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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Steel Wire Garment Hangers from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2013-2014 Antidumping Duty Administrative Review

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SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting the sixth administrative review ("AR") of the antidumping duty ("AD") Order[1] on steel wire garment hangers ("hangers") from the People's Republic of China ("PRC") for the period of review ("POR") October 1, 2013, through September 30, 2014. The Department preliminarily determines that Shanghai Wells[2] sold subject merchandise in the United States at prices below normal value ("NV"). In addition, for the reasons discussed below, we are preliminarily treating Ningbo Dasheng Hanger Ind. Co., Ltd., ("Ningbo Dasheng") and the two Non-Responsive Mandatories which remain under review[3] as part of the PRC-wide entity.

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[1] See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China, 73 FR 58111 (October 6, 2008) ("Order").
[2] See below at "Affiliations" section where the Department discusses its previous finding that Shanghai Wells Hanger Co., Ltd., Hong Kong Wells Ltd. ("HK Wells") and Hong Kong Wells Ltd. (USA) ("Wells USA") are affiliated and that Shanghai Wells Co., Ltd., and HK Wells comprise a single entity (together, "Shanghai Wells").
[3] We selected additional companies as mandatory respondents: (1) Shaoxing Dingli Metal Clotheshorse Co., Ltd., ("Shaoxing Dingli") and 2) Shaoxing Tongzhou Metal Manufactured Co., Ltd., Shaoxing Andrew Metal Manufactured Co., Ltd., and Shaoxing Gangyuan Metal Manufacture (collectively, "the Shaoxing Entity"). For a discussion of the Shaoxing Entity, See Steel Wire Garment Hangers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 47587, 47589 (August 14, 2008) ("Hangers Investigation"). We have treated these companies as a single entity since the Hangers Investigation. These companies did not participate. Collectively we refer to them as the Non-Responsive Mandatories. Additionally, the Department selected Hangzhou Yingqing Material Co. Ltd. ("Yingqing") as a mandatory respondent but rescinded the review with respect to Yingqing, as discussed infra.

BACKGROUND

The Department received a timely request for review pursuant to 19 CFR 351.213(b)(2) from M&B Metal Products Company Inc. ("Petitioner").[4] The Department also received timely requests for review from Ningbo Dasheng,[5] Shanghai Wells,[6] and Yingqing.[7] On November 28, 2014, the Department published a notice of initiation of the sixth AR of hangers from the PRC with respect to 42 companies.[8] On February 18, 2015, the Department partially rescinded the review.[9] Four companies, including the Shaoxing Entity,[10] remain under review.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter or producer of the subject merchandise.[11] However, section 777A(c)(2) of the Act gives the Department the discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to determine individual dumping margins for all exporters or producers because of the large number of exporters or producers involved in an AR.

On December 1, 2014, the Department made available U.S. Customs and Border Protection ("CBP") data for subject merchandise entered during the POR under administrative protective order ("APO") to all interested parties having an APO in the AD AR.[12] We invited comments regarding the CBP data and respondent selection.[13] We received comments from Petitioner.[14] No other party submitted comments.

On December 18, 2014, the Department issued a respondent selection memorandum. Having considered the large number of exporters for which an AR was initiated, and assessing our resources, the Department determined that it could reasonably individually examine three exporters subject to this AR. Pursuant to section 777A(c)(2)(B) of the Act, the Department selected Shanghai Wells, Shaoxing Dingli, and the Shaoxing Entity[15] as mandatory

[4] See Letter from Petitioner "Steel Wire Garment Hangers from China: Request for Sixth Administrative Review" (October 31, 2014).
[5] See Letter from Ningbo Dasheng "Review Request" (October 31, 2014).
[6] See Letter from Shanghai Wells "Steel Wire Garment Hangers from the People's Republic of China" (October 30, 2014).
[7] See Letter from Yingqing "Review Request" (October 30, 2014).
[8] See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 70850 (November 28, 2014) ("Initiation Notice").
[9] See Steel Wire Garment Hangers From the People's Republic of China; 2013-2014; Partial Rescission of the Sixth Antidumping Duty Administrative Review, 80 FR 8603 (February 18, 2015) ("Partial Rescission").
[10] As noted above in footnote 3, the Shaoxing Entity is comprised of three companies. Each was listed separately in the Initiation Notice.
[11] See also 19 CFR 351.204(c) regarding respondent selection, in general.
[12] See Letter from Catherine Bertrand to All Interested Parties "2013-2014 Administrative Review of the Antidumping Duty Order of Steel Wire Garment Hangers from the People's Republic of China: CBP Data for Respondent Selection" (December 1, 2014).
[13] Id.
[14] See Letter from Petitioner "Comments on Respondent Selection" (December 11, 2014).
[15] We have treated these companies as a single entity since the Hangers Investigation. See Steel Wire Garment Hangers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 47587, 47589 (August 14, 2008) ("Hangers Investigation").

respondents.[16] The Department sent the non-market economy ("NME") AD questionnaire to Shanghai Wells, Shaoxing Dingli and the Shaoxing Entity on December 18, 2014. As stated in the cover letter of our questionnaire, the deadline for Section A was January 8, 2015, and for Sections C & D was January 26, 2015.[17] We received a timely response from Shanghai Wells. However, Shaoxing Dingli and the Shaoxing Entity did not file any responses or requests for an extension of time to respond to the preliminary questions.[18] On December 19, 2014, Petitioner timely withdrew its request for a review of 35 companies.[19]

On January 12, 2015, Petitioner requested that the Department select the next largest producers/exporters of subject merchandise as mandatory respondents.[20] On January 21, 2015, the Department issued another respondent selection memorandum, in which we selected two additional exporters for individual examination, Ningbo Dasheng and Yingqing.[21] Also, on January 21 2015, Yingqing filed a separate rate certification.[22] On February 2, 2015, Yingqing timely withdrew its request for review.[23] There were no other outstanding review requests for Yingqing. Therefore, the Department rescinded the review with respect to Yingqing and Yingqing is not subject to this review.[24]

SCOPE OF THE ORDER

The merchandise that is subject to the order is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers. Specifically excluded from the scope of the order are wooden, plastic, and other garment hangers that are not made of steel wire. Also excluded from the scope of the order are chrome-plated steel wire garment hangers with a diameter of 3.4 mm or greater. The products subject to the order are currently classified under U.S. Harmonized Tariff Schedule ("HTSUS") subheadings 7326.20.0020, 7323.99.9060, and 7323.99.9080.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

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[16] See Memorandum from Josh Startup, Analyst, Office V, to James Doyle, Director, Office V "Sixth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Selection of Respondents for Individual Examination" (December 18, 2014).
[17] See Letters to Shanghai Wells, Shaoxing Dingli and the Shaoxing Entity from Catherine Bertrand, Program Manager, Office V, Enforcement and Compliance; regarding the 2012-2013Antidumping Duty Administrative Review of Steel Garment Wire Hangers from the People's Republic of China, dated January 27, 2014.
[18] See Letter from Shaoxing Dingli to the Deputy Secretary of Commerce, Re: Notice of Inability to Further Participate, dated February 19, 2013.
[19] See Petitioner "Withdrawal of Review Requests for Specific Companies" (December 19, 2014).
[20] See Petitioner "Request for Replacement Mandatory Respondents" (January 12, 2015).
[21] See Memorandum to James Doyle, Director, Office V, from Katie Marksberry, Senior Analyst, Office V "Sixth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Selection of Additional Mandatory Respondent" (January 21, 2015).
[22] See Yingqing "Separate Rate Certification" (January 21, 2015).
[23] See Letter from Yingqing "Withdrawal from Review" (February 2, 2015).
[24] See Partial Rescission.

Affiliations

Section 771(33) of the Act provides that:

> The following persons shall be considered to be 'affiliated' or 'affiliated persons':
> (A) Members of a family, including brothers and sisters (whether by the whole or half-blood), spouse, ancestors, and lineal descendants.
> (B) Any officer of director of an organization and such organization.
> (C) Partners.
> (D) Employer and employee.
> (E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
> (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
> (G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act states that: "For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person." Finally, according to 19 CFR 351.401(f)(1), two or more affiliated companies may be treated as a single entity for AD purposes if: (1) the producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (2) there is a significant potential for manipulation of price or production.[25]

Shanghai Wells Affiliation/Single Entity

In the PRC Hangers AR1, the Department found Shanghai Wells Hanger Co., Ltd., affiliated with certain related entities, pursuant to sections 771(33)(A), (E) and (F) of the Act, based on familial relationship, ownership and common control.[26] The Department also determined to treat Shanghai Wells Hanger Co., Ltd., and one of its affiliated entities, HK Wells, as a single entity for purposes of that review.[27] For these preliminary results, because there were no changes to the facts that supported that decision in the first AR, we continue to find Shanghai Wells Hanger Co., Ltd., and HK Wells part of a single entity, Shanghai Wells, in this review.[28]

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[25] See also 19 CFR 351.401(f)(2).
[26] See Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review, 75 FR 68758, 68761 (November 9, 2010), unchanged in First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 27994, 27996 (May 13, 2011) ("PRC Hangers AR1").
[27] See PRC Hangers AR1, 76 FR at 68759.
[28] See Letter from Shanghai Wells to the Acting Secretary of Commerce regarding Section A Questionnaire Response (February 8, 2015) at pg. 2 and 11-12 ("Shanghai Wells SAQR").

DISCUSSION OF THE METHODOLOGY

NME Country Status

In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME shall remain in effect until revoked by the administering authority. The Department considers the PRC to be an NME country.[29] Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Separate Rates

There is a rebuttable presumption that all companies within an NME are subject to government control, and thus, should be assessed a single AD rate.[30] In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.[31] It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers,[32] as amplified by Silicon Carbide.[33] However, if the Department determines that a company is wholly foreign-owned or located in a market-economy ("ME") country, then a separate rate analysis is not necessary to determine whether it is independent from government control.[34]

The Department received a complete response to the Section A portion of the NME questionnaire, and a separate rate certification, from Shanghai Wells, which contained information pertaining to the eligibility for a separate rate. Additionally, we also received Section A questionnaire response Ningbo Dasheng. However, as explained below under the "PRC-Wide Entity," section below, Ningbo Dasheng is preliminary not eligible for a separate rate. Therefore, the only company that remains eligible for a separate rate is Shanghai Wells.

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[29] See, e.g., Certain Steel Nails from the People's Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2010-2011, 78 FR 16651, 16652 (March 18, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

[30] See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China, 71 FR 53079, 53082 (September 8, 2006); 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, 29307 (May 22, 2006).

[31] See Initiation Notice, 78 FR at 72630.

[32] Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588, 20589 (May 6, 1991) ("Sparklers").

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

[34] See, e.g., Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011, 78 FR 9493 (February 6, 2013), and accompanying Decision Memorandum at pg. 9, unchanged in final results, 78 FR 35249 (June 12, 2013); Certain Pneumatic Off-the-Road Tires from the People's Republic of China, Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 73 FR 9278, 9284 (February 20, 2008), unchanged in final determination, 73 FR 40485 (July 15,2013).

Separate Rate Recipients

Wholly Foreign-Owned

Shanghai Wells reported that it is a wholly foreign-owned entity.[35] Additionally, there is no evidence that Shanghai Wells is under the control of the PRC government. For these reasons, we preliminarily determine that further separate rate analysis is not necessary to determine whether this entity is independent from government control.[36] Thus, we preliminarily grant separate rate status to Shanghai Wells.

PRC-Wide Entity

Two companies that the Department selected as mandatory respondents in this AR failed to respond to the Department's requests for information and/or declined to participate in this review.[37] These companies did not submit documents demonstrating their eligibility for a separate rate and also did not respond to all parts of the questionnaire as mandatory respondents and, therefore, are not eligible for separate rate status.[38] Therefore, the Department preliminarily finds that the PRC-wide entity includes the Non-Responsive Mandatories.

Additionally, as we stated in the Initiation Notice, "{f}or exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents."[39] The below analysis details the ways in which Ningbo Dasheng failed to adequately respond to the NME questionnaire and withheld requested information. Accordingly, the Department preliminarily determines that Ningbo Dasheng is not eligible for a separate rate.

On January 21, 2015, the Department issued the NME questionnaire to Ningbo Dasheng. Section D of the NME questionnaire requests respondents provide a three-step factors of production ("FOP") reconciliation, with worksheets, supporting documentation (e.g., sub-ledgers, production reports, and inventory records), and narrative describing the reconciliation. Step one requests respondents reconcile their cost of goods sold ("COGS") to the audited financial statements, or the tax filings if the company does not have audited financial statements. Step two requests respondents reconcile their COGS to the cost of manufacture ("COM"). Step three requests respondents reconcile their COM to per-unit consumption. After granting Ningbo

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[35] See Shanghai Wells SAQR at 1.
[36] See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China, 64 FR 71104, 71104-05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).
[37] These two companies are Shaoxing Dingli, and the Shaoxing Entity.
[38] See Initiation Notice, 79 FR 70851 ("For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.")
[39] Id.

Dasheng a two-week extension,[40] Ningbo Dasheng filed two one-page worksheets in response to the FOP reconciliation, one identifying main operation costs for 2013 and one identifying main operation costs for 2014.[41] Ningbo Dasheng did not provide any supporting documentation, any narrative explaining how the costs reconciled to its audited financial statements or tax filing, or why it chose to report incomplete information. Ningbo Dasheng's first attempt at the FOP reconciliation was inadequate.

On March 18, 2015, the Department issued its first section D supplemental. In it we identified all of the deficiencies with Ningbo Dasheng's first attempt at the FOP reconciliation and requested for a second time the entire FOP reconciliation. Furthermore, as Ningbo Dasheng had yet to provide its audited financial statements or tax filings for 2013 and 2014, as requested by the original questionnaire, we requested them again. After granting Ningbo Dasheng a bifurcated extension, one week for its FOP reconciliation, and two weeks for the remaining section D supplemental questions,[42] Ningbo Dasheng submitted its response. In its response to the FOP reconciliation, Ningbo Dasheng explained that it discovered errors in its financial statements and required additional time to have its financial statements audited and would be requesting an extension in a separate submission. In its FOP reconciliation, despite not yet submitting its audited financial statements or tax filing, Ningbo Dasheng provided some narrative, as well as some supporting documentation for steel wire rod. However, Ningbo Dasheng's response was incomplete because Ningbo Dasheng only provided steps one and two of the FOP reconciliation for the 2014 portion of the POR, but nothing for the 2013 portion of the POR. Furthermore, regarding step three, Ningbo Dasheng only provided the 2014 reconciliation of the COM to the per unit consumption of wire rod, but nothing for the 2013 portion of the POR, nor did Ningbo Dasheng provide a reconciliation of the COM to the per unit consumption for the remaining inputs, as required by the questionnaire.

On April 1, 2015, after granting Ningbo Dasheng a one-week extension to submit its 2013 and 2014 audited financial statements, Ningbo Dasheng submitted the Chinese versions of the financial statements, however, the balance sheet, profit sheet, cash flow, and owner's equity were not translated into English, as required for all documents submitted to the Department.[43] Furthermore, the audited versions of the financial statements included revised figures that no longer reconciled to the 2014 worksheets Ningbo Dasheng submitted in its second attempt. Ningbo Dasheng did not provide any explanation as to what errors the auditor discovered resulting in the revision of certain figures in its financial statements, or any attempt to revise its FOP reconciliation so that it reconciled to its audited financial statements, as required in step one of the FOP reconciliation. Therefore, Ningbo Dasheng's second attempt was inadequate because

[40] See Memorandum to the File from Katie Marksberry, International Trade Compliance Analyst, regarding "Sixth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Sections C&D Questionnaire Response Deadlines for Ningbo Dasheng Hanger Ind. Co., Ltd.," dated February 25, 2015.
[41] See Ningbo Dasheng Section D Response, at Exhibit D-17, submitted March 13, 2015.
[42] See Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Extension for Supplemental Section D," dated March 24, 2015.
[43] In accordance with 19 CFR 351.303(e), "A document submitted in a foreign language must be accompanied by an English translation of the entire document or of only pertinent portions, where appropriate, unless the Secretary waives this requirement for an individual document. A party must obtain the Department's approval for submission of an English translation of only portions of a document prior to submission to the Department."

Ningbo Dasheng failed to provide the FOP reconciliation for 2013 and its attempt at the FOP reconciliation for 2014 does not tie its audited financial statements, as required in step one. Furthermore, Ningbo Dasheng failed to link the COM to the per-unit quantity consumed for each input, as required in step three. Therefore, after two attempts, we preliminarily find that Ningbo Dasheng's FOPs do not reconcile.

Ningbo Dasheng revised its FOP database with each section D submission.[44] With each revision, Ningbo Dasheng reported CONNUMs using less than one kilogram ("kg") of raw materials to produce one kg of output. When the Department asked Ningbo Dasheng to explain how it was possible to create one kg of subject merchandise with less than one kg of inputs, Ningbo Dasheng did not answer the question, and merely stated that it had revised its FOP data.[45] Even after accounting for the by-product offset, Ningbo Dasheng is still reporting less than one kg of raw materials to create one kg of output. Ningbo Dasheng has not explained how it is possible to produce, and how it produced, 1 kg of subject merchandise from less than 1 kg of raw materials. Without an accurate FOP reconciliation, we cannot rely on Ningbo Dasheng's per unit consumption figures. The per-unit consumption figures are necessary to calculate the AD margin. As explained below in greater detail, under "Surrogate Country and Surrogate Value," pursuant to section 773(c)(1) of the Act we are basing NV on the NME producer's FOPs, valued in a surrogate ME country or countries considered to be appropriate by the Department. Without an accurate FOP reconciliation, the Department is unable to assess the reliability of the FOP data submitted, data which is necessary to calculate an AD margin. To the extent that some information was provided, it was so incomplete that it could not serve as a reliable basis for reaching the determination in this review.[46]

As described above, Ningbo Dasheng failed to adequately respond to the NME questionnaire and withheld requested information. Accordingly, the Department preliminarily determines that Ningbo Dasheng is not eligible for a separate rate. Thus, the Department preliminarily determines that Ningbo Dasheng and the two Non-Responsive Mandatories are part of the PRC-wide entity.

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this AR.[47] Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate is not subject to change. The rate applicable to the PRC-wide entity is 187.25 percent, which is the PRC-wide rate from the previous AR (i.e., the fifth administrative review)

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[44] See Ningbo Dasheng Section C&D Questionnaire Response, dated March 13, 2015; see also Ningbo Dasheng Supplemental Section D Response, dated April 8, 2015

[45] See Ningbo Dasheng Supplemental Section D Response, at 1-2, submitted April 8, 2015.

[46] See section 782(e) of the Act.

[47] See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963, 65970 (November 4, 2013) ("Conditional Review of the NME Entity").

and remains unchanged, pursuant to our change in policy regarding conditional review of the PRC-wide entity and because the PRC-wide entity is not under review.[48]

Surrogate Country and Surrogate Value Data

On March 30, 2015, the Department sent interested parties a letter inviting comments on surrogate country selection and surrogate value ("SV") data, and specified the deadlines for these respective submissions.[49] On April 24, 2015, the Department extended the deadline for interested parties to submit comments and rebuttal comments on SVs for this AR.[50] Between April 20, 2015, and May 26, 2015, the Department received surrogate country comments, SV comments, and rebuttal comments from interested parties.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs us to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[51] The sources of the SVs we used in this review are discussed under the "Normal Value" section infra.

Petitioner filed comments, stating that all of the countries identified on the Surrogate Country and Values Letter are economically comparable, and all but Ecuador are significant producers of comparable merchandise. Lastly, Petitioner commented that there are quality, publicly available data from Bulgaria, Romania, South Africa, Thailand, and Ukraine.[52]

Fabriclean, a U.S. wholesaler and importer of subject merchandise, commented on surrogate country selection, stating that Thailand is economically comparable to the PRC, is a significant producer of comparable merchandise, and has quality data that are publicly available.[53] Fabriclean's submission included the financial statements of a Thai producer of steel nails that Fabriclean contends are comparable to subject merchandise.[54] Additionally, Ningbo Dasheng commented on surrogate country selection, arguing that Thailand should be the primary

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[48] Id; see also Steel Wire Garment Hangers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012–2013, 80 FR 13332, 13333 and accompanying Issues and Decision Memorandum ("5th AR Final Results").
[49] See Letter to All Interested Parties, from the Department "Steel Wire Garment Hangers from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments and Information" (March 30, 2015) ("Surrogate Country and Values Letter").
[50] See Memorandum to the File "Sixth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Surrogate Country Comment Deadline" (April 24, 2015).
[51] For a description of our practice see Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin").
[52] See Petitioner Surrogate Country Comments.
[53] See Fabriclean Surrogate Country Comments.
[54] Id. We note that Ningbo Dasheng submitted surrogate country and SV comments; however, we are not summarizing their arguments as we are not calculating a margin for Ningbo Dasheng.

surrogate country because it is economically comparable to the PRC and a significant producer of comparable merchandise, and has quality data available.[55]

A. Economic Comparability

The Department determines that Romania, Bulgaria, South Africa, Ecuador, Thailand, and Ukraine, are countries whose per capita gross national incomes ("GNI") are at the same level of economic development as the PRC.[56] Therefore, we consider all six countries identified in the Surrogate Country and Values Letter as having met this prong of the surrogate country selection criteria. Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data or are unsuitable for use for other reasons, we will rely on data from one of these countries.[57]

B. Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Although the legislative history states that "the term 'significant producer' includes any country that is a significant net exporter and, if appropriate, Commerce may use a significant, net exporting country in valuing factors,"[58] that does not preclude reliance on additional or alternative metrics.[59] Moreover, neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources, such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that "the terms 'comparable level of economic development,' 'comparable merchandise,' and 'significant producer' are not defined in the statute."[60] The Policy Bulletin further states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[61] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[62] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the

[55] See Letter to the Department, from Ningbo Dasheng, Re: Surrogate Country Comments, dated April 20, 2015.
[56] See Letter to All Interested Parties, from the Department, regarding "Steel Wire Garment Hangers from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments and Information," dated March 30, 2015.
[57] See Certain Steel Wheels From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination, 76 FR 67703, 67708 (November 2, 2011), unchanged in Certain Steel Wheels From the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances, 77 FR 17021 (March 23, 2012).
[58] See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Conf. Rep. No. 576,100 Cong, 2d Sess. (1988), reprinted in Cong. Rec. H2032 (Daily Ed. April 20, 1988).
[59] See Dorbest Ltd. v. United States, 462 F. Supp. 2d 1262, 1274 n.5 (CIT 2006).
[60] For a description of our practice see Policy Bulletin, at Background.
[61] Id.
[62] The Policy Bulletin also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." Id., at note 6.

comparability of the industry.[63] Importantly, the statute grants the Department discretion to examine various data sources for determining the best available information.[64]

In this case, because the record does not contain reliable production data for identical merchandise, we analyzed exports of comparable merchandise from the economically comparable countries, as a proxy for production data, during the POR. We obtained export data using the Global Trade Atlas ("GTA") for Harmonized Tariff Schedule ("HTS") 7326.20: "Other Articles of Iron Steel Wire." We find that "Other Articles of Iron/Steel Wire" are comparable to subject merchandise because this is the HTS subheading that includes steel wire garment hangers and other downstream products manufactured from steel wire. The Department found that, of the six countries provided in the Surrogate Country List, all countries had exports of comparable merchandise. Therefore, because each of the six countries on the Surrogate Country List satisfy the "economic comparability" and "significant producer" prongs of the surrogate country analysis, the Department also will consider data availability in selecting a surrogate country. Importantly, "the country with the best factors data is selected as the primary surrogate country."[65]

C. Data Availability

When evaluating SV data, the Department considers several factors including whether the SV data are publicly available, contemporaneous with the POR, from an approved surrogate country, tax and duty-exclusive, specific to the input, and represent a broad market average.[66] There is no hierarchy among these criteria; it is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[67]

With respect to the availability of data for steel wire rod, the primary input used in producing subject merchandise, we note that Petitioner, Fabriclean, and Ningbo Dasheng placed GTA import statistics on the record of this review.[68] Petitioner placed Thai data for the six-digit HTS code 7213.91 on the record, as well as all of the Thai HTS sub-codes under this six-digit code.[69] Fabriclean placed on the record Thai data for the Thai HTS sub-code 7213.91.90.010, and Ningbo Dasheng placed on the record Thai data for the Thai HTS sub-codes 7213.91.90.010 and 7213.91.90.011.[70] No interested party placed data on the record to value steel wire rod from any surrogate country other than Thailand.

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[63] See Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 65674 (December 15, 1997), and accompany Issues and Decision Memorandum at Comment 1 (to impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute); see also section 773(c) of the Act and 19 CFR 351.408.
[64] See section 773(c) of the Act; Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1990).
[65] See Policy Bulletin at Data Considerations.
[66] See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.
[67] See Ad Hoc Shrimp Trade Action Comm. v. United States, 618 F.3d 1316, 1322 (Fed. Cir. 2010).
[68] See Petitioner SV Comments and Fabriclean SV Comments, dated May 13, 2015, see also Ningbo Dasheng SV Comments, submitted May 4, 2015.
[69] See Petitioner SV Comments, submitted May 13, 2015.
[70] See Ningbo Dasheng SV Comments, submitted May 4, 2015, see also Fabriclean SV Comments.

The record does not contain financial statements from identical producers (i.e., manufactures of steel wire garment hangers); however, it does contain multiple contemporaneous financial statements for Thai producers of comparable merchandise (i.e., nails, screws and fasteners).[71]

Accordingly, based on an analysis of the information on the record, the Department preliminarily finds that Thailand provides the best source of surrogate value data because the record contains quality SV data from Thailand for every factor, including specific data for wire rod, which is the main input for subject merchandise, and contains data contemporaneous to the POR. Additionally, the record contains contemporaneous, useable Thai financial statements from which to derive surrogate financial ratios.

In sum, of the countries we determine to be at the same economic level as the PRC, we preliminary selected Thailand as the primary surrogate country because: (1) Thailand is at the same level of economic development as that of the PRC; (2) Thailand is a significant exporter of comparable merchandise; and (3) Thailand provides the best opportunity to use quality, publicly available data to value Shanghai Wells' FOPs. Additionally, the record contains usable Thai SV data for all FOPs used by Shanghai Wells. Based on the above, we preliminarily selected Thailand as the surrogate country and, accordingly, calculated NV using Thai prices to value the Shanghai Wells' FOPs.

Date of Sale

Shanghai Wells reported the date that the invoice was issued to the unaffiliated customer as the date of sale.[72] The Department preliminarily determines that the invoice date is the appropriate date to use as Shanghai Wells date of sale in accordance with 19 CFR 351.401(i) and the Department's long-standing practice of determining the date of sale.[73]

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average export prices ("EPs") or constructed export prices ("CEPs") (the average-to-average ("A-A") method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to compare weighted-average NVs to the EPs or CEPs of individual transactions (the average-to-transaction ("A-T") method) as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of ARs, the Department finds that the issue arising under 19 CFR 351.414(c)(1) in

[71] The following Philippine financial statements are on the record: 1) APO Industries; 2) Supersonic Manufacturing; 3) Sterling Steel Inc.; 4) Worldwide Steel Group inc.; and 5) Benedicto Steel Corp. and the following Thai financial statements are on the record: 1) LSI; 2) Hi-Tech Manufacturing; 3) Bangkok Fastening; 4) Sahaslip Rivet; 5) Mongkol Fasteners; and 6) Nissan Spring.
[72] See Shanghai Wells' Section C&D Questionnaire response, dated February 9, 2015 at pg. C-14.
[73] See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

ARs is, in fact, analogous to the issue in AD investigations.[74] In recent investigations and reviews, the Department applied a "differential pricing" analysis for determining whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[75] The Department finds the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this AR. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.

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

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered

[74] See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012).
[75] See, e.g., Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 17637 (March 22, 2013).

significant if the calculated Cohen's *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

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

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

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

Results of the Differential Pricing Analysis

For Shanghai Wells, based on the results of the differential pricing analysis, the Department finds that 21.2 percent of its export sales pass the Cohen's *d* test and, therefore, the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method. Accordingly, the Department used the A-A method applied to all U.S. sales to calculate the weighted-average dumping margin for Shanghai Wells.[76]

[76] In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 4, 2012).

U.S. Price

Because Shanghai Wells has a U.S. affiliate, for these preliminary results, the Department will use the CEP and EP, as appropriate, for sales made by Shanghai Wells and its affiliated entity to their first unaffiliated U.S. customers of subject merchandise during the POR.

A. Export Price

In accordance with section 772(a) of the Act, the Department calculated EP for a portion of Shanghai Wells' sales to the United States because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted. The Department calculated EP based on the sale price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, as appropriate, the Department deducted from the sales price certain foreign inland freight, brokerage and handling ("B&H"), and international movement costs. Because the inland freight and B&H services were either provided by an NME vendor or paid for using an NME currency, the Department based the deduction of these charges on SVs.[77] For international freight provided by an ME provider and paid in U.S. dollars, the Department used the actual cost per kg of the freight.

B. Constructed Export Price

For some of Shanghai Wells' sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act, because sales were made on behalf of the Chinese-based company by a U.S. affiliate to unaffiliated purchasers in the United States. For these sales, the Department based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, the Department made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, in accordance with section 772(c)(2)(A) of the Act. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by NME service providers or paid for in an NME currency, the Department valued these services using SVs (see "Factor Valuations" section below for further discussion). For those expenses that were provided by an ME provider and paid for in an ME currency, the Department used the reported expense.

In accordance with section 772(d)(1) of the Act, the Department also deducted those selling expenses associated with economic activities occurring in the United States. The Department deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty expenses, and indirect selling expenses. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for each company, see the company-specific analysis memorandum, dated concurrently with these preliminary results.

Value-Added Tax

In 2012, the Department announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any un-refunded (herein "irrecoverable") value-added

[77] See Prelim Surrogate Value Memo for details regarding the SVs for movement expenses.

tax (“VAT”) in certain NME countries in accordance with section 772(c)(2)(B) of the Act.[78] The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent’s EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.[79] Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.[80]

In both initial and supplemental questionnaires, the Department instructed Shanghai Wells to report VATs on merchandise sold to the U.S. and identify which taxes are not rebated upon export.[81] In response, Shanghai Wells stated its disagreement with our product-specific methodology and argued that the Department should accept its calculated tax liability, which is based on “input” and “output” VAT (i.e. both sales related VAT and VAT paid for inputs), and which Shanghai Wells argues is a more accurate reflection of its VAT liability.[82]

However, our practice is that we will not consider allocations across all company sales or across sales of products with different VAT schedules but, rather, to use the difference between the VAT rate and the refund rate, consistent with PRC regulations, unless the company can show otherwise for the subject merchandise.[83] Instead, the Department’s methodology, as explained above and applied in this review, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this review by Shanghai Wells indicates that according to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is nine percent.[84] For the purposes of these preliminary results, therefore, we used the U.S. Free On Board price multiplied by the difference between the rates (i.e., 8 percent), which is the irrecoverable VAT as defined under PRC tax law and regulation, as reported by Shanghai Wells.[85]

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit

[78] See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481 (June 19, 2012).
[79] Id.; see also Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 4875 (January 30, 2014) and accompanying Issues and Decision Memorandum at Comment 5.A.
[80] Id.
[81] See Shanghai Wells’ Section C&D Questionnaire response, dated February 9, 2015 at pg. C-14; see also Shanghai Wells’ Supplemental C&D Questionnaire Response, dated April 24, 2015 (“Shanghai Wells’ Supp CDQR”) at 5-8; see also Shanghai Wells’ June Supplemental at 5-6.
[82] See Shanghai Wells’ Supp CDQR at 7-8.
[83] See, e.g., Diamond Sawblades and Parts Thereof From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 35723 (June 24, 2014) and accompanying Issues and Decision Memorandum at Comment 6.
[84] See Shanghai Wells’ Supp CDQR at 6.
[85] See Shanghai Wells’ May 5, 2015, VAT Supplemental at 1, and Exhibit 1.

the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Further, pursuant to section 773(c)(1) of the Act, the valuation of an NME respondent's FOPs shall be based on the best available information regarding the value of such factors in an ME country or countries considered to be appropriate by the Department. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

The Department used Thai import statistics to value the raw material and packing material inputs that Shanghai Wells used to produce the subject merchandise during the POR. With respect to the SVs based on Thai import statistics, in accordance with the Omnibus Trade and Competitiveness Act of 1988 ("OTCA") and long-standing agency practice, the Department disregarded prices that it has reason to believe or suspect may be subsidized.[86] The Department previously found that it is appropriate to disregard such prices from India, Indonesia, and South Korea because we have determined that these countries maintain broadly available, non-industry specific, export subsidies.[87] Therefore, the Department has reason to believe or suspect that all exports from India, Indonesia, and South Korea may have benefitted from these subsidies and that we should, therefore, disregard data from these countries contained in the Thai import statistics used to calculate SVs. Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.[88] Rather, the Department bases its decision on information that is available to it at the time it makes its determination. The Department similarly disregarded prices from NME countries. Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, since the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.[89]

Factor Valuations

In accordance with section 773(c)(1) of the Act, for subject merchandise produced by Shanghai Wells, the Department calculated NV based on the FOPs reported by Shanghai Wells for the

[86] See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.
[87] See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.
[88] See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, at 590: see also Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China, 72 FR 30758, 30763 (June 4, 2007), unchanged in Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China, 72 FR 60632 (October 25, 2007).
[89] See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 73 FR 24552, 24559 (May 5, 2008), unchanged in Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (September 24, 2008). See Prelim Surrogate Value Memo.

POR. The Department used data from Thai import statistics and other publicly available Thai sources in order to calculate SVs for Shanghai Wells' FOPs (direct materials, energy, and packing materials) and certain movement expenses. To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly available Thai SVs (except as noted below). Because the statute is silent concerning what constitutes the "best available information" for a particular SV, the courts have recognized that on this topic the Department may use "broad discretion to determine the best available information for an antidumping review."[90] 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.[91]

In this case, the Department adjusted the SVs as appropriate for exchange rates and taxes, and converted all applicable items to measurement on a per kg basis. Also, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, to accord with the decision of the Federal Circuit in Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997), the Department added to the Thai import SVs a surrogate freight cost using the shorter of the reported distance between (1) the domestic supplier and the factory or (2) the nearest seaport and the factory.[92]

We valued electricity using prices published by the Metropolitan Electricity Authority, which contains pricing data for electricity rates and other charges for residential and industrial customers. These electricity rates represent contemporaneous, publicly available, broad-market averages, which are tax and duty exclusive.[93] We valued water using Thai data based on The Metropolitan Waterworks Authority.[94]

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.[95] In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.[96] Additionally, we determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics.[97] For these preliminary results, we valued labor using manufacturing-specific data from the quarterly-specific POR data (fourth quarter of 2013 and first, second, and third quarters of 2014) from the Government of Thailand, National Statistical Office, Labor Force Survey of Whole Kingdom, ("POR Manufacturing-Specific NSO Data").

[90] See Ad Hoc Shrimp Trade Action Comm. v. United States, 618 F.3d 1316, 1322 (Fed. Cir. 2010).
[91] See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.
[92] See the Department's memorandum "Sixth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Surrogate Values for the Preliminary Results" ("Preliminary Surrogate Value Memo"), dated concurrently with this memorandum.
[93] Id.
[94] Id.
[95] See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092, 36093-94 (June 21, 2011) ("Labor Methodologies").
[96] Id., 76 FR at 36093.
[97] Id.

Although the POR Manufacturing-Specific NSO data are not from the ILO, we find that this fact does not preclude us from using this source for valuing labor. In Labor Methodologies, we decided to change to the use of ILO Chapter 6A from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.[98] We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Rather, we continue to follow our practice of selecting the best available information to determine SVs for inputs such as labor.[99] In this case, we find that the POR Manufacturing-Specific NSO Data are the best available information because the POR Manufacturing-specific NSO Data are industry-specific and contemporaneous with the POR.[100] The ILO data, in comparison, are not contemporaneous with the POR. Thus, we valued respondent's labor input using the POR Manufacturing-specific Thai NSO data.

As stated above, the Department used the 2013-2014 Thai NSO data, which reflects all costs related to manufacturing labor, including wages, benefits, housing, training, etc. Because the financial statements used to calculate the surrogate financial ratios include itemized details of indirect labor costs, the Department made adjustments to the surrogate financial ratios.[101]

We valued inland truck freight using an average price as reported in the World Bank's "2015 Doing Business in Thailand" "Trading Across Borders" survey and report, which was published in 2014. The data in the report is current as of June 1, 2014. This World Bank report gathers information concerning the distance and cost to transport products in a 20-foot container containing 10 metric tons of goods from the peri-urban area (i.e., Bangkok's Industrial Park Areas) of the economy's largest business city (Bangkok) to the country's ports. We did not inflate/deflate this rate since it is contemporaneous with the POR.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods from Thailand.[102] The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand that is published in Doing Business in Thailand, published by the World Bank. We did not inflate/deflate this rate since it is contemporaneous with the POR.

To value factory overhead, selling, general and administrative expenses, and profit, the Department is using the audited financial statements of three Thai companies, LS Industries Co., Ltd., Sahaslip Rivet Industrial Co. Ltd., and Thai Mongkol Fasteners Co., Ltd., for the year ending December 31, 2013.[103] These companies are Thai manufacturers of fasteners and wire-based products. The record contains two additional Thai financial statements. One is for Hi-Tech Fastener Manufacturer Co., Ltd., which the Department has preliminarily determined is

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[98] See Labor Methodologies.
[99] See Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33354 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 6-C; and Drawn Stainless Steel Sinks From the People's Republic of China: Investigation, Final Determination, 78 FR 13019 (February 26, 2013), and accompanying Issues and Decision Memorandum at Comment 3.
[100] See Exhibit 9for calculation of labor surrogate value; see also Labor Methodologies, at 36093.
[101] Id.
[102] Id.
[103] See Preliminary Surrogate Value Memo.

countervailable.[103] The Department's usual practice is not to rely on financial statements where there is evidence that the company received countervailable subsidies and (as the Department finds here) there are other, more reliable and representative data on the record for purposes of calculating surrogate financial ratios.[104] The other remaining statement on the record is for Bangkok Fastening Co., Ltd., which does not contain the necessary detailed breakout of material, labor, and energy to calculate financial ratios.

Currency Conversion

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

Conclusion

We recommend applying the above methodology for these preliminary results.

✓
Agree   Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

6 July 2015
(Date)

[103] See Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination, 78 FR 50379 (August 19, 2013).

[104] See, e.g., Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2009-2010, 78 FR 11143 (February 15, 2013) and accompanying Issues and Decision Memorandum at Comment 14.