries deemed economically comparable to the PRC;[100] in each instance, there was a wide variation in import values from numerous countries, many of which were at or above the overall AUV of imports into Thailand.[101]

Contrary to Automann's assertion, the mere fact that the all-country-average AUV of imports into Thailand is higher than the all-country-average AUV for imports into any of the potential surrogate countries does not demonstrate that the data themselves are somehow flawed. The average AUV of Thai imports (either $132.42/kg by Automann's calculations or $132.39/kg by the Department's own calculation) is less than twice the average AUV of imports into the Philippines ($67.61/kg) and South Africa ($70.94/kg), the two countries with the next highest average AUV from the potential surrogate countries.[102] Similarly, the average AUV of imports into Indonesia ($38.97/kg) is more than twice the average AUV of imports into Costa Rica ($16.62/kg).[103] Cumulatively, these numbers indicate that there is a range of AUVs for sensors; the fact that import data into Thailand have the highest AUV does not demonstrate in and of itself that the values are distorted, unreliable, or aberrational.[104]

Generally, wide variation in unit values may be indicative of product diversity or quality within the HTS category; and the HTS category at issue here may include a wide number of different sensor models. In this case, even though the HTS category may contain a range of sensor types, so, too, do the other potential country-wide sensor SVs, including the SV from Indonesia. Importantly, Automann has not argued that the imports into Indonesia are more specific to its own FOPs, thus accounting for the lower AUVs; instead, it merely points to the fact that the average Indonesian figure is lower than the average Thai figure.[105] While Automann implies that "lower" is the same as "more accurate," there is no evidence on the record to support such a conclusion. The Department has previously determined that "{w}hen a party claims that a particular SV is not appropriate to value a certain FOP, the burden is on the party to provide

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98 Id.

99 Id. In analyzing the data, we found that imports from 13 of these 14 countries were consistent with values observed in the other economically-comparable countries. However, we noted that imports from Sweden were markedly higher, at $2853.00/kg. Automann did not argue that this value is aberrational, and excluding it from the average would change the overall AUV by less than 0.01 percent. Therefore, because it does not have a material impact on the results, we have not removed it from our calculations.

100 Id.

101 For example, three of the 21 country-specific AUVs for Indonesia were above this figure, as were five of the 14 country-specific AUVs for the Philippines (and a sixth was just below this level), etc.

102 See Automann's August 14, 2013, case brief at Attachment 1.

103 Id.

104 See Certain Activated Carbon From the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review, 77 FR 67337 (Nov. 9, 2012) and accompanying Issues and Decision Memorandum at Comment 1.

105 See Automann's August 14, 2013, case brief at 3-6.

evidence demonstrating the inadequacy of the SV." [106] Automann has failed to meet this burden here.

As to Automann's argument that the Thai import data do not represent a broad market average, we also disagree. In this case, the Thai data are not company-specific or relevant to only one particular region.[107] Moreover, there is no evidence on the record showing that the Thai imports are unrepresentative of normal commercial activity in Thailand, or that they are not "statistically and commercially significant."[108] Under the Department's practice, it is immaterial that the percentage of imports from a single country is high; the salient fact is that they are country-wide.

In Steel Cylinders from China,[109] the Department addressed a similar issue. In that case, one party argued that the Department should not value steel blooms and tubes using import data from the preferred surrogate country (i.e., Ukraine) because all of the imports came from Russia and, therefore, they did not represent a broad market average. However, there we stated that "the Department has repeatedly held that country-wide data represent broad market averages," regardless of the number of countries represented in that import data.[110] Thus, Automann's arguments provide no basis for finding that the imports into Thailand are not representative of a broad market average. As a consequence, we find Automann's arguments unpersuasive, and we have continued to value sensors using Thai import data under HTS heading 9029.90.

Finally, we find Automann's reliance on the cases cited in support of its position to be misplaced. In Xanthan Gum, the Department considered similar arguments and found, like here, that the data from the preferred surrogate country were reliable. In that decision, the Department stated that:

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[106] See Xanthan Gum at Comment 16-A; see also Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (Oct. 18, 2011) and accompanying Issues and Decision Memorandum at Comment 15; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 3987 (Jan. 22, 2009) and accompanying Issues and Decision Memorandum at Comment 6.

[107] See Surrogate Value Memo at 5 and Attachment 1; see also Ad Hoc Shrimp Trade Action Comm.v. United States, 618 F. 3d 1316, September 8, 2010 (Fed. Circuit 2010) (AHSTAC), which stated

> Commerce has explained that it "prefers, whenever possible, to use countrywide data, and only resorts to company-specific (or regional) information when countrywide data are not available". . . In accordance with its policy, Commerce chose the NACA Survey data over the Apex data, which is specific to one company. Commerce's policy on using countrywide data, whenever available, is reasonable, as such data gives a broad overview of the relevant market.

[108] See High Pressure Steel Cylinders From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 26739 (May 7, 2012) and accompanying Decision Memorandum at Comment 1 (Steel Cylinders from China).

[109] Id.

[110] Id. The Department also stated in this decision that "the GTA import data for steel blooms and tubes from Ukraine represent prices available country-wide in the [*sic*] Ukraine and therefore represent a broad market average. Accordingly, that the source of the market economy imports into the [*sic*] Ukraine may come from one country does not render the prices not reflective of a broad market average." See also AHSTAC at 9; Jining Yongjia Trade Co. v. United States, SLIP Op. 2010-134, December 16, 2010 (CIT 2010).

> …the existence of lower price points on the record alone, while illustrative, is not sufficient to cause the Department to disregard the surrogate value information in question. Rather, the party must provide evidence to show why said surrogate value is inadequate aside from simply citing to lower price points or, alternatively, demonstrate that another value is preferable. [111]

As noted above, Automann's argument rests on a simple citation to lower price points and, thus, our rejection of that argument is consistent with Xanthan Gum.

Similarly, we find that the facts of this proceeding differ from those in TRBs 1996 and Chlorinated Isos. Those cases concerned the specificity of the SV at issue. Specifically, in TRBs 1996, the Department tested the SV computed from an HTS basket category against a U.S. import value for the specific input used by the respondent.[112] Similarly, in Chlorinated Isos the Department relied on SV data from its primary surrogate country, finding that the record evidence did not support a finding that any AUV from the other potential surrogate countries either "is more specific to the input or demonstrates that the value from the {primary surrogate} is aberrational."[113] Here, Automann offered no benchmark of a greater specificity but, rather, merely compared a general figure with other general figures. The cases Automann relies upon concern the specificity of the data, which was not raised as an issue here. Therefore, these cases are not relevant to the present matter.

For the foregoing reasons, we have continued to value sensors using Thai import data for purposes of the final results.

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[111] See Xanthan Gum at Comment 16-A, citing TRBs 08/09 at Comment 14-B.

[112] See TRBs 1996, 61 FR at 65531. This fact pattern is also similar to the facts in CLPP 2006, where the Department compared an SV computed using import statistics into the preferred surrogate country at the six-digit HTS level with U.S. import statistics for the same HTS category at the eight-digit level (i.e., a level more specific to the input under consideration). See CLPP 2006 at Comment 5. The Department also notes that it no longer considers U.S. import data to be suitable comparative price benchmarks to test the validity of SVs. See TRBs 08/09 at Comments 14B and 15.

[113] See Chlorinated Isos at Comment 7.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If this recommendation is accepted, we will publish the final results of review and the final weighted-average dumping margins for the reviewed firms in the Federal Register.

Agree ✓ Disagree _______

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

1/16/14
(Date)