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SeAH Steel VINA Slip Op. 16-82
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SeAH Steel VINA Corporation v. United States, et al.

Consol. Court No. 14-00224, Slip Op. 16-82 (CIT August 31, 2016).

FINAL RESULTS OF REDETERMINATION
PURSUANT TO COURT REMAND

A. SUMMARY

The Department of Commerce (the Department) has prepared these results of redetermination pursuant to the remand order of the Court of International Trade (CIT) in SeAH Steel VINA Corporation v. United States, et al., Consol. Court No. 14-00224, Slip Op. 16-82 (CIT August 31, 2016) (SeAH Remand Order). These remand results concern Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, 79 FR 41973 (July 18, 2014) (Final Determination) and Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value, 79 FR 53691 (September 10, 2014) (Order and Amended Final Determination). On remand, the Court directed the Department to either provide additional explanation with respect to some of the positions taken in our Final Determination, or to revise those positions. Specifically, the Court remanded the following issues:

a) Our treatment of all three types of J55 hot-rolled coil (HRC) as a single input and our valuing all of them using a single value;

b) Our decision not to value and deduct alleged inland insurance from the U.S. export price;

c) Our selection of surrogate financial statements;

d) Our calculation of yield loss;

e) Our treatment of brokerage and handling (B&H) costs on exports in light of conflicting evidence on the record;

f) An explanation of whether our decision about financial statements affects the decision to add B&H costs to imports of HRC, and whether an agency practice bars Commerce from adding B&H costs to import costs of HRC;

g) Our finding that B&H costs increase proportionately with the weight of a shipment.

As set forth in detail below, we have complied with the Court's order by providing additional explanation of, or revisions to, our positions. In accordance with our revisions, we have revised the margin calculation of SeAH Steel VINA Corporation (SSV or SeAH).

B. BACKGROUND

On July 18, 2014, the Department published its final determination in the antidumping investigation of oil country tubular goods (OCTG) from the Socialist Republic of Vietnam (Vietnam).[1] We published the antidumping duty order and an amended final determination on September 10, 2014.[2] U.S. Steel Corporation (Petitioner) and SSV both appealed certain aspects of our final determination to the CIT. On August 10, 2015, the Department requested a voluntary remand to reconsider its calculation of yield loss.[3] The Department also requested a

[1] See Final Determination.
[2] See Order and Amended Final Determination.
[3] See Issue 4 (below).

voluntary remand to reconsider its selection of the financial statement of Welspun Corporation Limited for purposes of calculating surrogate financial ratios. The CIT issued its holding and order on August 31, 2016,[4] in which it remanded certain issues to the Department for further explanation or revision.

On October 4, 2016, the Department invited interested parties to submit additional surrogate value data to value the three types of hot-rolled coil that SSV used in production of OCTG during the period of investigation (POI). We received responses from Petitioner and SSV on October 13, 2016, but rejected these submissions from the record because they contained untimely and unrequested new information.[5] On October 21, 2016, Petitioner and SSV timely submitted redacted versions of their October 13, 2016, submissions.[6] We received rebuttal submissions from Petitioner and SSV on October 25, 2016.[7]

C. REMANDED ISSUES

1. Valuation of Hot-Rolled Coil

Background

In our preliminary determination in the less-than-fair-value (LTFV) investigation, we

[4] See generally SeAH.
[5] See Letter from Erin Kearney to Jeffrey Gerrish, Re: Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam – Rejection of Surrogate Value Submission, dated October 19, 2016, and Letter from Erin Kearney to SeAH Steel VINA Corporation, Re: Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam – Rejection of Surrogate Value Submission, dated October 19, 2016.
[6] See Letter from Petitioner to The Honorable Penny S. Pritzker, Re: Remand of Certain Oil Country Tubular Goods from Vietnam Pursuant to SeAH VINA Steel Corporation v. United States, U.S. Court of International Trade Consolidated Court No. 14-224, Slip Op. 16-82, dated October 21, 2016 (Petitioner Surrogate Value Submission), and Letter from SSV to The Honorable Penny Pritzker, Re: Remand Proceeding in SeAH Steel VINA Corp. v. United States (Court No. 14-224) – Redacted Version of October 13 Submission, dated October 21, 2016 (SSV Surrogate Value Submission).
[7] See Letter from Petitioner to The Honorable Penny S. Pritzker, Re: Remand of Certain Oil Country Tubular Goods from Vietnam Pursuant to SeAH VINA Steel Corporation v. United States, U.S. Court of International Trade Consolidated Court No. 14-224, Slip Op. 16-82, dated October 25, 2016 (Petitioner Rebuttal Surrogate Value Submission), and Letter from SSV to the Honorable Penny Pritzker, Re: Remand Proceeding in *SeAH Steel VINA Corp. v. United* States (Court No. 14-224) — Rebuttal Comments on Surrogate Values for Hot-Rolled Coils, dated October 25, 2016 (SSV Rebuttal Surrogate Value Submission).

valued SSV's HRC input using the weighted-average of the three types of HRC purchase prices from market-economy (ME) suppliers. We found in the preliminary determination that valuing all of SSV's HRC input in this manner was appropriate because more than thirty-three percent of the purchase volume was purchased in a market-economy (ME) country and paid for in a ME currency.[8] Thus, we found that all of the criteria for using ME purchase prices had been met. In comments on the preliminary determination, Petitioner objected to our valuing all of the HRC using only the ME purchase price because, Petitioner alleged, record evidence showed that SSV used three distinct types of HRC. Petitioner argued that because of the physical differences between the three types, the Department should value each of the three types using a different value.

SSV identified the three types of HRC used in the production of subject merchandise during the POI. The three types of HRC are identified below.

- J55: This can also be referred to as "regular" J55.[9]
- J55H: The "H" stands for "high carbon," and indicates that the HRC has a carbon content of at least 0.25 percent, which is higher than the carbon content of regular J55. With appropriate processing, J55H HRC can be upgraded to grade L80.[10]
- J55 Plus Cr: This is a type of J55 HRC that has a chromium content of between 0.30

[8] See, e.g., Certain Steel Threaded Rod from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 21101 (April 9, 2013), and accompanying Preliminary Issues and Decision Memorandum, at 14-17 ("Where the Department finds ME purchases to be of significant quantities (i.e., 33 percent or more), in accordance with our statement of policy as outlined in Antidumping Methodologies: Market Economy Inputs, the Department uses the actual purchase prices to value the inputs").

[9] See Memorandum from Scott Hoefke and Fred Baker to the File, Re: Verification of the Sales and Factors Response of SeAH Steel VINA Corporation (SSV) in the Antidumping Investigation of Oil Country Tubular Goods (OCTG) from the Socialist Republic of Vietnam (Vietnam), dated May 7, 2014 (SSV Verification Report), at 10.

[10] See Letter from SSV to The Honorable Penny Pritzker, Re: Antidumping Investigation of Certain Oil Country Tubular Goods from Vietnam: Supplemental Questionnaire Response of SeAH Steel VINA Corporation, dated February 5, 2014, at 10.

and 0.40 percent.[11]

With respect to J55 and J55H (each of which were sourced entirely from ME producers either during or prior to the POI), Petitioner argued in its case brief in the LTFV investigation that we should value them at their respective ME prices. With respect to J55 Plus Cr, Petitioner argued that the higher chromium content makes it alloy steel, rather than carbon steel and, as there was no suitable surrogate value information on the record with which to value alloy steel, the Department should value J55 Plus Cr using the highest ME purchase price on the record.

In its Final Determination, the Department disagreed with Petitioner and stated:

> We disagree with petitioner that we should value separately each of the three types of hot-rolled coil that SSV consumed… Here, it is undisputed by petitioner that all three of the types at issue are grade J55 steel. The differences between the three types of J55 are not so substantial so as to make them different products requiring separate valuations. Therefore, because all of the coil that SSV purchased and used during the POI was J55 coil, and because the requirements for valuing coil using market-economy prices have been met, in this final determination we have valued SSV's coil using its average market-economy purchase price of coil during the POI, as we did in the Preliminary Determination.[12]

Petitioner appealed our determination on this issue to the CIT, which remanded the issue to us for further explanation. Specifically, the CIT stated,

> The court remands for further detailed explanation regarding Commerce's decision to value all J55 HRC based on the purchase of a single variation of J55 HRC. Commerce must explain why it treated the three variations as a single input. Alternatively, Commerce has the discretion to recalculate the value of the HRC.[13]

On October 4, 2016, the Department issued a letter to interested parties inviting them to submit additional surrogate value data for purposes of valuing HRC sourced from non-market

[11] See SSV Verification Report, at 23.
[12] See Final Determination and accompanying Issues and Decision Memorandum, at Comment 7.
[13] See SeAH, at 16-17.

economy (NME) countries, in the event the Department determined to revise its methodology in this redetermination. We received responses from both SSV and Petitioner.[14] SSV provided the Indian import prices for each harmonized tariff schedule (HTS) number under which it imported HRC. SSV stated that it imported both J55 and J55H under HTS 7208.37.00, which is an HTS number for non-alloy steel with width greater than 600 millimeters (mm). SSV also stated that it imported J55 Plus Cr under HTS 7225.30.90, which is an HTS for alloy steel with width greater than 600 mm.

Petitioner provided no new data with which to value J55 or J55H. With respect to J55 Plus Cr, Petitioner submitted price data from the Global Trade Atlas (GTA) for HTS 7226.91.00, which is an HTS number for alloy steel with width less than 600 mm.

In its rebuttal submission, SSV submitted articles from various publications that explain that Chinese steel producers add small amounts of various alloys to steel products intended for non-alloy steel applications in order to take advantage of tax rebates that are not available for exports of non-alloy steel.[15] SSV also stated that there is evidence on the record that SSV used the steel purchased from Chinese suppliers interchangeably with non-alloy steel, and that the small amounts of alloys added by SSV's Chinese suppliers had no effect on the classification of the products under the American Petroleum Institute (API) 5CT specifications.[16] SSV argued that for these reasons the Department should use the ME purchase prices that SSV paid for steel coils used to produce the same OCTG grades in calculating the surrogate values for steel coils

[14] See Letter from SSV to The Honorable Penny Pritzker, Re: Remand Proceeding in SeAH Steel VINA Corporation v. United States (Court No. 14-224) – Comments on Surrogate Values for Hot-Rolled Coils, dated October 21, 2016, and Letter from Petitioner to The Honorable Penny S. Pritzker, Re: Remand of Certain Oil Country Tubular Goods from Vietnam Pursuant to SeAH VINA Steel Corporation v. United States, U.S. Court of International Trade Consolidated Court No. 14-224, Slip Op. 16-82, dated October 21, 2016.
[15] See SSV Rebuttal Surrogate Value Submission, at 2.
[16] Id.

that SSV purchased from Chinese suppliers.[17]

In its rebuttal submission,[18] Petitioner argued that the Department should not value J55 Plus Cr using the HTS number under which SSV says it imported it (i.e., HTS 7225.30.90). Petitioner states that the data within HTS 7225.30.90 number is tainted for two reasons. First, Petitioner states that the data within this category are dominated by dumped and subsidized imports from Russia and Iran, respectively. For this reason, Petitioner argued, using HTS 7225.30.90 to value J55 Plus Cr would be in violation of the Trade Facilitation and Trade Enforcement Act of 2015 in which Congress made clear that the Department should "disregard price or cost values without further investigation if {it} has determined that broadly available export subsidies existed or particular instances of subsidization occurred with respect to those price or cost values or if those price or cost values were subject to an antidumping order."[19]

Second, Petitioner argues that the price of alloy steel under HTS 7225.30.90 is aberrational when compared to other benchmarks on the record. Petitioner cites to import data on the record for HTS 7225.30.90 from Indonesia, Korea, Mexico, the Philippines, and Thailand, and states that the data show that Indian prices for that tariff provision are significantly lower than the import data for the other five countries, and are clearly aberrational.[20] Petitioner states that the Department's practice has been to not use aberrational data in valuing factors of production.

Analysis

No interested party in this proceeding disputes that the three types of HRC at issue are all J55 HRC, or that the three types of J55 have slightly different chemical compositions with

[17] Id.
[18] See Petitioner Rebuttal Surrogate Value Submission, at 2.
[19] Id., at 2.
[20] Id., at 7.

respect to their carbon and chromium contents. In previous cases where an input has had variations in chemical composition, the Department has sought to value the factor using surrogate values that most closely match the composition of the input. For example, in Pure Magnesium from the PRC, the Department stated that it "prefers to rely on data that are specific to the input being valued,"[21] and thus selected a surrogate value for an input that was closest to the type of the input that the respondent used.

Moreover, in Carbon Steel Plate from the PRC, [22] we said:

> Our methodology in the preliminary determination was to aggregate all iron ore whether sourced domestically or from market economy suppliers into a single basket which we valued at international prices from market economy suppliers. However, for the final determination, we have, to the extent possible, treated different types of iron ore as separate factors of production (i.e., we have valued different types of iron ore as separate inputs).

Similarly, in valuing steel in Heavy Forged Hand Tools from the PRC, we stated that "{w}e used the 1995 Indian steel value from Saudi Arabia for HTS category 7214.50 because it is contemporaneous with the POR, and is specific to the grade and chemical composition of the type of steel used by respondents."[23] Furthermore, in valuing coal in Carbon Steel Plate from the PRC, we determined that "{w}e agree with respondents that the Department should value coal based on the surrogate country values for types of coal which most closely reflect the specific grades and chemical composition of coal types used

[21] See Pure Magnesium from the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order, 76 FR 76945 (December 9, 2011), and accompanying Issues and Decision Memorandum, at Comment 7.

[22] Final Determination of Sales at Less Than Fair Value: Cut-to-Length Carbon Steel Plate from the People's Republic of China, 62 FR 61964, 61980 (November 20, 1997) (Carbon Steel Plate from the PRC) (where the Department treated different types of iron ore as separate factors of production, i.e., valuing different types of iron ore as separate inputs). See also Heavy Forged Hand Tools from the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews, 62 FR 11813,11815 (March 13, 1997) (Heavy Forged Hand Tools from the PRC) (where the Department stated, "It is our objective to value surrogate steel at prices which most closely reflect the type of steel used by the PRC producer during the POR").

[23] Heavy Forged Hand Tools from the PRC, FR 62 at 11815.

by the Chinese producers."[24] The Department has also stated that, with respect to selecting surrogate values in general, "specificity is a key element of the test for the usability of a SV, because if the SV data does not cover the FOP in question, it cannot be used for SV purposes."[25]

Therefore, we find that valuing the three types of J55 using values specific to each input would be consistent with the Department's normal practice. Furthermore, a calculation that takes into account physical differences between inputs will result in a valuation that is more specific to the input which is likely, in turn, to lead to a more accurate calculation of normal value. For these reasons, we have determined for this redetermination to value each of SSV's three types of HRC separately, using values specific to each type of HRC. With respect to the method of valuing the inputs, the record contains data for each of the three HRC types used by SSV, which we have evaluated below.

The Department's practice when selecting factors of production, in accordance with section 773(c)(1) of the Tariff Act, is to use, to the extent practicable, surrogate values which are publicly available, product-specific, representative of a broad market average, tax-exclusive, and contemporaneous with the POI.[26] The Department's practice at the time of the LTFV investigation underlying this remand redetermination was to value an input using the actual price paid by the respondent where the respondent sourced an input from a ME supplier in meaningful quantities (i.e., 33 percent or more of total purchases of the input) and paid in an ME currency,

[24] See Carbon Steel Plate from the PRC, 62 FR at 61980.
[25] See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2013-2014, 81 FR 17435 (March 29, 2016), and accompanying Issues and Decision Memorandum, at Comment XIIIC.
[26] See Notice of Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China, 71 FR 16116 (March 30, 2006), and accompanying Issues and Decision Memorandum, at Comment 2.

except where prices may have been distorted by findings of dumping or subsidization.[27]

Because the record shows that SSV purchased more than 33 percent of its regular J55 HRC from ME sources during the POI, we continue to find that it is appropriate to value SSV's regular J55 using our standard methodology for valuing ME-sourced inputs. Therefore, we have made no changes to our calculation of this input.[28]

With respect to J55H, SSV provided the Indian import price data for the HTS number under which it imported the J55H HRC, i.e., HTS 7208.37.00 (non-alloy steel with width greater than 600 mm). SSV reported that it had no purchases of this type of HRC during the POI.[29] However, record evidence shows that SSV's pre-POI purchases of J55H entered Vietnam under HTS 7208.37.00.[30] Petitioner did not provide any new data with which to value J55H. We find the Indian import data for the HTS number 7208.37.00, as submitted by SSV to be the most appropriate data with which to value SSV's J55H HRC because, in addition to being publicly available, representative of a broad market average, tax-exclusive, and contemporaneous with the POI, the data are the most product-specific because they represent the same HTS category under which SSV actually imported the input, based on record evidence. Therefore, for this redetermination we have valued J55H using POI import data for HTS 7208.37.00.

With respect to J55 Plus Cr, SSV provided the Indian import price data for the HTS number under which it imported the J55 Plus Cr HRC, i.e., HTS 7225.30.90 (alloy steel with width greater than 600 mm). Petitioner submitted Indian import price data for HTS 7226.91.00, (alloy steel with width less than 600 mm). SSV states that J55 Plus Cr contains a higher level of

[27] See, e.g., Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27366 (May 19, 1997); see also Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61717-18 (October 19, 2006).
[28] See Remand Analysis Memorandum, dated concurrently with this redetermination, for details.
[29] See SSV Verification Report, at 23.
[30] See SSV Verification Report, Exhibit 25, at 12 and 32.

chromium than does regular J55, and that the HTS number under which it entered Vietnam is an HTS number for alloy steel. For these reasons, we find that it is reasonable to value SSV's J55 Plus Cr using a value different from the values used for J55 or J55H. Indeed, valuing SSV's J55 Plus Cr differently is consistent with our past practice, as described above.

The arguments that SSV presented do not compel the conclusion that J55 Plus Cr should be valued using the same ME prices used to value regular J55. As indicated above, SSV has argued that Chinese suppliers add additional chromium to the HRC in order to take advantage of rebate incentives offered by the Chinese government, that SSV uses J55 Plus Cr interchangeably with regular J55, and that the addition of the chromium had no effect on the classification of the products under the API 5CT specifications. However, none of these factors refute the fact that J55 Plus Cr has a different chemical composition than does regular J55, or that, as explained above, it is the Department's practice, wherever possible, to utilize surrogate values specific to the input.

As stated above, SSV points out that its J55 Plus Cr HRC entered Vietnam under HTS 7225.30.90, an HTS number for alloy steel. Record evidence supports SSV's statement.[31] Petitioner placed GTA data on the record for HTS 7226.91.00, but we find that this HTS number covers HRC of a different width (under 600 mm) than that used by SSV (greater than 600 mm). As a result, we find that the data under HTS 7225.30.90 are more specific to SSV's input because this HTS category represents the same type and width of HRC that the record indicates was used by SSV.

Furthermore, we are not persuaded that Petitioner has provided an adequate basis for rejecting SSV's data. Specifically, Petitioner has argued that HTS 7225.30.90 is tainted by

[31] See Verification Exhibit 17, at 8-9, and Verification Exhibit 19, at 7.

dumped imports from Russia and subsidized imports from Iran, and that the data are also aberrational when compared to other benchmarks on the record.[32] For numerous reasons we do not find Petitioner's argument convincing.

First, the Trade Preferences Extension Act (TPEA) of 2015 made numerous amendments to the Tariff Act of 1930, as amended (the Act), including the addition of section 773(c)(5). The amended section states:

> In valuing the factors of production under paragraph (1) for the subject merchandise, the administering authority *may* disregard price or cost values *without further investigation* if the *administering authority has determined* that broadly available export subsidies existed or particular instances of subsidization occurred with respect to those price or cost values or if those price or cost values were subject to an antidumping order (emphasis added).[33]

This amendment to the Act codified our long-standing practice of relying on previous Department determinations when making a determination to disregard data used to value factors of production. Petitioner's allegation that the Iranian government has subsidized its domestic steel industry is based solely on news articles and private sector presentations, not on any prior countervailing duty (CVD) determinations issued by the Department. Therefore, because Petitioner has cited to no prior Department CVD determinations regarding Iranian steel subsidy programs or broadly available, non-industry specific export subsidies maintained by the Iranian government, we find that the Department has no basis to disregard Iranian import data.

Second, with respect to Petitioner's allegation that Russian exports of HTS 7225.30.90 are subject to antidumping duty orders in multiple countries, we note that Petitioner did not allege that our surrogate country, India, maintains an antidumping order on Russian HRC.

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[32] See Petitioner's Rebuttal Surrogate Value Submission, at 6.
[33] TPEA, Pub. L. No. 114-27, 129 Stat. 384 (2015). The text of the TPEA may be found at https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.

Because there is no information on the record that India has an AD order that applies to imports of HTS 7225.30.90 from Russia, we do not find it appropriate to disregard the Russian import data.

Third, with respect to Petitioner's argument that the Iranian and Russian AUVs are aberrational, we find that they are not when compared to record AUV data from other market economy (ME) countries with no broadly available export subsidies. Specifically, the AUVs range from Rs. 27.5283/kilogram to Rs. 96.61/kg.[34] Iranian AUVs (Rs. 32.40/kg.) are 11 percent higher than one of the ME countries and within the range of AUVs of other countries.[35] While Russia represents the lowest AUV of all import data on the record, it is lower than the next highest AUV (Belgium, Rs. 29.29/kg.) on the record by only six percent.[36]

Finally, with respect to Petitioner's argument that Indian imports under HTS 7225.30.90 are aberrational based on prices for imports of HTS 7225.30.90 into Indonesia, Korea, Mexico, the Philippines, and Thailand, we note that of the countries listed, only the Philippines is at a level of economic comparability equal to that of Vietnam.[37] However, the data for the Philippines that Petitioner provided post-dates the POI.[38] Therefore, because these five countries are either not economically comparable to Vietnam or not contemporaneous with the POI, none of these countries compel the conclusion that the import data for India (which is economically comparable to Vietnam) for this HTS are aberrational.

For the reasons enumerated above, we are not persuaded by Petitioner's argument that we should reject HTS 7225.30.90 for surrogate value purposes. We find the GTA Indian import

[34] See SSV Surrogate Value Submission, at Attachment 1.
[35] Id.
[36] Id.
[37] See Memorandum from Carol Showers to Robert James, Re: Request for a List of Surrogate Countries for an Antidumping Investigation of Oil Country Tubular Goods ("OCTG") from the Socialist Republic of Vietnam ("Vietnam"), dated December 20, 2013, at 2.
[38] See Petitioner Rebuttal Surrogate Value Submission, at 7 n.23.

data under HTS 7225.30.90 to be the best information available on the record for valuing J55 Plus Cr because it is contemporaneous, specific to the input, publicly available, tax and duty-free, and representative of a broad market average. We have, therefore, consistent with our practice, used all of the import data on the record under HTS 7225.30.90 to value SSV's J55 Plus Cr input in this remand redetermination, in addition to using the POI import data for HTS 7208.37.00 for valuing J55H, and the actual prices paid in an ME currency for valuing SSV's regular J55.

2. Domestic Inland Insurance

Background

In our preliminary determination in the LTFV investigation, we valued domestic inland freight using information from Ace InfoBanc Pvt. Ltd., found at its website http://logistics.infobanc.com/logtruck.htm. In its case brief at the administrative level, Petitioner argued that the Department should separately value domestic inland insurance associated with the inland freight. Petitioner argued that the inland freight contract that SSV placed on the record indicates that [

]. [39] Petitioner also pointed out that the contract states that [

].[40]

In rebuttal, SSV argued that Petitioner had not shown that any insurance services were purchased for SSV on shipments within Vietnam. It also argued that it is common for trucking

[39] See Petitioner's case brief at 38, citing to SSV First Section A-C Supplemental questionnaire response (SSV's January 9, 2014 Submission), Exhibit SC-5.
[40] Id.

companies to bear the risk of loss on the shipments they handle, and that Petitioner had not shown that such was not the case with respect to the surrogate value the Department used for inland freight.[41]

In our final determination in the LTFV investigation, we disagreed with Petitioner. We stated:

> We disagree with petitioner that the Department should deduct a surrogate value from SSV's U.S. price to represent domestic inland insurance. As SSV has noted, it is not uncommon for trucking companies to bear the risk of loss on the shipments they handle. We do not find that the bearing of such risk constitutes an "insurance contract" that would require a separate surrogate value. Furthermore, because the bearing of such loss by a trucking company is a common practice, it is quite possible it is included in the surrogate value we used in the Preliminary Determination, as many of the freight forwarding contracts used in the survey may reflect the same terms SSV experienced with its freight forwarder.[42]

Petitioner appealed our determination on this issue to the CIT. In its SeAH Remand Order, the CIT stated that Commerce had failed to adequately explain the basis for its conclusions (cited above).[43] Therefore, it remanded this issue to the Department for the Department to either:

a. Explain its determinations that: (1) Trucking companies commonly bear the risk of loss, and (2) the agreement between SSV and [ ] contained no insurance contract; or,

b. Reclassify SSV's inland freight contract as an insurance contract.[44]

[41] See SSV's rebuttal brief, dated June 13, 2014, at 47-48.
[42] See Final Determination, and accompanying Issues and Decision Memorandum at Comment 11.
[43] See SeAH Remand Order, at 19.
[44] Id., at 42.

Analysis

In accordance with the CIT's remand order, we reconsidered our determination with respect to domestic inland insurance associated with the inland freight. Upon review of the record of this proceeding, we have determined that the record does not substantiate the Department's finding that trucking companies commonly bear the risk of loss, or that SSV did not have an insurance contract with its trucking company. Upon review of the record, we determine that the Service Contract between SSV and its freight forwarder includes language to insure SSV against "any accidental or any damage to cargoes" for the full amount of the invoice.[45] Therefore, in accordance with the CIT's instructions, we have reclassified SSV's freight contract as being inclusive of an insurance contract, and have included a surrogate value for domestic inland insurance in our revised margin calculations.

The Department's practice when valuing factors of production, in accordance with section 773(c)(1) of the Act, is to use, to the extent practicable, surrogate values which are publicly available, product-specific, representative of a broad market average, tax-exclusive, and contemporaneous with the POI.[46] However, sometimes the record of a proceeding does not contain surrogate values that meet all of the Department's listed criteria. In such cases, the Department has chosen to rely on surrogate values on the record that meet at least some of the Department's criteria. Thus, in EMD from the PRC, [47] the Department selected a surrogate value from the record of the proceeding to value

[45] See SSV's January 9, 2014 Submission, at Appendix SC-5.
[46] See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China, 71 FR 16116 (March 30, 2006), and accompanying Issues and Decision Memorandum, at Comment 2.
[47] See Electrolytic Manganese Dioxide from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum (EMD from the PRC), at Comment 2.

manganese ore while acknowledging that, "{N}one of the surrogate value data proffered by parties in this investigation to value manganese ore meet all of these {the Department's normal surrogate value selection} criteria." Similarly, in Fish Fillets from Vietnam, [48] the Department selected a value from the record for boat freight even though the record did not establish whether the surrogate value was tax and duty free.

In this investigation, the record contains one available surrogate value source with which to value SSV's domestic inland insurance: inland insurance information submitted by Agro Dutch Industries Limited in the 2004-2005 administrative review of certain preserved mushrooms from India.[49] The record does not, however, establish whether this source is tax exclusive, or indicate whether it is representative of a broad market average. Nevertheless, it is publicly available and specific to inland insurance in the surrogate country. Furthermore, it is possible to make this source contemporaneous to our POI by using an inflator. Therefore, because this source is the only source on the record for inland insurance, and meets certain criteria for selecting surrogate values, we have used it to value SSV's domestic inland insurance in this redetermination.[50]

3. Financial Statements

Background

In the preliminary determination, the Department used the financial statements from three Indian producers of OCTG to calculate surrogate financial ratios. The three

[48] See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2012-2013, 80 FR 2394 (January 16, 2015) (Fish Fillets from Vietnam), and accompanying Issues and Decision Memorandum at Comment XVII-D.
[49] Letter from Petitioner to the Honorable Penny S. Pritzker, Re: Oil Country Tubular Goods from Vietnam, dated January 22, 2014, at Tab J.
[50] See Memorandum from Fred Baker to the File, Re: Analysis for the Redetermination on Remand of the Antidumping Duty Investigation of Certain Oil Country Tubular Goods (OCTG) from the Socialist Republic of Vietnam (Vietnam): SeAH Steel VINA Corporation (SeAH VINA), dated concurrently with this redetermination.

financial statements used were the fiscal year 2012-2013 statements of APL Apollo Tubes Limited (Apollo), the fiscal year 2012-2013 statements of Bhushan Steel Limited (Bhushan), and the fiscal year 2012-2013 statements of Welspun Corporation Limited (Welspun). The Department selected these three financial statements due to the fact they were each contemporaneous, publicly available, and representative of a broad market average, and were the only financial statements on the record for producers of OCTG, exclusive of those who received subsidies from Indian programs the Department has previously found to be countervailable.[51] In their case briefs, Petitioner and SSV requested that the financial statements of one or more producers be added or removed.

In the Final Determination, the Department retained only the Welspun financial statements for use in calculating surrogate financial ratios, after determining that these were the only statements that fulfilled all the Department's financial statement selection criteria.[52] Although the Department determined that there were three surrogate companies which produced identical merchandise, the Department elected not to use Apollo's financial statements, because it indicated that Apollo's subsidiary, Lloyds Line Pipes, Ltd. (Lloyds) produced OCTG, not Apollo itself.[53] Further, those financial statements, while consolidated, did not include Lloyds' balance sheet, profit and loss statement, or any other necessary documents from Lloyds. Due to this consolidated nature, the Department was

[51] See Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination, 79 FR 10478 (February 25, 2014) (Preliminary Determination), and Memorandum from Christian Marsh to Paul Piquado, Re: Decision Memorandum for Preliminary Determination of Less-Than-Fair-Value Investigation: Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam, dated February 14, 2014, at 14.
[52] See Final Determination, and accompanying Issues and Decision Memorandum, at Comment 2.
[53] See Apollo's financial statements found in the Memorandum from Fred Baker to the File, Re: Surrogate Values Source Documents, dated February 13, 2014, at Exhibit I (Apollo's financial statements), at 32 and the section "Documents from the Company Website" contained in SSV's January 17, 2014, submission, vol. II, attachment 8-C.

unable to determine whether financial ratios calculated from Apollo's financial statement would be as representative of the financial ratios of an Indian OCTG producer such as Welspun.[54]

Furthermore, the Department did not use the financial statements of the third producer of identical merchandise, Bhushan, because Bhushan was integrated at a higher level than that of SSV.[55] Accordingly, for this reason, the Department determined that because Welspun's financial statements did not contain this integrated-company concern, Welspun's financial statements, again, were the superior surrogate for calculating surrogate financial ratios for SSV.

Subsequent to the Final Determination, the choice of financial statements has since been called into question by a determination made by the Department in litigation concerning the less-than-fair-value investigation of OCTG from Korea. In a remand redetermination pertaining to OCTG from Korea, the Department found that Welspun was, in fact, not a producer of OCTG.[56] As a matter of clarification, the basis for the determination in the investigation that Welspun was a producer of OCTG was a document generated from the website of the API and placed on the Vietnamese OCTG record by Petitioner.[57] The document indicated that Welspun is 5CT certified and, therefore, certified to produce OCTG.[58] However, the document is, in fact, not from Welspun's website and does not indicate that Welspun actually produced any OCTG during the POI.

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[54] Id.
[55] Id.
[56] See Final Redetermination Pursuant to Court Remand, Husteel Co., Ltd. v. United States, Consol. Court No. 14-00215, dated February 22, 2016, at 19, found on the Department's website at http://enforcement.trade.gov/remands/15-100.pdf
[57] See Letter from Petitioner to the Honorable Penny S. Pritzker, Re: Oil Country Tubular Goods from Vietnam, dated January 27, 2014, at Tab G.
[58] Id., at 4.

Additionally, Welspun's annual report does not include OCTG as one of its products during the POI.[59] In light of this information, together with the remand redetermination for OCTG from Korea, the Department requested a voluntary remand on this issue.[60]

In SeAH, the CIT stated that there were substantial and legitimate grounds for a remand because Commerce had made conflicting determinations as to whether Welspun produces OCTG. Therefore, given the importance of selecting the appropriate financial statement, the CIT granted the Department's request for a remand.[61]

Analysis

When selecting financial statements for purposes of calculating surrogate financial ratios, the Department's practice is to use data from one or more market-economy surrogate companies based on the "specificity, contemporaneity, and quality of the data."[62] Section 773(c)(1) of the Act states that "the valuation of the factors of production shall be based on the best available information regarding the values of such factors…." In accordance with 19 CFR 351.408(c)(4), the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country to value manufacturing overhead, general expenses, and profit.[63] In determining the suitability of surrogate values, the Department considers the available evidence with respect to the particular facts of each case and evaluates the suitability of each source on a case-by-case basis. Accordingly, when examining the merits of financial statements on the record, the Department does not have an established hierarchy that

[59] See Memorandum to the File, Re: Surrogate Values Source Documents, dated February 13, 2014, at Exhibit 3.
[60] See SeAH Remand Order, at 22.
[61] Id., at 20.
[62] See Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value, 81 FR 75042 (October 28, 2016), and accompanying Issues and Decision Memorandum, at Comment 1.
[63] See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2014-2015, 81 FR 62717 (September 12, 2016), and accompanying Issues and Decision Memorandum, at Comment 4.

automatically gives certain characteristics more weight than others. Rather, the Department must weigh available information with respect to each situation and make a product and case-specific decision as to what constitutes the "best" available information. Furthermore, the CIT has recognized that the Department has discretion in selecting the best surrogate values on the record. Specifically, it has stated that "when Commerce is faced with the decision to choose between two reasonable alternatives and one alternative is favored over the other in their eyes, then they have the discretion to choose accordingly."[64]

Additionally, the Department's practice is to use, whenever possible, the financial statement of a producer of identical merchandise, rather than of comparable merchandise.[65] After further review of the financial statements on the record, we find that the record contains insufficient evidence to conclude that Welspun is actually a producer of identical merchandise. Specifically, its financial statements represent Welspun only as a producer of line pipe, which is comparable merchandise. While there is record evidence that Welspun is 5CT-certified by the API, which means it has the capacity to produce identical merchandise, there is no evidence on the record showing that it actually produced OCTG during the POI.

As a result, we find that the record does not support a finding that Welspun was a producer of identical merchandise; therefore, our preference is to not use Welspun's financial statement if the record contains other financial statements of producers of

[64] See FMC Corp. v. United States, 27 CIT 240, 251 (2003) (citing Technoimportexport, UCF America Inc. v. United States, 783 F. Supp. 1401, 1406, 16 CIT 13, 18 (1992)), aff'd, 87 Fed. Appx. 753 (Fed. Cir. 2004).
[65] See Certain Steel Nails from the People's Republic of China: Final Results of the Fourth Antidumping Duty Administrative Review, 79 FR 19316 (April 8, 2014) (Nails from the PRC), and accompanying Issues and Decision Memorandum, at Comment 2; Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 70 FR 6836, (February 9, 2005) (Persulfates from the PRC), and accompanying Issues and Decision Memorandum, at Comment 1.

identical merchandise. As noted above, the record does contain the financial statements of one company that produces identical merchandise.

Based on our review of the record, we find that the financial statements of Bhushan represent the best information available on the record for calculating financial ratios. We previously found in the LTFV investigation that Apollo itself does not produce OCTG. The record contains evidence that its subsidiary, Lloyds, is 5CT certified and, therefore, capable of producing OCTG.[66] However, similar to the facts related to Welspun's financial statements, Apollo's consolidated financial statements do not affirmatively indicate that its subsdiary, Lloyds, produced OCTG during the POI.[67]

Furthermore, in our Final Determination from the LTFV investigation we found that not all of Lloyds' financial statements were separately included in the consolidated Apollo financial statements on the record, and because of the consolidated nature of those financial statements, we could not be certain that the Apollo financial statements contained financial ratios which were as representative of an actual Indian producer of OCTG as that of Welspun's financial statements. Therefore, we determine that the use of the Apollo financial statements to derive a surrogate financial ratio would not be appropriate.

With respect to Bhushan, in the final determination from the LTFV investigation, we did not use that company's financial statements because we found that its production process was not sufficiently similar to that of SSV in comparison to that of Welspun.[68] Bhushan is a fully integrated producer, whereas Welspun, like SSV, is a semi-integrated producer. However, upon further analysis, we find affirmative precedence to support

[66] See Petitioner's January 27, 2014, submission, at Exhibit G.
[67] See Apollo's financial statements, at 32.
[68] See Final Determination, and accompanying Issues and Decision Memorandum, at Comment 2.

utilizing surrogate financial statements of companies with differing integration levels when no superior option was available on the record.[69] Bhushan is a producer of identical merchandise, and the Department has a preference for using the financial statement of a producer of identical merchandise.[70] Accordingly, we have determined on remand that the Bhushan financial statements are the best information on the record to use for determining a surrogate financial ratio for SSV, in that Bhushan produces identical merchandise and their financial statements are publicly available and contemporaneous with the POI. We have therefore used the financial statements of Bhushan to calculate surrogate financial ratios in this redetermination on remand.

4. Yield Loss

In its section D response submitted in the LTFV investigation underlying this redetermination, SSV calculated its usage rate for each of its inputs in the production of subject merchandise as the volume of input needed to produce one unit of the subject merchandise. The production volume SSV used for this financial ratio calculation was the volume of pipe that left the packing plant in Vietnam. We used SSV's calculation in the preliminary determination.

However, in its case brief following the preliminary determination, Petitioner argued that SSV's calculation of its production volume failed to account for yield loss that occurred following shipment of the subject merchandise from SSV's packing plant in Vietnam. To support its argument, Petitioner cited to sales and inventory records obtained

[69] See Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum, at Comment 13.

[70] See Nails from the PRC, and accompanying Issues and Decision Memorandum, at Comment 2; Persulfates from the PRC, and accompanying Issues and Decision Memorandum, at Comment 1.

at verification for OCTG made from grade J55H HRC. Petitioner alleged that these documents showed that some pipe was classified as "reject," and that this rejected pipe constituted a yield loss for which the Department should adjust SSV's reported usage factors. Based on the documents obtained at verification, Petitioner calculated the volume of the rejected pipe as approximately [ ] percent of SSV's sales of OCTG manufactured from grade J55H HRC. Petitioner argued that the Department should, therefore, increase SSV's reported usage factors by [ ] percent.

In its rebuttal brief, SSV disputed Petitioner's argument on two grounds. First, SSV argued that Petitioner's calculation of [ ] percent was inaccurate and misleading. It stated that the numerator of Petitioner's calculation consisted of SSV's U.S. affiliate's, Pusan Pipe America's (PPA)[71] only sale of SSV-sourced OCTG scrap during the POI, and the denominator consisted of only PPA's sales of SSV-sourced J55H OCTG during the POI. A more accurate calculation, SSV argued, would be to use all of PPA's SSV-sourced OCTG during the POI as the denominator. When this is done, SSV stated, the ratio would be only [ ] percent, rather than [ ] percent. Any adjustment for this loss, SSV argued, would be insignificant.

Second, SSV argued that the OCTG that PPA received from SSV was tested by SSV prior to export, and found to meet the relevant standards. Thus, SSV claims that the flaws in the "reject" pipe must have occurred during transit, and not during production in Vietnam. Therefore, SSV argued, because the damage that caused the pipe to be rejected did not occur during the production process, there was no basis for adjusting the reported production-yield figures for such damage.

[71] Pan Meridian Tubular (PMT) is the sales unit within PPA that sells OCTG. See SSV's September 24, 2014 Section A Response, at 7.

In our Final Determination we stated:

> We agree with petitioner that because there is additional loss following the packing stage at SSV's plant, the usage rate calculation must account for that yield loss. It is not relevant, as SSV has argued, that the amount sold as scrap is small because yield loss can occur regardless of whether any of it is sold as scrap. Nor does it matter that the merchandise was inspected prior to shipment from Vietnam, and that any yield loss would have occurred either during shipment or during further processing. Yield loss can occur when the semi-finished product is shipped to or further processed by a further processor. The correct yield loss calculation must account for any loss that occurs prior to shipment to the ultimate customer in order for the normal value calculation to correctly capture all costs. Therefore, in this final determination we have recalculated the yield loss and the usage rate for each input affected by the recalculation.[72]

SSV appealed our determination to the CIT. The CIT summarized SSV's arguments before the Court as follows:

a. A [ ] yield loss was inaccurate because Commerce calculated this loss using exclusively transactions of upgradeable OCTG exported before the POI rather than all transactions of OCTG.

b. The defects in the OCTG "must have occurred during transit, and not during manufacture." Accordingly, any yield loss was inappropriate because transportation insurance proceeds would have covered SSV's losses on the rejected OCTG if such losses existed.

c. Third, the [ ] percent yield loss was improper because Commerce did not offset this loss with the value of the rejected OCTG sold as scrap.

d. Fourth, adjusting "normal value for losses experienced during transit from Vietnam to the United States was also contrary to the statute."[73]

[72] See Final Determination, and accompanying Issues and Decision Memorandum, at Comment 9.
[73] See SeAH Remand Order, at 23.

In July 2015, we requested a voluntary remand on this issue in order to reconsider our calculation. In the SeAH Remand Order, the CIT granted our request for a remand. The Court held that Commerce should reconsider its yield loss calculation, and also provide a thorough response to SSV's challenges to the calculation of yield loss.[74]

Analysis

It is the Department's practice to adjust yield loss calculations where a respondent's calculation does not adequately account for yield losses.[75] As explained below, we have reconsidered our calculation of SSV's yield loss adjustment in accordance with this practice.

With respect to SSV's argument that the [ ] yield loss calculation was inaccurate because Commerce calculated that loss using exclusively transactions of upgradeable OCTG exported before the POI rather than all transactions of OCTG, upon further review of the record, we find a more accurate way to calculate SSV's usage rate is to use PPA's total sales volume of all subject merchandise as the denominator, rather than only its sales volume of OCTG made from grade J55H steel. We base this determination on the fact that there is no evidence that PPA had any sales of scrap other than the one sale to which Petitioner cites. To substantiate its argument, Petitioner cites to [

]. However, [

]. Therefore, there is no conclusive evidence that PPA had any SSV-sourced sales of scrap, other than the one sale

[74] Id., at 43.

[75] See Stainless Steel Bar from India; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Partial Rescission of Administrative Review, 65 FR 48965 (August 10, 2000), and accompanying Issues and Decision Memorandum, at Comment 6; Notice of Final Determination of Sales at Less Than Fair Value: Steel Wire Rod from Canada, 63 FR 9182 (February 24, 1998), at Comment 6.

of J55H OCTG scrap about which the Department learned at verification. In the absence of any further evidence, we find that it is appropriate to use PPA's total sales of subject merchandise during the POI as the denominator of the ratio calculation, rather than only its sales of OCTG made from grade J55H.

With respect to SSV's argument that because any defects in the OCTG must have occurred during transit, and not during manufacturing, any yield loss adjustment was inappropriate because transportation proceeds would have covered SSV's losses on the rejected OCTG if such loss occurred, we are not convinced that all yield loss can only have occurred during transportation from Vietnam. In its January 9, 2014 submission, SSV stated:

> The OCTG imported by PMT is inspected by the processors, who may reject pipe due to handling damages (such as dents or gouges to the pipe) or for manufacturing defects (such as this walls, trim variations, material inclusions, cracking, inconsistent diameter, ovality, or failure to meet required mechanical properties). The rejected pipe is then classified as either repairable or non-repairable. Rejected pipe that can be repaired to meet API specifications is always repaired and sold a prime-quality material. Rejected pipe that cannot be repaired is normally sold as scrap.[76]

Thus, SSV acknowledges that after its arrival in the United States, some pipe is found to contain manufacturing defects, and not just damage that occurred during transit to the United States. Furthermore, the record contains evidence that such defects were actually found during the POI. A sales trace done at the verification of PPA in April 2014 showed that [

].[77] Therefore, some damage occurred during manufacture and would not be covered by marine insurance.

Moreover, at no time did SSV make a claim for an adjustment to its costs for any insurance proceeds received. The Department has stated, "Even in cases where a clear statutory

[76] See SSV's January 9, 2014 Submission, at 34-35.
[77] See CEP verification exhibit 15, at 14.

basis for granting a price adjustment exists, the burden to establish entitlement to that adjustment is on the party seeking the adjustment, which has access to the necessary information."[78] Here, SSV has not met its burden because it has not provided the information necessary to calculate an offset for any proceeds received from its marine insurance.

With respect to SSV's argument that the [ ] percent yield loss was improper because the Department did not offset this loss with the value of the rejected OCTG sold as scrap, after reconsideration, we agree with SSV that it is appropriate to make an offset to its yield loss calculation for revenue received from scrap. Unlike with any insurance proceeds SSV may or may not have received, as discussed above, the record does contain the information necessary to make an offset for the one sale of scrap. Specifically, it shows the exact amount of sales revenue received from the scrap sale, and the total volume of SSV-sourced OCTG sales by PPA.[79] Thus, because we are making a yield-loss calculation, and the information to make a scrap offset adjustment for the sale of scrap that resulted from the yield loss is on the record, we find it appropriate to make a scrap offset adjustment.[80]

SSV claims that the Department's decision to adjust normal value for the non-existent "yield loss" that arose from damage during transport of the merchandise from Vietnam to the processors' facility in the United States was not in accordance with law. With respect to SSV's argument that adjusting normal value for losses experienced during transit from Vietnam to the United States is contrary to the statute (i.e. Sections 773(c)(1) and 773(e) of the Act), we disagree.

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[78] See Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 80 FR 51779 (August 26, 2015), and accompanying Issues and Decision Memorandum, at Comment 16.

[79] See Memorandum from Fred Baker and Scott Hoefke to the File, Re: Verification of the Sales of Pusan Pipe America (PPA) in the Antidumping Investigation of Oil Country Tubular Goods (OCTG) from the Socialist Republic of Vietnam (Vietnam), dated May 30, 2014, VE 7, at 66.

[80] See Remand Redetermination Analysis Memorandum for details.

As explained above, we find the record contains evidence that the losses for which we are adjusting normal value are not limited to losses that occurred during transit but, rather, are losses that could have occurred during manufacturing. Therefore, we did not adjust normal value for losses experienced solely during transit from Vietnam to the United States, as claimed by SSV. To the extent that such losses did occur during transit, they are losses that affect "the quantities of raw material employed,"[81] as referenced in the Act, and thus legitimately call for an adjustment to the reported usage factors for the factors of production.

In sum, as a result of our analysis above, we have adjusted our calculation of SSV's yield loss by using PPA's total shipment volume of all SSV-sourced OCTG as the denominator of the calculation, and adjusting it for revenue obtained from the sale of scrap.

5. Brokerage and Handling Costs on Exports

In the preliminary determination of the LTFV investigation the Department valued SSV's domestic brokerage and handling (B&H) using data from Doing Business India: 2014 (Doing Business) as the surrogate value.[82] Doing Business calculated total B&H costs by adding various elements of brokerage expenses, one of which was document preparation.[83] The Department included most of these elements in the calculation of the B&H surrogate value that it applied to SSV in the preliminary determination. Doing Business lists nine documents as included under the category "document preparation." SSV objected to the inclusion of "document preparation" in the calculation of B&H because it alleged that, with the exception of the bill of lading (which was prepared by the ocean transport company contracted by SSV's customer), the documents

[81] Section 773(c)(3)(B) of the Act.
[82] See Preliminary Determination, and accompanying Preliminary Issues and Decision Memorandum (Preliminary Issues and Decision Memorandum), at 13.
[83] See Memorandum from Fred Baker to the File, Re: Surrogate Values Source Documents, dated February 13, 2014 (Surrogate Values Source Documents Memorandum), Exhibit 4, at 2.

were either prepared internally by SSV or not relevant to OCTG exports. In our Final Determination we disagreed with SSV. We stated:

> With respect to SSV's argument that many of the expenses included in the "Doing Business" report are not relevant to its own experience, we have reviewed the list of documents (listed as "Documents to Export") the processing of which is listed in the "Doing Business" report as included in the B&H costs, and determined that they are all export documents. Moreover, the Department has previously determined, in response to a similar argument with respect to a comparable set of documents used in the B&H calculation in Doing Business 2011: The Philippines, that the expenses at issue reflected "the documents required to export goods from the Philippines." Thus, in this instance, we determine that the documents at issue are legitimately included in the calculation. The Department will sometimes make an adjustment to surrogate value data to reflect an individual exporter's experience, including to B&H surrogate value data, but normally only when the item's amount is clearly identified in the "Doing Business" report and the factors of production for self-preparation are accounted for. Such is not the case here with respect to the individual items SSV has identified because the costs for each item are not indicated in the "Doing Business" report; however, we do not find this to be a sufficient reason to disqualify the "Doing Business" report under Department practice. Moreover, the Department has previously noted that using broad market averages (such as the "Doing Business" report) means that "actual brokerage and handling costs will be higher for some customers and lower for others due to various factors."[84]

SSV appealed our decision to the CIT. In the SeAH Remand Order, the CIT held that in order for SSV to be entitled to an adjustment to its B&H surrogate value to remove certain document preparation charges, two conditions must be met:

1. Doing Business must clearly identify the cost for the documents that SSV claims that it prepared without a broker; and,

[84] See Final Determination, and accompanying Issues and Decision Memorandum, at Comment 1 (citations omitted).

2. Commerce must otherwise have accounted for the factors of production for any self-preparation of documents.[85]

The CIT held that the substantial evidence on the record did not currently support Commerce's finding that SSV failed to satisfy the first condition, and that it was unclear whether that second condition had been met.[86] Furthermore, the Court held that Commerce never even addressed the second condition.[87] Therefore, the CIT remanded the issue for the Department to analyze the conflicting evidence concerning use of B&H costs on exports of OCTG and explain its decision to adjust or not adjust the B&H costs.[88]

Analysis

Pursuant to the CIT's remand, we have reconsidered record evidence and provided additional explanation concerning the B&H surrogate value applied to SSV. The Department's practice when valuing factors of production, in accordance with section 773(c)(1) of the Act, is to use, to the extent practicable, surrogate values which are publicly available, product-specific, representative of a broad market average, tax-exclusive, and contemporaneous with the POI.[89]

Regarding the two criteria identified by the CIT, we provide additional explanation of our reasoning, below. We find that the first condition, that Doing Business must clearly identify the cost for the documents that SSV claims that it prepared without a broker, has not been met for two reasons.

[85] See SeAH Remand Order, at 26.
[86] Id., at 27.
[87] Id., at 26.
[88] Id., at 43.
[89] See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China, 71 FR 16116 (March 30, 2006), and accompanying Issues and Decision Memorandum, at Comment 2.

The first reason is that, with respect to one of the nine forms listed in Doing Business, specifically, the Foreign Exchange Control Form, SSV did not at any time during the course of the investigation, identify this document as one that it did not use. Doing Business was first placed on the record in a submission from Petitioners on January 22, 2014[90] and again in the Surrogate Values Source Documents Memorandum on February 13, 2014.[91] Therefore, SSV knew, or should have known, that the Department might use Doing Business for purposes of valuing B&H, and thus would require information about the use and preparation for each of these forms in order to make any possible adjustments to the B&H surrogate value calculation. Doing Business clearly identified the Foreign Exchange Control Form as one of the nine documents in the document preparation category. Thus, between the January 22, 2014 submission of Doing Business to the record and the verification of SSV, which began on March 31, 2014,[92] SSV had the opportunity to provide information to show that it either did not use certain documents, or that those documents were prepared internally. SSV did neither of these.

SSV now contends that all documents listed under "document preparation" (except for the bill of lading that is prepared by an ocean transport company) are prepared without a broker, in that they are either prepared internally by SSV personnel or are provided by market-economy suppliers whose costs were captured elsewhere. To support this contention, SSV cites to its case brief at the administrative level and to verification exhibit 5.[93] However, neither SSV's case brief nor verification exhibit 5 actually supports its

[90] See Letter from Petitioners to the Honorable Penny S. Pritzker, Re: Oil Country Tubular Goods from Vietnam, dated January 22, 2014, at Tab H.
[91] See Surrogate Values Source Documents Memorandum, at Exhibit IV.
[92] See SSV Verification Report, at 1.
[93] See Conf. Brief of Pl. SeAH Steel Corp. in Supp. of Its Rule 56.2 Mot. for J. on the Agency R. (SeAH's Motion), ECF. No. 54, dated May 27, 2015, at 12 n.8 (citing SSV's case brief to the Department, dated June 6, 2014, at 8-10, and to SSV Verification Report and Exhibit 5,at 2).

contention. First, SSV's case brief contains only argument with no factual information. In its motion before the CIT, notwithstanding its contention that all documents (except bill of lading) are self-prepared, SSV stated, "There was no Foreign Exchange Control Form,"[94] but cites to no prior statement on the record as support for the assertion. Second, verification exhibit 5 contains [

]. Therefore, SSV never provided the requisite information during the investigation that either it does not use a Foreign Exchange Control Form, or if it did use one, who prepared this form.

Second, even if the foreign exchange control form was prepared by SSV, prepared by an ME supplier, or was not relevant to OCTG from Vietnam, there is additional evidence on the record that a broker is involved in some of SSV's document preparation. A freight forwarding contract between SSV and [

] that SSV placed on the record[95] shows that it is the responsibility of [ ] to [

], and [

]." Based on the foregoing, we find that the freight forwarding contract shows that a party outside of SSV is performing brokerage services. Thus, because Doing Business does not identify the costs for the Foreign Exchange Control Form or for the documents prepared by [ ], we conclude that the first condition has not been met.

[94] Id., at 15 n.16.
[95] See SSV's January 9, 2014 Submission, Exhibit SC-5.

With respect to the second condition, that the Department must otherwise have accounted for the factors of production for any self-preparation of documents. Such accounting is normally reflected in the Department's preliminary determination analysis memorandum,[96] final determination analysis memorandum,[97] or amended final determination analysis memorandum[98] and must clearly indicate the expenses to which the Department made adjustments in calculating U.S. price. None of these documents suggest that any adjustment was made for B&H document preparation fees other than through the B&H adjustment. Thus, the second condition is not met. Therefore, even if SSV did prepare all brokerage documentation internally, without the use of a broker, the Department would still need to select a surrogate value to represent B&H documentation fees.

6. Brokerage and Handling Costs on Imports

Background

In the final determination of the LTFV investigation, in order to accurately account for the final cost of importing HRC from ME sources, the Department added a surrogate value for B&H expenses to the ME purchase price paid by SSV. Specifically, the Department valued B&H for SSV's ME purchases for HRC imports using surrogate value data from Doing Business India: 2014.

[96] See Memorandum from Fred Baker to the File, Re: Analysis for the Preliminary Determination of the Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam (Vietnam): SeAH Steel VINA Corporation (SeAH VINA), dated February 13, 2014 (Preliminary Determination Analysis Memorandum).
[97] See Memorandum from Fred Baker to the File, Re: Analysis for the Final Determination of the Antidumping Duty Investigation of Certain Oil Country Tubular Goods (OCTG) from the Socialist Republic of Vietnam (Vietnam): SeAH Steel VINA Corporation (SeAH VINA), dated July 10, 2014 (Final Determination Analysis Memorandum).
[98] See Memorandum from Fred Baker to the File, Re: Analysis for the Amended Final Determination of the Antidumping Duty Investigation of Certain Oil Country Tubular Goods (OCTG) from the Socialist Republic of Vietnam (Vietnam): SeAH Steel VINA Corporation (SeAH VINA), dated August 11, 2014 (Amended Final Determination Analysis Memorandum).

The Court sustained the Department's use of B&H costs from Doing Business. Furthermore, the Court also determined that SSV failed to argue during the LTFV investigation that it did not incur B&H expenses on its ME purchases of HRC, thus neglecting to exhaust its administrative remedies. Therefore, the Court has not allowed SSV to introduce this claim as part of this remand.[99] However, the Court also held that, in light of Commerce's redetermination of financial statements, the cost of B&H services may or may not have been accounted for. As the Court explained:

> {T}he Government requested and this court granted a remand to Commerce to reconsider its selection of financial statements. For that reason, Commerce's explanation here may no longer apply because, if the financial statements change on remand, the new financial statements may account for SSV's B&H costs on its imports of HRC. On that basis, the court remands to Commerce to explain how its findings change, or do not change, based on its selection of financial statements. The court also orders Commerce to provide a more thorough explanation of its reasoning.[100]

Additionally, SSV also claims that in adding surrogate value B&H costs to its ME purchases of HRC the Department went against its established practice of declining to "calculate and apply surrogate values for the B&H services used to import inputs."[101] In support of its arguments, SSV cites Fresh Garlic from the People's Republic of China (Fresh Garlic)[102] and Prestressed Concrete Steel Rail Tie Wire from the People's Republic of China (Prestressed Concrete).[103] However, Commerce did not issue Fresh Garlic until after SSV submitted a rebuttal brief. Therefore, the Court held that SSV did not have all the information needed to exhaust its administrative arguments in its claim that the

[99] See SeAH Remand Order, at 34.
[100] Id., at 36.
[101] Id., at 37.
[102] See SeAH's Motion, at 21 n.24 (citing Fresh Garlic From the People's Republic of China: Final Results and Partial Rescission of the 18th Antidumping Duty Administrative Review; 2011-2012, 79 FR 36721 (June 30, 2014)).
[103] See SeAH's Motion, at 21 n.24 (citing Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire From the People's Republic of China, 79 FR 25572 (May 5, 2014)).

Department has an established practice of declining to apply surrogate values for B&H services on ME purchases of HRC. For these reasons, the Court remanded to the Department to explain if a relevant and established practice exists for the application of surrogate values for B&H services to ME-sourced inputs, and if so, why Commerce has departed from it.[104]

Analysis

As an initial matter, as discussed in Issue 1, above, we have revised our valuation of SSV's HRC inputs for this redetermination. Specifically, in the LTFV investigation underlying this redetermination, the Department valued all three of SSV's J55 HRC inputs using SSV's ME purchase prices. Upon reconsideration, the Department has determined that the most accurate method for valuing SSV's HRC inputs is to separately value the three types of J55 HRC used by SSV during the POI. As a result, the Department has continued to value only one type of HRC (i.e., regular J55 HRC) using SSV's ME purchase prices, and has revised its valuation of SSV's J55H and J55 Plus Cr HRC with surrogate values specific to those inputs. As a result, we have addressed the CIT's remand on the B&H expenses on imports only with respect to SSV's ME purchases of regular J55.

After reconsideration for purposes of this redetermination, the Department maintains its position that the application of a B&H surrogate value to SSV's ME purchases of HRC is correct and reflects the most accurate view of the total cost for the importation of HRC. In whole, the Court is asking for clarification on three areas of B&H calculation:

- If the calculation will change because of the use of new financial statement;

[104] See SeAH Remand Order, at 39.

- The Department's reasoning as to whether both parts of a two-part conditionality test had been met for adjusting the import side of B&H expenses; and
- If Commerce has an established practice of not adjusting the B&H, and if not, why it chose to do so here.

With regard to the selection of different financial statements, the Department finds that this will not affect the way in which the B&H costs are calculated and applied to SSV's imported input of HRC. In the Final Determination, Welspun's financial statements were used to determine surrogate financial ratios for OCTG. While we did not use Welspun for that purpose in this redetermination on remand and have selected Bhushan's and Apollo's financial statements instead to calculate the surrogate financial ratio, we find that this change will have a minimal impact on how B&H costs are added to the costs of imported HRC. Some B&H costs will be captured in Apollo's "outward freight" costs, and the same is true for Bhushan's "selling and distribution" costs. Those costs will be removed from the Department's calculation of surrogate financial ratios. Therefore, the surrogate value of B&H as applied to the purchase price of HRC inputs will not be double counted, and it remains appropriate to add this value.

With regard to whether the Department met both parts of a two-part conditionality for adjustment of the import side of B&H cost, the Court asserts, "Commerce must adjust the (import-side) of B&H value if two conditions exist. First, the Doing Business report must clearly identify the cost for the services that SSV claims that it and its suppliers provided. Second, Commerce must have otherwise accounted for the cost of the services

provided."[105] The Court determined that we addressed the second condition, though not the first. It also asked for a more thorough explanation of our reasoning. We have addressed and provided further explanation of these conditions below.

While not specifically identifying the two-part conditionality test, the Department did indeed conduct the analysis for it in the Final Determination. Our analysis of this issue with respect to imports was identical to our analysis with respect to exports detailed in Issue 5 of this redetermination. With regard to the first part, our analysis for the B&H Costs on exports in Issue 5, see supra, applies to the first condition of this two-part conditionality test. Our relevant findings from that analysis are:

- SSV did not address whether or not it ever used a foreign exchange control form even though this document was stated to be among the sales documents in included in the B&H calculation in Doing Business.[106] Thus, we have no information on the record that preparation of this form was not done by a broker. The cost of preparing this individual item is not broken out in Doing Business, and we therefore cannot make an adjustment for it.
- SSV's contract with [ ] indicates that it performs document preparation work related to B&H.[107]
- Even if SSV did perform all the documentation preparation itself, the Department must assign a surrogate value to value those costs because they are not captured elsewhere in the calculations.

[105] See SeAH Remand Order, at 36.
[106] See Surrogate Values Source Documents Memorandum, at Exhibit IV.
[107] See SSV's February 5, 2014, submission, at Appendix SSD-5.

With respect to the second part of the conditionality test, the Court has acknowledged that the Department already addressed this issue in its Final Determination.[108]

Lastly, contrary to SSV's assertion, the Department does not have an established practice of declining to add surrogate values for the B&H services used to import inputs. As discussed in Fresh Garlic, consistent with Prestressed Concrete, the Department "normally obtains import prices that include the international freight costs of shipping the product to the port of the importing country… However, when the import statistics of the surrogate country do not include such costs, the Department has added SVs for international freight and foreign brokerage and handling charges to the calculation of normal value."[109]

We find that SSV's reliance on Fresh Garlic and Prestressed Concrete is misplaced, as both pertained to the application of a B&H surrogate value to the surrogate value of imported inputs. In this instance, the Department is adding a B&H surrogate value to the ME price of an imported input (i.e., SSV's regular J55 HRC), but is not adding a B&H surrogate value to SSV's inputs which the Department is valuing with surrogate values based on import statistics (including the remaining two of SSV's three HRC inputs). We find that this calculation is consistent with the Department's policy,[110] and fulfills the Department's directive to calculate an accurate dumping margin by valuing all costs associated with the respondent's production and sale of subject merchandise. In this case,

[108] See SeAH Remand Order, at 36 ("Commerce . . . addressed the second condition by explaining that no evidence exists concerning whether the financial ratios otherwise accounted for the B&H costs of imports" in the Issues and Decision Memorandum.)
[109] See Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 18th Antidumping Duty Administrative Review; 2011-2012, 79 FR 36271 (June 30, 2014) (Fresh Garlic), and accompanying Issues and Decisions Memorandum; see also Policy Bulletin Number 10.2 Re: Inclusion of International Freight Costs When Import Prices Constitute Normal Value (Nov. 1, 2010) (Policy Bulletin 10.2), available at http://enforcement.trade.gov/policy/PB-10.2.pdf.
[110] See Policy Bulletin 10.2.

that includes adding a surrogate B&H value to SSV's imports of regular J55 because the record contains no evidence that SSV's ME purchase prices of this input included B&H.

7. Whether Brokerage and Handling Costs Increase Proportionately with the Weight of the Shipment

Background

When calculating the B&H surrogate values of both exports of OCTG and imports of HRC in the preliminary and final determinations of the LTFV investigation, we used B&H data from Doing Business, which assumed a sample shipment of subject merchandise which weighed ten metric tons (MT).[111] Therefore, to establish a surrogate value per metric ton, we divided the total cost of B&H provided in Doing Business by ten. SSV has argued that in these calculations the Department made an assumption that the cost of B&H would increase proportionally by weight, and that this logic was flawed.

We detailed our use of this method in the Final Determination by explaining that when calculating a per-unit surrogate value for B&H, dividing the total B&H costs by the assumed container weight of ten MT was necessary to avoid a distorted result.[112] While the Court acknowledges this explanation, it found the explanation insufficient. The Court expanded to say that "{a}lthough helpful to resolving challenges to the standard container weight it uses when calculating unit value, this explanation appears to shed no light on why Commerce assumed that the B&H costs for SSV increased proportionately for the weight of the product."[113] Accordingly, it ordered that Commerce thoroughly explain its finding that B&H costs increase proportionately with the weight of a shipment.[114]

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[111] See Preliminary Determination, and accompanying Preliminary Decision Memorandum, at 13; see also Final Determination, and accompanying Issues and Decision Memorandum at Comment 1.
[112] See Final Determination, and accompanying Issues and Decision Memorandum, at Comment 1.
[113] See SeAH Remand Order, at 41.
[114] Id., at 43.

Analysis

In accordance with the Court's remand instructions, we provide additional explanation of our application of a per-unit B&H surrogate value and our determination that B&H costs increase proportionately with the weight of the shipment.

SSV has argued that the calculation methodology used in our final determination is inconsistent with our remand redetermination in CS Wind,[115] where the CIT remanded to the Department for further explanation its assumption that B&H costs would increase proportionately with the weight of the shipment.[116] In the Department's redetermination on the CS Wind remand, the Department recalculated the B&H surrogate value using the weight of the shipment, rather than the weight of the container, but only because of the "unique size and characteristics of the product at issue."[117]

However, we find that the instant case is distinguished from CS Wind in that the record of this proceeding contains evidence that SSV's B&H costs can increase proportionately with the weight of the shipment. In a freight forwarding contract from one of SSV's freight forwarders, which SSV submitted to the record of the investigation,[118] the contract prices are shown on both a [ ] and a [ ] basis. These contract prices specifically include [

], all of which we would associate with B&H charges because they constitute "customs clearance and technical control" and "ports and terminal handling," which are included in Doing Business as B&H charges.[119] Based on SSV's freight forwarding contract, the stated prices are

[115] CS Wind Vietnam Co., Ltd. v. United States, Court No. 13-00102 (CIT) (March 27, 2014) (CS Wind).
[116] Id.
[117] See Wind Towers Redetermination on Remand, at 36.
[118] See SSV's January 9, 2014 Submission, Exhibit SC-5.
[119] See Surrogate Values Source Documents Memorandum, Exhibit 4, at 2.

available on a [ ] basis, which means that the B&H charges in the contract would also be applied on a [ ] basis. Thus, the information provided by SSV in this investigation shows that its B&H charges could increase proportionately with the weight of the shipment. As a result, we have continued calculating the surrogate value for B&H by dividing the charges listed in Doing Business by the assumed container weight of 10 MT.

D. DISCUSSION OF INTERESTED PARTIES' COMMENTS SUBSEQUENT TO DRAFT REDETERMINATION

On December 9, 2016, the Department issued a Draft Remand Redetermination (Draft Redetermination) to parties for comment.[120] On January 23rd, both SSV and Petitioner submitted comments on the Draft Redetermination. The comments of each parties and our responses are discussed below.[121]

Comment 1: Valuation of Hot-Rolled Coil

Petitioner Comments

Petitioners argue that the Department erred in its selection of the surrogate values for upgradable J55-H hot-rolled coil and high-chromium hot-rolled coil.

With respect to upgradable J55-H, Petitioner argues the Department's determination to value this input using a surrogate value is contrary to its well-established practice of valuing inputs purchased from ME source with ME currencies by using the prices paid by the

[120] See Letter from Erin Kearney to Interested Parties, Re: Draft Remand Redetermination in the Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam, dated December 9, 2016 (Draft Redetermination).

[121] See Letter from SSV to the Secretary of Commerce, Re: Remand Proceeding in SeAH Steel VINA Corp. v. United States (Court No. 14-00224) – Comments on Draft Redetermination, dated January 23, 2017 (SeAH Draft Redetermination Comments); Letter from Petitioner to the Secretary of Commerce, Re: Comments on the Draft Remand Redetermination in Certain Oil Country Tubular Goods from Vietnam Pursuant to SeAH Steel VINA Corporation v. United States, U.S. Court of International Trade Consolidated Court No. 14-224, Slip Op. 16-82, dated January 23, 2017 (Petitioner Draft Redetermination Comments).

respondents for such inputs. Furthermore, Petitioner contends there is no valid reason for the Department to deviate from this practice.

Moreover, Petitioner argues that relying on Indian import data under HTS 7208.37.00 ignores the fact that there are price differences between regular J55 hot-rolled coil and upgradable J55-H hot-rolled coil. Specifically, Petitioner states that the price of J55-H is [ ] than that of regular J55, and that SSV conceded this point during the investigation.[122] Petitioner states that SSV supported this statement by means of invoices showing the prices paid for purchases of the two types of coil during the same month. Petitioner states that these invoices show that J55-H coil had an overall [ ] percent [ ] price than regular J55 coil.

Furthermore, Petitioner states that the differences between regular and upgradable J55 hot-rolled coil were also reflected in the prices that SSV's U.S. sales affiliate charged its customers for OCTG made from each of the two types of coil. Petitioners cite two examples:

• [

].[123]

• The average net price that SSV charged for J55-grade OCTG was [ ], whereas the average net price that it charged for L80-grade OCTG made with upgradable J-55 hot-rolled coil was [ ].[124]

[122] See Petitioner's Remand Redetermination Comments at 6, citing SSV's February 5, 2014 Submission, at 10-11.
[123] Id., at 7, citing SSV's January 9, 2014 Submission, Exhibit SA-7.
[124] Id., citing SSV's February 5, 2014 Submission U.S. sales database.

Moreover, Petitioner argues that by using a surrogate value to value J55-H, the Department violated its stated intent to "have a valuation that is more specific to the input which is likely, in tum, to lead to a more accurate calculation of normal value."[125]

Petitioner states that by using Indian import data that encompass both regular J55 and J55-H, the Department used data that were less specific to the input than the ME purchase price of the coil. Furthermore, Petitioner states, the Department's methodology also leads to a surrogate value for J55-H (i.e., $[ ] that is [ ] than the purchase price of regular J55 hot-rolled coil (i.e., [ ]), which violates the facts of the purchase price cited above.

Petitioner states, therefore, that the Department's valuation of J55-H hot-rolled coil is inconsistent with its established practice with respect to purchases of inputs from ME sources, ignores the price differences between regular and upgradable hot-rolled coil, and leads to an inaccurate calculation of normal value. Accordingly, Petitioner concludes, in its final remand redetermination the Department should value SSV's upgradable J55-H hot-rolled coil using the price that it paid to its ME suppliers and also account for the brokerage and handling expenses that SSV incurred for its purchases.

With respect to high-chromium hot-rolled coil, Petitioner argues the Department erred in using the AUV derived from HTS 7225.30.90 as the surrogate value. Petitioner argues that this HTS number is not an appropriate basis for a surrogate value because data on the record show that the AUV derived from the HTS number is aberrational when compared to other benchmark prices on the record. As support, Petitioner cites to the import data it placed on the record for HTS 7225.30.90 from Indonesia, Korea, Mexico, the Philippines, and Thailand.

[125] Id., citing the Draft Redetermination at 9.

In the Draft Redetermination, the Department stated that because either these five countries are not economically comparable to Vietnam, or the data derived from them are not contemporaneous with the POI, the data "do not compel the conclusion that the import data for India (which is economically comparable to Vietnam) for this HTS are aberrational." In reply to this statement, Petitioner states that the Department has relied on benchmark prices from countries that are not economically comparable to the subject merchandise in prior proceedings,[126] and there is no reason for it not to do so here. With respect to the one country whose data post-date the POI, Petitioner states that the fact that it post-dates the POI by six months does not render it irrelevant or unusable as a benchmark.

Therefore, Petitioner states that because the Indian imports of hot-rolled coil under HTS 7225.30.90 are not an appropriate basis for valuing high-chromium hot-rolled coil used by SSV, the Department should value high-chromium hot-rolled coil using either: (i) the AUV for Indian imports under HTS 7225.30.90, which are publicly available, specific to the input in question, and are from the primary surrogate country selected by the Department; or (ii) the average of the AUVs of imports of alloy hot-rolled coil with a width greater than 600 mm for the other five countries that are on the record, which are publicly available, specific to the input in question, and reflect a broad average of import data that ensure that the value is not distorted or aberrational.

[126] Id., at 11, citing Olympia, 36 F.Supp. 2d at 416.

SSV Comments

With respect to the valuation of J55-H coil, SSV argues that record evidence shows that it paid the same price for the J55-H coil that it used during the POI that it paid for regular J55. Specifically, record evidence shows that in September SSV paid the same ME price to purchase J55-H coil as J55 coil. Thus, SSV argues, because the higher carbon content of the J55-H coil does not affect the price of the steel coil, there is no justification for the Department to assign a value to J55-H coil that differs from the value it assigned to the lower-carbon J55 coils that SSV purchased from ME suppliers.

With respect to J55 Plus Cr coil, SSV states that the high chromium content of this coil had no impact on the characteristics of the OCTG produced from those coils. Furthermore, it states that its purchasing manager purchased those coils only because Chinese supplies offered them at a price that was competitive with the price for lower-chromium coils, and the higher chromium content did not prevent SSV from using the coils in the production of OCTG. Thus, SSV argues, this case is distinguishable from other cases in which a purchaser seeks inputs with specific chemical characteristics because those characteristics provide efficiencies in the production process or because those characteristics permit the producer to manufacture a finished product with specific qualities. Thus, SSV states, the J55 Plus Cr coils were held in the same inventory and used interchangeably in production with the regular J55 coils.

SSV notes that in the Draft Redetermination, the Department cited past decisions in cases in which a producer purchased various inputs with different characteristics. SSV states that in all of those cases the differing characteristics of the inputs affected the production process or end product that could be manufactured. SSV states that the Department did not cite a single case in which it assigned different values to inputs that were functionally identical. SSV states that

because the evidence in this case confirms that there is no functional difference between J55 Plus Cr and J55 coils with lower chromium content, there is no basis for the Department to treat them as different inputs that have to be assigned different values.

Furthermore, SSV argues that because the additional chromium in J55 Plus Cr coil provided no benefit to SSV's OCTG production, SSV would not have paid a ME supplier a price higher than it would pay for J55 coil with lower chromium. Thus, SSV argues, the Department cannot properly take into account the additional chromium content when identifying the value of the material inputs for OCTG production in a ME country.

Department Position

We disagree with both Petitioner's and SSV's arguments on this issue. As a preliminary matter, the Department did not err in applying surrogate values to SSV's J55-H and J55 Plus Cr coil.

With respect to the valuation of J55-H coil, we do not agree with Petitioner that the Department violated a longstanding policy by not valuing the input with ME purchase prices. While we agree that the Department normally values an input with a respondent's ME purchase prices when appropriate ME prices relating to purchases made during the POI are available, we note that in this case, SSV's ME purchases of J55-H coil were made prior to the POI. It is not the Department's practice to value inputs using ME prices derived from a period prior to the POI, and Petitioner has cited to no cases in which the Department has done so.

With respect to the cost and selling prices, we find that the information allegedly showing the price of J55-H coil to be higher during the POI is inapposite because it does not reflect ME prices paid by SSV. Rather, it reflects prices paid by SSV's parent company in Korea to a

Korean supplier.[127] Such prices are not reliable for determining the prices that would have been paid by SSV during the POI. Furthermore, we do not consider the selling prices at which SSV's U.S. affiliate sold OCTG made from upgradeable coil to be compelling evidence in support of Petitioner's claims because selling prices are determined by various factors, only one of which is the cost of inputs (e.g., fluctuating market conditions, negotiating skill, customer relationship).

Despite Petitioner's argument that the HTS category used to value J55-H coil may contain types of coil other than J55-H, we continue to find that the data within this HTS category is the most specific to the input being valued and is, therefore, the best information on the record for valuing this input.

With respect to J55 Plus Cr, we disagree with Petitioner that we should value this input using either HTS 7226.91.00[128] or the average of the data from the five countries with import data on the record for coil with a width greater than 600 mm.[129] Petitioner's argument that the data within HTS 7225.30.90 is aberrational is unconvincing because the data Petitioner cites to support its argument are either from countries not found to be economically comparable to Vietnam or that post-date the POI. As indicated above, Petitioner argues that the Department has previously used countries not economically comparable to the country at issue in making "aberrational" determinations, but cites only one such instance, i.e., Olympia.[130] However, in the proceeding underlying Olympia, the Department reached its determination based on analysis of data from two countries, one of which was economically comparable, and one of which was economically non-comparable.[131] Thus, Olympia differs from the instant case in that here, the

[127] See SSV's February 5, 2014 Submission, at 10-11.
[128] See Petitioner Draft Redetermination Comments, at 9
[129] Id., at 12.
[130] Id., at 9-10, citing Olympia Industrial, Inc. v. United States,36 F. Supp. 2d 414, 416 (Ct. Int'l trade 1999)..
[131] See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews, 60 FR 49251, 49254 (September 22, 1995).

record contains no evidence from any economically comparable country that the data at issue are aberrational, other than the data from the Philippines, which post-date the POI. Furthermore, in cases more recent than Olympia, the Department has stated that it does not make determinations regarding aberrational data using data from countries not economically comparable to the country being analyzed. Thus, in Xanthan Gum from the PRC, for example, the Department stated, "{t}he Department's practice for determining whether an SV is aberrational is to compare it with the data for the input at issue from the other countries found by the Department to be equally economically comparable to the PRC."[132]

Although Petitioner asserts that the fact that the Philippine data post-date the POI by six months do not render them irrelevant or unusable as benchmarks, Petitioner provides no argument to support its assertion. The Department must use the best available information pursuant to section 773(c)(1) of the Act, and to that end, it is our preference to use contemporaneous data in selecting a surrogate value. The data we selected is contemporaneous with the POI and the data the Petitioner offers is non-contemporaneous. Our practice of considering contemporaneity as a factor has been has been upheld by the CIT in Shakeproof Assembly, and affirmed as reasonable by the CAFC in Home Meridian International, Inc.[133] Because the Philippine data post-dates the POI, we do not find they support a determination that Indian HTS 7225.30.90 was aberrational during the POI.

[132] See Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013) (Xanthan Gum from the PRC), and accompanying Issues and Decision Memorandum at Comment 16A. See also Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 80 FR 18816 (April 8, 2015), and accompanying Issues and Decision Memorandum, at Comment 2.

[133] See Shakeproof Assembly v. United States, 30 CIT 1173, 1180 (Aug. 24, 2006) ("Commerce may properly differentiate between two otherwise reliable and representative surrogate values on the basis of contemporaneity"); Home Meridian International, Inc. v. United States, 772 F. 3d 1289, 1294 (Fed. Cir. 2014) ("Thus, no regulation or statute imposes a strict requirement on Commerce to use non-contemporaneous market economy purchases rather than contemporaneous surrogate values, or vice versa, in valuing inputs for the calculation of a dumping margin. Commerce, instead, must only determine what set of data represents the "best available information.")

With respect to SSV's arguments, we do not agree that the Department erred in separately valuing each of the three types of hot-rolled coil using different surrogate values for each type of coil. As stated above, in Pure Magnesium from the PRC, the Department said that it "prefers to rely on data that are specific to the input being valued."[134] Because the three types of coil at issue here have different properties and chemical content, we find that it is most appropriate to value each input with a surrogate value specific to that input. SSV argues that the Department has not cited cases where it has separately valued inputs that were functionally identical. However, we note that has SSV did not provide any cases where the Department has previously valued inputs with different physical properties using a single surrogate value on the basis that the various inputs were functionally identical. Instead, the cases cited above illustrate that the Department has valued inputs with different physical properties using different surrogate values because it prefers to rely on data that are specific to the input.

Finally, we disagree with SSV's argument that because it would not have paid an ME supplier a higher price for J55 with a higher chromium content we cannot take into account the additional chromium content when selecting an appropriate surrogate value. A company's decision to purchase a particular input might be influenced by reasons other than price (e.g., research and development). Our objective is to find a surrogate value that is, inter alia, specific to the input being valued. As explained above, because J55 Plus Cr is an alloy steel, we determine that the most appropriate surrogate value is a value for an alloy steel. Thus, we continue to find that HTS 7225.30.90 is the most appropriate source for valuing SSV's J55 Plus Cr.

Comment 2: Domestic Inland Insurance

SSV Comments

[134] See Pure Magnesium from the PRC, at Comment 7.

SSV disagrees with the Department's decision in the Draft Redetermination to include a surrogate value for domestic inland insurance. SSV argues that the CIT did not order the Department to identify record evidence regarding trucking companies' practices, but, rather, directed the Department to explain why it concluded that: (1) trucking companies normally bear the risk of loss; and (2) SSV did not have an insurance contract with its trucking company.[135] SSV asserts that while the CIT permitted the Department to reverse course from the Final Determination, the Department cannot do so without sound explanation. As such, SSV maintains the Department's decision in the Draft Redetermination cannot be sustained.

According to SSV, the principle that freight carriers "commonly bear the risk of loss" was established long ago in English common law[136] and then in U.S. law,[137] where it remains in effect today.[138] SSV argues that before the Department can add a fee for inland insurance, the Department must find, based on record evidence, that Indian trucking companies are not liable for loss or damage to the goods they transport. SSV contends there is no evidence to support this claim. SSV asserts that under Indian law, which derives its principles from English common law, the common carrier bears the risk of loss, not the owner of the goods.[139] In addition, SSV claims, the record contains information on whether Indian OCTG producers insure shipments from the plant to the port of exportation. Specifically, SSV argues, the record shows that neither of the mandatory respondents in the investigation of OCTG from India reported separate domestic inland insurance expenses in their U.S. sales listings, and one respondent clearly stated

[135] See SSV's Remand Redetermination Comments, at 2, citing SeAH Remand Order, at 19 and 42.
[136] Id., at 3-4, citing Edward Coke, The First Part of the Institutes of the Laws of England, Or, a Commentary upon Littleton, 89a (commenting on Littleton Section123) and Coggs v. Bernard, 2 Ld. Raym. 909, 917-918 (King's Bench 1703).
[137] Id., at 4, citing United States v. Prescott, 44 U.S. 578 (1845).
[138] Id., citing Ward v. Allied Van Lines Inc., 231 F.3d 135 (4th Cir. 2000).
[139] Id., citing Indian court decisions and statutes.

that it does not insure goods transported from the factory to the port of exportation.[140]

Regarding the existence of an insurance contract, SSV argues that it reported in its section C questionnaire response that it did not incur any additional expenses for insuring the goods against damage from its plant to the port of exportation, and that there is no record evidence to contradict its response.[141] According to SSV, Petitioner incorrectly interprets the contract between SSV and the freight forwarder as including inland insurance. SSV claims the relevant portions of the contract state that the freight forwarder (1) is fully responsible for any losses during transport, and (2) is not permitted to charge SSV additional amounts for "fees for cargo safety."[142] SSV asserts the contract does not require the freight forwarder to obtain insurance for the shipments or to designate SSV as the beneficiary of any insurance coverage. Contrary to Petitioner's claim that the phrase "fees for cargo safety" must refer to insurance premiums paid by the freight forwarder on SSV's behalf, SSV maintains this phrase more likely refers to fees paid by the forwarder for port security services or to certify the goods were non-hazardous.[143]

Finally, SSV argues that if the Department determines to include a surrogate value for domestic inland insurance, due process requires that the Department provide SSV with an opportunity to submit supplemental information concerning inland insurance surrogate values.

Department Position

As stated in the Draft Redetermination, we reviewed the record in this remand redetermination and found that the record does not contain any information to corroborate the

[140] Id., at 5, citing SSV's January 27, 2014 Submission, at Attachments 2-C and 2-D.
[141] Id., at 6, citing SSV's October 30, 2013 Submission, at 28.
[142] Id., at 6-7, citing SSV's January 9, 2014 Submission, Exhibit SC-5, at 2.
[143] Id., at 7, citing Reply Br. in Supp. of Pl. U.S. Steel Corp.'s Mot. for J. on the Agency R. under Rule 56.2 (Petitioner's Reply Brief), dated October 5, 2015, at 16-17.

Department's finding in the Final Determination that trucking companies commonly bear the risk of loss. The Department is not persuaded by SSV's assertion that it is a basic principle of Indian law that freight forwarders "commonly bear the risk of loss," because there is no record evidence to substantiate this claim. Similarly, regarding SSV's assertion that information from the LTFV investigation of OCTG from India shows the respondents in that case did not report domestic inland insurance expenses in their U.S. databases or incur such expenses, we find SSV's assertion is insufficient to determine that freight forwarders "commonly bear the risk of loss" in India.

However, upon further review of the record of the LTFV investigation, we found that the contract between SSV and its freight forwarder contains a provision for protecting SSV's goods during transport. In particular, [ ] contains a broad provision which specifies that [

].[144] Because [ ] of the freight contract refers to [

], we find that this provision, as written, functions as an insurance contract. Thus, we determine that record evidence supports a finding that the freight contract between SSV and [

] is inclusive of an insurance contract.

In addition, because we find that the aforementioned clause in [ ] of the service contract between SSV and the freight forwarder operates as an insurance contract, we continue to determine, as we did in the Draft Redetermination, that the record of the LTFV investigation does not substantiate the Department's conclusion in the Final Determination that SSV did not have an insurance contract with its trucking company. While SSV argues that the [ ]

[144] See SSV's January 9, 2014 Submission, Exhibit SC-5, at 2.

contains language which indicates the freight forwarder is fully responsible for any losses during transport, we find that, as noted above, the reference to [

] in [ ] shows that the contract between SSV and [ ] functions as an insurance contract in addition to a freight contract. As for SSV's claims regarding the phrase "fees for cargo safety," we find that the record does not provide any evidence in support of SSV's claim that these fees likely refer to port security services or to non-hazardous certifications.

Accordingly, because the Department finds that the contract between [ ] and SSV is inclusive of an insurance contract, we determine that it is appropriate to include a surrogate value for domestic inland insurance for this remand redetermination. However, we disagree with SSV's assertion in its Remand Redetermination Comments that the Department should provide SSV with an opportunity in the context of this remand redetermination to submit surrogate value information for domestic inland insurance. Pursuant to 19 C.F.R. 351.301(c)(3), interested parties were afforded the opportunity to submit surrogate value information during the course of the LTFV investigation, and SSV could have chosen at that time, as did Petitioner, to submit surrogate value information for domestic inland insurance.

Because the record of the LTFV investigation contained surrogate value information to value domestic inland insurance, we find that it was not necessary to re-open the record in the context of this remand to provide interested parties an additional opportunity to submit surrogate value information to value domestic inland insurance. Consequently, we have continued to rely on the information that Petitioner provided during the LTFV investigation in its surrogate value comments to value SSV's domestic inland

insurance, i.e., the inland insurance information submitted by Agro Dutch Industries Limited in the 2004-2005 administrative review of certain preserved mushrooms from India.[145]

As explained above, while the record does not establish whether this source is tax exclusive or indicate whether it is representative of a broad market average, this information nonetheless conforms with certain relevant Department criteria for selecting surrogate values. Specifically, this source is publicly available and is specific to inland insurance in the surrogate country, and it is possible to make this source contemporaneous to the POI by using an inflator. Therefore, the Department continues to use this source to value SSV's domestic inland insurance for this remand redetermination.

Comment 3: Surrogate Financial Statements

Petitioner Arguments

Petitioner argues that the financial statements of Apollo are not appropriate for use in calculating surrogate financial ratios for the final redetermination because the record contains no evidence that Apollo or its subsidiary, Lloyds, produced OCTG during the 2012-2013 fiscal year, and because the Apollo financial statements reflect the receipt of subsidies previously found by the Department to be countervailable.

SSV Arguments

SSV argues that the financial statements of Bhushan are not appropriate for use in calculating surrogate financial ratios for the final redetermination because Bhushan operates at a different level of integration than does SSV, and because the financial statements of an OCTG producer with a similar level of integration as SSV (e.g., Apollo) are available for use.

[145] See Letter from Petitioner to the Honorable Penny S. Pritzker, Re: Oil Country Tubular Goods from Vietnam, dated January 22, 2014, at Tab J.

Department Position

For the draft redetermination, the Department relied on the financial statements of Apollo and Bhushan. For the final redetermination, we rely solely on the financial statements of Bhushan to calculate surrogate financial ratios.

Our change in position from the draft redetermination is based on our finding that there is no record evidence that either Apollo, or its subsidiary Lloyds, produced OCTG during the POI. With respect to Apollo, there is no information on the record that indicates that Apollo produces, or has ever produced, OCTG. With respect to Lloyds, while the record reflects that Lloyds is certified to produce OCTG,[146] there is no affirmative record evidence indicating that it actually produced OCTG during the POI. Our confidence that Lloyds' financial statement is an appropriate financial statement for our purposes is further diminished by the fact that Apollo's consolidated financial statement does not include an auditor's opinion for Lloyds' financial statement, nor does it disclose the name of the entity that audited Lloyds' financial statement.

Petitioner also argues that the Apollo financial statements reflect the receipt of subsidies previously found by the Department to be countervailable, *i.e.*, the Duty Entitlement Pass Book (DEPB) Scheme. While we agree that the Department has previously found the DEPB program to be countervailable, the Department found in Warmwater Shrimp from India that the DEPB program had been terminated and that the last date on which DEPB credits could be earned was September 30, 2011.[147] Therefore, we disagree with Petitioner that the Apollo financial statements show evidence of the receipt of subsidies that the Department currently considers to be countervailable.

[146] See Petitioner's January 27, 2014, submission at Exhibit G.
[147] See Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination, 78 FR 50385 (August 19, 2013) (Warmwater Shrimp from India), and accompanying Issues and Decision Memorandum at Comments 2-3.

With respect to SSV's argument that the Department should not use the Bhushan financial statements because Bhushan operates at a different level of integration than does SSV, we continue to find that the Bhushan financial statements are appropriate for use in valuing SSV's surrogate financial ratios because Bhushan produces identical merchandise. While we acknowledge that the Department has, in previous proceedings, declined to use the financial statements of producers with different production integration than the respondent, as noted above, the Department has also determined in the past to use surrogate financial statements of companies with differing integration levels when no superior option was available on the record.[148]

Based on the above analysis, we find that the Bhushan financial statements are the best information on the record for determining a surrogate financial ratio for SSV, in that Bhushan is a company that produces identical merchandise and its financial statements are publicly available and contemporaneous with the POI. We have therefore used the financial statements of Bhushan to calculate surrogate financial ratios in this redetermination on remand.

Comment 4: Yield Loss

Petitioner Arguments

Petitioner argues the Department's recalculation was erroneous. The Department stated in its draft redetermination that rather than using the calculated [ ] percent as the ratio by which to increase the usage rates, a more appropriate option was "to calculate {SSV's} usage rate is to use {the U.S. sales affiliate's} total sales volume of all subject merchandise as the

[148] See, e.g., Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum at Comment 13.

denominator, rather than only its sales volume of OCTG made from Grade J55-H steel."[149] In reply to this statement, Petitioner argues that although the record reflects only one sale of OCTG scrap by SSV's U.S. sales affiliate under account codes 51 A or 51A, there was clearly additional reject OCTG that was identified during the POI. For example:

- As of the [

  ].

- SSV maintained a [

  ]

  SSV had [

  ].

Petitioner asserts that SSV's sales of scrap under codes 50A and 51A do not represent the best information regarding the percentage of scrap that was generated from defective OCTG during the POI. Petitioner claims instead that the documentation obtained at verification regarding the sales of upgradable pipe constitute the best information available regarding the percentage of SSV's OCTG that was ultimately determined to be scrap.

Petitioner states that the Department dismissed the evidence of [

].[150] Petitioner argues that, to the extent that there is any uncertainty as to the [

], that uncertainty is the result of SSV's failure to disclose that there was a significant quantity of OCTG that was identified as defective upon inspection in the United States, and ultimately rejected. Thus, Petitioner argues, the Department should not assume that the [

[149] See Draft Redetermination, at 24-25.
[150] See Petitioner's Draft Redetermination Comments, at 23, citing the Draft Redetermination, at 26.

].

Furthermore, Petitioner also argues the Department erred in using the total quantity of SSV's U.S. sales of OCTG as the denominator in its calculation of the amount of unreported yield loss. Petitioner states that the only type of OCTG for which the Department had complete and accurate documentation regarding the quantity of OCTG that was rejected as defective was upgradable OCTG. This documentation showed that [

].[151] Thus, Petitioner argues, the appropriate denominator to use in the calculation of the percentage of OCTG that was identified as defective scrap was the total quantity of upgradable merchandise that was sold.

SSV Arguments

SSV did not provide comments on yield loss.

Department Position

As explained above, it is the Department's practice to adjust yield loss calculations where a respondent's calculation does not adequately account for yield losses. After consideration of Petitioner's comments, we continue to calculate SSV's yield loss adjustment as we did in the Draft Redetermination.

Petitioner bases its calculation of [ ] percent yield loss on:

- PPA's sale of [ ] pieces of scrap OCTG made from upgradeable J55-H coil sourced from SSV;
- Inventory records for [ ] that show that SSV's U.S. affiliate's inventory of scrap OCTG made from upgradable J55 OCTG produced by SSV came to approximately [ ] percent of its

[151] Id. at 24, citing PPA sales verification exhibit 29.

its inventory of upgradable J55 OCTG produced by SSV.

With respect to the inventory records, we do not find these data reliable for calculating a yield loss ratio because there is record evidence that SSV's U.S. affiliate sometimes repairs scrap OCTG and sells it as prime merchandise.[152] In fact, some of SSV's reported U.S. sales of OCTG were of product that was originally scrap and were later repaired. The only scrap that we know did not get repaired was the [ ] pieces of scrap made from upgradeable J55-H coil that PPA sold, and upon which the Department calculated its yield loss calculation in the Draft Redetermination.

With respect to the [ ] percent ratio that Petitioner calculates from the inventory records, that ratio is based solely on the use of upgradable J55 OCTG as the denominator of the calculation. Petitioners want us to apply that ratio to the entire universe of OCTG sales, including those not made from upgradeable J55, even though OCTG made from upgradeable J55 consisted of only [ ] percent of PPA's sales volume during the POI.

The Department learned of the yield losses with respect to upgradeable J55 at verification. In response to this fact, Petitioner (as explained above) would have us assume that some of the scrap recorded in [ ] contain SSV-sourced scrap. Since we have no information on the record regarding what yield loss (if any) PPA may have experienced with respect to the non-upgradeable J55, applying Petitioner's suggested ratio would have a significant effect on SSV's calculations. In essence, Petitioner advocates that the Department apply an adverse inference to SSV, pursuant to sections 776(a) and (b) of the Act in calculating a yield ratio.

[152] See Memorandum from Fred Baker to the File, "Verification of the Sales of Pusan Pipe America (PPA) in the Antidumping Investigation of Oil Country Tubular Goods (OCTG) from the Socialist Republic of Vietnam," dated May 30, 2014, at 11.

However, the Department did not request such precise information about PPA's [ ] prior to the verification, and at verification Department officials requested no such information from PPA or its affiliate regarding its yield loss for any forms of OCTG. We recognize that information on the record regarding the quantity of OCTG that was rejected as defective is incomplete.[153] However in light of the information which was not requested by the Department, the limited information on the record about PPA's actual yield loss with respect to all of its SSV-sourced OCTG, and the relatively small amount of PPA's OCTG actually made from upgradeable J55 during the POI, we determine that the yield loss ratio offered by Petitioner is not appropriate, and could potentially be highly inequitable.

Given that the yield loss calculation is to be applied to all forms of OCTG, we have determined that the most appropriate means of calculating SSV's yield loss is to use the entire universe of OCTG sales as the denominator. Thus, we have determined SSV's yield loss ratio by using the volume of known scrap sales in the numerator and the total universe of PPAs sales of SSV-sourced OCTG in the denominator.

[153] Id., at 20.

Comment 5: Brokerage and Handling

SSV Comments:

SSV claims that the Department's calculation of B&H costs is inconsistent with the evidence that was presented on the record and that there is no basis for including document preparation costs in the surrogate values of B&H for export or import costs. SSV disagrees with the Department's statement that SSV failed to prove that it had not used a "Foreign Exchange Control Form" for its OCTG exports or its hot-rolled coil imports. SSV disagrees with the Department's finding that that SSV did not use its opportunities to show that it did not use certain documents or that those documents were prepared internally, and claims that it did demonstrate and provide information to show that it did not use a Foreign Export Control Form for export sales.[154] It claims that the documents prepared in its questionnaire responses and at verification contained contracts with freight forwarders which performed the B&H services used by SSV. Preparation of the Foreign Export Control Form is not listed in these document submissions, which SSV claims as proof that no such document was used by SSV.

SSV disagrees with the Department's position that generic agreements between SSV and the freight forwarder established that the freight forwarder prepared documents connected to SSV's imports or exports. It disagrees that the contract between SSV and the freight forwarder "indicates that it performs documentation preparation work related to B&H."[155] SSV claims that responsibilities listed in the contract show the freight forwarder's role in ensuring customs clearance. SSV restates that documents submitted at verification demonstrate that SSV personnel were preparing documents for its exports. It further claims that, because the language is similar for the import and export agreements, the Department should logically conclude that

[154] See SSV's Redetermination Comments at 13.
[155] Id., at 15, citing Draft Redetermination.

SSV also did not require the freight forwarder to prepare documents for imports.[156] SSV notes that these agreements are nothing more than form agreements and that any ambiguity over whether the freight forwarder is or is not obligated to prepare documents should not result in the Department's conclusion that the freight forwarder did, in fact, prepare such documents.[157]

SSV claims that the addition of B&H services to the cost of imports is inconsistent with the Department's practice and normal accounting principles. It claims that the Department's questionnaire and supplemental questionnaires did not request any information regarding B&H fees, but rather that the issue of adding those fees to import purchases was first raised by Petitioner.[158] SSV states that the deadline for submitting new factual information did not allow SSV time to respond to Petitioner's comments on this matter. SSV asserts that, according to the WTO Antidumping Agreement, the Department may not penalize SSV for failing to provide information which was not requested.

SSV disagrees that it failed to show that the costs of document preparation were already captured in another category in the Department's calculations. It claims that the nature of the Department's calculations is that costs generated within a certain expense are included within that expense, rather than added in, as this would result in double-counting. SSV believes that the exclusion of "outward freight" and "selling and distribution costs" from the calculation of the surrogate financial ratios from Apollo and Bhushan's financial statements does not mean that double counting did not occur in the Department's calculations of SSV's B&H expenses. Rather, those costs are paid to outside suppliers, with Apollo and Bhushan's expenses in the purchases of the services, such as personnel and equipment, included in selling, general, and

[156] Id., at 16.
[157] Id., at 16.
[158] Id., at 17, citing U.S. Steel's January 31, 2014 Submission, at 12-14.

administrative expenses (SG&A). SSV claims that in the same way, the costs of their personnel who prepare documents is included in SG&A, and thus, double-counted when the Department adds the costs of B&H document preparation into the final calculation.[159]

SSV requests that the Department allocate B&H costs for imports and exports by the methodology used in CS Wind and Dupont-Teijin decisions.[160] SSV points out that the Department not only uses Doing Business to calculate B&H, but also uses actual expenses reported by Indian producers of OCTG and an international shipping company. SSV claims that compared to the figures presented by the Indian OCTG producer and the international shipping company, the costs of per-ton B&H as calculated by the Department are 7 to 13 times higher. SSV concludes that this shows unreasonable methodology by the Department which must be revised.[161]

SSV claims that the price lists it placed on the record shows that Indian suppliers price B&H costs differently, with document preparation and customs clearance charged by amount per transaction, and other associated B&H costs charged by amount per container.[162] It further claims that the Department does not point to any information on the record regarding the manner in which Indian suppliers of B&H set their prices. SSV provided price lists from a company that performed B&H services at numerous Indian ports which show flat rates for handling per bill of lading based on size and type of container, regardless of weight.[163] Therefore, none of the prices

[159] Id., at 20.
[160] Id., citing Utility Scale Wind Towers from the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony with the Final Determination of Less Than Fair Value Investigation and Notice of Amended Final Determination of Investigation, 80 FR 30211 (May 27, 2015), and Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Notice of Court Decision not in Harmony with Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision, 80 FR 13826 (March 17, 2015).
[161] Id., at 22.
[162] See SSV's case brief, "Comments on the Department's Preliminary Sales and Factors of Production Analysis," Vol. I, at 16 (June 6, 2014).
[163] Id.

on this list would be altered by the container weighing more or less than 10 tons.[164] SSV asserts that "the Department should calculate the cost per ton for document preparation by dividing the figures in the Doing Business report by the quantity of OCTG that corresponds to the container load."[165]

SSV claims that the Department's decision to calculate the per-ton cost for document preparation is based on the incorrect notion that SSV's B&H costs were assessed as an amount per-ton and could potentially increase as the weight of the shipment increased. It states that the agreement with the freight forwarder was done without discussions of the SSV's types of products, only that hundreds of ton per transaction would be expected, and that any costs for document preparation and customs clearance would be insignificant. It claims that this indicates that the freight forwarder did not charge SSV a separate amount for B&H as a whole, rather a flat rate per metric ton for a range of services, including customs clearance and security services.[166] It further claims that the Department cannot assume that a market economy provider would set B&H services pricing in the same way as an NME provider; SSV would not object to the actual amount charged by the supplier being used by the Department.

SSV also alleges that the Department made a ministerial error in its Draft Redetermination margin calculation program, and requests that the Department correct lines 529 and 534-35 of the program. It claims that these lines have the effect of adding the B&H fees to the average hot-rolled coil value.[167]

SSV asserts that there is no basis for the Department using Bhushan's data in the calculation of a surrogate financial ratio when there is data available from a producer of OCTG

[164] See SSV's Redetermination Comments, at 24.
[165] Id., at 25.
[166] Id., at 26.
[167] Id., at 28, citing the Draft Redetermination, at 39.

whose operations are more similar to SSV's. SSV claims that the Department should "reject the statements of surrogate producers whose production process is not comparable to the respondent's production process when better information is available."[168] SSV's argues that, according to Bhushan's website, only a small portion of Bhushan's overall operations include OCTG production and sales. Apollo, like SSV, has operations that consist solely of pipe-forming and galvanizing, and Apollo's financial statements would offer a better source for surrogate financial ratios.

Petitioner did not provide any comments on these aspects of B&H.

Department Position

We continue to find that the freight forwarding contract between SSV and [ ] that SSV placed on the record[169] shows that it is the responsibility of [ ] to [ ], and [ ].[170] Regardless of whether or not this is a generically generated contract, it is the contract on the record and there is nothing in this contract to indicate that SSV is supplying its own B&H services, contrary to what is stated in the contract. We continue to find that even if SSV did perform all the documentation preparation itself, the Department must assign a surrogate value to value those costs because they are not captured elsewhere in the calculations.

We disagree with SSV that the addition of B&H services to the cost of imports is inconsistent with the Department's practice and normal accounting principles. The

[168] Id., at 29, citing Certain Oil Country Tubular Goods from the People's Republic of China, 77 Fed. Reg. 74644 (December 17, 2012).
[169] See SSV's January 9, 2014 Submission, Exhibit SC-5.
[170] Id.

Department does not have an established practice of declining to add surrogate values for the B&H services used to import inputs. As discussed in Fresh Garlic, consistent with Prestressed Concrete, the Department "normally obtains import prices that include the international freight costs of shipping the product to the port of the importing country… However, when the import statistics of the surrogate country do not include such costs, the Department has added SVs for international freight and foreign brokerage and handling charges to the calculation of normal value."[171]

We continue to find that SSV's reliance on Fresh Garlic and Prestressed Concrete is misplaced, as both pertained to the application of a B&H surrogate value to the surrogate value of imported inputs. In this instance, the Department is adding a B&H surrogate value to the ME price of an imported input (i.e., SSV's regular J55 HRC), but is not adding a B&H surrogate value to SSV's inputs which the Department is valuing with surrogate values based on import statistics (including the remaining two of SSV's three HRC inputs). We find that this calculation is consistent with the Department's policy,[172] and fulfills the Department's directive to calculate an accurate dumping margin by valuing all costs associated with the respondent's production and sale of subject merchandise. In this case, that includes adding a surrogate B&H value to SSV's imports of regular J55 because the record contains no evidence that SSV's ME purchase prices of this input included B&H.

As discussed in the Draft Determination, the Department has a well-established history of using Doing Business when establishing surrogate values. That practice continued in the

[171] See Memorandum from Christian Marsh to Paul Piquado, Re: Issues and Decision Memorandum for the Final Results of Antidumping Administrative Review: Fresh Garlic from the People's Republic of China; 2011-2012 Administrative Review, dated June 23, 2014 (Fresh Garlic); see also Policy Bulletin 10.2, Re: Inclusion of International Freight Costs When Import Prices Constitute Normal Value (Nov. 1, 2010) (Policy Bulletin 10.2), http://enforcement.trade.gov/policy/PB-10.2.pdf.
[172] See Policy Bulletin 10.2.

Department's decision to apply B&H costs on a per metric ton basis. SSV has argued that in doing so the Department made a flawed assumption that the rate of B&H charges on imports and exports would increase proportionally by weight. We disagree. This was not an assumption made by the Department, but rather a conclusion drawn from contracts placed on the record which indicate the possibility of B&H increasing with weight.

As stated above, we find that the record of this proceeding contains evidence that SSV's B&H costs can increase proportionately with the weight of the shipment. In a freight forwarding contract from one of SSV's freight forwarders, which SSV submitted to the record of the investigation,[173] the contract prices are shown on both a [ ] and a [ ] basis. These contract prices specifically include [

], all of which we would associate with B&H charges because they constitute "customs clearance and technical control" and "ports and terminal handling," which are included in Doing Business as B&H charges.[174] Based on SSV's freight forwarding contract, the stated prices are available on a [ ] basis, which means that the B&H charges in the contract would also be applied on a [ ] basis. Accordingly, with respect to the price lists placed on the record by SSV pertaining to certain Indian suppliers, we find no evidence on the record supports the claim that SSV or other Vietnamese exporters charge document preparation and customs clearance by amount per transaction, and other associated B&H costs charged by amount per container.[175] Instead, the information provided by SSV in this investigation shows that its B&H charges could increase proportionately with the weight of the shipment. As a result, we have continued calculating the

[173] See SSV's SSV's January 9, 2014 Submission, Exhibit SC-5.
[174] See Surrogate Values Source Documents Memorandum, Exhibit 4, at 2.
[175] See SSV's January 17, 2014, submission at Attachment 7.

surrogate value for B&H by dividing the charges listed in Doing Business by the assumed container weight of 10 MT.

We also agree with SSV that we made a programing error in our Draft Remand Redetermination calculations. In the Draft Redetermination the Department stated "is not adding a B&H surrogate value to SSV's inputs which the Department is valuing with surrogate based on import statistics (including the remaining two of SSV's three HRC inputs)."[176] However, for the Draft Redetermination calculations, the Department included language that added B&H to the average hot-rolled coil value for both ME purchases and surrogate values. Therefore, we have removed the addition of B&H from the hot rolled coil calculation. The revised language reads as follows:

[ ]

[ ]

[ ]

E. FINAL RESULTS OF REDETERMINATION

Pursuant to the SeAH Remand Order, we have revised our calculations for these final results of redetermination in accordance with the findings discussed above. As a result, SSV's final margin has been revised to 72.25 percent.

4/28/2017

X Ronald K. Lorentzen

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

[176] See Draft Redetermination, at 39.