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August 31, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the 2015-2016 Antidumping Duty Administrative Review: Certain Steel Nails from the People's Republic of China

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SUMMARY

The Department of Commerce (the Department) is conducting the eighth 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 examination, 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 and Tianjin Lianda sold merchandise at below normal value (NV) during the period of review (POR), August 1, 2015 through July 31, 2016. In addition, 22 other separate rate applicants demonstrated that they are entitled to a separate rate and have been assigned the weighted average of the weighted-average dumping margins calculated for Stanley and Tianjin Lianda. Moreover, two companies reported that they had no shipments during the POR. Five other companies for which a review was initiated have been preliminarily determined to be ineligible for a separate rate and are considered to be part of the PRC-wide entity.

Based on the final results of this administrative review, the Department will instruct U.S. Customs and Border Protection (CBP) to assess duties on all appropriate entries of subject merchandise during the POR. The preliminary rates assigned to each of these companies can be found in the "Preliminary Results of Review" section of the accompanying *Federal Register* notice.

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

Interested parties are invited to comment on these preliminary results. We intend to issue the final results, which will include the results of verification and our analysis of all issues raised in the case briefs, no later than 120 days from the date of publication of this notice, unless extended, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

BACKGROUND

On August 9, 2016, Hebei Minmetals Co., Ltd. (Hebei Minmetals), requested an administrative review of its exports of subject merchandise to the United States pursuant to this proceeding.[2] On August 30, 2017, Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. (collectively Stanley), requested an administrative review of its exports for this proceeding.[3] On August 31, 2016, Mid Continent Steel & Wire, Inc. (Mid Continent) (the petitioner), requested an administrative review for this proceeding with respect to 25 companies.[4] Also, on August 31, 2016, Shandong Oriental Cherry Hardware Import & Export Co., Ltd (Cherry Hardware Import & Export), Shandong Oriental Cherry Hardware Group., Ltd (Cherry Hardware Group), SDC International Aust. PTY. LTD., as well as Shandong Qingyun Hongyi Hardware Products Co., Ltd, requested an administrative review of their respective exports for this proceeding.[5] On October 14, 2016, the Department initiated the eighth administrative review of nails from the PRC with respect to 31 companies.[6] On April 21, 2017, the Department extended the deadline for issuing the preliminary results by 120 days thereby fully extending the deadline.[7]

Because of the large number of exporters involved in this administrative review, the Department found that it would not be practicable to individually examine each known exporter of subject

[2] *See* Letter from Stanley dated August 30, 2016.
[3] *See* Letter from Hebei Minmetals dated August 9, 2016.
[4] *See* Certain Steel Nails from the People's Republic of China: Request for Administrative Reviews, dated August 31, 2016. The companies in the petitioner's request are: Aironware (Shanghai) Co., Ltd.; Certified Products Taiwan Inc.; Chiieh Yung Metal Ind. Corp.; Dezhou Hualude Hardware Products Co., Ltd.; Faithful Engineering Products Co., Ltd.; Hebei Cangzhou New Century Foreign Trade Co., Ltd.; Huanghua Xionghua Hardware Products Co., Ltd.; Mingguang Ruifeng Hardware Products; Najing Caiqing Hardware Co., Ltd.; Qingdao D & L Group Ltd.; SDC International Australia Pty Ltd.; Shandong Dinglong Import & Export Co., Ltd.; Shanghai Curvet Hardware Products Co., Ltd.; Shanghai Yueda Nails Industry Co., Ltd.; Shanxi Hairui Trade Co., Ltd.; Shanxi Pioneer Hardware Industrial; Shanxi Tianli Industries Co., Ltd.; S-Mart (Tianjin) Technology Development Co., ltd.; Suntec Industries Co., Ltd.; Tianjin Jinchi Metal Products Co., Ltd.; Tianjin Jinghai County Hongli Industry & Business Co., Ltd.; Tianjin Lianda Group Co., Ltd; Tianjin Universal Machinery Imp. & Exp. Corp.; Tianjin Zhonglian Metals Ware Co., Ltd.; an Xi'An Metals Minerals Imp & Exp Co., Ltd.
[5] *See* Letter from Cherry Hardware Import & Export dated August 31, 2016; *See* Letter from Cherry Hardware Group dated August 31, 2016; *See* Letter from SDC International Aust. PTY. LTD dated August 31, 2016; *See* Certain Steel Nails from the People's Republic of China: Request for Administrative Review dated August 31, 2016.
[6] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 71064 (October 14, 2016) (*Initiation Notice*).
[7] *See* Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding "Eighth Antidumping Duty Administrative Review of Certain Steel Nails form the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review", dated April 21, 2017, from Courtney Canales, Case Analyst, Office V, Antidumping and Countervailing Duty Operations.

merchandise for which this administrative review has been initiated pursuant to section 751(a) of the Act, consistent with section 777A(c)(2) of the Act. Therefore, the Department limited the number of companies individually examined, pursuant to section 777A(c)(2) of the Act, and selected Stanley and Tianjin Lianda as mandatory respondents.[8]

On February 9, 2017, the Department issued its AD questionnaires to Stanley and Tianjin Lianda, to which both companies responded in a timely manner.[9] Stanley responded to the Section A questionnaire on March 8, 2017[10], and to the Department's Section C&D questionnaire on March 31, 2017[11]. Tianjin Lianda responded to the Department's Section A questionnaire on March 13, 2017,[12] and to Section C&D on April 4, 2017.[13] Between May 11 and June 15, 2017, the Department issued supplemental questionnaires for Section A, C, and D to the respondents.[14] Stanley timely responded to the Section A, C, and D questionnaires by May 26, 2017.[15] Tianjin Lianda timely responded to the first supplemental questionnaire for Section A by June 5, 2017, but did not respond to the second supplemental questionnaire for Section A and to the Sections C&D supplemental questionnaires, responses for which were due on June 22, 2017 and June 29, 2017, respectively. Between April 5 and May 9, 2017, the petitioner submitted comments regarding the respondents' section A, C, and D questionnaire responses.[16] On July 10, 2017, Tianjin Lianda submitted a letter to the Department stating: "Tianjin Lianda has withdrawn from this administrative review and will not further participate in this proceeding segment."[17] On July 14, 2017, the petitioner submitted comments on Tianjin Lianda's July 10, 2017, letter.[18]

On January 17, 2017, the Department placed the Surrogate Country List on the record and solicited interested party comments regarding the selection of the surrogate country and offered

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[8] *See* Memorandum to James Doyle, Director, Office V, AD/CVD Operations, from Courtney Canales, Case Analyst, Office V, AD/CVD Operations, regarding "Eighth Antidumping Administrative Review of Certain Steel Nails from the People's Republic of China: Selection of Respondents for Individual Review," dated February 2, 2017.

[9] *See* Letter from the Department to Stanley dated February 9, 2017; *See* Letter from the Department to Tianjin Lianda dated February 9, 2017 (AD Questionnaire).

[10] *See* Letter from Stanley dated March 8, 2017.

[11] *See* Letter from Stanley dated March 31, 2017.

[12] *See* Letter from Tianjin Lianda dated March 13, 2017.

[13] *See* Letter from Tianjin Lianda dated April 4, 2017.

[14] *See* Letter from the Department to Stanley dated May 12, 2017 (Supplemental Questionnaire Sections A, C, and D); *See* Letter from the Department to Tianjin Lianda dated May 12, 2017 (Supplemental Questionnaire Section A). *See* Letter from the Department to Tianjin Lianda dated June 15, 2017 (Supplemental Questionnaire Sections C and D). *See* Letter from the Department to Tianjin Lianda dated June 15, 2017 (Second Supplemental Questionnaire Section A).

[15] *See* Letter from Stanley dated May 26, 2017.

[16] *See Certain Steel Nails from the People's Republic of China*: Comments on Tianjin Lianda Group co., Ltd.'s Section A Response, dated April 5, 2017; *See Certain Steel Nails from the People's Republic of China*: Comments on Tianjin Lianda Group co., Ltd.'s Section C and D Response, dated April 19, 2017; *See Certain Steel Nails from the People's Republic of China*: Comments on The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc.'s Sections A, C and D Response, dated April 21, 2017. *See Certain Steel Nails from the People's Republic of China*: Comments on Tianjin Lianda Group co., Ltd.'s Section A Response, dated May 9, 2017.

[17] *See* Letter from Tianjin Lianda dated July 10, 2017.

[18] *See* Letter from the petitioner dated July 14, 2017.

an opportunity to provide surrogate value (SV) data, and specified the deadlines for these respective submissions.[19] Between January 23, 2017 and March 3, 2017, the Department received surrogate country comments, SV comments, and rebuttal comments from interested parties.[20]

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.[21]

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,

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[19] *See* Letter to All Interested Parties, from the Department, regarding "Eighth 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 January 17, 2017 (Surrogate Country Letter).

[20] *See* Letter from Tianjin Lianda, to the Department, regarding "Certain Steel Nails from the People's Republic of China: Submission of Comparable Surrogate Country Comments, dated January 23, 2017 (Tianjin Lianda SV Comments); Letter from Mid Continent, to the Department, regarding "Certain Steel Nails from the People's Republic of China: Comments On Surrogate Country Selection," dated March 3, 2017 (Mid Continent SV Comments); Letter from Stanley, to the Department, regarding "Eighth Administrative Review of Certain Steel Nails from the People's Republic of China; Comments of The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc., Concerning Selection of a Primary Surrogate Country," dated March 3, 2017 (Stanley SV Comments); Letter from Stanley, to the Department, regarding "Eighth Administrative Review of Certain Steel Nails from the People's Republic of China; Comments of The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc., to Petitioner's Comments Concerning Selection of a Surrogate Country," dated March 13, 2017 (Stanley SV Rebuttals); Letter from Mid Continent, to the Department, regarding "Certain Steel Nails from the People's Republic of China: Rebuttal Comments on Surrogate Country Selection," dated March 13, 2017 (Mid Continent SV Rebuttals).

[21] The Department 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.

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 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 November 2, 2016 and November 14, 2016, the following companies filed no-shipment certifications indicating that they did not export subject merchandise to the United States during the POR:

1. Mingguan Ruifeng Hardware Products Co., Ltd. (Mingguan Ruifeng)
2. Shandong Oriental Cherry Hardware Import & Export Co., Ltd. (Cherry Hardware Import & Export)

With respect to the above companies, 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.[22] CBP provided no information contrary to the no-shipment claims.

Based on the record evidence thus far, we preliminarily determine that the above companies had no shipments during the POR. In addition, we find that it is appropriate to not rescind this review, in part, with respect to these companies, and to complete the review, issuing appropriate instructions to CBP based on the final results of the review.[23] Should evidence contrary to these companies' no-shipments claims arise, we will revisit this issue in the final results.

Aside from the above companies, six additional companies, Shanxi Yuci Broad Wire Products Co., Ltd., Besco Machinery Industry (Zheijiang) Co., Ltd., Certified Products International Inc., PT Enterprise Inc., Shanghai Jade Shuttle Hardware Tools Co., Ltd., and Zhejian Gem-Chun Hardware Accessory Co., Ltd., filed no-shipment certifications; however, because these companies were not among those companies for whom we initiated a review, we have not examined their no shipment response.

Non-Market Economy Country Status

In every AD case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (NME) country.[24] In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administrating authority. No party has argued to change, or submitted evidence on the record calling into question, this determination.[25] Therefore, the Department continues to treat the PRC as an NME country for purposes of these preliminary results. Accordingly, the Department calculated NV in accordance with section 773(c) the Act, which applies to NME countries.

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the PRC are subject to government control and, thus should be assessed a single AD rate.[26] It is the Department's standard policy to assign all exporters of the

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[22] *See* Memo to the File, from Courtney Canales, regarding No Shipment Instructions, dated concurrent with this memorandum.

[23] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

[24] *See, e.g., Fresh Garlic from the People's Republic of China: Preliminary Results of the 2009–2010 Antidumping Duty Administrative Review,* 76 FR 76375 (December 7, 2011), unchanged in *Fresh Garlic from the People's Republic of China: Final Results of the 2009–2010 Administrative Review of the Antidumping Duty Order,* 77 FR 34346 (June 11, 2012).

[25] In a separate proceeding, the Department is currently examining whether the PRC should continue to be treated as an NME under the antidumping and countervailing duty laws. *See Certain Aluminum Foil from the People's Republic of China: Notice of Initiation of Inquiry Into the Status of the People's Republic of China as a Nonmarket Economy Country Under the Antidumping and Countervailing Duty Laws*, 82 FR 16162 (April 3, 2017).

[26] *See, e.g., Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 24892, 24899 (May 6, 2010), unchanged in *Certain Coated Paper*

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 its exports. To establish whether a company is sufficiently independent to be eligible for a separate, company-specific rate, the Department analyzes each exporting entity on an NME country under the test established in *Sparklers*[27] and further clarified in *Silicon Carbide*.[28] However, if the Department determines that a company is wholly foreign-owned or located in a market economy (ME) country, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

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.[29] 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.[30] 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.[31] 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

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Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 59217 (September 27, 2010).

[27] *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*).

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

[29] *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*, 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.

[30] *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).

[31] *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.

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.

In order to demonstrate separate rate status eligibility, the Department normally requires entities, for whom a review was requested, and who were assigned a separate rate in a previous segment of this proceeding, to submit a separate-rate certification (SRC) stating that they continue to meet the criteria for obtaining a separate rate.[32] For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility, the Department requires a separate-rate application (SRA).[33] Companies that submit a SRA or SRC which are subsequently selected as mandatory respondents must respond to all parts of the Department's questionnaire in order to be eligible for separate rate status.[34]

In this review, Stanley submitted a separate rate certification, and Tianjin Lianda submitted a separate rate application.[35]

The Department also received separate rate applications or certifications between October 28, 2016 and November 15, 2016, from the following 22 companies (Separate-Rate Applicants), which had entries during the POR:

1. Dezhou Hualude Hardware Products Co., Ltd.
2. Hebei Cangzhou New Century Foreign Trade Co., Ltd.
3. Hebei Minmetals Co., Ltd.
4. Nanjing Caiqing Hardware Co., Ltd.
5. Nanjing Toua Hardware & Tools Co., Ltd.
6. Qingdao D&L Group Ltd.
7. SDC International Aust. Pty. Ltd.[36]
8. Shandong Dinglong Import & Export Co., Ltd.
9. Shandong Oriental Cherry Hardware Group Co., Ltd.
10. Shandong Qingyun Hongyi Hardware Products Co., Ltd.
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.

[32] *See Initiation Notice*, 81 FR 71064 (October 14, 2016).
[33] *Id.*
[34] *Id.*
[35] *See* Stanley's Separate Rate Certification (Stanley SRA) dated November 4, 2016; and Tianjin Lianda's Separate Rate Application (Tianjin Lianda SRA) dated November 15, 2016.
[36] Initiation included SDC International Australia Pty Ltd., per the Final Results of Redetermination Pursuant to Voluntary Remand Order: *SDC International Aust. PTY. Ltd. v. United States*, CIT Court No. 16-00062 (January 20, 2017), we found both SDC International Aust. Pty. Ltd. and SDC International Australia Pty Ltd., to be the same company. Thus, SDC International Aust. Pty. Ltd. is the company under review; SDC International Australia Pty Ltd. is not under review as a distinct company.

16. S-Mart (Tianjin) Technology Development Co., Ltd.
17. Suntec Industries Co., Ltd.[37]
18. Tianjin Jinchi Metal Product Co., Ltd.
19. Tianjin Jinghai County Hongli Industry & Business Co., Ltd.
20. Tianjin Universal Machinery Imp. & Exp. Corp.
21. Tianjin Zhonglian Metals Ware Co., Ltd.
22. Xi'an Metals & Minerals Import & Export Co., Ltd.

The companies that did not submit either a separate-rate application or certification did not demonstrate their eligibility for separate-rate status and therefore preliminarily remain included as part of the PRC-wide entity and are subject to the PRC-wide rate.[38]

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) other formal measures by the government decentralizing control of companies.[39]

The evidence provided by Stanley, Tianjin Lianda, and the Separate-Rate Applicants supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) applicable legislative enactments decentralizing control of the companies; and (3) formal measures by the government decentralizing control of PRC companies.[40]

B. Absence of *De Facto* Control

As stated in previous cases, there is evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC.[41] 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 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

[37] Although the *Initiation Notice* listed this company and S-Mart (Tianjin) Technology Development Co., Ltd. on the same line, these are, in fact, two separate companies.
[38] These companies are: Aironware (Shanghai) Co., Ltd., Certified Products Taiwan Inc., Chiieh Yung Metal Ind. Corp., Faithful Engineering Products Co., Ltd., and Huanghua Xionghua Hardware Products Co., Ltd.
[39] *See Sparklers*, 56 FR at 20589.
[40] *See,* Stanley's SRA; *see also* the Separate-Rate Applicants' submissions dated from October 28, 2016 – November 15, 2016.
[41] *See, e.g., Silicon Carbide*, 59 FR at 22586-87.

independent decisions regarding disposition of profits or financing of losses.[42] 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.[43]

The evidence provided by Stanley, Tianjin Lianda, 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) a showing that the companies retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing losses.

The evidence placed on the record of this administrative review by Stanley, Tianjin Lianda, and the Separate-Rate Applicants demonstrates an absence of *de jure* and *de facto* government control, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, the Department has preliminarily granted Stanley, Tianjin Lianda, and the Separate-Rate Applicants a separate rate.

C. 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 was initiated, and selected exporters as mandatory respondents in this review. Stanley and Tianjin Lianda participated in the administrative review as mandatory respondents. As noted above, 22 additional companies submitted timely information and remained subject to review as the Separate-Rate Applicants.

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 normally calculate an all-others rate using weighted-average dumping margins that are zero or *de minimis* or based entirely on facts available (FA). Accordingly, the Department's usual practice has been to average the rates for the mandatory respondents excluding rates that are zero, *de minimis*, or based entirely on FA.[44]

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[42] *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).
[43] *Id.*, 60 FR at 22544.
[44] *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.

In this review, we calculated a weighted-average dumping margin individually for Stanley and for Tianjin Lianda that are not zero, *de minimis* or based entirely on FA. Accordingly, for these preliminary results, consistent with the Act and the Department's practice, the Department preliminarily determines that the weighted-average dumping margin determined for the Separate Rate Applicants is the average of Stanley's and Tianjin Lianda's calculated rates, weighted by the ranged, publicly available U.S. sale quantities for Stanley and Tianjin.[45]

Treatment of Tianjin Lianda

As noted above, Tianjin Lianda was selected as a mandatory respondent, and timely responded to the original antidumping duty questionnaire and the first supplemental questionnaire for Section A. However, Tianjin Lianda did not respond to the second supplemental questionnaire for Section A and to the Sections C&D supplemental questionnaires. Additionally, Tianjin Lianda submitted a letter stating that it was withdrawing from participation in this review.[46] This letter was submitted less than two months before the fully extended statutory deadline for the preliminary results of this administrative review, which made it impossible for the Department to select another respondent for examination in this review.

Under these circumstances, the Department is presented with a unique factual scenario. As discussed above, we determine that Tianjin Lianda, prior to its withdrawal from participation in this review, provided sufficient information for the Department to determine that the company was eligible for a separate rate. Additionally, although Tianjin Lianda has not responded to two outstanding supplemental questionnaire responses, and also submitted a letter withdrawing its participation in this review, we also determine that the record contains sufficient information to determine a rate for Tianjin Lianda using its own information. Accordingly, the Department has preliminarily relied on this information for purposes of calculating Tianjin Lianda's weighted-average dumping margin in this review.

Moreover, although the Department has serious concerns with Tianjin Lianda's actions in this review, *i.e.*, failing to provide responses to two supplemental questionnaire responses, and withdrawing its participation from the review less than two months before the fully extended statutory deadline for the preliminary results of this review, we note that calculating a rate for Tianjin Lianda in this review based on its own information results in a higher weighted-average dumping margin than that to which it is currently subject, and to which it would be subject if it were found to not be eligible for a separate rate. Therefore, under these very unique

[45] *See* Memo to the File, from Courtney Canales, "Calculation of the Separate Rate Margin," dated concurrently with this memo (Separate Rate Calculation Memo). This memorandum contains our comparison of (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly ranged values for the merchandise under consideration. We compared (B) and (C) to (A) and selected the rate closest to (A) as the most appropriate rate for the separate rate respondents in these preliminary results. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

[46] *See* Letter from Tianjin Lianda dated July 10, 2017.

circumstances, we find that it is appropriate to rely on Tianjin Lianda's data to calculate a weighted-average dumping margin for these preliminary results.

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

[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

determinations made on or after August 6, 2015 and, therefore, apply to this administrative review.[48]

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] Stanley also did not submit the freight distances for certain of its packing material suppliers.[55] Thus, pursuant to

https://www.congress.gov/bill/114thcongress/house-bill/1295/text/pl.

[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 March 31, 2017, submission at 60-72.

[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.

[55] *See* the Department's letter to Stanley dated February 9, 2017.

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 freight distance from Stanley's facility to the port of export.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to determine NV, in most circumstances, on the NME producer's factors of production (FOP) based on the best available information regarding the values of such factors in a surrogate ME country, or countries, considered to be appropriate by the Department. 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 (a) they either 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.[56]

On January 17, 2017, the Department invited parties to comment on surrogate country selection and provide information regarding FOP valuation in the instant review.[57] The petitioner recommends Thailand as a surrogate country because it is at the same level of economic development as the PRC, is a significant producer of comparable merchandise, and has superior quality and availability of SV data. Stanley recommends Bulgaria 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.

1. Comparable Level of Economic Development

Section 773(c)(4)(A) of the Act is silent with respect to how the Department may determine that a country is economically comparable to the NME country. As such, the Department's practice, in accordance with its regulation 19 CFR 351.408(b), has been to identify those countries which are at the same level of economic development as the PRC in terms of per capita GNI data available in the World Development Report provided by the World Bank.[58]

Furthermore, providing parties with a range of countries with varying GNIs is reasonable given that any alternative would require a complicated analysis of factors affecting the relative GNI differences between the PRC and other countries, which is not required by the statute. In contrast, by identifying countries that are economically comparable to the PRC based on GNI, the Department provides parties with a predictable practice which is reasonable and consistent with the statutory requirements. We note that identifying potential surrogate countries based on

[56] *See* Surrogate Country Memo.
[57] *See* Surrogate Country Letter.
[58] *See, e.g., Pure Magnesium from the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order,* 75 FR 80791 (December 23, 2010) and accompanying Issues and Decision Memorandum at Comment 4.

GNI data has been affirmed by the U.S. Court of International Trade (CIT), which found the use of per capita GNI to be a "consistent, transparent, and objective metric to identify and compare a country's level of economic development" and "a reasonable interpretation of the statute."[59]

Pursuant to section 773(c)(4) of the Act, the Department listed Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand as countries that are at the same level of economic development as the PRC in terms of 2015 per capita gross national income (GNI) data available in the World Development Report provided by the World Bank; the Department provided parties an opportunity to comment on this list.[60] No party challenged the Department's list of economically comparable countries.

The Department is satisfied that the countries on the Surrogate Country List are equally comparable in terms of economic development and serve as an adequate group to consider when gathering the SV data. As the Department's policy is to consider all countries on the Surrogate Country List to be equally comparable economically to the PRC, we did not use GNI alone as the rationale for selecting among these six countries. Instead, as further discussed below, we evaluated whether each of these countries is also a significant producer of comparable merchandise and has reliable data.

2. 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."[61] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[62] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[63] "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."[64] In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

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[59] *See Jiaxing Brother Fastener Co. v. United States,* 961 F. Supp. 2d 1323, 1329 (CIT 2014).
[60] *See* Surrogate Country List.
[61] *See Policy Bulletin* at 2.
[62] The *Policy Bulletin* also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.*, at note 6.
[63] *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.").
[64] *See Policy Bulletin* at 2.

> 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.[65]

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.[66] Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[67] it does not preclude reliance on additional or alternative metrics.

In this case, the petitioner has placed evidence on the record which shows that all six economically comparable countries have exports in commercial quantities of comparable merchandise. In accordance with the Department's practice and analysis in the most recent administrative review in this case, the petitioner compiled 2015 UN Comtrade export data at the 6-digit level for HTS 7317.00. At the 6-digit level, HTS classification 7317.00 refers to "Nails Tacks, Drawing Pins, Staples (Other Than In Strips), And Similar Articles, Of Iron Or Steel, Excluding Such Articles With Heads Of Copper", as such includes steel nails subject to this review.[68] Thus, the Department finds that each of the countries on the Surrogate Country List (Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand) are significant producers of comparable merchandise.

As further discussed below, because each of the six countries on the Surrogate Country List remain eligible for selection as the primary surrogate country, we are basing our determination on an evaluation of which of these countries has the best available information, *i.e.*, available and reliable data that meet our selection criteria for purposes of SV selection.

3. 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 factors data is selected as the primary surrogate country."[69] 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."[70]

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[65] *Id.,* at 3.
[66] *See* section 773(c) of the Act; *see also Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).
[67] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).
[68] *See* the petitioner's Surrogate Country Comments at Exhibit 1.
[69] *See Policy Bulletin*.
[70] *Id*.

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 country 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.[71] The Department's preference is to satisfy the breadth of the aforementioned selection criteria.[72] 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.[73] 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.[74]

In this case, the Department has identified a number of FOPs for which we require SV data, with low carbon steel wire rod (SWR) and medium carbon SWR considered among the most significant inputs used in the production of nails. The Department also looks for useable financial statements from producers of identical or comparable merchandise. The petitioner and Stanley submitted data from Thailand for surrogate valuation purposes. Stanley also submitted data from Bulgaria for surrogate value purposes. There is no data on the record for any other FOP for Romania, Brazil, Mexico, and South Africa, nor any surrogate financial statements. Additionally, no party has argued that one of these countries should be selected as the surrogate country. This, based on record evidence, the Department is left with Thailand and Bulgaria as options for potential primary surrogate country.

The Department has available on the record of this administrative review SV data for the respondent's FOPs for Thailand and Bulgaria. Of these, Thailand has more specific SVs for all the respondents' FOPs, including surrogate financial statements and the key material inputs, low and medium carbon SWR. The Thai HTS schedule goes into greater detail than do the Bulgarian HTS schedules. The Thai GTA import prices provide for 11-digit HTS categories for low carbon steel wire rod (SWR) for medium carbon SWR.[75] In contrast, the Bulgarian 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.[76] In addition, no party submitted surrogate financial statements for Bulgaria.

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[71] *See*, *e.g.*, *Lined Paper*, and accompanying Issues and Decision Memorandum at Comment 3.
[72] *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.
[73] *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.
[74] *See*, *e.g.*, *Sixth Mushrooms AR*, 71 FR 40477 at Comment 1.
[75] *See*, generally, the SV submission from the interested parties and the Prelim SV Memo.
[76] *See* Stanley's SV Comments at Exhibits SV-3.

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 to determine the best available information.

Based on examination of all record evidence, as discussed above, we find Thailand to have the better quality SV data on the record, and to be the best choice for the primary surrogate country. A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice and the Preliminary SV Memorandum.[77]

Date of Sale

Pursuant to 19 CFR 351.401(i), the Department starts with a presumption that the invoice date is the correct date of sale unless record evidence indicates that the material terms of sale such as price and quantity are established on another date. 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.[78] 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[79] 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.[80]

Normal Value Comparisons

In accordance with section 773(a) of the Act, the Department compared the export price (EP) or constructed export price (CEP) of the U.S. sales of the merchandise under consideration to the weighted-average NV to determine whether the individually-examined respondents sold merchandise under consideration to the United States at less than normal value during the POR.

1. Export Price and 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

[77] *See* Memorandum, "2015-2016 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the People's Republic of China: Preliminary Results SV Memorandum," dated concurrently with this memorandum (Preliminary SV Memorandum).
[78] *See* Stanley's March 8, 2017, section A questionnaire response at 30-31.
[79] *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*).
[80] *See* Stanley's March 8, 2017, section A questionnaire response at Exhibit A-10(a), (b), (c), (d), and (e).

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.

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 and Tianjin Lianda's analysis memoranda, dated concurrently with these preliminary results.

Pursuant to section 772(a) of the Act, EP is "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, the Department calculated EP for all sales to the United States for Tianjin Lianda because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted on those sales. The Department calculated EP based on the sales price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, as appropriate, the Department deducted from the sales price certain foreign inland freight, and brokerage and handling. Because the inland freight and brokerage and handling services were either provided by a NME vendor or paid for using an NME currency, the Department based the deduction of these charges on SVs.[81] For a detailed description of all adjustments made to U.S. price for Tianjin Lianda.[82]

2. Value-Added Tax

The Department's practice in NME proceedings is to adjust EP or CEP for the amount of any irrecoverable VAT, in accordance with section 772(c)(2)(B) of the Act.[83] 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

[81] *See* Prelim SV Memo for details regarding the SVs for movement expenses.
[82] *See* Memo to the File, form Paul Walker, Program Manager, "Eighth Administrative Review of Steel Nails form the People's Republic of China: Analysis Memo for the Preliminary Results for Tianjin Lianda Group Co, Ltd.," dated concurrently with this memo.
[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, 36483-84 (June 19, 2012) (*Methodological Change*).

CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.[84] 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.[85] 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 irrecoverable VAT for the subject merchandise.[86] Stanley reported that the official VAT rate for exports of subject merchandise is 17 percent and that the recoverable rate is five percent, under the applicable PRC regulations.[87] 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 recoverable at a rate of 12 percent, the Department adjusted Stanley's net price for the irrecoverable VAT it reported in its Section C database, in order to calculate a CEP net of VAT.[88] We note that this is consistent with the Department's longstanding policy and the intent of the statute, that dumping comparisons be tax-neutral.[89]

The Department requested that Tianjin Lianda report net irrecoverable VAT for the subject merchandise.[90] Tianjin Lianda reported that the official VAT rate for exports of subject merchandise is 17 percent and that the recoverable rate is five percent, under the applicable PRC regulations.[91] Thus, Tianjin Lianda incurred an effective VAT rate of 12 percent on exports of nails. Because Tianjin Lianda reported that it pays VAT associated with subject merchandise that is not recoverable at a rate of 12 percent, the Department adjusted Tianjin Lianda's net price for the irrecoverable VAT it reported in its Section C database, in order to calculate a CEP net of

[84] *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.
[85] *Id.*
[86] *See* the Department's February 9, 2017, AD Questionnaire.
[87] *See* Stanley's March 31, 2017, submission.
[88] *See* Stanley's Analysis Memo.
[89] *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, 2013) and accompanying Preliminary Decision Memorandum at Issue 9, unchanged in Final Results.
[90] *See* the Department's February 9, 2017, AD Questionnaire.
[91] *See* Tianjin Lianda's Section C submission.

VAT.[92] We note that this is consistent with the Department's longstanding policy and the intent of the statute, that dumping comparisons be tax-neutral.[93]

3. 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 to 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.[94] This methodology ensures that the Department's calculations are as accurate as possible.[95]

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 Valuation Methodology

In accordance with section 773(c) of the Act, for subject merchandise produced by the respondent, the Department calculated NV based on the FOPs reported by Stanley and Tianjin Lianda 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 product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.

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[92] *See* Tianjin Lianda Analysis Memo.

[93] *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, 2013) and accompanying Preliminary Decision Memorandum at Issue 9, unchanged in Final Results.

[94] *See* the Department's February 9, 2017, AD Questionnaire at Section D and D-2.

[95] *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.

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) because where necessary we used the capped distances reported by the respondent. 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. 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.[96] 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 an NME country or a country with general export subsidies. 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. Pursuant to amended 19 CFR 351.408(c)(1), for all proceedings initiated 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. In accordance with the amended regulation, substantially all is defined to be 85 percent or more of the total volume purchased of the factor.[97] Information reported by Stanley demonstrates that certain inputs were sourced and produced from an ME country and paid for in ME currencies. 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. Where appropriate, freight expenses were added to the ME price of the input.

The Department has previously found that data from GTA, such as that on the record for this input, is publicly-available, represents a broad market average, and is tax- and duty- exclusive.[98] Additionally, the Thai GTA data submitted on the record of this review is contemporaneous with the POR, thus, GTA data meets the Department's SV criteria and represents the best available

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[96] *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.

[97] *See Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013).

[98] *See*, *e.g.*, *Drawn Stainless Steel Sinks from the People's Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013) and accompanying Issues and Decision Memorandum at Comment 2.

information to value Stanley's and Tianjin Lianda's FOPs. For these preliminary results, the Department used Thai Import Statistics from the GTA to value certain raw materials, byproducts, and packing material inputs that Stanley and Tianjin Lianda 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 certain raw materials, byproducts, and packing material inputs that Stanley and Tianjin Lianda used to produce subject merchandise, 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 by the price established in *Doing Business 2017: Thailand* by the World Bank. Water was valued by using the valuation from the Thai Metropolitan Waterworks Authority.[99]

We valued brokerage and handling (B&H) using a price list of export procedures necessary to export a standardized cargo of goods in Thailand, published in *Doing Business 2017: Thailand* by the World Bank.[100] 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 2017: Thailand* by the World Bank. 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 2017: 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.

We valued ocean freight charged using data obtained from Descartes Carrier Rate Retrieval Database, (Descartes) which is the source used in prior reviews.[101] Since the most current data is from 2012, we inflated the value to represent the POR value. Additionally, we valued air freight by using a price quote from FedEx. Since the price quote is from 2017, we deflated the data to make it contemporaneous to the POR.

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. 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).

Accordingly, we valued labor using manufacturing-specific data from the quarterly-specific POR data (third and fourth quarter of 2015 and first, second, and third quarters of 2016) from the Government of Thailand, National Statistical Office, Labor Force Survey of Whole Kingdom, (POR Manufacturing-Specific NSO Data). Although the POR Manufacturing-Specific NSO

[99] For more information on the electricity and water SV calculations, *see* the Prelim SV Memo.
[100] For more information on the B&H SV calculation, *see* the Prelim SV Memo.
[101] For more information on ocean freight and the Descartes data, *see* the Prelim SV Memo.

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 described its decision to use ILO Chapter 6A data, rather than ILO Chapter 5B data, as it previously had used, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.[102] 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.[103] Specifically, the POR Manufacturing-Specific NSO Data is contemporaneous with the POR and is manufacturing-specific. 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 considers whether financial statements are contemporaneous, comparable to the respondent's experience, complete and publicly available when determining the best available information. 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.[104] 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.[105] To value factory overhead, SG&A expenses, and profit, the Department used the same company used from the previous administrative review. Specifically, we used the 2015 financial statements from LS Industry Co., Ltd., because it is a Thai producer of identical merchandise.[106]

Comparisons to Normal Value

Pursuant to section 773(a) of the Act, in order to determine whether Stanley's and Tianjin Lianda's sales of the subject merchandise from the PRC to the United States were made at less than normal value, the Department compared the constructed export price to the normal value as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum.

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[102] For more information on the labor SV calculation, *see* the Prelim SV Memo.
[103] *See Certain Steel Nails from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2014-2015 Antidumping Duty Administrative Review* dated September 6, 2016.
[104] *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).
[105] *See Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1250-51(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.
[106] For more information on the surrogate financial ratios calculations, *see* the Prelim SV Memo.

1. 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.[107]

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.[108] 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 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,

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[107] *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).

[108] *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).

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.

2. Results of Differential Pricing Analysis

For Stanley, based on the results of the differential pricing analysis, the Department preliminarily finds that 73.4 percent of the value of U.S. sales pass the Cohen's *d* test,[109] 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 or greater 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.

For Tianjin Lianda, based on the results of the differential pricing analysis, the Department preliminarily finds that 69.8 percent of the value of U.S. sales pass the Cohen's *d* test,[110] 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 can account for such differences because there is less than 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 all U.S. sales. Thus, for these preliminary results, the Department is applying the average-to-average method to calculate the weighted-average dumping margin for Tianjin Lianda.

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 date of the U.S. sale, 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.

[109] *See* the Memorandum to the File from Matthew Renkey, "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.
[110] *See* Tianjin Lianda Analysis Memo.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒	☐
Agree	Disagree

8/31/2017

X 

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
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