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November 24, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

CASE: Frontseating Service Valves from the People's Republic of China

SUBJECT: Issues and Decision Memorandum for the Final Results of the
2012-2013 Administrative Review

SUMMARY:

For the final results of the 2012-2013 administrative review of the antidumping duty order on frontseating service valves ("FSV") from the People's Republic ("PRC"), we analyzed the case brief filed by Zhejiang Sanhua Co., Ltd. ("Sanhua"), the only case brief filed in this segment of the proceeding. As a result of this analysis, we made changes to the margin calculations for Sanhua. We recommend that you approve the positions provided in the "Discussion of the Issues" section of this memorandum.

BACKGROUND

On May 27, 2014, the Department of Commerce ("the Department") published the preliminary results of the subject administrative review of the order.¹ At that time, we invited interested parties to comment on our preliminary results; however, we stated that we would set a schedule

¹ See *Frontseating Service Valves From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; Review; Preliminary Determination of No Shipments; 2012-2013*, 79 FR 30081 (May 27, 2014) ("Preliminary Results").



for submission of case briefs after we placed additional surrogate value (“SV”) information on the record.

Subsequent to the *Preliminary Results*, the following events occurred. On June 2, 2014, Sanhua provided comments on the *Preliminary Results*.² On June 25, 2014, Sanhua requested a hearing.³ On June 26, 2014, Sanhua filed an untimely case brief.⁴

On August 13, 2014, we extended the deadline for completing the final results of review until November 24, 2014, in accord with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”).⁵ On October 14, 2014, the Department rejected Sanhua’s post-preliminary submissions referenced above.⁶ On the same date, we placed additional Bulgarian SV data on the record, requested comments, and set the briefing and hearing schedule for the case.⁷ None of the parties to the proceeding provided comments on our Post-Preliminary SV Memorandum. On October 25, 2014, Sanhua filed its case brief.⁸ None of the parties to the proceeding filed a rebuttal brief. Sanhua withdrew its hearing request on October 28, 2014.⁹

SCOPE OF THE ORDER

The merchandise covered by this order is frontseating service valves, assembled or unassembled, complete or incomplete, and certain parts thereof. Frontseating service valves contain a sealing surface on the front side of the valve stem that allows the indoor unit or outdoor unit to be isolated from the refrigerant stream when the air conditioning or refrigeration unit is being serviced. Frontseating service valves rely on an elastomer seal when the stem cap is removed for servicing and the stem cap metal to metal seat to create this seal to the atmosphere during normal operation.¹⁰

² See letter from Sanhua, “Frontseating Service Valves from the People’s Republic of China; A-570-933; Rebuttal, Clarification or Correction of Factual Information by Zhejiang Sanhua Co., Ltd.,” dated June 2, 2014 (“Post-Preliminary Factual Information”).

³ See letter from Sanhua, “Frontseating Service Valves from the People’s Republic of China; A-570-933; Request for a Hearing by Zhejiang Sanhua Co., Ltd.,” dated June 25, 2014.

⁴ See letter from Sanhua, “Frontseating Service Valves from the People’s Republic of China; A-570-933; Case Brief by Zhejiang Sanhua Co., Ltd.,” dated June 26, 2014.

⁵ See Memorandum to Christian Marsh, “Frontseating Service Valves from the People’s Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” dated August 13, 2014.

⁶ See letter to Sanhua, “Frontseating Service Valves from the People’s Republic of China: Rejection of Zhejiang Sanhua Co., Ltd. (“Sanhua”)’s Submissions of June 2, 2014, and June 26, 2014,” dated October 14, 2014 (“Post-Preliminary Rejection Letter”). See also Comment 3 below for further discussion.

⁷ See Memorandum to the File, “2012-2013 Administrative Review of the Antidumping Duty Order on Frontseating Service Valves from the People’s Republic of China: Placing Additional Surrogate Value Information on the Record After the Preliminary Results,” dated October 14, 2014 (“Post-Preliminary SV Memorandum”).

⁸ See letter from Sanhua, “Frontseating Service Valves from the People’s Republic of China; A-570-933; Case Brief of Zhejiang Sanhua Co., Ltd.,” dated October 25, 2014 (“Case Brief”).

⁹ See letter from Sanhua, “Frontseating Service Valves from the People’s Republic of China; A-570-933; Withdrawal of Hearing Request,” dated October 28, 2014.

¹⁰ The frontseating service valve differs from a backseating service valve in that a backseating service valve has two sealing surfaces on the valve stem. This difference typically incorporates a valve stem on a backseating service valve to be machined of steel, where a frontseating service valve has a brass stem. The backseating service valve dual stem seal (on the back side of the stem), creates a metal to metal seal when the valve is in the open position, thus, sealing the stem from the atmosphere.

For purposes of the scope, the term “unassembled” frontseating service valve means a brazed subassembly requiring any one or more of the following processes: the insertion of a valve core pin, the insertion of a valve stem and/or O ring, the application or installation of a stem cap, charge port cap or tube dust cap. The term “complete” frontseating service valve means a product sold ready for installation into an air conditioning or refrigeration unit. The term “incomplete” frontseating service valve means a product that when sold is in multiple pieces, sections, subassemblies or components and is incapable of being installed into an air conditioning or refrigeration unit as a single, unified valve without further assembly.

The major parts or components of frontseating service valves intended to be covered by the scope under the term “certain parts thereof” are any brazed subassembly consisting of any two or more of the following components: a valve body, field connection tube, factory connection tube or valve charge port. The valve body is a rectangular block, or brass forging, machined to be hollow in the interior, with a generally square shaped seat (bottom of body). The field connection tube and factory connection tube consist of copper or other metallic tubing, cut to length, shaped and brazed to the valve body in order to create two ports, the factory connection tube and the field connection tube, each on opposite sides of the valve assembly body. The valve charge port is a service port via which a hose connection can be used to charge or evacuate the refrigerant medium or to monitor the system pressure for diagnostic purposes.

The scope includes frontseating service valves of any size, configuration, material composition or connection type. Frontseating service valves are classified under subheading 8481.80.1095, and also have been classified under subheading 8415.90.80.85, of the Harmonized Tariff Schedule (“HTS”) of the United States. It is possible for frontseating service valves to be manufactured out of primary materials other than copper and brass, in which case they would be classified under HTSUS subheadings 8481.80.3040, 8481.80.3090, or 8481.80.5090. In addition, if unassembled or incomplete frontseating service valves are imported, the various parts or components would be classified under HTS subheadings 8481.90.1000, 8481.90.3000, or 8481.90.5000. The HTS subheadings are provided for convenience and customs purposes, but the written description of the scope of this order is dispositive.

DISCUSSION OF THE ISSUES

Comment 1: The Use of SV Data from the Primary Surrogate Country

Sanhua’s Comments:

- Sanhua argues that the Department should value all of its inputs, especially brass fittings, copper tubing and copper scrap, using Bulgarian SV data on the record.
- Sanhua contends that the Department should not value the other inputs using Thai SV data because prior to the *Preliminary Results*, Petitioner valued only a few selected inputs using Thai SV data, and some of those values were in the wrong HTS categories.
- Sanhua contends that if the Department rejects Bulgaria as a surrogate country, it should value Sanhua’s material inputs using the Global Trade Atlas (“GTA”) data from Indonesia, which Sanhua placed on the record earlier in the proceeding.

No other party provided comments on this issue.

Department’s Position: We agree that we should value all of Sanhua’s inputs using Bulgarian SV data on the record. The Department reviews SV information on a case-by-case basis, and, in accordance with section 773(c)(1) of the Act, selects the best available information from the surrogate country to value the factors of production (“FOPs”).¹¹ When selecting SVs for use in a non-market economy (“NME”) proceeding, the Department’s preference is to use, where possible, a range of publicly available, tax-exclusive, and product-specific prices for the period of review (“POR”), with each of these factors applied non-hierarchically to the case-specific facts and with preference for data from a single surrogate country.¹²

In the *Preliminary Results*, the Department selected Bulgaria as the primary surrogate country.¹³ We based our determination on that fact that Bulgaria alone among all of the other countries on the Department’s surrogate-country list¹⁴ had HTS categories specific to brass bar and rod that did not include profiles. Profiles are at a higher level of manufacturing than brass bar and rod, and therefore, are not comparable to the inputs used to produce the subject merchandise.¹⁵ Because we lacked on the record of the review Bulgarian SVs for most FOPs, we then valued the remaining FOPs using SVs from Thailand, our secondary surrogate country.¹⁶ We based our decision on the fact that: (1) Thailand is at the same level of economic development as the PRC; (2) Thailand is a significant producer of identical and comparable merchandise; (3) Thailand has quality data available for the remaining raw materials, packing materials either on the record or available through the GTA; and (4) Thailand has a producer of identical merchandise whose financial statements are usable for the purposes of determining surrogate financial ratios.¹⁷ In the *Preliminary Results*, we stated that we intended to place labor data from Bulgaria on the record of this review after issuing the *Preliminary Results* and to allow interested parties an opportunity to comment on the use of this data prior to issuing the final results. After the *Preliminary Results*, we then placed on the record SVs from Bulgaria for all inputs, with the exception of surrogate financial ratios (which were not available) and solicited comments and factual information from interested parties.¹⁸ None of the parties to the proceeding provided comments on the Department’s Post-Preliminary SV Memorandum.¹⁹ We did not use the SV data for selected inputs that Sanhua placed on the record in its post-preliminary submission,

¹¹ See *Lightweight Thermal Paper From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 57329 (October 2, 2008) and accompanying Issues and Decision Memorandum at Comment 9.

¹² See, e.g., *Tapered Roller Bearings and Parts Thereof Finished and Unfinished, From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 3987 (January 22, 2009) and accompanying Issues and Decision Memorandum at Comment 6.

¹³ See *Preliminary Results*, and accompanying Preliminary Decision Memorandum at 11.

¹⁴ These countries are: Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand. See Memorandum from Carole Showers, Director, Office of Policy, “Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Frontseating Service Valves (“FSV”) from the People’s Republic of China (“China”), dated January 22, 2014 (“Surrogate-Country Memorandum”).

¹⁵ See *Preliminary Results*, and accompanying Preliminary Decision Memorandum at 11.

¹⁶ *Id.* at 12.

¹⁷ *Id.*

¹⁸ See the Department’s Post-Preliminary SV Memorandum.

¹⁹ See the “Background” section of this memorandum.

because it was untimely.²⁰ We included a detailed description of all SVs used for the final results in our Final Factor Valuation Memorandum.²¹

Because we determined to value Sanhua's FOPs using Bulgarian GTA data for the final results, we do not find that it is necessary for these final results to evaluate the accuracy of certain Thai HTS categories proposed by Petitioner. In any event, we note that Sanhua's allegation of inaccuracy failed to provide the information necessary to identify which HTS categories Sanhua believes Petitioner had misclassified. Thus, for the purposes of these final results, this issue is moot.

We also note that the Department was unable to obtain publicly-available surrogate financial statements from Bulgaria in order to value surrogate financial ratios for the final results. As a result, we continue to value Sanhua's surrogate financial ratios using the surrogate financial statements of Grand D.K. Co., Ltd. ("Grand D.K."), a Thai producer of identical merchandise, which Sanhua placed on the record prior to the *Preliminary Results*.²² As we stated in the *Preliminary Results*, Grand D.K.'s financial statements are complete, contemporaneous with the POR, profitable, sufficiently detailed to segregate materials, labor, overhead and selling, general and administrative expenses, and provide no evidence of countervailable benefits.²³ Our *Preliminary Results* provides a detailed discussion of our reasons for selecting Grand D.K. as the surrogate company for the purposes of determining surrogate financial ratios.²⁴

In addition, because we selected Bulgaria as our primary surrogate country, we will not address further the adequacy of the Indonesian GTA data, which Sanhua placed on the record before the *Preliminary Results*. Our *Preliminary Results* provides a detailed discussion of our reasons for selecting Bulgaria as our primary surrogate country.²⁵

Comment 2: The Department's Adjustments to Sanhua's Scrap Offset

Sanhua's Comments:

- Sanhua disagrees that the Department's use of the "sum of the inputs" methodology to reduce its brass and copper scrap offsets in those instances where the sum of the inputs less scrap reported on the section D database was less than the weight of the same model reported on the section C database.
- Sanhua claims that its FOP03 database allocated scrap based on the difference between the input and output weight recorded in the technical drawings as the Department requested. However, Sanhua maintains that its original scrap methodology, explained in its supplemental questionnaire response, was not unreasonable because:

²⁰ See Post-Preliminary Factual Information and Post-Preliminary Rejection Letter.

²¹ See Memorandum to the File, "Antidumping Duty Administrative Review of Frontseating Service Valves from the People's Republic of China: Factor Valuation for the Final Results of Review," dated concurrently with this memorandum ("Final Factor Valuation Memorandum").

²² See *Preliminary Results*, and accompanying Preliminary Decision Memorandum at 21-23 for a complete explanation of our selection of Grand D.K. as the surrogate company in this review.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at 7-12.

- Sanhua generated brass and copper scrap from the production of the merchandise under consideration, and the quantity of brass and copper scrap sold did not exceed the quantity produced;
- The total amount of brass scrap produced did not exceed the calculated yield loss of the brass input taking into account the normal tolerance and impurities. In addition, the total amount of copper scrap reported was far less than the calculated yield loss of the copper.
- The Department’s method for determining brass scrap (based on the input and output weight in the technical drawings) does not capture the full amount of scrap generated.
- Sanhua claims that in the *Preliminary Results*, the Department failed to adequately explain its decision to: (1) determine Sanhua’s brass scrap offset based on the input and output weight recorded in the technical drawings; (2) reduce Sanhua’s brass scrap offset by the difference between the FOP weight and the finished product weight; (3) make an adjustment for brass scrap although Sanhua did not over-report the total quantity of scrap; and, (4) reduce “over-stated” scrap without increasing “under-stated” scrap.
- As a consequence, Sanhua requests the Department to reconsider the explanation it provided in its First and Second Supplemental Questionnaire Responses, and adopt Sanhua’s reported scrap methodology for the final results.
- However, should the Department continue to use the same methodology that it used in the *Preliminary Results*, Sanhua argues that the Department must then add scrap to the “under-stated” models in the same way in which it reduced scrap for the “over-stated” models.

No other party provided comments on this issue.

Department’s Position: We disagree that Sanhua’s revised brass scrap calculation methodology, or the methodology submitted in its original questionnaire response, provides a reasonable result with respect to Sanhua’s reported scrap offset. Specifically, in either case, the total weight of the net FOPs (including the scrap offset) recorded in the section D database is lower than the total weight of the models sold reported in the section C database. Therefore, although we agree that Sanhua modified its allocation methodology in accordance with the instructions from the Department and complied with the all the Department’s requests for information, the resulting information recorded in its Section D database shows that Sanhua continues to understate the overall weight of the models produced.²⁶ Consequently, for these final results, we continue to use the “sum of the inputs” program to adjust Sanhua’s allocated scrap amount in those instances where the total weight of the inputs recorded in the section D database is lower than the total weight of the same model reported in the Section C database.

²⁶ See Memorandum to the File, “Frontseating Service Valves from the People’s Republic of China: Analysis Memorandum for the Final Results of the 2012-2013 Administrative Review: Zhejiang Sanhua Co., Ltd. (“Sanhua”),” dated November 24, 2014 (“Final Analysis Memorandum”) at Attachment 3, page 27.

Sanhua's original DQR explained that, "[T]he total brass scrap was allocated over the SMVs by the difference between the inputs and product weight of each SMV."²⁷ Our first supplemental questionnaire acknowledged that "total brass scrap was allocated over the SMVs by the difference between the inputs and product weight of each SMV,"²⁸ and that "copper scrap was allocated over the standard connection tube weight, as the same with the allocation for copper tube."²⁹ However, not satisfied with this result, we asked Sanhua to revise its worksheet calculating the difference between inputs and standard product weight to show the difference between the brass input amounts and standard weight of the brass components, copper input amounts and standard weight of the copper components, and to eliminate components of other materials from the calculation, and to revise the brass and copper scrap calculations . . . , as appropriate."³⁰ Sanhua revised its calculations in its first supplemental questionnaire response, explaining that it did not follow the Department's instructions exactly, and instead provided an explanation of its disagreements with the Department's methodology.³¹ After considering these arguments, the Department issued a second supplemental questionnaire pointing out the anomalies in Sanhua's allocation methodology,³² and requesting Sanhua to revise its brass bar and rod consumption to "ensure that Sanhua allocates sufficient raw material to cover the relevant production."³³ We also asked Sanhua to revise its calculation of "brass and copper scrap to conform with the Department's instructions . . . in its first supplemental questionnaire."³⁴ Sanhua provided the requested explanation and revised its calculations in its second supplemental questionnaire response,³⁵ explaining further its disagreement with the Department's methodology and requests, and providing a revised FOP database using the Department's requested allocation methodology for brass scrap.³⁶ The Department accepted this revised database and used this information in its *Preliminary Results*.³⁷

²⁷ See Sanhua's submission, "Frontseating Service Valves from the People's Republic of China; A-570-933; Sections C and D Response of Zhejiang Sanhua Co., Ltd.," dated September 9, 2013 (respectively, "CQR" and "DQR") at D-19, and Exhibits D-10(h), D-10(i), D-10(j) and D-6q. Sanhua defines an "SMV" as a "bar-stock valve." See DQR at D-3. Sanhua produces all ball valves and SMVs, for the U.S. and other markets, in the same workshop. See DQR at D-6.

²⁸ See letter from the Department, "Frontseating Service Valves from the People's Republic of China: 12-13 Review: First Supplemental Questionnaire for the Section D Questionnaire Response," dated February 20, 2014 ("First Supplemental Questionnaire"), at 3.

²⁹ *Id.*

³⁰ *Id.*, at 4.

³¹ See letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A-570-933; Response to Supplemental Section D Questionnaire by Zhejiang Sanhua Co., Ltd.," dated March 14, 2013, at 7-17 ("1st SQR").

³² See letter from the Department, "2012-2013 Administrative Review of Frontseating Service Valves from the People's Republic of China: Second Supplemental Questionnaire for the Section D Questionnaire Response," dated April 11, 2014 ("2nd SQR").

³³ *Id.* at 3.

³⁴ *Id.*

³⁵ See letter from Sanhua, "Frontseating Service Valves from the People's Republic of China; A-570-933; Response to the Second Supplemental Questionnaire Sections A, C and D by Zhejiang Sanhua Co., Ltd.," dated April 24, 2013 at 1-12.

³⁶ *Id.* at unnumbered exhibit FOP03.

³⁷ See Memorandum to the File, "Frontseating Service Valves from the People's Republic of China: Analysis Memorandum for the Preliminary Results of the 2012-2013 Administrative Review: Zhejiang Sanhua Co., Ltd. ("Sanhua")," dated May 2, 2013 ("Preliminary Analysis Memorandum") at 2, and Attachment 4.

We disagree with Sanhua's contention that our brass scrap methodology does not capture the full amount of the scrap generated.³⁸ Specifically, the input and output weight recorded in the technical drawings shows the explicit difference between the brass bar used to produce the subject merchandise and the final weight of the finished merchandise.³⁹ We disagree that measuring the scrap loss as the difference between input and output weights does not capture the full amount of scrap generated. As we stated in the final results of the previous review, "the technical drawings we examined at verification of the inputs necessary (e.g., brass bar) to produce the resulting valve components (e.g., valve body) all show that the dimensions of the inputs are greater than the dimensions of the resulting components."⁴⁰

We also disagree with Sanhua's claim that "the total amount of brass scrap produced did not exceed the calculated yield loss of the brass input taking into account the normal tolerance and impurities, and that the total amount of copper scrap reported was far less than the calculated yield loss of the copper." Specifically, Sanhua is referring to the verification of the previous review, not information on this record.⁴¹ Further, Sanhua did not point to any evidence on the record of this review, in which Sanhua changed its allocation methodology, to substantiate its claim. Thus, without a citation to evidence on the record of this review to support its claim, we find that we are unable to address Sanhua's contention. Thus, we disagree with Sanhua that its preferred scrap methodology is reasonable, and that we should reconsider the use of its methodology for these final results of review.

We agree, however: (1) that Sanhua accurately reported the total quantity of brass and copper scrap produced during the POR;⁴² and (2) that the quantity of brass and copper scrap sold did not exceed the quantity produced.⁴³ However, we note that Sanhua does not track the quantity of scrap generated in production on a product-specific basis in the normal course of business,⁴⁴ and thus, we found its claims of accuracy on this basis to be misleading.⁴⁵ As we stated in the final results of the previous review, although the actual quantities of scrap used by Sanhua in its allocations are from its normal books and records, the allocations at issue here are not accomplished in the normal course of Sanhua's business.⁴⁶ As we noted before, the "sum of the inputs" program demonstrates that the overall weight of Sanhua's subject merchandise is understated in the Section D database,⁴⁷ and therefore, shows that Sanhua's allocation methodology is not accurate.

³⁸ *Id.*

³⁹ See Sanhua's 1st SQR at Exhibit SD-3e.

⁴⁰ See *Frontseating Service Valves From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 73825 (December 9, 2013) ("*Final Results, 2011-2012*") and accompanying Issues and Decision Memorandum at Comment 4, included in on the record of this review in the Memorandum to the File, "Frontseating Service Valves from the People's Republic of China: 12-13 Review: Placing Information from the 11-12 Period of Review ("POR") on the Record of the Instant Review," dated February 3, 2014, at Attachment III; see also Sanhua's 1st SQR at Exhibit SD-3e.

⁴¹ See Sanhua's Case Brief at 6.

⁴² See Sanhua's s DQR at D-20 and Exhibit D-10(i) and D-10(j).

⁴³ See Sanhua's DQR at Exhibit D-10(a).

⁴⁴ See Sanhua's DQR at Exhibit D-6(q), which allocates the total quantity of brass and copper scrap over the brass and copper production, respectively, of all SMVs during the POR.

⁴⁵ See *Final Results, 2011-2012* and accompanying Issues and Decision Memorandum at Comment 3.

⁴⁶ *Id.*

⁴⁷ See Final Analysis Memorandum at Attachment 3, 27.

Our sum of the inputs program, which compares the total weight of the models sold as recorded in the Section C and Section D database, established that the weight of the inputs less scrap recorded in the Section D database did not account for the weight of the models sold in the Section C database.⁴⁸ Thus, although Sanhua stated that it allocated sufficient raw material to cover the relevant production,⁴⁹ the fact remains, despite Sanhua's many protestations, that the overall weight of the inputs less scrap reported in the section D database does not account for the overall weight of the models shipped to the United States.⁵⁰

Thus, for these final results, we continue to use the sum of the inputs program to adjust Sanhua's report per-unit scrap by the difference between the FOP weight and the finished product weight, without making an adjustment for the so-called "under-stated" scrap. The purpose of this program is to adjust for those instances where the total weight of the inputs less scrap does not (and cannot possibly) equal the weight of the model sold. This situation accounts for the vast majority of Sanhua's sales of subject merchandise during the POR.⁵¹ We also note that, in some instances, Sanhua understated scrap.⁵² The burden clearly is on Sanhua to accurately report its scrap allocation to the Department and not for the Department to guess which allocation may be accurate.

Comment 3: Removal from the Record of Rebuttal Factual Information Regarding the Use of Differential Pricing in the Preliminary Results

Sanhua's Comments:

- Sanhua disagrees with the Department's decision to reject its Post-Preliminary Factual Information concerning the Cohen's *d* test. Sanhua claims that it submitted this information in accordance with 19 CFR 351.301(c)(3) to rebut, correct or clarify the calculation methodology which the Department first explained in the post-preliminary disclosure documents. Sanhua argues that the Department must replace the information it removed from the record, and consider it for the final results as a means of preserving this matter for possible judicial review.

No other party provided comments on this issue.

Department's Position: We disagree with Sanhua that our removal of its Post-Preliminary Factual Information concerning the Cohen's *d* test methodology after the *Preliminary Results* was inappropriate. First, Sanhua submitted its new factual information concerning differential pricing and the Cohen's *d* test after the *Preliminary Results* as rebuttal, clarification or correction of factual information under 19 CFR 351.301(c)(3). However, the Cohen's *d* test does not represent factual information as defined under 19 CFR 351.102(21)(i)-(v). Rather, it constitutes methodology or argument. As a consequence, we rejected Sanhua's information and deleted it from the record, because it was not in accordance with the rebuttal, clarification, or correction of

⁴⁸ See Preliminary Analysis Memorandum at Attachment 5, page 29.

⁴⁹ See Sanhua's 2nd SQR at 3.

⁵⁰ See Final Analysis Memorandum at Attachment 3, 27.

⁵¹ *Id.*, at Attachment 3, 14-27.

⁵² *Id.*

factual information submitted to value factors of production as specified under 351.301(c)(3).⁵³ In addition, we deleted Sanhua's submissions from the record because 19 CFR 351.302(d) and 351.104(a)(2)(iii) each requires the return of untimely filed information. Specifically, 19 CFR 351.302(d) provides that the Secretary will not consider or retain in the official record of the proceeding untimely filed factual information, written argument, or other material that the Secretary returns to the submitter, except as provided under 19 CFR 351.104(a)(2);⁵⁴ and 351.104(a) requires that, "{i}n no case will the official record include any document that the Secretary returns to the submitter as untimely filed, or any unsolicited questionnaire response unless the response is a voluntary response accepted under 351.204(d)."⁵⁵

In addition, although factual information placed on the record by the Department may be rebutted, clarified, or corrected under 19 CFR 351.301(c)(4) by the date the Department sets for submission of such information, in this instance, the Department did not set a specified date for submission of such rebuttal information in the *Preliminary Results*. For these reasons, had it been factual information, rather than methodology or argument as we determined, Sanhua's post-preliminary submission was untimely as rebuttal factual information.

Second, we disagree with Sanhua's claims that it first learned (1) that the Department would incorporate a "Cohen's *d* test" into its differential pricing analysis, and (2) how this test would be applied to Sanhua's sales, in the disclosure documents issued in conjunction with the *Preliminary Results*. We issued our *Preliminary Results* in accordance with the *Final Modification for Reviews* which was published on February 14, 2012.⁵⁶ In addition, we used the same differential pricing methodology (including the Cohen's *d* test) for the preliminary and final results of the previous review, which were issued on May 2, 2013, and November 29, 2013, respectively.⁵⁷ Therefore, Sanhua had been aware of the Department's use of the Cohen's *d* test in its differential pricing analysis during the previous review. Moreover, if Sanhua had any concerns about the validity of the Cohen's *d* test as used in the prior review, it did not raise them with the Department prior to the *Preliminary Results*. In addition, the Department did invite Sanhua to submit comments on the record with respect to the *Preliminary Results* pursuant to 19 CFR 351.309(c) and (d).⁵⁸ But this invitation did not include or extend to the submission of new factual information.

Finally, our rejection of Sanhua's untimely factual information concerning the Cohen's *d* test will not deprive Sanhua of an opportunity for judicial review, because: (1) Sanhua stated its

⁵³ See letter to from the Department, "Frontseating Service Valves from the People's Republic of China: Rejection of Zhejiang Sanhua Co., Ltd. ("Sanhua")'s Submissions of June 2, 2014, and June 26, 2014," dated October 14, 2014.

⁵⁴ See 19 CFR 351.302(d)(i).

⁵⁵ See 19 CFR 351.104(a)(2)(iii).

⁵⁶ See *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) ("*Final Modification for Reviews*").

⁵⁷ See *Frontseating Service Valves From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 27954 (May 13, 2013) ("*Preliminary Results, 2011-2012*") and accompanying Preliminary Decision Memorandum at 11, and unchanged in *Frontseating Service Valves From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 73825 (December 9, 2013) ("*Final Results, 2011-2012*").

⁵⁸ See *Preliminary Results*, 79 FR at 30081.

disagreement with our use of the differential pricing methodology in its case brief; and (2) the Department has a public request for comments on our differential pricing analysis, that was published on May 9, 2014, about three weeks prior to the *Preliminary Results*. Thus, our Preliminary Decision Memorandum explained our rationale for applying the differential pricing analysis (and Cohen's *d* test) to annual reviews, and cited a number of reviews in which we made a similar determination.⁵⁹ In any event, as described above, keeping Sanhua's untimely factual information on the record of this proceeding would contravene the Department's regulations.

Comment 4: Use of the Differential Pricing Analysis in the *Preliminary Results*

Sanhua's Comments:

- Sanhua argues that the Department's use of the Cohen's *d* test is unacceptable in this review for the following reasons:
 - The statute and regulations provide for a targeted dumping analysis only in investigations. As a consequence, Sanhua maintains that the Department has no legal authority to conduct a targeted dumping analysis in administrative reviews.
 - Second, Sanhua argues that even if the targeting dumping provisions for investigations applied to reviews, they should not apply in this review because the petitioners made no allegation of targeted dumping in this case.
 - Third, Sanhua argues that the Cohen's *d* test:
 - is being conducted using sample sizes that are too small given its inherent statistical bias; and,
 - is being incorrectly used as an indicator of statistical significance since, according to Sanhua, that proper conclusion of the existence of differential pricing requires the satisfaction of a test of statistical significance. Thus, Sanhua also maintains that the methodologies used by the Department for both its ratio test and its subsequent determination of which comparison method to use have no underlying statistical basis, and thus are arbitrary.
- Finally, Sanhua alleges that the Department fails to take into account the normal business factors that cause the changes to the sale price, such as the volatility in the underlying price of copper and the quantities of merchandise purchased by each customer. Thus, for the final results, Sanhua argues that the Department should explain how it has reasonably excluded the normal price difference before drawing the conclusion of targeted dumping.

No other party provided comments on this issue.

Department's Position: For these final results, we have determined that the margin is *de minimis*. An examination of the margin program reveals that the margin applicable to all three potential comparison methods, the average-to-average ("A-A") method, the alternative comparison method (the average-to-transaction, or "A-T" method), and the A-T mixed method, is *de minimis*⁶⁰ so that we applied the standard A-A methodology. Therefore, we did not address Sanhua's comments with respect to the differential pricing methodology.

⁵⁹ See *Preliminary Results*, and accompanying Preliminary Decision Memorandum at 13-14.

⁶⁰ See Final Analysis Memorandum at Attachment 3, page 83.

Comment 5: Treatment of Value-Added Tax (“VAT”) for U.S. Sales

Sanhua’s Comments:

- Sanhua contends that the Department erroneously made an adjustment for unrefunded VAT tax by reducing Sanhua’s CEP by two percent to account for the difference between the VAT rate applied to inputs and the VAT refund rate applied to finished goods.
- Sanhua argues that this methodology fails to explain how the sales price of the subject merchandise can be adjusted by a payment relating to the cost of inputs of the subject merchandise.
- Sanhua claims that its questionnaire responses demonstrated that:
 - Sanhua did not pay VAT taxes upon exportation of the subject merchandise to the United States;
 - The VAT taxes paid on inputs relate only to the cost of the subject merchandise, and the VAT rate for some inputs is less than 17 percent;
 - The refund of the VAT, by any percent, is an increase to the money received;
 - The value basis for the VAT refund is the FOB (foreign port) price of the subject merchandise.
- Sanhua contends further that the Department overstated the FOB foreign port price by subtracting only international freight from CEP, but leaving in direct and indirect selling expenses and profit incurred in the United States and PRC brokerage and handling.
- As a consequence, Sanhua argues that the Department should correct its calculation of the FOB price for the subject merchandise by either using: (1) the net sales price (ex-factory price) plus the inland freight from the factory to the export port; or (2) the entered value recorded in the entry summary, as reported in the U.S. sales database.

No other party provided comments on this issue.

Department’s Position: For the reasons explained below, we continue to apply the VAT adjustment that we used in the *Preliminary Results* to deduct an amount for irrecoverable VAT from the reported CEP. However, we agree with Sanhua that our application of the VAT percentage to the CEP less international freight (and certain price adjustments) overstated the adjustment. Therefore, as explained below, we based our determination of the VAT adjustment on entered value for these final results of review.

In 2012, we announced a change of methodology with respect to the calculation of the EP or CEP to include an adjustment of any un-refunded (irrecoverable) VAT in certain NME countries, in accordance with section 772(c)(2)(B) of the Act.⁶¹ In this announcement, the Department stated that when a NME government has imposed 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 EPs or CEPs accordingly by the

⁶¹ 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, 36482 (June 19, 2012) (“*Methodological Change*”).

amount of the tax, duty or charge paid, but not rebated.⁶² In a typical VAT system, companies do not incur any VAT expense; they receive on export a full rebate of the VAT they pay on purchases of inputs used in the production of exports (“input VAT”), and, in the case of domestic sales, the company can credit the VAT they pay on input purchases for those sales against the VAT they collect from customers.⁶³ That stands in contrast to the PRC’s VAT regime, where some portion of the input VAT that a company pays on purchases of inputs used in the production of exports is not refunded.⁶⁴ This amounts to a tax, duty or other charge imposed on exports that is not imposed on domestic sales. Where the irrecoverable VAT is a fixed percentage of U.S. price, the Department explained that the final step in arriving at a tax-neutral dumping comparison is to reduce the U.S. price downward by this same percentage.⁶⁵

Section 772(c)(2)(B) of the Act authorizes the Department to deduct from EP or CEP the amount, if included in the price, of any “export tax, duty, or other charge imposed by the exporting country on the exportation” of the subject merchandise. Although Sanhua argues that it pays no VAT tax upon export, it misstates what is at issue. The issue is the irrecoverable VAT, not VAT *per se*. Further, we disagree with Sanhua’s argument that the VAT adjustment methodology fails to explain how the sales price of the subject merchandise can be adjusted by a payment relating to the cost of the inputs of the subject merchandise. Irrecoverable VAT, as defined in PRC law, is a net VAT burden that arises solely from, and is specific to, exports. It is VAT paid on inputs and raw materials (used in the production of exports) that is non-refundable and, therefore, a cost.⁶⁶ Irrecoverable VAT is, therefore, an “export tax, duty, or other charge imposed” on exportation of the subject merchandise to the United States. The statute does not define the term(s) “export tax, duty, or other charge imposed” on the exportation of subject merchandise. We find it reasonable to interpret these terms as encompassing irrecoverable VAT because the irrecoverable VAT is a cost that arises as a result of export sales. It is set forth in PRC law and, therefore, can be considered to be “imposed” by the exporting country on exportation of subject merchandise. Further, an adjustment for irrecoverable VAT achieves what is called for under section 772(c)(2)(B) of the Act, as it reduces the gross U.S. price charged to the customer to a net price received. This deduction is consistent with our longstanding policy,

⁶² *Id.*, 77 FR at 36483; 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) (“*Chlorinated Isocyanurates*”) and the accompanying Issues and Decision Memorandum at Comment 5.

⁶³ See, e.g., explanations in *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; *MWF*, and accompanying Issues and Decision Memorandum at Comment 3; *Methodological Change*, 77 FR at 36483.

⁶⁴ See Sanhua’s submission, “Frontseating Service Valves from the People’s Republic of China; A-570-933; Sections C and D Response of Zhejiang Sanhua Co., Ltd.,” dated September 9, 2014 (“Sanhua’s CQR”) at Exhibit C-11; and, Sanhua’s submission, “Frontseating Service Valves from the People’s Republic of China; A-570-933; Response to the Third Supplemental Questionnaire by Zhejiang Sanhua Co., Ltd. (“Sanhua’s 3rd SQR”), dated May 9, 2014, at Exhibit S2C-1; and *Methodological Change*, 77 FR at 36483.

⁶⁵ *Id.*

⁶⁶ See *Small Diameter Graphite Electrodes From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 57508 (September 25, 2014) accompanying Issues and Decision Memorandum at Comment 7.

which is consistent with the intent of the statute, that dumping margin calculations be tax-neutral.⁶⁷

Our methodology, as applied in this review, consists of performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount determined in step one. Information placed on the record of this review by Sanhua indicates that, according to the PRC VAT schedule, the standard VAT levy on the subject merchandise is 17 percent and the VAT rebate rate for the subject merchandise is 15 percent.⁶⁸ For the final results, therefore, we removed from U.S. price an amount calculated based on the difference between these rates (*i.e.*, two percent) applied to the export sales value, consistent with the definition of irrecoverable VAT under Chinese tax law and regulation.⁶⁹

Irrecoverable VAT is (1) the free-on-board value of the exported good, applied to the difference between (2) the standard VAT levy rate and (3) the VAT rebate rate applicable to exported goods.⁷⁰ The first variable, export value, is unique to each respondent while the rates in (2) and (3), as well as the formula for determining irrecoverable VAT, are each explicitly set forth in Chinese law and regulations.⁷¹

19 CFR 351.401(c) requires that the Department rely on price adjustments that are “reasonably attributable to the subject merchandise.” The PRC’s VAT regime is product-specific, with VAT schedules that vary by industry and even across products within the same industry. These are product-specific export taxes, duties, or other charges that are incurred on the exportation of subject merchandise. Thus, our analysis is consistent with our current VAT policy and our treatment of VAT in recently completed NME cases.⁷²

For these final results, we continued to apply the VAT tax offset to Sanhua’s CEP. However, we revised the determination of the export sales value used in the *Preliminary Results*. Specifically, as Sanhua noted, in the *Preliminary Results*, the Department overstated the export sales value by deducting only international freight and certain adjustments from CEP. For these final results, we based our determination of the VAT tax offset, as Sanhua suggested, on entered value, which excludes international freight and U.S. selling expenses.⁷³

⁶⁷ See *Methodological Change*, 77 FR at 36483, and *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27369 (May 19, 1997) (citing the SAA).

⁶⁸ See Sanhua’s 3rd SQR, at 3.

⁶⁹ See *Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire From the People’s Republic of China*, 79 FR 25572 (May 5, 2014) (“*Prestressed Wire*”), and accompanying Issues and Decision Memorandum at Comment 1, and *MWF* and accompanying Issues and Decision Memorandum at Comment 3.

⁷⁰ See *Prestressed Wire* and the accompanying Issues and Decision Memorandum at Comment 1, n. 35, and *MWF* and the accompanying Issues and Decision Memorandum at Comment 3.

⁷¹ See *Prestressed Wire* and the accompanying Issues and Decision Memorandum at Comment 1, n. 36, and *MWF* and the accompanying I&D Memo at Comment 3.

⁷² See *Prestressed Wire* and accompanying Issues and Decision Memorandum at Comment 1, *MWF* and accompanying Issues and Decision Memorandum at Comment 3, and *Chlorinated Isocyanurates* and accompanying Issues and Decision Memorandum at Comment 5A.

⁷³ See Final Analysis Memorandum at 2 and Attachment 2 at line 874.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of the review and the final weighted-average dumping margins in the *Federal Register*.

Agree Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

24 NOVEMBER 2014
Date