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**MEMORANDUM TO:** Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

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

**SUBJECT:** Steel Wire Garment Hangers from the People's Republic of China:  
Decision Memorandum for the Preliminary Results of the 2012-  
2013 Antidumping Duty Administrative Review

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## SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting the fifth administrative review ("AR") of the antidumping duty ("AD") Order<sup>1</sup> on steel wire garment hangers ("hangers") from the People's Republic of China ("PRC") for the period of review ("POR") October 1, 2012, through September 30, 2013. The Department preliminarily determines that Shanghai Wells<sup>2</sup> sold subject merchandise in the United States at prices below normal value ("NV"). In addition, we preliminarily determine Ningbo Dasheng Hanger Ind. Co., Ltd., ("Ningbo Dasheng") and four Non-Responsive Mandatories<sup>3</sup> failed to cooperate to the best of their ability in participating in the review, warranting the application of facts otherwise available with adverse inferences, pursuant to sections 776(a)-(b) of the Tariff Act of 1930, as amended ("Act"). As a part of the application of adverse facts available ("AFA"), we are preliminary treating Ningbo Dasheng as part of the PRC-wide entity.

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<sup>1</sup> See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China, 73 FR 58111 (October 6, 2008) ("Order").

<sup>2</sup> See below at "Affiliations" section where the Department discusses its previous finding that Shanghai Wells Hanger Co., Ltd., Hong Kong Wells Ltd. ("HK Wells") and Hong Kong Wells Ltd. (USA) ("Wells USA") are affiliated and that Shanghai Wells Co., Ltd., and HK Wells comprise a single entity (together, "Shanghai Wells").

<sup>3</sup> We selected four additional companies as mandatory respondents, however, they did not participate. These four companies are: 1) Shangyu Baoxiang Metal Manufactured Co., Ltd. ("Shangyu Baoxiang"), 2) Shaoxing Dingli Metal Clotheshorse Co., Ltd., ("Shaoxing Dingli") 3) Zhejiang Lucky Cloud Hanger Co., Ltd ("Lucky Cloud"), and 4) Shaoxing Tongzhou Metal Manufactured Co., Ltd., Shaoxing Andrew Metal Manufactured Co., Ltd., and Shaoxing Gangyuan Metal Manufacture (collectively, "the Shaoxing Entity"), ("Non-Responsive Mandatories").



## BACKGROUND

On October 2, 2013, the Department published in the Federal Register a notice of opportunity to request an AR of the AD Order on hangers from the PRC for the POR.<sup>4</sup> The Department received a timely request for review pursuant to 19 CFR 351.213(b)(2) from M&B Metal Products Company Inc. (“Petitioner”).<sup>5</sup> The Department also received timely requests for review from Shanghai Wells,<sup>6</sup> and Shaoxing Andrew Metal Manufactured Co., Ltd., Shangyu Baoxiang Metal Manufactured Co., Ltd., Ningbo Dasheng Hanger Ind. Co., Ltd., Shaoxing Dingli Metal Clotheshorse Co., Ltd., Shaoxing Gangyuan Metal Manufactured Co., Ltd., Shaoxing Guochao Metallic Products Co., Ltd., Zhejiang Lucky Cloud Hanger Co., Ltd., Shaoxing Shunji Metal Clotheshorse Co., Ltd. (“Shaoxing Shunji”), and Shaoxing Tongzhou Metal Manufactured Co., Ltd.<sup>7</sup> On December 3, 2013, the Department published a notice of initiation of the fifth AR of hangers from the PRC with respect to 34 companies.<sup>8</sup>

On May 15, 2014, the Department issued a memorandum extending the deadline for issuing the preliminary results by 120 days to October 31, 2013.<sup>9</sup>

### Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter or producer of the subject merchandise.<sup>10</sup> However, section 777A(c)(2) of the Act gives the Department the discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to determine individual dumping margins for all exporters or producers because of the large number of exporters or producers involved in an AR.

On December 3, 2013, the Department made available U.S. Customs and Border Protection (“CBP”) data for subject merchandise entered during the POR under administrative protective order (“APO”) to all interested parties having an APO in the AD AR.<sup>11</sup> We invited comments regarding the CBP data and respondent selection.<sup>12</sup> We received comments from Petitioner.<sup>13</sup> No other party submitted comments.

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<sup>4</sup> See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 78 FR 60,847 (October 2, 2013).

<sup>5</sup> See Letter from Petitioner “Steel Wire Garment Hangers from China: Request for Fifth Administrative Review,” dated October 22, 2013.

<sup>6</sup> See Letter from Shanghai Wells “Steel Wire Garment Hangers from the People’s Republic of China,” dated October 29, 2013.

<sup>7</sup> See Letter “Steel Wire Garment Hangers from the People’s Republic of China: Request for Administrative Review,” dated October 31, 2013.

<sup>8</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation In Part, 78 FR 72630 (December 3, 2013) (“Initiation Notice”).

<sup>9</sup> See Memorandum to: Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, From: Alexis Polovina, International Trade Compliance Analyst, Office V Antidumping and Countervailing Duty Operations, Re: Steel Wire Garment Hangers from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review, dated May 15, 2014.

<sup>10</sup> See also 19 CFR 351.204(c) regarding respondent selection, in general.

<sup>11</sup> See Letter from Catherine Bertrand to All Interested Parties, “2012-2013 Administrative Review of the Antidumping Duty Order of Steel Wire Garment Hangers from the People’s Republic of China: CBP Data for Respondent Selection,” dated December 3, 2013.

<sup>12</sup> Id.

On January 27, 2014, the Department issued a respondent selection memorandum. Having considered the large number of exporters for which an AR was initiated, and assessed our resources, the Department determined that it could reasonably individually examine three exporters subject to this AR. Pursuant to section 777A(c)(2)(B) of the Act, the Department selected Shanghai Wells, Shaoxing Dingli Metalclotheshorse Co., Ltd. (“Shaoxing Dingli”), and Shaoxing Tongzhou Metal Manufactured Co., Ltd., Shaoxing Andrew Metal Manufactured Co., Ltd., and Shaoxing Gangyuan Metal Manufacture (collectively, “the Shaoxing Entity”)<sup>14</sup> as mandatory respondents.<sup>15</sup> The Department sent the non-market economy (“NME”) AD questionnaire to Shanghai Wells, Shaoxing Dingli and the Shaoxing Entity on January 27, 2014. As stated in the cover letter of our questionnaire, the deadline for Section A was February 18, 2014, and for Sections C & D was March 5, 2014.<sup>16</sup> We received a timely response from Shanghai Wells. However, Shaoxing Dingli and the Shaoxing Entity did not file any responses or requests for an extension of time to respond to the preliminary questions.<sup>17</sup>

On January 27, 2014, Zhejiang Lucky Cloud Hanger Co., Ltd. (“Lucky Cloud”), Ningbo Dasheng, and Shangyu Baoxiang Metal Manufactured Co. Ltd. (“Shangyu Baoxiang”) filed separate rate applications.<sup>18</sup> On February 7, 2014, Petitioner requested that the Department select the next largest producers/exporters of subject merchandise as mandatory respondents.<sup>19</sup> On February 7, 2014, the Department issued another respondent selection memorandum, in which we selected two additional exporters for individual examination, Shangyu Baoxiang and Lucky Cloud.<sup>20</sup> Neither Shangyu Baoxiang nor Lucky Cloud submitted questionnaire responses or extension requests by the February 14, 2014, deadline.

On February 20, 2014, Petitioner requested the Department select the remaining potential respondent, Ningbo Dasheng, as a mandatory respondent.<sup>21</sup> On February 26, 2014, the Department issued another respondent selection memorandum selecting Ningbo Dasheng as a mandatory respondent.<sup>22</sup>

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<sup>13</sup> See Petitioners’ Comments on Respondent Selection, dated December 12, 2013.

<sup>14</sup> We have treated these companies as a single entity since the Hangers Investigation. See Steel Wire Garment Hangers from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 47587, 47589 (August 14, 2008) (“Hangers Investigation”).

<sup>15</sup> See Memorandum from Josh Startup, Analyst, Office V, to James Doyle, Director, Office V, “Fifth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Selection of Respondents for Individual Examination,” dated January 27, 2014.

<sup>16</sup> See Letters to Shanghai Wells, Shaoxing Dingli and the Shaoxing Entity from Catherine Bertrand, Program Manager, Office V, Enforcement and Compliance; regarding the 2012-2013 Antidumping Duty Administrative Review of Steel Garment Wire Hangers from the People’s Republic of China, dated January 27, 2014.

<sup>17</sup> See Letter from Shaoxing Dingli to the Deputy Secretary of Commerce, Re: Notice of Inability to Further Participate, dated February 19, 2013.

<sup>18</sup> See Lucky Cloud, Shangyu Baoxiang, and Ningbo Dasheng’s separate rate applications, dated January 27, 2014, respectively.

<sup>19</sup> See Petitioner’s Request for Replacement Mandatory Respondents, dated February 7, 2014.

<sup>20</sup> See Memorandum to James Doyle, Director, Office V, from Josh Startup, Analyst, Office V, regarding Fifth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Selection of Additional Mandatory Respondent, dated February 7, 2014.

<sup>21</sup> See Petitioner’s Request for Replacement Mandatory Respondent, dated February 20, 2014.

<sup>22</sup> See Department Memorandum regarding Fifth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Selection of Additional Mandatory Respondents, dated February 26, 2014.

## SCOPE OF THE ORDER

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

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

### Affiliations

Section 771(33) of the Act provides that:

The following persons shall be considered to be ‘affiliated’ or ‘affiliated persons’:

- (A) Members of a family, including brothers and sisters (whether by the whole or half-blood), spouse, ancestors, and lineal descendants.
- (B) Any officer or director of an organization and such organization.
- (C) Partners.
- (D) Employer and employee.
- (E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
- (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
- (G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act states that: “For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.” Finally, according to 19 CFR 351.401(f)(1), two or more affiliated companies may be treated as a single entity for AD purposes if: (1) the producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (2) there is a significant potential for manipulation of price or production.<sup>23</sup>

### Shanghai Wells Affiliation/Single Entity

In the first AR, the Department found Shanghai Wells Hanger Co., Ltd., affiliated with certain related entities, pursuant to sections 771(33)(A), (E) and (F) of the Act, based on familial

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<sup>23</sup> See also 19 CFR 351.401(f)(2).

relationship, ownership and common control, in accordance with our determination in PRC Hangers AR1.<sup>24</sup> The Department also determined to treat Shanghai Wells Hanger Co., Ltd., and one of its affiliated entities, HK Wells, as a single entity for purposes of that review.<sup>25</sup> For these preliminary results, because there were no changes to the facts that supported that decision in the first AR, we continue to find Shanghai Wells Hanger Co., Ltd., and HK Wells part of a single entity, Shanghai Wells, in this review.<sup>26</sup>

## DISCUSSION OF THE METHODOLOGY

### Preliminary Determination of No Shipments

On January 31, 2014, Hangzhou Yingqing Material Co., Ltd. and Hangzhou Qingqing Mechanical Co. Ltd., filed no-shipment certifications indicating that they did not export subject merchandise to the United States during the POR. In order to examine these claims, the Department sent inquiries to CBP requesting that CBP inform the Department if it had any information contrary to the no-shipment claims.<sup>27</sup>

Based on the evidence on the record thus far, we preliminarily determine that these companies did not have any reviewable transactions during the POR. In addition, we find that it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to the above named companies and issue appropriate instructions to CBP based on the final results of the review.<sup>28</sup> Should evidence contrary to these companies' no shipments claims arise, we will pursue the issue in accordance with our governing statute and regulations.

### PRC-Wide Entity<sup>29</sup>

Four companies that the Department selected as mandatory respondents in this AR failed to respond to the Department's requests for information and/or declined to participate in this

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<sup>24</sup> See Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review, 75 FR 68758, 68761 (November 9, 2010), unchanged in First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 27994, 27996 (May 13, 2011) ("PRC Hangers AR1").

<sup>25</sup> See PRC Hangers AR1, 76 FR at 68759.

<sup>26</sup> See Letter from Shanghai Wells to the Acting Secretary of Commerce regarding Section A Questionnaire Response (February 18, 2014) at pg. 2 and 11 ("Shanghai Wells SAQR").

<sup>27</sup> See No shipments inquiry the Department sent to CBP on February 5, 2014.

<sup>28</sup> See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694, 65694-65695 (October 24, 2011).

<sup>29</sup> The Department published the notice of opportunity for this administrative review before the effective date of its change in practice regarding conditional review of the NME entity. See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963 (November 4, 2013).

review.<sup>30</sup> These companies, therefore, are not eligible for separate rate status.<sup>31</sup> Another 23 companies for which a review was requested did not submit either a separate rate application or certification.<sup>32</sup> Therefore, because these companies did not demonstrate their eligibility for separate rate status, they remain preliminarily included as part of the PRC-wide entity and are subject to the PRC-wide rate. Further, as explained below, because we are preliminarily determining Ningbo Dasheng failed to cooperate to the best of its ability, we are including Ningbo Dasheng as part of the PRC-wide entity. As a result of the above, the PRC-wide entity is now under review. Further, the Department preliminarily finds that the PRC-wide entity includes 28 companies.

### NME Country Status

In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME shall remain in effect until revoked by the administering authority. The Department considers the PRC to be an NME country.<sup>33</sup> Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

### Separate Rates

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>34</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>35</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

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<sup>30</sup> These four companies are: 1) Shangyu Baoxiang Metal Manufactured Co. Ltd. ("Shangyu Baoxiang"), 2) Shaoxing Dingli Metal Clotheshorse Co., Ltd., ("Shaoxing Dingli") 3) Zhejiang Lucky Cloud Hanger Co., Ltd ("Lucky Cloud"), and 4) Shaoxing Tongzhou Metal Manufactured Co., Ltd., Shaoxing Andrew Metal Manufactured Co., Ltd., and Shaoxing Gangyuan Metal Manufacture (collectively, "the Shaoxing Entity"), which we treated as a single entity in Hangers Investigation. See Hangers Investigation, 73 FR at 47589. The Department's treatment of the collapsed Shaoxing Entity has not changed since the Hangers Investigation.

<sup>31</sup> See Initiation Notice, 78 FR at 72630 ("For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.")

<sup>32</sup> See the Appendix.

<sup>33</sup> See, e.g., Certain Steel Nails from the People's Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2010-2011, 78 FR 16651, 16652 (March 18, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>34</sup> See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China, 71 FR 53079, 53082 (September 8, 2006); Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China, 71 FR 29303, 29307 (May 22, 2006).

<sup>35</sup> See Initiation Notice, 78 FR at 72630.

NME country under the test established in Sparklers,<sup>36</sup> as amplified by Silicon Carbide.<sup>37</sup> However, if the Department determines that a company is wholly foreign-owned or located in a market-economy (“ME”) country, then a separate rate analysis is not necessary to determine whether it is independent from government control.<sup>38</sup>

The Department received a complete response to the Section A portion of the NME questionnaire, and a separate rate certification, from Shanghai Wells, which contained information pertaining to the eligibility for a separate rate. Additionally, we also received separate rate applications from the Shangyu Baoxiang, Lucky Cloud, and Ningbo Dasheng. As noted above, Shangyu Baoxiang and Lucky Cloud, terminated their participation in this review and, therefore, are not eligible for a separate rate. And, as explained below under the “Application of Adverse Facts Available,” section below, Ningbo Dasheng is preliminary not eligible for a separate rate. Therefore, the only company that remains eligible for a separate rate is Shanghai Wells.

### Separate Rate Recipients

#### Wholly Foreign-Owned

Shanghai Wells reported that it is a wholly foreign-owned entity.<sup>39</sup> Additionally, there is no evidence that Shanghai Wells is under the control of the PRC government. For these reasons, we preliminarily determine that further separate rate analysis is not necessary to determine whether this entity is independent from government control.<sup>40</sup> Thus, we preliminarily grant separate rate status to Shanghai Wells.

### Application of Facts Available and Use of Adverse Inference

On February 26, 2013, the Department issued the NME questionnaire to Ningbo Dasheng. Section D of the NME questionnaire requests respondents provide a three-step factors of production (“FOP”) reconciliation, with worksheets, supporting documentation (e.g., sub-ledgers, production reports, and inventory records), and narrative describing the reconciliation. Step one, reconcile the cost of goods sold (“COGS”) to the financial statements. Step two, reconcile the COGS to the cost of manufacture (“COM”). Step three, reconcile the COM to per-

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<sup>36</sup> Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China, 56 FR 20588, 20589 (May 6, 1991) (“Sparklers”).

<sup>37</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China, 59 FR 22585 (May 2, 1994) (“Silicon Carbide”).

<sup>38</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 pg. 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 determination, 73 FR 40485 (July 15, 2013).

<sup>39</sup> See Shanghai Wells SAQR at pg. 1-2 and Exhibit 1, submitted February 3, 2014.

<sup>40</sup> See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People’s Republic of China, 64 FR 71104, 71104-05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).

unit consumption. After granting Ningbo Dasheng a two-week extension,<sup>41</sup> and a one-week extension of the section D deadline,<sup>42</sup> Ningbo Dasheng filed two one-page worksheets in response to the FOP reconciliation requirement, one listing monthly operation costs for 2013 and, one summing the monthly operation costs for 2013.<sup>43</sup> Ningbo Dasheng did not provide any data for the 2012 portion of the POR, nor did it provide any supporting documentation or narrative explaining how the 2013 costs reconciled or why it chose to report incomplete information. In Ningbo Dasheng's first attempt at the FOP reconciliation, it only partially completed step one; there was nothing reported for 2012.<sup>44</sup> It did not address steps two and three.

On May 20, 2014, the Department issued its first section D supplemental which included two worksheets to help Ningbo Dasheng demonstrate how the COGS reconcile to the COM, and to its consumption, and again requested supporting documentation and narrative. After granting Ningbo Dasheng a one-week extension,<sup>45</sup> and a ten-day extension,<sup>46</sup> Ningbo Dasheng responded that it is revising its data and will provide the reconciliation response in its next supplemental.<sup>47</sup> Thus, despite Ningbo Dasheng having had a second opportunity to provide the FOP reconciliation, Ningbo Dasheng failed to provide such reconciliation.

On July 21, 2014, the Department issued a second section D supplemental requesting inventory-in slips, production reports, financial ledgers, and narrative explaining the reconciliations. After granting Ningbo Dasheng an 11-day extension,<sup>48</sup> Ningbo Dasheng provided the two worksheets we issued in our first supplemental and some supporting documentation but no narrative to explain how the reported figures reconciled. Ningbo Dasheng did not fully translate the supporting ledgers and the COGS figure was slightly different than reported in its previous attempt, with no explanation.<sup>49</sup> Ningbo Dasheng's third attempt at the FOP reconciliation raised additional questions<sup>50</sup> without fully addressing steps two and three.

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<sup>41</sup> See Memorandum to the File from Josh Startup, International Trade Compliance Analyst, regarding "Fifth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Sections A, C&D Questionnaire Response Deadlines for Ningbo Dasheng Hanger Ind. Co., Ltd.," dated March 19, 2014.

<sup>42</sup> See Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Second C&D Questionnaire Extension for Ningbo Dasheng Hanger Ind. Co., Ltd.," dated April 16, 2014.

<sup>43</sup> See Ningbo Dasheng Section D Response, at Exhibit D-15, submitted April 30, 2014.

<sup>44</sup> Id.

<sup>45</sup> See Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Extension for Section D Supplemental," dated May 28, 2014.

<sup>46</sup> See Memorandum to the File from Josh Startup, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Second Extension for Section D Supplemental," dated June 9, 2014.

<sup>47</sup> See Ningbo Dasheng Supplemental Section D Response, at 4-5, submitted June 20, 2014.

<sup>48</sup> See Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Extension for Third Section D Supplemental," dated July 30, 2014.

<sup>49</sup> See Ningbo Dasheng Supplemental Sections C&D Response, at Exhibits 16 and 17, submitted August 11, 2014.

<sup>50</sup> For example, see Ningbo Dasheng Section D Response, at Exhibit D-15, submitted April 30, 2014, compared to Ningbo Dasheng Supplemental Sections C&D Response, at Exhibit 17, submitted August 11, 2014.

On August 27, 2014, the Department issued a third section D supplemental requesting clarity on discrepancies between reported COGS figures, fully translated supporting documentation, and additional narrative. After granting a four-day extension,<sup>51</sup> and a five-day extension,<sup>52</sup> Ningbo Dasheng provided the 2012 portion of step one.<sup>53</sup> It provided revised COGS and COM worksheets with revised numbers. The supporting documentation submitted was still not fully translated, making the reconciliation between the worksheets difficult as no narrative was provided. Despite the revised figures, the reconciliation was still deficient because although Ningbo Dasheng appeared to provide what we request in step one, in step two of the reconciliation, Ningbo Dasheng used a different COGS figure, from the COGS provided in step one, without any explanation. Furthermore, in step three, steel wire rod consumption did not reconcile to the steel wire rod raw material sub-ledger for two months out of the twelve month POR, and no explanation was provided. Ningbo Dasheng's fourth attempt at the FOP reconciliation appears to satisfy step one, however, there is no link between step one and step two, and step three does not reconcile. Therefore, after four attempts, Ningbo Dasheng FOPs do not reconcile.

Ningbo Dasheng revised its FOP database four times, with each section D submission. With each revision, Ningbo Dasheng reported CONNUMs using less than one kilogram ("kg") of raw materials to produce one kg of output. When the Department asked Ningbo Dasheng to explain how it was possible to create one kg of subject merchandise with less than one kg of steel wire rod, Ningbo Dasheng twice stated that the wire hanger also includes coating powder and drawing powder and some *de minimis* scrap, even though Ningbo Dasheng does not claim a by-product offset.<sup>54</sup> The Department asked Ningbo Dasheng how it was possible that even after accounting for Ningbo Dasheng's explanation and including wire rod, coating powder, and drawing powder, Ningbo Dasheng was still reporting less than one kg of raw material to produce one kg of output. Ningbo Dasheng did not answer the question, but instead provided two sales ledgers for POR scrap steel sales.<sup>55</sup> However, there was no quantity provided and no way to link the steel scrap sold to Ningbo Dasheng's production of subject merchandise. Therefore, it is still unclear how Ningbo Dasheng is reporting less than one kg of raw materials to produce one kg of output. Without an accurate FOP reconciliation, we cannot rely on Ningbo Dasheng's per-unit consumption figures. The per-unit consumption figures are necessary to calculate the AD margin. As explained below in greater detail, under "Surrogate Country and Surrogate Value," section below, section 773(c)(1) of the Act directs us to base NV, on the NME producer's FOPs, valued in a surrogate ME country or countries considered to be appropriate by the Department. Without an accurate FOP reconciliation, the Department is unable to assess the reliability of the submitted data which is necessary to calculate an AD margin.

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<sup>51</sup> See Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Extension Supplemental Sections C&D," dated September 5, 2014.

<sup>52</sup> See Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Second Extension Supplemental Sections C&D," dated September 12, 2014.

<sup>53</sup> See Ningbo Dasheng Supplemental Sections C&D Response, at Exhibit 14, submitted September 17, 2014.

<sup>54</sup> See Ningbo Dasheng Supplemental Section D Response, at 1-2, submitted June 20, 2014; see also Ningbo Dasheng Supplemental Sections C&D Response, at 8, submitted August 11, 2014.

<sup>55</sup> See Ningbo Dasheng Supplemental Sections C&D Response, at 3 and Exhibit 6, submitted September 17, 2014.

A. Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or an interested party withholds information requested by the Department; fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; significantly impedes a proceeding; or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(c)(1) of the Act states that the Department shall consider the ability of an interested party to provide information upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation and suggests an alternative form in which the party is able to provide the information. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

As described above, Ningbo Dasheng failed to provide complete FOP information. As a consequence, we preliminarily find that necessary information is not available on the record, and Ningbo Dasheng withheld information requested by the Department, failed to provide information by the specified deadlines, and significantly impeded the proceeding as demonstrated, in part, by the numerous deadline extensions which failed to result in an FOP reconciliation.<sup>56</sup> Further, section 782(c)(1) of the Act does not apply because Ningbo Dasheng did not notify the Department that it was unable to submit the information requested in the requested form and manner with a full explanation and suggest alternative forms. Additionally, to the extent that some information was provided, it was so incomplete that it could not serve as a reliable basis for reaching the determination in this review.<sup>57</sup> Accordingly, pursuant to sections 776(a)(1) and 776(a)(2)(A), (B) and (C) of the Act, we are relying upon facts otherwise available for Ningbo Dasheng's preliminary dumping margin.

Additionally, we have preliminarily applied facts otherwise available to Shangyu Baoxiang, Shaoxing Dingli, Lucky Cloud, and the Shaoxing Entity, which failed to respond to the NME questionnaire and, therefore, necessary information is not available on the record, and they withheld requested information, failed to provide information in a timely manner and in the form requested, and significantly impeded this proceeding.<sup>58</sup>

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<sup>56</sup> See sections 776(a)(1) and 776(a)(2)(A), (B), and (C) of the Act.

<sup>57</sup> See section 782(e) of the Act.

<sup>58</sup> See sections 776(a)(1) and (2)(A)-(C) of the Act; see also "Respondent Selection" section above for a discussion of parties' failure to provide information in this AR.

## B. Use of Adverse Inference

Section 776(b) of the Act provides that, if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.<sup>59</sup> In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (“SAA”) explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”<sup>60</sup> Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.<sup>61</sup> It is the Department’s practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.<sup>62</sup>

We preliminary find that Ningbo Dasheng has not acted to the best of its ability to comply with the Department’s request for information because Ningbo Dasheng failed to provide complete FOP reconciliation and FOP consumption information, information that is in its possession, requested by the Department. Accordingly, the Department concludes that Ningbo Dasheng failed to cooperate to the best of its ability to comply with a request for information by the Department, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), and accordingly, we preliminary find Ningbo Dasheng to be part of the PRC-wide entity and are basing the rate of the PRC-wide entity on AFA.

Additionally, the Department preliminarily finds that Shangyu Baoxiang, Shaoxing Dingli, Lucky Cloud, and the Shaoxing Entity failed to cooperate by not acting to the best of their ability to comply with a request for information because they failed to submit responses to the Department’s NME questionnaire.<sup>63</sup>

### Application of Total AFA to the PRC-Wide Entity

As stated in the “Respondent Selection” section above, the Department issued its NME questionnaire to Shangyu Baoxiang, Shaoxing Dingli, Lucky Cloud, and the Shaoxing Entity. While Shangyu Baoxiang and Lucky Cloud each submitted a timely separate rate application (“SRA”), we did not receive a response to the Department’s NME questionnaire from them.

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<sup>59</sup> See also 19 CFR 351.308(a); Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India, 70 FR 54023, 54025-26 (September 13, 2005); and Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil, 67 FR 55792, 55794-96 (August 30, 2002).

<sup>60</sup> See H.R. Doc. 103-316, Vol. 1 (1994) at 870; Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review, 72 FR 69663, 69664 (December 10, 2007).

<sup>61</sup> See, e.g., Nippon Steel Corp. v. United States, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003); Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan, 65 FR 42985 (July 12, 2000); Preamble, 62 FR at 27340.

<sup>62</sup> See, e.g., Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum at page 4, unchanged in Steel Threaded Rod From Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, 79 FR 14476 (March 14, 2014).

<sup>63</sup> See section 776(b) of the Act.

Additionally, we did not receive responses from Shaoxing Dingli or the Shaoxing Entity. Accordingly, as explained further in the “PRC-Wide Entity” section above, these four companies, and Ningbo Dasheng, are part of the PRC-wide entity and the PRC-wide entity is subject to review.

In the Initiation Notice, the Department stated that “if the above-named company does not qualify for a separate rate, all other exporters of hangers from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.”<sup>64</sup>

We are preliminarily applying facts otherwise available to the PRC-wide entity because an element of the entity (i.e., Ningbo Dasheng, Shangyu Baoxiang, Shaoxing Dingli, Lucky Cloud, and the Shaoxing Entity) withheld requested information, failed to provide information in a timely manner and in the form requested, and significantly impeded this proceeding.<sup>65</sup> Additionally, for the reasons described above, the Department finds that these companies failed to cooperate by not acting to the best of their ability to comply with a request for information. Therefore, pursuant to section 776(b) of the Act, the Department used an inference that is adverse to the interests of the PRC-wide entity when it selected from among the facts otherwise available. Thus, the Department relied on AFA in order to determine a margin for the PRC-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A), (B), (C) and 776(b) of the Act.

#### Selection of AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record. In reviews, the Department normally selects as AFA the highest rate determined for any respondent in any segment of the proceeding.<sup>66</sup> The Court of International Trade (“CIT”) and the Court of Appeals for the Federal Circuit have upheld the Department’s practice.<sup>67</sup> The Department’s practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the rate is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”<sup>68</sup> The

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<sup>64</sup> See Initiation Notice, 78 FR at 72632.

<sup>65</sup> See section 776(a)(2)(A)-(C).

<sup>66</sup> See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China: Notice OF Final Results of Antidumping Duty Administrative Review, 68 FR 19504, 19507 (April 21, 2003).

<sup>67</sup> See KYD, Inc. v. United States, 607 F.3d 760, 766-67 (Fed. Cir. 2010) (“KYD”); Rhone Poulenc, Inc. v. United States, 899 F.2d 1185, 1190 (Fed. Cir. 1990) (“Rhone Poulenc”); NSK Ltd. v. United States, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a less-than-fair-value (“LTFV”) investigation); Kompass Food Trading Int’l v. United States, 24 CIT 678, 684 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and Shanghai Taoen International Trading Co., Ltd. v. United States, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available AD margin from a different respondent in a previous AR).

<sup>68</sup> See SAA, at 870.

Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."<sup>69</sup>

In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's commercial activity, selecting the highest prior margin reflects a "common sense inference that the highest prior margin is the most probative evidence of current rates because, if it were not so, the importer, knowing the rule, would have produced current information showing the respondent's rate to be less."<sup>70</sup> Consistent with the statute, court precedent, and its normal practice, the Department assigned as AFA a rate of 187.25 percent to the PRC-wide entity, including all companies for which the Department determines are part of the PRC-wide entity.<sup>71</sup> This margin, which is the PRC-wide rate from the final determination of the LTFV investigation, is the highest dumping margin on the record of any segment of this proceeding, and the rate currently applicable to the PRC-wide entity.<sup>72</sup>

### Corroboration of Information

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information on which it relies as facts available. The SAA defines secondary information as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise."<sup>73</sup> The SAA also explains that the Department sufficiently corroborates secondary information when it determines that such information has probative value.<sup>74</sup> The Department previously reasoned that "corroborated information" amounts to information it finds both reliable and relevant.<sup>75</sup>

In this case, the Department selected the highest rate assigned in any segment of this proceeding (i.e., 187.25 percent) as the AFA rate for the current review. For purposes of corroboration, the Department will consider whether that margin is both reliable and relevant. The Department corroborated the AFA rate used in the current review and prior reviews during the LTFV

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<sup>69</sup> Id.; see also Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil, 69 FR 76910, 76912 (December 23, 2004), and D&L Supply Co. v. United States, 113 F.3d 1220, 1223 (Fed. Cir. 1997).

<sup>70</sup> See KYD, 607 F.3d at 766 (citing Rhone Poulenc, 899 F.2d at 1190).

<sup>71</sup> See supra, at 11.

<sup>72</sup> See Steel Wire Garment Hangers From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, 73 FR 53188, 53189 (September 15, 2008).

<sup>73</sup> See SAA, at 870.

<sup>74</sup> Id.

<sup>75</sup> See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996) unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997).

investigation and continues to find the information reliable.<sup>76</sup> No information presented in the current review calls into question the reliability of this information. The Department considers information reasonably at its disposal to determine whether a margin continues to have relevance.<sup>77</sup> A selected margin remains relevant when it accurately reflects commercial practices in the industry.<sup>78</sup> For example, in Flowers, because the highest margin in that case was based on another company's uncharacteristic business expense resulting in an unusually high margin, the Department disregarded the margin as irrelevant.<sup>79</sup> However, in the present case, the Department relied on credible information within the realm of actual selling practices to calculate the AFA rate during the LTFV investigation. In that proceeding, the Department took a simple average of the following: (1) the weighted-average of the calculated rates for the two mandatory respondents, and (2) a simple average of petition rates based on U.S. prices and NVs within the range of U.S. prices and NVs calculated for the two mandatory respondents.<sup>80</sup> Therefore, because we previously corroborated this rate and the record of this review does not contain information that demonstrates that this rate is not appropriate to use as AFA, the Department determines that this rate has relevance.

As the 187.25 percent rate remains corroborated to the extent practicable, the Department determines that the calculated rate of 187.25 percent, which is the current PRC-wide rate, is in accord with the requirement of section 776(c) of the Act that secondary information be corroborated to the extent practicable (i.e., that it have probative value). Accordingly, the Department assigned this AFA rate to exports of the subject merchandise by the PRC-wide entity.<sup>81</sup>

#### Surrogate Country and Surrogate Value Data

On January 23, 2014, 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>82</sup> On March 21, 2014, and April 29, 2014, the Department extended the deadline for interested parties to submit comments and rebuttal comments on SVs for this AR.<sup>83</sup>

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<sup>76</sup> See Hangers Investigation, 73 FR at 47591, as amended, Steel Wire Garment Hangers From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, 73 FR 53188, 53189 (September 15, 2008) ("Hangers LTFV").

<sup>77</sup> See section 776(c) of the Act.

<sup>78</sup> See Universal Polybag Co. v. United States, 577 F. Supp. 2d 1284, 1300 (CIT 2008).

<sup>79</sup> See Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) ("Flowers").

<sup>80</sup> See Hangers LTFV, 73 FR at 53189; Hangers Investigation, 73 FR at 47591.

<sup>81</sup> The PRC-wide entity includes all companies for which the Department initiated a review but did not establish their eligibility for a separate rate.

<sup>82</sup> See Letter to All Interested Parties, from the Department, regarding "Steel Wire Garment Hangers from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments and Information," dated January 23, 2014 ("Surrogate Country and Values Letter").

<sup>83</sup> See Memorandum to the File from Josh Startup, International Trade Compliance Analyst, regarding "5<sup>th</sup> Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Surrogate Country Comment Deadline," dated March 21, 2014; Memorandum to the File from Josh Startup, International Trade Compliance Analyst, regarding "5<sup>th</sup> Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Surrogate Value Comment Deadline," dated April 29, 2014.

Between April 9, 2014, and October 1, 2014, the Department received surrogate country comments, SV comments, and rebuttal comments from interested parties.

### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs us to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.<sup>84</sup> The sources of the SVs we used in this review are discussed under the "Normal Value" section infra.

Petitioner filed comments, stating that all of the countries identified on the Surrogate Country and Values Letter except Costa Rica are significant producers of comparable merchandise, and that there are quality, publicly available data from Indonesia, the Philippines, South Africa and Thailand.<sup>85</sup>

Fabriclean, a U.S. wholesaler and importer of subject merchandise, commented on surrogate country selection, stating that the Philippines is economically comparable to the PRC, is a significant producer of comparable merchandise, and has quality data that are publicly available.<sup>86</sup> Fabriclean's submission included the financial statements of three Philippine producers of wire products that Fabriclean contends are comparable to subject merchandise and documentation regarding wire and nail manufacturer trade associations in the Philippines.<sup>87</sup>

#### A. Economic Comparability

The Department determines that Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are countries whose per capita gross national incomes ("GNI") are at the same level to the PRC's in terms of economic development.<sup>88</sup> As explained in our Surrogate Country and Values Letter, the Department considers these countries to be at the level of economic development of the PRC.<sup>89</sup> Therefore, we consider all six countries identified in the Surrogate Country and Values Letter as having met this prong of the surrogate country selection criteria. Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable

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<sup>84</sup> For a description of our practice see Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin").

<sup>85</sup> See Petitioner Surrogate Country Comments.

<sup>86</sup> See Fabriclean Surrogate Country Comments.

<sup>87</sup> Id. We note that Ningbo Dasheng submitted surrogate country and SV comments; however, we are not summarizing their arguments as we are not calculating a margin for Ningbo Dasheng.

<sup>88</sup> See Letter to All Interested Parties, from the Department, regarding "Steel Wire Garment Hangers from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments and Information," dated January 23, 2014.

<sup>89</sup> Id.

source of publicly available surrogate data or are unsuitable for use for other reasons, we will rely on data from one of these countries.<sup>90</sup>

## 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. Although the legislative history states that “the term ‘significant producer’ includes any country that is a significant net exporter and, if appropriate, Commerce may use a significant, net exporting country in valuing factors,”<sup>91</sup> that does not preclude reliance on additional or alternative metrics.<sup>92</sup> Moreover, 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 “the terms ‘comparable level of economic development,’ ‘comparable merchandise,’ and ‘significant producer’ are not defined in the statute.”<sup>93</sup> The Policy Bulletin further states that “in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”<sup>94</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>95</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>96</sup> Importantly, the statute grants the Department discretion to examine various data sources for determining the best available information.<sup>97</sup>

In this case, because the record does not contain reliable production data for identical merchandise, we analyzed exports of comparable merchandise from the economically comparable countries, as a proxy for production data, during the POR. We obtained export data using the Global Trade Atlas (“GTA”) for Harmonized Tariff Schedule (“HTS”) 7326.20: “Other Articles of Iron Steel Wire.” We find that “Other Articles of Iron/Steel Wire” are comparable to subject merchandise because this is the HTS subheading that includes steel wire garment hangers and other downstream products manufactured from steel wire. The Department

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<sup>90</sup> See Certain Steel Wheels From the People’s Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination, 76 FR 67703, 67708 (November 2, 2011), unchanged in Certain Steel Wheels From the People’s Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances, 77 FR 17021 (March 23, 2012).

<sup>91</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Conf. Rep. No. 576,100 Cong. 2d Sess. (1988), reprinted in Cong. Rec. H2032 (Daily Ed. April 20, 1988).

<sup>92</sup> See Dorbest Ltd. v. United States, 462 F. Supp. 2d 1262, 1274 n.5 (CIT 2006).

<sup>93</sup> For a description of our practice see Policy Bulletin, at Background.

<sup>94</sup> Id.

<sup>95</sup> The Policy Bulletin also states that “if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise.” See id., at note 6.

<sup>96</sup> See Sebacic Acid from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 65674 (December 15, 1997), and accompany Issues and Decision Memorandum at Comment 1 (to 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); see also section 773(c) of the Act and 19 CFR 351.408.

<sup>97</sup> See section 773(c) of the Act; Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

found that, of the six countries provided in the Surrogate Country List, all countries had exports of comparable merchandise. Therefore, because each of the six countries on the Surrogate Country List satisfy the “economic comparability” and “significant producer” prongs of the surrogate country analysis, the Department also will consider data availability in selecting a surrogate country. Importantly, “the country with the best factors data is selected as the primary surrogate country.”<sup>98</sup>

### C. Data Availability

When evaluating SV data, the Department considers several factors including whether the SV data are publicly available, contemporaneous with the POR, from an approved surrogate country, tax and duty-exclusive, specific to the input, and represent a broad market average.<sup>99</sup> There is no hierarchy among these criteria; it is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.<sup>100</sup>

With respect to the availability of steel wire rod data, the primary input, we note that Shanghai Wells Petitioner, Fabriclean, and Ningbo Dasheng, placed GTA import statistics on the record of these reviews.<sup>101</sup> Petitioner placed Thai data for the six-digit HTS code 7213.91 on the record, as well as all of the Thai HTS sub-codes under this six-digit code.<sup>102</sup> Fabriclean and Ningbo Dasheng placed Philippine GTA data for HTS code 7213.91, as well as two sub-codes under this six-digit code.

With regard to specificity of steel wire rod as compared with the steel wire rod actually used by Shanghai Wells, we note that Petitioner placed Thai GTA data for HTS 7213.91.90.010 “Containing By Weight Not More Than 0.06% Of Carbon” and 7213.91.90.011 “Containing By Weight More Than 0.06% But Not More Than 0.10%.”<sup>103</sup> Fabriclean and Ningbo Dasheng placed Philippine GTA HTS code 7213.91.99.01 and 7213.91.10.01, both with the description “Containing By Weight Not More Than 0.06% Of Carbon.”<sup>104</sup> Shanghai Wells reported consuming steel wire rod with a carbon content between five to ten percent.<sup>105</sup> As the Thai data cover wire rod with carbon levels up to 10 percent, while the Philippine data only cover wire rod with carbon levels up to six percent, we find that the range of the Thai data are a better reflection of Shanghai Well’s wire rod consumption. Therefore, we preliminarily find the Thai data more appropriate to use in this review.

With regard to contemporaneity, both the Philippine and Thai data contain equally contemporaneous data for all SVs, except labor. The Thai data from the National Statistical

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<sup>98</sup> See Policy Bulletin at Data Considerations.

<sup>99</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.

<sup>100</sup> See Ad Hoc Shrimp Trade Action Comm. v. United States, 618 F.3d 1316, 1322 (Fed. Cir. 2010).

<sup>101</sup> See Petitioner SV Comments, Fabriclean SV Comments, submitted May 14, 2014.

<sup>102</sup> See Petitioner SV Comments, submitted May 14, 2014.

<sup>103</sup> Id., at Exhibit 1.

<sup>104</sup> See Ningbo Dasheng Surrogate Values for the Preliminary Results, at Exhibit SV-2, submitted May 14, 2014.

<sup>105</sup> See Shanghai Wells Section C&D Supplemental Questionnaire Response at 2 and Exhibit 3, submitted June 20, 2014 (“Shanghai Wells’ SCDQR”).

Office, Labor Force Survey of Whole Kingdom, contains 2013 data. The Philippine data from the International Labor Organization (“ILO”) Yearbook of Labor Statistics contain 2008 data.<sup>106</sup>

The record does not contain financial statements from identical producers (*i.e.*, manufactures of steel wire garment hangers); however, it does contain multiple contemporaneous financial statements for Thai and Philippine producers of comparable merchandise (*i.e.*, nails, screws and fasteners).<sup>107</sup>

Accordingly, based on an analysis of the information on the record, the Department finds the SV data from Thailand to be superior to the Philippine data because, while both have similar quality SV data for every factor, Thailand has the most specific data for wire rod, which is the main input for subject merchandise, and labor data that are more contemporaneous to the POR.

In sum, we preliminarily find that of the countries listed on the Surrogate Country List, the data from Thailand constitutes the best available information because: (1) Thailand is at the same level of economic development as that of the PRC; (2) Thailand is a significant exporter of comparable merchandise; and (3) Thailand provides the best opportunity to use quality, publicly available data to value Shanghai Wells’ FOPs, most notably wire rod and labor. Because the record contains usable Thai SV data for all FOPs used by Shanghai Wells, we selected Thailand as the surrogate country and, accordingly, calculated NV using Thai prices to value the Shanghai Wells’ FOPs.

#### Date of Sale

Shanghai Wells reported the invoice date as the date of sale because they claim that, for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established based on the invoice date.<sup>108</sup> The Department preliminarily determines that the invoice date is the appropriate date to use as Shanghai Wells date of sale in accordance with 19 CFR 351.401(i) and the Department’s long-standing practice of determining the date of sale.<sup>109</sup>

#### Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average export prices (“EPs”) or constructed export prices (“CEPs”) (the average-to-average (“A-A”) method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to compare weighted-average NVs to the EPs or CEPs of individual transactions (the average-to-transaction (“A-T”) method) as an alternative comparison method

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<sup>106</sup> See Fabriclean Surrogate Value Comments, submitted May 14, 2014.

<sup>107</sup> The following Philippine financial statements are on the record: 1) APO Industries; 2) Supersonic Manufacturing; 3) Sterling Steel Inc.; 4) Worldwide Steel Group inc.; and 5) Benedicto Steel Corp. and the following Thai financial statements are on the record: 1) LSI; 2) Hi-Tech Manufacturing; 3) Bangkok Fastening; 4) Sahaslip Rivet; 5) Mongkol Fasteners; and 6) Nissan Spring.

<sup>108</sup> See Shanghai Wells’ SCDQR at pg. C-14.

<sup>109</sup> See, *e.g.*, Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

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 ARs, the Department finds that the issue arising under 19 CFR 351.414(c)(1) in ARs is, in fact, analogous to the issue in AD investigations.<sup>110</sup> In recent investigations and reviews, the Department applied a "differential pricing" analysis for determining whether application of A-T 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>111</sup> The Department finds the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this AR. 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 Department uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs 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 A-A 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 consolidated customer code. Regions are defined using the reported destination code (e.g., zip codes or cities) 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* test is applied 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 calculated 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

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<sup>110</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).

<sup>111</sup> See, e.g., Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012, 78 FR 17637 (March 22, 2013).

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 if the calculated Cohen's *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the "ratio test" – the second stage of the analysis – 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 account 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 A-T method to all sales as an alternative to the A-A 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 A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A 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 A-A 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 A-A 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 A-A method only. If the difference between the two calculations is meaningful, this demonstrates that the A-A 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 A-A 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 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.

### Results of the Differential Pricing Analysis

For Shanghai Wells, based on the results of the differential pricing analysis, the Department finds that 89.2 percent of its 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>112</sup> However, when comparing the weighted-average

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<sup>112</sup> See Memorandum to the File from Josh Startup, International Trade Analyst, "Fifth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Preliminary Analysis Memo for Shanghai Wells Hanger Co., Ltd.," dated concurrently with these preliminary results ("Shanghai Wells' Prelim Analysis Memo").

dumping margins calculated using the A-A method for all U.S. sales with that calculated using an alternative comparison method based on applying the A-T 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>113</sup> Accordingly, the Department used the A-A method applied to all U.S. sales to calculate the weighted-average dumping margin for Shanghai Wells.<sup>114</sup>

## U.S. Price

Because Shanghai Wells has a U.S. affiliate, for these preliminary results, the Department will use the CEP and EP, as appropriate, for sales made by Shanghai Wells and its affiliated entity to their first unaffiliated U.S. customers of subject merchandise during the POR.

### A. Export Price

In accordance with section 772(a) of the Act, the Department calculated EP for a portion of Shanghai Wells' sales to the United States because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted. The Department calculated EP based on the sale 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 foreign inland freight, brokerage and handling ("B&H"), and international movement costs. Because the inland freight and B&H services were either provided by an NME vendor or paid for using an NME currency, the Department based the deduction of these charges on SVs.<sup>115</sup> For international freight provided by an ME provider and paid in U.S. dollars, the Department used the actual cost per kg of the freight.

### B. Constructed Export Price

For some of Shanghai Wells' sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act, because sales were made on behalf of the Chinese-based company by a U.S. affiliate to unaffiliated purchasers in the United States. For these sales, the Department based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, the Department made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, in accordance with section 772(c)(2)(A) of the Act. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by PRC service providers or paid for in Renminbi, the Department valued these services using SVs (see "Factor Valuations" section below for further discussion). For those expenses that were provided by an ME provider and paid for in an ME currency, the Department used the reported expense.

In accordance with section 772(d)(1) of the Act, the Department also deducted those selling expenses associated with economic activities occurring in the United States. The Department

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<sup>113</sup> Id.

<sup>114</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).

<sup>115</sup> See Prelim Surrogate Value Memo for details regarding the SVs for movement expenses.

deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty expenses, and indirect selling expenses. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for each company, see the company-specific analysis memorandum, dated concurrently with these preliminary results.

### Value-Added Tax

In 2012, the Department announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment of any un-refunded (herein “irrecoverable”) value-added tax (“VAT”) in certain NME countries in accordance with section 772(c)(2)(B) of the Act.<sup>116</sup> The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent’s EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.<sup>117</sup> Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.<sup>118</sup>

In both an initial and supplemental questionnaire, the Department instructed Shanghai Wells to report VATs on merchandise sold to the U.S. and identify which taxes are not rebated upon export.<sup>119</sup> In response, Shanghai Wells stated its disagreement with our product-specific methodology and reported that their total VAT refund exceeded VAT paid for export sales during the POR and, thus, reported no value in the VAT field of their respective sales databases.<sup>120</sup>

However, our practice is that we will not consider allocations across all company sales or across sales of products with different VAT schedules but, rather, to use the difference between the VAT rate and the refund rate, consistent with PRC regulations, unless the company can show otherwise for the subject merchandise.<sup>121</sup> Instead, the Department’s methodology, as explained above and applied in this review, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this review by Shanghai Wells indicates that according to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject

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<sup>116</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 (June 19, 2012).

<sup>117</sup> Id.; see also Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 4875 (January 30, 2014) and accompanying Issues and Decision Memorandum at Comment 5.A.

<sup>118</sup> Id.

<sup>119</sup> See Shanghai Wells’ SCDQR at 6-10; see also Shanghai Wells’ August Supplemental Questionnaire Response, dated September 8, 2014 (“Shanghai Wells’ August QR”) at 8-10; see also Shanghai Wells’ September 24, 2014, Supplemental Questionnaire Response, at 1.

<sup>120</sup> See Shanghai Wells’ Section C&D Questionnaire Response, dated March 19, 2014, at 37-38; see also Shanghai Wells’ SCDQR at 6-10; see also Shanghai Wells’ August QR at 8-9.

<sup>121</sup> See, e.g., Diamond Sawblades and Parts Thereof From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 35723 (June 24, 2014) and accompanying Issues and Decision Memorandum at Comment 6.

merchandise is nine percent.<sup>122</sup> For the purposes of these preliminary results, therefore, we used the U.S. Free On Board price multiplied by the difference between the rates (i.e., 8 percent), which is the irrecoverable VAT as defined under PRC tax law and regulation, as reported by Shanghai Wells.<sup>123</sup>

### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Further, pursuant to section 773(c)(1) of the Act, the valuation of an NME respondent's FOPs shall be based on the best available information regarding the value of such factors in an ME country or countries considered to be appropriate by the Department. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

The Department used Thai import statistics to value the raw material and packing material inputs that Shanghai Wells used to produce the subject merchandise during the POR. With respect to the SVs based on Thai import statistics, in accordance with the Omnibus Trade and Competitiveness Act of 1988 ("OTCA") and long-standing agency practice, the Department disregarded prices that it has reason to believe or suspect may be subsidized.<sup>124</sup> The Department previously found that it is appropriate to disregard such prices from India, Indonesia, and South Korea because we have determined that these countries maintain broadly available, non-industry specific, export subsidies.<sup>125</sup> Therefore, the Department has reason to believe or suspect that all exports from India, Indonesia, and South Korea may have benefitted from these subsidies and that we should, therefore, disregard data from these countries contained in the Thai import statistics used to calculate SVs. 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>126</sup> Rather, the Department bases its decision on information that is available to it at the time it makes its determination. The Department similarly disregarded prices from NME countries.

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<sup>122</sup> See Shanghai Wells' SCDQR at 6-10.

<sup>123</sup> See Shanghai Wells' August QR at 10, and Exhibit 9.

<sup>124</sup> See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

<sup>125</sup> See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

<sup>126</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, at 590: 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).

Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, since the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.<sup>127</sup>

### Factor Valuations

In accordance with section 773(c)(1) of the Act, for subject merchandise produced by Shanghai Wells, the Department calculated NV based on the FOPs reported by Shanghai Wells for the POR. The Department used data from Thai import statistics and other publicly available Thai sources in order to calculate SVs for Shanghai Wells’ FOPs (direct materials, energy, and packing materials) and certain movement expenses. To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly available Thai SVs (except as noted below). Because the statute is silent concerning what constitutes the “best available information” for a particular SV, the courts have recognized that on this topic the Department may use “broad discretion to determine the best available information for an antidumping review.”<sup>128</sup> 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>129</sup>

In this case, the Department adjusted the SVs as appropriate for exchange rates and taxes, and converted all applicable items to measurement on a per kg basis. Also, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, to accord with the decision of the Federal Circuit in Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997), the Department added to the Thai import SVs a surrogate freight cost using the shorter of the reported distance between (1) the domestic supplier and the factory or (2) the nearest seaport and the factory.<sup>130</sup>

We valued electricity using the 2013 prices published by the Metropolitan Electricity Authority, which contains pricing data for electricity rates and other charges for residential and industrial customers. These electricity rates represent contemporaneous, publicly available, broad-market averages, which are tax and duty exclusive.<sup>131</sup>

We valued water using Thai data based on The Metropolitan Waterworks Authority ([http://www.boi.go.th/index.php?page=utility\\_costs](http://www.boi.go.th/index.php?page=utility_costs)).<sup>132</sup>

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<sup>127</sup> See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 73 FR 24552, 24559 (May 5, 2008), unchanged in Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (September 24, 2008). See Prelim Surrogate Value Memo.

<sup>128</sup> See Ad Hoc Shrimp Trade Action Comm. v. United States, 618 F.3d 1316, 1322 (Fed. Cir. 2010).

<sup>129</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.

<sup>130</sup> See the Department’s memorandum “Fifth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Surrogate Values for the Preliminary Results” (“Preliminary Surrogate Value Memo”), dated concurrently with this memorandum.

<sup>131</sup> Id.

<sup>132</sup> Id.

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.<sup>133</sup> In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.<sup>134</sup> In Labor Methodologies, we determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, we 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.<sup>135</sup> For these preliminary results, we valued labor using manufacturing-specific data from the quarterly-specific POR data (first, second, and third quarter of 2013) from the Government of Thailand, National Statistical Office, Labor Force Survey of Whole Kingdom, [http://web.nso.go.th/en/survey/lfs/lfs\\_main.htm](http://web.nso.go.th/en/survey/lfs/lfs_main.htm) (“POR Manufacturing-Specific NSO Data”).<sup>136</sup>

Although the POR Manufacturing-Specific NSO data are not from the ILO, we find that this fact does not preclude us from using this source for valuing labor. In Labor Methodologies, we decided to change to the use of ILO Chapter 6A 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>137</sup> We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Rather, we continue to follow our practice of selecting the best available information to determine SVs for inputs such as labor.<sup>138</sup> In this case, we find that the POR Manufacturing-Specific NSO Data are the best available information because the POR Manufacturing-specific NSO Data are industry-specific and is contemporaneous with the POR.<sup>139</sup> Thus, we valued respondent’s labor input using the POR Manufacturing-specific Thai NSO data. To achieve an industry-specific labor value, we relied on industry-specific labor data from the primary surrogate country, Thailand, which we determine to be both economically comparable to the PRC, and a significant producer of comparable merchandise.

As stated above, the Department used the 2013 Thai NSO data, which reflects all costs related to manufacturing labor, including wages, benefits, housing, training, etc. Because the financial statements used to calculate the surrogate financial ratios include itemized details of indirect labor costs, the Department made adjustments to the surrogate financial ratios.<sup>140</sup>

We valued truck freight expenses by averaging the rates charged by DX Place to transport a 20-foot container on a 10-wheel truck, from various Thai cities to Bangkok (<http://www.dxplace.com/price/list>) for 2011 and inflating them accordingly.<sup>141</sup>

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<sup>133</sup> See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092, 36093-94 (June 21, 2011) (“Labor Methodologies”).

<sup>134</sup> Id., 76 FR at 36093.

<sup>135</sup> Id.

<sup>136</sup> The Department notes that the website link for the fourth quarter of 2012 is not functional.

<sup>137</sup> See Labor Methodologies.

<sup>138</sup> See Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33354 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 6-C; and Drawn Stainless Steel Sinks From the People’s Republic of China: Investigation, Final Determination, 78 FR 13019 (February 26, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

<sup>139</sup> See Exhibit 9 for calculation of labor surrogate value; see also Labor Methodologies, at 36093.

<sup>140</sup> Id.

<sup>141</sup> Id.

We valued B&H expenses using a price list of export procedures necessary to export a standardized cargo of goods in Thailand, as published in the World Bank's Doing Business 2013, Economy Profile: Thailand publication. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand.<sup>142</sup>

To value factory overhead, selling, general and administrative expenses, and profit, the Department is using the audited financial statements of three Thai companies, LS Industries Co., Ltd., Sahaslip Rivet Industrial Co. Ltd., and Thai Mongkol Fasteners Co., Ltd., for the year ending December 31, 2013.<sup>143</sup> These companies are Thai manufacturers of fasteners and wire-based products. The record contains three additional Thai financial statements, Bangkok Fastening Co., Ltd., Nissan Spring Co., Ltd., and Hi-Tech Fastener Manufacturer Co., Ltd., which the Department has preliminarily determined are unsuitable. Bangkok Fastening Co., Ltd., and Nissan Spring Co., Ltd., do not contain the necessary detailed breakout of material, labor, and energy to calculate financial ratios, and Hi-Tech Fastener Manufacturer Co., Ltd., contains evidence of a subsidy we have previously found to be countervailable.<sup>144</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.

#### Conclusion

We recommend applying the above methodology for these preliminary results.

✓  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

*Ronald K. Lorentzen*

\_\_\_\_\_  
Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

*October 31, 2014*  
\_\_\_\_\_  
(Date)

<sup>142</sup> Id.

<sup>143</sup> See Preliminary Surrogate Value Memo.

<sup>144</sup> See Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination, 78 FR 50379 (August 19, 2013).

## Appendix

Companies for which a review was requested but the Department did not receive a separate rate application or separate rate certification

1. Shaoxing Zhongbao Metal Manufactured Co., Ltd.
2. Shaoxing Shunji Metal Clotheshorse Co., Ltd.
3. Shanghai Jianhai International Trade Co., Ltd.
4. Feirongda Weaving Material Co. Ltd.
5. Hongye (HK) Group Development Co. Ltd.
6. Liaoning Metals & Mineral Imp/Exp Corp.
7. Ningbo Bingcheng Import & Export Co., Ltd.
8. Ningbo Peacebird Import & Export Co., Ltd.
9. Shang Zhou Leather Shoes Plant
10. Shanghai Ding Ying Printing & Dyeing Co. Ltd.
11. Shanghai Guoxing Metal Products Co. Ltd.
12. Shanghai Lian Development Co. Ltd.
13. Shanghai Shuang Qiang Embroidery Factory
14. Shaoxing Guochao Metallic Products Co., Ltd.
15. Shaoxing Liangbao Metal Manufactured Co. Ltd.
16. Shaoxing Meideli Hanger Co. Ltd.
17. Shaoxing Shuren Tie Co., Ltd.
18. Shaoxing Zhongdi Foreign Trade Co., Ltd.
19. Tianjin Innovation International
20. Tianjin Tailai Import and Export Co. Ltd.
21. Wesken International (Kunshan) Co. Ltd.
22. Zhejiang Hongfei Plastic Industry Co. Ltd.
23. Zhejiang Jaguar Import and Export Co. Ltd.