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March 5, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Gary Taverman 
Senior Advisor
for Antidumping and Countervailing Duty Operations

SUBJECT: Certain Steel Nails from the People's Republic of China:
Issues and Decision Memorandum for the Final Results of
the Third Antidumping Duty Administrative Review

SUMMARY

The Department of Commerce (“the Department”) has analyzed the comments submitted by Petitioner,¹ the mandatory respondents,² and a separate rate company³ in the third administrative review of the antidumping duty order on certain steel nails from the People’s Republic of China (“PRC”). Following the *Preliminary Results*⁴ and the analysis of the comments received, we made changes to the antidumping duty margin calculations for the final results. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

SCOPE

The merchandise covered by the order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters.

¹ Mid Continent Nail Corporation (“Petitioner”).

² Stanley Black & Decker, Inc., The Stanley Works (Langfang) Fastening Systems Co., Ltd., and Stanley Fastening Systems LP (“Stanley”); Tianjin Jinghai County Hongli Industry & Business Co., Ltd. (“Hongli”).

³ Itochu Building Products Co., Inc. (“Itochu”).

⁴ See *Certain Steel Nails from the People's Republic of China: Preliminary Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 77 FR 53845 (September 4, 2012) (“*Preliminary Results*”).



Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire. Certain steel nails subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 7317.00.55, 7317.00.65 and 7317.00.75.

Excluded from the scope of the order are steel roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope are the following steel nails: 1) Non-collated (*i.e.*, hand-driven or bulk), two-piece steel nails having plastic or steel washers (caps) already assembled to the nail, having a bright or galvanized finish, a ring, fluted or spiral shank, an actual length of 0.500” to 8”, inclusive; and an actual shank diameter of 0.1015” to 0.166”, inclusive; and an actual washer or cap diameter of 0.900” to 1.10”, inclusive; 2) Non-collated (*i.e.*, hand-driven or bulk), steel nails having a bright or galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500” to 4”, inclusive; an actual shank diameter of 0.1015” to 0.166”, inclusive; and an actual head diameter of 0.3375” to 0.500”, inclusive; 3) Wire collated steel nails, in coils, having a galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500” to 1.75”, inclusive; an actual shank diameter of 0.116” to 0.166”, inclusive; and an actual head diameter of 0.3375” to 0.500”, inclusive; and 4) Non-collated (*i.e.*, hand-driven or bulk), steel nails having a convex head (commonly known as an umbrella head), a smooth or spiral shank, a galvanized finish, an actual length of 1.75” to 3”, inclusive; an actual shank diameter of 0.131” to 0.152”, inclusive; and an actual head diameter of 0.450” to 0.813”, inclusive.

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

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

gas-actuated hand tools. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

BACKGROUND

The Department published the *Preliminary Results* on September 4, 2012.⁵ The period of review (“POR”) is August 1, 2010, through July 31, 2011.⁶ In accordance with 19 CFR 351.309(c)(1)(ii), we invited parties to comment on our *Preliminary Results*.⁷ On October 19, 2012, we received case briefs from Petitioner, Stanley, Hongli, and Itochu.⁸ On October 26, we received rebuttal briefs from Petitioner, Stanley, Hongli, and Itochu.⁹

DISCUSSION OF THE ISSUES

General Issues

COMMENT 1: SELECTION OF SURROGATE COUNTRY

A. Economic Comparability

In the *Preliminary Results*, the Department found that Colombia, Indonesia, Peru, South Africa, Thailand, and Ukraine are (1) at a level of economic development comparable to that of the PRC and (2) significant producers of merchandise comparable to the merchandise under consideration.¹⁰ No parties submitted comments disputing the economic comparability of any of the countries that appeared on the Surrogate Country List. Based on our determination in the *Preliminary Results*, we continue to consider all six countries as having met this prong of the surrogate country selection criteria.

⁵ *See id.*

⁶ *See id.*, 77 FR at 53845.

⁷ *See id.*, 77 FR at 53853.

⁸ *See* Petitioner’s *Certain Steel Nails from the People’s Republic of China: Case Brief*, (October 19, 2012); Itochu Building Products Co., Inc. and Tianjin Jinghai County Hongli Industry & Business Co., Ltd., (“GDLSK Respondents”)’ Case Brief: Third Antidumping Duty Administrative Review of Certain Steel Nails from the People’s Republic of China (October 19, 2012); and *Certain Steel Nails from the People’s Republic of China, Third Administrative Review; Case Brief of The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc.* (October 19, 2012).

⁹ *See* Petitioner’s *Certain Steel Nails from the People’s Republic of China: Rebuttal Brief* (October 26, 2012); GDLSK Respondents’ Rebuttal Case Brief: Third Antidumping Duty Administrative Review of Certain Steel Nails from the People’s Republic of China (October 26, 2012); and *Certain Steel Nails From the People’s Republic of China Third Administrative Review; Rebuttal Brief of The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc.* (October 26, 2012).

¹⁰ *See Preliminary Results*, 77 FR at 53847-8; *see also* Memorandum to Matthew Renkey, Acting Program Manager, AD/CVD Operations, Office 9, Import Administration, from Carole Showers, Director, Office of Policy, Import Administration re: Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the People’s Republic of China (“PRC”), (November 22, 2011) (“Surrogate Country List”).

B. Significant Producer of Comparable Merchandise

Respondents' Arguments

- Ukraine is the most significant exporter and producer of steel nails.

Petitioner's Arguments

- Did not comment on this issue.

Department's Position:

According to the Policy Bulletin 04.1:

The extent to which a country is a *significant* producer should not be judged against the NME country's production level or the comparative production of the five or six countries on OP's surrogate country list. Instead, a judgment should be made consistent with the characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics). Since these characteristics are specific to the merchandise in question, the standard for "significant producer" will vary from case to case. For example, if there are just three producers of comparable merchandise in the world, then arguably any commercially meaningful production is significant. Intermittent production, however, would not be significant . . . In another case there may not be adequate data available from major producing countries. In such a case, "significant producer" could mean a country that is a net exporter, even though the selected surrogate country may not be one of the world's top producers.¹¹

We note that in this particular case, both Thailand and Ukraine were producers of steel nails during the POR.¹² No party questions whether Ukraine is a significant producer of steel nails. However, Respondents' question whether the Department should consider Thailand a significant producer based on the fact that Ukraine was the larger producer of steel nails during the POR.¹³

Importantly, the Tariff Act of 1930, as amended ("Act") does not define the phrase "significant producer."¹⁴ Certain legislative history arguably suggests that the Department may consider a country to qualify as a "significant producer" if, among other things, it is a "net exporter" of identical or comparable merchandise.¹⁵ However, that text does not define the phrase "net exporter" or explain whether a potential surrogate country must constitute a net exporter in terms of quantity, value, or both to fit the example

¹¹ See Policy Bulletin 04.1, available at <http://ia.ita.doc.gov/policy/bull04-1.html> ("*Policy Bulletin 04.1*").

¹² See *Preliminary Results*, 77 FR at 53846.

¹³ See *id.*

¹⁴ See section 773(c)(4)(B) of the Act; see also *Policy Bulletin 04.1*.

¹⁵ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590, 1988 U.S.C.C.A.N. 1547, 1623 (1988).

provided in the legislative history.¹⁶ As a result, this ambiguous provision of the Act does not compel the Department to define “significant producer” in any particular manner.¹⁷

The Department finds that for this industry both Ukraine and Thailand are significant producers based on export quantities.¹⁸ We prefer to consider quantity, rather than value, in determining whether a country is a significant producer. Quantities are not subject to influence from outside variables, such as currency fluctuations and inflation, among other external pressures. Therefore, the Department finds that in terms of quantity, both Ukraine and Thailand are both exporters of steel nails.¹⁹ Accordingly, the Department finds that there is significant record evidence that both Thailand and Ukraine are significant producers of comparable merchandise. The Department’s practice is not to pick the surrogate country based on which country is the most significant producer based on export volume but whether the country is a significant producer and has the best available information, which is discussed below.²⁰

C. Reliability of Data from Ukraine

Petitioner’s Arguments

- Data from Ukraine should be considered unreliable. The Ukrainian steel industry engages in unfair trade practices when selling wire rod and steel plate. Specifically, the Department has an antidumping duty order on Ukrainian wire rod and cut-to-length steel plate is subject to a suspension agreement.
- The Ukrainian import statistics are distorted because they are comprised of sales that are not made at arm’s-length for the majority of wire rod imports to Ukraine is from a Russian steel producer, Severstal, to its Ukrainian affiliate, Dneprometiz.
- Ukraine is unsuitable as a surrogate country because of state interference in the private sector, rampant corruption, and lack of transparency and corporate disclosure.
- The Department should not use Ukraine as the primary surrogate country in the final results because the Department relied on import data that are reported at the six-digit level and is less specific than Thai data.
- Thailand should be selected as the surrogate country because it offers extensive, publicly available information to calculate the surrogate financial ratios and value the steel nail FOPs.
- Thailand is a much better fit as a surrogate country because there is consistent, non-volatile import statistics that represent a broad-market average.

Respondents’ Arguments

¹⁶ See *id.*

¹⁷ See *Dorbest Ltd. v. United States*, 462 F. Supp. 2d 1262, 1274 n.5 (CIT 2006).

¹⁸ See *Preliminary Results*, 77 FR at 53845.

¹⁹ The Department has found that the following export levels for the Ukraine and Thailand: Thailand 8,784,527 kg; and Ukraine 18,571, 880 kg. See *Preliminary Results*.

²⁰ See *Frontseating Service Valves From the People’s Republic of China; 2010-2011 Antidumping Duty Administrative Review; Final Results*, 77 FR 67334 (November 9, 2012) and accompanying Issues and Decision Memorandum at Comment 1; *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.

- Data from Ukraine are reliable.
- The Department’s regulations do not require the Department to use only one surrogate country to value all the FOPs, which the Department has done in past cases.²¹
- Petitioner fails to explain how having an antidumping duty order on wire rod exported from Ukraine would result in the Ukrainian domestic price of wire rod being distorted.

Department’s Position: As discussed above, we have concluded for the final results that both Ukraine and Thailand are economically comparable and significant producers of identical merchandise. *Policy Bulletin 04.1* states that, if more than one country satisfies the economically comparable and significant producer criteria for surrogate country selection purposes, “then the country with the best factors data is selected as the primary surrogate country.” Importantly, *Policy Bulletin 04.1* explains further that “data quality is a critical consideration affecting surrogate country selection” and that “a country that perfectly meets the requirements of economic comparability and significant producer is not of much use as a primary surrogate if crucial factor price data from that country are inadequate or unavailable.”

Section 773(c)(1) of the Act instructs the Department to value the FOPs based upon the best available information from an appropriate market economy (“ME”) country or a country that the Department considers appropriate. When considering what constitutes the best available information, the Department considers several criteria, including whether the surrogate value (“SV”) is: publicly available; contemporaneous with the POR; represent a broad-market average; from an approved surrogate country; tax- and duty-exclusive; and specific to the input.²² The Department’s preference is to satisfy the breadth of the aforementioned selection criteria.²³ Moreover, it is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.²⁴ As there is no hierarchy for applying the above-mentioned principles, the Department must weigh available

²¹ See *Certain Steel Wheels from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances*, 77 FR 17021, 17023 (March 23, 2011) and accompanying Issues and Decision Memorandum at Comment 3 (“*Steel Wheels Final Determination*”).

²² See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China*, 71 FR 53079 (September 8, 2006) and accompanying Issues and Decision Memorandum at Comment 3.

²³ See, e.g., *Administrative Review of Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940, 51943 (August 19, 2011), and accompanying Issues and Decision Memorandum at Comment 2.

²⁴ See *Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1 (“Mushrooms from the PRC”); see also *Freshwater Crawfish Tail Meat from the People’s Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the “best” available SV for each input.²⁵

We have examined Ukrainian and Thai data on the record to determine whether each country has good quality data to serve as a source for surrogate valuation purposes. With regard to Ukraine, the Department does not agree with Petitioner that Ukraine’s data are unsuitable to serve as a surrogate country due to evidence of unfair trade practices. Specifically, it is not the Department’s practice to disregard a country as a potential surrogate country where the Department has an antidumping duty order or suspension agreement of an input from that country.²⁶

Petitioner has disputed whether Ukrainian import data in fact represent a broad-market average as the imports comprising the data are primarily from Russia. However, Petitioner appears to misunderstand the Department’s practice in that the Department has repeatedly stated that country-wide data represent broad-market averages, as opposed to Petitioner’s focus on the number of countries represented in that import data.²⁷ Here, the Global Trade Atlas (“GTA”) import data for Ukraine represent prices available country-wide in Ukraine and therefore represent a broad-market average. Accordingly, the fact that the source of the ME imports into Ukraine may come primarily from one country does not render the prices unrepresentative of a broad-market average.

Petitioner further questions the reliability of Ukraine import data on the basis that most imports come from Russia. Specifically, Petitioner notes that one Russian steel producer, Severstal, bought the majority of wire rod imports through its Ukrainian affiliate, Dneprometiz.²⁸ However, we find in this case that direct involvement by one country’s steel industry into another country’s steel industry is not by itself a sufficient basis for finding that the corresponding import data are distorted. Petitioner has not provided evidence supporting that direct ownership patterns between Russia and the Ukraine are distorting the imported prices for these specific products. Petitioner indicates that there was an increase in Russian involvement in the Ukrainian steel industry, but has not substantiated that this is indicative of distorted market trends or that Russia has influence over the imported price of steel products such that they are not reliable for surrogate valuation purposes.²⁹

Additionally, Petitioner questions Ukraine’s suitability as a surrogate country because of alleged state interference in the private sector, rampant corruption, and lack of transparency and corporate disclosure. The Department finds that Petitioner has not provided any persuasive evidence to disregard specifically Ukraine’s import data as distorted by the considerations it raises, nor to disturb Ukraine’s classification as an ME country on the Surrogate Country List. Specifically, Ukraine is considered to be an ME

²⁵ See *Mushrooms from the PRC*, and accompanying Issues and Decision Memorandum at Comment 1.

²⁶ *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from the Ukraine*, 67 FR 55785 (August 30, 2002).

²⁷ See *Ad Hoc Shrimp Trade Action Comm. v. United States*, 618 F.3d 1316 (CAFC 2010); see also *Jining Yongjia Trade Co. v. United States*, Slip Op. 2010-134 (CIT 2010).

²⁸ See Petitioner’s Case Brief, at 18.

²⁹ See Petitioner’s Case Brief, at 19.

country by the Department. In making the determination whether Ukraine was an ME, the Department considered many factors, including the extent of government control over production, the extent of government control over the allocation of resources and over the price and output decisions of enterprises, *etc.*^{30,31}

Finally, Petitioner argues that the Department should not consider Ukraine as a surrogate country because the import statistics used by the Department in the *Preliminary Results* were only reported to the six-digit level with accompanying English translations unlike the Thai data, which are reported to the ten-digit level with accompanying English translations.³² However, the Department disagrees with Petitioner because the Ukrainian Harmonized Tariff Schedule (“HTS”) does report to the ten-digit level and there are accompanying translations for these HTS categories on the record.³³

Overall, the Department finds that Ukrainian data are appropriate for consideration for surrogate valuation purposes because it offers certain data that are: (1) publicly available; (2) contemporaneous with the POR; (3) represent a broad-market average; (4) from an approved surrogate country; and (5) tax and duty exclusive.

D. Data Considerations

This section presents the parties’ arguments comparing the quality of data from Ukraine and Thailand for the purposes of surrogate country selection and for the purpose of selecting individual surrogate values. This is followed by the Department’s position on surrogate country selection and then the Department’s position on individual surrogate values.

a. Parties’ Contentions: Surrogate Financial Ratios

Ukrainian Financial Statement

Petitioner’s Arguments

- The fiscal year (“FY”) 2011 financial statement for the Ukrainian company, Dneprometiz (DnepromctizAnnual Report (“DAR”), is not publicly available.
- Financial information, including the DAR, is only available to its shareholders.
- Petitioner asked Dneprometiz if the DAR on the record is available to the public, and Dneprometiz’s forbade Petitioner to use the provided information to the public.
- Dneprometiz financial information is not broken out in its parent company’s consolidated financial statement and, thus, must be confidential.

³⁰ See section 771(18) (A) and 771(18)(C)(i) of the Act; see also *Final Results of Inquiry into Ukraine’s Status as a Non-Market Economy Country*, 71 FR 9520 (February 24, 2006).

³¹ See *Final Results of Inquiry into Ukraine’s Status as a Non-Market Economy Country*, 71 FR 9520 (February 24, 2006).

³² See Petitioner’s Surrogate Value Submission (April 30, 2012) at Exhibit 1.

³³ See Stanley’s Post-Preliminary Results Surrogate Value Submission (October 1, 2012) at Exhibits SV-1 through SV-11.

- The financial report for Dneprometiz found on the Internet website Marketpublishers.com (Dneprometiz Market Report (“DMR”)), is more of a prospectus and does not corroborate the public availability of the DAR.
- The DMR is not the DAR because it is missing items found in the DAR. Specifically, the DMR is missing, among other items: (1) the auditor’s notes or notes to the financial statements; (2) listing of beginning- and end-of-period inventory valuations; and (3) the cash flow statement.
- The financial data in the DMR do not match that found within the DAR.
- The Department has refused to utilize proprietary financial statements as such are not publicly available.³⁴

Respondents’ Arguments

- The DAR is publicly available because it is accessible to the public through the DMR, which was based on the Dneprometiz’s annual report submitted to this website.
- If financial statements are only available to its shareholders, it is highly unlikely that Marketpublishers.com would be able to obtain Dneprometiz’s financial statement.
- Dneprometiz’s email does not establish that the DAR is not publicly available. It only establishes that Dneprometiz did not want Petitioner to issue the DAR in public.
- The absence of Dneprometiz’s financial statement in its parent company’s financial statement does not establish that the DAR is confidential.
- Under Ukrainian general accepted accounting principles (“GAAP”), a holding company is not required to include the financial statements of all its subsidiaries in the consolidated financial statement.
- The discrepancies between the DMR and the DAR are marginal.
- The DMR does not claim to be an exact copy of the DAR and the minor differences only relate to certain income and expenditure items.
- In contrast to *UAE Nails*,³⁵ the DAR was not claimed as business proprietary information, but was placed on the record as a public document.
- Pursuant to revisions to the Department’s regulations in 1996, the Department only requires information to be publicly available and no longer requires it to be published.³⁶
- Even if the DAR were proprietary, the Department’s regulations do not prohibit the use of proprietary information to calculate the surrogate financial ratios.³⁷
- The Court of International Trade (“CIT”) has supported the Department’s practice for using proprietary information when that information constitutes the best available information.³⁸

³⁴ See *Certain Steel Nails from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 77 FR 17029 (March 23, 2012) and accompanying Issues and Decision Memorandum at Comment 6 (“*UAE Nails*”).

³⁵ See *UAE Nails*, and accompanying Issues and Decision Memorandum at Comment 6.

³⁶ See *Shantou Red Garden Foodstuff Co. v. United States*, 815 F. Supp. 2d 1311, 1330 (CIT 2012).

³⁷ 19 CFR 351.408(c)(4).

- The DAR is the best information available for valuing the financial ratios because Ukraine is the most significant producer and exporter of subject merchandise.

Thai Financial Statements

Petitioner's Arguments

- The surrogate financial ratios should be calculated using the Thai financial statements for L.S. Industry Co., Ltd. (“L.S. Industry”) and Bangkok Fastening Co., Ltd. (“Bangkok Fastening”).
- Both L.S. Industry and Bangkok Fastening are publicly available, audited, and represent the operations of entities that are producers of identical merchandise. Both L.S. Industry and Bangkok Fastening produce nail products that are processed from low- and medium-carbon steel wire rod, which are the inputs used to produce the subject merchandise produced by the mandatory respondents.

Respondents' Arguments

- Although Petitioner attempts to discredit the DMR because it does not have a cash flow statement, both of the two Thai financial statements also do not have cash flow statements.

b. Parties' Contentions: Steel Plate

Petitioner's Arguments

- The Department's Ukrainian import data, HTS 7208.53 “Flat-Rolled Iron or Non-alloy Steel, 600 mm or more wide, Hot-Rolled, Not Clad, Plated or Coils, 3mm to Under 4.75 mm Thick,” are flawed because the import data pertains to any grade of steel plate.
- The Thai import statistics³⁹ are the best available data because this data is of higher quality and greater specificity as it captures the medium-carbon ranges used by the mandatory respondents.

Respondents' Arguments

- There is no data on the record that shows that carbon content is more important in terms of specificity than thickness for steel plate.
- The Indian JPC data also show that steel plate is traded based on thickness and not carbon content. Thus, the Ukrainian import data are specific to the Respondents' steel plate and should be used for valuation purposes for steel plate.

c. Parties' Contentions: Steel Wire Rod

Petitioner's Arguments

- The mandatory respondents purchase steel wire rod in various sizes, carbon ranges and grades. The mandatory respondents purchase a wide variety of low-

³⁸ See *Taian Ziyang Food Co. v. United States*, 637 F. Supp. 2d 1093, 1147 (CIT 2009); *Zhengzhou Harmoni Spice Co. v. United States*, 617 F. Supp. 2d 1281, 1315 at note 2 (CIT 2009).

³⁹ Petitioner proposed the following HTS categories for steel plate based on grade and size: (1) HTS 720.8.53.00.22 “Flat-Rolled Iron Or Nonalloy Steel, 600 Mm Or More Wide, Hot-Rolled, Not Clad, Plated, Coated Or Coils, 3 Mm To Under 4.75 Mm Thick, Of A Width Not Exceeding 1550 Mm And Containing By Weight 0.03% Or More But Less Than 0.25% Of Carbon”; and (2) HTS 7208.53.00.23 “Flat-Rolled Iron Or Nonalloy Steel, 600 Mm Or More Wide, Hot-Rolled, Not Clad, Plated, Coated Or Coils, 3 Mm To Under 4.75 Mm Thick, Of A Width Not Exceeding 1550 Mm Of A Width And Containing By Weight 0.25% Or More But Less Than 0.6% Of Carbon.”

and medium-carbon steel wire rod products that are suited for only specific applications and uses.

- The Department's Ukrainian price data obtained from the Internet site, Metal Expert ("Metal Expert Data"), are not appropriate for valuing the mandatory respondents' steel wire rod FOP because: (1) the data are only defined by diameter and does not reference carbon content, alloy content or grade; (2) the data are from a single producer within the Ukraine, Arcelor Mittal Kryvivyi Rih, and thus does not represent a broad-based market average price; and (3) the data do not represent exact numbers but a range of values.
- The Thai import statistics⁴⁰ are the best available data for valuing the mandatory respondents' steel wire rod FOPs. Specifically, the Thai import statistics capture the medium-carbon ranges used by the mandatory respondents and represent actual sales.
- Stanley's range of wire rod encompasses a broad range of carbon grades. Thus, the Department should value Stanley's "low" carbon steel wire rod using the following four Thai HTS categories: 7213.91.00.10; 7213.91.00.20; 7213.91.00.30; and 7213.91.00.40.
- The Department should not separately value Stanley's "medium" carbon wire rod using Thai HTS 7213.91.00.50, which is the correct HTS category, because Stanley did not separate its wire rod consumption by "low" carbon wire rod and "medium" carbon wire rod.
- According to its past practice, the Department should calculate a simple average for Stanley's "low" and "medium" wire rod consumption using the five Thai HTS categories.

Respondents' Arguments

- The Ukrainian Metal Expert Data are specific to the Respondents' wire rod consumption based on the diameter of wire rod that the Respondents purchased.
- In the *Preliminary Results*, the Department placed a greater degree of emphasis on specificity by size for wire rod. The Thai import data are not specific by size for wire rod.
- There are no data on the record that show that carbon content is more important in terms of specificity than diameter for wire rod.
- The Indian Joint Plant committee ("JPC") data shows that steel wire rod is traded based on diameter and not carbon content.

⁴⁰ Petitioner proposed the following HTS categories for steel wire rod: (1) HTS 7213.91.00.10 "Wire Rod Less Than 14 mm in Diameter, Containing By Weight Not More Than 0.08% Of Carbon"; (2) HTS 7213.91.00.20 "Wire Rod Less Than 14 MM in Diameter, Containing By Weight More Than 0.08% But Not More Than 0.10% Of Carbon"; (3) HTS 7213.91.00.30 "Wire Rod Less Than 14 mm in Diameter, Containing By Weight More Than 0.10% But Not More Than 0.18% Of Carbon"; (4) HTS 7213.91.00.40 "Wire Rod Less Than 14 MM in Diameter, Containing By Weight More Than 0.18% But Less Than 0.25% Of Carbon"; and (5) HTS 7213.91.00.50 "Wire Rod Less Than 14 mm in Diameter, Containing By Weight 0.25% Or More But Less Than 0.60% Of Carbon."

- The Department should not abandon past agency precedent of basing specificity on diameter.⁴¹
- The Metal Expert Data letter attests to the fact that the data are from wholesalers, wholesale steel markets, and steel wire rod producers/consumers and thus represent a broad-market average.⁴²
- Should the Department find the Metal Expert Data are not the best available information, the Department should find that the following Ukrainian HTS categories, HTS 7213.91.49.00⁴³ and HTS 7213.91.70.00⁴⁴, are as specific and reliable as the Thai import statistics for wire rod.
- The Department should not value steel wire rod using Petitioner’s proposed HTS Thai 7213.91.00.10, “Wire rod containing not more than .08 percent carbon,” and HTS 7213.91.00.20, “Wire rod containing more than .08 percent, but not more than .1 percent carbon.”
- The Department should calculate a weighted-average SV for Stanley’s low-carbon wire rod consumption using import data from Thai HTS 7213.91.00.30, “Wire rod containing more than 0.10 percent but not more than 0.18 percent carbon,” and HTS 7213.91.00.40, “Wire rod containing more than 0.18 percent, but not more than 0.25 percent carbon.”
- For Stanley’s medium-carbon wire rod consumption, the Department should value it using HTS 7213.91.0050, “Wire rod containing 0.25 percent or more, but less than 0.6 percent carbon.”

d. Parties’ Contentions: Labor

Respondents’ Arguments

- Ukraine’s labor cost data are significantly more contemporaneous (six years) than Thailand’s labor cost data for valuing the labor FOP. Thus, this should be considered in selecting the primary surrogate country.

Department’s Position: In making its surrogate country selection in accordance with section 773(c) of the Act and 19 CFR 351.408(c), the Department has selected Thailand as the primary surrogate country for the final results because Thailand, as discussed above, is (1) at a level of economic development comparable to the PRC and (2) a significant producer of merchandise comparable to the merchandise under consideration. Further, the record evidence supports the Department’s determination that Thailand offers the best available SV information for valuing all of the factors of production (“FOPs”), including the financial ratios and all other inputs, including all raw materials, energy, and transportation factors.

⁴¹ See *Certain Steel Nails from the People’s Republic of China: Final Results and Final Partial Rescission of the Second Antidumping Duty Administrative Review*, 77 FR 12556 (March 1, 2012) and accompanying Issues and Decision Memorandum at Comment 3.

⁴² See GDLSK Respondents’ Post-Prelim Surrogate Value Rebuttal Comments (October 9, 2012) at Exhibit 3.

⁴³ Bars and Rod, Hot-rolled, in irregularly wound coils, nesoi, with carbon more than 0.06% but less than 0.25%.

⁴⁴ Bars and Rods, Hot-rolled, in irregularly wound coils, of iron or non-alloy steel of circular-cross section measuring less than 14 mm in diameter, nesoi, with carbon 0.25% or more but not exceeding 0.75%.

It is the Department's practice, consistent with 19 CFR 351.408(c)(2), to value the FOPs in a single surrogate country, when possible.⁴⁵ There are important economic reasons for this regulatory preference. It is most accurate to rely on factor costs from a single surrogate country because sourcing data from a single country better reflects the trade-off between labor costs and other factors' costs, including capital, based on their relative prices. The primary surrogate methodology enables the Department to capture the complete interrelationship of factor costs that a producer in the primary surrogate country faces. The Department only resorts to other surrogate country information if the record does not contain a value for a factor from the primary surrogate, or if a primary surrogate country value on the record is determined, based on record evidence, to be aberrational or unreliable.⁴⁶

The Courts have upheld the Department's preference for deriving surrogate data from a single country.⁴⁷ As the court pointed out in *Peer Bearing*, "the preference for use of data from a single country could support a choice of data as the best available information where the other available data 'upon a fair comparison, are otherwise seen to be fairly equal.'"⁴⁸

Unlike Ukraine, which upon fuller consideration has no useable financial statements on the record, as discussed below, the Department finds that Thailand has reliable information to value all of the inputs, including two financial statements to calculate the financial ratios, that compose the Respondents' respective normal value calculations. Additionally, the Department finds that Thailand provides specific data to value the two primary inputs, steel wire rod and steel plate, that comprise the majority of normal value. Although Respondent has argued that the steel wire rod data from Ukraine, as discussed below, is most specific to the steel wire rod input, the Department finds that both the Thai and Ukrainian data are comparably specific based on diameter and carbon content. Accordingly, for the reasons stated below for each of the various FOPs issues, the Department finds that the Thai data are the best available information for surrogate valuation purposes and thus, Thailand will be the primary surrogate country for these final results.

Given the close comparability of data quality between Thailand and Ukraine, and the absence of any usable financial statements from Ukraine, as explained in the section below, we find that Thailand offers the best available information on the record for surrogate values. The record contains specific, broad-market average Thai surrogate

⁴⁵ See, e.g., *Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results. Partial Rescission of Sixth Antidumping Duty Administrative Review and Determination Not To Revoke in Part*, 77 FR 53856 (September 4, 2012), and accompanying Issues and Decision Memorandum at Comment 10.

⁴⁶ See, e.g., *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 74 FR 16838 (April 13, 2009) and accompanying Issues and Decision Memorandum at Comment 5D.

⁴⁷ See *Clearon Corporation and Occidental Chemical Corp. v. United States*, Slip Op. 13-22 (CIT 2013) at 13.

⁴⁸ See *Peer Bearing Co-Changshan v. United States*, 804 F.Supp 2d 1338, 1353 (CIT 2011) ("*Peer Bearing*").

value data for the primary input, steel wire rod, which comprises the majority of the normal value. The Thai data further provide specific, usable data for all of the other FOPs. While the Thai data are slightly less specific than the Ukraine data with respect to breaking out one characteristic (*i.e.*, the diameter of the wire rod input), the Thai data are also specific to diameter in that the Thai data cover the two diameter ranges reported by the respondents. Additionally, the Thai data are also specific to another characteristic (*i.e.*, carbon content). Finally, with respect to a secondary input, steel plate, the Thai data are specific to both thickness and carbon content, unlike the Ukraine data, which are specific only to thickness. Therefore, the Department has determined that Thailand, in addition to being at a level of economic development comparable to that of the PRC and a significant producer of merchandise comparable to steel nails, offers the best available SV information on the record of this proceeding. Further, relying on the Thai data results in all surrogate values being based on a single country, consistent with 19 CFR 351.408(c)(2).

a. Surrogate Financial Ratios

The record contains three financial statements. The Ukraine financial statement is from Dneprometiz, a producer of nail products.⁴⁹ The Thai financial statements are from L.S. Industry and Bangkok Fastening, both producers of nail products.⁵⁰

All of the surrogate ratio companies meet our criteria with respect to being: producers of identical merchandise; contemporaneous; profitable; free of countervailable subsidies; and from an approved surrogate country. However, we have determined that the financial statement from Dneprometiz is not publicly available.

Upon further examination subsequent to the *Preliminary Results*, the support provided as evidence of public availability is not, in fact, an annual report or financial statement. Rather, it is a market report providing summary information about Dneprometiz.⁵¹ With regard to Respondents' argument that Dneprometiz's Annual Report (DAR) is publicly available because it formed the basis for Dneprometiz's Market Report (DMR) which its market researcher, Marketpublishers.com, was able to obtain, we find these claims unpersuasive. There is no indication on the record that Dneprometiz provided any information to Marketpublishers.com or that Marketpublishers.com used the DAR as the basis for the DMR, especially given the discrepancies between the two sources as described above.

⁴⁹ See Hongli's Surrogate Value Submission (April 30, 2012) at Exhibit 7.

⁵⁰ See Petitioner's Post-Preliminary Results Surrogate Value Submission (October 1, 2012) at Exhibits 4 and 5.

⁵¹ OAO Dneprometiz Fundamental Company Report provides a complete overview of the company's affairs. The report includes financial and SWOT information, industry analysis, opinions, estimates, plus annual and quarterly forecasts made by stock market experts. The report also enables direct comparison to be made between OAO Dneprometiz and its competitor. See Memorandum to the File: Placing Additional Information on the Record, dated August 28, 2012, at 3.

In addition, Dneprometiz's own website states that company materials are only available at the written request of the shareholders.⁵² Furthermore, record evidence indicates that when Petitioner inquired as to the public availability of the statements, company officials forbade the use of the financial statements "to the public."⁵³ Moreover, when challenged as to the public availability of the statements, Respondents did not indicate how they obtained the financial statements.⁵⁴ Finally, the web link the Department previously placed on the record to corroborate the public availability of the statements is non-functional.⁵⁵ Therefore, we find that the Ukrainian statement, in fact, is not publicly available and, thus, there are no Ukrainian statements on the record that are suitable for surrogate valuation purposes.⁵⁶ With respect to Respondents' argument that public availability is not an absolute criterion, we note that this is not an instance where the non-public financial statement itself or the record as a whole compel us to overlook public availability as an important criterion.

Unlike Ukraine, where we have no useable financial statements, the Department finds that there are useable financial statements on the record from Thailand. With regard to the two Thai financial statements' public availability, Petitioner has indicated that both Thai statements are audited and publicly available.⁵⁷ Further, no party has challenged the public availability of the statements. With respect to Respondents' argument that the statements are missing cash flow statements, there is no indication that these financial statements were intended to be issued with cash flow statements. In this regard, the auditor's report did not mention a discrepancy in lacking to report such statements.

Finally the lack of such statements does not render these statements any less useful. Moreover, there is no record evidence that these statements are not publicly available. The L.S. Industry statements, in particular, indicate that the "financial statements are authorized for issue by the authorities."⁵⁸ Therefore, we find the Thai statements to be publicly available and that they meet the Department's selection criteria.

b. Steel Plate

The Department finds that both the Thai import data and the Ukrainian import data come from a country appearing on the Surrogate Country List.⁵⁹ Second, each dataset is contemporaneous with the POR. Finally, the Department previously has found that data

⁵² See Petitioner's Case Brief at 6-7.

⁵³ See Petitioner's Case Brief, at 6-7.

⁵⁴ See Petitioner's Case Brief, at 6.

⁵⁵ http://pdf.marketpublishers.com/bac_swot/oao_dneprometiz_swot_analysis_bac.pdf. See also Memorandum to the File, through Scot Fullerton, Program Manager, from Julia Hancock, Senior Case Analyst, and Javier Barrientos, Senior Case Analyst, Subject: Antidumping Administrative of Certain Steel Nails from the People's Republic of China: Surrogate Values for the Final Results (March 5, 2013) ("Surrogate Value Final Results Memo").

⁵⁶ Respondents submitted arguments on the ratio adjustment calculations to be made regarding Dneprometiz. However, because we find that the Dneprometiz financial statement is not publicly available and thus unuseable, we find that the arguments regarding these ratio adjustment calculations are moot.

⁵⁷ See Petitioner's Case Brief, at 16.

⁵⁸ See Petitioner's Post-Preliminary Results Surrogate Value Submission, at Exhibit 4.

⁵⁹ See Petitioner's Surrogate Value Submission, at Exhibit 1; Hongli's Surrogate Value Submission, at Exhibit 3.

from the GTA, such as that on the record, is publicly available, represents a broad-market average, and is tax- and duty-exclusive.⁶⁰

With regard to specificity of each dataset, the Department finds that the Thai import data are more specific to the steel plate used by Respondents based on thickness and carbon content.⁶¹ Specifically, with respect to Petitioner's argument on carbon content, the Department finds that carbon content is an important physical characteristic of the steel plate and thus the finished product, the steel nail, because it is a physical component of the physical characteristics reported for the control number ("CONNUM").⁶² Thus, the Department finds that the Thai import data are more specific than Ukrainian import data to Respondents' steel plate because the Thai import data are broken out by carbon content, which is not the case for the Ukrainian data. Therefore, the Department finds that the Ukrainian import data are not as good a source for valuing the steel plate because the data are not specific to a primary physical characteristic of the finished subject merchandise.

Furthermore, the Department finds that the Thai import data is specific to the steel plate based on thickness and thus is a good source for valuing the steel plate for the final results.⁶³ The Department finds that like carbon content, thickness is an important characteristic of the steel plate. Specifically, the Department notes that the JPC data, which have been used in past reviews for steel plate, is broken out by thickness because thickness is a defining characteristic for steel plate.⁶⁴ The Thai data are not only specific to the steel plate based on carbon content break-out but is also specific based on thickness of the grade of steel plate. Accordingly, the Department finds that the Thai import data are the best available information for valuing steel plate because it is specific to two determinative factors, carbon content and thickness, of the steel plate. By valuing the steel plate using a data source that captures these factors, the Department ensures that it will calculate an accurate normal value reflective of Respondents' experience. This would not be the case if the Department chose to use the Ukrainian data because the Ukrainian data only capture one factor, thickness, but not carbon content, which would result in a less accurate normal value calculation.

c. Steel Wire Rod

The Department finds that the Thai import data reported by the GTA are the best available information for valuing the steel wire rod input because they are specific to two determinative factors of steel wire rod, diameter and carbon content, and is from the primary surrogate country. There are three data sources on the record that can be used to

⁶⁰ See, e.g., *Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 55808 (September 11, 2012), and accompanying Issues and Decision Memorandum at Comment 3.

⁶¹ See Petitioner's Surrogate Value Submission, at Exhibit 1.

⁶² See Stanley's Section C Questionnaire Response (January 19, 2012) at 10.

⁶³ See Petitioner's Surrogate Value Submission, at Exhibit 1.

⁶⁴ See *Certain Steel Nails from the People's Republic of China: Final Results and Final Partial Rescission of the Second Antidumping Duty Administrative Review*, 77 FR 12556 (March 1, 2012) ("*Nails Second Review Final*") and accompanying Issues and Decision Memorandum at Comment 3.

value the steel wire rod: (1) Thai import data reported by GTA; (2) Ukrainian import data reported by GTA; and (3) the Ukrainian Metal Expert data, which is a domestic price source.⁶⁵

With regard to the Thai import data, the Department finds that the Thai import data is appropriate for consideration for surrogate valuation purposes because it is: (1) publicly available; (2) contemporaneous with the POR; (3) represents a broad-market average; (4) from an approved surrogate country; and (5) tax- and duty-exclusive. Additionally, with regard to the Ukrainian import data, the Department finds that the Ukrainian import data, as discussed above, is appropriate for surrogate valuation purposes because it is: (1) publicly available; (2) contemporaneous with the POR; (3) represents a broad-market average; (4) from an approved surrogate country; and (5) tax- and duty-exclusive.

With regard to the Ukrainian Metal Expert data, no arguments have been placed on the record disputing whether the data is publicly available, contemporaneous with the POR, or from an approved surrogate country. Although Petitioner argues that the Ukrainian Metal Expert data does not represent a broad-market average because the data is alleged to be from a single producer, Arcelor Mittal Kryvnyi Rih, the Department finds these arguments to be unsupported speculation.⁶⁶ Notwithstanding Petitioner's speculation, there must be a clear link between suggested ownership patterns and the price for these specific products, which the Department finds Petitioner has failed to establish. The evidence that Petitioner provided merely shows that this data may have come from this producer but it does not clearly show that the data are distorted via an ownership pattern. In contrast, the Department notes that there is a letter on the record from Ukrainian Metal Expert attesting to the fact that the reported prices are gathered country-wide for the wholesale market of the Ukraine.⁶⁷ Accordingly, the Department finds that the record evidence demonstrates that the Ukrainian Metal Expert data is a broad-market average. Finally, regarding Petitioner's argument that the Ukrainian Metal Expert data is not actual prices, the Department finds that the record evidence contradicts this argument. Specifically, the Department notes that there is a letter from Ukrainian Metal Expert that attests to the fact that the prices are spot prices based on actual daily sale-purchase transactions in the market place.⁶⁸ Accordingly, the Department finds that the Ukrainian Metal Expert data represents actual market prices, which are tax- and duty-exclusive.

Regarding the final SV criterion, specificity, the Department notes that in previous segments of this case, the Department has found that diameter is a key factor as to specificity for valuing wire rod.⁶⁹ The Department finds that the Ukrainian Metal Expert data is specific to this factor because the price data is reported in the specific diameter ranges reported by Respondents. However, while Ukrainian and Thai GTA import data are basket categories reporting diameter with a range of 14mm and below, the

⁶⁵ See Petitioner's Surrogate Value Submission, at Exhibit 1; Hongli's Surrogate Value Submission, at Exhibit 3.

⁶⁶ See Hongli's Surrogate Value Submission, at Exhibit 5B.

⁶⁷ See GDLSK Respondents' Post-Prelim Surrogate Value Rebuttal Comments, at Exhibit 3.

⁶⁸ See *id.*

⁶⁹ See *Nails Second Review Final*, and accompanying Issues and Decision Memorandum at Comment 3.

Department also finds that these data sources are specific because the Respondents' diameter ranges are covered within these HTS categories. Accordingly, the Department finds that these three data sources are comparably specific to wire rod because each source covers the determinative factor, diameter, of the input.

The Department then examined an additional physical characteristic of the steel wire rod which the parties considered relevant, carbon content. The Department notes that carbon content, which is part of the steel grade or type, is one of the physical characteristics for the CONNUM.⁷⁰ Moreover, the Department finds that there is documentary evidence demonstrating the importance of the carbon content in determining what value to use for steel wire rod, such as purchase invoices for steel wire rod.⁷¹ Therefore, the Department will examine the three possible data sources for valuing the steel wire rod input based on their specificity to the carbon content.

Regarding the Ukrainian Metal Expert data, the Department finds that this source is not specific to the carbon content because the data does not identify the carbon content of the steel wire rod prices reported within the source. Regarding the Thai import data and the Ukrainian import data, the Department finds that the respective HTS categories of each source are specific to the carbon content ranges reported by the Respondents. The Respondents reported both low- and medium-carbon content steel wire rod ranges.⁷² The Department notes that the HTS categories that the Thai import data and Ukrainian import data encompass cover both of these types of steel wire rod. Accordingly, the Department finds that the Thai import data and Ukrainian import data are both specific to the carbon content of the steel wire rod used by the Respondents in the production of the subject merchandise. Additionally, as discussed above, both the Thai import data and the Ukrainian import data are comparably specific to the diameter of the steel wire rod. Therefore, because the Thai import data and the Ukrainian import data are equally specific based on the two primary physical characteristics for the steel wire rod, the Department finds each source to be roughly equal and will look to data within the primary surrogate country for valuing the steel wire rod. This approach is consistent with the Department's regulatory preference in 19 CFR 351.408(c)(2) for surrogate values being based on a single country.

Accordingly, the Department will simple average the low-carbon steel wire rod using the following Thai HTS: (1) HTS 7213.91.0010 "Wire Rod Less Than 14 mm in Diameter, Containing By Weight Not More Than 0.08% Of Carbon"; (2) HTS 7213.91.00.20 "Wire Rod Less Than 14 MM in Diameter, Containing By Weight More Than 0.08% But Not More Than 0.10% Of Carbon"; (3) HTS 7213.91.00.30 "Wire Rod Less Than 14 mm in Diameter, Containing By Weight More Than 0.10% But Not More Than 0.18% Of Carbon"; and (4) HTS 7213.91.00.40 "Wire Rod Less Than 14 MM in Diameter,

⁷⁰ See *Certain Steel Nails from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination*, 73 FR 3928, 3930 (January 23, 2008).

⁷¹ Because of the business proprietary nature of this information, see Stanley's Second Supplemental Section C and D Questionnaire Response (July 25, 2012) at Exhibit SSD-7; Hongli's Supplemental Section C Questionnaire Response (June 8, 2012) at Exhibits 5-7.

⁷² See Hongli's Sections C and D Questionnaire Response, (April 4, 2013) at 4.

Containing By Weight More Than 0.18% But Less Than 0.25% Of Carbon”. The Department finds that these four HTS categories are the best information available for valuing Respondents’ simple average calculation of low-carbon steel wire rod because these HTS categories cover the carbon content range reported by Respondents for their respective low-carbon steel wire rod.⁷³ Additionally, the Department is valuing Respondents’ medium-carbon wire rod using the following Thai HTS category, HTS 7213.91.0050, “Wire rod containing 0.25 percent or more, but less than 0.6 percent carbon.” The Department finds that this HTS category covers the carbon content range reported by Respondents for their respective medium-carbon steel wire rod and is the best available information for valuing this respective input.⁷⁴ Finally, the Department will not calculate a weighted-average surrogate value for Respondents’ low-carbon steel wire rod because it is the Department’s practice to calculate surrogate values using import data using a simple average methodology and not a weighted-average.⁷⁵ The Department does not calculate a weighted-average surrogate value because the data, i.e., import data and sales data from Respondents, are not reported on the same basis to perform a properly calculated weighted-average.

d. Labor

There are three data sources on the record for labor for these final results: (1) the Thai 2000 Chapter 6A data from the International Labor Organization (“ILO”); (2) Ukrainian 2006 Chapter 6A data from the ILO; and (3) the 2007 Industrial Census” data published by Thailand’s National Statistics Office (the “2007 NSO data”).⁷⁶ All three data source satisfy the criteria of public availability and tax- and duty-exclusivity equally, but the 2007 NSO data are superior with regard to the remaining criteria.

First, the 2007 NSO data and the 2000 Thai data are more specific to the subject merchandise than the Ukraine 2006 data. Specifically, both the 2007 NSO data and the 2000 Thai data report industry-specific labor data under ISIC Rev. 3.⁷⁷ Within ISIC Rev. 3, the Department identified the two-digit series most specific to steel nails as sub-classification 28, which is described as “Manufacture of Fabricated Metal Products, except Machinery and Equipment.”⁷⁸ Both the 2007 NSO data and the 2000 Thai data report data under ISIC Rev. 3, whereas, the Ukraine 2006 data do not report industry-specific data under Rev.3 but only reports country-wide data. All else being equal, the

⁷³ See Hongli’s Supplemental Section C Questionnaire Response, at Exhibits SC-5 and SC-6; Stanley’s Second Supplemental Section C and D Questionnaire Response, at 7.

⁷⁴ See *id.*

⁷⁵ See *Multilayered Wood Flooring From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) and accompanying Issues and Decision Memorandum at Comment 20.

⁷⁶ See Memorandum to the File from Julia Hancock, Senior Case Analyst, Subject: Certain Steel Nails from the People’s Republic of China: Placing the 2007 NSO Data on the Record (March 5, 2013).

⁷⁷ The ISIC code, which is maintained by the United Nations Statistical Division (“United Nations”) and is periodically updated. These updates are referred to as “Revisions.”

⁷⁸ See Memorandum to the File, through Matthew Renkey, Program, from Alexis Polovina, Senior Case Analyst, Subject: Third Antidumping Administrative Review of Certain Steel Nails from the People’s Republic of China: Surrogate Values for the Preliminary Results (August 28, 2012) (“Preliminary Surrogate Values Memo”) at 10.

Department has a practice of finding industry-specific information generally constitutes the best available information when available and is relevant to the industry in question.⁷⁹ Accordingly, the Department finds that the Ukraine 2006 data do not represent the best available information for valuing labor in comparison to the 2007 National Statistics Office (“NSO”) data and the 2000 Thai data.

Second, the 2007 NSO data are more contemporaneous than the ILO Chapter 6A data for the 2000 Thai data or the 2006 Ukraine data. The NSO data report manufacturing labor cost in 2007, while the ILO reports manufacturing labor cost in for the Ukraine in 2006 and for Thailand in 2000.

Third, the record shows that the 2007 NSO data represent a broader-market average than the ILO 2000 Thai data or the 2006 Ukraine data in sampling with regard to the employment size of establishment⁸⁰ and the number of establishments. For instance, the 2007 NSO data represent six employment sizes of establishment and 88,411 establishments, whereas the ILO data for both Ukraine and Thailand only represent four employment sizes of establishment and 3,500 establishments. Thus, information on the record supports that the 2007 NSO data provide a broader-market average.

Although the 2007 NSO data are not from the ILO, the Department finds that this does not preclude us from using this as a source for valuing labor. In *Labor Methodologies*, the Department decided to change to the use of ILO Chapter 6A data from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.⁸¹ The Department did not, however, preclude all other sources for evaluating labor costs in NME antidumping proceedings. Rather, we continue to follow our practice of selecting the “best information available” to determine SVs for inputs such as labor. And thus, we find that the 2007 NSO data are the best available information for valuing labor.

Accordingly, for the reasons listed above, the Department has determined that the 2007 NSO data are the best information available to value labor costs in the final results.⁸² Specifically, the 2007 NSO data are the best available information for valuing labor because it is from the primary surrogate country, is publicly available, is contemporaneous to the POR, tax- and duty-exclusive, specific to the comparable merchandise, and is a broad-market average. The Department notes that labor applies across the board to all Respondent companies and is a significant factor of the normal

⁷⁹ See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Sixth Antidumping Duty Administrative Review and Sixth New Shipper Review*, 76 FR 15941 (March 22, 2011) and accompanying Issues and Decision Memorandum at Comment III. See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (“*Labor Methodologies*”).

⁸⁰ An establishment is defined as the sampling and reporting unit, and the ultimate unit of observation is the individual employee in each sampled establishment.

⁸¹ See *Labor Methodologies*, 76 FR at 36093.

⁸² See *Drawn Stainless Steel Sinks from the People’s Republic of China: Final Determination*, 78 FR 13019 (February 26, 2013) and accompanying Issues and Decision Memorandum at Comment 3.

value calculation. The Department finds that employing data within the primary surrogate country helps to ensure that there are no distortions between labor costs and other factors' costs, including capital, based on their relative prices.

COMMENT 2: Calculation Adjustments to Surrogate Financial Ratios

Petitioner and Respondents argue that certain items in the Thai financial statements should or should not be included as selling, general and administrative ("SG&A") expenses. Their positions with respect to each company are presented below.

A. L.S. Industry

Petitioner's Arguments

- The Department should not exclude "transportation" expenses from L.S. Industry's selling, general and administrative ("SG&A") expenses. There is no record evidence that these expenses are directly tied to sales of subject merchandise.

Respondents' Arguments

- The Department should exclude "transportation" expenses because this item covers freight expenses.
- The Department should classify "wages" as a labor cost.

Department's Position: The Department agrees with Respondents. Thus, the Department will make the following adjustments:

The following will be included as part of the materials, labor and energy denominator:

Wages: Will be classified under labor because "wages" is classified under "Cost of Services" and whereas "Salary and Bonus" is already included in a separate line item under "selling and administrative expenses"

The following will be excluded from the financial ratio calculations:

Transportation: Will be excluded because it is listed under "Total Cost of Sales," which is evidence of being directly related to sales, and not "Total Cost of Management" in the Details of Selling & Administrative Expenses."

B. Bangkok Fastening

Petitioner's Arguments

- The Department should make the following adjustments to Bangkok Fastening's financial ratios because: (1) "supplies" should be treated as manufacturing overhead; (2) it is not clear that "broker expenses" relate to export or domestic activities; (3) it is clear that "packaging" and "welfare/social security funds" are properly classified in their specific categories; (4) there is no record evidence to justify excluding "parking and transportation"; and (5) there is no record evidence for not treating "donations" like other SG&A expenses, such as gratuities or gifts.
- The Department should treat "purchases" as a trade cost and not as overhead.

- The Department should not exclude “broker” and “export expenses,” as proposed by Respondents, because there is no indication that these expenses relate to export or domestic activities.

Respondents’ Arguments

- The Department should make the following adjustments to Bangkok Fastening’s FY 2010 and 2011 financial statements: (1) only “revenue from export comp” should be excluded from the list of items under “other misc income;” (2) “purchases” should be classified as a trade cost and not as “manufacturing overhead;” (3) “electricity” should be classified as an energy cost and not as a raw material; (4) “factory rental” should be classified as manufacturing overhead; and (5) “welfare/social security funds” should be classified as labor costs, pursuant to *Antidumping Methodologies*⁸³.
- The Department should not include “packaging” in manufacturing overhead to avoid double-counting of packaging costs captured in the mandatory respondents’ FOPs.
- “Broker expenses” and “export expenses” relate to export/domestic activities and should be excluded. There would be double-counting if these expenses were not excluded because the Department is also capturing brokerage and handling costs.⁸⁴
- “Supplies” should be treated as raw materials costs because it is classified under “other materials” where “hydrochloric acid/chemical expense” is also classified.
- “Parking and transportation” expenses should be excluded from the surrogate financial ratio calculation.
- “Donation” should be excluded because it is not incurred in the manufacturing of goods nor is it incurred in the cost of sales of goods.

Department’s Position: The Department will make the following adjustments to the financial ratio calculations that are divided by sub-category.

The following will be included as part of the materials, labor and energy denominator:

Supplies: The Department finds that supplies should be included with direct materials because it is presented in the financial statement with “Material and Supplies Used.” This is in accordance with Departmental practice where the Department will classify expenses in accordance with the financial statement presentation unless further detail is provided with regard to the expenses under consideration. Because further detail has not been provided regarding this expense, the Department will classify supplies in accordance with the financial statement presentation.⁸⁵

⁸³ See *Labor Methodologies*, 76 FR at 36092.

⁸⁴ See *Bulk Aspirin from the People’s Republic of China: Final Results of Antidumping Duty Review*, 68 FR 6710, 6712 (February 10, 2003) (“*Bulk Aspirin from the PRC*”).

⁸⁵ See *Multilayered Wood Flooring From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) and accompanying Issues and Decision Memorandum at Comment 2.

Welfare/Social Security Funds: Included under direct labor, because these types of expenses are included in the NSO 2007 category SV. It is Department's practice to classify these expenses as direct labor to avoid double-counting of such indirect labor costs because these costs are already accounted for in the NSO 2007's cost data.

Electricity: Included as energy, because it is not accounted for anywhere else in the cost of manufacturing.

The following will be included as part of the SG&A numerator:

Parking and Transportation: Included under SG&A, because it is not clear that this is a movement expense accounted for elsewhere, and it is not clear what type of activity is being incurred.

Broker Expenses: Included under SG&A, because it is not clear that this is a movement expense accounted for elsewhere, and it is not clear what type of broker activity is being incurred. Specifically, it is the Department's practice to include these expenses, such as broker expenses, in SG&A unless there is clear detail in the financial statements that the costs associated with the expense can be specifically traced to a particular non-general operational expense of the company. However, in this case, there is no record evidence that the broker expense is associated with a movement expense.⁸⁶

Export Expenses: Included under SG&A, because it is not clear that this is a movement expense accounted for elsewhere. Specifically, it is the Department's practice to include these expenses, such as export expenses, in SG&A unless there is clear detail in the financial statements that the costs associated with the expense can be specifically traced to a particular non-general operational expense of the company. However, in this case, there is no record evidence that the export expense is associated with a movement expense.⁸⁷

Donations: Included under SG&A, because this is a typical SG&A item. Specifically, the Department finds that donations are general expenses and, as such, should be included in the numerator of the SG&A ratio. The Department notes that this is consistent with past Departmental practice for treatment of this expense item.⁸⁸

Purchases: Included as SG&A. It is not clear that these are related to purchases of finished/traded goods because they are itemized along with a long list of "Other Expenses" and purchases of finished/traded goods would usually show up under Note 8 "Changes in Finish Goods."

⁸⁶ See *Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Second Administrative Review*, 75 FR 70208 (November 17, 2010) and accompanying Issues and Decision Memorandum at Comment 4e.

⁸⁷ See *id.*

⁸⁸ See *Utility Scale Wind Towers From the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value*, 77 FR 75984 (December 26, 2012) and accompanying Issues and Decision Memorandum at Comment 3.

Revenue from Export Compensation: Included under SG&A, because this is incurred during the normal course of business.

Factory Rental Expense: Included under SG&A, because this is a typical SG&A item and would be offset by Factory Rental Income.

The following will be excluded from the financial ratio calculations:

Packaging: Excluded from SG&A, because accounted for as a separate adjustment in the calculation.

COMMENT 3: MISCELLANEOUS SURROGATE VALUES

A. Hot-Dipped Galvanized Wire

Respondents' Arguments

- Hot-dipped galvanized steel should be valued using Thai HTS 7217.90.10.00 (hot-dipped galvanized steel) rather than Thai HTS 7229.90.09.00 (alloy steel wire).
- Hot-dipped galvanized steel wire is not an alloy steel wire.
- If Ukraine is selected as the surrogate country, the Department should value hot-dipped galvanized wire using Ukrainian HTS 7217.20 “Wire of Iron or Non-alloy Steel, Plated or Coated with Zinc.”
- If Thailand is selected as the surrogate country, the Department should value hot-dipped galvanized steel wire using Thai HTS 7217.90.00.00, “Wire of iron or Non-alloy steel, plated or coated with zinc, containing by weight less than .25% carbon.”

Petitioner's Arguments

- The Department should not value Stanley's hot-dipped galvanized steel using Thai HTS 7217.90.10.00 because Stanley never explained the wire's carbon grade, alloy content or other physical characteristics.
- Because there is no information on the record regarding Stanley's hot-dipped galvanized wire's chemical composition, the Department should value it using Thai HTS 7229.90.09.00.

Department's Position: The Department agrees with Respondents that hot-dipped galvanized steel should be valued using Thai HTS 7217.90.10.00 for the hot-dipped galvanized steel. In this review, we have determined that Thai HTS 7217.90.10.00 is the best available information for valuing hot-dipped galvanized steel because it satisfies all of the SV selection criteria. First, the publicly available data come from a country appearing on the Surrogate Country List. Second, they are specific to the type of hot-dipped galvanized steel used by Respondents because it is not an alloy steel, as reported

by Respondents.⁸⁹ Regarding Petitioner’s argument that Respondents did not report the carbon, grade, or alloy content of the hot-dipped galvanized steel wire, the Department notes that Respondents were not requested by the Department to report this information.⁹⁰ However, Respondents did provide record evidence that shows that the hot-dipped galvanizing process is the process of applying a zinc coating to fabricated iron or steel material by immersing the material in a bath consisting primarily of molten zinc.⁹¹ Accordingly, the Department finds that there is sufficient record evidence to show that Respondent’s hot-dipped galvanized steel wire has a zinc coating and thus HTS 7217.90.0010.00 is specific to this input. Third, the data are contemporaneous with the POR. Finally, the Department has previously found that data from the GTA, such as that on the record, represent a broad-market average and is tax- and duty-exclusive.⁹² There is no support in the record for Petitioner’s claim that an alloy steel HTS category would be specific to Respondents’ inputs. Therefore, for the final results, we have valued hot-dipped galvanized steel using Thai HTS 7217.90.10.00.

B. Metal Dies

Respondents’ Arguments

- In the *Preliminary Results*, the Department incorrectly valued both metal and diamond dies using Ukrainian HTS 8207.20, “Dies for drawing or extruding metal, and parts thereof, of base metal.”
- If the Ukraine is selected as the surrogate country, the Department should value metal and diamond dies separately using the following: (1) HTS 8207.20.10.00 “With working parts of natural or synthetic diamond;” and (2) HTS 8207.20.90.00 “With working parts of other materials.”
- *Petitioner’s Arguments*
Did not comment on this issue.

Department’s Position: Because the Department has selected Thailand as the primary surrogate country and is valuing all FOPs using data within the primary surrogate country, this issue is moot.

C. Zinc Chloride

Respondents’ Arguments

- If the Ukraine is selected as the surrogate country, the Department should value zinc chloride using Ukrainian HTS 2827.36.00, “Zinc chloride.”
- Zinc chloride is a chemical with the formula $ZnCl_2$ and is not classified as unwrought, pure zinc. Thus, HTS 7901.11, “Zinc, not alloyed, containing 99.99% or more by weight of zinc, unwrought,” is not appropriate for valuing this FOP.

⁸⁹ See Stanley’s Section D Questionnaire Response, (January 19, 2012) at 26-27 (“Stanley’s Section D Response”).

⁹⁰ See Stanley’s Supplemental Section D Response (May 8, 2012); and Stanley’s Second Supplemental Sections C & D Response (July 25, 2012).

⁹¹ See Stanley’s Post-Preliminary Results Surrogate Value Submission, at Exhibit SV-4.

⁹² See *Diamond Sawblades and Parts Thereof From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2009-2010*, 78 FR 11143 (February 15, 2013) and accompanying Issues and Decision Memorandum at Comment 11.

Petitioner's Arguments

- Did not comment on this issue.

Department's Position: Because the Department has selected Thailand as the primary surrogate country and is valuing all FOPs using data within the primary surrogate country, this issue is moot.

D. Sodium Chloride

Respondents' Arguments

- In the *Preliminary Results*, the Department valued sodium chloride with Ukrainian HTS 2501.00, "Salt (including table and denatured salt) and pure sodium chloride, whether/nt in aqueous solution or containing added anticaking or free flowing agents; sea water." This contains a number of types of salt that were not used by Stanley during the POR.
- If the Ukraine is selected as the surrogate country, the Department should value salt using Ukrainian HTS 2501.00.51.00, "Salt denatured for industrial uses." This is the most specific to the type of salt used by Stanley.

Petitioner's Arguments

- Did not comment on this issue.

Department's Position: Because the Department has selected Thailand as the primary surrogate country and is valuing all FOPs using data within the primary surrogate country, this issue is moot.

E. Sodium Sulfate

Respondents' Arguments

- If the Ukraine is selected as the surrogate country, the Department should value sodium sulfate using Ukrainian HTS 2833.19, "Disodium Sulfate."
- The sodium sulfate used by Stanley during the POR has a chemical formula of Na_2SO_4 and is commonly referred to as disodium sulfate.

Petitioner's Arguments

- Did not comment on this issue.

Department's Position: Because the Department has selected Thailand as the primary surrogate country and is valuing all FOPs using data within the primary surrogate country, this issue is moot.

F. Ammonium Citrate

Respondents' Arguments

- If the Ukraine is selected as the surrogate country, the Department should value ammonium citrate using Ukrainian HTS 2918.15.00.900, "Other."
- In the *Preliminary Results*, the Department valued ammonium citrate using HTS 2918.15, "Salts and Esters of citric acid," which includes sodium citrate.
- Ammonium citrate and sodium citrate are two distinct chemicals.

Petitioner's Arguments

Did not comment on this issue.

Department's Position: Because the Department has selected Thailand as the primary surrogate country and is valuing all FOPs using data within the primary surrogate country, this issue is moot.

G. Plastic Quick Lock Tags

Respondents' Arguments

- If the Ukraine is selected as the surrogate country, the Department should value plastic quick log tags using Ukrainian HTS 3926.90.91.00, "Articles of plastic made of sheet material."
- In the *Preliminary Results*, the Department valued plastic quick lock tags with HTS 3926.90, "Articles of plastic, nesoi," which is a basket category for numerous plastic articles.
- Plastic quick lock tags are used to secure the outside end of a coil of nails to the underlying layer of the coil. They are made of flat, perforated pieces of plastic.

Petitioner's Arguments

Did not comment on this issue.

Department's Position: Because the Department has selected Thailand as the primary surrogate country and is valuing all FOPs using data within the primary surrogate country, this issue is moot.

H. Volatile Anti-Corrosion Paper

Respondents' Arguments

- If the Ukraine is selected as the surrogate country, the Department should value volatile anti-corrosion paper using Ukrainian HTS 4811.90.00.90, "Paper, Paperboard, Cellulose Wadding and Webs of Cellulose Fibers, Coated, Impregnated, Etc., Nesoi, in Rolls or Sheets: Other."
- In the *Preliminary Results*, the Department valued volatile anti-corrosion paper with HTS 4811.60, "Paper and paperboard, coated, impregnated or covered with wax, paraffin, stearin, oil or glycerol."
- Stanley's volatile anti-corrosion paper is coated with a slow-release potassium compound⁹³ and there is no record evidence to show that this is paper-coated with wax, paraffin, stearin, oil or glycerol.

Department's Position: Because the Department has selected Thailand as the primary surrogate country and is valuing all FOPs using data within the primary surrogate country, this issue is moot.

I. Borax Powder

Respondents' Arguments

- The Department should not value borax powder using Petitioner's proposed Ukrainian HTS 2840.11, "Anhydrous disodium tetraborate (refined borax)."

⁹³ This compound is business proprietary information. For further discussion, see Stanley's Section D Response at 79.

- Stanley’s subcontractors use borax powder that contains water and is not anhydrous.
- If Thailand is selected as the surrogate country, the Department should value borax powder using Thai HTS 2840.19.00.01, “Disodium tetraborate (refined borax), except anhydrous.”

Petitioner’s Arguments

- Did not comment on this issue.

Department’s Position: The Department agrees with Respondents that borax powder should be valued using Thai HTS 2840.19.00.01. In this review, we have determined that Thai HTS 2840.19.00.01 is the best available information for valuing borax powder because it satisfies all of the SV selection criteria. First, the publicly available data come from a country appearing on the Surrogate Country List which we have selected to be the primary surrogate country. Second, they are specific to the type of borax powder used by Respondents because it is anhydrous, which is listed in the HTS description. Third, the data are contemporaneous with the POR. Finally, the Department has previously found that data from the GTA, such as that on the record, represent a broad-market average and is tax- and duty-exclusive. Therefore, for the final results, we have valued borax powder using Thai HTS 2840.19.00.01.

J. Chemical-Based Nail Coating

Respondents’ Arguments

- The Department should not value chemical-based nail coating using Petitioner’s proposed Ukrainian HTS 3204.17, “Synthetic organic coloring matter, pigments, and preparations based thereon.”
- This HTS is intended to cover substances used to dye other substances with color. In contrast, Stanley’s chemical-based nail coating acts as an adhesive between the nail surface and the wood, the color is a secondary purpose of the adhesion.
- If Thailand is selected as the surrogate country, the Department should value chemical-based nail coating using Thai HTS 3907.30.30.00, “Epoxide resins, in primary forms; in the form of liquids and pastes.” The explanatory notes indicate that goods classified under this heading are used as adhesives.

Petitioner’s Arguments

- The Department should not value chemical-based nail coating using Thai HTS 3907.30.30.00 because Stanley did not place the explanatory notes on the record.

Department’s Position: The Department agrees with Respondents that chemical-based nail coating should be valued using Thai HTS 3907.30.30.00 for the chemical-based nail coating. In this review, we have determined that Thai HTS 3907.30.30.00 is the best available information for valuing chemical-based nail coating because it satisfies all of the SV selection criteria. First, the publicly available data come from a country appearing on the Surrogate Country List which we have selected to be the primary surrogate country. Second, they are specific to the type of chemical-based nail coating

used by Respondents.⁹⁴ Although Petitioner argues that Stanley has not placed the explanatory notes on the record for this HTS, the Department finds that there is record evidence that the chemical-based nail coating acts as an adhesive or paste, as described in the HTS description. Specifically, Stanley stated that the chemical-based nail coating not only coats but also collates the nail.⁹⁵ Accordingly, the Department finds that the record evidence demonstrates that the chemical-based nail coating acts as a paste and thus HTS 3907.30.30.00 is specific to the input. Third, the data are contemporaneous with the POR. Finally, the Department has previously found that data from the GTA, such as that on the record, represent a broad-market average and is tax- and duty-exclusive. Therefore, for the final results, we have valued chemical-based nail coating using Thai HTS 3907.30.30.00.

K. Glass Balls

Respondents' Arguments

- The Department should not value glass balls using Petitioner's proposed Ukrainian HTS 7002.10, "Glass balls with a diameter greater than 1 mm."
- The glass balls used by Stanley's subcontractor have three sizes and are used based on the following: (1) 0.8-1 mm, 20 percent; (2) 1-2 mm, 50 percent; and (3) 4-5 mm, 30 percent.
- If Thailand is selected as the surrogate country, the Department should value glass balls based on a weighted-average consumption basis using Thai HTS 7002.10.00.00, "Glass balls with diameter greater than 1 mm," and Thai HTS 7018.20.00.00, "Glass microspheres not exceeding 1 mm in diameter."

Petitioner's Arguments

- Did not comment on this issue.

Department's Position: The Department agrees with Respondents that glass balls should be valued using Thai HTS 7002.10.00.00 and 7018.20.00.00 for the different type of glass balls reported by Respondents. In this review, we have determined that Thai HTS 7002.10.00.00 and 7018.20.00.00 for the different types of glass balls reported by Respondents is the best available information for valuing glass balls because it satisfies all of the SV selection criteria. First, the publicly available data come from a country appearing on the Surrogate Country List and which we have selected as the primary surrogate country. Second, they are specific to the type of each glass ball consumed during the production process of the subject merchandise.⁹⁶ Third, the data are contemporaneous with the POR. Finally, the Department has previously found that data from the GTA, such as that on the record, represent a broad-market average and is tax- and duty-exclusive. Therefore, for the final results, we have valued glass balls using Thai HTS 7002.10.00.00 and 7018.20.00.00.

L. Hydrochloric Acid

Respondents' Arguments

⁹⁴ See Stanley's Section D Response, at 25.

⁹⁵ See *id.*, at 25-26.

⁹⁶ See Stanley's Section D Response at 49.

- The hydrochloric acid used by Stanley is not anhydrous. Thus, it should not be valued using Petitioner’s proposed HTS 2806.10.00.20, “Anhydrous hydrochloric acid.”
- If Thailand is selected as the surrogate country, the Department should value hydrochloric acid using Thai HTS 2806.10.00.10, “Hydrochloric acid less than 15% W/W.”

Petitioner’s Arguments

- The Department should not value Stanley’s hydrochloric acid using Thai HTS 2806.10.00.10 because the record is absent regarding the composition of Stanley’s hydrochloric acid.
- Stanley’s assertion that its hydrochloric acid is hydrous is unsupported by record evidence.

Department’s Position: The Department agrees with Respondents that hydrochloric acid should be valued using Thai HTS 2806.10.00.10. In this review, we have determined that Thai HTS 2806.10.00.10 for hydrochloric acid is the best available information for valuing hydrochloric acid because it satisfies all of the SV selection criteria. First, the publicly available data come from a country appearing on the Surrogate Country List which we have selected as the primary surrogate country. Second, they are specific to the input at issue because it is listed in the HTS description and, contrary to Petitioner’s argument, is specific to the type of input used to produce the subject merchandise.” Although Petitioner argues correctly that there is no record to support Stanley’s assertion that its hydrochloric acid is hydrous, the Department notes that there is no record evidence to show that Stanley’s hydrochloric acid is hydrous. For this review, the Department is accepting Stanley’s claim but for future reviews Stanley must provide conclusive evidence to support their claim regarding the specificity of hydrochloric acid. Third, the data are contemporaneous with the POR. Finally, the Department has previously found that data from the GTA, such as that on the record, represent a broad-market average and is tax- and duty-exclusive. Therefore, for the final results, we have valued hydrochloric acid using Thai HTS 2806.10.00.10.

M. Sodium Bicarbonate

Respondents’ Arguments

- The Department should not value sodium bicarbonate using Petitioner’s proposed HTS 3824.90.90.90, “Binders made for foundry molds or cores; chemical products and preparations, including residual products, of the chemical or allied industries, Other.”
- If Thailand is selected as the surrogate country, the Department should value sodium bicarbonate using Thai HTS 2836.30.33.00, “Sodium hydrogenate (sodium bicarbonate).”

Petitioner’s Arguments

⁹⁷ See Stanley’s Section D Response at 91.

- The Department should not value sodium bicarbonate using the Thai HTS proposed by Respondents because the record contains no evidence that would provide definitive guidance concerning this HTS number.

Department’s Position: The Department agrees with Respondents that sodium bicarbonate should be valued using Thai HTS 2836.30.33.00 for sodium bicarbonate. In this review, we have determined that Thai HTS 2836.30.33.00 for sodium bicarbonate is the best available information for valuing sodium bicarbonate because it satisfies all of the SV selection criteria. First, the publicly available data come from a country appearing on the Surrogate Country List which we selected as the primary surrogate country. Second, they are specific to the input at issue because the description provided by Respondents matches the description listed in the HTS description.⁹⁸ Although Petitioner argues that there is no definitive guidance concerning this HTS number, the Department finds that the fact that the input is listed within the HTS description compelling evidence that this HTS number is specific to the input. Additionally, the Department notes that Petitioner has not provided any evidence to show that the Respondents’ sodium bicarbonate input would not be classified under this HTS. Third, the data are contemporaneous with the POR. Finally, the Department has previously found that data from the GTA, such as that on the record, represent a broad-market average and is tax- and duty-exclusive. Therefore, for the final results, we have valued sodium bicarbonate using Thai HTS 2836.30.33.00.

N. Trisodium Phosphate

Respondents’ Arguments

- The Department should not value trisodium phosphate using Petitioner’s proposed HTS 2835.31.00, “Sodium triphosphate (sodium tripolyphosphate).”
- Trisodium phosphate was not consumed by Stanley’s subcontractors and does not need to be valued with a SV.⁹⁹
- If the Department does decide to value trisodium phosphate, the Department should value trisodium phosphate with Thai HTS 2835.23.00.00, “Trisodium phosphate.”

Petitioner’s Arguments

- The Department should not value trisodium phosphate using the Thai HTS proposed by Respondents because the record contains no evidence that would provide definitive guidance concerning this HTS number.

Department’s Position: The Department agrees with Respondents’ that Stanley’s trisodium phosphate should not be included as part of Stanley’s normal value build-up because the trisodium phosphate was purchased but not consumed during the POR.¹⁰⁰

O. Corrugated Cardboard Tray

Respondents’ Arguments

⁹⁸ See Stanley’s Section D Response, at 35-66.

⁹⁹ See Stanley’s Section D Response, at 51.

¹⁰⁰ See Stanley’s Section D Response, at 51.

- The Department should not value corrugated cardboard tray using Petitioner’s proposed Thai HTS 4823.69, “Trays, dishes, plates, cups and the like of paper, paperboard, cellulose wadding and webs, cut to size or shape, other.”
- If Thailand is selected as the surrogate country, the Department should value corrugated cardboard tray using Thai HTS 4808.10.00.00, “Corrugated paper and paperboard, whether or not perforated.”
- The Explanatory Notes for HTS 4808 show that items within this subheading are used as protective packing material.

Petitioner’s Arguments

- The Department should not value corrugated cardboard tray using Thai HTS 4808.10.00.00 because this HTS covers semi-finished goods, such as paperboard, and not finished and formed goods.

Department’s Position: The Department agrees with Respondents that corrugated cardboard tray should be valued using Thai HTS 4808.10.00.00 for corrugated cardboard tray. In this review, we have determined that Thai HTS 4808.10.00.00 for corrugated cardboard tray is the best available information for valuing corrugated cardboard tray because it satisfies all of the SV selection criteria. First, the publicly available data come from a country appearing on the Surrogate Country List which we have selected as the primary surrogate country. Second, they are specific to the input at issue because it includes the types of corrugated cardboard tray in the HTS description.¹⁰¹ Although Petitioner argues that HTS 4808.10.00.00 covers semi-finished goods, the Department finds that this HTS description is specific to the input because it includes corrugated paper and paperboard in the description, which are used in packing of merchandise. Accordingly, the Department finds that this is similar to the description that Stanley provided for its corrugated cardboard trays and thus specific to the input.¹⁰² Third, the data are contemporaneous with the POR. Finally, the Department has previously found that data from the GTA, such as that on the record, represent a broad-market average and is tax- and duty-exclusive. Therefore, for the final results, we have valued corrugate carddboard tray using Thai HTS 4808.10.00.00.

P. Plastic Core

Respondents’ Arguments

- The Department should not value plastic cores using Petitioner’s proposed HTS 3917.21.00, “Tubes, pipes, and hoses, and fittings thereof of plastics: tubes, pipes and hoses, rigid, of polymers of ethylene,” because it is not specific to the FOP.
- The plastic cores used by Stanley during the POR are short, polystyrene spools around which collated nails are wound.
- If Thailand is selected as the surrogate country, the Department should value plastic core using Thai HTS 3923.40.00.00, “Articles for the conveyance or

¹⁰¹ See Stanley’s Section D Response, at 75.

¹⁰² See *id.*

packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics: spools, cops, bobbins and similar supports.”

Petitioner's Arguments

- The Department should not value plastic cores using the Thai HTS proposed by Respondents because the record contains no evidence that would provide definitive guidance concerning this HTS number.

Department's Position: The Department agrees with Respondents that plastic core should be valued using Thai HTS 3923.40.00.00. In this review, we have determined that Thai HTS 3923.40.00.00 is the best available information for valuing plastic cores because it satisfies all of the SV selection criteria. First, the publicly available data come from a country appearing on the Surrogate Country List which we have selected as the primary surrogate country. Second, they are specific to the input at issue because it includes the types of plastic cores in the description used to pack the subject merchandise, such as spools.¹⁰³ Third, the data are contemporaneous with the POR. Finally, the Department has previously found that data from the GTA, such as that on the record, represent a broad-market average and is tax- and duty-exclusive. Therefore, for the final results, we have valued plastic strapping using Thai HTS 3923.40.00.00.

Q. Plastic Strapping

Respondents' Arguments

- The Department should not value plastic strapping using Petitioner's proposed HTS 3921.90.90.09, “Plates, sheets, film, foil, and strip of non-cellular plastics: other,” because it is not specific to the FOP.
- If Thailand is selected as the surrogate country, the Department should value plastic strapping using Thai HTS 3902.20.00.90, “Plates, sheets, film, foil and strip, except self-adhesive, of plastics, non-cellular, not reinforced, laminated or combined with other materials: of polymers of propylene.”

Petitioner's Arguments

- Did not comment on this issue.

Department's Position: The Department agrees with Respondents that plastic strapping should be valued using Thai HTS 3902.20.00.90. In this review, we have determined that Thai HTS 3902.20.00.90 is the best available information for valuing plastic strapping because it satisfies all of the SV selection criteria. First, the publicly available data come from a country appearing on the Surrogate Country List which we have selected as the primary surrogate country. Second, they are specific to the input at issue because it includes the types of plastic strapping in the description used to pack the subject merchandise.¹⁰⁴ Third, the data are contemporaneous with the POR. Finally, the Department has previously found that data from the GTA, such as that on the record, represent a broad-market average and is tax- and duty-exclusive. Therefore, for the final results, we have valued plastic strapping using Thai HTS 3902.20.00.90.

R. Brokerage and Handling

¹⁰³ See Stanley's Section D Response, at 77.

¹⁰⁴ See *id.*

Respondents' Arguments

- In the *Preliminary Results*, the Department calculated brokerage and handling using price data regarding procedures necessary to export a standardized cargo of goods of ten metric tons in a standard 20-foot container, as published by the World Bank's Doing Business in Ukraine.
- The Department should assume in its brokerage and handling calculation that the maximum cargo weight of a standard 20-foot container is 28,200 kilograms ("kg") and not 10,000 kg.
- In a recent Departmental decision, the Department has accepted the weight of 28,200 kg as the total payload for a 20-foot container.¹⁰⁵

Petitioner's Arguments

- The Department should continue to use the measurements of the Doing Business in Ukraine data because it is based on an actual fixed shipment of goods.
- While the Department has used theoretical weights in past cases, there is no evidence to show that the quantities were full container loads, and the maximum theoretical container weights proposed by the Respondents are overstated.

Department's Position: As an initial matter, the Department notes that these arguments were presented with regard to Ukraine. However, even though we have selected Thailand and are using a Thai brokerage and handling source, the same issue applies to the Thai source. In the *Preliminary Results*, the Department calculated brokerage and handling using price data regarding procedures necessary to export a standardized cargo of goods of ten metric tons in a standard 20-foot container, as published by the World Bank's Doing Business.¹⁰⁶ The Department calculated this charge by dividing the total charge by 10 tons which is found under "Trading Across Borders Methodology: Assumptions about the Business," which applies to all countries.¹⁰⁷ It states that: "The traded product travels in a dry cargo, 20-foot, full container load. It weighs 10 tons..." Therefore, because we are using the same source (Doing Business), and the assumptions about the business are the same, we find it unnecessary to conclude that the weight basis is anything other than what was reported. Although Respondents' point to a case where the Department accepted the total payload weight, the Department finds that this case is not consistent with recent Departmental practice. Specifically, the Department has stated that it would not accept the total payload weight for a 20-foot container because this would result in using a weight-basis not related to the costs reported in the World Bank's Doing Business.¹⁰⁸ Using 10 MT in the per-unit calculation maintains the relationship between cost and quantity from the survey (which is important because the numerator and the denominator of the calculation are dependent upon one another), makes use of data from the same source, and is consistent with the Department's practice. Moreover,

¹⁰⁵ See GDLSK Respondents' Post-Preliminary Surrogate Value Comments (October 1, 2012) at Exhibit 2 (citing to Memorandum to the File, through Scot Fullerton, Program Manager, from Paul Walker, Case Analyst, Subject: 8th Administrative Review, and Aligned 9th New Shipper Reviews, of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: SVs for the Preliminary Results (August 30, 2012) at Exhibit 1).

¹⁰⁶ See Preliminary Surrogate Values Memo at Exhibit 7.

¹⁰⁷ See *id.*

¹⁰⁸ See *Silicon Metal from the People's Republic of China: Final Results of Administrative Review*, 77 FR 54563 (September 5, 2012) and accompanying Issues and Decision Memorandum at Comment 11.

the information regarding the total payload weight of 28,200 kg represents the offering of a single vendor and thus is not a broad-market average, unlike the World Bank's Doing Business.¹⁰⁹ Thus, we will continue to use 10 tons as the basis for the brokerage and handling charge.

Respondent-Specific Issues

COMMENT 4: VALUATION OF HONGLI'S DIES

Petitioner's Arguments

- Hongli's drawing dies should be valued as a material input because they are required to be used in the production process for subject merchandise in the wire drawing stage and are not incidental to the production process.
- In *Silicon Cells from the PRC*, the Department stated it would treat the item as a material input if: "consumed continuously with each unit of production."¹¹⁰
- Hongli's drawing dies should be considered a material input because steel nails cannot be produced without drawing dies, which are continuously used in the production process.

Respondents' Arguments

- Hongli stated in its questionnaires responses that the company was unable to report the quantity of dies actually consumed because dies are not continuously used up during the production process as in *Solar Cells*, but rather were recycled until they were no longer useable.
- The Department should continue to treat Hongli's dies as manufacturing overhead, which is consistent with the Department's past practice.¹¹¹
- In *Silicon Cells from the PRC*, contrary to Petitioner's assertion, the Department stated there was "no conclusive test for reaching the appropriate classification of inputs."¹¹²

Department's Position: The Department has over time developed several factors for assessing whether inputs should be classified as direct materials or overhead ("OH"). These considerations include: 1) whether the input is physically incorporated into the final product; 2) the input's contribution to the production process and finished product; 3) the relative cost of the input; and, 4) the way the cost of the input is typically treated in

¹⁰⁹ See *Frontseating Service Valves From the People's Republic of China; 2010-2011 Antidumping Duty Administrative Review; Final Results*, 77 FR 67334 (November 9, 2012) and accompanying Issues and Decision Memorandum at Comment 5.

¹¹⁰ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Determination of Sales at Less than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part*, 77 FR 63791 (October 17, 2012) and accompanying Issues and Decision Memorandum at Comment 7 ("*Silicon Cells from the PRC*").

¹¹¹ See *Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Determination of Sales at Less than Fair Value*, 75 FR 60725 (October 1, 2010) and accompanying Issues and Decision Memorandum at Comment 15 ("*Copper Pipe and Tube Final*"); *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Review and Final Rescission, in Part*, 77 FR 14495 (March 12, 2012) and accompanying Issues and Decision Memorandum at Comment 3.

¹¹² See *Silicon Cells from the PRC*, and accompanying Issues and Decision Memorandum at Comment 7.

the industry. The Department has also classified inputs as direct materials if they were found to be: 1) consumed continuously with each unit of production; 2) required for a particular segment of the production process; 3) essential for production; 4) not used for incidental purposes; or, 5) otherwise a significant input to the manufacturing process rather than a miscellaneous or occasionally used material.¹¹³ Also of consideration has been whether the input was so regularly replaced as to represent a direct material rather than an OH item. As demonstrated by the variety of considerations, there is no conclusive test for reaching the appropriate classification of inputs that are not easily distinguished on their face as direct materials or OH. Further, contrary to Petitioner's assertion that meeting any one of these factors demonstrates that an input is a direct material, the Department instead finds that it is the totality of the evidence that must guide its decision in each case.¹¹⁴

Based on the totality of evidence, the Department agrees with Hongli that its dies should properly be treated as overhead. In its questionnaire responses, Hongli reported that the dies are recycled until they are no longer used during the production process.¹¹⁵ Unlike in *Silicon Cells*, the dies are not consumed on a directly proportional basis; although they are used during production, their "consumption" is better described as wear-and-tear. According to Hongli, the dies are reused until they can no longer be used during the production process and then they are replaced.¹¹⁶ This is similar to *LWS from the PRC* and *Diamond Sawblades from the PRC* where the Department found the input was used before, during, and after the production run of the period under review.¹¹⁷ The Department finds that the totality of the evidence shows that the input has not been regularly replaced as to represent a direct material and instead should be classified as an OH item.

COMMENT 5: APPLICATION OF PARTIAL ADVERSE FACTS AVAILABLE ("AFA") TO HONGLI'S FACTORS OF PRODUCTION ("FOP")

Petitioner's Arguments

- Hongli's FOP allocation methodology is highly distortive because it does not result in product-specific consumption ratios.
- At a minimum, Hongli should have been able to report different product-specific ratios, such as for labor and energy, for the different stages of production.

¹¹³ See *Silicon Cells from the PRC*, and accompanying Issues and Decision Memorandum at Comment 7; *Citric Acid Final Results Final Results of the First Administrative Review of the Antidumping Duty Order: Citric Acid and Certain Citrate Salts from the People's Republic of China*, 76 FR 77772 (December 14, 2011) and accompanying Issues and Decision Memorandum at Comment 18.

¹¹⁴ See *id.*

¹¹⁵ See Hongli's Supplemental Section C and D Questionnaire Response (July 20, 2012) at 4.

¹¹⁶ See *id.*

¹¹⁷ See *Laminated Woven Sacks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 35646 (June 24, 2008) and accompanying Issues and Decision Memorandum at Comment 1 ("*LWS from the PRC*"); *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 (May 22, 2006) and accompanying Issues and Decision Memorandum at Comment 2 ("*Diamond Sawblades from the PRC*").

- However, Hongli's allocation methodology results in significant distortions and yields massive inaccuracies in the calculation of the NV.
- The Department should apply partial adverse facts available ("AFA") to Hongli's NV. As partial AFA, the Department should assign to Hongli's U.S. sales the highest corroborated petition margin, 118.04 percent. In the alternative, the Department should assign the highest FOP ratio reported for each FOP as partial AFA.

Respondents' Arguments

- Hongli has been a cooperative respondent based on the following: (1) it reported all the labor and energy used to produce nails; (2) the FOPs reconcile to Hongli's cost reconciliation; and (3) the allocation is based on the manner in which Hongli maintains its accounting books and records.
- Hongli reported to the Department that it did not maintain product-specific FOP accounting records and the Department did not request that Hongli reallocate its FOPs.
- If the Department determines that Hongli's allocation methodology was distortive, the Department should apply neutral facts available ("FA") by accepting Hongli's allocation methodology.¹¹⁸

Department's Position: The Department disagrees with Petitioner that it is appropriate to apply partial AFA to Hongli due to alleged inaccuracies in Hongli's reported FOPs. Section 776(a)(2) of the Act states that if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadline, or in the form or manner requested; (C) significantly impede a proceeding; or (D) provides such information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

If, after being notified by the Department of a deficiency, the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act states that the Department shall not decline to consider information deemed "deficient" under section 782(d) if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. Furthermore, section 776(b) of the Act provides that the Department, in selecting from the facts otherwise available, may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the

¹¹⁸ See *Certain Frozen Warmwater Shrimp from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52061 (September 12, 2007) and accompanying Issues and Decision Memorandum at Comment 7.

Department's requests for information.¹¹⁹ The Act provides, in addition, that in selecting from among the facts available the Department may, subject to the corroboration requirements of section 776(c), rely upon information drawn from the petition, a final determination in the investigation, any previous administrative review conducted under section 751 (or section 753 for countervailing duty cases), or any other information on the record.¹²⁰

Pursuant to section 776(b) of the Act, the Department may use information that is adverse to the interest of that party when the party fails to cooperate by not acting to the best of its ability in responding to the Department's request for information.¹²¹ Further, section 776(b) of the Act authorizes to use as AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for adverse facts available, the Department selects a rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."¹²²

In this case, we find that the application of partial AFA for Hongli is not appropriate. The Department must first assess whether the use of facts available is justified, and then, whether the criteria for an adverse inference have been met, pursuant to section 776 of the Act. We find that the application of facts otherwise available is not warranted under section 776(a) of the Act because Hongli: (A) submitted the requested information by the submitted deadlines; (B) provided its information in a timely manner and in form or manner requested; and (C) did not significantly impede this proceeding under the antidumping statute.¹²³

The Department notes that that the Department does require a company to report its FOP usages on a CONNUM-specific basis unless the company demonstrates to the Department's satisfaction that its accounting system does not allow for it.¹²⁴ In certain cases, such as *Seamless Pipe*, the Department has found that the application of total AFA was appropriate because the respondent failed to explain why it could not calculate CONNUM-specific consumption ratios and why its proposed methodology was the best

¹¹⁹ See also Statement of Administrative Action ("SAA") accompanying the URAA, H.R. Doc. 103-316, Vol. 1 (1994) at 870.

¹²⁰ See section 776(b) of the Act.

¹²¹ See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) ("Nippon").

¹²² See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

¹²³ See Hongli's Section D Questionnaire Response; Hongli's Supplemental Questionnaire Response; Hongli's Second Supplemental Sections C and D Questionnaire Response.

¹²⁴ See, e.g., *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews*, 74 FR 41374 (August 17, 2009) and accompanying Issues and Decision Memorandum at Comment 18; *Polyethylene Retail Carrier Bag Committee, Hilex Poly Co., LLC, and Superbag Corporation v. United States*, 232 Fed. Appx. 965, 970 (CAFC 2007).

way to accurately capture the consumption amount.¹²⁵ Specifically, in *Seamless Pipe*, the Department found that the respondent had not accurately reported allocated consumption amounts because there were production reports that showed the respondent could report product-specific consumption amounts.¹²⁶

However, in this case, the respondent, Hongli, stated that it was reporting allocated consumption ratios and that it reported that it did not maintain production records, cost-center codes, or material consumption worksheets on a product-specific basis.¹²⁷ When questioned about its allocation methodology by the Department in a supplemental questionnaire, Hongli reported that it did not allocate consumption ratios on a product-specific basis because it does not maintain production records by product batch or product type.¹²⁸ According to Hongli, it only records monthly material consumption and output quantity, which is why it does not maintain accounting records required to support product-specific consumption ratios.¹²⁹ Unlike in *Seamless Pipe Final* and *Kitchen Racks* where there was record evidence contradicting the respondent's statements on the record, there is no evidence on the record that Hongli maintained production or accounting records that would have allowed Hongli to report product-specific consumption ratios.¹³⁰ Therefore, the Department does not assume, contrary to the information on the record, that Hongli could have reported more accurate product-specific consumptions instead of the allocated consumption ratios reported by Hongli. Accordingly, the Department finds that Hongli has acted to the best of its ability in reporting accurate allocated consumption ratios. And thus, these findings do not support the application of partial AFA to Hongli.

Additionally, we find that Hongli has not impeded this proceeding under the antidumping statute, as this company has responded to our questions throughout the course of the administrative review. Moreover, the documentation and corresponding FOPs reported by Hongli reconcile to Hongli's financial statements.¹³¹ Finally, we consider that Hongli has cooperated to the best of its ability in the current review. However, the Department intends to require that Hongli and all other future respondents for this case report all FOPs data on a CONNUM-specific basis using all product characteristics in subsequent reviews, as documentation and data collection requirements should now be fully understood by Hongli and all other respondents. Specifically, the Department intends to require Hongli and all other respondents to report all FOPs on an individual CONUM-specific that will reflect the different production costs required to produce the different types of nails. In order to report product-specific FOP ratios for each individual

¹²⁵ See *Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 60725 (October 1, 2010) and accompanying Issues and Decision Memorandum at Comment 12 ("*Seamless Pipe Final*").

¹²⁶ See *id.*

¹²⁷ See Hongli's Section D Response (April 4, 2012) at 5 and Exhibit D2-E.

¹²⁸ See Hongli's Section D Response (April 4, 2012) at 1.

¹²⁹ See *id.*

¹³⁰ See *Seamless Pipe Final*, and accompanying Issues and Decision Memorandum at Comment 12; *Kitchen Racks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009) and accompanying Issues and Decision Memorandum at Comment 16A ("*Kitchen Racks*").

¹³¹ See Hongli's Section D Response, at Exhibit D2-K.

CONNUM, the Department intends to require Hongli and all future respondents to maintain accounting and production records on a monthly, product-specific basis.¹³²

COMMENT 6: REPORTING OF STANLEY'S MOVEMENT COSTS

Respondents' Arguments

- In the *Preliminary Results*, the Department properly calculated Stanley's antidumping duty margin without converting certain movement costs from a per-box to per-kg because these costs were already reported, on a per-kg basis.

Petitioner's Arguments

- Did not comment on this issue.

Department's Position: The Department agrees with Stanley that it properly did not need to convert certain movement expenses from a per-box to per-kg basis because these expenses were already reported on a per-kg basis. The Department will continue to calculate Stanley's antidumping duty margin without making conversions for these movement expenses for the final results.

COMMENT 7: STANLEY'S INLAND FREIGHT

Respondents' Arguments

- In the *Preliminary Results*, the Department properly calculated that inland truck freight costs for transportation of nails to and from various galvanizing subcontractors were only applied to Stanley's nails that underwent the galvanizing process.

Petitioner's Arguments

- Did not comment on this issue.

Department's Position: The Department agrees with Stanley that it properly calculated the inland freight costs for transporting nails to and from the galvanizing subcontractors by only applying this cost to Stanley's nails that underwent the galvanizing process. The Department will continue to only apply the inland freight cost incurred for transporting nails to and from the galvanizing subcontractors to Stanley's nails that underwent the galvanizing process.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions and adjusting the margin calculation program accordingly. If accepted, we will publish the final results of review and the final dumping margins in the *Federal Register*.

AGREE _____ DISAGREE _____

¹³² For instance, in order to calculate product-specific ratios for an input, such as steel wire rod, Hongli and all future respondents should maintain warehouse records, workshop records, *etc.*, on a product-specific basis for that input.

Paul Piquado
Paul Piquado
Assistant Secretary
for Import Administration

5 MARCH 2013
Date