A-570-909
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September 4, 2018

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
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the 2016-2017 Antidumping Duty Administrative Review: Certain Steel Nails from the People's Republic of China

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SUMMARY

The Department of Commerce (Commerce) is conducting the ninth administrative review of the antidumping duty (AD) order on certain steel nails (nails) from the People's Republic of China (China).[1] Commerce preliminarily determines that mandatory respondents Dezhou Hualude Hardware Products Co. Ltd. (Dezhou Hualude), Shandong Dinglong Import & Export Co., Ltd. (Shandong Dinglong), and Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. (collectively Stanley)[2] sold merchandise at below normal value (NV) during the period of review (POR), August 1, 2016, through July 31, 2017. Commerce also preliminarily determines that, with respect to information necessary to calculate a dumping margin, Shandong Dinglong failed to cooperate to the best of its ability by not responding to the AD questionnaire, warranting the application of facts otherwise available with adverse

[1] *See Notice of Antidumping Duty Order: Certain Steel Nails from the People's Republic of China*, 73 FR 44961 (August 1, 2008).
[2] *See* Memorandum, "Respondent Selection for Certain Steel Nails from the People's Republic of China: Sampling Meeting with Outside Parties," dated April 6, 2018 (Respondent Selection Memorandum). *See also* Stanley's Letter, "Antidumping Duty Order, Certain Steel Nails from the People's Republic of China; Request for Ninth Administrative Review," dated August 30, 2017.

inferences, pursuant to sections 776(a)-(b) of the Tariff Act of 1930, as amended (the Act).[3] As adverse facts available (AFA), we preliminarily determine to apply the AFA rate of 118.04 percent to Shandong Dinglong. In addition to the three mandatory respondents, 19 other separate rate applicants demonstrated that they are entitled to a separate rate and have been assigned the sample rate.[4] Moreover, nine companies reported that they had no shipments during the POR. Additionally, we preliminarily determine that 114 other companies for which a review was initiated are ineligible for a separate rate and considered to be part of the China-wide entity. 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.

Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice, unless extended, pursuant to section 751(a)(3)(A) of the Act.

BACKGROUND

On August 22, 2017, Shandong Oriental Cherry Hardware Group Co., Ltd., (Cherry Hardware Group), Shandong Oriental Cherry Hardware Import & Export Co., Ltd., (Shandong Oriental), Tianjin Huixinshangmao Co., Ltd., SDC International Aust. PTY. LTD., S-Mart (Tianjin) Technology Development Co., Ltd., Shanxi Hairui Trade Co., Ltd., and Shanxi Pioneer Hardware Industrial Co., Ltd., each requested an administrative review.[5] On August 29, 2017, Qingdao D&L Group Ltd. (Qingdao D&L) and Mingguang Ruifeng Hardware Products Co., Ltd. (Mingguang Ruifeng), requested an administrative review of their respective exports during this POR.[6] On August 30, 2017, Stanley, requested an administrative review of its exports during this POR.[7] On August 31, 2017, Mid Continent Steel & Wire, Inc. (Mid Continent) (the petitioner), requested an administrative review with respect to 145 companies.[8] Also, on August 31, 2017, Tianjin Jinghai County Hongli Industry & Business Co., Ltd., Shandong Dinglong, Tianjin Zhonglian Metals Ware Co., Ltd., Tianjin Jinchi Metal Products Co., Ltd., Shanxi Tianli Industries Co., Ltd., Shanghai Yueda Nails Industry Co., Ltd., Shanghai Jade Shuttle Hardware Tools Co., Ltd., Nanjing Toua Hardware & Tools Co., Ltd. (Nanjing Toua), and Zhangjiagang Lianfeng Metals Products Co., Ltd. (Zhangjiagang), requested an administrative review of their

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[3] *See* "Use of Facts Otherwise Available" and "Use of Adverse Inferences" sections below for further details.
[4] *See* Memorandum, "Preliminary Results of the Ninth Antidumping Administrative Review of Certain Steel Nails from the People's Republic of China: Calculation of the Sample Margin for Respondents Not Selected for Individual Examination," dated concurrently with this memorandum (Sample Rate Memorandum).
[5] *See* Cherry Hardware Group's Letter, "Steel Nails from the People's Republic of China: Administrative Review Request," dated August 22, 2017; Shandong Oriental's Letter, "Steel Nails from the People's Republic of China: Administrative Review Request," dated August 22, 2017; and Tianjin Huixinshangmao Co., Ltd., SDC International Aust. PTY. LTD., S-Mart (Tianjin) Technology Development Co., Ltd., Shanxi Hairui Trade Co., Ltd., and Shanxi Pioneer Hardware Industrial Co., Ltd.'s Letter, "Steel Nails from the People's Republic of China: Request for Administrative Review," dated August 22, 2017.
[6] *See* Qingdao D&L and Mingguang Ruifeng's Letter, "Certain Steel Nails from the People's Republic of China: Requests for Administrative Review," dated August 29, 2017.
[7] *See* Stanley's Letter, "Antidumping Duty Order, Certain Steel Nails from the People's Republic of China; Request for Ninth Administrative Review," dated August 30, 2017.
[8] *See* Petitioner's Letter, "Certain Steel Nails from China: Request for Administrative Reviews," dated August 31, 2017.

respective exports during the POR.[9] On October 16, 2017, Commerce initiated the ninth administrative review of nails from China with respect to 145 companies.[10] On November 2, 2017, Stanley requested that it be granted voluntary respondent status if not selected as a mandatory respondent.[11] Commerce exercised its discretion to toll deadlines affected by the closure of the Federal Government from January 20 through 22, 2018.[12] On April 30, 2018, Commerce extended the deadline for issuing the preliminary results by 90 days.[13] On August 2, 2018, Commerce extended the deadline for issued the preliminary results by an additional 30 days.[14]

On October 24, 2017, Commerce released U.S. Customs and Border Protection (CBP) data under administrative protective order (APO) to all interested parties having an APO and invited comments regarding CBP data and respondent selection.[15] On November 2, 2017, the petitioner and Stanley, submitted comments on respondent selection.[16] In its November 2, 2107, comments, the petitioner requested that Commerce employ its sampling methodology pursuant to section 777A(c)(2)(A) of the Act in the ninth administrative review to select respondents.[17] On November 7, 2017, we received rebuttal sampling comments from Stanley and rebuttal

[9] *See* Tianjin Jinghai County Hongli Industry & Business Co., Ltd., Shandong Dinglong, Tianjin Zhonglian Metals Ware Co., Ltd., Tianjin Jinchi Metal Products Co., Ltd., Shanxi Tianli Industries Co., Ltd., Shanghai Yueda Nails Industry Co., Ltd., and Shanghai Jade Shuttle Hardware Tools Co., Ltd.'s Letter, "Request for Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the People's Republic of China, A-570-909 (POR 8/1/16-7/31/17)," dated August 31, 2017; Nanjing Toua's Letter, "Steel Nails from the People's Republic of China: Request for Administrative Review," dated August 31, 2017; and Zhangjiagang Letter, "Certain Steel Nails from the People's Republic of China: Request for Review," dated August 31, 2017.
[10] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 48051, 48056-58 (October 16, 2017); *See also* corrections in *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 52268, 52271 n.4 (November 13, 2017) and *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 57705, 57707 n.5 (December 7, 2017) (collectively, *Initiation Notice*).
[11] *See* Stanley's Letter, "Ninth Administrative Review of Certain Steel Nails from the People's Republic of China; Comments on Selection of Mandatory Respondents," dated November 2, 2017 at 2.
[12] *See* Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding affected by the closure of the Federal Government have been extended by 3 days.
[13] *See* Memorandum, "Ninth 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 30, 2018.
[14] *See* Memorandum, "Ninth 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 August 2, 2018.
[15] *See* Commerce's Letter, "2016-2017 Administrative Review of the Antidumping Duty Order of Certain Steel Nails from the People's Republic of China: CBP Data for Respondent Selection," dated October 24, 2017.
[16] *See* Petitioner's Letter, "Certain Steel Nails from the People's Republic of China: Comments Regarding CBP Imports Data and Request for Sampling," dated November 2, 2017 (Request for Sampling). *See also* Stanley's Letter, "Ninth Administrative Review of Certain Steel Nails from the People's Republic of China; Comments on Selection of Mandatory Respondents," dated November 2, 2017.
[17] *See* Request for Sampling.

comments from the petitioner on November 13, 2017.[18] Additionally, between November 2, 2017, and November 15, 2017, 22 companies requested separate rate status.[19]

On January 9, 2018, based on the comments we received and taking into consideration the history of this order and the separate rate companies, Commerce released a memorandum stating our intention to use the sampling methodology in this administrative review to select respondents, and that Commerce would select three mandatory respondents.[20] On March 8, 2018, we released our proposed selection methodology and sampling pool, and provided interested parties with an opportunity to comment.[21] In Commerce's March 8, 2018 Letter, we also preliminarily, for purposes of our respondent selection process under the sampling methodology, granted a separate rate to the 22 companies that requested separate rate status and filed the necessary information.[22] On March 15, 2018, Stanley and Dezhou Hualude *et al.* submitted comments on Commerce's decision to sample and proposed sampling methodology in this administrative review.[23] On April 2, 2018, Commerce issued a final memorandum

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[18] *See* Stanley's Letter, "Ninth Administrative Review of Certain Steel Nail from the People's Republic of China; Response to Petitioner's Comments on Selection of Mandatory Respondents," dated November 7, 2017. *See also* Petitioner's Letter, "Certain Steel Nails from the People's Republic of China; Response to Stanley's November 7, 2017 Letter," dated November 13, 2017.

[19] *See* (1) Dezhou Hualude Hardware Products Co., Ltd.'s Separate Rate Certification, dated November 15, 2017; (2) Hebei Cangzhou New Century Foreign Trade Co., Ltd.'s Separate Rate Certification, dated November 10, 2017; (3) Mingguang Ruifeng Hardware Products Co., Ltd.'s Sperate Rate Certification, dated November 15, 2017; (4) Qingdao D&L Group Ltd.'s Separate Rate Certification, dated November 15, 2017; (5) SDC International Australia Pty. Ltd.'s Separate Rate Certification, dated November 15, 2017; (6) Shandong Dinglong Import & Export Co., Ltd.'s Separate Rate Certification, dated November 8, 2017; (7) Shandong Oriental Cherry Hardwood Group Co., Ltd.'s Separate Rate Application, dated November 10, 2017; (8) Shanghai Curvet Hardware Products Co. Ltd.'s Separate Rate Certification, dated November 2, 2017; (9) Shanghai Yueda Nails Co., Ltd.'s Separate Rate Certification, dated November 8, 2017; (10) Shanxi Hairui Trade Co. Ltd.'s Separate Rate Certification, dated November 15, 2017; (11) Shanxi Pioneer Hardware Industrial Co. Ltd.'s Separate Rate Certification, dated November 15, 2017; (12) S-Mart (Tianjin) Technology Development Co. Ltd.'s Separate Rate Certification, dated November 15, 2017; (13) Shanxi Tianli Industries Co., Ltd.'s Separate Rate Certification, dated November 8, 2017; (14) Stanley's Separate Rate Certification, dated November 9, 2017; (15) Suntec Industries Co., Ltd.'s Separate Rate Certification, dated November 12, 2017; (16) Tianjin Huixinshangmao Co., Ltd.'s Separate Rate Application, dated November 15, 2017; (17) Tianjin Jinchi Metal Products Co., Ltd.'s Separate Rate Certifcation, dated November 8, 2017; (18) Tianjin Jinghai County Hongli Industry and Business Co. Ltd.'s Separate Rate Certification, dated November 8, 2017; (19) Tianjin Universal Machinery Imp. & Exp. Corporation's Separate Rate Certification, dated November 15, 2017; (20) Tianjin Zhonglian Metals Ware Co., Ltd.'s Separate Rate Certification, dated November 8, 2017; (21) Xi'An Metals and Minerals Imp. & Exp. Co. Ltd.'s Separate Rate Certification, dated November 15, 2017; and (22) Zhangjiagang Lianfeng Metals Products Co. Ltd.'s Separate Rate Application, dated November 15, 2017.

[20] *See* Memorandum, "Antidumping Duty Administrative Review of Steel Nails from the People's Republic of China: Respondent Selection Methodology," dated January 9, 2018.

[21] *See* Memorandum, "Antidumping Duty Administrative Review of Steel Nails from the People's Republic of China: Sampling Pool for Selection of Respondents and Sampling Methodology," dated March 8, 2018.

[22] *Id.* at 3-8.

[23] *See* Letter from Stanley, "Ninth Administrative Review of Certain Steel Nails from the People's Republic of China; Comments on Sampling Pool and Sampling Methodology for Selection of Mandatory Respondents," dated March 15, 2018; Letter from Dezhou Hualude Hardware Products Co., Ltd., Mingguang Ruifeng Hardware Products Co., Ltd., Qingdao D&L Group Ltd. (D&L Group), and Tianjin Universal Machinery Imp. & Exp. Corp. (Tianjin Universal) (collectively, Dezhou Hualude *et al.*), "Certain Steel Nails from the People's Republic of China, Comments on the Proposed Sampling Methodology," dated March 15, 2018.

addressing the comments raised by Stanley and Dezhou Hualude *et al.*, and held a sampling respondent selection meeting on April 5, 2018, to select mandatory respondents in this review.[24] Accordingly, on April 6, 2018, Commerce limited the number of companies individually examined to a sample of exporters, producers, or types of products that is statistically valid, pursuant to section 777A(c)(2) of the Act, and selected Stanley, Dezhou Hualude, and Shandong Dinglong as mandatory respondents.[25]

On April 6, 2018, Commerce issued AD questionnaires to Stanley, Dezhou Hualude, and Shandong Dinglong, to which both Stanley and Dezhou Hualude responded in a timely manner.[26] Stanley responded to Commerce's section A questionnaire on May 4, 2018, section C questionnaire on May 23, 2018, and section D questionnaire on June 4, 2018.[27] Dezhou Hualude responded to Commerce's section A questionnaire on May 9, 2018, section C questionnaire on May 21, 2018, and section D questionnaire on June 6, 2018.[28] Shandong Dinglong did not respond to the AD questionnaire for which section A and sections C&D questionnaire responses were due on May 4, 2018 and May 14, 2018, respectively.[29] Additionally, on April 30, 2018, Shandong Dinglong's counsel withdrew representation.[30] On June 13, 2018, the petitioner submitted comments regarding Dezhou Hualude's section C and D questionnaire responses.[31] Between June 19 and July 24, 2018, Commerce issued supplemental questionnaires to Stanley

[24] *See* Memorandum, "Antidumping Duty Administrative Review of Steel Nails from the People's Republic of China: Sampling Pool for Selection of Respondents and Sampling Methodology," dated April 2, 2018.
[25] *See* Respondent Selection Memorandum.
[26] *See* Commerce's Letter to Stanley dated April 6, 2018, 2017; Commerce's Letter to Dezhou Hualude dated April 6, 2018, 2017; and Commerce's Letter to Shandong Dinglong dated April 6, 2018, 2017 (collectively, AD Questionnaire).
[27] *See* Stanley's Letter, "Ninth Administrative Review of Certain Steel Nails from The People's Republic of China; Section A Questionnaire Response of The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc.," dated May 4, 2018 (Stanley's Section A Questionnaire Response); Stanley's Letter, "Ninth Administrative Review of Certain Steel Nails from The People's Republic of China; Section C Questionnaire Response of The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc.," dated May 23, 2018 (Stanley's Section C Questionnaire Response); and Stanley's Letter, "Ninth Administrative Review of Certain Steel Nails from The People's Republic of China; Section D Questionnaire Response of The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc.," dated June 4, 2018.
[28] *See* Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Section A Response of Dezhou Hualude Hardware Products Co., Ltd.," dated May 9, 2018 (Dezhou Hualude's Section A Questionnaire Response); Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Section C Response of Dezhou Hualude Hardware Products Co., Ltd.," dated May 21, 2018 (Dezhou Hualude's Section C Questionnaire Response); and Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Section D Response of Dezhou Hualude Hardware Products Co., Ltd.," dated June 6, 2018.
[29] *See* AD Questionnaire; Memorandum, "Certain Steel Nails from the People's Republic of China: Section A Extension," dated April 27, 2018.
[30] *See* Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP's Letter, "Withdrawal as Counsel for Shandong Dinglong Import & Export Co., Ltd. in the Ninth Annual Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the People's Republic of China, A-570-909," dated April 30, 2018.
[31] *See* Petitioner's Letter, "Certain Steel Nails from China: Comments on Dezhou Hualude's Initial Section C Questionnaire Response," dated June 13, 2018; Petitioner's Letter, "Certain Steel Nails from China: Comments on Dezhou Hualude's Initial Section D Questionnaire Response," dated June 13, 2018.

and Dezhou Hualude.[32] Stanley and Dezhou Hualude timely responded to the supplemental questionnaires.[33]

On December 11, 2017, Commerce placed the Surrogate Country List on the record and solicited comments from interested parties regarding the selection of the surrogate country and offered an opportunity to provide surrogate value (SV) data and specified the deadlines for these respective submissions.[34] Between February 5 and 15, 2018, Commerce received surrogate country comments and rebuttal comments from the petitioner and Stanley.[35] Between June 18 and July 10, 2018, Commerce received SV comments and rebuttal comments from the petitioner and Stanley.[36]

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

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[32] *See* Commerce's Letter, "Administrative Review of the Antidumping Duty Order on certain steel nails from the People's Republic of China: Supplemental Questionnaire," dated June 19, 2018; Commerce's Letter, "Administrative Review of the Antidumping Duty Order on certain steel nails from the People's Republic of China: 2nd Section D Supplemental Questionnaire," dated June 29, 2018; and Commerce's Letter, "Eighth Administrative Review of Certain Steel Nails from the People's Republic of China: Supplemental Questionnaire for Sections A, C and D," dated July 5, 2018.

[33] *See* Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Dezhou Hualude's 1st Supplemental Response (Questions 1-26, Sections A-C)," dated July 9, 2018; Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Dezhou Hualude's 1st Supplemental Response (Questions 27-44, Sections D)," dated July 16, 2018; Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Dezhou Hualude's 2nd Supplemental Response," dated July 30, 2018; and Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Dezhou Hualude's 2nd Supplemental Sections D Response," dated July 16, 2018. *See also* Stanley's Letter, "Ninth Administrative Review of Certain Steel Nails from The People's Republic of China; Response of The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. to the Supplemental Section A, C, and D Questionnaire," dated July 19, 2018.

[34] *See* Commerce's Letter, "Ninth 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 December 11, 2017 (Surrogate Country Letter).

[35] *See* Petitioner's Letter, "Certain Steel Nails from the People's Republic of China: Comments On Surrogate Country Selection," dated February 5, 2018; Stanley's Letter, "Ninth 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 February 5, 2018; Petitioner's Rebuttal Letter, "Certain Steel Nails from the People's Republic of China: Rebuttal Comments On Surrogate Country Selection," dated February 15, 2018; and Stanley's Rebuttal Letter, "Ninth Administrative Review of Certain Steel Nails From The People's Republic of China; Response 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 February 15, 2018.

[36] *See* Stanley's Letter, "Certain Steel Nails from the People's Republic of China; Ninth Administrative Review; Preliminary Surrogate Value Data," dated June 18, 2018; Petitioner's Letter, "Certain Steel Nails from the People's Republic of China: Surrogate Value Data for the Ninth Administrative Review (2016-2017)," dated June 27, 2018; and Stanley's Rebuttal Letter, "Certain Steel Nails from The People's Republic of China; Ninth Administrative Review; Rebuttal Surrogate Value Information," dated July 10, 2018.

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 order 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.[37]

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

[37] Commerce added the Harmonized Tariff Schedule category 7907.00.6000, “Other articles of zinc: Other,” to the language of the AD order on Nails from China. *See Certain Steel Nails from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 18816, 18816 n.5 (April 5, 2018).

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

As an initial matter, we note that, for the purposes of sampling,[38] we preliminary determined on March 8, 2018, that the companies below had no reviewable shipments during the POR. Our preliminary analysis is discussed below.

Between November 1 and 15, 2017, the following nine companies filed no-shipment certifications indicating that they did not export subject merchandise to the United States during the POR:

1) Astrotech Steels Pvt. Ltd.
2) Hebei Minmetals Co. Ltd.
3) Nanjing Caiqing Hardware Co., Ltd.
4) Najing Toua Hardware & Tools Co., Ltd.
5) Region Industries Co., Ltd.
6) Region System Sdn. Bhd.
7) Shandong Oriental Cherry Hardware Import & Export Co. Ltd.
8) Shandong Qingyun Hongyi Hardware Co. Ltd.
9) Shanghai Jade Shuttle Hardware Tools Co. Ltd.[39]

With respect to the above companies, in order to examine these claims, Commerce sent inquiries to CBP requesting that CBP inform Commerce if it had any information contrary to the no-shipment claims.[40] Commerce informed interested parties that CBP found one entry associated

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[38] *See* Memorandum, "Antidumping Duty Administrative Review of Steel Nails from the People's Republic of China: Sampling Pool for Selection of Respondents and Sampling Methodology," dated March 8, 2018 (March 8 Sampling Memo).

[39] *See* Astrotech Steels Pvt. Ltd.'s Letter, "Certain Steel Nails – China Request for No Shipment during the Period of Review (POR), dated November 9, 2017; Hebei Minmetals Co. Ltd.'s Letter, "Certain Steel Nails from the People's Republic of China: Hebei Minmetal's No Shipment Letter," dated November 14, 2017; Nanjing Caiqing Hardware Co., Ltd.'s Letter, "Certain Steel Nails from the People's Republic of China – Notice of No Sales," dated November 9, 2017; Najing Toua Hardware & Tools Co., Ltd.'s Letter, "Certain Steel Nails from the People's Republic of China: No Shipment Certification & Withdrawal of Request for Administrative Review - Nanjing Toua Hardware & Tools Co., Ltd.," dated November 1, 2017; Region Industries Co., Ltd. and Region System Sdn. Bhd.'s Letter, "Steel Nails from China," dated October 26, 2017; Shandong Oriental Cherry Hardware Import & Export Co. Ltd.'s Letter, "Steel Nails from the People's Republic of China: No Shipment Certification," dated November 10, 2017; Shandong Qingyun Hongyi Hardware Co. Ltd.'s Letter, "Certain Steel Nails from the People's Republic of China, 9th Administrative Review; Statement of No Shipments by Shandong Qingyun Hongyi Hardware Products Co., Ltd.," dated November 15, 2017; and Shanghai Jade Shuttle Hardware Tools Co. Ltd.'s Letter, "No Shipment Letter for Shanghai Jade Shuttle Hardware Tools Co., Ltd. in the Ninth Annual Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the People's Republic of China, A-570-909," dated November 8, 2017.

[40] *See* Memorandum, "Certain Steel Nails from the People's Republic of China: No Shipment Instructions, dated March 8, 2018.

with nails from China exported by Nanjing Caiqing Hardware Co., Ltd. (Nanjing Caiqing).[41] Commerce issued Nanjing Caiqing a supplemental questionnaire to resolve the discrepancy between its no-shipment certification and the CBP entry.[42] For the reasons articulated in Nanjing Caiqing's supplemental questionnaire response,[43] we find no evidence indicating that Nanjing Caiqing had knowledge that these sales were destined for the United States. Furthermore, we find there is no evidence demonstrating an ownership or affiliation link between Nanjing Caiqing and the party mentioned in the CBP entry documents. Therefore, based on Nanjing Caiqing's no-sales certification, its comments on the CBP entry, and our analysis of the no-shipment supplemental questionnaire response,[44] Commerce preliminarily determines that Nanjing Caiqing did not have any shipments during the POR.

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 not to 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.[45] Should evidence contrary to these companies' no-shipments claims arise, we will revisit this issue in the final results.

Aside from the above companies, two additional companies, Shanxi Yuci Broad Wire Products Co., Ltd. or Certified Products International Inc., 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 certifications.[46]

Non-Market Economy Country Status

Commerce considers China to be a non-market economy (NME) country.[47] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of these preliminary results.

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[41] *See* Memorandum, "Certain Steel Nails from the People's Republic of China: No Shipment Entry Found," dated June 6, 2018.
[42] *See* Commerce's Letter, "Ninth Antidumping Duty Administrative Review of Certain Steel Nails from the People's Republic of China: No Shipment Supplemental Questionnaire," dated June 8, 2018 (No Shipment Supplemental).
[43] *See* Nanjing Caiqing's Letter, "Certain Steel Nails from the People's Republic of China – Response to No Shipment Supplemental Questionnaire," dated June 15, 2018.
[44] *See* Nanjing Caiqing's Letter, "Certain Steel Nails from the People's Republic of China – Response to No Shipment Supplemental Questionnaire," dated June 15, 2018.
[45] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).
[46] *See* Shanxi Yuci Broad Wire Products Co., Ltd. No Shipment Certification, dated November 16, 2017; and Certified Products International Inc. No Shipment Certification, dated November 9, 2017.
[47] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017 (China NME Status Memo)), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

Separate Rates

As an initial matter, we note that, for the purposes of sampling,[48] we preliminary determined on March 8, 2018, that the 22 companies discussed below demonstrated eligibility for a separate rate. We further determined that certain companies below did not demonstrate eligibility for a separate rate. Our preliminary analysis is discussed below.

In proceedings involving NME countries, Commerce has a rebuttable presumption that all companies within China are subject to government control and, thus should be assessed a single AD rate.[49] It is Commerce's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its exports. To establish whether a company is sufficiently independent to be eligible for a separate, company-specific rate, Commerce analyzes each exporting entity in a NME country under the test established in *Sparklers,*[50] as further clarified in *Silicon Carbide*.[51] However, if Commerce 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.

Commerce continues to evaluate its practice with regard to the separate rate analysis in light of the diamond sawblades from the China AD proceeding, and its determinations therein.[52] In particular, in litigation involving the diamond sawblades from China proceeding, the U.S. Court of International Trade (CIT) found Commerce'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.[53] Following the Court's reasoning, in recent proceedings,

[48] *See* March 8 Sampling Memo.

[49] *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 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).

[50] *See Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

[51] *See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586-89 (May 2, 1994) (*Silicon Carbide*).

[52] *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). *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 IDM at Comment 1.

[53] *See, e.g., Advanced Technology I*, 885 F. Supp. 2d at 1349 ("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

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.[54] This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of board members, management, and the profit distribution of the company.

In order to demonstrate separate rate status eligibility, Commerce 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.[55] For entities that were not assigned a separate rate in the previous segment of this proceeding, to demonstrate eligibility, Commerce requires a separate-rate application (SRA).[56] Companies that submit an SRA or SRC which are subsequently selected as mandatory respondents must respond to all parts of Commerce's questionnaire in order to be eligible for separate rate status.[57]

In this review, Stanley, Dezhou Hualude, and Shandong Dinglong submitted separate rate certifications and subsequently were selected as mandatory respondents.[58]

Commerce also received SRCs or SRAs between November 2 and 15, 2017, from the following 19 companies (separate rate applicants), which had entries of subject merchandise during the POR:

1. Hebei Canzhou New Century Foreign Trade Co. Ltd.
2. Mingguang Ruifeng Hardware Products Co. Ltd.
3. Qingdao D&L Group Ltd.

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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).

[54] *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.

[55] *See Initiation Notice*, 82 FR at 48052.

[56] *Id.*

[57] *Id.*

[58] *See* Stanley's Letter, "Ninth Administrative Review, Certain Steel Nails from The People's Republic of China; Separate Rate Certification of The Stanley Works (Langfang) Fastening Systems Co., Ltd.," dated November 9, 2017 (Stanley's Separate Rate Certification); Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China, 9th Administrative Review; Separate Rate Certification of Dezhou Hualude Hardware Products Co. Ltd.," dated November 15, 2017; and Shandong Dinglong's Letter, "Separate Rate Certification for Shandong Dinglong Import & Export Co., Ltd. in the Ninth Annual Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the People's Republic of China, A-570-909," dated November 8, 2017; Respondent Selection Memorandum.

4. SDC International Australia Pty. Ltd.
5. Shandong Oriental Cherry Hardware Group Co. Ltd.
6. Shanghai Curvet Hardware Products Co. Ltd.
7. Shanghai Yueda Nails Co. Ltd.
8. Shanxi Hairui Trade Co., Ltd.
9. Shanxi Pioneer Hardware Industrial Co. Ltd.
10. Shanxi Tianli Industries Co. Ltd.
11. S-Mart (Tianjin) Technology Development Co. Ltd.
12. Suntec Industries Co. Ltd.
13. Tianjin Huixingshangmao Co. Ltd.
14. Tianjin Jinchi Metal Products Co. Ltd.
15. Tianjin Jinghai County Hongli Industry and Business Co. Ltd.
16. Tianjin Universal Machinery Imp. & Exp.
17. Tianjin Zhonglian Metals Ware Co. Ltd.
18. Xi'An Metals and Minerals Imp. & Exp. Co. Ltd.
19. Zhangjiagang Lianfeng Metals Products Co. Ltd.

In sum, between the three mandatory respondents and the separate rate applicants, we received 22 requests for a separate rate. The companies that did not submit either an SRC or SRA did not demonstrate their eligibility for separate-rate status and therefore preliminarily remain included as part of the China-wide entity and are subject to the China-wide rate.[59]

A. *Wholly Foreign Owned*

SDC International Australia Pty. Ltd., Shanghai Curvet Hardware Products Co. Ltd., S-Mart (Tianjin) Technology Development Co. Ltd., and Stanley each reported 100 percent ownership by foreign entities.[60] As there is no Chinese ownership of these four companies, and because Commerce has no evidence indicating that these companies are under the control of the Chinese government, we find that these companies are independent from government control.[61] Consequently, we preliminarily determine that SDC International Australia Pty. Ltd., Shanghai Curvet Hardware Products Co. Ltd., S-Mart (Tianjin) Technology Development Co. Ltd., and Stanley meet the criteria for a separate rate.

[59] *See* the Attachment to the memorandum.
[60] *See* SDC International Australia Pty. Ltd.'s Separate Rate Certification, dated November 15, 2017; Shanghai Curvet Hardware Products Co. Ltd.'s Separate Rate Certification, dated November 2, 2017; S-Mart (Tianjin) Technology Development Co. Ltd.'s Separate Rate Certification, dated November 15, 2017; and Stanley's Separate Rate Certification.
[61] *See Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001), unchanged in *Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review*, 66 FR 27063 (May 16, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104 (December 20, 1999).

B. *Absence of De Jure Control*

Of the 22 separate rate applicants, 18 companies require additional analysis to determine separate rate status.[62] Commerce 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.[63] The evidence provided by the 18 companies in their separate rate applications/certifications supports a preliminary finding of an absence of *de jure* government control based on the following: (1) there is an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of the companies.[64]

C. *Absence of De Facto Control*

Typically, Commerce 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 independent decisions regarding disposition of profits or financing of losses.[65]

An analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of government control over export activities which would preclude Commerce from assigning separate rates. For all 18 companies, we determine that the evidence on the record supports a finding of an absence of *de facto* government control based on record statements and supporting documentation showing the following for each respondent: (1) the respondent sets its own export prices independent of the government and without the approval of a government authority; (2) the respondent has the authority to negotiate and sign contracts and other agreements; (3) the respondent has autonomy from the government regarding the selection of management; and (4) the respondent retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses. The evidence placed on the record of this review in the separate rate applications/certifications for 18 of the

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[62] The 18 separate rate applicants include; Dezhou Hualude, Shandong Dinglong, Hebei Canzhou New Century Foreign Trade Co. Ltd., Mingguang Ruifeng Hardware Products Co. Ltd., Qingdao D&L Group Ltd., Shandong Oriental Cherry Hardware Group Co. Ltd., Shanghai Yueda Nails Co. Ltd., Shanxi Hairui Trade Co., Ltd., Shanxi Pioneer Hardware Industrial Co. Ltd., Shanxi Tianli Industries Co. Ltd., Suntec Industries Co. Ltd., Tianjin Huixingshangmao Co. Ltd., Tianjin Jinchi Metal Products Co. Ltd., Tianjin Jinghai County Hongli Industry and Business Co. Ltd., Tianjin Universal Machinery Imp. & Exp., Tianjin Zhonglian Metals Ware Co. Ltd., Xi'An Metals and Minerals Imp. & Exp. Co. Ltd., Zhangjiagang Lianfeng Metals Products Co. Ltd.

[63] *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*).

[64] *See the Separate Rate Applications and Certifications*, dated November 2-15, 2017.

[65] *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*). *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).

applicants for which additional analysis is required demonstrates an absence of *de jure* and *de facto* government control with respect to the companies' exports of subject merchandise, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*.

D. *Shandong Oriental Cherry Hardware Group Co. Ltd. and Zhangjiagang Lianfeng Metals Products Co. Ltd.*

The CBP data collected for respondent selection showed zero entries for Shandong Oriental Cherry Hardware Group Co. Ltd. (Shandong Oriental) and Zhangjiagang Lianfeng Metals Products Co. Ltd. (Zhangjiagang Lianfeng). A company that did not export subject merchandise to the United States during the relevant period is not eligible for a separate rate because it has no reviewable entries during the POR.[66] However, Shandong Oriental and Zhangjiagang Lianfeng provided evidence of sales and entries during the POR,[67] specifically, CBP Form 7501s, which indicate these companies had entries of subject merchandise during the POR. Therefore, we preliminarily determine that Shandong Oriental and Zhangjiagang Lianfeng have met the criteria for a separate rate.

USE OF FACTS OTHERWISE AVAILABLE (FA)

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

Section 782(d) of the Act provides that, if Commerce determines that a response to a request for information does not comply with the request, Commerce shall promptly inform the party submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that party 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, Commerce 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 Commerce 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

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[66] *See* March 8 Sampling Memo.

[67] *See* Letter from Shandong Oriental Cherry Hardware Group Co. Ltd., "Steel Nails from the People's Republic of China – Separate Rate Application," dated November 10, 2017; and Letter from Zhangjiagang Lianfeng Metals Products Co. Ltd., "Certain Steel Nails from the People's Republic of China: Separate Rate Application," dated November 15, 2017.

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.

Section 782(c)(1) of the Act further states that Commerce shall consider the ability of an interested party to provide information upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information.

A. *Application of Partial FA for Dezhou Hualude*

Dezhou Hualude failed to provide the quantity of scrap generated during the production process of its suppliers,[68] despite the fact that Commerce twice requested this information.[69] In addition, Dezhou Hualude failed to provide the quantity of nails with a certain coating generated during the production process from Tianjin Lingyu,[70] despite the fact that Commerce twice requested this information.[71]

Accordingly, Commerce finds, pursuant to section 776(a)(1) of the Act, that necessary information is not available on the record of this proceeding. Further, based upon Dezhou Hualude's failure to submit the quantity of scrap generated and the quantity of nails with a certain coating, Commerce finds that Dezhou Hualude withheld requested information, failed to provide the information by the deadline for submission, and significantly impeded this proceeding, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act. Therefore, Commerce must rely on the facts otherwise available in order to determine the preliminary margin for Dezhou Hualude.

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[68] *See* Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Dezhou Hualude's 2nd Supplemental Response," dated July 30, 2018 at 5.

[69] *See* Commerce's Letter, "Administrative Review of the Antidumping Duty Order on certain steel nails from the People's Republic of China: Supplemental Questionnaire," dated June 19, 2018 at 9-10; and Commerce's Letter, "Administrative Review of the Antidumping Duty Order on certain steel nails from the People's Republic of China: Second Supplemental Questionnaire," dated July 24, 2018 at 4. *See also* Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Dezhou Hualude's 1st Supplemental Response (Questions 27-44, Section D)," dated June 16, 2018 at 8-10; and Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Dezhou Hualude's 2nd Supplemental Response," dated July 30, 2018 at 5-6.

[70] *See* Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Dezhou Hualude's 2nd Supplemental Response," dated July 30, 2018 at 4.

[71] *See* Commerce's Letter, "Administrative Review of the Antidumping Duty Order on certain steel nails from the People's Republic of China: Supplemental Questionnaire," dated June 19, 2018 at 8; and Commerce's Letter, "Administrative Review of the Antidumping Duty Order on certain steel nails from the People's Republic of China: Second Supplemental Questionnaire," dated July 24, 2018 at 4. *See also* Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Dezhou Hualude's 1st Supplemental Response (Questions 27-44, Section D)," dated June 16, 2018 at 4-5; and Dezhou Hualude's Letter, "Certain Steel Nails from the People's Republic of China: Submission of Dezhou Hualude's 2nd Supplemental Response," dated July 30, 2018 at 4.

B. *Application of FA for Shandong Dinglong*

As previously noted, Shandong Dinglong did not respond to the AD questionnaire issued by Commerce on April 6, 2018. Commerce received one extension request for the section A questionnaire response, which was granted prior to Shandong Dinglong's counsel withdrawing. However, Shandong Dinglong did not respond to the section A questionnaire or request additional time before the deadline of May 4, 2018.[72] In addition, Shandong Dinglong did not submit a response to sections C and D of the AD questionnaire before the deadline of May 14, 2018. Shandong Dinglong also did not notify Commerce that it was unable to answer the questionnaire in the form and manner requested, did not provide an explanation of any difficulties, and did not suggest an alternative form in which to provide Commerce information that was requested in the questionnaires.

Accordingly, Commerce finds, pursuant to section 776(a)(1) of the Act, that necessary information is not available on the record of this proceeding. Further, based upon Shandong Dinglong's failure to submit responses to Commerce's questionnaire, Commerce finds that Shandong Dinglong withheld requested information, failed to provide the information by the deadline for submission, and significantly impeded this proceeding, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act. Therefore, Commerce must rely on the facts otherwise available in order to determine the preliminary margin for Shandong Dinglong.

USE OF ADVERSE INFERENCES

Section 776(b) of the Act provides that Commerce may use an adverse inference in selecting from among 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 so doing, Commerce 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.[73] 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 AD investigation, a previous administrative review, or other information placed on the record.[74] When selecting an AFA rate from among the possible sources of information, Commerce's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide Commerce with complete and accurate information in a timely manner."[75] Commerce's practice also ensures "that the party does not obtain a more favorable result by failing to

[72] *See* Memorandum, "Certain Steel Nails from the People's Republic of China: Section A Extension," dated April 27, 2018.
[73] *See* section 776(b)(1)(B) of the Act.
[74] *See* 19 CFR 351.308(c).
[75] *See, e.g., Countervailing Duty investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 58175 (December 11, 2017), and accompanying IDM at "Use of Facts Otherwise Available and Adverse Inferences."

cooperate than if it had cooperated fully."[76] When selecting an AFA rate, Commerce is not required to estimate what the respondent's AD rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the selected AFA rate reflects an "alleged commercial reality" of the interested party.[77]

A. *Application of Partial AFA for Dezhou Hualude*

As previously stated, Dezhou Hualude did not provide the quantity of scrap generated and the quantity of nails with a certain coating. We preliminarily find that Dezhou Hualude's failure to respond demonstrates a failure to act to the best of its ability in complying with Commerce's requests. Accordingly, pursuant to sections 776(a)(1), 776(a)(2)(A)-(C) and 776(b) of the Act, Commerce preliminary finds that the application of partial AFA to Dezhou Hualude is warranted. With respect to Dezhou Hualude's scrap by-product, we are preliminary not granting a by-product offset. Moreover, for these preliminary results, we are using the highest reported FOP usage rate of another coating material for Dezhou Hualude's coating material FOP.[78]

B. *Application of AFA for Shandong Dinglong*

As previously stated, Shandong Dinglong did not respond to the AD questionnaire, nor did Shandong Dinglong request additional time to respond. We preliminarily find that Shandong Dinglong's failure to respond, demonstrates a failure to act to the best of its ability in complying with Commerce's requests. Accordingly, pursuant to sections 776(a)(1), 776(a)(2)(A)-(C) and 776(b) of the Act, Commerce preliminary finds that the application of AFA to Shandong Dinglong is warranted.

Because Shandong Dinglong has failed to act to the best of its ability by not respondent to the AD questionnaire, Commerce has assigned to Shandong Dinglong, as AFA, a separate rate of 118.04 percent, which is the highest rate applied in any segment of this proceeding.[79]

SAMPLE RATE CALCULATION

As explained above, it is Commerce's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. In this review, pursuant to section 777A(c)(2)(A) of the Act, Commerce employed a stratified random probability-proportional-to-size sampling procedure to select respondents for

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[76] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted in 1994 U.S.C.C.A.N. 4040, 4199.

[77] *See* section 776(d)(3) of the Act.

[78] *See* Memorandum, "Ninth Administrative Review of Certain Steel Nails from the People's Republic of China: Preliminary Results Analysis Memorandum for Dezhou Hualude Hardware Products Co. Ltd.," dated September 4, 2018 (Dezhou Hualude Calc Memo).

[79] Section 776(c)(2) provides that Commerce shall not be required to corroborate any dumping margin applied in a separate segment of the same proceeding. Because we are applying a dumping margin applied in a prior segment of this proceeding, we are not required to corroborate the AFA rate assigned to Shandong Dinglong pursuant to section 776(c)(2) of the Act.

individual examination. Therefore, we must calculate a sample rate to apply to the non-selected companies that have met the criteria for a separate rate. In the *Sampling Methodology Notice*,[80] we stated that in order to calculate a rate to assign the non-selected companies when using a sampling procedure:

> {Commerce} will calculate a "sample rate," based upon an average of the rates for the selected respondents, weighted by the import share of their corresponding strata. The respondents selected for individual examination through the sampling process will receive their own rates; all companies in the sample population who were not selected for individual examination will receive the sample rate.[81]

The *Sampling Methodology Notice* also explained:

> In NME cases, only those exporters who receive a separate rate will be included in the sample population. Companies that do not receive a separate rate will not be subject to review pursuant to the elimination of the conditional review of the NME entity practice described below. Therefore, in order to establish the appropriate sample population at the time of the sampling selection, it is necessary for {Commerce} to make its determinations regarding the separate rate status of the companies under review before the sample is determined. For the purpose of constructing the sample rate, {Commerce} expects that companies' separate rate status will remain unchanged once the sample is determined.[82]

In these preliminary results, all three mandatory respondents have preliminarily been granted a separate rate, as discussed above. In addition, two of the mandatory respondents, Stanley and Dezhou Hualude, have preliminarily weighted-average dumping margins which are above *de minimis*. The other mandatory respondent, Shandong Dinglong, received a rate based on AFA. Pursuant to the *Sampling Methodology Notice,* and consistent with our past practice, all determined rates will be included in the sample rate.[83] Accordingly, we have averaged the rates for the three selected respondents, weighted by the import share of their corresponding strata.[84]

SURROGATE COUNTRY

When Commerce is investigating imports from an NME country, section 773(c)(1) of the

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[80] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65965 (November 4, 2013) (*Sampling Methodology Notice*).
[81] *Id.*
[82] *Id.*
[83] *Id.* at 65969; *see also Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice Rescission of the 2004/2005 New Shipper Review*, 71 FR 6304 (November 14, 2006) and accompanying IDM at Comment 1 (including a rate based on AFA in the sample rate calculation); *Laizou Auto Brake Equipment Co. v. United States*, 32 CIT 711, 722-25 (2008) ("Computing a statistically valid sample rate that is representative of the population as a whole may include the margins determined for all selected respondents, even if that sample rate happens to be composed in part on a respondent's rate which is based on adverse facts available.").
[84] *See* Sample Rate Memorandum.

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 Commerce.[85] As a general rule, Commerce 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.[86] Further, Commerce normally values all FOPs in a single surrogate country.[87]

On December 11, 2017, Commerce invited parties to comment on surrogate country selection and provide information regarding FOP valuation in the instant review.[88] The petitioner recommends Thailand as a surrogate country because it is at the same level of economic development as China, is a significant producer of comparable merchandise, and has superior quality and availability of SV data.[89] Stanley recommends Bulgaria as a surrogate country because it is at the same level of economic comparability as China, is a significant producer of comparable merchandise, and has reliable, contemporaneous SV data.[90]

1. Comparable Level of Economic Development

Section 773(c)(4)(A) of the Act is silent with respect to how Commerce may determine that a country is economically comparable to the NME country. As such, Commerce'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 China in terms of per capita gross national income (GNI) data available in the World Development Report provided by the World Bank.[91] We note that identifying potential surrogate countries based on GNI data has been affirmed by the CIT,

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[85] For a description of our practice, *see* Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (*Policy Bulletin*).
[86] *See* Memorandum, "Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the People's Republic of China: Selection of Surrogate Countries," dated November 17, 2017 (Surrogate Country Memorandum).
[87] *See* 19 CFR 351.408(c)(2).
[88] *See* Surrogate Country Letter.
[89] *See* Petitioner's Letter, "Certain Steel Nails from the People's Republic of China: Comments on Surrogate Country Selection,' dated February 5, 2018. *See also* Stanley's Letter, "Ninth 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 Primary Surrogate Country," dated February 15, 2018.
[90] *See* Stanley's Letter, "Ninth 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 February 5, 2018. *See also* Petitioner's Letter, "Certain Steel Nails from the People's Republic of China: Rebuttal Comments on Surrogate Country Selection," dated February 15, 2018.
[91] *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 IDM at Comment 4.

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."[92]

Pursuant to section 773(c)(4) of the Act, Commerce listed Romania, Mexico, Brazil, Bulgaria, Thailand, and South Africa as countries that are at the same level of economic development as China in terms of 2016 per capita GNI data available in the World Development Report provided by the World Bank; Commerce provided parties an opportunity to comment on this list.[93] No party challenged Commerce's list of economically comparable countries.

Commerce 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 Commerce's policy is to consider all countries on the Surrogate Country List to be equally comparable economically to China, 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 Commerce to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor Commerce's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, Commerce 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."[94] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[95] Further, when selecting a surrogate country, the statute requires Commerce to consider the comparability of the merchandise, not the comparability of the industry.[96] "In cases where the identical merchandise is not produced, {Commerce} must determine if other merchandise that is comparable is produced. How {Commerce} does this depends on the subject merchandise."[97] In this regard, Commerce recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

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[92] *See Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1330 (CIT 2014).
[93] *See* Surrogate Country Letter at Attachment 1 (Surrogate Country List).
[94] *See Policy Bulletin* at 2.
[95] 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.
[96] *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.").
[97] *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.[98]

Further, the statute grants Commerce discretion to examine various data sources for determining the best available information.[99] Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[100] 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.[101] In accordance with Commerce's practice and analysis in the most recent administrative review in this case, the petitioner compiled 2016 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.[102] Thus, Commerce finds that each of the countries on the Surrogate Country List (Romania, Mexico, Brazil, Bulgaria, Thailand, and South Africa) 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."[103] 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."[104]

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[98] *Id.* at 3.
[99] *See* section 773(c) of the Act; *see also Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).
[100] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).
[101] *See* Petitioner's Letter "Certain Steel Nails from the People's Republic of China: Comments on Surrogate Country Selection," dated February 5, 2018.
[102] *Id.* at Exhibit 1.
[103] *See Policy Bulletin*.
[104] *Id*.

Section 773(c)(1) of the Act instructs Commerce to value the FOPs based upon the best available information from an ME country or a country that Commerce considers appropriate. When considering what constitutes the best available information, Commerce 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.[105] Commerce's preference is to satisfy the breadth of the aforementioned selection criteria.[106] Moreover, it is Commerce'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.[107] Commerce 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.[108]

In this case, Commerce 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. Commerce 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. There is no data on the record for any other FOP for Romania, Mexico, Brazil, Bulgaria, or South Africa, nor any surrogate financial statements. Additionally, no party has argued that Romania, Mexico, Brazil, or South Africa should be selected as the surrogate country. Thus, based on record evidence, Commerce is left with Thailand as the only option for a potential primary surrogate country.

Thailand has specific SVs for all the respondents' FOPs, including surrogate financial statements and the key material inputs, low and medium carbon SWR. The Thai *Global Trade Atlas* (GTA) import prices provide for 11-digit HTS categories for low carbon SWR and for medium carbon SWR.[109] Although, Stanley suggested Bulgaria as surrogate country, Stanley did not submit SV date for Bulgaria.

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

Therefore, based on examination of all record evidence as discussed above, we find Thailand to have useable SV data on the record, and to be the best choice for the primary surrogate country.

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[105] *See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006) (*Lined Paper*) at Comment 3.

[106] *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 IDM at Comment 2.

[107] *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 IDM 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 IDM at Comment 2.

[108] *See*, *e.g.*, *Sixth Mushrooms AR*, 71 FR 40477 at Comment 1.

[109] *See*, generally, the SV submission from the interested parties and the Preliminary SV Memorandum.

A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice and the Preliminary SV Memorandum.[110]

Date of Sale

Pursuant to 19 CFR 351.401(i), Commerce 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.[111] Consistent with the regulatory presumption for invoice date and because Commerce found no evidence on the record contrary to Stanley's claims, for these preliminary results, Commerce used the invoice date as the date of sale except when shipment date preceded invoice date. In those instances, consistent with Commerce's practice[112] and as Stanley provided evidence that the material terms of sale were set on shipment date, Commerce used the shipment date as the date of sale.[113]

Dezhou Hualude explained that the invoice date is the correct date of sale because, in some instances, customers may cancel an order after placing a purchase order, but before issuance of the invoice.[114] Consistent with the regulatory presumption for invoice date, and because Commerce found no evidence on the record contrary to Dezhou Hualude's claims, for these preliminary results, we used the invoice date as the date of sale.

Normal Value Comparisons

In accordance with section 773(a) of the Act, Commerce 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 Commerce based U.S. price on CEP, in accordance with section 772(b) of the Act, because sales were made on behalf of the

[110] *See* Memorandum, "Ninth Administrative Review of Certain Steel Nails from the People's Republic of China: Surrogate Values for the Preliminary Results," dated concurrently with this memorandum (Preliminary SV Memorandum).
[111] *See* Stanley's Section A Questionnaire Response at 30.
[112] *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*).
[113] *See* Stanley's Section A Questionnaire Response at 27.
[114] *See* Dezhou Hualude's Section A Questionnaire Response at 18.

China-based company by a U.S. affiliate to unaffiliated purchasers in the United States. For these sales, Commerce based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, Commerce 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, Commerce also deducted those selling expenses associated with economic activities occurring in the United States. Commerce 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, Commerce valued these services using SVs (*see* "Factor Valuation Methodology" section below for further discussion). For those expenses that were provided by an ME provider and paid for in an ME currency, Commerce 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 Stanley, *see* Stanley's analysis memorandum, 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, Commerce calculated EP for all sales to the United States for Dezhou Hualude 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. Commerce 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, Commerce 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 an NME vendor or paid for using an NME currency, Commerce based the deduction of these charges on SVs.[115] For a detailed description of all adjustments made to U.S. price for Dezhou Hualude, *see* Dezhou Hualude's analysis memorandum, dated concurrently with these preliminary results.

2. Value-Added Tax

Commerce's practice in NME proceedings is to adjust EP or CEP for the amount of any irrecoverable value-added tax (VAT), in accordance with section 772(c)(2)(B) of the Act.[116] In changing the practice, Commerce 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, Commerce will reduce the respondent's EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but

[115] *See* Preliminary SV Memorandum for details regarding the SVs for movement expenses.
[116] *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*).

not rebated.[117] Where the irrecoverable VAT is a fixed percentage of CEP or EP, Commerce 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.[118] Commerce'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.

Commerce requested that Stanley report net irrecoverable VAT for the subject merchandise.[119] 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 China regulations.[120] 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, Commerce 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.[121] We note that this is consistent with Commerce's longstanding policy and the intent of the statute, that dumping comparisons be tax-neutral.[122]

Commerce requested that Dezhou Hualude report net irrecoverable VAT for the subject merchandise.[123] Dezhou Hualude 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 China regulations.[124] Thus, Dezhou Hualude incurred an effective VAT rate of 12 percent on exports of nails. Because Dezhou Hualude reported that it pays VAT associated with subject merchandise that is not recoverable at a rate of 12 percent, Commerce adjusted Dezhou Hualude's net price for the irrecoverable VAT it reported in its U.S. sales database, in order to

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[117] *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 IDM at Comment 5.A.
[118] *Id*.
[119] *See* AD Questionnaire.
[120] *See* Stanley's Section A Questionnaire Response at 72.
[121] *See* Stanley's Analysis Memorandum.
[122] *See Methodological Change*, 77 FR at 36483 (citing *Antidumping Duties*; *Countervailing Duties*, 62 FR 27296, 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 *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 37715 (July 2, 2014).
[123] *See* AD Questionnaire.
[124] *See* Dezhou Hualude's Section C Questionnaire Response at 32-33.

calculate a EP net of VAT.[125] We note that this is consistent with Commerce's longstanding policy and the intent of the statute that dumping comparisons be tax-neutral.[126]

3. Normal Value

Section 773(c)(1) of the Act provides that Commerce 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, Commerce 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. Commerce's questionnaire requires that the respondents provide information regarding the weighted-average FOPs on a product matching control number (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.[127] This methodology ensures that the Commerce's calculations are as accurate as possible.[128]

Commerce 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. Commerce 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 respondents or their suppliers, Commerce calculated NV based on the FOPs reported by Stanley's and Dezhou Hualude's suppliers for the POR. Commerce used Thai import data and other publicly available Thai sources in order to calculate SVs. To calculate NV, Commerce multiplied the reported per-unit FOP quantities by publicly available SVs. Commerce'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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[125] *See* Dezhou Hualude's Analysis Memorandum.
[126] *See Methodological Change*, 77 FR at 36483 (*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 *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 37715 (July 2, 2014).
[127] *See* AD Questionnaire, Section D at D-2.
[128] *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 IDM at Comment 19.

As appropriate, Commerce adjusted input prices by including freight costs to render them delivered prices. Specifically, Commerce 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, Commerce 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 dumped or 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.[129] 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 Commerce 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.

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier and paid for the inputs in ME currency in meaningful quantities, Commerce 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 regulation, substantially all is defined to be 85 percent or more of the total volume purchased of the factor.[130] 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, Commerce used Stanley's actual ME purchase prices to value these inputs. Where appropriate, freight expenses were added to the ME price of the input.

Commerce 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.[131] Additionally, the Thai GTA data submitted on the record of this review is contemporaneous with the POR; thus, GTA data meet Commerce's SV criteria and represent the best available information to value Stanley's and Dezhou Hualude's FOPs.

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[129] *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 IDM 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 IDM 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 IDM at 1.

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

[131] *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 IDM at Comment 2.

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

For these preliminary results, Commerce used Thai Import Statistics from the GTA to value certain raw materials and packing material inputs that Dezhou Hualude 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 and packing material inputs that Dezhou Hualude used to produce subject merchandise.

We valued electricity by the price established in *Doing Business 2018: Thailand* by the World Bank. Water was valued by using the valuation from the Thai Metropolitan Waterworks Authority.[132]

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 2018: Thailand* by the World Bank.[133] 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 2018: 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. Commerce determined the best available information for valuing truck freight to be from *Doing Business 2018: 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.[134] 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, the data are contemporaneous with the POR.

For these preliminary results, pursuant to *Labor Methodologies*,[135] Commerce determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.

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[132] For more information on the electricity and water SV calculations, *see* Preliminary SV Memorandum.
[133] For more information on the B&H SV calculation, *see* Preliminary SV Memorandum.
[134] For more information on ocean freight and the Descartes data, *see* Preliminary SV Memorandum.
[135] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092, 36092-93 (June 21, 2011) (*Labor Methodologies*).

Accordingly, we valued labor using manufacturing-specific data from the quarterly-specific data (third and fourth quarter of 2015 and first, and second quarters of 2016) from the Government of Thailand, National Statistical Office, Labor Force Survey of Whole Kingdom, (Manufacturing-Specific NSO Data). Although the Manufacturing-Specific NSO Data are not from the ILO, Commerce finds that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, Commerce 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.[136] Commerce 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 Manufacturing-Specific NSO Data are the best available information for valuing labor for this segment of the proceeding.[137] Specifically, the Manufacturing-Specific NSO Data is manufacturing-specific. As stated above, Commerce used Thai data reported under the Manufacturing-Specific NSO data, which reflects all costs related to labor, including wages, benefits, housing, training, etc. Thus, we valued Stanley's and Dezhou Hualude's labor input using the Manufacturing-Specific NSO data inflated to the POR. Additionally, where the financial statements used to calculate the surrogate financial ratios include itemized detail of labor costs, Commerce made adjustments to certain labor costs in the surrogate financial ratios.

Commerce 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, Commerce normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.[138] In addition, the CIT has held that in the selection of surrogate producers, Commerce may consider how closely the surrogate producers approximate the NME producer's experience.[139] To value factory overhead, SG&A expenses, and profit, Commerce used the 2016 financial statements from Saha Asia Industry Co., Ltd., because it is a Thai producer of identical merchandise.[140]

Comparisons to Normal Value

Pursuant to section 773(a) of the Act, in order to determine whether Stanley's and Dezhou Hualude's sales of the subject merchandise from China to the United States were made at less

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[136] For more information on the labor SV calculation, *see* Preliminary SV Memorandum.
[137] *See Certain Steel Nails from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2015-2016*, 82 FR 42291 (September 7, 207) and accompanying Preliminary Decision Memorandum at 23-24, unchanged in *Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 83 FR 11683 (March 16, 2018).
[138] *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 IDM at Comment 2; *see also* section 773(c)(4) of the Act; 19 CFR 351.408(c)(4).
[139] *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 IDM at Comment 1.
[140] For more information on the surrogate financial ratios calculations, *see* Preliminary SV Memorandum.

than normal value, Commerce compared the export price (or constructed export price) to the normal value as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce 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 Commerce determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce 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 Commerce's examination of this question in the context of administrative reviews, Commerce 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.[141]

In numerous investigations, Commerce 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.[142] Commerce 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. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce 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

[141] *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 IDM at Comment 1; *see also Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 1322 (CIT 2014), *aff'd*, 862 F.3d 1337 (Fed. Cir. 2017).

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

published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce 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, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce 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, Commerce preliminarily finds that 77.2 percent of the value of U.S. sales pass the Cohen's *d* test,[143] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce 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 margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the average-to-transaction method to all U.S. sales.

For Dezhou Hualude, based on the results of the differential pricing analysis, Commerce preliminarily finds that 42.3 percent of the value of U.S. sales pass the Cohen’s *d* test,[144] and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce 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 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, Commerce is applying the average-to-average method to calculate the weighted-average dumping margin for Dezhou Hualude.

Currency Conversion

Where necessary, Commerce 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.

[143] *See* Stanley’s Analysis Memorandum.
[144] *See* Dezhou Hualude’s Analysis Memorandum.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒	☐
Agree	Disagree

9/4/2018

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
Assistant Secretary for Enforcement and Compliance

Attachment

Companies Not Granted a Separate Rate

1 Air It on Inc.
2 A-Jax Enterprises Ltd.
3 A-Jax International Co. Ltd.
4 Anhui Amigo Imp.& Exp. Co. Ltd.
5 Anhui Tea Imp. & Exp. Co. Ltd.
6 Beijing Catic Industry Ltd.
7 Beijing Qin-Li Jeff Trading Co., Ltd.
8 Bodi Corporation.
9 Cana (Rizhou) Hardward Co. Ltd.
10 Cangzhou Xinqiao Int’l Trade Co. Ltd.
11 Certified Products Taiwan Inc.
12 Changzhou Kya Trading Co. Ltd.
13 Chia Pao Metal Co. Ltd.
14 China Dinghao Co. Ltd.
15 China Staple Enterprise Co. Ltd.
16 Chinapack Ningbo Imp. & Exp. Co. Ltd.
17 Chite Enterprise Co. Ltd.
18 Crelux Int’l Co. Ltd.
19 Daejin Steel Co. Ltd.
20 Dingzhou Baota Metal Products Co. Ltd.
21 Dong E Fuqiang Metal Products Co. Ltd.
22 Ejen Brother Limited.
23 Faithful Engineering Products Co. Ltd.
24 Fastening Care.
25 Fastgrow International Co. Inc.
26 Foshan Hosontool Development Hardware Co. Ltd.
27 Glori-Industry Hong Kong Inc.
28 Guangdong Meite Mechanical Co. Ltd.
29 Hangzhou Spring Washer Co. Ltd.
30 Hebei Handform Plastic Products Co. Ltd.
31 Hebei Minghao Imp. & Exp. Co. Ltd.
32 Hengtuo Metal Products Co. Ltd
33 Hongyi (HK) Hardware Products Co. Ltd.
34 Huaiyang County Yinfeng Plastic Factory.
35 Huanghua Yingjin Hardware Products.
36 Inmax Industries Sdn. Bhd.
37 Jade Shuttle Enterprise Co. Ltd.

38 Jiangsu General Science Technology Co. Ltd.
39 Jiangsu Huaiyin Guex Tools.
40 Jiaxing TSR Hardware Inc.
41 Jinhai Hardware Co. Ltd.
42 Jinsco International Corp.
43 Jinsheung Steel Corporation.
44 Koram Inc.
45 Korea Wire Co. Ltd.
46 Liaocheng Minghui Hardware Products.
47 Maanshan Lilai International Trade. Co. Ltd.
48 Mingguang Abundant Hardware Products Co. Ltd.
49 Nailtech Co. Ltd.
50 Nanjing Nuochun Hardware Co. Ltd.
51 Nanjing Tianxingtong Electronic Technology Co. Ltd.
52 Nanjing Tianyu International Co. Ltd.
53 Nanjing Zeejoe International Trade.
54 Ningbo Adv. Tools Co. Ltd.
55 Ningbo Fine Hardware Production Co. Ltd.
56 Overseas Distribution Services Inc.
57 Overseas International Steel Industry.
58 Paslode Fasteners Co. Ltd.
59 Patek Tool Co. Ltd.
60 President Industrial Inc.
61 Promising Way (Hong Kong) Ltd.
62 Qingda Jisco Co. Ltd.
63 Qingdao D&L Hardware Co. Ltd.
64 Qingdao Gold Dragon Co. Ltd.
65 Qingdao Hongyuan Nail Industry Co. Ltd.
66 Qingdao Meijialucky Industry and Co.
67 Qingdao MST Industry and Commerce Co. Ltd.
68 Qingdao Top Steel Industrial Co. Ltd.
69 Qingdao Uni-Trend International.
70 Quzhou Monsoon Hardware Co. Ltd.
71 Rise Time Industrial Ltd.
72 Romp Coil Nail Industries Inc.
73 R-Time Group Inc.
74 Shandong Liaocheng Minghua Metal Pvt. Ltd.
75 Shanghai Haoray International Trade Co. Ltd.
76 Shanghai Pioneer Speakers Co. Ltd.
77 Shanghai Seti Enterprise Int’l Co. Ltd.
78 Shanxi Easyfix Trade Co. Ltd.

79 Shaoxing Chengye Metal Producing Co. Ltd.
80 Shenzhen Xinjintal Hardware Co. Ltd.
81 Suzhou Xingya Nail Co. Ltd.
82 Taizhou Dajiang Ind. Co. Ltd.
83 Theps International.
84 Tianji Hweschun Fasteners Manufacturing Co. Ltd.
85 Tianjin Baisheng Metal Products Co. Ltd.
86 Tianjin Bluekin Indusries Ltd.
87 Tianjin Coways Metal Products Co. Ltd.
88 Tianjin Dagang Jingang Nail Factory.
89 Tianjin Evangel Imp. & Exp. Co. Ltd.
90 Tianjin Fulida Supply Co. Ltd.
91 Tianjin Jin Xin Sheng Long Metal Products Co. Ltd.
92 Tianjin Jinghai Yicheng Metal Pvt.
93 Tianjin Jinlin Pharmaceutical Factory.
94 Tianjin Jinmao Imp. & Exp. Corp. Ltd.
95 Tianjin Lianda Group Co. Ltd.
96 Tianjin Tianhua Environmental Plastics Co. Ltd.
97 Tianjin Yong Sheng Towel Mill.
98 Tianjin Yongye Furniture Co. Ltd.
99 Tianjin Zhonglian Times Technology.
100 Tianjin Zhongsheng Garment Co. Ltd.
101 Unicore Tianjin Fasteners Co. Ltd.
102 Win Fasteners Manufactory (Thailand) Co. Ltd.
103 Wulian Zhanpeng Metals Co. Ltd.
104 Yongchang Metal Product Co.
105 Yuyao Dingfeng Engineering Co. Ltd.
106 Zhangjiagang Longxiang Industries Co. Ltd.
107 Zhaoqing Harvest Nails Co. Ltd.
108 Zhejiang Best Nail Industry Co. Ltd.
109 Zhejiang Jihengkang (JHK) Door Ind. Co. Ltd.
110 Zhejiang Yiwu Yongzhou Imp. & Exp. Co. Ltd.
111 Zhong Shan Daheng Metal Products Co. Ltd.
112 Zhong Shan Shen Neng Metals Products Co. Ltd.
113 Zhucheng Jinming Metal Products Co. Ltd.
114 Zhucheng Runfang Paper Co. Ltd.