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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: Issues and Decision Memorandum for the Final Results of the Sixth Antidumping Duty Administrative Review

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SUMMARY

The Department of Commerce ("the Department") analyzed comments submitted by Petitioner,[1] U.S. Distributors,[2,3] Aristocraft,[4] and Ningbo Dasheng[5] in the sixth administrative review of the antidumping duty order on steel wire garment hangers from the People's Republic of China ("PRC"). Following the Preliminary Results[6] and the analysis of the comments received, we have not made any changes to Shanghai Wells'[7] final margin calculation. We continue to find that two Non-Responsive Mandatories[8] are part of the PRC-wide entity. In addition, for the

[1] M&B Metal Products Inc. ("Petitioner").
[2] FabriClean Supply Inc., Best For Less Dry Cleaners Supply LLC, Ideal Chemical & Supply Company, Laundry & Cleaners Supply Inc., Rocky Mountain Hanger MFG Co., Rosenberg Supply Co., Ltd, and ZTN Management Company, LLC, (collectively, "U.S. Distributors").
[3] The U.S. Distributors include importers of subject merchandise and a wholesaler of domestic like product.
[4] Aristocraft of America LLC ("Aristocraft").
[5] Ningbo Dasheng Hanger Industry Co., Ltd. ("Ningbo Dasheng").
[6] See Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014, 80 FR 41480 (July 15, 2015) ("Preliminary Results").
[7] The Department previously found that Shanghai Wells Hanger Co., Ltd. ("Shanghai Wells"), Hong Kong Wells Ltd. ("HK Wells") and Hong Kong Wells Ltd. (USA) ("Wells USA") are affiliated and that Shanghai Wells and HK Wells comprise a single entity. Because there were no changes in this review to the facts that supported that decision, we continue to find Shanghai Wells, HK Wells, and USA Wells are affiliated and that Shanghai Wells and HK Wells comprise a single entity. 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).
[8] As explained in the Preliminary Results, we selected two additional companies as mandatory respondents for individual examination; however, they did not participate. These two companies are: 1) Shaoxing Dingli Metal

reasons discussed below, we continue to find Ningbo Dasheng is part of the PRC-wide entity. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

BACKGROUND

The Department published the Preliminary Results on July 15, 2015.[9] On August 24, 2015, Petitioner, U.S. Distributors, Aristocraft, and Ningbo Dasheng submitted case briefs. On September 1, 2015, Petitioner submitted a rebuttal brief. On September 9, 2015, the Department held a public hearing where counsel for Petitioner, U.S. Distributors, and Aristocraft, presented issues raised in their case and rebuttal briefs.

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 ("HTS") subheadings 7326.20.0020, 7323.99.9060, and 7323.99.9080.

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

DISCUSSION OF THE ISSUES

Comment 1: PRC-wide Treatment for Ningbo Dasheng

Ningbo Dasheng's Arguments

- The Department failed to comply with 19 U.S.C 1677m(d), and (e), which requires the Department to request additional information to give a party an opportunity to remedy or explain deficiencies in its submission, prior to the application of AFA.[10]
- The Department appears to only have considered Ningbo Dasheng's submissions up to April 1st, when making its AFA determination, because Ningbo Dasheng's April 8th section D submission included CONNUMs with more than one kilogram ("kg") of input for one kg of output.[11]

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").

[9] Preliminary Results.

[10] See Ningbo Dasheng's Case Brief at 2-5

[11] Id. at 5-6.

- The Department's decision to resort to AFA was not based on record evidence, nor was it based on a fair and balanced comparison of the data. The Department did not evaluate the data on the record nor did it calculate an accurate margin. The Department ended the review based on speculation that the data could not be verified. Instead the Department should continue the review and calculate a margin for Ningbo Dasheng.[12]

Petitioner's Rebuttal

- The Department should continue to apply AFA to Ningbo Dasheng because Ningbo Dasheng failed to act in the best of its ability by providing information that it possessed, warranting the application of AFA.[13]
- The Department gave Ningbo Dasheng adequate opportunity to provide complete FOP information, including multiple extensions and it still could not reconcile its FOP data.[14]
- Furthermore, Ningbo Dasheng is reporting less than one kg of raw materials to create one kg of output, which is physically impossible.[15]

Department's Position: In the Preliminary Results, we preliminarily determined that Ningbo Dasheng failed to adequately respond to the NME questionnaire and withheld requested information, and accordingly, was not eligible for a separate rate. [16] Therefore, we preliminarily determined that Ningbo Dasheng was part of the PRC-wide entity.[17] 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."[18] For these final results, and consistent with our statement in the Initiation Notice, we continue to find that Ningbo Dasheng has failed to adequately respond to the NME questionnaire and withheld requested information and, accordingly, is ineligible for separate-rate status. Specifically, the Department's FOP reconciliation requests a three step reconciliation. Step one is to reconcile the cost of goods sold ("COGS") to the financial statements. Step two is to reconcile the COGS to the cost of manufacture ("COM"). Step three is to reconcile the COM to per-unit consumption. On January 21, 2015, the Department issued the NME questionnaire to Ningbo Dasheng.[19] After granting Ningbo Dasheng a two-week extension,[20] Ningbo Dasheng filed two one-page worksheets in response to the FOP reconciliation, one identifying main operation costs for 2013 and one

[12] Id. at 7-10.
[13] See M&B Metal Products Case Brief at 1-5.
[14] Id. at 3-5.
[15] Id. at 5-7.
[16] See Preliminary Decision Memo at 6-9.
[17] Id.
[18] Id. at 6 citing Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 70850, 70851 (November 28, 2014) ("Initiation Notice"). Additionally, parties appear to argue that the Department determined that Ningbo Dasheng was not entitled to separate-rate status as a result of AFA. However, the basis of the Department's determination was explained in the Preliminary Results and above did not involve the application of adverse facts available.
[19] See Letter to Ningbo Dasheng, Non-Market Economy Antidumping Duty Questionnaire, issued January 21, 2015.
[20] 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.

identifying main operation costs for 2014.[21] 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. Therefore, Ningbo Dasheng's first attempt at the FOP reconciliation was severely deficient.

On March 18, 2015, the Department issued its first section D supplemental to Ningbo Dasheng.[22] 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.[23] 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 that information again.[24] After granting Ningbo Dasheng a bifurcated extension, one week for its FOP reconciliation, and two weeks for the remaining section D supplemental questions,[25] 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.[26] 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.[27] 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.[28] 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.[29]

On April 8, 2015, Ningbo Dasheng submitted its 2013 and 2014 audited financial statements however it did not submit an English translated version of these financial statements until it submitted its April 23 section C response.[30] 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 at providing an FOP reconciliation.[31] 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.

[21] See Ningbo Dasheng Section D Response, at Exhibit D-17, submitted March 13, 2015.
[22] See Section D Supplemental Questionnaire, issued to Ningbo Dasheng, dated March 18, 2015.
[23] Id. at 4-8.
[24] Id.at question 11.
[25] 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.
[26] See Ningbo Dasheng's Supplemental Section D (Questions 11&12) Response, at1, submitted April 2, 2015.
[27] Id.
[28] Id. at Exhibit SD-17.
[29] Id.
[30] See Ningbo Dasheng's Supplemental Section C Response at Exhibit SC-18, submitted April 23, 2015.
[31] See Ningbo Dasheng's main operation cost in its 2013 and 2014 Profit and Loss Statements at Ningbo Dasheng's Supplemental Section C Response at Exhibit SC-18, submitted April 23, 2015, compared to the main operation cost reported in pages 1-5 of Ningbo Dasheng's Supplemental Section D (Questions 11&12) Response at Exhibit SD-17, submitted April 2, 2015.

Therefore, Ningbo Dasheng's second attempt was inadequate because Ningbo Dasheng failed to provide the FOP reconciliation for 2013 and its attempt at the FOP reconciliation for 2014 does not tie its COGS with 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 find that Ningbo Dasheng's FOPs do not reconcile and critical information that was specifically requested twice was not provided.

We agree with Ningbo Dasheng that its section C supplemental, submitted on April 23, 2015, included the translated financial statements.[32] However, as explained above, the figures still do not reconcile to the 2014 worksheets.

Furthermore, Ningbo Dasheng revised its FOP database with each section D submission.[33] With each revision, Ningbo Dasheng reported CONNUMs using less than one kg of raw materials to produce one kg of output.[34] 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.[35] Ningbo Dasheng has not explained how it is possible to produce, and how it produced, one kg of subject merchandise from less than one 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 essential to calculate the AD margin. Pursuant to section 773(c)(1) of the Act we are basing normal value ("NV") on the NME producer's FOPs, valued in a surrogate market economy 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. To the extent that some information was provided, it was so incomplete that it could not serve as a reliable basis for calculating Ningbo Dasheng's weighted-average antidumping duty margin in this review.[36]

Ningbo Dasheng's argument that it is the Department's responsibility to continue to request additional information is also without merit. First, the Department works within statutory and regulatory deadlines for administrative reviews and is not obligated to continue to send out multiple supplement requests for information that was requested in the original questionnaire. The original questionnaire contained a request for among other things, a full reconciliation of a respondent's cost and factor of production data, along with corresponding narrative and supporting documentation. After Ningbo Dasheng submitted its response to the questionnaire, we issued supplemental questionnaires identifying the inadequate areas, and providing additional instructions to facilitate the reconciliation.[37] The Department has not received this information despite giving Ningbo Dasheng an opportunity to remedy these deficiencies. Second, the CIT

[32] See Ningbo Dasheng's Case Brief at 6.
[33] See Ningbo Dasheng Section C&D Questionnaire Response, dated March 13, 2015; see also Ningbo Dasheng Supplemental Section D Response, submitted April 8, 2015.
[34] See Ningbo Dasheng's Section D Response at Exhibits D3-6 and D10; see also Ningbo Dasheng's Section D Database submitted with its Supplemental Section D Response (Questions 11-12), April 2, 2015 (the wire rod, plus drawing powder, plus coating powder, plus paper, minus by-product, equal less than one kg).
[35] See Ningbo Dasheng Supplemental Section D Response, at 1-2, submitted April 8, 2015.
[36] See section 782(e) of the Act.
[37] See above at 4-6 for a discussion of each of Ningbo Dasheng's submissions.

has previously stated that the burden of creating an adequate record lies with the respondent, not the Department.[38]

We disagree with Ningbo Dasheng that the deficiencies in its submissions could have been resolved at verification.[39] It is mathematically impossible to create one kg of subject merchandise with less than one kg of raw materials. Products such as steel wire garment hangers, where the production process involves drawing, and cutting wire, presumably, would result in yield loss.[40] Due to yield loss, it is unlikely a company making wire hangers would have consumption data that was 100 percent of its output (i.e., one kg of raw materials to produce one kg of output), let alone less than 100 percent. In its case brief, Ningbo Dasheng included one sentence arguing that its April 8, 2015, submission contained more than one kg or raw material inputs for one kg of output.[41] However, this sentence contained no further explanation or demonstration. As explained above, both of Ningbo Dasheng's section D submissions reported less than one kg of raw material inputs to create one kg of output.[42] The Department requested an explanation, but Ningbo Dasheng provided no explanation.[43] If Ningbo Dasheng could not remedy these issues in its responses, there is no reason to believe that this would be resolved at verification. Moreover verification is to verify what is already on the record, not an opportunity to submit new information.

As described above, Ningbo Dasheng failed to adequately respond to the NME questionnaire and withheld requested information. Additionally, to the extent that some information was provided, certain information remained incomplete,[44] so that it could not serve as a reliable basis for calculating Ningbo Dasheng's weighted-average antidumping duty margin in this review.[45] Accordingly, and consistent with the language in the Initiation Notice, the Department continues to find that Ningbo Dasheng is not eligible for a separate rate. Thus, the Department determines that Ningbo Dasheng is part of the PRC-wide entity, and is receiving the rate of 187.25 percent, which is the rate for the PRC-wide entity from the previous administrative review. This rate remains unchanged pursuant to our current policy, which states that there is no conditional review of the PRC-wide entity.[46]

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[38] See, e.g., Tianjin Mach. Import & Export Corp. v. United States, 806 F.Supp. 1008, 1015 (CIT 1992) ("[T]he burden of creating an adequate record lies with respondents and not with Commerce."); see also Zenith Elecs. Corp. v. United States, 988 F.2d 1573, 1583 (Fed.Cir.1993) ("The burden of production {belongs} to the party in possession of the necessary information.").
[39] See Ningbo Dasheng Case Brief at 10.
[40] See Ningbo Dasheng's Section D Response at page 13 where Ningbo Dasheng explains that steel scrap is generated during the production process from drawing wire rod.
[41] See Ningbo Dasheng Case Brief at 2 ("That {April 8, 2015} submission clearly shows more than one kilogram of raw material inputs were used to produce one kilogram of finished product.").
[42] See Ningbo Dasheng Section C&D Questionnaire Response, dated March 13, 2015; see also Ningbo Dasheng Supplemental Section D Response, submitted April 8, 2015.
[43] See Ningbo Dasheng Supplemental Section D Response, at 1-2, submitted April 8, 2015.
[44] See the description above of Ningbo Dasheng's incomplete three-step COGS reconciliation.
[45] See section 782(e) of the Act.
[46] See Conditional Review of the NME Entity, 78 FR at 65963; see also Preliminary Results and accompanying Issues and Decision Memorandum at pages 8-9.

Comment 2: Selection of Financial Statements

U.S. Distributors' and Aristocraft's Arguments

- Sahaslip Rivet Industrial Co. Ltd. ("Sahaslip") and Thai Mongkol Fasteners Co., Ltd. ("Mongkol") are not reliable surrogates because those companies do not produce comparable merchandise and the record lacks information that these companies draw wire from wire rod, which the Department has previously used to restrict potential surrogate companies in prior reviews.[47] Additionally, these two companies have substantially higher SG&A and overhead ratios than the only Thai company which does produce comparable merchandise (LS Industry).[48] Also, neither Sahaslip's nor Mongkol's websites mention that these companies draw wire from wire rod, despite having in-depth descriptions of products they manufacture. Even at two major trade shows, Sahaslip did not list drawing wire from wire rod as one of its main industries.[49]
- The Department must also rely on financial statements of Bangkok Fastening Co., Ltd. ("Bangkok Fastening"), if it continues to rely on Sahaslip and Mongkol, because Bangkok Fastening's financial statements are more detailed than Sahaslip in the areas of raw materials, labor, and energy costs and Bangkok Fastening's operations are more comparable as they draw wire rod to make fasteners and nails.[50,51]
- There is critical ambiguity in Mongkol financial data, especially concerning the line item "Article making cost" that comprises more than half of the company's overhead costs. Without further detail the Department would greatly overstate the overhead ratios by including this financial data.[52]
- "Article making cost" was incorrectly translated and should instead be labelled as "Hire of work," and treated as labor and not as manufacturing overhead ("MOH"). Mongkol's statement already fully enumerates factory overhead so it would be illogical for there to be a separate line item for "article making cost".[53]

Petitioner's Rebuttal

- The three financial statements used by the Department in the Preliminary Results are specific (i.e., manufacturers of comparable merchandise such as fasteners and wire-based products), contemporaneous with the current POR, and provide the best quality data for the Department to calculate financial ratios.[54]
- The Department has made it clear that evidence that a producer does not draw wire rod will not exclude that producer from consideration, as long as it produces comparable merchandise.[55] Also, the fact that Sahaslip didn't list wire drawing at the trade shows where their exhibits were produced for other industries is irrelevant. The U.S. Distributors concede that Sahaslip produces comparable products like nuts, rivets, bolts,

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[47] See U.S. Distributors' Case Brief at 5-8.
[48] Id. at 4-15.
[49] Id. at 12-15.
[50] See U.S. Distributors' Case Brief at 16-17.
[51] See Aristocraft Case Brief at 7-8.
[52] See U.S. Distributors' Case Brief at 15-16.
[53] See Aristocraft Case Brief at 2-6.
[54] See M&B Metal Products Case Brief at 8-13.
[55] See Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 2011–2012 79 FR 31298 (June 2, 2014)("Hangers 4th AR") at 10.

and screws.[56] Additionally, Mongkol includes “wire cutting machines” on its website suggesting that its production process is in fact similar.[57]

- Bangkok Fastening’s statements are not as detailed as Sahaslip’s because only Bangkok Fastening’s direct materials and labor are reconciled and there is only a single-line item for “Other Manufacturing Expense”, as opposed to Sahaslip’s breakdown of overhead expenses.[58]
- Even if the Department accepts the translation of “Article making cost” as “Hire of work,” it is speculative that the expense is related to labor because the statement already fully enumerates direct and indirect labor expenses.[59]
- In AR5 the Department addressed this issue and determined there was no evidence disproving that “Article making cost” was overhead, therefore, the Department should continue to treat “Article making cost” as overhead.[60]

Department’s Position: We determine to continue to calculate financial ratios using LS Industry, Sahaslip, and Mongkol’s financial statements, and as explained below, we find that these financial statements represent the “best available” information within the meaning of the statute. Section 773(c)(1) of the Act directs the Department to base the valuation of the FOPs on “the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate. . . .” 19 CFR 351.408(c)(4) further stipulates that the Department normally will value manufacturing overhead, SG&A expenses and profit using non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. In complying with the statute and the regulations, it is the Department’s practice to determine surrogate financial ratios using data from market-economy surrogate companies in the primary surrogate country based on the specificity, contemporaneity, and quality of the data.[61]

We disagree with U.S. Distributors’ and Aristocraft’s assertion that because Sahaslip’s and Mongkol’s financial statements do not indicate that the companies draw wire from wire rod that the companies are not producers of comparable merchandise or that the statements are not reliable. In Hangers 4th AR and Hangers 5th AR, the Department stated that “where information as to inputs and production {process} is on the record for a producer of comparable merchandise, such information may be useful in determining whether it is appropriate to use.”[62] However, when this type of information is not readily apparent in the surrogate company’s auditor’s report, the absence of such information does not necessarily exclude a potential surrogate producer from

[56] See M&B Metal Products Case Brief at 11-12.
[57] Id. at 12.
[58] Id. at 15-16.
[59] Id. at 13-15.
[60] Id. at 14-15.
[61] See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, 74 FR 41374 (August 17, 2009), and accompanying Issues and Decision Memorandum at Comment 14.
[62] See Hangers 4th AR and accompanying Issues and Decision Memorandum at Comment 2; see also Steel Wire Garment Hangers from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 2012–2013 80 FR 13332 (March 13 2015)(“Hangers 5th AR”) and accompanying Issues and Decision Memorandum at Comment 3.

consideration.[63] Therefore, in the present case the absence of readily apparent information on wire drawing in a company's financial statement, does not necessarily exclude the company for being a producer of comparable merchandise. We note that the statute does not define "comparable merchandise." It is the Department's practice, where appropriate, when determining whether the company is a producer of comparable merchandise to consider all information on the record.[64] While Sahaslip's and Mongkol's financial statements do not indicate the types of inputs they consume in their production processes, the record does contain information as to kinds of merchandise they produce (e.g., nails, fasteners, etc.), merchandise the Department has found to be comparable to hangers.[65] Therefore, we find that Sahaslip and Mongkol produce comparable merchandise for purposes of determining financial ratios for respondents.

With respect to U.S. Distributors' and Aristocraft's argument that the Department should use the financial statement of Bangkok Fastener if it continues to use Sahaslip and Mongkol, we also disagree. As described above, the fact the Bangkok Fastening draws wire rod does not necessarily make its financial statements the best available information when compared to the financial statements of Sahaslip and Mongkol. While all three companies are producers of comparable merchandise, as explained in the Preliminary Results, we continue to find that Bangkok Fastening's financial statements do not contain the necessary detailed breakout of material, labor, and energy to calculate appropriate financial ratios.[66]

Additionally, we disagree with U.S. Distributors and Artistocraft that the manufacturing overhead ("MOH") amount in Mongkol's financial ratio calculations is overstated. Nor do we agree that the line item description "Article making cost," describing a cost of sale expense in Mongkol's financial statements, is ambiguous and should be translated as "Hire of work." Because the Department relies on the data as submitted, we are unable to go behind the statements to determine the appropriateness of including or excluding income and expense items in the financial ratio calculations.[67] The Department may make financial ratio adjustments when we can determine whether the income/expense is unrelated to the general operations of the company.[68] In our review of Mongkol's financial statements, we found that the current period production costs relating to the cost of sales were fully enumerated in the accompanying notes to

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[63] Id.
[64] Id.
[65] See Hangers 5th AR and accompanying Issues and Decision Memorandum at Comment 3; see also Hangers 4th AR accompanying Issues and Decision Memorandum at Comment 1.D.
[66] See Hangers 6th Review Preliminary Results at 20.
[67] See Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 18B.
[68] See, e.g., Third Administrative Review of Frozen Warmwater Shrimp from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 74 FR 46565 (September 10, 2009) and accompanying Issues and Decision Memorandum at Comment 4a (stating that the Department made no interest income offset for "deposit and SBI bonds" because the Department could not discern from the financial statements whether income from these assets were long-term or short-term in nature); see also Bulk Aspirin from the People's Republic of China; Final Results of Antidumping Duty Review, 68 FR 6710 (February 10, 2003) and accompanying Issues and Decision Memorandum at Comment 5 (stating that the Department offset interest expense with short term interest revenue where the Department could discern the short-term nature of the interest revenue from the financial statements).

the financial statements including expenses for raw material, labor, and production expenses, which included, "Article making cost." Because Mongkol listed "Article making cost," under "Production Expenses" in its statements,[69] we determine that it is appropriate to classify it as MOH. There is no information in Mongkol's financial statements indicating that "Article making cost," is not associated with the production operations of the company.

Also, when the Department receives a translated document, it assumes it is correct unless there is a discrepancy or alternate translation. Here, respondents provided another translation for what was originally translated as "Article making cost." U.S. Distributors and Aristocraft argued that the proper translation is "Hire of work" and therefore the item should not be classified as overhead. U.S. Distributors did not provide the name or the qualifications of the person providing the translation or an affidavit from the person providing the alternate translation. U.S. Distributors stated a "local consultant" used a website to produce the translation of "Hire of work."[70] It is not known who the local consultant is, whether that person speaks Thai, the person's qualifications, or the reliability of the website used. Therefore, because we do not have enough information to consider the alternate translation and because the other costs of sales were fully enumerated, we determine that the "Article making cost" line item is not ambiguous, and find it appropriate to continue to classify the entire line item of "Article making cost" as MOH in the surrogate financial ratio calculation.

Finally, based on the reasons outlined above, and because we have contemporaneous, useable financial statements from Thailand that meet our surrogate value criteria, are not ambiguous and provide more clarity than Bangkok Fasteners' statements, we will continue to use the financial statements used in the Preliminary Results, those of LS Industries, Sahaslip, and Mongkol, to calculate the surrogate financial ratios for the final results.

Comment 3: Whether to Adjust U.S Prices for Un-refunded Value-Added Tax ("VAT")

U.S. Distributors' and Aristocraft's Arguments

- Section 772(c)(2)(B) pertains to export taxes, however, VAT is not an export tax. Therefore, the Department should not reduce U.S. price by the amount of unrefunded VAT.[71]
- The Department's reliance on section 772(c)(2)(B) of the act as authority for treating unrefunded VAT as an export tax violates Chevron,[72] because Congress unambiguously expressed the intent that section 772(c)(2)(B) be applied only to "export taxes" and thus not unrefunded VAT.[73]
- The Chinese VAT does not amount to an export tax because Chinese exporters incur a net cost for VAT when they purchase raw material inputs, regardless of whether the sales of the finished goods were domestic or export. The liability arises from the purchase of the raw materials, not from the exportation of the merchandise.[74]

[69] See Petitioner's Surrogate Value Submission, submitted on May 13, 2015.
[70] See U.S. Distributors' Surrogate Value Submission at RSV-6, submitted May 26, 2015.
[71] See Aristocraft Case Brief at 9-12.
[72] Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984).
[73] See Aristocraft Case Brief at 11-12.
[74] Id.

- The Department's VAT methodology does not reflect the actual amount of VAT liability incurred on exports because the refunded rate of nine percent is based on the higher FOB purchase price and the calculation does not account for the value added by Shanghai Wells during the process of transforming the inputs into subject merchandise.[75]
- Shanghai Wells demonstrated that it receives a VAT rebate for less than the eight percent deduction applied by the Department. If the Department continues to make a VAT adjustment, it should instead rely on Shanghai Well's reported actual non-refundable input VAT.[76]

Petitioner's Rebuttal

- The PRC's VAT policy is different from traditional VAT systems because a portion of the input VAT is non-refundable. This non-refundable portion amounts to a "tax, duty, or other charge," imposed on exports and not domestic sales. Therefore, to comply with the statue, the Department must reduce U.S. price by the irrevocable VAT.[77]
- Arisocraft's argument that VAT is not an export tax ignores the difference between the PRC VAT system and those of other countries because under the PRC system, irrevocable VAT is a cost resulting from export sales.[78]
- Aristocraft's reliance on Chevron is misplaced because the statue does not define "export tax, duty or other charge imposed." And as mentioned above under the PRC system, irrevocable VAT is a cost resulting from export sales.[79]
- Aristocraft's argument that the VAT liability arises from the purchase of inputs, regardless of whether for domestic or exports sales, is misplaced. The input VAT is what gives rise to the irrevocable VAT liability, and under the PRC's system, the input VAT is not refundable only for export sales.[80]
- Aristocraft argues that its proposed alternative calculation is transaction specific. However, the Department's formula is a function of the rates under PRC regulation and Shanghai Wells' specific export value.[81]
- The Department should continue to reduce Shanghai Well's U.S. sales price by the amount of irrevocable, non-refunded VAT.[82]

Department's Position: In the Preliminary Results, we deducted an amount for irrecoverable VAT from the reported U.S. prices for Shanghai Wells. For the reasons explained below we are not changing our determination.

In 2012, we announced a change of methodology with respect to the calculation of the EP or CEP to include an adjustment of any irrecoverable VAT in certain NME countries, in accordance

[75] Id. at 12-15.
[76] Id. at 12-15.
[77] See M&B Metal Products Case Brief 17-21.
[78] Id. at 18-20.
[79] Id. at 18-21.
[80] Id. at 20-21.
[81] Id. at 21-25.
[82] Id.

with section 772(c)(2)(B) of the Act.[83] In this announcement, the Department stated that when a NME government has imposed 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 EPs or CEPs accordingly by the amount of the tax, duty or charge paid, but not rebated.[84]

In a typical VAT system, companies do not incur any irrecoverable VAT expense; they receive on export a full rebate of the VAT they pay on purchases of inputs used in the production of exports ("input VAT"), and, in the case of domestic sales, the company can credit the VAT they pay on input purchases for those sales against the VAT they collect from customers.[85] That stands in contrast to the PRC's VAT regime, where some portion of the input VAT that a company pays on purchases of inputs used in the production of exports is not refunded.[86] This amounts to a tax, duty, or other charge imposed on exports that is not imposed on domestic sales and we, thus, disagree with the interested parties' assertions that irrecoverable VAT should not be deducted from U.S. prices. Where the irrecoverable VAT is a fixed percentage of U.S. price, the Department explained that the final step in arriving at a tax-neutral dumping comparison is to reduce the U.S. price downward by this same percentage.[87]

Irrecoverable VAT is (1) the free-on-board value of the exported good, applied to the difference between (2) the standard VAT levy rate and (3) the VAT rebate rate applicable to exported goods.[88] The first variable, export value, is unique to each respondent and sale while the rates in (2) and (3), as well as the formula for determining irrecoverable VAT, are each explicitly set forth in Chinese law and regulations.[89]

Aristocraft and the U.S. Distributors' reliance on Chevron is misplaced. The United States Supreme Court in Chevron held that "[w]hen a court reviews an agency's construction of the statute which it administers, it is confronted with two questions."[90] The Supreme Court explained that the first question is "whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter…the agency must give effect to the unambiguously expressed intent of Congress."[91] Aristocraft and the U.S.

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[83] 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, 36482 (June 19, 2012) ("Section 772(c)(2)(B) Methodological Change").

[84] Id. at 36483; 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.

[85] 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) ("Diamond Sawblades 11-12"), and accompanying IDM at Comment 6; Section 772(c)(2)(B) Methodological Change, 77 FR at 36483.

[86] See Section 772(c)(2)(B) Methodological Change at 36483.

[87] See Section 772(c)(2)(B) Methodological Change at 36483.

[88] See Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire From the People's Republic of China, 79 FR 25572 (May 5, 2014) and accompanying Issues and Decision Memorandum at Comment 1, n. 35.

[89] Id. at Comment 1, n. 36; see also Shanghai Wells' Section C&D Response, at Exhibit C-12, submitted February 9, 2015; Shanghai Wells' Supplemental Response, at Exhibit 12, submitted June 1, 2015.

[90] Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 842 (1984).

[91] Id. at 843.

Distributors argue that Section 772(c)(2)(B) of the Act clearly does not intend to authorize the Department to deduct from EP or CEP the amount of unrefunded VAT. We disagree with U.S. Distributors and Aristocraft's claims that we do not have the statutory authority to adjust for irrecoverable VAT, or that our methodology unlawfully interprets section 772(c)(2)(B) of the Act. Section 772(c)(2)(B) of the Act authorizes the Department to deduct from EP or CEP the amount, if included in the price, of any "export tax, duty, or other charge imposed by the exporting country on the exportation" of the subject merchandise. Aristocraft and the U.S. Distributors misstate what is at issue: the issue is that the irrecoverable VAT, not VAT per se, amounts to an export tax. Irrecoverable VAT, as defined in PRC law, is a net VAT burden that arises solely from, and is specific to, exports. It is VAT paid on inputs and raw materials (used in the production of exports) that is non-refundable and, therefore, a cost.[92] Irrecoverable VAT is, therefore, an "export tax, duty, or other charge imposed" on exportation of the subject merchandise to the United States.[93] The statute does not define the terms "export tax, duty, or other charge imposed" on the exportation of subject merchandise. We find it reasonable to interpret these terms as encompassing irrecoverable VAT because the irrecoverable VAT is a cost that arises as a result of export sales. It is set forth in PRC law and, therefore, can be considered to be "imposed" by the exporting country on exportation of subject merchandise. Further, an adjustment for irrecoverable VAT achieves what is called for under section 772(c)(2)(B) of the Act, as it reduces the gross U.S. price charged to the customer to a tax neutral net price received by the seller. This deduction is consistent with our longstanding policy, which is consistent with the intent of the statute, that dumping margin calculations be tax-neutral.[94]

We disagree with the U.S. Distributors that Shanghai Wells' proposed alternative calculation for the treatment of its VAT liability is more accurate because it reconciled its monthly input VAT and the monthly sales revenue.[95] This calculation is insufficient because we requested Shanghai Wells to reconcile its irrecoverable VAT reported to its VAT tax returns.[96] 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.[97] Shanghai Wells has not done that. Our irrecoverable VAT calculation methodology, as applied in this review, consists of performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount determined in step one. Information placed on the record of this review by Shanghai Wells

[92] See Small Diameter Graphite Electrodes From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 57508 (September 25, 2014), and accompanying Issues and Decision Memorandum at Comment 7.
[93] See, e.g., Diamond Sawblades 11-12, and accompanying Issues and Decision Memorandum at Comment 6 and Frontseating Service Valves From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 71385 (December 2, 2014), and accompanying Issues and Decision Memorandum at Comment 5.
[94] See Article 5(3) of Circular 39 that states, "(3) Where the Tax Refund Rate is lower than the applicable tax rate, the amount of tax calculated according to the difference in rates shall be included in the costs of the Exported Goods and Services."; See Section 772(c)(2)(B) Methodological Change 36483, and Notice of Final Rule, Antidumping Duties, Countervailing Duties, 62 FR 27296 (May 19, 1997) (citing the SAA).
[95] See Shanghai Wells' response to VAT Supplemental, at 6-8, submitted April 23, 2015.
[96] See VAT Supplemental, at 7, issued March 30, 2015.
[97] See, e.g., Diamond Sawblades 11-12 (June 24, 2014) and accompanying Issues and Decision Memorandum at Comment 6.

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.[98] For the purposes of these final results, therefore, we removed from U.S. price the difference between the rates (i.e., eight percent), which is the irrecoverable VAT as defined under PRC tax law and regulation.[99]

19 CFR 351.401(c) requires that the Department rely on price adjustments that are "reasonably attributable to the subject merchandise." As discussed above, the PRC's VAT regime is product-specific, with VAT schedules that vary by industry and even across products within the same industry. Irrecoverable VAT is a product-specific export tax, duty, or other charge that is incurred on the exportation of subject merchandise. Thus, our analysis is consistent with our current irrecoverable VAT policy and our treatment of irrecoverable VAT in recently completed NME cases.[100] Therefore, we have not altered our irrecoverable VAT adjustment methodology for these final results.

Comment 4: Whether the Thai AUV for Corrugated Paper Is Aberrational

U.S. Distributors' and Aristocraft's Arguments

- The Thai average unit value ("AUV") for HS code 4808.10, Corrugated Paper and Paperboard, Whether or Not Perforated, is aberrationally high (Thai AUV $4.13/kg for this period of review ("POR")) compared to historical benchmark data for the same HTS Code.[101] In the final, the Department should instead use the Thai AUV ($0.62/kg) for this HTS code from the Hangers 4th AR.[102]
- The current Thai AUV in AR6 is $3.51/kg higher than Hangers 4th AR, an increase of 568 percent.[103] Additionally, the quantity imported during Hangers 5th AR and AR6 was 98 percent lower than the levels in AR1 - AR4, which renders the data as an anomaly.[104]
- Unlike the previous review, there is no evidence of current POR corrugated paper import data from any potential surrogate country other than Thailand.[105] However, in the previous AR, South Africa was a potential surrogate country, and the current Thailand AUV is so high that it falls outside the GTA import data for South Africa and for other comparable countries to the PRC.[106]

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[98] See Shanghai Wells' Section C&D Supplemental Response at 5-8, submitted April 23, 2015.
[99] See, e.g., Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire From the People's Republic of China, 79 FR 25572 (May 5, 2014), and accompanying Issues and Decision Memorandum at Comment 1. See the Program Log and Output attached to Shanghai Wells Preliminary Analysis Memoranda for details regarding this calculation.
[100] See, e.g., Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 80 FR 20197 (April 15, 2015) and accompanying Issues and Decision Memorandum at Comment 4; see also Certain Polyester Staple Fiber From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2012-2013, 80 FR 4542 (January 28, 2015) and accompanying Issues and Decision Memorandum at Comment 6; see also Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013 (January 28, 2015) and accompanying Issues and Decision Memorandum at Comment 4.
[101] See U.S. Distributors Case Brief at 17.
[102] Id. at 17, 25.
[103] Id. at 20.
[104] Id. at 20.
[105] Id. at 18-19.
[106] Id. at 19.

- This case is distinguishable from the Department's reliance in Hangers 5th AR on two Court of International Trade ("CIT") cases.[107] Those cases held the SVs were aberrational because they were the highest or lowest on record.[108] In this review the data are aberrational not only due to the high SV, but also because of the small volume of sales.[109]
- Shanghai Wells uses corrugated paper to produce cartons in which to ship the subject merchandise.[110] In the process, there is a net loss of corrugated paper, where the value of one kg of cartons should be higher than one kg of corrugated paper used to produce said cartons.[111] Presently, the Thai AUV for corrugated paper is higher (42 percent) than that of cartons produced from corrugated paper.[112] The current AR6 data makes no sense and the data for Hangers 4th AR should be used.
- The Great American Advisory & Valuation Services report also shows that the price for kraft paperboard, in Thailand and the United States were similar during the POR. Therefore, because they are both paper-based products, logic would indicate that the price for corrugated paper in Thailand and the United States would also be similar; however they were not, indicating that the Thai price is aberrational.[113]
- The Great American Advisory & Valuation Services report benchmark U.S. pricing of kraft paperboard and its similarity to U.S. corrugated paper pricing shows that the Thai import data for HS code 4808.10 do not reflect normal commercial levels.[114] The Department erred in dismissing this data, as there is supporting case law and no statutory prohibition from using the U.S. or any market-economy country to corroborate record evidence.[115]

Petitioner's Rebuttal

- There is no evidence that the import values were aberrational or not market-driven. Accordingly, the lower import quantities do not necessarily mean a distortion of the value, and the Department addressed this same issue in the last review and found the data not to be aberrational.[116]
- The Department observed in Hangers 5th AR that, "lowering of the import quantity does not, in and of itself, demonstrate that the AUV is distorted, and the Department has consistently found small quantities alone are not inherently distortive."[117]
- The Department correctly selected the most recent contemporaneous POR period (i.e., October 2012 – September 2013) and that is more comparable than selecting data from Hangers 4th AR.[118]

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107 Id. at 22-23.
108 Id. at 23.
109 Id.
110 Id.
111 Id. at 24.
112 Id. at 25.
113 Id. at 26.
114 Id.
115 Id.
116 See M&B Metal Products Case Brief at 27.
117 Id. at 27; see also Hangers 5th AR and accompanying Issues and Decisions Memorandum at 19.
118 See M&B Metal Products Case Brief at 26.

- The Great American Advisory & Valuation Services report is not instructive for comparing prices between Thailand, the primary surrogate country, and the U.S., which is not on the surrogate country list.

Department's Position: We disagree with U.S. Distributors' and Aristocraft's arguments that the Thai HTS code 4808.10 used to value corrugated paper is aberrational. When determining whether data are aberrational, the Department has found that the existence of higher prices alone does not necessarily indicate that the price data are distorted or misrepresentative, and thus are not a sufficient basis upon which to exclude a particular SV.[119] Interested parties must provide specific evidence showing whether the value is aberrational. In this instance parties did not provide specific evidence that the value is aberrational. If a party presents sufficient evidence to demonstrate a particular SV is aberrational, and therefore unreliable, the Department will examine all relevant price information on the record, including any appropriate benchmark data, in order to accurately value the input in question. With respect to benchmarking, the Department has examined historical import data for the potential surrogate countries for a given case, to the extent such import data are available, and/or examines data from the same HTS category for the surrogate country over multiple years to determine if the current data appears aberrational compared to historical values.[120]

Our practice in evaluating whether surrogate value data are aberrational, is to examine the GTA import data at issue in comparison to GTA data from the other potential surrogate countries at a comparable level of economic development to that of the NME for a given case. However, no party placed GTA import data for comparable countries on the record of this review. Thus, we cannot conduct the same analysis as we did in the last review as the data for potential surrogate countries are not on the record. As we explained in the Preliminary Results we examined the same issue in Hangers 5th AR and found the Thai AUV fell within the range of AUVs for countries that were comparable to the PRC in terms of economic development in that review. Currently, merely because the Thai AUV in the instant review is again higher than in Hangers 4th AR is not evidence that the data are aberrational or not market-driven. The CIT has stated that the existence of values that are higher or lower than other data on the record does not, by itself, demonstrate the value to be aberrational, and just because there are differences between proposed FOP from different countries does not necessarily mean that one of those values is aberrational.[121]

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[119] See Hangers 5th AR, and accompanying Issues and Decision Memorandum at comment 5; see also Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results of Administrative Review; 2011–2012, 78 FR 15696 (March 12, 2013) ("PRC Shrimp AR7"), unchanged in Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results of Administrative Review; 2011–2012, 78 FR 56209 (September 12, 2013).

[120] 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) ("Carbazole") and accompanying Issues and Decision Memorandum at Comment 6.

[121] See Camau Frozen Seafood Processing Import Export Corporation v. United States, 929 F. Supp. 2d 1352, 1356 n.9 (CIT 2013) ("Camau II"); see also Trust Chem Co. Ltd. v. United States, 791 F. Supp. 2d 1257 (CIT 2011) (affirming Commerce's determination that "higher prices alone do not necessarily indicate that the price data are distorted or misrepresentative, and thus are not sufficient to exclude a particular surrogate value").

Regarding U.S. Distributors' and Aristocraft's concerns that the Thai average import quantity from Hangers 5th AR and the current review decreased by 98 percent compared to the average import quantities during the first four reviews, we disagree. We find that simply a lowering of the import quantity does not, in and of itself, demonstrate that the AUV is distorted, and the Department has consistently found small quantities alone are not inherently distortive.[122] Furthermore, the 17,031 kgs that Thailand imported during the POR is not an insignificant quantity, rather it represents a commercially viable quantity and therefore not inherently distortive. [123]

Regarding U.S. Distributors' and Aristocraft's argument that the Thai AUV for corrugated paper is higher than that of cartons produced from corrugated paper, and therefore, is evidence that the corrugated paper is aberrational, we disagree. U.S. Distributors and Aristocraft argue that the value of the finished product should be higher than the input. However, there is no evidence that the "recycled folding boxboard" under the heading of "Average Paperboard and Containerboard Market Prices" which the U.S. Distributors cite to, is a comparable product to that found under Thai HS code 4808.10.[124]

Lastly, we disagree with U.S. Distributors' and Aristocraft's argument that the Great American Advisory & Valuation Services report serves as a benchmark because it provides U.S. pricing information for paper and corrugated packaging products. The United States is not on the surrogate country list. We disagree with the argument that because this report contains United States pricing data for corrugated folding boxboards that are on par with the Thai price data in Hangers 4th AR, we should use it as a benchmark. As we explained above, our practice to compare a potential surrogate value to that of the other potential surrogate countries at a comparable level of economic development. The Unites States is not at a comparable level of economic development to that of the PRC. We do not find the comparisons between the prices in Thailand and those in the United States instructive. Therefore, based on all of the above reasons, we find that the Thai AUV for corrugated paper is not aberrational and we continue to use the POR Thai AUV to value corrugated paper.

Comment 5: Whether the Department Should Revise the Surrogate Value for Brokerage and Handling ("B&H")

U.S. Distributor's and Aristocraft's Arguments

- The World Bank's Doing Business in Thailand ("Doing Business") includes values that are not specific to the B&H service being valued with respect to Shanghai Wells' exports of subject merchandise. Doing Business includes every document associated with every official procedure from the contract to the delivery of goods, and includes costs unrelated to brokerage services and expenses that Shanghai Wells does not pay for, such as obtaining letters of credit, issuing the bill of lading, certificate of origin, or commercial

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[122] See, e.g., Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping New Shipper Reviews, 2011-2012, 78 FR 39708 (July 2, 2013), and accompanying Issues and Decision Memorandum at Comment 4.
[123] See, e.g., PRC Shrimp AR7 and accompanying Issues and Decision Memorandum at Comment 4, where the Department found four metric tons was not a small enough quantity to be distortive.
[124] Id. at 27.

invoice. [125] Accordingly, Shanghai Wells only pays for Customs clearing services and for preparation of the China Customs exporting declaration.[126] Thus, the inclusion of "document preparation" charges ($175 according to the B&H SV) overstates the total brokerage expenses ($325 B&H SV) that Shanghai Wells would have incurred if it operated in Thailand.[127]

- Doing Business should not be used to measure how much B&H services cost in Thailand. The World Bank states that its Doing Business publication, "{does} not serve as the basis for deducing the exact cost of alternative export/import case scenarios."[128]
- The Department erred in assuming a denominator of 10,000 kgs for a 20-foot container to calculate a SV of $0.0325 per kg.[129] The problem is that a weight-based denominator bases B&H amounts according to weight when Doing Business states the B&H amounts are the same per shipment regardless of weight.[130] The U.S. Court of International Trade has previously held in several cases that calculating the B&H value based on the weight of the shipment may not be reasonable.[131]
- Instead, the Department should use the average of actual export brokerage rates from two Thai shipping container lines, OOCL Thailand and Hapag-Lloyd. These sources are not overly broad and provide specific details for the expenses for a 20-foot container, resulting in a much smaller SV of $0.00169 per kg, for a denominator of 10,000 kgs.[132] Even more accurate, would be to take the average weight of Shanghai Well's shipment as the denominator of the SV calculation. Further, these companies report public prices on their website as opposed to a broad market based average from Doing Business.[133] Also, only two Thai companies contributed to this section of Doing Business for calculating B&H, which doesn't constitute a broad market average.[134]
- If Doing Business is used to calculate B&H, than the Department needs to make further reductions than the $60 it already reduced (there was found to be no cost in obtaining a letter of credit).[135] The Department needs to change the numerator to equal only the costs of customs clearance and inspections ($50) and ports and terminal handling ($160) equaling $210.[136]
- If the Department continues to rely on Doing Business, then it should either pro-rate the document preparation expense, as the record shows the Shanghai Wells' broker would prepare at most two of the five documents included in that expense, or eliminate the document preparation line item.[137]

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[125] Id. at 30-31.
[126] Id.
[127] Id. at 32.
[128] Id. at 31.
[129] Id. at 34.
[130] Id.
[131] See U.S. Distributor's Case Brief at 35; see also CS Wind Vietnam v. United States, 971 F. Supp. 2d 1271, 1295 (CIT 2014); see also Since Hardware (Guangzhou) Co. v. United States, 911 F. Supp 2d 1362, 1380, 1381 (CIT 2013).
[132] See U.S. Distributor's Case Brief at 36.
[133] Id. at 37.
[134] Id. at 38.
[135] Id. at 39.
[136] Id.
[137] Id. at 40.

Petitioner's Rebuttal

- The Department rejected the same arguments in previous reviews, noting Doing Business was the best available surrogate and that it provides a broader market average than the alternatives.[138]
- U.S. Distributors' and Aristocraft do not provide information about costs for other types of documents that are included in Doing Business, which leaves the Department with no basis on which to price their reported costs.[139] Even if a respondent had a different experience, the SV analysis should not be selectively deconstructed to incorporate numerous assumptions.[140] Accordingly, the Department should rely on price list for export procedures from Doing Business, which after deducting the fee for a letter of credit (i.e., $60), the SV for B&H should be $325.[141]
- The Department noted that OOCL and Hapag-Lloyd rates were based on a price quote and not actual expenses, which renders their data unreliable as surrogates.[142]

Department's Position: We agree with Petitioner that Doing Business is the best available source on the record to value B&H, and that we should not adjust the expenses related to certain documents. We have relied on Doing Business to value B&H in recent cases.[143] Moreover, Doing Business reflects a broad market average, based on actual experiences, and is contemporaneous.

We analyzed the alternative surrogates value sources, OOCL and Hapag-Lloyd data placed on the record by U.S. Distributors and Aristocraft and note that they are based on a price quotes from their websites and not actual expenses as we also found in Hangers 4th AR and Hangers 5th AR.[144] Our general practice is to not use price quotes to value factors of production as we prefer to use broad market averages if available on the record.[145] Further, the Department often does not know the conditions under which price quotes were solicited and whether or not these were self-selected from a broader range of quotes.[146] Without access to all of the information on how the price quotes were obtained (including any negotiations or agreed upon adjustments), it is impossible to confirm that quotes reflect a typical broad market average cost. As a general

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[138] See M&B Metal Products Case Brief at 29.
[139] Id. at 29.
[140] Id. at 28-29.
[141] Id. at 29.
[142] Id. at 30.
[143] See Hangers 5th AR, and accompanying Issues and Decision Memorandum at comment 4; see also Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results of Administrative Review; 2011–2012, 78 FR 15696 (March 12, 2013) ("PRC Shrimp AR7"), unchanged in Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results of Administrative Review; 2011–2012, 78 FR 56209 (September 12, 2013).
[144] See Fabriclean's Surrogate Value Submission at Exhibit 3; see also Hangers 5th AR, and accompanying Issues and Decision Memorandum at Comment 4; see also Hangers 4th AR, and accompanying Issues and Decision Memorandum at Comment 5.
[145] See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission ofAntidumping Duty Administrative Review, 74 FR 47191 (September 15, 2009) and accompanying Issues and Decision Memorandum at Comment 7B.
[146] Id.

policy, the Department must be cautious in using selective price quotes.[147] A party could, for example, receive 10 quotes, and provide the Department with only the two it prefers. Further, a party could also potentially influence the quotes it receives from a company. We agree with U.S. Distributors and Aristocraft that Doing Business only relied on two Thai contributors for its calculation of Trading Across Boarders.[148] However, we continue to find that based on the list of contributors, Doing Business provides publicly available brokerage and handling information which was obtained by surveying local freight forwarders, shipping lines, customs brokers, port officials and banks, located in Thailand, which we continue to find satisfy the broad market average criteria better than the OOCL and Hapag-Lloyd price quotes.[149] Therefore, as in recent reviews,[150] we continue to find that Doing Business is a more appropriate surrogate value over the OOCL and Hapag-Lloyd data because Doing Business is based on the actual experience, rather than price quotes, of multiple sources and is a broad market average.[151]

The Department disagrees with U.S. Distributors' and Aristocraft's claim that the denominator of the surrogate B&H calculations should be revised. The Department will continue calculating the per-unit surrogate value for brokerage and handling by dividing the brokerage and handling costs identified in Doing Business by 10,000 kg. The Department has determined that 10,000 kg should continue to be used in the calculation because this is the weight of the shipment for a 20-foot container for which participants in the Doing Business survey reported B&H costs.[152] Specifically, the brokerage and handling costs used to calculate the surrogate value were based upon the assumption that a 20-foot container contained 10,000 kg of product. We find the use of 10,000 kgs for a 20-foot container to calculate a SV in this case is reasonable because it maintains the internal consistency of the calculation, as it is the same measurements the participants in the Doing Business survey reported their B&H costs.[153]

Finally, regarding U.S. Distributors' and Aristocraft's argument that if the Department continues to use the Doing Business data it should be pro-rated, the Department may make adjustments to data only when we can determine whether an item's amount is clearly identified.[154] In this review, we had specific information from the World Bank that the document preparation

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[147] See Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 26712 (May 9, 2014) and accompanying Issues and Decision Memorandum at Comment 4.
[148] See Ningbo Dasheng's Surrogate Value Submission, at Exhibit SV-10, submitted May 4, 2015.
[149] Id.
[150] See Hangers 5th AR, and accompanying Issues and Decision Memorandum at Comment 4.
[151] See, e.g., Certain Steel Threaded Rod From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013, 79 FR 71743 (December 3, 2014), and accompanying Issues and Decision Memorandum at Comment 5. There the Department found that Doing Business was based on the experience of multiple survey contributors from the largest city in Thailand, meaning the cost represented a broad market average. The Department also noted that the World Bank data was official analysis by an international organization, and a trusted source.
[152] See Petitioner's Surrogate Value Submission, Submitted May 13, 2015.
[153] See Certain Stilbenic Optical Brightening Agents From the People's Republic of China: Final Results of Antidumping Duty Investigation; 2011-2012, 77 FR 17436 (March 26, 2012), and accompanying Issues and Decision Memorandum at Comment 5.
[154] See Drawn Stainless Steel Sinks From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 78 FR 13017 (February 26, 2013) and accompanying Issues and Decision Memorandum at Comment 5.

expenses in Doing Business, included the cost to obtain a letter of credit.[155] In Doing Business, the aggregate of the data points are not broken down beyond the survey summary description heading, i.e., documents preparation. Aside from the letter of credit expense, Shanghai Wells has not provided information about the costs of other types of documents/fees included in Doing Business. Therefore, because we could not go behind the Doing Business data to determine how the document preparation was calculated, we decline to pro-rate the B&H expense, beyond the letter of credit expense. We also decline to remove the document preparation fee all together, because absent specific information otherwise, we would be understating the B&H expense. Therefore, our calculation for B&H remains unchanged from the Preliminary Results, and we continue to use Doing Business to value B&H.

RECOMMENDATION

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

Agree____________ Disagree____________

____
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

____
Date

[155] See Ningbo Dasheng's Surrogate Value Submission, at Exhibit SV-9, submitted May 4, 2015.