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Administrative Review
POR: 12/1/10 – 11/30/11

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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the
Administrative Review of Hand Trucks and Certain Parts Thereof
from the People's Republic of China

Summary

We have analyzed the comments and rebuttal comments of interested parties in the final results of the 2010-2011 administrative review of the antidumping duty order covering hand trucks and certain parts thereof from the People's Republic of China (PRC). As a result of our analysis, we have made changes from the preliminary results in the margin calculations. We recommend that you approve the positions described in the "Discussion of Issues" section of this Issues and Decision Memorandum.

I. Background

On January 9, 2013, the Department published the preliminary results of this administrative review of the antidumping duty order on hand trucks and certain parts thereof from the PRC.¹ The period of review (POR) is December 1, 2010, through November 30, 2011. We invited parties to comment on our Preliminary Results.

Reviews were requested for New-Tec Integration (Xiamen) Co., Ltd. (New-Tec), WelCom Products, Inc. (WelCom), Yangjiang Shunhe Industrial Co., Ltd. and Yangjiang Shunhe Industrial & Trade Co., Ltd. (collectively, Shunhe), and Yuhuan Tongsheng Industry Company (Tongsheng). We preliminarily determined that New-Tec made sales below normal value, and preliminarily rescinded the review for Shunhe, Tongsheng, and Welcom.

¹ See Hand Trucks and Certain Parts Thereof from the People's Republic of China: Preliminary Results of the 2010-2011 Antidumping Duty Administrative Review, 78 FR 1835 (January 9, 2013) (Preliminary Results), and accompanying Decision Memorandum (Preliminary Decision Memorandum).

We received case briefs from Gleason Industrial Products, Inc. and Precision Products, Inc. (collectively, petitioners) and Cosco Home and Office Products, Inc. (Cosco), a U.S. importer. We received rebuttal briefs from New-Tec, petitioners, and Cosco.

Scope of the Order

The merchandise subject to the antidumping duty order consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof. A complete or fully assembled hand truck is a hand-propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load.

That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of the order. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the order. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the order. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the order.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.50.10 of the Harmonized Tariff Schedule of the United States (HTSUS), although they may also be imported under heading 8716.80.50.90.

Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading 8716.90.50.60 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope is dispositive.

Excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular materials measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

II. List of Comments

Listed below is the complete list of the issues in this administrative review from which we received comments from interested parties.

- Comment 1: Whether to Value Certain Inputs Using Purchases from Market-Economy Suppliers
- Comment 2: Surrogate Country
- Comment 3: Exclusion of Imports from FOP Calculations
- Comment 4: Whether to use Thai Trolley's Financial Statement
- Comment 5: Use of Jenbunjerd's Financial Statement
- Comment 6: Wheels
- Comment 7: Sodium Gluconate

III. Discussion of Interested Party Comments

Comment 1: Whether to Value Certain Inputs Using Purchases from Market-Economy Suppliers

Petitioners argue that the Department should not accept the market-economy (ME) inputs reported by New-Tec. It is the Department's long-standing administrative practice to accept a non-market economy (NME) respondent's ME purchases of production inputs only when the inputs are manufactured in an ME country, in addition to being purchased from an ME supplier and paid for in an ME currency.

Petitioners also argue that New-Tec bears the burden of proving that its purported ME inputs were produced in ME countries. The Department's preferred evidence of an input's country-of-origin originates with the actual producer; any less direct evidence is acceptable only after the respondent has certified its unsuccessful efforts to obtain country-of-origin documentation from the actual producer. Petitioners assert that this is the preferred standard expressed by the Department in the previous hand trucks review, in which New-Tec was a participant and, thus, was made aware of the Department's requirements.²

Petitioners further argue that the conditions for accepting less direct evidence do not exist in this review because New-Tec did not certify that it attempted to obtain country-of-origin documents from unaffiliated manufacturers, did not certify that the unaffiliated parties refused to cooperate, and did not identify the manufacturers of the inputs in question. As New-Tec was a participant in the immediately preceding sixth administrative review and was aware of the Department's preference for documentation provided by the producer, a minimally prudent respondent would have at least attempted to obtain documentation of origin from actual producers. In fact, based on the sixth review, New-Tec would not have been required to document its specific efforts to obtain the documentation; merely asserting generally that it attempted to obtain the information would have been sufficient. However, New-Tec failed to make even an assertion that could

² See Hand Trucks and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 41744 (July 16, 2012) (Hand Trucks 09/10).

justify accepting less direct evidence of country-of-origin. Therefore, New-Tec did not put forth its best effort to ensure that the record was accurate.

Petitioners further argue that New-Tec failed to explain or provide additional supporting documentation for five of its suppliers, the certificates-of-origin of which were not certified by an independent agency. Moreover, New-Tec's counterargument that it is not required to have its certificates-of-origin certified by an independent agency in the countries involved is unavailing. Given the ongoing controversy that surrounds ME inputs, New-Tec should have requested certification of its certificates-of-origin by an independent agency. This failure to provide additional supporting documentation further demonstrates that New-Tec did not work to the best of its ability to document the country of manufacture for its claimed ME inputs, and is probative evidence that New-Tec's inputs were not manufactured in ME countries.

Petitioners also contend that there are additional reasons why the Department should reject New-Tec's asserted ME purchases other than New-Tec's failure to provide certificates-of-origin from actual producers. For example, record evidence demonstrates that the Department should reject a claimed ME purchase of the aluminum ingot input. Rejecting this purchase would put New-Tec's asserted ME purchases of aluminum ingot below the Department's 33 percent threshold needed in order to fully value an input based on ME purchases. Also, for New-Tec's claimed ME purchase of corrugated board, New-Tec failed to provide the requested certificate-of-origin. Thus, the input should not be valued as an ME purchase, and the Department should value this input based solely on the surrogate value for the final results. For other inputs, the certificates-of-origin appear to be invalid and, therefore, should not be accepted.

New-Tec argues that it has provided detailed information regarding its purchases of NME and ME inputs, including supplier identities, locations, quantities, and values. Further, at the request of the Department, New-Tec supplied bills of lading, commercial invoices, customs import declarations, packing lists, proofs of payment, and certificates-of-origin (except for one input) for all ME purchases. New-Tec stresses that all of this documentation was reviewed by the Department and resulted in only a few follow-up questions from the Department, reflecting the sufficiency of, and the Department's satisfaction with, the information New-Tec submitted.

New-Tec further argues that the documentation it submitted meets the Department's requirements for ME purchases. Under 19 CFR 351.408(c)(1), the Department applies a rebuttable presumption to use ME purchase data when a respondent has established that an input has been purchased from a ME supplier and paid for in a ME currency. In this review, New-Tec submitted voluminous documentation that meets these criteria and petitioners have the evidentiary burden to rebut the presumption, which they have failed to meet. Further, petitioners' argument that New-Tec should have submitted country-of-origin documents from the producers of certain inputs is misplaced. There is no "preferred evidence" or "condition precedent" standard established by the Department that requires proof of a respondent's purchases of ME inputs to be based only on information from a producer or certification of efforts to obtain such information. The only mandatory requirements are under 19 CFR 351.408(c)(1), and these requirements have been met.

Finally, New-Tec argues that in prior segments of this proceeding, the Department has accepted the information that New-Tec placed on the record regarding its ME purchases. Specifically, in the previous segment, the Department considered similar factual submissions and arguments regarding New-Tec's reported ME purchases, and ultimately, the Department decided to accept New-Tec's claimed ME purchases. Since the information New-Tec submitted for this proceeding is of the same nature and quality as that which the Department deemed sufficient in the previous segment, the Department should continue to accept the information provided, particularly as petitioners have not met the necessary evidentiary burden to rebut the presumption in New-Tec's favor.

Cosco argues that New-Tec's ME inputs are fully documented, and that the arguments raised by petitioners repeat the positions they raised before the preliminary results and prior to the Department's issuance of a third supplemental questionnaire. As evidenced by the questions asked in the Department's third supplemental questionnaire, the Department did not seek additional information from New-Tec, despite what petitioners claim. This indicates that the information submitted by New-Tec sufficiently and substantially provided all necessary documentation to support the use of the ME prices. Therefore, petitioners' arguments should be rejected.

Department's Position:

We disagree with petitioners in part. In order for the Department to use reported ME prices, the inputs must be manufactured in a ME country, purchased from a ME supplier and paid for in a ME currency. 19 CFR 351.408(c)(1) of the Department's regulations states, "where a factor is purchased from a market economy supplier and paid for in a market economy currency, {the Department} normally will use the price paid to the market economy supplier."³ Furthermore, "{w}e interpret the preamble to indicate that the regulation is applicable to those inputs which were produced in a market economy. Given this, the regulation does not apply to inputs that were produced in a NME...."⁴

Where we have addressed NME producer purchases of ME inputs in the past, we have consistently required that inputs be manufactured in an ME country, as well as purchased from a ME supplier and paid for in a ME currency, in order for us to value the input using the ME purchase price.⁵

³ See also Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27366 (May 19, 1997).

⁴ See Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From the People's Republic of China, 69 FR 34125 (June 18, 2004) (Carrier Bags from the PRC), and accompanying Issues and Decision Memorandum at Comment 4.

⁵ See Notice of Final Determination of Sales at Less Than Fair Value: Ferrovandium and Nitrided Vanadium from the Russian Federation, 60 FR 27957, 27962 (May 26, 1995) ("In NME proceedings, our consistent methodology has been to determine whether a good or service obtained through a market economy transaction is, in fact, sourced from a market economy rather than merely purchased in it"); see also Folding Metal Tables and Chairs from the PRC; Final Results of Antidumping Duty Administrative Review, 71 FR 2905 (January 18, 2006), and accompanying Issues and Decision Memorandum at Comment 2 ("The Department does not accept ME purchase prices when the input in question was produced within an NME.").

Our basis for this policy is explained in Carrier Bags from the PRC. First, the prices and costs of inputs manufactured by a NME producer, even if purchased from a ME trading company, are subject to the distortions inherent in an economy not controlled by market forces. Second, were we to use the prices of inputs that were produced in a NME country, our methodology for valuing the factors of production would become easily open to manipulation.⁶

With respect to petitioners' argument regarding the evidentiary standard for ME inputs, the Department's position is that it is the responsibility of respondents to place information on the record that is accurate and appropriate. The Department also applies a rebuttable presumption that ME input prices are the best available information unless case-specific facts provide adequate grounds to rebut this presumption (e.g., the inputs are produced in a NME country).⁷

Turning to the specific facts of this case, we note as an initial matter that there is no record evidence that any of the inputs at issue were manufactured in a NME.⁸ More importantly, we find that the record of this review establishes the country of manufacture for most of the ME inputs. Specifically, the record of this review contains certificates-of-origin either from the suppliers of inputs or from a credible independent agency (e.g., a ME country Chamber of Commerce).⁹ Also, as described above, New-Tec provided voluminous documentation for all of its ME purchases, most of which we have accepted as adequate evidence that these inputs were purchased in a ME country with ME currency.¹⁰ Thus, the Department has determined that New-Tec has provided sufficient evidence to demonstrate that some inputs were indeed purchased from ME suppliers with ME currencies. However, we did not find certificate-of-origin documents or similar types of documents establishing the country-of-origin for all ME purchases that matched New-Tec's reported volumes of imported ME purchases. The Department finds that without these documents as evidentiary support of the input being produced in a ME, we cannot deem these to be valid ME purchases. As a result, we determined that one input (cardboard) does not have evidentiary support on the record to continue use of reported ME prices for that input, and as a result, we used our standard surrogate value methodology for NME cases.

⁶ See Carrier Bags from the PRC, and accompanying Issues and Decision Memorandum at Comment 4.

⁷ See, e.g., Certain Activated Carbon From the People's Republic of China: Preliminary Results of the Fourth Antidumping Duty Administrative Review, and Intent To Rescind in Part, 77 FR 26496, 26503 (May 4, 2012); Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 73 FR 49162 (August 20, 2008), and accompanying Issues and Decision Memorandum at Comment 32.

⁸ See Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 71509 (December 11, 2006), and accompanying Issues and Decision Memorandum at Comment 1 ("Meco cites no record evidence indicating that...(3) Feili and/or New-Tec purchased from market-economy suppliers materials that were actually produced in NME countries"); see also Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 76 FR 15295 (March 21, 2011), and accompanying Issues and Decision Memorandum at Comment 7 ("There is no evidence on the record suggesting that Since Hardware's claimed purchases of cartons were of non-market origin.")

⁹ See New-Tec's July 20, 2012 submission at Exhibit 12.

¹⁰ See *id.*

Given our weighing of the evidence described above, all inputs except cardboard continue to meet the 33 percent threshold required to value inputs as ME purchases by using the ME price.¹¹

Comment 2: Surrogate Country

Cosco argues that the Department should select the Philippines over Thailand as the primary surrogate country for this proceeding. First, although the Department found that both Thailand and the Philippines exported significant quantities of hand trucks and parts thereof under six-digit tariff categories, the production of comparable merchandise favors the Philippines over Thailand. Specifically, the record contains 2011 financial statements of four Philippine companies which produce hand trucks or comparable merchandise.

Second, Cosco argues that data considerations also favor selecting the Philippines over Thailand. The record contains extensive information on surrogate values for the Philippines, including a full range of relevant data from the Global Trade Atlas (GTA) that, at a minimum, are on par with comparable information available for Thailand. The only non-contemporaneous value for the Philippines is that of labor, which is based on a 2008 value published by the International Labor Organization. However, this issue has arisen in recent cases where the Philippines was selected over Thailand, and the Department concluded that the available data on labor values in Thailand were even less contemporaneous and less specific.¹² Therefore, the Department should recognize that labor values for the Philippines are more contemporaneous and specific than Thai labor values. Further, the Department should also consider the overall availability of record data. At the time of the Preliminary Results, the record was substantially more complete and accurate for the Philippines in comparison to Thailand, and petitioners declined to submit Thai values for several reported factors of production.

Finally, the Department selected the Philippines as the surrogate country in number recent proceedings, and specifically, has chosen the Philippines over Thailand in recent cases.¹³ Therefore, economic comparability, data considerations, and recent precedent all favor selecting the Philippines as the surrogate country over Thailand.

Petitioners state that the Department should continue with its selection of Thailand as the surrogate country. First, on April 18, 2012, the Department set a deadline of June 18, 2012, for the parties to comment on surrogate country selection. Cosco filed an untimely submission three months after the deadline, which was rejected by the Department.¹⁴ In rejecting Cosco's

¹¹ See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61717 (October 19, 2006).

¹² See Steel Wire Garment Hangers From the People's Republic of China: Antidumping Duty Administrative Review, 2010-2011, 77 FR 66952 (November 8, 2012) (Steel Wire Garment Hangers), and accompanying Preliminary Decision Memorandum at 15-16.

¹³ See, e.g., Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 4386 (January 22, 2013), and accompanying Issues and Decision Memorandum at Comment 2; Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318, 64321 (October 18, 2011); Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review, 76 FR 49443, 49446-7 (August 10, 2011).

¹⁴ See Department's Letter to Cosco (February 7, 2013).

untimely comments on surrogate country selection, the Department established that any subsequent submissions on the issue were time-barred. Having failed to comment on surrogate country selection in a timely manner, Cosco's argument on the issue is time-barred.

Also, Cosco has not established that any of the four companies for which it submitted financial statements actually produce hand trucks or similar products. Cosco's statements that the companies make fabricated metal products do not demonstrate that the products are "very similar" to hand trucks, as Cosco claims. Cosco has failed to address any of the Department's criteria for determining whether the companies produce comparable merchandise, such as physical characteristics, end uses, or production processes. Further, although Cosco provides price quotations for two of the four companies, the price quotes are not evidence that the companies actually manufacture hand trucks, but only that they may consider doing so in the future. Moreover, the fact that the dates of the price quotes are well after the surrogate comment deadline suggests that they were solicited solely for this proceeding and were not made in the normal course of business. Thus, the price quotations have little probative value. Finally, one of the companies did not have a profit in 2011, rendering it unusable as a financial ratio surrogate, and also has product information that is partly from a Taiwanese website, which prevents the Department from determining that the products were manufactured in the Philippines. Therefore, the evidence on the record does not indicate that any of the four companies produce hand trucks or comparable merchandise.

Additionally, petitioners contend that data considerations do not favor selecting the Philippines over Thailand. For example, Cosco does not actually make an argument in favor of selecting the Philippines, but rather, merely inventories the Philippine data that has been submitted on the record. Petitioners argue that Cosco never explains why the Philippines' GTA data is more comprehensive or more favorable than the GTA data on the record for Thailand. Therefore, Cosco's argument does not establish a basis for the Department to switch from Thailand to the Philippines.

Finally, although Cosco claims that the Department has selected the Philippines as a surrogate country in "numerous" proceedings, Cosco only cites three such cases. In any event, the Department's selection of the Philippines as a surrogate country in other unrelated proceedings is not a valid consideration for this review because the Department has consistently taken the position that each administrative review stands alone.¹⁵ Therefore, the Department's selection of the Philippines in other proceedings does not have precedential effect for this review. Furthermore, the cases cited by Cosco involve products that are in no way comparable to hand trucks.

¹⁵ See, e.g., Certain Steel Nails From the People's Republic of China: Final Results and Final Partial Rescission of the Second Antidumping Administrative Review, 77 FR 12556 (March 1, 2012), and accompanying Issues and Decision Memorandum, at Comment 2; Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review, 67 FR 11283 (March 13, 2002), and accompanying Issues and Decision Memorandum at Comment 3 ("What transpired in previous reviews is not binding precedent in later reviews"); Shandong Huarong Mach. Co. v. United States, 29 C.I.T. 484 (2005) ("As Commerce points out each administrative review is a separate segment of proceedings with its own unique facts.").

Department's Position:

We disagree with Cosco.¹⁶ It is the Department's practice to select a surrogate country based on the criteria outlined in the Country Selection Memo.¹⁷ The Department's criteria for choosing surrogate companies to calculate surrogate financial ratios includes the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information. When selecting surrogate financial statements, the Department prefers financial statements from companies that produce identical merchandise over companies that produce comparable merchandise, because it is the Department's preference to match the surrogate companies' production experience with respondents' production experience, provided that the surrogate value data is not distorted or otherwise unreliable.¹⁸ In our Preliminary Results, we found that Thailand was a significant producer of comparable merchandise.¹⁹ Since the Preliminary Results, our further analysis of the record evidence indicates that Thai companies produce merchandise that is identical to hand trucks. In contrast, the record contains no evidence to support a determination that the four suggested surrogate companies from the Philippines were producers of identical merchandise during the POR. In contrast, the financial statement from Thailand constitutes the "best available information" for surrogate country selection.²⁰ In addition, using a combination of financial statements for companies that produce both identical and comparable merchandise "would dilute the selected surrogate financial statement by including comparable merchandise."²¹

Although Cosco argues for using Philippine surrogate values, it does not explain how Philippine surrogate values are more suitable than the Thai values on the record. Further, Cosco contends that it has provided surrogate values for overhead, SG&A and profit, but these values stem from the Philippine financial statements and associated price quotes Cosco submitted, which cannot be used for the reasons discussed below. In addition, Cosco concedes that its labor value is non-

¹⁶ As an initial matter, Cosco's reference to its untimely January 29, 2013, submission, which was rejected by the Department, cannot be relied upon by the Department in reaching its determination because the Department cannot consider information that is not on the record. See Department's Letter to Cosco (February 7, 2013). We further note that submitting information in a timely manner reflects underlying considerations of fairness and accuracy, since the Department's deadline establishes a level playing field for interested parties to gather and submit relevant information, in addition to information and comments raised by other parties. The deadline also preserves accuracy in the proceeding by allowing the Department and interested parties sufficient time to analyze and consider the information submitted. Moreover, given the fact that surrogate country selection is the linchpin of the overall surrogate value analysis, Cosco's 90-day untimeliness would have constituted a significant impediment to the review.

¹⁷ See Memorandum to the File through Richard Weible, Director, Office 7, Import Administration; Robert James, Program Manager, Office 7; From: Scott Hoefke, Analyst, "Antidumping Duty Administrative Review of Hand Trucks and Parts Thereof from the People's Republic of China: Selection of a Surrogate Country" dated January 2, 2013 (Country Selection Memo).

¹⁸ See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review, 78 FR 5414 (January 25, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁹ See Preliminary Decision Memorandum at 5-6.

²⁰ See Country Selection Memo at 5; see also Hand Trucks 09/10, at Comment 2; Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order, 77 FR 14493 (March 12, 2012), and accompanying Issues and Decision Memorandum at Comment 2.

²¹ See Hand Trucks 9/10, at Comment 2.

contemporaneous, and refers to Steel Wire Garment Hangers in support. First, Cosco's reliance on Steel Wire Garment Hangers is misplaced because that decision is a *preliminary* determination, and as such, is subject to change in the final results of that review. Even if the preliminary determination made in Steel Wire Garment Hangers is unchanged in the final results of that review, the case does not support Cosco's argument, and in fact, undermines it. Surrogate country selection necessitates a case-by-case analysis. Steel Wire Garment Hangers involved a different product and a different record of review, and the Department's factual determinations in that case were based on the best available information. Even so, it is worthwhile to note that in Steel Wire Garment Hangers, the Department rejected the suitability of the two Thai financial statements submitted on the record for very similar reasons to the Department's rejection of the Philippine financial statements in this review.²² Unlike Steel Wire Garment Hangers, in this review, the Department determined that the Thai companies produced *identical* merchandise. Thus, to the extent the Department cited the availability of multiple financial statements as favoring the Philippines in Steel Wire Garment Hangers, that consideration does not apply here, as the Philippine financial statements on the record in this review are not usable because they do not establish that the Philippine companies produced identical or even comparable merchandise, despite Cosco's claims.

Finally, pursuant to 19 CFR 351.408(c)(2), the Department normally will value all factors in a single surrogate country. The U.S. Court of International Trade has held this preference for valuing factors in a single surrogate country reasonable because deriving surrogate data from one surrogate country limits the amount of distortion introduced into the calculations because a domestic producer would be more likely to purchase a product available in the domestic market.²³ Because we have selected Thailand as the primary surrogate country for the final results and because we are able to find Thai data for the calculation of surrogate values for all line items for which Cosco suggests that we use the Philippine data, we continue to use Thai data for the calculation of surrogate values for all line items as we did in the Preliminary Results. In addition, because we have usable financial statements from Thailand on the record, and not from the Philippines, we decline to depart from the preference stated in the regulation to value all factors of production (FOPs) using a single surrogate country.²⁴

²² See Steel Wire Garment Hangers, and accompanying Preliminary Decision Memorandum at 19 ("Petitioner has not placed on the record of this review any financial statements of Thai producers of identical merchandise, which prevents the Department from reaching a conclusive determination that Thailand produces or is a significant producer of identical merchandise. While Petitioner did provide financial statements for two Thai companies, neither of these companies produce identical merchandise and it is questionable whether they produce comparable merchandise").

²³ See Clearon Corporation and Occidental Chemical Corp. v. United States, Slip Op. 13-22, at 12-14 (CIT 2013).

²⁴ See 19 CFR 351.408(c); see also Clearon Corp. v. United States, No. 08-00364, 2013 WL 646390, at *6 (Ct. Int'l Trade 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 (Ct. Int'l Trade 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 (Ct. Int'l Trade 2010).

Comment 3: Exclusion of Imports from FOP Calculations

Petitioners argue that the Department erroneously included the value of imports from North Korea in calculating surrogate values for FOPs 30Ti3B agent, covering agent, refine agent, flux powder, and steel wire rod. North Korea is considered an NME country and the inclusion of North Korean import values runs contrary to the Department's practice and intent as stated in the Preliminary Results. Therefore, the Department should exclude the value of imports from North Korea in calculating surrogate values for the final results.

In contrast, Cosco argues that excluding North Korean imports in the calculation of surrogate values runs contrary to the Department's practice. In recent decisions, the Department has explained that it has not designated North Korea as an NME country, and in "in absence of such a determination, treats North Korea as a market economy country."²⁵ In cases where the Department characterized North Korea as an NME, that characterization was subsequently held to be erroneous.²⁶ Therefore, the Department should follow its established policy and continues to include North Korean import data in the calculation of surrogate values.

New-Tec first argues that the Tariff Act of 1930, as amended, contains no statutory provision which designates North Korea as NME country. Second, the Department has not made any formal designation of North Korea in any antidumping proceeding to date. The current practice is to include North Korea in the calculation of surrogate values.²⁷ Therefore, the Department should continue to include North Korea in the calculation of surrogate values.

Department's Position:

We disagree with petitioners. The inclusion of North Korea in the calculation of surrogate values does not run contrary to the Department's practice and intent of excluding NME countries in the calculation of surrogate values.²⁸ First, the Department has never conducted an antidumping duty proceeding involving North Korea and, as such, has never considered whether it should be designated as a NME country. Second, there is no record evidence demonstrating that the North Korean data actually contains distortions. The absence of record evidence in this regard is paramount, since "{e}ven assuming, *arguendo*, that North Korea operates as a non-market economy, the agency reasonably requires that, for antidumping purposes, the determination to exclude from its calculations relevant price data on FOPs imported into a surrogate market economy must be supported with specific evidence of distortive effect."²⁹ Therefore, for these final results we have continued to include North Korea imports in

²⁵ See 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 (August 19, 2011), and accompanying Issues and Decision Memorandum at Comment 6 (Frozen Shrimp from China); see also Ad Hoc Shrimp Trade Action Committee v. United States, 791 F. Supp. 2d 1327, 1336-37 (Ct. Int'l Trade 2011) (Ad Hoc Shrimp).

²⁶ See Frozen Shrimp from China, and accompanying Issues and Decision Memorandum at Comment 6.

²⁷ See id.

²⁸ See Frozen Shrimp from China, and accompanying Issues and Decision Memorandum at Comment 6; Ad Hoc Shrimp at 1336-37.

²⁹ See Ad Hoc Shrimp at 1336-37.

calculating surrogate values for the FOPs: 30Ti3B agent, covering agent, refine agent, flux powder, and steel wire rod.

Comment 4: Whether to use Office Thai Online Co. Ltd.'s (Thai Trolley) Financial Statement

Cosco argues that Thai Trolley is not an appropriate source for surrogate financial data. Cosco argues that Thai Trolley's financial statements lack sufficient detail to calculate financial ratios, and that the entire denominator for the overhead ratio is based on a single number designated as "cost of services," which may include packing costs and other fixed and variable overhead items. Additionally, the SG&A calculation is dependent on a single line item that appears aberrationally high when compared to other companies on the record.

Cosco also argues that Thai Trolley's operations are not similar to New-Tec's operations. Thai Trolley produces a vast range of products that Cosco claims are drastically different from the hand trucks manufactured by New-Tec. Cosco further argues that record evidence suggests that Thai Trolley manufactures items primarily out of stainless steel, whereas New-Tec's products are manufactured primarily from aluminum. Therefore, the Department should not use Thai Trolley's financial ratios for the final results.

Petitioners argue that Thai Trolley is an appropriate source for surrogate financial data, and that the claim that the financial statements lack detail is unavailing, given the Department's history of deriving financial ratios from financial statements from various levels of detail. The inability to parse out direct materials, direct labor, and energy for manufacturing overhead is irrelevant as those are components of the denominator for the manufacturing overhead ratio. Cosco does not identify any direct materials, direct labor, or energy contained elsewhere in Thai Trolley's financial statement or that were in any way excluded from the denominator for manufacturing overhead. Therefore, separately accounting for these three components would not alter the manufacturing overhead ratio derived by the Department, and thus, Cosco's complaint is of no substantive consequence.

Additionally, petitioners contend that Cosco speculates that manufacturing overhead might include such items as packing costs and other fixed and variable overhead items, but does not point to evidence on the record to support their claim. Furthermore, inclusion of such items would benefit New-Tec as it would overstate the denominator and understate the numerator. In addition, the mere fact that Thai Trolley's SG&A costs are different from those of the companies preferred by Cosco does not establish that Thai Trolley's SG&A costs are "aberrational." There is no other factual basis for the Department to conclude that Thai Trolley's SG&A costs are "aberrational."

Petitioners further argue that Thai Trolley produces merchandise identical to hand trucks. They state that the Department has consistently and unambiguously determined in multiple proceedings that smaller production quantities of surrogate producers do not render them unfit as a surrogate company. Furthermore, in the Sixth Hand Truck review, the Department addressed the issue of Thai Trolley's product range and production of hand trucks and found that it was an appropriate surrogate company for financial ratios, which remains true for this proceeding as

there is extensive information on the record of this review indicating that Thai Trolley produces hand trucks.³⁰

New-Tec did not submit comments on the issue.

Department's Position:

We disagree with Cosco. As stated above in Comment 2, the Department's criteria for choosing surrogate companies to calculate surrogate financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information. When selecting surrogate financial statements, the Department prefers financial statements from companies that produce identical merchandise over companies that produce comparable merchandise, because it is the Department's preference to match the surrogate companies' production experience with respondents' production experience, and whenever possible, to primary surrogate country producers of identical merchandise provided that the surrogate value data is not distorted or otherwise unreliable.³¹

We find that the Thai Trolley financial statement is contemporaneous, publicly available, and record evidence shows that Thai Trolley produces identical products.³² Additionally, both New-Tec and Thai Trolley produce a diverse range of metal fabricated products that helps match both the respondent's production experience with the surrogate company's production experience. This is consistent with past proceedings of this segment where record evidence supported the Department's determination that Thai Trolley was an appropriate surrogate company for financial ratios, because both New-Tec and Thai Trolley manufactured a diverse range of metal fabricated products.³³ Therefore, the Department continues to use the financial statements from Thai Trolley in the calculation of surrogate financial ratios for these final results.

Comment 5: Use of Jenbunjerd's Financial Statement

Cosco argues that the Department should make changes to the calculation of Jenbunjerd financial ratios because the company's financial ratios have been incorrectly calculated, mainly by failing to offset general expenses with certain revenues. It argues that the Department should include income items as offsets to expenses; classify depreciation on COGS-related vehicles as a cost of manufacture rather than as a general or selling expense; exclude, rather than classify as a general or selling expense, transportation and export expenses; and exclude, rather than classify as a general or selling expense, all taxes such as property tax and VAT. Cosco further argues that these changes are in accordance with the Department's normal practice of calculating financial

³⁰ See Hand Trucks 09/10, and accompanying Issues and Decision Memorandum at Comment 2.

³¹ See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review, 78 FR 5414 (January 25, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

³² See petitioners' October 1, 2012, submission at Attachment 1.

³³ See id.

ratios net of income and taxes, and applying such expenses to a consistent base amount from the build-up of the respondent's FOPs and surrogate values for materials, labor and energy.³⁴

Petitioners contend that the Department should not include income items as offsets to expenses because there is very little information on the record concerning the specific nature of the income items that Cosco urges should be used to offset expenses. Petitioners argue that most of the income items appear to be unrelated to Jenbunjerd's operations, and it is not apparent that any of these income items correspond with operational expenses that appear as SG&A expenses in Jenbunjerd's income statement. Without additional information, it would be speculative for the Department to offset Jenbunjerd's SG&A expenses with income items that may have nothing to do with SG&A expenses. Additionally, Cosco did not identify the relevant SG&A expense lines that it believes should be offset by specific income items. Therefore, no offsets should be made by the Department.

Petitioners also state that the Department did not include depreciation on COGS-related vehicles as a general or selling expense in the Preliminary Results, but classified such expenses as manufacturing overhead. The Department correctly included such items in overhead and should continue to treat depreciation on COGS-related vehicles as a part of manufacturing overhead.

Regarding Cosco's argument that the Department should exclude transportation and export expenses rather than include them as a general or selling expenses, petitioners argue that there is insufficient information on the record, and that these expenses could pertain to the transportation of goods, persons, both, or something else entirely. Therefore, the Department should continue to include them in the SG&A category.

Petitioners further state that the Department should deny Cosco's request to exclude property taxes and VAT from Jenbunjerd's SG&A, because the Department properly classified tax amounts appearing in Jenbunjerd's income statement. First, the Department considers property taxes as an operational expense that is included in SG&A for surrogate financial ratio purposes. Second, normally the Department excludes VAT from its calculation of surrogate financial ratios; however, in this instance the line item is "Unclaimed VAT." Unclaimed VAT pertains to VAT paid by Jenbunjerd where there was not an offset against VAT collections from Jenbunjerd's customers. As such, unclaimed VAT is not a pass-through tax, it is an expense incurred by Jenbunjerd. Therefore, the Department should continue to include property tax and unclaimed VAT in SG&A expenses.

New-Tec did not comment on this issue.

Department's Position:

Having reviewed the comments from all parties and re-examined Jenbunjerd's financial statements, we agree with both Cosco and petitioners, in part. The Department has categorized

³⁴ See Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Review, 73 FR 14216 (March 17, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

line items from Jenbunjerd's financial statements as follows for the calculation of surrogate financial ratios in these final results, which represents a change from the Preliminary Results:

- “Income from Rent”, “Gain on Disposal of Assets”, and “Other Income” are related to the general operation of the company and, therefore, have been included in SG&A.³⁵
- “Interest Income” is included in SG&A, because it appears this income is from short-term investment sources based on the amount of the “cash and cash in bank” line item on Jenbunjerd's financial statements.³⁶
- “Gains on Foreign Exchange” is included in SG&A. It is the Department's practice to include all gains and losses in foreign exchange in financial ratio calculations.³⁷
- “Income from Tax Card” is excluded from SG&A because it relates to income and VAT taxes. “Income from Dividends” is also excluded from SG&A because it relates to investment activities. However, we adjusted the profit to account for this exclusion.
- “COGS-related vehicles” is related to products costs which are manufacturing costs and therefore are kept in overhead.
- “Transportation and Export expenses” have been excluded from SG&A because they are deducted from the US price in the margin program and it is the Department's practice to avoid double counting.³⁸
- “Property Tax” is included in SG&A because it is an expense included in Jenbunjerd's financial statements related to general operations of the company.
- “Unclaimed VAT” is included in SG&A because the VAT is unclaimed and therefore is not offset against VAT collections. Additionally, it is listed by Jenbunjerd as a selling administrative expense. This indicates that it is not a pass through tax, which would be excluded, and therefore, it is reasonable to treat as a business expense that is included in calculating surrogate financial ratios.

Comment 6: Wheels

For the Preliminary Results, the Department used Thai HTS 8716.90 from the Global Trade Atlas (GTA) in calculating the surrogate value for polyurethane wheels. Petitioners argue that the Department should use Thai HTS subheading 8716.90.91 for polyurethane wheels and rubber wheels (if the Department rejects New-Tec's ME purchases, see Comment 1, supra). Specifically, petitioners claim that the current HTS is overly broad and includes subheadings that do not include hand trucks, thereby distorting the surrogate value. In support, petitioners state that HTS 8716.90.91 expressly covers parts “for goods of subheading 8716.80.10 or 8176.80.20” of which hand trucks are classified under HTS 8716.80.10. Therefore, using HTS 8716.90.91 would yield a more accurate surrogate value calculation for wheels.

Cosco states that the Department should continue to use Thai HTS 8716.90. Cosco points out that in other proceedings, the Department relies on the standard six-digit HTS categories rather

³⁵ See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of the First Administrative Review of the Antidumping Duty Order, 76 FR 77772 (December 14, 2011), and accompanying Issues and Decision Memorandum at Comment 9.

³⁶ See id.

³⁷ See id.

³⁸ See, e.g., Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011).

than narrower HTS categories where the quantity involved in the narrower HTS category is aberrationally small such that the average unit values calculated would be distortive and would not reflect actual ME values for the input.³⁹ Cosco argues that in this case the data for the eight-digit HTS sub-heading proposed by petitioners is also too small of quantity, and would result in a surrogate value of 188 baht per kilogram that is not representative of a reasonable value for wheels. Cosco further claims that this is evident when compared to New-Tec's reported ME cost for rubber wheels, for which the Department assigned the same six-digits as it assigned for polyurethane wheels.

New-Tec did not submit comments on the issue.

Department's Position:

We disagree with Cosco. It is the Department's practice to consider whether the potential surrogate value data on the record are: from an approved surrogate country, publicly available, product-specific, representative of broad market average prices, contemporaneous with the POR, and free of taxes and import duties.⁴⁰ In this case, we find that data for HTS 8716.90.91 (defined as "For Goods Of Subheading 8716.80.10 Or 8716.80.20") not only meets all of these necessary criteria, but also is the most suitable option particularly with regard to product specificity because it covers HTS 8716.80.10, which specifically covers hand trucks, versus the broader HTS 8716.90. Additionally, the Department does not find the data aberrational and notes that it appears to fall within the range of Thai surrogate values used in this review.

The Department also finds it unreasonable to compare the value used for rubber wheels to the surrogate value used for polyurethane wheels based on the record evidence. For rubber wheels, New-Tec provided information on the record to support their claim of using ME pricing. See Comment 1, above. Had the Department found that information on the record was insufficient to support New-Tec's ME purchase claims, we would have also used HTS 8716.90.91 for the final results, as argued by the petitioners. Furthermore, rubber wheels and polyurethane wheels are different products, so it should be expected that there would be a difference in prices. Therefore, we have used HTS 8716.90.91 for the surrogate value of polyurethane wheels.

Comment 7: Sodium Gluconate

Petitioners argue that the Department's calculation of the surrogate value for sodium gluconate had been erroneously omitted from the calculation of direct material costs in computing New-Tec's normal values.

Neither New-Tec nor Cosco commented on this topic.

³⁹ See, e.g., Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China, 75 FR 57,449 (September 21, 2010), and accompanying Issues and Decision Memorandum at Comment 7.

⁴⁰ See, e.g., Drill Pipe From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, and Postponement of Final Determination, 75 FR 51004 (August 18, 2010), unchanged in Drill Pipe From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances, 76 FR 1971 (January 11, 2011).

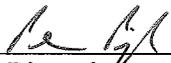
Department's Position:

We agree with petitioners and have included sodium gluconate in the calculation of direct material costs in computing New-Tec's normal values for the final results.⁴¹

IV. Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this administrative review and the final antidumping duty margin in the Federal Register.

Agree Disagree



Paul Piquado
Assistant Secretary
for Import Administration

9 MAY 2013

Date

⁴¹ See Memorandum to the File through Robert James, Program Manager, From: Scott Hoefke, Analyst, "Analysis of Data Submitted by New-Tec Integration (Xiamen) Co., Ltd. (New-Tec) in the Final Results of Administrative Review of the Antidumping Duty Order on Hand Trucks and Parts Thereof from the People's Republic of China (PRC)" dated May 9, 2013 at 1.