



A-570-941

ARP: 9/1/10 - 8/31/11

**Public Document**

IA/NME/9: KM

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Import Administration

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

**SUBJECT:** Decision Memorandum for Preliminary Results of Antidumping  
Duty Administrative Review: Certain Kitchen Appliance Shelving  
and Racks from the People's Republic of China

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## SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting the administrative review of the antidumping duty order on certain kitchen appliance shelving and racks from the People's Republic of China ("PRC") for the period of review ("POR") September 1, 2010, through August 31, 2011. The Department has preliminarily determined that New King Shan (Zhu Hai) Wire Co., Ltd. ("NKS") did not sell subject merchandise in the United States at prices below normal value ("NV").

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

## Background

On October 31, 2011, the Department initiated an administrative review of certain kitchen appliance shelving and racks from the PRC for the period September 1, 2010, through August 31, 2011.<sup>1</sup> On April 16, 2012, the Department published in the Federal Register a notice extending the time period for issuing the preliminary results by 120 days.<sup>2</sup>

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<sup>1</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 76 FR 67133 (October 31, 2011) ("Initiation").

<sup>2</sup> See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Extension of Time Limit for the Preliminary Results, 77 FR 22559 (April 16, 2012).

Additionally, Petitioners timely requested an administrative review for Hangzhou Dunli Import & Export Co., Ltd. (“Dunli”), and Guangdong Wireking Co., Ltd. (“Wireking”), companies which have a separate rate, and then timely withdrew their requests for review of the above-mentioned companies.<sup>3</sup> Petitioners were the only interested party that submitted a timely request for reviews of Dunli and Wireking.<sup>4</sup> On March 2, 2012, the Department rescinded this review, in part, with respect to Dunli and Wireking.<sup>5</sup>

### Respondent Selection

Section 777A(c)(1) of the Tariff Act of 1930, as amended (“the Act”), directs the Department to calculate an individual weighted-average dumping margin for each known exporter or producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted average dumping margin determinations because of the large number of exporters and producers involved in the review.

On October 31, 2012, the Department placed CBP data for the Harmonized Tariff Schedule (“HTS”) numbers listed in the scope of the order on the record of the review and requested comments on the data for use in respondent selection.<sup>6</sup> Petitioners<sup>7</sup> submitted comments on November 15, 2011 and NKS submitted comments on November 17, 2011. The Department received rebuttal comments from NKS and Guangdong Wireking Housewares & Hardware Co., Ltd. (“Wireking”) on November 21, 2011. Based on CBP data the Department sent its antidumping duty questionnaire to Jiangsu Weixi Group, Co. (“Weixi”) on November 17, 2011.<sup>8</sup> On December 9, 2011, the Department received a timely filed voluntary response to Section A of the questionnaire from NKS. The Department selected NKS as an additional mandatory respondent as they demonstrated that they also had entries which were not included in the initial CBP data run.<sup>9</sup> Weixi submitted a response to the Department’s Section A questionnaire on December 16, 2012, and submitted an additional “no shipments” certification on December 25,

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<sup>3</sup> See Letter to the Department from Petitioners, Re: Withdrawal of Requests for Second Administrative Review of the Antidumping Duty Order, dated January 10, 2012, and Letter to the Department from Petitioners, Re: Withdrawal of Requests for Second Administrative Review of the Antidumping Duty Order, dated January 30, 2012.

<sup>4</sup> Although Wireking initially requested a review of itself, its request was rejected by the Department because it lacked the proper certifications and was not re-filed by Wireking. See Letter to Wireking from Catherine Bertrand, Program Manager, Office 9, Re: Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China, dated October 14, 2011.

<sup>5</sup> See Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Partial Rescission of Antidumping Duty Administrative Review, 77 FR 12811 (March 2, 2012).

<sup>6</sup> See Memorandum to The File, from Katie Marksberry, International Trade Specialist, Office 9, Re: Release of Customs and Border Protection (“CBP”) Data, dated October 31, 2011.

<sup>7</sup> Nashville Wire Products Inc. and SSW Holding Company, Inc. (collectively, “Petitioners”)

<sup>8</sup> See Letter to Weixi from Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, Re: Kitchen Appliance Shelving and Racks from the People’s Republic of China, dated November 17, 2011.

<sup>9</sup> See Memorandum to James C. Doyle, Director, Office 9, AD/CVD Operations, through Catherine Bertrand, Program Manager, Office 9, AD/CVD Operations, from Katie Marksberry, International Trade Compliance Analyst, AD/CVD Operations, Office 9, Re: Antidumping Duty Review of Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Selection of an Additional Mandatory Respondent, dated December 21, 2011.

2012. However, as explained elsewhere in this notice, Petitioners withdrew their review request for Weixi and no other interested party requested a review of Weixi.

### Scope of the Order

The scope of this order consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens (“certain kitchen appliance shelving and racks” or “the merchandise under order”). Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and subframes (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

- shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or
- baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or
- side racks from 6 inches by 8 inches by 0.1 inch to 16 inches by 30 inches by 4 inches; or
- subframes from 6 inches by 10 inches by 0.1 inch to 28 inches by 34 inches by 6 inches.

The merchandise under this order is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.2 inch. The merchandise under this order may be coated or uncoated and may be formed and/or welded. Excluded from the scope of this order is shelving in which the support surface is glass.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) statistical reporting numbers 8418.99.8050, 8418.99.8060, 7321.90.5000, 7321.90.6090, 8516.90.8000, 8516.90.8010, 7321.90.6040, and 8419.90.9520. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

## DISCUSSION OF THE METHODOLOGY

### Separate Rates

Pursuant to section 771(18)(C) of the Act, a designation of a country as a nonmarket economy (“NME”) remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and,

thus, should be assessed a single antidumping duty rate.<sup>10</sup> In the Initiation, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.<sup>11</sup> It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers,<sup>12</sup> as amplified by Silicon Carbide.<sup>13</sup> However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME"), then a separate rate analysis is not necessary to determine whether it is independent from government control.<sup>14</sup> In this review, NKS is the only company under review. The Department received a completed response to the Section A portion of the NME antidumping questionnaire from NKS, which contained information pertaining to its eligibility for a separate rate.<sup>15</sup>

We have considered whether NKS is eligible for a separate rate. In its Section A response, NKS reported that it is wholly-owned by individuals or companies located in an ME country.<sup>16</sup> Therefore, because it is wholly foreign-owned, and we have no evidence indicating that it is under the control of the PRC, a separate rate analysis is not necessary to determine whether this company is independent from government control.<sup>17</sup> Accordingly, we have preliminarily granted a separate rate to NKS.

### Non-Market Economy Country

The Department considers the PRC to be an NME country.<sup>18</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall

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<sup>10</sup> See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079, 53082 (September 8, 2006); Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China, 71 FR 29303, 29307 (May 22, 2006).

<sup>11</sup> See Initiation, 76 FR at 67133-34.

<sup>12</sup> See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) ("Sparklers").

<sup>13</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China, 59 FR 22585 (May 2, 1994). ("Silicon Carbide").

<sup>14</sup> See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007) ("Wax Candles from the PRC").

<sup>15</sup> See NKS Voluntary Response to Section A, dated December 9, 2011 ("NKS Section A").

<sup>16</sup> See NKS Section A at 2.

<sup>17</sup> See, e.g., Wax Candles from the PRC, 72 FR at 52356.

<sup>18</sup> See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results, 76 FR 62765, 62767-68 (October 11, 2011) ("KASR from the PRC 1<sup>st</sup> Review Preliminary Results"), unchanged in Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review, 77 FR 21734 (April 11, 2012) ("KASR from the PRC 1<sup>st</sup> Review Final Results").

remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

### Surrogate Country and Surrogate Value Data

On December 15, 2011, the Department sent interested parties a letter inviting comments on surrogate country selection and surrogate value (“SV”) data.<sup>19</sup> On February 15, 2012, Petitioners submitted surrogate country comments and on February 17, 2012, NKS submitted surrogate country comments.<sup>20</sup> On February 24, 2012, Petitioners submitted rebuttal comments.<sup>21</sup> On April 2, 2012, Petitioners submitted SV comments.<sup>22</sup>

### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer’s factors of production (“FOP”), valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.<sup>23</sup> The Department determined that Colombia, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine are countries whose per capita gross national incomes (“GNI”) are comparable to the PRC in terms of economic development.<sup>24</sup> The sources of the SVs we have used in this investigation are discussed under the “Normal Value” section below.

Petitioners submit that for purposes of the Department’s selection of an appropriate surrogate, Thailand is a significant producer of comparable merchandise with publicly available data with which to obtain surrogate values. Citing to a recently completed antidumping duty investigation of galvanized steel wire from the PRC,<sup>25</sup> Petitioners also note that Thailand provides readily available data for the primary inputs used to produce subject merchandise. Therefore, Petitioners propose Thailand as an appropriate primary surrogate country for this review.

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<sup>19</sup> See the Department’s Letter to All Interested Parties, Re: the Second Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments, dated December 15, 2011 (“Surrogate Country and Values Memo”).

<sup>20</sup> See Letter to the Department from Petitioners, Re: Surrogate Market Selection, dated February 15, 2012, and Letter to the Department from NKS, Re: Comments on Surrogate Country Selection, dated February 17, 2012.

<sup>21</sup> See Letter to the Department from Petitioners, Re: Rebuttal of Surrogate Country Selection Comments by NKS, dated February 24, 2012.

<sup>22</sup> See Letter to the Department from Petitioners, Re: Surrogate Values, dated April 2, 2012.

<sup>23</sup> See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (“Policy Bulletin”).

<sup>24</sup> See Surrogate Country and Values Memo.

<sup>25</sup> See Galvanized Steel Wire From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 17430 (March 26, 2012) (“GSW from the PRC Final Determination”), and accompanying Issues and Decision Memorandum at Comment 4.

NKS proposes that the Department should select India as the surrogate country in this review because India is economically comparable to the PRC, the Department had selected India in the immediately preceding administrative review and in numerous recent antidumping reviews, and because it is a producer of comparable merchandise.<sup>26</sup> In rebuttal, Petitioners argue that NKS' suggestion to select India as the surrogate country is flawed because India's GNI is markedly divergent from the PRC's and no longer economically comparable to the PRC with respect to GNI, which is why the Department did not identify India as a country at a comparable level of economic development in the Surrogate Country and Values Memo. Petitioners further argue that NKS also introduced arguments supporting the selection of India using extraneous factors such as unemployment levels, investment level, industrial production growth rate and household income distribution, which, Petitioners contend, are unrelated to the Department's reliance on GNI to gauge economic comparability. Further, Petitioners also rebut NKS' argument that Thailand is not an appropriate surrogate country because financial statements might not be in English and do not contain sufficient detail to permit the calculation of ratios. Petitioners argue that the use of Thai financial statements in the recent galvanized steel wire investigation undermines NKS's argument.

### Economic Comparability

As explained in our Surrogate Country and Values Memo, the Department considers Colombia, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine all comparable to the PRC in terms of economic development.<sup>27</sup> Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data or are unsuitable for use for other reasons, we will rely on data from one of these countries.<sup>28</sup> Therefore, we consider all seven countries identified in the Surrogate Country and Values Memo as having met this prong of the surrogate country selection criteria. India's omission from the Surrogate Country List denotes that it has not met this prong of the surrogate country selection criteria. Consequently, we will not consider India as an appropriate surrogate country at this time.<sup>29</sup> Additionally, although NKS has argued that the Department should use factors other than GNI to determine economic comparability, it is the Department's long-standing practice to use per capita GNI, because per capita GNI is reported across almost all countries by an authoritative

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<sup>26</sup> Citing, e.g. Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review and Rescission of Administrative Review, In Part, 77 FR 2271 (January 17, 2012).; see also Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 76 FR 70957 (November 16, 2011).

<sup>27</sup> See Surrogate Country and Values Memo.

<sup>28</sup> See Certain Steel Wheels From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination, 76 FR 67703, 67708 (November 2, 2011) ("Steel Wheel from the PRC Preliminary Determination"), unchanged in Certain Steel Wheels From the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances, 77 FR 17021, March 23, 2012 ("Steel Wheels from the PRC Final Determination").

<sup>29</sup> In a recently completed investigation, an interested party also suggested India as a surrogate country, despite India's absence from the list of potential surrogate countries in that proceeding. The Department did not consider India as an appropriate surrogate country. See Steel Wheels from the PRC Preliminary Determination, 76 FR at 67708, unchanged in Steel Wheels from the PRC Final Determination.

source (the World Bank), and because the Department finds that the per capita GNI represents the single best measure of a country's level of total income and thus level of economic development.<sup>30</sup> Further, we note that in all of the cases which NKS cited as examples of recent determinations in which the Department selected India as the surrogate country, India was included in the list of potential surrogate countries.<sup>31</sup>

### Significant Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."<sup>32</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>33</sup> Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.<sup>34</sup> "In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced. How the Department does this depends on the subject merchandise."<sup>35</sup> In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.<sup>36</sup>

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<sup>30</sup> See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the New Shipper Review, 77 FR 27435 (May 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>31</sup> See e.g., Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of the 2009-2010 Administrative Review of the Antidumping Duty Order and Intent To Rescind Administrative Review, in Part, 76 FR 41207 (July 13, 2011); see also Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 76 FR 40689 (July 11, 2011).

<sup>32</sup> See Policy Bulletin at 2.

<sup>33</sup> The Policy Bulletin also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." See *id.* at note 6.

<sup>34</sup> See Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

<sup>35</sup> See Policy Bulletin at 2.

<sup>36</sup> See *id.*, at 3.

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.<sup>37</sup> Moreover, while the legislative history provides that the term “significant producer” includes any country that is a significant “net exporter,”<sup>38</sup> it does not preclude reliance on additional or alternative metrics. In this case, because production data of comparable merchandise was not available, we analyzed exports of comparable merchandise from the seven countries, as a proxy for production data. We obtained export data using the Global Trade Atlas (“GTA”) for HTS 7321.90: Parts Of Nonelectric Domestic Cooking Appliances And Plate Warmers And Similar Nonelectric Domestic Appliances, Of Iron Or Steel; 8418.99: Parts Of Refrigeration Or Freezing Equipment And Heat Pumps, Nesoi; 8516.90: Wire Parts For Electric Water Heaters, Space Heaters, Hairdressing Apparatus, Flat Irons, Stoves, Ovens, Coffee Or Tea Makers, Toasters, Etc.; and 8419.90: Parts For Machinery, Plant Or Laboratory Equipment For The Treatment Of Material Involving Temperature Change (Except Domestic Machinery), Nesoi.

As noted above, all countries on the Surrogate Country List had significant exports of HTS numbers included in the scope of the order.<sup>39</sup> Because none of the potential surrogate countries have been definitively disqualified through the above analysis, the Department looks to the availability of SV data to determine the most appropriate surrogate country.

#### Data Availability

When evaluating SV data, the Department considers several factors including whether the SV is publicly available, contemporaneous with the POR, represents a broad-market average, from an approved surrogate country, tax and duty-exclusive, and specific to the input. There is no hierarchy among these criteria. It is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.<sup>40</sup> In addition to the SV data placed on the record by interested parties, we conducted an extensive search for SVs from other countries included in the Surrogate Country and Values Memo, however, the Department has not located usable financial statements for any country identified in the Surrogate Country and Values Memo other than Thailand. Although NKS argued that Thai financial statements may be unusable because of translation and calculation issues, the Department finds that the financial statements of TS Steel Enterprise are complete and translated. In this case, because there is not data or surrogate financial statements for Colombia, Indonesia, Peru, the Philippines, South Africa, or Ukraine these countries will not be considered for primary surrogate country selection purposes at this time.

With Colombia, Indonesia, Peru, the Philippines, South Africa, and Ukraine disqualified, the Department is left with Thailand as a potential surrogate country. The Department finds Thailand to be a reliable source for SVs because Thailand is at a comparable level of economic

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<sup>37</sup> See section 773(c) of the Act; see also Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

<sup>38</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).

<sup>39</sup> See Surrogate Country and Value Memo.

<sup>40</sup> See Policy Bulletin.

development pursuant to 773(c)(4) of the Act, is a significant producer of identical and comparable merchandise, and has publicly available and reliable data. Given the above facts, the Department has selected Thailand as the primary surrogate country for this review.<sup>41</sup> A detailed explanation of the SVs is provided below in the “Normal Value” section of this notice.

#### Date of Sale

NKS reported that the date of sale was determined by the invoice issued by the affiliated importer to the unaffiliated United States customer. In this case, as the Department found no evidence contrary to NKS’s claims that invoice date was the appropriate date of sale, the Department used invoice date as the date of sale for these preliminary results in accordance with 19 CFR 351.401(i).<sup>42</sup>

#### Fair Value Comparisons

To determine whether sales of certain kitchen appliance shelving and racks to the United States by NKS were made at less than NV, the Department compared the constructed export price (“CEP”) to NV, as described in the “U.S. Price,” and “Normal Value” sections below. In these preliminary results, the Department applied the average-to-average comparison methodology adopted in the Final Modification for Reviews.<sup>43</sup> In particular, the Department compared monthly, weighted-average CEPs with monthly, weighted-average NVs, and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

#### U.S. Price – Constructed Export Price

NKS reported that all of its POR sales were CEP in accordance with section 772(b) of the Act. For these sales, we based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and appropriate selling expenses, in accordance with section 772(c)(2)(A) of the Act. Additionally, in accordance with section 772(c)(1)(C) of the Act, we adjusted CEP where appropriate to account for countervailing duties attributable to subject merchandise in order to offset export subsidies preliminarily found in the concurrent administrative review of the countervailing duty order on certain kitchen appliance shelving and racks from the PRC.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States where appropriate. We deducted, where appropriate, commissions, inventory carrying costs, credit expenses, and indirect selling expenses. Where foreign movement expenses, international movement expenses,

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<sup>41</sup> See Surrogate Country and Value Memo.

<sup>42</sup> See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

<sup>43</sup> See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012) (“Final Modification for Reviews”).

or U.S. movement expenses were provided by PRC service providers or paid for in PRC currency, we valued these services using SVs.<sup>44</sup> For those expenses that were provided by an ME provider and paid for in an ME currency, we used the reported expense.<sup>45</sup> Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for NKS, see NKS Analysis Memo.

### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a FOPs methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

### Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by NKS, the Department calculated NV based on the FOPs reported by NKS for the POR. The Department used Thai import data and other publicly available Thai sources in order to calculate SVs for NKS's FOPs. To calculate NV, the Department multiplied the reported per-unit FOP quantities by publicly available NKS SVs. The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.<sup>46</sup>

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

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<sup>44</sup> See Memorandum to The File, through Catherine Bertrand, Program Manager, Office 9, from Katie Marksberry, Case Analyst, Re: Second Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Surrogate Values for the Preliminary Results, dated October 1, 2012 ("Prelim Surrogate Value Memo") for details regarding the surrogate values for movement expenses.

<sup>45</sup> See Memorandum to The File, through Catherine Bertrand, Program Manager, Office 9, from Katie Marksberry, Case Analyst, Re: Analysis Memorandum for the Preliminary Results of the Second Antidumping Duty Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: New King Shan (Zhu Hai) Co., Ltd., dated October 1, 2012 ("NKS Analysis Memo").

<sup>46</sup> See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

Furthermore, with regard to the Thai import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, India, and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.<sup>47</sup> Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.<sup>48</sup> Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.<sup>49</sup> Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an "unspecified" country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.<sup>50</sup> Therefore, we have not used prices from these countries either in calculating the Thai import-based SVs or in calculating ME input values.

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities (i.e., not insignificant quantities) and pays in an ME currency, the Department uses the actual price paid by the respondent to value those inputs, except when prices may have been distorted by findings of dumping and/or subsidization.<sup>51</sup> 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,<sup>52</sup> the Department uses the actual purchase prices to value the inputs. Information reported by NKS demonstrates that certain inputs were sourced from an ME country and paid for in ME currencies.<sup>53</sup> The information reported by NKS also demonstrates that such

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<sup>47</sup> See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.

<sup>48</sup> See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7.

<sup>49</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988); see also Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China, 72 FR 30758, 30763 (June 4, 2007), unchanged in Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China, 72 FR 60632 (October 25, 2007).

<sup>50</sup> See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China, 69 FR 75294, 75300 (December 16, 2004), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China, 70 FR 24502 (May 10, 2005).

<sup>51</sup> See, e.g., Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27366 (May 19, 1997).

<sup>52</sup> See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61717-61718 (October 19, 2006) ("Antidumping Methodologies: Market Economy Inputs").

<sup>53</sup> See New King Shan's Section C Questionnaire Response, dated January 10, 2012, at Exhibit C-1.

inputs were purchased in significant quantities (i.e., 33 percent or more) from ME suppliers; hence, the Department has used NKS's actual ME purchase prices to value these inputs.<sup>54</sup> Where appropriate, freight expenses were added to the ME price of the input.

The Department used Thai Import Statistics from the GTA to value the raw material, certain energy inputs and packing material inputs that NKS used to produce subject merchandise during the POR, except where listed below.

The Department valued water using data from Thailand's Board of Investment.<sup>55</sup> This source provides water rates for industrial users that are exclusive of value added taxes. Although Petitioners suggested that we value water using information from Thailand's Metropolitan Waterworks Authority, we find that the information provided is approximate and not explicitly tax-exclusive. Therefore, the data provided by the Board of Investment provides a more specific and accurate SV.<sup>56</sup>

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Thailand. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand that is published in Doing Business 2012: Thailand by the World Bank.<sup>57</sup>

We used Thai transport information in order to value the freight-in cost of the raw materials. The Department determined the best available information for valuing truck freight to be from Doing Business 2012: Thailand. This World Bank report gathers information concerning the distance and cost to transport products in a 20-foot container from the largest city in Thailand to the nearest seaport. We calculated the per-unit inland freight costs using the distance from Thailand's largest city, Bangkok, to the nearest seaport. The inland freight costs in the World Bank report are for shipping a 20-foot container. We calculated a per-kilogram, per-kilometer surrogate inland freight rate of 0.0016 U.S. dollars per kilometer per kilogram based on the methodology used by the World Bank.<sup>58</sup>

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME antidumping proceedings.<sup>59</sup> In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics ("Yearbook").

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<sup>54</sup> See id.

<sup>55</sup> See Prelim Surrogate Value Memo at Exhibit 6.

<sup>56</sup> See Galvanized Steel Wire From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 76 FR 68407, 68419 (November 4, 2011), unchanged in GSW from the PRC Final Determination.

<sup>57</sup> See Prelim Surrogate Value Memo at Exhibit 8.

<sup>58</sup> See id. at Exhibit 7.

<sup>59</sup> See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) ("Labor Methodologies").

In these preliminary results, the Department calculated the labor input using the wage method described in Labor Methodologies. To value the respondent's labor input, the Department relied on data reported by Thailand to the ILO in Chapter 6A of the Yearbook. Although the Department further finds the two-digit description under ISIC-Revision 3 ("Manufacture of Fabricated Metal Products, Except Machinery and Equipment") to be the best available information on the record because it is specific to the industry being examined, and is therefore derived from industries that produce comparable merchandise, Thailand has not reported data specific to the two-digit description since 2000. However, Thailand did report total manufacturing wage data in 2005. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using total labor data reported by Thailand to the ILO, in accordance with section 773(c)(4) of the Act.<sup>60</sup> For the preliminary determination, the calculated industry-specific wage rate is 138.25 Baht/hour.<sup>61</sup> A more detailed description of the wage rate calculation methodology is provided in the Prelim SV Memo.

As stated above, the Department used Thailand ILO data reported under Chapter 6A of Yearbook, which reflects all costs related to labor, including wages, benefits, housing, training, etc. Additionally, where the financial statements used to calculate the surrogate financial ratios include itemized detail of labor costs, the Department made adjustments to certain labor costs in the surrogate financial ratios.<sup>62</sup>

To value factory overhead, selling, general, and administrative expenses, and profit, the Department used the audited financial statements of TS Steel Enterprise.

### Currency Conversion

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

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<sup>60</sup> See Labor Methodologies, 76 FR at 36094, n.11; see also Small Diameter Graphite Electrodes From the People's Republic of China: Preliminary Results and Partial Rescission of Administrative Review, 77 FR 13284, 13292-93 (March 6, 2012) (relying upon national data reported by ILO Chapter 6A in the absence of Chapter 6A industry-specific data), unchanged in Small Diameter Graphite Electrodes from the People's Republic of China: Final Results of Administrative Review, 77 FR 40854 (July 11, 2012).

<sup>61</sup> See Prelim Surrogate Value Memo at Exhibits 9a-c.

<sup>62</sup> See Labor Methodologies, 76 FR at 36093-94.

Conclusion

We recommend applying the above methodology for these preliminary results.

✓  
Agree                      Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Import Administration

1 OCTOBER 2012  
(Date)