UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-909
AR: 8/1/2014 - 7/31/2015
Public Document
E&C/V: SSP, OQ

September 6, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Certain Steel Nails from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2014-2015 Antidumping Duty Administrative Review

---

SUMMARY

The Department of Commerce ("Department") is conducting the seventh administrative review of the antidumping duty ("AD") order on certain steel nails ("nails") from the People's Republic of China ("PRC").[1] The Department selected two respondents for individual review, Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. (collectively "Stanley"), and Tianjin Lianda Group Co, Ltd. ("Tianjin Lianda"). The Department preliminarily determines that Stanley sold merchandise at below normal value ("NV") during the period of review ("POR"), August 1, 2014 through July 31, 2015. We have also preliminarily determined that Tianjin Lianda did not demonstrate that it is entitled to a separate rate, and is thus part of the PRC-wide entity. Also, 20 separate rate applicants that demonstrated that they are entitled to a separate rate and have been assigned the dumping margin calculated for Stanley.

If we adopt these preliminary results in the final results of the review, we will instruct U.S. Customs and Border Protection ("CBP") to assess ADs on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results. We expect to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("Act").

---

[1] *See Notice of Antidumping Duty Order: Certain Steel Nails from the People's Republic of China*, 73 FR 44961 (August 1, 2008).

Background

On October 15, 2015, the Department initiated the seventh administrative review of nails from the PRC with respect to 49 companies.[2] On April 14, 2016 and August 4, 2016, the Department extended the deadline for issuing the preliminary results by 90 days and 30 days, respectively, thereby fully extending the deadline.[3, 4]

Because of the large number of exporters involved in this administrative review, the Department limited the number of respondents individually examined, pursuant to section 777A(c)(2) of the Act, and selected Stanley and Tianjin Lianda as mandatory respondents (collectively referred to as "Respondents").[5, 6, 7] On December 18, 2015 and February 29, 2016, the Department sent AD questionnaires to Respondents. Between April 2016 and June 2016, the Department issued supplemental questionnaires to Respondents. Between May 2016 and July 2016, Respondents submitted responses to these supplemental questionnaires.

On February 17, 2016, the Department invited comments on surrogate country selection and surrogate value ("SV") data, and specified the deadlines for these respective submissions.[8] On April 12, 2016, and May 13, 2016, the Department extended the deadline for interested parties to

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 60356 (October 15, 2015) ("*Initiation Notice*").
[3] *See* Memorandum to Christian Marsh, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding "Certain Steel Nails from the People's Republic of China: Extension of Deadline for Preliminary Results of 2014-2015 Antidumping Duty Administrative Review," dated April 14, 2016 and Memorandum to Christian Marsh, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding "Certain Steel Nails from the People's Republic of China: Extension of Deadline for Preliminary Results of 2014-2015 Antidumping Duty Administrative Review," dated August 4, 2016.
[4] *See* Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas" (January 27, 2016).
[5] *See* Memorandum to James Doyle, Director, Office V, AD/CVD Operations, through Paul Walker, Program Manager, Office V, AD/CVD Operations, from Susan Pulongbarit, Senior Case Analyst, Office V, AD/CVD and Omar Qureshi, Case Analyst, Office V, AD/CVD Operations, regarding "Seventh Antidumping Administrative Review of Certain Steel Nails from the People's Republic of China: Selection of Respondents for Individual Review," dated December 26, 2015.
[6] Tianjian Lianda is the second replacement mandatory respondent as Tianjin Zhonglia Metals Ware Co., Ltd. ("Tianjin Zhonglia") (original mandatory respondent) and Suzhou Xingya Nail Co., Ltd. ("Suzhou Xingya") (first replacement mandatory respondent) were previously selected as the second largest importers. Following the issuance of our questionnaire, Petitioner withdrew its request on Tianjin Zhonglian, while Suzhou Xingya stated that it would not participate. As a result, Suzhou Xingya will be included in the PRC-wide entity.
[7] *See* Memorandum to James C. Doyle, Director, Office V, Enforcement and Compliance, through Paul Walker, Program Manager, Office V, Enforcement and Compliance, from Omar Qureshi International Trade Analyst, Office V, Enforcement and Compliance, Susan Pulongbarit, Senior International Trade Analyst, Office V, Enforcement and Compliance, regarding, "Seventh Antidumping Duty Administrative Review of Certain Steel Nails from the People's Republic of China: Third Selection of Respondent for Individual Review," dated February 26, 2016.
[8] *See* Letter to All Interested Parties, from the Department, regarding "Seventh Administrative Review of Certain Steel Nails from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated February 17, 2016 ("Surrogate Country Letter").

submit comments and rebuttal comments on SVs for this administrative review.[9] Between May 25, 2016 and June 6, 2016, the Department received surrogate country comments, SV comments, and rebuttal comments from interested parties.[10]

Scope of the Order

The merchandise covered by this order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire. Certain steel nails subject to this order are currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7317.00.55, 7317.00.65, 7317.00.75, and 7907.00.6000.[11]

Excluded from the scope of this order are steel roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope are the following steel nails: 1) Non-collated (*i.e.*, hand-driven or bulk), two-piece steel nails having plastic or steel washers (caps) already assembled to the nail, having a bright or galvanized finish, a ring, fluted or spiral shank, an actual length of 0.500" to 8", inclusive; and an actual shank diameter of 0.1015" to 0.166", inclusive; and an actual washer

[9] *See* Memorandum to the File, from Omar Qureshi, International Trade Compliance Analyst, regarding "Certain Steel Nails from the People's Republic of China: Second Request for Extension of Time for Surrogate Value Submission," dated May 13, 2016 and Memorandum to the File, from Omar Qureshi, International Trade Compliance Analyst, regarding "Certain Steel Nails from the People's Republic of China: Request for Extension of Time for Surrogate Value Submission," dated April 12, 2016.

[10] *See* Letter from Petitioner, to the Department, regarding "Certain Steel Nails from the People's Republic of China: Surrogate Value Data for the Seventh Administrative Review (2014-2015), dated May 25, 2016 ("Petitioner SV Comments"); Letter from Stanley, to the Department, regarding "Certain Steel Nails from the People's Republic of China; Seventh Administrative Review; Preliminary Surrogate Value Data," dated May 25, 2016 ("Stanley SV Comments"); Letter from Tianjin Lianda, to the Department, regarding "Certain Steel Nails from the People's Republic of China: 7th Review; Submission of Surrogate Value Information," dated May 25, 2016 ("Tianjin Lianda SV Comments"); Letter from Stanley, to the Department, regarding "Certain Steel Nails From the People's Republic of China; Seventh Administrative Review; Rebuttal Preliminary Surrogate Value Information," dated June 6, 2016 ("Stanley SV Rebuttals").

[11] The Department recently added the Harmonized Tariff Schedule category 7907.00.6000, "Other articles of zinc: Other," to the language of the *Order*. *See* Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, Antidumping and Countervailing Duty Operations, regarding "Certain Steel Nails from the People's Republic of China: Cobra Anchors Co. Ltd. Final Scope Ruling," dated September 19, 2013.

or cap diameter of 0.900" to 1.10", inclusive; 2) Non-collated (*i.e.*, hand-driven or bulk), steel nails having a bright or galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500" to 4", inclusive; an actual shank diameter of 0.1015" to 0.166", inclusive; and an actual head diameter of 0.3375" to 0.500", inclusive; 3) Wire collated steel nails, in coils, having a galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500" to 1.75", inclusive; an actual shank diameter of 0.116" to 0.166", inclusive; and an actual head diameter of 0.3375" to 0.500", inclusive; and 4) Non-collated (*i.e.*, hand-driven or bulk), steel nails having a convex head (commonly known as an umbrella head), a smooth or spiral shank, a galvanized finish, an actual length of 1.75" to 3", inclusive; an actual shank diameter of 0.131" to 0.152", inclusive; and an actual head diameter of 0.450" to 0.813", inclusive.

Also excluded from the scope of this order are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of this order are fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of this order are thumb tacks, which are currently classified under HTSUS 7317.00.10.00.

Also excluded from the scope of this order are certain brads and finish nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive. Also excluded from the scope of this order are fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

DISCUSSION OF THE METHODOLOGY

Preliminary Determination of No Shipments

Between October 20, 2015 and November 17, 2015, the following companies filed no-shipment certifications indicating that they did not export subject merchandise to the United States during the POR:

1. Besco Machinery Industry (Zhejiang) Co., Ltd. ("Besco")
2. Certified Products International Inc. ("CPI")
3. Jining Huarong Hardware Products Co., Ltd.
4. Nanjing Yuechang Hardware Co., Ltd.
5. PT Enterprise Inc.
6. Shandong Oriental Cherry Hardware Import & Export Co., Ltd.
7. Shanxi Yuci Broad Wire Products Co., Ltd.
8. Xi'an Metals & Minerals Import & Export Co., Ltd.
9. Zhejian Gem-Chun Hardware Accessory Co., Ltd.

In order to examine these claims, the Department sent inquiries to CBP requesting that CBP inform the Department if it had any information contrary to the no-shipment claims.[12] CBP provided no information contrary to the no-shipment claims.

Based on the record evidence thus far, we preliminarily determine that these companies did not have any reviewable transactions during the POR. In addition, we find that it is appropriate to not rescind the review, in part, in this circumstance, and to complete the review with respect to the above named companies, issuing appropriate instructions to CBP based on the final results of the review.[13] Should evidence contrary to these companies' no-shipments claims arise, we will pursue the issue in accordance with our governing statute and regulations.

Non-Market Economy Country Status

The Department considers the PRC to be a non-market economy ("NME") country.[14] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

PRC-Wide Entity

Upon initiation of this review, we provided an opportunity for all companies upon which we initiated a review to complete either the separate rate application or certification.[15] Thirteen of the 49 companies under review did not submit either a separate rate application or certification, or submit a no-shipment certification, and we therefore determine that they are part of the PRC-wide entity.[16] In addition, as we explain further below in the "Separate Rates" section, Tianjin Lianda has withheld requested information and has not demonstrated its eligibility for separate-rate status in this administrative review.

The Department's policy regarding conditional review of the PRC-wide entity applies to this review.[17] 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

[12] *See* Memo to the File, from Omar Qureshi, regarding No Shipment Instructions, dated concurrent with this memorandum.
[13] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).
[14] *See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results*, 76 FR 62765, 62767-68 (October 11, 2011), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 77 FR 21734 (April 11, 2012).
[15] The separate-rate certification and separate-rate applications applicable to this proceeding were available at: http://enforcement.tradeia.ita.doc.gov/nme/nme-sep-rate.html.
[16] *See* Appendix 2 for a list of these companies in the concurrent *Federal Register* notice.
[17] *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*").

entity's rate is not subject to change. As such, the PRC-wide rate from the previous review (the sixth administrative review) remains unchanged at 118.04 percent *ad valorem*.[18] As explained below in the "Separate Rates" section, the Department preliminarily finds that Tianjin Lianda, and the companies that did not submit a separate rate application, separate rate certification, and/or a no shipment certification, do not qualify for a separate rate, and as such, are part of the PRC-wide entity.

Separate Rates

The Department maintains a rebuttable presumption that all companies within an NME are subject to government control, and thus, should be assessed a single AD rate.[19] 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.[20] 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*,[21] as amplified by *Silicon Carbide*.[22] However, if the Department determines that a company is wholly foreign-owned by individuals or companies located in a market economy ("ME"), then a separate rate analysis is not necessary to determine whether it is independent from government control.[23]

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from the PRC AD proceeding, and its determinations therein.[24]

---

[18] *See, e.g., id.*; *Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014*, 81 FR 14092, 14095 and accompanying Issues and Decision Memorandum ("*AR6 Final Results*").

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

[20] *See Initiation Notice*, 79 FR at 58730.

[21] *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*), as amplified by *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*"), and 19 CFR 351.107(d).

[22] *See Silicon Carbide*, 59 FR at 22585.

[23] *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 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 affirmative determination, 73 FR 40485 (July 15, 2013).

[24] *See* Final Results of Redetermination pursuant to *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), and available at http://enforcement.trade.gov/remands/12-147.pdf, *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd Advanced Technology & Materials Co., Ltd., et al. v. United States*,

In particular, in litigation involving the diamond sawblades from the PRC proceeding, the CIT found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.[25] Following the Court's reasoning, in recent proceedings, we have concluded that where a government entity holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority ownership holding in and of itself means that the government exercises, or has the potential to exercise, control over the company's operations generally.[26] This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profit distribution of the company.

The Department received separate rate applications or certifications between October 20, 2015 and November 19, 2015, from the following 22 companies ("Separate-Rate Applicants"), which had entries during the POR:

1. Certified Products International Inc.
2. Chiieh Yung Metal Ind. Corp.
3. Dezhou Hualude Hardware Products Co., Ltd.
4. Hebei Cangzhou New Century Foreign Trade Co., Ltd.
5. Mingguang Ruifeng Hardware Products Co., Ltd.
6. Nanjing Caiquing Hardware Co., Ltd.
7. Qingdao D&L Group, Ltd.
8. SDC International Aust. Pty. Ltd.
9. Shandong Dinglong Import & Export Co., Ltd.
10. Shandong Oriental Cherry Hardware Import & Export Co., Ltd.

Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). *See also Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memorandum at 7, unchanged in *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 1.

[25] *See, e.g., Advanced Technology I*, 885 F. Supp. 2d at 1349 (CIT 2012) ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); *Id*., at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor de jure 'separation' that Commerce concludes.") (footnotes omitted); *Id.*, at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); *Id.*, at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

[26] *See Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying Preliminary Decision Memorandum at 5-9.

11. Shanghai Curvet Hardware Products Co., Ltd.
12. Shanghai Yueda Nails Industry Co., Ltd.
13. Shanxi Hairui Trade Co., Ltd.
14. Shanxi Pioneer Hardware Industrial Co., Ltd.
15. Shanxi Tianli Industries Co., Ltd.
16. S-Mart (Tianjin) Technology Development Co., Ltd.
17. Suntec Industries Co., Ltd.
18. The Stanley Works (Langfang) Fastening Systems Co., Ltd.
19. Stanley Black & Decker, Inc.
20. Suzhou Xingya Nail Co., Ltd.[27]
21. Tianjin Jinchi Metal Product Co., Ltd.
22. Tianjin Lianda Co., Ltd.[28]
23. Tianjin Jinghai County Hongli Industry & Business Co., Ltd.
24. Tianjin Universal Machinery Imp. & Exp. Corporation.

The companies that did not submit either a separate-rate application or certification did not demonstrate their eligibility for separate-rate status and remain preliminarily included as party of the PRC-wide entity and are subject to the PRC-wide rate. [29]

Additionally, we note that the *Initiation Notice* included variations of company names not included in either the separate-rate applications or certifications of the Separate-Rate Applicants.[30] Because these names (1) have not been granted separate-rate status in a previous period and (2) do not appear on business licenses submitted to the Department, they are not recognized as representing the same entities. Consistent with our practice, we are preliminarily not including these names on the list of companies for which separate rate status applies.[31]

A. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.[32] The evidence provided by Stanley and the Separate-Rate Applicants supports a preliminary finding of *de jure* absence of government control based on the

[27] Because Suzhou Xingya Nail Co., Ltd. did not participate as a mandatory respondent, it is being treated as part of the PRC-wide entity.

[28] Because Tianjin Lianda failed to rebut the presumption of PRC government control it is being treated as part of the PRC-wide entity.

[29] *See Certain Steel Nails from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2014-2015*, dated concurrently with this memorandum at Appendix 2.

[30] *Id*.; *see also Initiation*, 77 FR at 58732-58738.

[31] *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47191 (September 15, 2009) ("*3rd AR Final*"), and accompanying Issues and Decision Memorandum at Comment 17.

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

following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies.[33]

B. Absence of *De Facto* Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices ("EPs") are set by, or are subject to, the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[34] The Department determines that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.[35]

Except for Tianjin Lianda, the evidence provided by Stanley and the Separate-Rate Applicants supports a preliminary finding of *de facto* absence of government control based on the following: (1) the companies set their own EPs independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.[36] Therefore, the Department preliminarily finds that Stanley and the Separate-Rate Applicants established that they qualify for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers*.

Tianjin Lianda

After examining Tianjin Lianda's response to section A of the Department's antidumping duty questionnaire, the Department determined that the response was incomplete and needed additional information, including information related to Tianjin Lianda's eligibility for a separate rate. In its March 29, 2016, section A response, Tianjin Lianda stated that it was wholly owned by Tianjin Dagang Oilfield Lianda Industry Enterprise ("Dagang") and that Dagang was a collectively owned enterprise.[37] However, Tianjin Lianda's response was unclear as to which individuals and/or entities owned Dagang. On May 13, 2016, the Department issued a

[33] *See, e.g.*, Stanley's January 15, 2016, submission, at 1-26; *see also* the Separate-Rate Applicants' submissions dated from October 20, 2015 – November 19, 2015.
[34] *See Silicon Carbide*, 59 FR at 22586-87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).
[35] *Id.*, 60 FR at 22544.
[36] *See, e.g.*, Stanley's January 13, 2015, submission, at 1-18; *see also* the Separate-Rate Applicants' submissions dated from November 21, 2014 - November 28, 2014.
[37] *See* Tianjin Lianda's Original Questionnaire Response, dated March 29, 2016 ("Tianjin Lianda's Original Questionnaire Response") at 2-3 and Exhibit 4.

supplemental questionnaire to Tianjin Lianda, requesting Tianjin Lianda to provide full details, with supporting documentation, of its corporate structure.[38] In response, Tianjin Lianda stated that it was wholly owned by Dagang since November 2006. Tianjin Lianda also provided registration information to support its claim that Dagang wholly owns Tianjin Lianda.[39] This registration information, though, was merely a screenshot of an Administration for Industry and Commerce webpage and only details Dagang as a shareholder of an unnamed company as well as a capital investment made by Dagang to an unnamed company. The document does not attribute Dagang's shareholdings to any company, and in fact, Dagang is the only company listed in the document.[40] Accordingly, Tianjin Lianda's first supplemental questionnaire response was deficient because the company failed to provide full details, with supporting documentation of its corporate structure.

On June 23, 2016, the Department issued a second supplemental section A questionnaire and requested that Tianjin Lianda identify all entities that make up the "collectively owned enterprise," Dagang, and all affiliations with other producers, entities, organizations, and groups by means of the collective. The Department also requested that Tianjin Lianda provide the full ownership details for Dagang including the names and addresses of the individuals and/or companies that may comprise Dagang.[41] On July 8, 2016, Tianjin Lianda stated that Dagang was comprised of a group of 800 workers and staff members who work in the enterprise. Tianjin Lianda also provided a chart listing all of its workers' names, 200 of which were translated into English.[42] Separate from this chart, Tianjin Lianda provided a list containing the names and addresses of one manager for each of the companies Dagang owns.[43] The list however, did not contain any names of Dagang's managers. Additionally, neither Tianjin Lianda's narrative response, nor the chart the company provided listing the names of all Dagang's 800 employees, contained specific titles or positions for the 800 workers Tianjin Lianda claims to be part of the collectively owned entity of Dagang. Further, Tianjin Lianda's response also pointed to an organizational chart, identical to a chart provided in Tianjin Lianda's original questionnaire response, which listed Tianjin Lianda's organizational structure.[44] The organizational chart provided by Tianjin Lianda does not state individuals and/or entities that comprise Dagang and only states what was previously stated in Tianjin Lianda's original questionnaire response.

We preliminarily determine that Tianjin Lianda has withheld requested information and that, contrary to its assertions, Tianjin Lianda has not demonstrated its eligibility for separate-rate status in this administrative review. Although Tianjin Lianda provided a response to the separate rate portion of section A of the questionnaire, it failed to respond to the section A supplemental

[38] *See* Letter to Tianjin Lianda from Paul Walker, Program Manager, Office V, "Supplemental Questionnaire for Section A," dated May 13, 2016 ("Tianjin Lianda's First Supplemental Section A Questionnaire") at 8.
[39] *See* Tianjin Lianda's Supplemental Section A Response, dated June 12, 2016 ("Tianjin Lianda's First Supplemental Section A Response") at 7 and Exhibit S-2.
[40] *See* Id. at Exhibit S-2.
[41] *See* Letter to Tianjin Lianda from Julia Hancock, Acting Program Manager, Office V, "Second Supplemental Questionnaire for Section A," dated May 13, 2016 ("Tianjin Lianda's Second Supplemental Section A Questionnaire") at 4-5.
[42] *See* Tianjin Lianda's Second Supplemental Section A Response, dated July 8, 2016 ("Tianjin Lianda's Second Supplemental Section A Response") at 3 and Exhibit S6-1.
[43] *Id* at S6-5.
[44] *Id*. at S6-4.

questionnaires which contained several questions and requests relating to its separate rate status. Specifically, Tianjin Lianda failed to respond to requests made in the Department's supplemental questionnaires asking it to provide corporate structure information for its parent company, Dagang. Although it provided some documentation and narrative explanations of Dagang's ownership structure, Tianjin Lianda failed to provide information requested by the Department that is necessary to analyze whether it qualified for a separate rate. As a result, Tianjin Lianda has failed to rebut the presumption of PRC government control. Therefore, we have preliminarily determined that Tianjin Lianda does not qualify for a separate rate, but rather should be treated as part of the PRC-wide entity.

C. Margins for Separate Rate Recipients Not Individually Examined

Consistent with our normal practice, we based the weighted-average dumping margin for the separate rate recipients not individually examined on the weighted average dumping margin calculated for Stanley, the one mandatory respondent that fully participated in this review. The entities receiving this rate are identified by name in the "Preliminary Results of Review" section of this notice.

D. Separate Rate Calculation for Companies Not Individually Examined

As noted above, we stated that the Department employed a limited examination methodology, as it did not have the resources to examine all companies for which a review request was made, and selected exporters as mandatory respondents in this review. Stanley participated in the administrative review as a mandatory respondent. As noted above, 23 additional companies submitted timely information and remained subject to review as separate rate respondents.

The statute and the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Section 735(c)(5)(A) of the Act instructs that we do not calculate an all-others rate using any zero or *de minimis* weighted-average dumping margins or any weighted-average dumping margins based entirely on facts available ("FA"). Accordingly, the Department's usual practice has been to average the rates for the selected companies excluding rates that are zero, *de minimis*, or based entirely on FA.[45]

In this review, we calculated a weighted-average dumping margin for Stanley that is above *de minimis* and not based entirely on FA. Accordingly, for the preliminary results, consistent with the Act and the Department's practice, the Department preliminarily determines that the margin to be assigned to the Separate Rate Applicants is Stanley's calculated margin.[46]

[45] *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Review in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

[46] As noted above, because Tianjin Lianda does not qualify for a separate rate, it is part of the PRC-wide entity and will not receive Stanley's calculated margin.

Application of Facts Available and Use of Adverse Inference

Section 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that if necessary information is not available on the record or if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to section 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified as provided for in section 782(i) of the Act, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party "promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner," the Department shall consider the ability of the interested party and may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person an opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the antidumping and countervailing duty law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.[47] The amendments to the Act are applicable to all determinations made on or after August 6, 2015 and, therefore, apply to this administrative review.[48]

[47] *See* TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The text of the TPEA may be found at https://www.congress.gov/bill/114thcongress/house-bill/1295/text/pl.

Further, section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, and under the TPEA, the Department is not required to determine, or make any adjustments to, a weighted average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.[49] Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the antidumping duty investigation, a previous administrative review, or other information placed on the record.[50]. In addition, the SAA explains that the Department may employ an adverse inference "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."[51] Further, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.[52]

Facts Available

As noted above, Section 776(a) of the Act provides that the Department shall apply "facts otherwise available" if (1) necessary information is not on the record or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Stanley used tollers to perform heat treatment and phosphating. Stanley was unable to obtain FOPs from certain of its heat treatment and phosphating tollers.[53] Pursuant to section 776(a)(1) of the act, we preliminarily find that necessary information is missing from the record and as FA, we are using the heat treatment and phosphating FOPs from those tollers whose complete data Stanley was able to obtain and submit on the record, according to our practice.[54]

---

[48] *See Applicability Notice*, 80 FR at 46794-95.
[49] *See* section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).
[50] *See also* 19 CFR 351.308(c).
[51] *See Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. 103-316, Vol. 1, 103d Cong. at 870 (1994) ("SAA").
[52] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan*, 65 FR 42985 (July 12, 2000); *Antidumping Duties, Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (CAFC 2003) ("*Nippon Steel"*).
[53] *See* Stanley's February 17, 2016, submission at 69-71.
[54] *See e.g., Certain Steel Nails From the People's Republic of China: Final Results of the First Antidumping Duty Administrative Review*, 76 FR 16379 (March 23, 2011) and accompanying Issues and Decision Memorandum at Comment 17.

Surrogate Country

As noted above, on February 17, 2016, the Department sent interested parties a letter inviting comments on surrogate country selection and SV data.[55] Also, as noted above, between May 25, 2016 and June 6, 2016, interested parties submitted comments and rebuttal comments on surrogate country selection and SVs.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOPs, valued using the best available information 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: (a) at a level of economic development comparable to that of the NME country; and (b) significant producers of comparable merchandise.[56] As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME, unless it is determined that none of the countries are viable options because they either: (a) are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at the same level of economic development as the NME, the Department generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.[57] Further, the Department normally values all FOPs in a single surrogate country.[58]

Petitioner recommends Thailand as a surrogate country because it is at a level of economic development comparable to the PRC, is a significant producer of comparable merchandise, and has superior quality and availability of SV data. Stanley recommends Romania as a surrogate country because it is at a level of economic development comparable to the PRC, is a significant producer of comparable merchandise, and has reliable contemporaneous SV data. Tianjin Lianda did not specifically recommend a particular surrogate country, but also submitted SV data for Thailand.

A. Comparable Level of Economic Development

Consistent with its practice and section 773(c)(4) of the Act, the Department identified Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand, as countries that are at the same level of economic development as the PRC, based on per capita gross national economic income.[59]

[55] *See* Surrogate Country Letter.
[56] *See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process* (March 1, 2004) ("*Policy Bulletin*").
[57] *Id*.
[58] *See* 19 CFR 351.408(c)(2).
[59] *See* Surrogate Country Letter.

We note that identifying potential surrogate countries based on GNI data has been affirmed by the U.S. Court of International Trade ("CIT").[60]

As explained in the Department's *Policy Bulletin*, "{t}he surrogate countries on the list are not ranked."[61] This lack of ranking reflects the Department's long-standing practice that, for the purpose of surrogate country selection, the countries on the list "should be considered equivalent"[62] from the standpoint of their level of economic development based on GNI as compared to the PRC's level of economic development and recognition of the fact that the concept of "level" in an economic development context necessarily implies a range of GNIs, not a specific GNI. This long-standing practice of providing a non-exhaustive list of countries at the same level of economic development as the NME country fulfills the statutory requirement to value FOPs using data from "one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country…"[63] In this regard, "countries that are at a level of economic development comparable to that of the nonmarket economy country" necessarily includes countries that are at the same level of economic development as the NME country.

Because the non-exhaustive list is only a starting point for the surrogate country selection process, the Department also considers other countries that interested parties propose that meet the statutory requirements. Countries on the segment record that are at the same level of economic development as the PRC are given equal consideration for the purposes of selecting a surrogate country. Countries which are not at the same level of economic development as the PRC's, but still at a level of economic development comparable to the PRC, are selected only to the extent that data considerations outweigh the difference in levels of economic development. As noted above, GNI is the primary indicator of a country's level of economic development.

For this review, the Department determines that Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand, are countries at the same level of economic development as the PRC, based on per capita gross national economic income.[64]

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. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[65] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in

[60] *See Fujian Lianfu Forestry Co., Ltd. v. United States*, 638 F. Supp. 2d 1325 (CIT 2009).
[61] *See Policy Bulletin*.
[62] *Id*.
[63] *See* section 773(c)(4) of the Act.
[64] *See* Surrogate Country Letter.
[65] *See Policy Bulletin* at 2.

selecting a surrogate country.[66] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[67] "In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced. How the Department does this depends on the subject merchandise."[68] In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

> In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.[69]

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.[70] Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[71] it does not preclude reliance on additional or alternative metrics. In this case, because production data of comparable merchandise are not available, we first analyzed exports of comparable merchandise from the seven countries, as a proxy for production data. We obtained export data using the Global Trade Atlas ("GTA") for HTS 7317.00: Nails, Tacks, Drawing Pins, Staples (Other Than In Strips), And Similar Articles, Of Iron Or Steel, Excluding Such Articles With Heads Of Copper. The countries reported the following export volumes for the POR: (1) Bulgaria (5,792,000 kilograms); (2) Ecuador (766,654 kilograms); (3) Mexico (26,066,784 kilograms) (4) Romania (4,680,000 kilograms); (5) South Africa (3,215,733 kilograms); and (6) Thailand (21,494,824 kilograms).[72] As such, we find these countries to be significant producers of comparable merchandise.

C. Data Availability

The *Policy Bulletin* states that, if more than one country is at a level of economic development comparable to that of the NME and is a significant producer, "then the country with the best

[66] 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.
[67] *See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").
[68] *See Policy Bulletin* at 2.
[69] *Id.*, at 3.
[70] *See* section 773(c) of the Act; *see also Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).
[71] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).
[72] *See* Memorandum to the File, from Susan Pulongbarit, Senior International Trade Analyst, "Seventh Administrative Review of Certain Steel Nails from the People's Republic of China," dated concurrently with and hereby adopted by this memorandum ("Prelim SV Memo").

factors data is selected as the primary surrogate country."[73] Importantly, the *Policy Bulletin* explains further that "data quality is a critical consideration affecting surrogate country selection" and that "a country that perfectly meets the requirements of economic comparability and significant producer is not of much use as a primary surrogate if crucial factor price data from that country are inadequate or unavailable."[74]

Section 773(c)(1) of the Act instructs the Department to value the FOPs based upon the best available information from an ME country or a countries that the Department considers appropriate. When considering what constitutes the best available information, the Department considers several criteria, including whether the SV data are contemporaneous, publicly available, tax and duty exclusive, represent a broad-market average, and are specific to the input.[75] The Department's preference is to satisfy the breadth of the aforementioned selection criteria.[76] Moreover, it is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.[77] The Department must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the "best" available SV for each input.[78]

Petitioner, Stanley, and Tianjin Lianda submitted data from Thailand for surrogate valuation purposes. Stanley also submitted data from Bulgaria and Romania for surrogate value purposes. No SV information exists on the record for Ecuador, Mexico, or South Africa, nor has any party argued that one of these countries should be selected as the surrogate country.

Contemporaneity

In the current review, only Bulgaria and Thailand have contemporaneous financial statements from producers of identical merchandise.[79]

Specificity

The Department has more specific Thai SV information for every material input, including primary and secondary ones.[80] The Thai HTS schedule goes into greater detail than do the

[73] *See Policy Bulletin*.
[74] *Id*.
[75] *See, e.g., Lined Paper*, and accompanying Issues and Decision Memorandum at Comment 3.
[76] *See, e.g., Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940, 51943 (August 19, 2011), and accompanying Issues and Decision Memorandum at Comment 2.
[77] *See Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) ("*Sixth Mushrooms AR*"), and accompanying Issues and Decision Memorandum at Comment 1; *see also Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002), and accompanying Issues and Decision Memorandum at Comment 2.
[78] *See, e.g., Sixth Mushrooms AR*, 71 FR 40477 at Comment 1.
[79] *See* Stanley's SV Comments at Exhibits SV-13, SV-15, SV-20, and SV-21.
[80] *See*, generally, the SV submission from the interested parties and the Prelim SV Memo.

Bulgarian and Romanian HTS schedules. The Thai GTA import prices provide for seven different 11-digit HTS categories for low carbon steel wire rod ("SWR") and five different 11-digit HTS categories for medium carbon SWR.[81] In contrast, the Bulgarian and Romanian GTA import prices for low carbon SWR value are each calculated from one 8-digit HTS category while the medium carbon SWR value are also calculated from one 8-digit HTS category.[82]

No party raised concerns regarding the broad-market average, tax and duty exclusivity, and public availability criteria that, per its practice, the Department also evaluates in the SV and surrogate country selection process.

D. Conclusion

In light of the record evidence, the Department finds Thailand to be a reliable source for SVs because it is at the same level of economic development as the PRC, is a significant producer of comparable merchandise, and has contemporaneous, publicly available, and reliable data. Given the above facts, the Department selects Thailand as the primary surrogate country for this review. A detailed explanation of the SVs appears below in the "Normal Value" and "Factor Valuations" sections of this notice.

Date of Sale

19 CFR 351.401(i) states that, normally, the Department will use the date of invoice, as recorded in the producer or exporter's records kept in the ordinary course of business, as the date of sale. However, the regulations permit the Department to use a different date if it better reflects the date on which the exporter or producer establishes the material terms of sale. Stanley, as in previous reviews, explained that because of alterations or cancellations, the earlier of invoice date or shipment date is the appropriate date of sale because it reflects the date on which the material terms no longer change.[83] Consistent with the regulatory presumption for invoice date and because the Department found no evidence on the record contrary to Stanley's claims, for these preliminary results, the Department used the invoice date as the date of sale except when shipment date preceded invoice date. In those instances, consistent with the Department's practice[84] and as Stanley provided evidence that the material terms of sale were set on shipment date, the Department used the shipment date as the date of sale.[85]

Comparisons to Normal Value

Pursuant to section 773(a) of the Act, in order to determine whether Stanley's sales of the subject merchandise from the PRC to the United States were made at less than normal value, the

[81] *Id.*
[82] *See* Stanley's SV Comments at Exhibits SV-5 and SV-16.
[83] *See* Stanley's January 15, 2016, section A questionnaire response at 25-30.
[84] *See Certain Steel Nails from the People's Republic of China: Preliminary Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 77 FR 53845, 53850-51(September 4, 2012) (unchanged in *AR3 Final*).
[85] *See* Stanley's January 15, 2016, section A questionnaire response at Exhibit A-10(a), (b), (c), (d), and (e).

Department compared the constructed export price to the normal value as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (or constructed export prices) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.[86]

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.[87] The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported common customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions

[86] *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) and the accompanying Issues and Decision Memorandum at comment 1; *see also Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014).

[87] *See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); Steel *Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that the Department uses in making comparisons between export price (or constructed export price) and normal value 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period 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 used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the 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 (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average 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 average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average 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 average-to-average 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, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative comparison 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 average-to-average method only. If the difference between the two

calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison 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 margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

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

B. Results of Differential Pricing Analysis

For Stanley, based on the results of the differential pricing analysis, the Department preliminarily finds that 77.8 percent of the value of U.S. sales pass the Cohen's *d* test,[88] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, the Department is applying the average-to-transaction method to all U.S. sales.

U.S. Price

A. Constructed Export Price

Pursuant to section 772(b) of the Act, CEP is "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter," as adjusted under section 772(c) and (d) of the Act. For Stanley's 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 PRC-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, and appropriate selling adjustments, in accordance with section 772(c)(2)(A) of the Act.

[88] *See* the Memorandum to the File from Susan Pulongbarit, "Analysis for the Preliminary Results of the Administrative Review of Certain Steel Nails from the People's Republic of China," dated concurrently with this memorandum at Attachment 2.

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. 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. 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* Stanley's analysis memorandum, dated concurrently with these preliminary results.

B. Value-Added Tax

The Department's recent practice in NME cases is to adjust EP or CEP for the amount of any unrefunded VAT, in accordance with section 772(c)(2)(B) or the Act.[89] In changing the practice, 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.[90] Where the irrecoverable VAT is a fixed percentage of CEP or EP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. CEP or EP downward by this same percentage.[91] The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one.

The Department requested that Stanley report net un-refunded VAT for the subject merchandise.[92] Stanley reported that the official VAT rate for exports of subject merchandise is 17 percent and that the refund rate is five percent, under the applicable PRC regulations.[93] Thus, Stanley incurred an effective VAT rate of 12 percent on exports of nails.

Because Stanley reported that it pays VAT associated with subject merchandise that is not refunded at a rate of 12 percent, the Department adjusted Stanley's' net price for the unrefunded VAT, in order to calculate a CEP net of VAT.[94] We note that this is consistent with the

[89] *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, 36483-84 (June 19, 2012) ("*Methodological Change*").
[90] *See 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.
[91] *Id*.
[92] *See* the Department's December 18, 2015, AD Questionnaire.
[93] *See* Stanley's February 17, 2016, submission.
[94] *See* Stanley Analysis Memo.

Department's longstanding policy and the intent of the statute, that dumping comparisons be tax-neutral.[95]

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(e) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. The Department's questionnaire requires that the respondents provide information regarding the weighted-average FOPs on a CONNUM-specific basis, either using actual quantities or develop a reasonable methodology, across all of the companies' plants and suppliers that produce the merchandise under consideration, not just the FOPs from a single plant or supplier.[96] This methodology ensures that the Department's calculations are as accurate as possible.[97]

The Department calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). Under section 773(c)(3) of the Act, FOPs used by the respondents in the production of nails include, but are not limited to, (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department based NV on the respondents' reported FOPs for materials, energy, and labor.

Factor Valuations

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

[95] *See Methodological Change*, (*citing Antidumping Duties*; *Countervailing Duties*, 62 FR27296, 27369 (May 19, 1997) and Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. I 03-316, vol. I, 827, reprinted in 1994 U.S.C.C.A.N. 3773, 4172); *see also Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Results of Antidumping Administrative Review;* 2011-2012, 78 FR 78333 (December 26, 20 13) and accompanying Preliminary Decision Memorandum at Issue 9, unchanged in Final Results.

[96] *See* the Department's November 20, 2014, AD Questionnaire at Section D and D-2.

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

product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.[98]

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

Furthermore, with regard to the Thai import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized.[99] We have reason to believe or suspect that prices of inputs from India, Indonesia, and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.[100] Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an "unspecified" country from the average value because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.[101] Therefore, we have not used prices from these countries either in calculating the Thai import-based SVs or in calculating ME input values.

On August 2, 2013, the Department amended 19 CFR 351.408.[102] Pursuant to amended 19 CFR 351.408(c)(1), for all proceedings initiating after September 3, 2013, when a respondent sources inputs from an ME supplier and paid for the inputs in ME currency in meaningful quantities, the Department uses the actual price paid by the respondent to value those inputs, if substantially all of the factor, by total volume, is purchased from the market economy supplier.[103] In accordance with the amended regulation, substantially all is defined to be 85 percent or more of the total

[98] *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.
[99] *See* Section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (June 29, 2015); *see also, Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 **(**August 6, 2015).
[100] *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; *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.; *Certain Lined Paper Products From Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying Issues and Decision Memorandum at 1.
[101] *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005).
[102] *See Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013).
[103] *Id*.

volume purchased of the factor.[104] Information reported by Stanley demonstrates that certain inputs were sourced and produced from an ME country and paid for in ME currencies.[105] The information reported by Stanley also demonstrates that such inputs were purchased in significant quantities (*i.e.*, 85 percent or more) from ME suppliers. As a consequence, the Department used Stanley's actual ME purchase prices to value these inputs. Additionally, Stanley also demonstrated that certain other inputs were not purchased in significant quantities. As a consequence, we have weight-averaged the ME price(s) paid for the ME portion with the corresponding South African SV. Where appropriate, freight expenses were added to the ME price of the input.

For the preliminary results, the Department used Thai Import Statistics from the GTA to value certain raw materials, byproducts, and packing material inputs that Stanley used to produce subject merchandise during the POR, except where listed below. Parties placed data from the GTA for Thailand on the record for the aforementioned items, and the GTA is a source that is regularly used by the Department because the data therein meet the Department's SV criteria.

We valued electricity and water using values from Thai utilities. Specifically, we valued electricity using data from the Thai Board of Investment, a government agency. We valued water using a value from the Thai Metropolitan Waterworks Authority.[106]

We valued brokerage and handling ("B&H") using a price list of export procedures necessary to export a standardized cargo of goods in Thailand. 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 that is published in *Doing Business 2016: Thailand* by the World Bank.[107] The reported prices were contemporaneous with the POR.

We used Thai transport information in order to value the freight-in cost of the raw materials. The Department determined the best available information for valuing truck freight to be from *Doing Business 2016: Thailand*. This World Bank report gathers information concerning the distance and cost to transport products in a 20-foot container from the largest city in Thailand to the nearest seaport. We calculated the per-unit inland freight costs using the distance from Bangkok to the nearest seaport. We calculated a per-kilogram, per-kilometer surrogate inland freight rate based on the methodology used by the World Bank.[108]

For these preliminary results, pursuant to *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.[109] Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A from the International Labor Organization's ("ILO") *Yearbook of Labor Statistics* ("*ILO Yearbook*").

---

[104] *Id*.
[105] *See* Stanley's February 17, 2016, section D response at 12 and Exhibit D-6.
[106] For more information on the electricity and water SV calculations, *see* the Prelim SV Memo.
[107] For more information on the B&H SV calculation, *see* the Prelim SV Memo.
[108] For more information on the truck freight SV calculation, *see* the Prelim SV Memo.

Accordingly, we valued labor using manufacturing-specific data from the quarterly-specific POR data (fourth quarter of 2014 and first, second, and third quarters of 2015) from the Government of Thailand, National Statistical Office, Labor Force Survey of Whole Kingdom, ("POR Manufacturing-Specific NSO Data").[110] Although the POR Manufacturing-Specific NSO Data are not from the ILO, the Department finds that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, the Department decided to change to the use of ILO Chapter 6A data 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. The Department 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 information available" to determine SVs for inputs such as labor. Similar to the previous administrative review, we find that the POR Manufacturing-Specific NSO Data are the best available information for valuing labor for this segment of the proceeding. Specifically, the POR Manufacturing-Specific NSO Data is contemporaneous with the POR and is manufacturing-specific.[111] As stated above, the Department used Thai data reported under the POR Manufacturing-Specific NSO data, which reflects all costs related to labor, including wages, benefits, housing, training, *etc.* Additionally, where the financial statements used to calculate the surrogate financial ratios include itemized detail of labor costs, the Department made adjustments to certain labor costs in the surrogate financial ratios.

The Department's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.[112] Moreover, for valuing factory overhead, selling, general, and administrative ("SG&A") expenses and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.[113] In addition, the CIT has held that in the selection of surrogate producers, the Department may consider how closely the surrogate producers approximate the NME producer's experience.[114] To value factory overhead, SG&A expenses, and profit, the Department used same companies used from the previous administrative review. Specifically, we used the 2014 financial statements from LS Industry Co., Ltd., and the 2014 financial statements from Bangkok Fastening Co., Ltd., both of which are Thai producers of identical merchandise.[115]

---

[110] For more information on the labor SV calculation, *see* the Prelim SV Memo.
[111] *See Certain Steel Nails from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2013-2014*, 80 FR 53490 (September 4, 2015) and accompanying Preliminary Decision Memorandum unchanged at *AR6 Final Results*.
[112] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005), and accompanying Issues and Decision Memorandum at Comment 3.
[113] *See, e.g., Diamond Sawblades and Parts Thereof from the People's Republic of China, Final Determination in the Antidumping Duty Investigation*, 71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 2; *see also* section 773(c)(4) of the Act; 19 CFR 351.408(c)(4).
[114] *See Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-1254 (CIT 2002); *see also Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005), and accompanying Issues and Decision Memorandum at Comment 1.
[115] For more information on the surrogate financial ratios calculations, *see* the Prelim SV Memo.

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. These exchange rates are available on the Enforcement and Compliance website at http://enforcement.trade.gov/exchange/index.html.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

1 September 2016
(Date)