



A-570-918  
AR 10/1/10 - 9/30/11  
**Public Document**  
IA/NME/IX: AR

May 7, 2013

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

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

**SUBJECT:** Steel Wire Garment Hangers 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 M&B Metal Products Inc. (“Petitioner”), and Fabriclean Supply Inc. (“Fabriclean”), a U.S. importer and wholesaler, in this third administrative review of the antidumping duty order on steel wire garment hangers from the People’s Republic of China (“PRC”). Following the Preliminary Results<sup>1</sup> and the analysis of the comments received, we have not made any changes in the margin calculations for the final results. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

## BACKGROUND

On November 8, 2012, the Department published the Preliminary Results of this administrative review.<sup>2</sup> Between December 5, 2012 and December 17, 2012, interested parties submitted surrogate value (“SV”) data for consideration in the final results.<sup>3</sup> On January 4, 2013, Petitioner

---

<sup>1</sup> See Steel Wire Garment Hangers from the People’s Republic of China: Antidumping Duty Administrative Review, 2010-2011, 77 FR 66952 (November 8, 2012) (“Preliminary Results”), and accompanying Decision Memorandum.

<sup>2</sup> Id.

<sup>3</sup> See Letter to the Department from Petitioner, regarding Third Administrative Review of Steel Wire Garment Hangers from China: Petitioner’s Submission of Surrogate Value Information (December 5, 2012) (“Petitioner’s December 5, 2012, Letter”); Letter to the Department from Fabriclean, regarding Rebuttal Surrogate Value Comments: Steel Wire Garment Hangers from the People’s Republic of China (December 17, 2012).

submitted an administrative case brief.<sup>4</sup> On January 9, 2013, Fabriclean submitted a rebuttal brief.<sup>5</sup> On January 14, 2013, the Department extended the final results to May 7, 2013.<sup>6</sup>

## **SCOPE OF THE ORDER**

The merchandise that is subject to the order is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers. Specifically excluded from the scope of the order are wooden, plastic, and other garment hangers that are not made of steel wire. Also excluded from the scope of the order are chrome-plated steel wire garment hangers with a diameter of 3.4 mm or greater. The products subject to the order are currently classified under U.S. Harmonized Tariff Schedule (“HTSUS”) subheadings 7326.20.0020, 7323.99.9060, and 7323.99.9080.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.<sup>7</sup>

## **RESPONDENT SELECTION**

On December 12, 2011, Petitioner submitted comments on respondent selection that also included allegations pertaining to certain shipments of subject merchandise that entered the United States during the period of review (“POR”). Petitioner questions whether the proper antidumping duty rate had been applied to these shipments upon entry.<sup>8</sup> The Department intends to refer this information to and U.S. Customs and Border Protection (“CBP”) for further investigation, as stated in the Preliminary Results.<sup>9</sup>

---

<sup>4</sup> See Letter to the Department from Petitioner, regarding Third Administrative Review of Steel Wire Garment Hangers from China — Petitioner’s Case Brief, dated January 4, 2013 (“Petitioner’s Case Brief”).

<sup>5</sup> See Letter to the Department from Fabriclean, regarding Steel Wire Garment Hangers from China: Rebuttal Brief, dated January 9, 2013.

<sup>6</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James Doyle, Office Director, from Kabir Archuletta, Case Analyst, “Steel Wire Garment Hangers from the People’s Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” dated January 14, 2013.

<sup>7</sup> See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People’s Republic of China, 73 FR 58111 (October 6, 2008).

<sup>8</sup> See Letter from Petitioner to the Secretary of Commerce “Comments on Respondent Selection” (December 12, 2011), at 2-4 and Ex. 2.

<sup>9</sup> See Decision Memorandum at 5.

## DISCUSSION OF THE ISSUES

### General Issues

#### **Comment I: Selection of the Surrogate Country**

##### ***A. Economic Comparability***

###### *Petitioner's Arguments*

- The Department should select Thailand as the primary surrogate country, rather than the Philippines, because Thailand is the most economically comparable to the PRC. Thailand's 2010 per capita gross national income ("GNI") was \$4,210, while the PRC's was \$4,260; of all the seven countries identified as potential surrogate countries, Thailand's per capita GNI is the closest to the PRC.<sup>10</sup>
- The potential surrogate countries are not all equally comparable to the PRC in terms of economic development. For example, the difference between the Philippines' per capita GNI and that of the PRC is greater than the difference between the PRC's per capita GNI and any other country in the Surrogate Country Letter.<sup>11</sup>
- A recent decision from the Court of International Trade ("CIT") held that it is not reasonable for the Department to ignore substantial GNI differences when evaluating comparability in the surrogate selection process "where more than one potential surrogate {country} within that GNI range is a substantial producer of comparable merchandise for which adequate data is publicly available."<sup>12</sup>

###### *Fabriclean's Arguments*

- The Department considers all countries included on the list of potential surrogate countries by the Office of Policy as equally comparable in terms of economic development for purposes of selecting a surrogate country.
- Just as the Department is under no obligation to select the country with the most significant production in its analysis of significant producers, the Department need not select the country with a per capita GNI closest to that of the PRC.<sup>13</sup>
- The Department has not yet responded to the decision by the CIT regarding differences in GNI when evaluating comparability. Further, the CIT decision does not require the Department to choose the most economically comparable country; rather, the decision stated that the Department must weigh the relative strengths and weaknesses of potential surrogate countries and, if one potential surrogate country has superior data and another is closer in GNI to the non-market economy ("NME") in question, the Department must consider these differences when selecting the appropriate surrogate.<sup>14</sup>

---

<sup>10</sup> See Letter from Catherine Bertrand, Program Manager, Office 9, to Interested Parties regarding Third Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Deadlines for the Surrogate Country and Surrogate Value Comments (March 2, 2012) (hereinafter "Surrogate Country Letter") at Attachment 1, page 2.

<sup>11</sup> See *id.*

<sup>12</sup> See *Ad Hoc Shrimp Trade Action Comm. v. United States*, 882 F. Supp. 2d 1366, 1375 (CIT 2012) ("Ad Hoc Shrimp").

<sup>13</sup> See *Dorbest v United States*, 462 F. Supp. 2d 1262, 1275 (CIT 2006).

<sup>14</sup> See *Ad Hoc Shrimp*, 882 F. Supp. 2d at 1375.

- In this case, the alleged superior economic comparability of Thailand is irrelevant because Thailand offers no usable financial statements and has inferior data for valuing labor.

**Department's Position:** We disagree with Petitioner and continue to regard both the Philippines and Thailand as being equally economically comparable to the PRC. Because the Department treats the PRC as an NME, when calculating normal value ("NV"), section 773(c)(4) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to value the factors of production ("FOPs"), to the extent possible, in a surrogate country that is (a) at a level of economic development comparable to the PRC and (b) a significant producer of comparable merchandise.<sup>15</sup> Section 773(c)(4)(A) of the Act is silent with respect to how the Department determines a country to be economically comparable to the NME country. Importantly, section 773(c)(4) of the Act does not direct the Department to select the country that is most economically comparable to the NME whose products are under review. As such, the Department's long-standing practice has been to identify those countries which are at a level of economic development similar to the PRC in terms of GNI data available in the World Development Report provided by the World Bank.<sup>16</sup>

In this review, the Department determined that Colombia, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine are countries whose per capita GNI are comparable to the PRC in terms of economic development.<sup>17</sup> The annual GNI levels for the list of potential surrogate countries range from \$2,050 to \$6,100.<sup>18</sup> The PRC's GNI during the POR was \$4,260.<sup>19</sup>

The Department is satisfied that the seven countries whose GNI are comparable to the PRC are equally comparable in terms of economic development and serve as an adequate group to consider when gathering SV data. Providing parties with a range of countries with varying GNIs is reasonable, given that any alternative would require a complicated analysis of factors affecting the relative GNI differences between the PRC and other countries, which is not required by the statute. By identifying a range of countries that are economically comparable to the PRC based on GNI, the Department provides parties with a predictable practice which is also reasonable and consistent with the statutory requirements. The Department previously has found that the selection of the range of economically-comparable countries based on GNIs is reasonable and consistent with the Act.<sup>20</sup>

Regarding Petitioner's comment that the Department should reconsider its finding that the Philippines and Thailand are equally comparable to the PRC, we emphasize that there is no requirement in the statute that we select the country that is closest to the PRC in terms of economic comparability as represented by GNI as the surrogate country. As explained above, the Department's practice is to consider all countries identified by the Office of Policy to be

---

<sup>15</sup> See also Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin 04.1").

<sup>16</sup> See Pure Magnesium from the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order, 75 FR 80791 (December 23, 2010) ("Magnesium from the PRC"), and accompanying Issues and Decision Memorandum at Comment 4.

<sup>17</sup> See Surrogate Country Letter at 1 and Attachment I.

<sup>18</sup> See id.

<sup>19</sup> See id.

<sup>20</sup> See Magnesium from the PRC, and accompanying Issues and Decision Memorandum at Comment 4.

equally economically comparable for the purposes of the selection of a surrogate country. Therefore, we continue to consider each of the seven countries equally comparable to the PRC in terms of economic development.

With respect to the CIT's decision in Ad Hoc Shrimp, we disagree with Petitioner that the CIT compelled us to select the country most comparable to the NME under review in terms of GNI. In its decision, the CIT explained that:

An unexplained and conclusory blanket policy of simply ignoring relative GNI comparability within a particular range of GNI values does not amount to a reasonable reading of the evidence in support of a surrogate selection where more than one potential surrogate within that GNI range is a substantial producer of comparable merchandise for which adequate data is publicly available. Rather, in such situations, Commerce must explain why its chosen surrogate's superiority in one of the three eligibility criteria outweighs another potential surrogate's superiority in one or more of the remaining criteria.<sup>21</sup>

While the Department continues to disagree with the CIT that the statute requires it to compare relative GNI comparability in its analysis, in this review, the Department has, nevertheless, thoroughly analyzed whether the potential surrogate countries are significant producers of comparable merchandise and whether SV data is available in these countries and of sufficient quality to calculate reliable SVs for the inputs used in the production of subject merchandise. Therefore, we view the scenario that the CIT addressed in Ad Hoc Shrimp as distinct from the instant review.

Given the above, we continue to find all of the countries that appear in the Surrogate Country Letter to be equally economically comparable to the PRC for the purpose of considering them as an appropriate source to find data to value FOPs.

## **B. Significant Producer of Comparable Merchandise**

### *Petitioner's Arguments*

- The volume of U.S. imports under the Harmonized Tariff Schedule ("HTS") classification 7326.90.90.12, "Hangers, Stays and Similar Supports," which is more specific to the subject merchandise, were far greater from Thailand compared to those from the Philippines.<sup>22</sup> Specifically, under this classification, exports from the Philippines to the United States totaled 43,366 kilograms and \$67,531 during the POR. The quantity is essentially a mere two container loads of merchandise and does not demonstrate significant production of identical or comparable merchandise. The United States imported 1,462,272 kilograms from Thailand during the POR.<sup>23</sup>
- Even using the less specific HTS category used in the Preliminary Results, HTS classification – 7326.20, "Articles of Iron or Steel, NESOI," Thailand's exports under HTS

---

<sup>21</sup> See Ad Hoc Shrimp, 882 F. Supp. 2d at 1375.

<sup>22</sup> See Petitioner's December 5, 2012, Letter at Exhibit 1.

<sup>23</sup> See Petitioner's Letter Regarding Surrogate Country Selection, dated April 2, 2012, at Exhibit A.

7326.20 were 7,159,278 kilograms, while exports from the Philippines were 207,342 kilograms.<sup>24</sup>

- Under either classification, Thailand is the more significant producer of identical and comparable merchandise.

#### *Fabriclean's Arguments*

- Petitioner errs in its claim that Thailand should be regarded as a more significant producer of identical merchandise than the Philippines because U.S. imports of garment hangers from Thailand were far greater than the same from the Philippines. Exports do not equate to production within a country, do not capture production consumed domestically, and can include re-exports produced elsewhere. The last point is important, considering that Petitioner has reiterated the prevalence of transshipments of wire garment hangers.<sup>25</sup> Making a surrogate country selection solely based on volume of exports runs contrary to the assertion of the prevalence of transshipments.
- There is no record evidence that there are any steel wire garment hanger producers in Thailand.<sup>26</sup>
- It is reasonable to examine exports from potential surrogate countries under HTS 7326.20 because there is no evidence of production of identical merchandise in any of the potential surrogate countries. Moreover, the abundance of financial statements of companies in the Philippines that produce comparable merchandise is evidence of significant production. Similarly, the existence of wire and nail manufacturers trade associations in the Philippines is evidence that the country contains multiple producers of wire-related products.
- Even if export levels are a reasonable measure for identifying significant producers, record evidence demonstrates that Ukraine, not Thailand, is the largest producer of comparable merchandise.<sup>27</sup>

**Department's Position:** We disagree with Petitioner and continue to regard both Thailand and the Philippines as significant producers of comparable merchandise. Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Importantly, the Act does not define the phrase "significant producer."<sup>28</sup> Legislative history 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.<sup>29</sup> 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,

---

<sup>24</sup> See Memorandum to the File regarding Third Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Surrogate Values for Preliminary Results (November 1, 2012) ("Preliminary SV Memorandum") at 1.

<sup>25</sup> See Fabriclean Rebuttal Comment, at 2 and Exhibit SV-1, Statement on Behalf of the Coalition to Enforce Antidumping & Countervailing Duty Orders (October 25, 2011) (generally explaining the problem of transshipment to avoid antidumping and countervailing duties and that hangers and other products are transshipped through Korea, Malaysia, Taiwan and "other Southeast Asia countries").

<sup>26</sup> See *id.*, at 2.

<sup>27</sup> See Petitioner's Case Brief, at 9.

<sup>28</sup> See section 773(c)(4)(B) of the Act; accord Policy Bulletin 04.1.

<sup>29</sup> 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).

value, or both to fit the example provided in the legislative history.<sup>30</sup> As a result, this ambiguous provision of the Act does not compel the Department to define “significant producer” in any particular manner.<sup>31</sup> The Policy Bulletin explains that

{t}he 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 {the Office of Policy’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.<sup>32</sup>

Moreover, neither the statute nor the Department’s regulations provide further guidance on what may be considered comparable merchandise.<sup>33</sup> Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that “{i}n all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”<sup>34</sup> The Policy Bulletin further notes that in cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable to subject merchandise is produced in the potential surrogate country on a case-by-case basis.<sup>35</sup> Whether the Department considers other merchandise to be comparable to the subject merchandise will depend on the subject merchandise at issue:

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

Generally, the Department, when making a determination of significant production within a country identified as a potential surrogate country, looks at a country’s exports, rather than U.S. import data in making its evaluation. Furthermore, while Petitioner has placed import data on the record of this review regarding imports of identical merchandise into the United States from

---

<sup>30</sup> See id.

<sup>31</sup> See Dorbest Ltd. v. United States, 462 F. Supp. 2d 1262, 1274 n.5 (CIT 2006).

<sup>32</sup> See Policy Bulletin 04.1, at 3.

<sup>33</sup> See section 773(c)(4)(B) of the Act; accord Policy Bulletin 04.1.

<sup>34</sup> See Policy Bulletin 04.1, at 2.

<sup>35</sup> See Policy Bulletin 04.1, at 3.

<sup>36</sup> See id.

Thailand,<sup>37</sup> Petitioner has not placed on the record of this review any financial statements of Thai producers of identical merchandise. Moreover, although Petitioner provided financial statements for seven Thai companies, none of these companies produces identical merchandise and it is questionable whether they produce comparable merchandise, as discussed in the “Data Availability” section below. Consequently, the Department cannot determine conclusively whether Thailand produces or is a significant producer of identical merchandise. Without more, the Department cannot know with certainty whether the Thai figures represent identical merchandise produced in Thailand, or whether that data represents identical merchandise re-exported through Thailand. This fact is important, especially considering that Petitioner has identified transshipment as a potential issue in this case.<sup>38</sup>

In cases where the record demonstrates that identical merchandise is not produced in any of the potential surrogate countries, such as in this case, the Department must discern whether comparable merchandise was produced in any of those countries.<sup>39</sup> In this case, because the record did not contain reliable production data for identical merchandise, we analyzed which of the seven potential surrogate countries were exporters of comparable merchandise, as a proxy for production data, during the POR. We obtained export data using the Global Trade Atlas (“GTA”) for HTS 7326.20: “Other Articles of Iron/Steel Wire.”

We find that “Other Articles of Iron/Steel Wire” are comparable to subject merchandise because this is the HTS subheading that includes steel wire garment hangers and other downstream products manufactured from steel wire.<sup>40</sup> In the Preliminary Results, the Department found that, under HTS 7326.20, all seven of the countries provided in the Surrogate Country Letter were significant producers of comparable merchandise.<sup>41</sup> Since the Preliminary Results, no data have been submitted on the record that challenges that finding. Moreover, as stated above, the statute does not require the Department to choose the country with the largest volume of exports of comparable merchandise in selecting a surrogate country. With respect to Petitioner’s argument that the Department should consider the volume of U.S. imports of a particular good in determining significant producer, we disagree because imports into the U.S. from a particular country may not have necessarily been produced in that country. This is especially true in this case given that the record does not contain any evidence that there are producers of identical or comparable merchandise in Thailand and that Petitioner has reported transshipment of subject merchandise in that region. Consequently, we find that each of the seven countries in the Surrogate Country Letter are significant producers of merchandise comparable to subject merchandise.

---

<sup>37</sup> See Petitioner Surrogate Country Comments, dated December 5, 2012, at 3-4 and Exhibit 1.

<sup>38</sup> See Fabriclean Rebuttal Comment, page 2 and Exhibit SV-1, Statement on Behalf of the Coalition to Enforce Antidumping & Countervailing Duty Orders, October 25, 2011 (generally explaining the problem of transshipment to avoid antidumping and countervailing duties and that hangers and other products are transshipped through Korea, Malaysia, Taiwan and “other Southeast Asia countries.”)

<sup>39</sup> See Policy Bulletin 04.1, at 2.

<sup>40</sup> See Decision Memorandum, at 13.

<sup>41</sup> See *id.*

Therefore, because each of the seven countries in the Surrogate Country Letter satisfies the “economic comparability” and “significant producer” prongs of the surrogate country analysis, the Department also will consider data availability in selecting a surrogate country.<sup>42</sup>

### C. Data Considerations

#### *Petitioner’s Arguments*

- There are new data on the record for valuing FOPs that make Thailand the best source from an overall data perspective in terms of specificity.
- The Department should value labor from the country that is most economically comparable to the PRC; in this instance, Thailand is the most economically comparable.
- While GTA data are available from both the Philippines and Thailand, the GTA data for Thailand are more specific for at least seven of 20 FOPs: paint, latex, greyback paperboard, ink, tape, carton ink, diesel fuel and steel wire rod. For these FOPs, GTA data from Thailand are detailed to the eight and 11-digit levels, while the data from the Philippines are detailed to the six-digit level.
- In the Preliminary Results, the Department valued steel wire rod using Philippine GTA import data under HTS category 7213.91.9901 “Bars and Rods, Hot-Rolled, In Irregularly Wound Coils, Of Iron Or Nonalloy Steel, Of Circular Cross-Section Measuring Less Than 14 mm In Diameter, NESOI—Other—Containing By Weight Less Than 0.60% of Carbon, which is not as specific to the input used by the Shanghai Wells Group as the Thai GTA import data for steel wire rod under HTS 7213.91.00.010, “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, Containing By Weight Not More than 0.08% carbon”.<sup>43</sup>
- The Department has acknowledged the importance of using the most specific tariff classifications in selecting the best surrogate country, particularly for key material inputs.<sup>44</sup>

#### *Fabriclean’s Arguments*

- There is no indication that the Philippine GTA HTS categories do not accurately reflect the FOP being valued—there is very little detail regarding the physical characteristics of the FOPs under consideration. As such, there is no reason to believe that the new proposed HTS categories are more accurate than those selected at the Preliminary Results.
- The Shanghai Wells Group does not specify the carbon content when it makes purchases of wire rod; instead, the Shanghai Wells Group purchases wire rod meeting the steel grade Q195<sup>45</sup> which by definition includes a range of carbon contents, ranging beyond 0.08 percent.<sup>46</sup> Carbon content is only one property of the wire rod that could affect the usability of the input for producing hangers.

---

<sup>42</sup> See Policy Bulletin 04.1.

<sup>43</sup> See Petitioner’s December 5, 2012, Letter at Exhibit 2B. The Shanghai Wells Group consists of Shanghai Wells Hanger Co., Ltd., and Hong Kong Wells Ltd.

<sup>44</sup> See High Pressure Steel Cylinders from the People’s Republic of China: Final Determination of Sales At Less Than Fair Value, 77 FR 26739 (May 7, 2012) (“Steel Cylinders”), and accompanying Issues and Decision Memorandum at 5.

<sup>45</sup> See Shanghai Wells Supplemental Sections C and D Questionnaire Response, dated April 20, 2012, at 1.

<sup>46</sup> See Shanghai Wells Letter, dated July 16, 2012, at 2.

- Should the Department choose to value wire rod using a source other than the Philippines, the record contains a Ukrainian source for valuing low-carbon steel wire rod.
- Petitioner offers no new Thai data for valuing labor.

**Department’s Position:** We disagree with Petitioner and determine that the Philippine data represent the best information available to value FOPs utilized by the Shanghai Wells Group in producing subject 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.”<sup>47</sup> 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.”<sup>48</sup>

Section 773(c)(1) of the Act instructs the Department to value the FOPs based upon the best available information from an market economy (“ME”) country or countries that the Department considers appropriate. When considering what constitutes the best available information, the Department considers several criteria, including whether the SV data is contemporaneous, publicly available, tax and duty exclusive, representative of a broad market average, and specific to the input.<sup>49</sup> The Department’s preference is to satisfy the breadth of the aforementioned selection criteria.<sup>50</sup> 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.<sup>51</sup> The Department must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the “best” available SV for each input.<sup>52</sup>

With respect to SV data on steel wire rod, the material input used in the production of subject merchandise, we find that data from the Philippines is more specific than data from Thailand. In its Section C questionnaire response, the Shanghai Wells Group indicates that it used steel wire rod with up to 0.25 percent carbon content.<sup>53</sup> The Thai GTA data covers steel wire rod with up

---

<sup>47</sup> See Policy Bulletin 04.1.

<sup>48</sup> Id.

<sup>49</sup> 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.

<sup>50</sup> 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.

<sup>51</sup> 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) (“Mushrooms”), and accompanying Issues and Decision Memorandum at Comment 1; see also Freshwater Crawfish Tail Meat from the People’s Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review, 67 FR 19546 (April 22, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>52</sup> See, e.g., Mushrooms, and accompanying Issues and Decision Memorandum at Comment 1.

<sup>53</sup> See The Shanghai Wells Group Section C Questionnaire Response, dated February 17, 2012, at 6. In the Shanghai Wells Group Section C and D Supplemental Questionnaire Response, dated April 20, 2012, at Exhibit 1,

to 0.08 percent carbon, whereas the Philippine data concerns steel wire rod with up to 0.60 percent carbon.<sup>54</sup> In other words, not all of the steel wire rod utilized by the Shanghai Wells Group would be covered by the Thai HTS category proffered by Petitioner; in contrast, all of the steel wire rod used by the Shanghai Wells Group would enter the Philippines under the HTS category used in the Preliminary Results. Therefore, we find that the Philippines data for this input is more specific to the steel wire rod used by the Shanghai Wells Group.

With respect to Petitioner's citation to Steel Cylinders, we agree that using the most specific tariff classifications is important, particularly for key material inputs such as steel wire rod, in selecting the primary surrogate country. As explained above, the Philippine data for steel wire rod represents the most specific data on the record in relation to the input used by the Shanghai Wells Group. Consequently, and consistent with our practice, we find that the Philippine data is specific to the input in question.

The record data for all of the other FOPs support selecting the Philippines, as opposed to Thailand, as the primary surrogate country in this review. Specifically, the record does not contain Thai sources for valuing all of the other FOPs, while the record contains values for all of the FOPs from the Philippines that satisfy the SV criteria.<sup>55</sup> Moreover, while Petitioner submitted new data concerning the valuation of some of the other FOPs, which it claims are more specific to the inputs used by the Shanghai Wells Group, Petitioner has not explained why it views the Thai sources to be more specific, other than to state that the Thai data reaches to the eight- and eleven-digit HTS categories and that the Philippine data extends only to the six-digit categories. That an HTS category extends to eight- or eleven-digits does not, on its own, render the source more specific relative to a six-digit HTS category, given that the larger digit category may be overly-narrow relative to the input used by the respondent. In this case, the record demonstrates that the Thai data is not any more specific than the Philippine data in valuing the inputs used by the Shanghai Wells Group. The Shanghai Wells Group provided general descriptions about the physical characteristics of the FOPs under consideration.<sup>56</sup> The Philippine HTS categories are specific to the inputs as reported by the Shanghai Wells Group. There is no indication that the eight and eleven-digit Thai HTS categories, which may be overly-narrow and not encompass the inputs used by the Shanghai Wells Group, are the more specific source. Finally, Petitioner has failed to demonstrate how using data from the Philippines to value labor would result in an inaccurate margin calculation.

Therefore, in light of the above analysis, we consider the GTA data from the Philippines to serve as the best source for valuing the FOPs used by the Shanghai Wells Group in the production of subject merchandise. Because the record contains useable and reliable data from the Philippines for all FOPs, consistent with the preference articulated in the Department's regulation, we will

---

the Shanghai Wells Group provided one sample mill certificate, which listed a business proprietary figure of carbon content.

<sup>54</sup> See Petitioner's Letter, dated December 5, 2012, at Exhibit 2B; Preliminary SV Memorandum at Exhibit 1.

<sup>55</sup> See Preliminary SV Memorandum, at Exhibit 3.

<sup>56</sup> See The Shanghai Wells Group Section C Questionnaire Response, dated February 17, 2012; The Shanghai Wells Group Section C and D Supplemental Questionnaire Response, dated April 20, 2012.

value all of the FOPs utilized by the Shanghai Wells Group using data from the primary surrogate country – the Philippines.<sup>57</sup> The CIT has acknowledged and upheld this preference.<sup>58</sup>

## D. Financial Statements

### *Petitioner's Arguments*

- The four newly submitted financial statements from companies in Thailand – Tycoons Worldwide Group (Thailand) PCL (“Tycoons”); Advanex (Thailand) Ltd. (“Advanex”); Dynamic Spring Co., Ltd. (“Dynamic Spring”); and General Spring Co., Ltd. (“General Spring”) – serve as a better source to calculate financial ratios than the Philippine statements used in the Preliminary Results in terms of product specificity, contemporaneity, or both. In other words, these four companies produce merchandise comparable to subject merchandise and contain data that is contemporaneous with the POR.
- The record does not indicate that Benedicto Steel Corporation, APO Industries, or Sterling Steel Incorporated, the companies used to calculate financial ratios in the Preliminary Results, produced identical or comparable merchandise. The companies may instead be distributors, manufacturers of other products, or manufacturers using different inputs than are used for garment hangers.

### *Fabriclean's Arguments*

- Each of the three financial statements that the Department used to calculate financial ratios in the Preliminary Results are from companies that produce merchandise comparable to steel wire hangers.
- Moreover, the three statements demonstrate that wire drawing is an integral part of each of these companies' wire production processes and that one of the companies, similar to the Shanghai Wells Group, uses low carbon steel wire rod to produce comparable merchandise of similar size.
- Petitioner fails to identify where the record indicates that any of the Thai companies produce comparable wire products using an integrated wire-drawing process with wire rod as the primary input.
- The Thai financial statements are not presented in a format that permits the Department to calculate reliable financial ratios.
- The Thai financial statements provide no breakdown or detail of the costs of goods sold (“COGS”) and they are incomplete. Moreover, Petitioner's attempt to deconstruct the COGS

---

<sup>57</sup> See 19 CFR 351.408 (c)(2) (“{Commerce} normally will value all factors in a single surrogate country.”); see also Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Fifth New Shipper Review, 75 FR 38985 (July 7, 2010), and accompanying Issues and Decision Memorandum at Comment 2B; Final Determination of Sales at Less Than Fair Value: Wooden Bedroom Furniture From the People's Republic of China, 69 FR 67313 (November 17, 2004), and accompanying Issues and Decision Memorandum at Comment 3 (“Furniture from China”).

<sup>58</sup> See Clearon Corp. v. United States, No. 08-00364, 2013 WL 646390, at \*6 (CIT Feb. 20, 2013) (acknowledging that the Department's preference is reasonable because “deriving the surrogate data from one surrogate country limits the amount of distortion introduced into its calculations”); see also Peer Bearing Co.-Changshan v. United States, 804 F. Supp. 2d 1337, 1353 (CIT 2011) (citation omitted) (“the preference for use of data from a single surrogate 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.’”); Bristol Metals L.P. v. United States, 703 F. Supp. 2d 1370, 1374 (CIT 2010).

amount for various expenses in each set of financial statements is flawed because (1) the deconstructed amount does not match the COGS amount identified on the income statement; (2) Petitioner did not reconcile its calculations with the statements; and (3) certain expenses, such as labor and energy, contain no value.

- The financial statements from Tycoons and Advanex indicate that the companies received countervailable subsidies that render the financial statements unusable for the purposes of calculation financial ratios. In a separate proceeding, the Department found the Tycoons statements unusable because the company received subsidies.

**Department’s Position:** We disagree with Petitioner and continue to find that the Philippine financial statements used in the Preliminary Results constitute the best information available with which to value the Shanghai Wells Group’s financial ratios. When selecting financial statements for purposes of calculating financial ratios, the Department’s policy is to use data from ME surrogate companies based on the “specificity, contemporaneity, and quality of the data.”<sup>59</sup> In accordance with 19 CFR 351.408(c)(4), the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country to value manufacturing overhead, general expenses, and profit.<sup>60</sup> Although the regulation does not define what constitutes “comparable merchandise,” it is the Department’s practice to, where appropriate, apply a three-prong test that considers: (1) physical characteristics; (2) end uses; and (3) production process.<sup>61</sup> Additionally, for purposes of selecting surrogate producers, the Department examines how similar a proposed surrogate producer’s production experience is to the NME producer’s production experience.<sup>62</sup> However, the Department is not required to “duplicate the exact production experience of” an NME producer, nor must it undertake “an item-by-item analysis in calculating factory overhead.”<sup>63</sup>

The Department determines that it cannot use any of the five newly submitted financial statements on the record from Thailand.<sup>64</sup> Of the first, Tycoons, we agree with Fabriclean that it lacks sufficient detail to value the reported energy FOPs and labor used by the Shanghai Wells Group, as energy and labor are not specifically broken out in detail to avoid double-counting it in

---

<sup>59</sup> See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China, 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>60</sup> See Certain Frozen Warmwater Shrimp From the People’s Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews, 72 FR 52049 (September 12, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>61</sup> See, e.g., Certain Woven Electric Blankets From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 38459 (July 2, 2010), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>62</sup> See Certain Oil Country Tubular Goods from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum at Comment 13.

<sup>63</sup> See Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1999); see also Magnesium Corp. of Am. v. United States, 166 F.3d 1364, 1372 (Fed. Cir. 1999).

<sup>64</sup> In addition to the four financial statements listed above in the summary of Petitioner’s arguments on this issue, Petitioner also submitted the financial statement of Thai Summit Harness Public Co., Ltd. (“Thai Summit”). In its administrative case brief, Petitioner did not advocate for its use in these final results. Nevertheless, consistent with our statutory obligations, we considered the source and find that it is not a useable statement for the reasons provided below.

manufacturing or overhead.<sup>65</sup> Moreover, there is no record evidence that Tycoons draws wire rod, which we consider an important in determining whether particular financial statements are from a company that produced comparable merchandise.<sup>66</sup> Therefore, the production experience differs from that of the Shanghai Wells Group and, as such, is not the best source for calculating financial ratios.

We similarly find that the remaining four newly submitted financial statements from Thailand are not usable. Dynamic Spring, General Spring, and Thai Summit do not produce comparable merchandise.<sup>67</sup> Specifically, these companies produce springs and electric wire sets for vehicles, dissimilar to scope merchandise, and their financial statements do not indicate that they draw their own steel wire rod,<sup>68</sup> which, as we noted above, is an important consideration in determining whether the company produced comparable merchandise.<sup>69</sup>

In contrast, and contrary to Petitioner's arguments, the three financial statements from the Philippine companies that the Department used to calculate financial ratios in the Preliminary Results represent the best sources for calculating ratios. Specifically, each of these statements is publicly available, concerns a profitable company that operates in country appearing in the Surrogate Country Letter, is contemporaneous with the POR, and does not contain any evidence that the company received subsidies under a program that the Department has found to be countervailable.<sup>70</sup> Furthermore, and contrary to Petitioner's claim that these companies are distributors, manufacturers of other products, or manufacturers using different inputs than are used for garment hangers, these companies produce comparable merchandise, such as nails and wire.<sup>71</sup> Moreover, each of these companies produces its products by drawing its own steel wire rods, as does Shanghai Wells.<sup>72</sup> Consequently, we find that the Philippines provides multiple usable financial statements with which to calculate the SV for financial ratios.

Using multiple financial statements in this review is consistent with the Department's preference of using multiple financial statements to determine surrogate financial ratios.<sup>73</sup> Using multiple financial statements allows the Department to average the factory overhead, SG&A, and profit ratios and, thus, to normalize any potential distortions that may arise from using those of a single producer. Thus, by using the average of multiple surrogate companies, we arrive at a broader-based surrogate valuation that minimizes the particular circumstances of any one producer. This is consistent with section 773(c)(3)(D) of the Act, which stipulates that when calculating NV, the

---

<sup>65</sup> See Petitioner's Letter, dated December 5, 2012, at Exhibit 3.

<sup>66</sup> See Decision Memorandum, at "Data Availability" section.

<sup>67</sup> See *id.* at Exhibit 5 and Fabriclean Rebuttal Letter, at Exhibits 7-9.

<sup>68</sup> See *id.* at Exhibits 6-9.

<sup>69</sup> See Petitioner's Letter dated December 5, 2012, at Exhibit 3.

<sup>70</sup> See Fabriclean's Letter to the Department of Commerce regarding Surrogate Country Comments: Steel Wire Garment Hangers from the People's Republic of China, dated April 2, 2012, at Exhibit SC-1.

<sup>71</sup> See *id.*, at "Corporate Information" section.

<sup>72</sup> See Fabriclean's SV Submission, dated April 26, 2012, at Exhibit SV-4.

<sup>73</sup> See, e.g., Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum at Comment 13.

Department should use representative capital costs.<sup>74</sup> Therefore, we find that the three financial statements from the Philippines used in the Preliminary Results constitute the best information on the record for calculating the surrogate financial ratios in this review.

## E. Conclusion

In light of the above considerations, we continue to select the Philippines as the primary surrogate country in this review. Specifically, the record demonstrates that the Philippines: (1) is economically comparable to the PRC; (2) is a significant producer of comparable merchandise; and (3) provides the best information available with which to value the Shanghai Wells Group's FOPs. Specifically, as to the last prong, the Philippines offers superior data for valuing labor and steel wire rod, has multiple usable financial statements from which to calculate financial ratios, and provides data with which to value all FOPs, whereas the GTA data for Thailand does not cover all FOPs used by the Shanghai Wells Group in the production of subject merchandise. Therefore, for the final results we continue to select the Philippines as the primary surrogate country.

### **Comment 2: If the Department Continues to Select the Philippines as the Primary Surrogate Country, the Department Must Revise the Value of the Wire Rod and Change the Financial Ratios**

#### *Petitioner's Arguments*<sup>75</sup>

- The GTA import value for steel wire rod from the Philippines is less specific, with respect to carbon content, and the value is aberrationally low compared to the other data on the record.

#### *Fabriclean's Arguments*<sup>76</sup>

- The Department should value all FOPs and financial ratios from the primary surrogate country.
- The financial statements submitted post-Preliminary Results from the Philippines cannot be used as they are not producers of comparable merchandise or do not have an equal level of integration.

**Department's Position:** We disagree with Petitioner's arguments and will rely upon data from the Philippines to calculate the Shanghai Wells Group's financial ratios and SV for steel wire rod. As noted above in Comment I, we have selected the Philippines as the primary surrogate country. The Department's regulation directs it to rely upon the primary surrogate country for all SVs whenever possible.<sup>77</sup> With respect to financial ratios, the record of this review contains three suitable financial statements from producers of comparable merchandise in the Philippines,

---

<sup>74</sup> See Certain Preserved Mushrooms from the People's Republic of China: Final Results of New Shipper Review, 66 FR 45006 (August 27, 2001) and accompanying Issues and Decision Memorandum, at Comment 1; see also Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 70 FR 34082 (June 13, 2005) and accompanying Issues and Decision Memorandum at Comment 5.

<sup>75</sup> Petitioner largely reiterated argument from Comment 1.

<sup>76</sup> Fabriclean largely reiterated argument from Comment 1.

<sup>77</sup> See 19 CFR 351.408(c)(2); see also Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Fifth New Shipper Review, 75 FR 38985 (July 7, 2010), and accompanying Issues and Decision Memorandum at Comment 2B; Furniture from China.

whereas the record does not contain any usable financial statements from Thailand. Therefore, consistent with the Department's regulation, we find it unnecessary to look outside the Philippines for the purposes of calculating the surrogate financial ratios.

### **Comment 3: Treatment of Mandatory Respondents That Did Not Participate**

#### *Petitioner's Arguments*

- The Department sent questionnaires to six separate rate applicants<sup>78</sup> that were selected as mandatory respondents. None of the six companies responded to the Department's questionnaire.
- The Department should apply adverse facts available ("AFA") to the six companies. As AFA, the Department should assign the highest rate from any segment of this proceeding, 187.25 percent.<sup>79</sup>
- None of these six companies should be granted a separate rate because exporters and producers are not eligible for separate-rate status unless they respond to all parts of the questionnaire as mandatory respondents.
- As in the second administrative review, the Department should specifically name each of the six companies that did not respond to the Department's questionnaire in the Federal Register notice accompanying the final results as subject to the PRC-Wide Entity Rate.

Fabriclean did not submit comments regarding this issue.

**Department's Position:** We agree with Petitioner and will continue to treat Shaoxing Liangbao, Pu Jiang, Shaoxing Shunji, Shaoxing Zhongbao, Shangyu Baoxiang, and Lucky Hanger as part of the PRC-Wide Entity and to apply total AFA to the PRC-Wide Entity. In the Preliminary Results, we applied AFA to the PRC-Wide Entity.<sup>80</sup> Specifically, the Department found that the PRC-wide entity, including Shaoxing Liangbao, Pu Jiang, Shaoxing Shunji, Shaoxing Zhongbao, Shangyu Baoxiang, and Lucky Hanger, withheld requested information, failed to provide information in a timely manner and in the form requested, and significantly impeded this proceeding.<sup>81</sup> Moreover, by refusing to answer the Department's questionnaire, the Department also found that the PRC-Wide Entity failed to cooperate to the best of its ability.<sup>82</sup> As a result, the Department relied upon AFA to determine a margin for the PRC-wide entity, pursuant to sections 776(a)(2)(A), (B), (C) and 776(b) of the Act.<sup>83</sup> Consistent with its practice, the Department selected as AFA the highest rate on the record of any segment of the proceeding –

---

<sup>78</sup> The six companies were (1) Shaoxing Liangbao Metal Manufactured Co., Ltd. ("Shaoxing Liangbao"); (2) Pu Jiang County Command Metal Products Co., Ltd. ("Pu Jiang"); (3) Shaoxing Shunji Metal Clotheshorse Co., Ltd. ("Shaoxing Shunji"); (4) Shaoxing Zhongbao Metal Manufactured Co., Ltd. ("Shaoxing Zhongbao"); (5) Shangyu Baoxiang Metal Manufactured Co., Ltd. ("Shangyu Baoxiang"); and (6) Zhejiang Lucky Cloud Hanger Co., Ltd. ("Lucky Hanger").

<sup>79</sup> See Steel Wire Garment Hangers from the People's Republic of China: Final Results and Final Partial Rescission of Second Antidumping Duty Administrative Review, 77 FR 12553, 12555 (March 1, 2012).

<sup>80</sup> See Decision Memorandum at "PRC-Wide Entity and Selection of Adverse Facts Available ("AFA") Rate."

<sup>81</sup> See id.

<sup>82</sup> See id.

<sup>83</sup> See id.

187.25 percent.<sup>84</sup> The Department also corroborated that rate, consistent with section 776(c) of the Act.<sup>85</sup>

Since the Preliminary Results, no interested party has submitted any evidence or comments that challenge the Department's calculation of the PRC-Wide Rate. Therefore, we will continue to apply a rate of 187.25 percent to the PRC-Wide Entity.<sup>86</sup>

Finally, consistent with past segments of this proceeding and Petitioner's request, we have named in the Federal Register each of the six companies in this review that lost their separate rate status and became a part of the PRC-Wide Entity.

## RECOMMENDATION

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

Agree\_\_\_\_\_ Disagree\_\_\_\_\_

\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date

<sup>84</sup> See id.; see also, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 3987, 3989 (January 22, 2009).

<sup>85</sup> See Decision Memorandum, at "Corroboration of Information" section.

<sup>86</sup> See Memorandum to the File, from Catherine Bertrand, through Alan Ray, regarding Application of Adverse Facts Available, dated May 7, 2013.