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July 17, 2014

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

**SUBJECT:** Preliminary Results of the 2012-2013 Antidumping Duty  
Administrative Review: Certain Polyester Staple Fiber from the  
People's Republic of China

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## SUMMARY

The Department of Commerce (“the Department”) is conducting an administrative review of the antidumping duty order on certain polyester staple fiber from the People’s Republic of China (“PRC”). The period of review (“POR”) is June 1, 2012, through May 31, 2013. The Department preliminarily determines that Takayasu Industrial (Jiangyin) Co., Ltd. (“Takayasu”) did not sell subject merchandise in the United States at prices below normal value (“NV”).

If we adopt these preliminary results in the final results of the review, we will instruct U.S. Customs and Border Protection (“CBP”) to liquidate the appropriate entries without regard to antidumping duties. We invite interested parties to comment on these preliminary results. We expect to issue final results no later than 120 days from the date of publication of this notice pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”).

### *Case History*

On June 1, 2007, the Department published in the *Federal Register* an antidumping duty order on certain polyester staple fiber from the PRC.<sup>1</sup> On June 28, 2013, the Department received a request from Zhaoqing Tifo New Fibre Co., Ltd. (“Zhaoqing Tifo”) to conduct an administrative

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<sup>1</sup> See *Notice of Antidumping Duty Order: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 30545 (June 1, 2007) (“Order”).



review of Zhaoqing Tifo.<sup>2</sup> On July 1, 2013, the Department received a request from Takayasu Industrial (Jiangyin) Co., Ltd. (“Takayasu”) to conduct an administrative review of Takayasu and to treat Takayasu as a voluntary respondent.<sup>3</sup> On August 1, 2013, the Department published a notice of initiation of an administrative review of certain polyester staple fiber from the PRC covering the period June 1, 2012, through May 31, 2013, for Takayasu and Zhaoqing Tifo.<sup>4</sup> On August 13, 2013, Takayasu requested to be treated as a mandatory respondent given that the *Initiation Notice* only covered two companies, Takayasu and Zhaoqing Tifo.<sup>5</sup> On August 15, 2013, the Department issued standard questionnaires to Takayasu and Zhaoqing Tifo.<sup>6</sup>

On August 21, 2013, the Department sent interested parties a letter inviting comments on surrogate country selection and surrogate value (“SV”) data, and specified the deadlines for these respective submissions.<sup>7</sup> On September 19, 2013, the Department extended the deadline for interested parties to submit surrogate country comments.<sup>8</sup> On October 29, 2013, the Department extended the deadline for parties to submit rebuttal surrogate country comments.<sup>9</sup> On December 20, 2013, the Department stated that, pursuant to the Department’s amended regulations, all submissions of factual information to value factors were due no later than 30 days before the scheduled date of the preliminary results of the review.<sup>10</sup> Between October 28, 2013, and June 30, 2014, the Department received surrogate country comments, SV comments, and rebuttal comments from interested parties.<sup>11</sup>

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<sup>2</sup> See Letter from Zhaoqing Tifo regarding Certain Polyester Staple Fiber from the People's Republic of China Request for Annual Administrative Review dated June 28, 2013. Zhaoqing Tifo New Fiber Co., Ltd. is also known as Zhaoqing Tifo New Fibre Co., Ltd. (Throughout this proceeding, Zhaoqing Tifo has used the different spellings of “Fiber” and “Fibre” interchangeably.)

<sup>3</sup> See Letter from Takayasu regarding Polyester Staple Fiber from the People’s Republic of China; Request for Antidumping Administrative Review and Treatment as a Voluntary Respondent, dated July 1, 2013.

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 46566 (August 1, 2013) (“*Initiation Notice*”).

<sup>5</sup> See Letter from Takayasu regarding Polyester Staple Fiber from the People’s Republic of China; Comments on Respondent Selection, dated August 13, 2013.

<sup>6</sup> See Request for Information, Antidumping Duty Administrative Review, Takayasu Industrial (Jiangyin) Co., Ltd., Certain Polyester Staple Fiber from the People’s Republic of China, dated August 15, 2013; and Request for Information, Antidumping Duty Administrative Review, Zhaoqing Tifo New Fibre Co., Ltd., Certain Polyester Staple Fiber from the People’s Republic of China, dated August 15, 2013.

<sup>7</sup> See Memorandum to All Interested Parties regarding Antidumping Duty Order on Certain Polyester Staple Fiber from the PRC, dated August 21, 2013 (“*Surrogate Country Memo*”).

<sup>8</sup> See Memorandum to the File from Steven Hampton, International Trade Compliance Analyst, regarding 2012-2013 Antidumping Administrative Review of Certain Polyester Staple Fiber from the People’s Republic of China: Extension for submission of Surrogate Country Comments, dated September 19, 2013.

<sup>9</sup> See Memorandum to The File from Steven Hampton, International Trade Compliance Analyst, regarding 2012-2013 Antidumping Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: Extension of Deadlines to submit Surrogate Country Rebuttal Comments and Information to Value Factors of Production, dated October 29, 2013.

<sup>10</sup> See Memorandum to the File through Scot T. Fullerton, Program Manager, Office V, Enforcement and Compliance from Steven Hampton, International Trade Compliance Analyst, Office V, Enforcement and Compliance regarding 2012-2013 Antidumping Duty Administrative Review of Certain Polyester Staple Fiber from the People’s Republic of China: Response to Takayasu’s Request to Strike Petitioner’s Surrogate Country Rebuttal Comments from the Record, dated December 20, 2013, citing *Definition of Factual information and Time Limits for Submission of Factual information*, 78 FR 21255-21256 (April 10, 2013).

<sup>11</sup> The Department extended the deadline for interested parties to submit rebuttal surrogate value information. See Letter regarding 2012-2013 Antidumping Administrative Review of Certain Polyester Staple Fiber from the People’s Republic of China: Rebuttal Deadline Extension, dated June 27, 2014.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.<sup>12</sup> Therefore, all deadlines in this segment of the proceeding were extended by 16 days.

On November 14, 2013, Zhaoqing Tifo withdrew its review request.<sup>13</sup> On January 8, 2014, the Department partially rescinded this administrative review with respect to Zhaoqing Tifo.<sup>14</sup> Between December 11, 2013 and June 13, 2014, the Department issued supplemental questionnaires to Takayasu, to which it responded in a timely manner. On February 20, 2014, the Department partially extended the deadline for issuing the preliminary results by 60 days until May 19, 2014.<sup>15</sup> On April 16, 2014, the Department fully extended the deadline for issuing the preliminary results by an additional 60 days until July 17, 2014.<sup>16</sup>

### *Scope of the Order*

The merchandise subject to the order is synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The subject merchandise may be coated, usually with a silicon or other finish, or not coated. Polyester staple fiber is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

The following products are excluded from the scope of the order: (1) polyester staple fiber of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) at 5503.20.0025 and known to the industry as polyester staple fiber for spinning and generally used in woven and knit applications to produce textile and apparel products; (2) polyester staple fiber of 10 to 18 denier that are cut to lengths of 6 to 8 inches and that are generally used in the manufacture of carpeting; and (3) low-melt polyester staple fiber defined as a bi-component fiber with an outer, non-polyester sheath that melts at a significantly lower temperature than its inner polyester core (classified at HTSUS 5503.20.0015).

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<sup>12</sup> See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (October 18, 2013).

<sup>13</sup> See Letter from Zhaoqing Tifo regarding Certain Polyester Staple Fiber from the People's Republic of China Withdrawal of Request for Review, dated November 14, 2013.

<sup>14</sup> See *Certain Polyester Staple Fiber from the People's Republic of China: Partial Rescission of the Antidumping Duty Administrative Review; 2012–2013*, 79 FR 1362 (January 8, 2014).

<sup>15</sup> See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, regarding “Certain Polyester Staple Fiber from the People's Republic of China: Extension of Deadline for Preliminary Results of 2012-2013 Antidumping Duty Administrative Review,” dated February 20, 2014.

<sup>16</sup> See Memorandum to James Maeder, Director Office II, Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, regarding “Certain Polyester Staple Fiber from the People's Republic of China: Second Extension of Deadline for Preliminary Results of the Sixth Antidumping Duty Administrative Review,” dated April 16, 2014.

Certain polyester staple fiber is classifiable under the HTSUS numbers 5503.20.0045 and 5503.20.0065. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

## DISCUSSION OF THE METHODOLOGY

### *Non-Market Economy Status*

In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an non-market economy (“NME”) country shall remain in effect until revoked by the Department. The Department considers the PRC to be an NME country.<sup>17</sup> Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

### *Separate Rates*

Pursuant to section 771(18)(C)(i) of the Act, a designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that all companies within an NME are subject to government control, and thus, should be assessed a single AD rate.<sup>18</sup> In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.<sup>19</sup> It is the Department’s policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,<sup>20</sup> as amplified by *Silicon Carbide*.<sup>21</sup> However, if the Department determines that a company is wholly foreign-owned by individuals or companies located in a market economy (“ME”), then an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether it is independent from government control.<sup>22</sup>

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<sup>17</sup> See, e.g., *Certain Polyester Staple Fiber from the People’s Republic of China: Preliminary Results of the Antidumping Duty Administrative Review*, 77 FR 39990 (July 6, 2012) (“*Fourth AR Prelim*”) unchanged in *Fourth AR Final*, 78 FR 2366 (January 11, 2013).

<sup>18</sup> See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People’s Republic of China*, 71 FR 53079, 53082 (September 8, 2006) (“*Lined Paper*”); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People’s Republic of China*, 71 FR 29303, 29307 (May 22, 2006) (“*Sawblades*”).

<sup>19</sup> See *Initiation Notice*, 78 FR at 60835.

<sup>20</sup> See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588 (May 6, 1991) (“*Sparklers*”), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585 (May 2, 1994) (“*Silicon Carbide*”), and 19 CFR 351.107(d).

<sup>21</sup> See *Silicon Carbide*, 59 FR at 22585.

<sup>22</sup> See, e.g., *Wooden Bedroom Furniture from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011*, 78 FR 9493 (February 6, 2013), and accompanying Decision Memorandum at 9, unchanged in final results, 78 FR 35249 (June 12, 2013); *Certain Pneumatic Off-the-Road Tires from the People’s Republic of China, Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9284 (February 20, 2008), unchanged in final affirmative determination, 73 FR 40485 (July 15, 2013).

In order to demonstrate separate-rate status eligibility, the Department normally requires entities, for whom a review was requested, and who were assigned a separate rate in a previous segment of this proceeding, to submit a separate rate certification stating that they continue to meet the criteria for obtaining a separate rate.<sup>23</sup> For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility, the Department requires a separate rate application.

The Department received a completed response to the Section A portion of the NME questionnaire from the mandatory respondent, Takayasu, which contained information pertaining to the company's eligibility for a separate rate.<sup>24</sup> In its Section A Response, Takayasu reported that it is wholly-owned by individuals or companies located in a market economy ("ME") country.<sup>25</sup> Therefore, because it is wholly foreign-owned, and we have no evidence indicating that it is under the control of the PRC government, an analysis of the *de jure* and *de facto* criteria is not necessary to determine whether this company is independent from government control.<sup>26</sup> Accordingly, we preliminarily grant a separate rate to Takayasu.

### *Surrogate Country*

As noted above, on August 21, 2013, the Department sent interested parties a letter inviting comments on surrogate country selection and SV data.<sup>27</sup> On December 20, 2013, the Department stated that, pursuant to section 351.301(c)(3)(ii) of the Department's amended regulations, all submissions of factual information to value factors of production were due no later than 30 days before the scheduled date of the preliminary results of the review."<sup>28</sup> Also, as noted above, between October 28, 2013, and June 30, 2014, the Department received surrogate country comments, SV comments, and rebuttal comments from interested parties.

When the Department is examining imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOP"), valued using the best available information in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (a) at a level of economic development comparable to that of the NME country; and (b) significant producers of comparable merchandise.<sup>29</sup> Reading sections 773(c)(1) and (c)(4) of the Act in concert, it is the

<sup>23</sup> See *Initiation Notice*, 78 FR at 46567.

<sup>24</sup> See Takayasu Section A Response. Administrative Review of the Antidumping Duty Order on Polyester Staple Fiber from the People's Republic of China, dated September 24, 2013 ("Section A response").

<sup>25</sup> See Section A Response, at 2-5.

<sup>26</sup> See, e.g., *Wax Candles from the PRC*, 72 FR at 52356.

<sup>27</sup> See Memorandum to All Interested Parties regarding Antidumping Duty Order on Certain Polyester Staple Fiber from the PRC, dated August 21, 2013.

<sup>28</sup> See Memorandum to the File through Scot T. Fullerton, Program Manager, Office V, Enforcement and Compliance from Steven Hampton, International Trade Compliance Analyst, Office V, Enforcement and Compliance regarding 2012-2013 Antidumping Duty Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: Response to Takayasu's Request to Strike Petitioner's Surrogate Country Rebuttal Comments from the Record, dated December 20, 2013, citing *Definition of Factual Information and Time Limits for Submission of Factual Information*, 78 FR 21255-21256 (April 10, 2013).

<sup>29</sup> See *Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process* (March 1, 2004) ("Policy Bulletin").

Department's practice to select an appropriate surrogate country based on the availability and reliability of data.<sup>30</sup> Accordingly, we examine each factor below.

A. Comparable Level of Economic Development

Section 773(c)(4)(A) of the Act is silent with respect to how the Department may determine that a country is economically comparable to the NME country. As such, the Department's long standing practice has been first to identify those countries which are at the same level of economic development as the PRC based on per capita gross national income ("GNI") data available in the World Development Report provided by the World Bank.<sup>31</sup> We note that identifying potential surrogate countries based on GNI data has been affirmed by the U.S. Court of International Trade ("CIT").<sup>32</sup>

Pursuant to section 773(c)(4) of the Act, the Office of Policy memorandum identified Colombia, Costa Rica, Indonesia, Philippines, South Africa, and Thailand as being at the same level of economic development as the PRC.<sup>33</sup> The range of GNI represented by the list of potential surrogate countries ranges from \$2,210 to \$7,640.<sup>34</sup> Given that the surrogate country list is non-exhaustive, as explained in the surrogate country memorandum, Takayasu identified one other potential surrogate country: India. However, India has a lower GNI (\$1,530) than the surrogate countries on the list. The Department finds India to be at a lower and thus, less comparable level of economic development than that represented by the six countries on the initial surrogate country list.

As explained in the Department's Policy Bulletin 04.1, "{t}he surrogate countries on the list are not ranked."<sup>35</sup> This lack of ranking reflects the Department's long-standing practice that, for the purpose of surrogate country selection, the countries on the list "should be considered equivalent"<sup>36</sup> from the standpoint of their level of economic development based on GNI as compared to the PRC's level of economic development and recognition of the fact that the concept of "level" in an economic development context necessarily implies a range GNI, not a specific GNI. This long-standing practice of providing a non-exhaustive list of countries at the same level of economic development as the NME country fulfills the statutory requirement to value FOPs using data from "one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country..."<sup>37</sup> In this regard, "countries that are at a level of economic development comparable to that of the

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<sup>30</sup> *Id.*

<sup>31</sup> *See, e.g., 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) and accompanying Issues and Decision Memorandum at Comment 4. These are the countries identified in the Department Letter, "2012-2013 Semi-Annual Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," dated February 12, 2014.

<sup>32</sup> *See Fujian Lianfu Forestry Co., Ltd. v. United States*, 638 F. Supp. 2d 1325 (CIT 2009).

<sup>33</sup> *See* Surrogate Country Memo.

<sup>34</sup> *Id.*

<sup>35</sup> *See* Policy Bulletin No. 4.1.

<sup>36</sup> *Id.*

<sup>37</sup> *See* section 773(c)(4) of the Act.

nonmarket economy country” necessarily includes countries that are at the same level of economic development as the NME country.

Because the non-exhaustive list is only a starting point for the surrogate country selection process, the Department also considers other countries that interested parties propose that meet the statutory requirements. Countries on the segment record that are at the same level of economic development as the PRC are given equal consideration for the purposes of selecting a surrogate country. Countries that are not at the same level of economic development as the PRC’s, but still at a level of economic development comparable to the PRC, are selected only to the extent that data considerations outweigh the difference in levels of economic development. As noted above, GNI is the primary indicator of a country’s level of economic development.

*B. 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. Neither the statute nor the Department’s regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that “in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”<sup>38</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>39</sup> Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.<sup>40</sup> “In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced. How the Department does this depends on the subject merchandise.”<sup>41</sup> In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.<sup>42</sup>

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<sup>38</sup> See *Policy Bulletin* at 2.

<sup>39</sup> The *Policy Bulletin* also states that “if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise.” *Id.* at note 6.

<sup>40</sup> See *Sebacic Acid from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) (“{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.”).

<sup>41</sup> See *Policy Bulletin* at 2.

<sup>42</sup> *Id.* at 3.

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.<sup>43</sup> Moreover, while the legislative history provides that the term “significant producer” includes any country that is a significant “net exporter,”<sup>44</sup> it does not preclude reliance on additional or alternative metrics. All of the countries identified in the Surrogate Country Memo had significant exports during the POR under the HTS numbers included in the scope of the order.<sup>45</sup> Because none of the potential surrogate countries have been disqualified through the above analysis, the Department looks to the availability of SV data to determine the most appropriate surrogate country.

### C. Data Availability

The *Policy Bulletin* states that, if more than one country is at a level of economic development comparable to that of the NME and is a significant producer, “then the country with the best factors data is selected as the primary surrogate country.”<sup>46</sup> Importantly, the *Policy Bulletin* 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>47</sup>

Section 773(c)(1) of the Act instructs the Department to value the FOPs based upon the best available information from an 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 are contemporaneous, publicly available, tax and duty exclusive, represent a broad-market average, and are specific to the input.<sup>48</sup> The Department’s preference is to satisfy the breadth of the aforementioned selection criteria.<sup>49</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>50</sup> The Department must weigh the available information with respect to each input value

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<sup>43</sup> See section 773(c) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

<sup>44</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).

<sup>45</sup> See Memorandum to the File through Scot T. Fullerton, Program Manager, Office V, Enforcement and Compliance, from Steven Hampton, International Trade Compliance Analyst, Office V, Enforcement and Compliance regarding Sixth Administrative Review of Certain Polyester Staple Fiber from the People’s Republic of China: Surrogate Values for the Preliminary Results, dated concurrently with this memorandum (“Prelim SV Memo”) at Attachment 18.

<sup>46</sup> See *Policy Bulletin*.

<sup>47</sup> *Id.*

<sup>48</sup> See, e.g., *Lined Paper*, and accompanying Issues and Decision Memorandum at Comment 3.

<sup>49</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>50</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) (“*Sixth Mushrooms AR*”), 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.

and make a product-specific and case-specific decision as to what constitutes the “best” available SV for each input.<sup>51</sup>

*D. Analysis of the Record*

Takayasu submitted data from India, the Philippines, and Thailand for surrogate valuation purposes. Petitioner submitted data from Thailand for surrogate valuation purposes. Given that there are data to value the FOPs from all three of these countries on the record of this proceeding, the Department must evaluate the quality of the data to determine which country provides the best available information for surrogate country selection purposes for this proceeding.

With respect to India, the Department finds that India is at a level of economic development that is less comparable than the Philippines and Thailand. Accordingly, the Department has not considered India as a source of the best available information to value Takayasu FOPs as a basis for NV.

With respect to the Philippines, although Takayasu submitted the financial statements for a Philippine company, Sunnex Philippines Industrial Corp, these financial statements are from 2011 and are not contemporaneous with the POR.<sup>52</sup> Therefore, the Department does not find that the surrogate financial information from the Philippines to be the best available information to calculate the financial ratios for the preliminary results. With respect to the information for valuing the other FOPs from the Philippines, the Department finds there is information on the record to value the remaining FOPs from the Philippines.<sup>53</sup>

With respect to the Thailand data, both Petitioner and Respondent submitted multiple financial statements from Thailand. Takayasu submitted financial statements from Thai Polyester Company Limited, Compass Corporation Co., Ltd, Thai Win Fiber Industry Co., Ltd., and Asawakowit Co., Ltd., and Petitioner submitted financial statements from Angtai Co., Ltd. (“Angtai”). Moreover, in addition to surrogate financial information, the Department finds that there is information on the record to value all other FOPs from Thailand.<sup>54</sup>

*E. Conclusion*

The Department finds that Thailand provides the best available information for surrogate valuation purposes for these preliminary results. The Department finds Thailand to be a reliable source for SVs because Thailand is at a comparable level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data for all FOPs, and this data is as specific to the FOPs reported by Takayasu as other sources of SV data on the record. Given the above facts, the Department

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<sup>51</sup> See, e.g., *Sixth Mushrooms AR*, 71 FR 40477 and accompanying Issues and Decision Memorandum at Comment 1.

<sup>52</sup> See Takayasu’s submission dated November 25, 2013 at Exhibits 6A and 6B (*i.e.*, “Sunnex Philippines Industrial Corporation Financial Statements as of and for the year ended December 31, 2011 (With Comparative Figures for 2010”).

<sup>53</sup> See Takayasu’s submission dated November 25, 2013.

<sup>54</sup> See Prelim SV Memo.

selects Thailand as the primary surrogate country for this review. A detailed explanation of the SVs is provided below in the “Normal Value” section of this notice.

### *Date of Sale*

Takayasu reported the invoice date as the date of sale because it claims that, for its U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the invoice date.<sup>55</sup> The Department preliminarily determines that the invoice date is the most appropriate date to use as Takayasu’s date of sale, in accordance with 19 CFR 351.401(i).<sup>56</sup>

### *Fair Value Comparisons*

To determine whether sales of certain polyester staple fiber to the United States by Takayasu were made at less than NV, the Department compared the export price (“EP”) to NV, as described in the “U.S. Price,” and “Normal Value” sections below.

#### *A. Determination of Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (“CEPs”)) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping investigations, the Department examines whether to compare weighted-average NVs to the EP (or CEP) of individual export transactions (the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department’s examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping investigations.<sup>57</sup> In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.<sup>58</sup> The Department finds that the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the

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<sup>55</sup> See Takayasu Sections C and D Response: Administrative Review of the Antidumping Duty Order on Polyester Staple Fiber from the People’s Republic of China, dated November 4, 2013, at 10.

<sup>56</sup> See also *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004) and accompanying Issues and Decision Memorandum at Comment 10.

<sup>57</sup> See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>58</sup> See, e.g., *Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013) and accompanying Issues and Decision Memorandum at Comment 3; *Hardwood and Decorative Plywood From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and accompanying Issues and Decision Memorandum at Comment 3.

Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group were found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the

results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold. Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

#### *B. Results of the Differential Pricing Analysis*

For Takayasu, based on the results of the differential pricing analysis, the Department finds that 83.4 percent of Takayasu's export sales pass the Cohen's *d* test and therefore confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods.<sup>59</sup> However, when comparing the weighted-average dumping margins calculated using the average-to-average method for all U.S. sales with that calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales, there is not a meaningful difference in the results (*e.g.*, relative change in the results is less than 25 percent).<sup>60</sup> Accordingly, the Department has used the average-to-average method applied to all U.S. sales to calculate the weighted-average dumping margin for Takayasu.<sup>61</sup>

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<sup>59</sup> See Memorandum to the File through Scot T. Fullerton, Program Manager, Office V, Enforcement and Compliance, from Steven Hampton, International Trade Compliance Analyst, Office V, Enforcement and Compliance, regarding Sixth Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: Preliminary Analysis Memorandum for Takayasu Industrial (Jiangyin) Co., Ltd., dated concurrently with this memorandum, at 7.

<sup>60</sup> *Id.*

<sup>61</sup> In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

## *U.S. Price*

### *A. Export Price*

Pursuant to section 772(a) of the Act, the EP is “the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, the Department has found EP to be appropriate because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted on those sales.<sup>62</sup> The Department calculated EP based on the sales price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, as appropriate, the Department deducted from the sales price certain international movement costs using based upon FOPs and SVs.<sup>63</sup>

### *B. Value-Added Tax*

The Department’s recent practice in NME cases is to adjust EP or CEP for the amount of any unrefunded VAT, in accordance with section 772(c)(2)(B) of the Act.<sup>64</sup> The Department requested that Takayasu report net unrefunded VAT for the subject merchandise.<sup>65</sup> Takayasu reported that the official VAT rate for exports of subject merchandise is 17 percent and the refund rate is 16 percent, under the applicable PRC regulations.<sup>66</sup> Thus, Takayasu incurred an effective VAT rate of one percent on exports of PSF.<sup>67</sup>

Because Takayasu reported that it pays VAT associated with subject merchandise that is not refunded at a net rate of one percent, the Department adjusted Takayasu’s net price for the unrefunded VAT, in order to calculate an EP net of VAT.<sup>68</sup> We note that this is consistent with

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<sup>62</sup> See, e.g., Takayasu’s September 24, 2013, response at 1.

<sup>63</sup> See Prelim SV Memo for details regarding the SVs for movement expenses.

<sup>64</sup> See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481, 36483-84 (June 19, 2012) (“*Methodological Change*”).

<sup>65</sup> See Takayasu Supplemental Questionnaire Responses: Administrative Review of the Antidumping Duty Order on Polyester Staple Fiber from the People’s Republic of China, dated May 27, 2014, and Takayasu Supplemental Questionnaire Responses: Administrative Review of the Antidumping Duty Order on Polyester Staple Fiber from the People’s Republic of China, dated June 13, 2014.

<sup>66</sup> See Takayasu Supplemental Questionnaire Responses: Administrative Review of the Antidumping Duty Order on Polyester Staple Fiber from the People’s Republic of China, dated June 13, 2014, at Exhibit S5-1.

<sup>67</sup> *Id.*

<sup>68</sup> See Memorandum to the File through Scot T. Fullerton, Program Manager, Office V, Enforcement and Compliance, from Steven Hampton, International Trade Compliance Analyst, Office V, Enforcement and Compliance regarding Sixth Administrative Review of Certain Polyester Staple Fiber from the People’s Republic of China: Preliminary Analysis Memorandum for Takayasu Industrial (Jiangyin) Co., Ltd., dated concurrently with this memorandum.

the Department's longstanding policy, and the intent of the statute, that dumping comparisons be tax-neutral.<sup>69</sup>

### *Normal Value*

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(e) of the Act. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. The Department's questionnaire requires that the respondents provide information regarding the weighted-average FOPs across all of the companies' plants and suppliers that produce the merchandise under consideration, not just the FOPs from a single plant or supplier.<sup>70</sup> This methodology ensures that the Department's calculations are as accurate as possible.<sup>71</sup>

The Department calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). Under section 773(c)(3) of the Act, FOPs used by Takayasu in the production of certain polyester staple fiber include, but are not limited to, (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.<sup>72</sup> The Department based NV on Takayasu's reported FOPs for materials, energy, and labor.

### *Factor Valuations*

In accordance with section 773(c) of the Act, for subject merchandise produced by Takayasu, the Department calculated NV based on the FOPs reported by Takayasu for the POR. The Department used Thai import data and other publicly available Thai sources in order to calculate SVs for Takayasu's FOPs. To calculate NV, the Department multiplied the reported per-unit FOP quantities by publicly available SVs. The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.<sup>73</sup>

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<sup>69</sup> See *Methodological Change*, (citing *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27369 (May 19, 1997) and Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1, 827, reprinted in 1994 U.S.C.C.A.N. 3773, 4172). See also *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Results of Antidumping Administrative Review*, 2011-2012, 78 FR 78333 (December 26, 2013) and accompanying Preliminary Decision Memorandum at Issue 9, unchanged in Final Results.

<sup>70</sup> See the Department's original antidumping duty questionnaire, dated December 12, 2013, at Section D.

<sup>71</sup> See, e.g., *Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings from the People's Republic of China*, 68 FR 61395 (October 28, 2003), and accompanying Issues and Decision Memorandum at Comment 19.

<sup>72</sup> See, e.g., Takayasu's November 4, 2013, Section D submission, at Exhibit 1.

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

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

Furthermore, with regard to the Thai import-based SVs, we disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from India, Indonesia, and South Korea may have been subsidized because we found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.<sup>74</sup> Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.<sup>75</sup> Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.<sup>76</sup> Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an "unspecified" country from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.<sup>77</sup> Therefore, we have not used prices from these countries either in calculating the Thai import-based SVs.

The Department used Thai import statistics sourced from the Global Trade Atlas to value the raw material and packing inputs that Takayasu used to produce subject merchandise during the POR, as well as the by-product that Takayasu produced, except where listed below.<sup>78</sup>

Consistent with the Department's calculation methodology applied in *Drawn Sinks, Sodium Hexametaphosphate*, and *Silicon Metal*<sup>79</sup>, the Department valued electricity using data from Thailand Metropolitan Electricity Authority ("MEA") for "large general service" companies.<sup>80</sup>

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<sup>74</sup> See, e.g., *Certain Steel Threaded Rod From the People's Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011–2012*, 78 FR 66330 (November 5, 2013); and *Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011*, 78 FR 2366 (January 11, 2013).

<sup>75</sup> See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7.

<sup>76</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988); see also *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30763 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007).

<sup>77</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005).

<sup>78</sup> See Preliminary SV Memo.

The Department valued water using data from Thailand's Board of Investment Metropolitan Waterworks Authority.<sup>81</sup> This source provides water rates for industrial users that are exclusive of value added taxes. The Department valued steam using data from the Thai Electricity Generating Authority's Annual 2012 Report - Glow Energy Public Company Ltd.<sup>82</sup>

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of good in Thailand. This price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand that is published in *Doing Business 2013: Thailand* by the World Bank.<sup>83</sup>

We used Thai transport information in order to value the freight-in cost of raw materials. The Department determined the best available information for valuing truck freight to be from *Doing Business 2013: Thailand*.<sup>84</sup> This World Bank report gathers information concerning the distance and cost to transport products in a 20 foot-container, weighing 10 metric tons, from the largest city in Thailand to the nearest port. We calculated the per-kg, per-kilometer surrogate inland freight rate based on the methodology used by the World Bank.

In *Labor Methodologies*,<sup>85</sup> the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics. In these preliminary results, the Department calculated the labor input using total manufacturing POR-specific data from 2012 and 2013 published by Thailand's National Statistics Office (the "2012-2013 NSO data").<sup>86</sup> Although the 2012-2013 NSO data are not from the ILO, the Department finds that this does not preclude us from using this as a source for valuing labor. In *Labor Methodologies*, the Department decided to change to the use of ILO Chapter 6A data from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.<sup>87</sup> The Department did not, however, preclude all other sources for evaluating labor costs in NME antidumping proceedings. Rather, we continue to follow our practice of selecting the "best information available" to determine SVs for inputs such as labor. Thus, we find that the 2012-2013 NSO data are the best available information for valuing labor for this segment of the

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<sup>79</sup> See *Drawn Stainless Steel Sinks From the People's Republic of China: Antidumping Duty Investigation*, 77 FR 60673 (October 4, 2012), unchanged in *Drawn Stainless Steel Sinks From the People's Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013); see also *Sodium Hexametaphosphate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 59375 (September 27, 2012) and accompanying Issues and Decision Memorandum at Comment II; see also *Silicon Metal from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 54563 (September 5, 2012).

<sup>80</sup> See Preliminary SV Memo at Attachment 7.

<sup>81</sup> *Id.*, at Attachment 8.

<sup>82</sup> *Id.*, at Attachment 9.

<sup>83</sup> *Id.*, at Attachment 17.

<sup>84</sup> *Id.*, at Attachment 15.

<sup>85</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) ("*Labor Methodologies*").

<sup>86</sup> See Preliminary Surrogate Values Memo at Attachment 6.

<sup>87</sup> See *Labor Methodologies*, 76 FR at 36093.

proceeding. Specifically, the 2012-2013 NSO data is significantly more contemporaneous than the ILO Chapter 6A from Thailand, which is from 2000.<sup>88</sup> As stated above, the Department used Thailand data reported under the 2012-2013 NSO data, which reflects all costs related to labor, including wages, benefits, housing, training, *etc.* Thus, the Department finds that 2012-2013 NSO data represents a fully-loaded labor cost.<sup>89</sup>

The Department's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.<sup>90</sup> Moreover, for valuing factory overhead, selling, general and administrative expenses ("SG&A"), and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.<sup>91</sup> In addition, the CIT has affirmed that, in the selection of surrogate producers, the Department may consider how closely the surrogate producers approximate the NME producer's experience.<sup>92</sup> To value factory overhead, selling, general, and administrative expenses, and profit, the Department used the 2012 financial statements from a Thai producer of certain polyester staple fiber, Angtai Co., Ltd.<sup>93</sup>

### *Currency Conversion*

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank. These exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/>.

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<sup>88</sup> See <http://laborsta.ilo.org/>

<sup>89</sup> See *Labor Methodologies*, 76 FR at 36092.

<sup>90</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005) and accompanying Issues and Decision Memorandum at Comment 3.

<sup>91</sup> See, e.g., *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006) and accompanying Issues and Decision at Comment 2.

<sup>92</sup> See *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-1254 (CIT 2002); see also *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>93</sup> For more information on the surrogate financial ratios calculations, see the Prelim SV Memo at Attachment 14.

**RECOMMENDATION**

We recommend applying the above methodology for these preliminary results.

✓  
Agree                      Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

16 JULY 2014  
Date