



A-552-816
Investigation
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May 22, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Final Determination of
the Antidumping Duty Investigation of Welded Stainless Pressure
Pipe from the Socialist Republic of Vietnam

Summary

The Department analyzed the case and rebuttal briefs submitted by interested parties in the antidumping duty investigation of welded stainless pressure pipe (WSPP) from Vietnam. As a result of our analysis, we have made changes to the dumping margins for the final determination.¹ We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

Background

The Department published its *Preliminary Determination* on January 7, 2014. The Department conducted verification of the information submitted by Sonha during this investigation from January 13, 2014 through January 17, 2014, and issued the verification report on February 26, 2014.² Subsequent to the *Preliminary Determination*, the Department issued a post-preliminary analysis on March 20, 2014, in which it revised the basis for its calculation of the rate assigned to

¹ See *Welded Stainless Pressure Pipe From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 79 FR 806 (January 7, 2014) (“*Preliminary Determination*”).

² See Memorandum to the File from Lilit Astvatsatrian and Erin Kearney, Senior International Trade Compliance Analysts, AD/CVD Operations, Office IV, “Verification of the Sales and Factors Responses of Sonha International Corporation in the Antidumping Investigation of Welded Stainless Steel Pipe from the Socialist Republic of Vietnam,” dated February 26, 2014 (“Verification Report”).



the Vietnam-wide entity in this investigation.³ Sonha and Petitioners submitted case briefs on March 27, 2014 and April 1, 2014, respectively.⁴ Each filed rebuttal briefs on April 3, 2014.⁵

Scope of the Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of this investigation, references to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications. ASTM A-358 products are only included when they are produced to meet ASTM A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A-554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A-249, ASTM A-688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A-269, ASTM A-270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

Discussion of the Issues

Comment 1: Financial Ratios

Sonha's Argument:

- The Department declined to use the 2013 financial statements of Reliable because it said they were illegible. However, all numbers necessary for computation of financial ratios are legible, so the Department should use these statements for financial ratios in the final

³ See Memorandum from Abdelali Elouaradia, Office Director, AD/CVD Operations, Office IV, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Welded Stainless Pressure Pipe from the Socialist Republic of Vietnam: Post-Preliminary Analysis on the Vietnam-Wide Entity Rate," dated March 20, 2014 ("Post-Preliminary Analysis").

⁴ See Submission from Sonha, "Sonha's Direct Case Brief: Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam (A-552-816)," dated March 27, 2014 ("Sonha Case Brief"); submission from Bristol Metals, Felker Brothers, and Outokumpu Stainless Pipe (Petitioners), "Welded Stainless Pressure Pipe from Vietnam: Petitioners' Case Brief," dated April 1, 2014; see also Letter from Robert Bolling to Petitioners, "Investigation of Welded Stainless Pressure Pipe from the Socialist Republic of Vietnam," dated March 31, 2014 (rejecting Petitioners' March 27, 2014 case brief for containing untimely submitted factors of production factual data, and inviting Petitioners to re-file their case brief with untimely factual information removed by April 1, 2014).

⁵ See Submission from Petitioners, "Welded Stainless Pressure Pipe from Vietnam: Petitioners' Rebuttal Brief," dated April 3, 2014; see also submission from Sonha, "Sonha's Rebuttal Case Brief: Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam (A-552-816)," dated April 3, 2014.

determination. The Department has, in past cases, used financial statements with incomplete or illegible sections, when they were not vital sections, and the financial ratios could be accurately determined without them. In addition, the CIT has upheld the Department's practice to accept a financial statement so long as it is not missing vital elements critical to the Department's analysis and ratio calculations.⁶ Furthermore, even if certain numbers in the financial statement are deemed partially illegible by a cursory review, it is ultimately possible to decipher the income/expense figures listed against all the individual line items through a careful analysis, which Sonha has provided; thus, any illegibility in Reliable's financial statement must be held as harmless and inconsequential.

- The Department should rely on the 2013 financial statements of both Bhandari and Reliable for the final determination, which is consistent with the practice of relying on multiple financial statements to derive surrogate financial ratios representative of a broader segment of the industry.

Petitioners' Rebuttal:

- Sonha did not submit a legible copy of the 2013 Reliable financial statements. Further, even if the submitted 2013 Reliable financial statements were legible, their inclusion would not produce a more accurate calculation of financial ratios, contrary to Sonha's claim.
- There is no evidence that Reliable produces WSPP, or any other kind of pipe. Reliable's 2013 financial statements suggest that it is a trading company, rather than a manufacturer.

Petitioners' Argument:

- Regardless of whether the 2013 financial statements of Reliable are legible, they should not be considered for the final determination because the company is not a pipe manufacturer. The items listed on Reliable's income statement are typical of a trading company, and do not include typical manufacturing charges like supplies, electricity, or gases. Further, Reliable's 2013 financial statements contain very small labor charges. Additionally, the company's website includes no photos of its claimed facilities for manufacturing pipe, and a guide of worldwide tube manufacturers does not list the company.
- The Department rejected the 2013 financial statements of Prakash and Ratnamani in the *Preliminary Determination* because the Department found that they contained evidence of subsidies previously found by the Department to be countervailable. Bhandari's 2013 financial statements are missing the note that might have contained similar information – the statements refer to a report, but no report is included on the record.
- The Department should rely on the 2013 financial statements of Ratnamani for the final determination because it is the most appropriate surrogate company for financial ratios, despite the preliminary determination that it contained subsidies previously found to be countervailable. If the Department continues to find the 2013 Bhandari statements appropriate for use, even though those statements are missing a report that might have contained evidence of subsidies, it should also use the Ratnamani, and possibly Prakash,

⁶ Sonha cites *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results and Partial Rescission of the Seventh Antidumping Duty Administrative Review*, 77 FR 15039, 15042 (March 14, 2012) and *Ass'n of Am. Sch. Paper Suppliers v. United States*, 791 F. Supp. 2d 1292, 1304-1305 (CIT 2011).

statements. The Department has previously used financial statements evidencing receipt of countervailable subsidies if nothing else was available, and the amount of benefit to Ratnamani appears to be minimal. The Department should change its current practice from automatically excluding financial statements at the mere hint of subsidies, and should adopt a test of whether the amount of the subsidy could conceivably rise to the level of being countervailable. Also, the Department should consider whether an export subsidy has a tainting impact on production, for which the Department is trying to develop a surrogate value.

- Bhandari's financial statements should not be considered "publicly available" because Sonha's description of how it obtained the statements online do not lead to the statements, and it did not explain the extent of the "nominal fee" that was required to access those statements. Even if the Department was told how to access the financial statements by Sonha, the general public was not.

Sonha's Rebuttal:

- Contrary to Petitioners' assertion, Reliable's website confirms that it is a manufacturer of pipe. The record contains information showing that Reliable manufactures stainless steel pipe that is identical or similar to that produced by Sonha.
- Reliable's 2013 financial statements are not atypical for a pipe manufacturer. Reliable's 2013 financial statements do contain itemized listings for electricity charges, while the cost for "gases" may be listed within the category for "raw material consumed." Reliable's charges for labor are not unusually small in light of the fact that the production of WSPP is not labor-intensive. These labor expenses should not be compared with those of Sonha, because an NME producer's production experience is not instructive for valuation of FOPs.
- Although the worldwide tube manufacturers' guide referenced by Petitioners does not list Reliable, the guide does not provide an exhaustive list of manufacturers. Reliable is a relatively small producer and it would be unsurprising if the guide did not list Reliable because its total revenue is likely below the minimum threshold for the guide's reporting purposes.
- Petitioners' allegations that Sonha did not follow due diligence in submitting a legible copy of Reliable's financial statement are erroneous in light of the peculiar circumstances surrounding the Department's issuance of its questionnaire on this point.
- There is no evidence that Bhandari's 2013 statements are missing any notes or reports. The report to which Petitioners refer is actually just the company's annual report as a whole.
- Bhandari's 2013 statements are publicly available, as demonstrated by Sonha. The Department has found in previous cases that Indian financial statements are downloadable from the Indian Ministry of Corporate Affairs website for a fee.
- The 2013 Ratnamani financial statements are distorted by countervailable subsidies. The Department's practice, regulations, and the applicable statute direct the Department to select the best available information to value financial ratios. The Department's practice of rejecting surrogate financial statements when it has reason to believe or suspect the statements contain evidence of countervailable subsidies, when the record contains other suitable financial statements, has been upheld by the CIT. Neither the Department nor the CIT has established any minimum amount of benefit that must have been received in

order for the Department to decline to use a particular financial statement. The Department is not required to investigate the actual amount of benefit received.

- Petitioners have not supported their claim that the export subsidy shown in Ratnamani's 2013 financial statements does not impact production, nor have they supported their claim that export subsidies should not be taken into consideration when they do not impact production. Export subsidy benefits directly and indirectly impact the overall company performance, including production. The 2013 Ratnamani financial statements are distorted by subsidy benefits received during the period 2009-2013 under the Advance License Program, which the Department has found to be countervailable. These subsidy benefits directly impact Ratnamani's production costs.

Department's Position: For the final determination, we have continued to value surrogate financial ratios using solely the 2013 financial statements of Bhandari.

Seven financial statements are on the record, including one from Petitioners and six from Sonha. The seven statements include: Ratnamani (2013), Prakash (2012 and 2013), Reliable (2012 and 2013), and Bhandari (2012 and 2013). In the *Preliminary Determination*, we found that the 2012 statements of Prakash, Reliable, and Bhandari were not contemporaneous, that the 2013 Reliable statements contained illegible portions, and that the 2013 statements of Ratnamani and Prakash contained evidence of a countervailable subsidy.⁷ Thus, we used the 2013 statements of Bhandari to calculate financial ratios for the Preliminary Determination.

In applying its valuation of factory overhead, SG&A expenses, and profit, section 773(c)(1) of the Act instructs the Department to use "the best available information" from the appropriate market economy country. The Department's criteria for choosing surrogate companies are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.⁸ The Department generally selects financial statements of producers of identical or comparable merchandise in the surrogate country that are contemporaneous with the POI, containing no indication of the receipt of countervailable subsidies, and publicly available.⁹ Moreover, the Department will only select financial statements that are sufficiently detailed to allow for the calculation of the surrogate financial ratios.¹⁰ The courts have recognized the Department's discretion when choosing appropriate financial statements with which to calculate surrogate financial ratios.¹¹

⁷ See Preliminary SV Memorandum at 6-7.

⁸ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005) and accompanying IDM at Comment 3; *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013) and accompanying IDM at Comment 2.

⁹ See, e.g., *Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 60725 (October 1, 2010) and accompanying IDM at Comment 2.

¹⁰ See, e.g., *Certain Stilbenic Optical Brightening Agents From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17436 (March 26, 2012) and accompanying IDM at Issue 2; *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 74 FR 16838 (April 13, 2009) and accompanying IDM at Comment 1; *Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of the First Antidumping Duty Administrative Review*, 76 FR 9753 (February 22, 2011) and accompanying IDM at Comment 1.

¹¹ See, e.g., *FMC Corp. v. United States*, 27 CIT 240, 251 (CIT 2003) (holding that the Department can exercise discretion in choosing between reasonable alternatives), *aff'd FMC Corp. v. United States*, 87 Fed. Appx. 753 (Fed.

We continue to find that the financial statements of Prakash, Reliable, and Bhandari for the fiscal year ending March 31, 2012, are not the best information available on the record with which to calculate financial ratios because they are not contemporaneous with the POI, and the record contains financial statements for the fiscal year ending March 31, 2013 from each of the same three companies. Therefore, we have continued to disregard the 2012 financial statements in this final determination.

Consistent with the *Preliminary Determination*, we have not used the 2013 financial statements of Reliable because we continue to find that these statements are not sufficiently legible. Further, Sonha did not respond to the Department's request for a legible copy of the 2013 Reliable financial statements to be submitted to the record.¹² Sonha states that it was genuinely unaware of the Department's request for a legible copy of the 2013 Reliable financial statements because the Department issued two supplemental questionnaires on the same date, December 6, 2013. Sonha claims that while the Department sent an e-mail related to one of the supplemental questionnaires, it did not do the same for its request for the legible copy of the 2013 Reliable financial statements.¹³ However, as stated in the December 6, 2013, e-mail referenced by Sonha,¹⁴ the Department analyst e-mailed Sonha's counsel a copy of the FOP supplemental questionnaire for the purpose of confirming that it contained no proprietary information, which the analyst asked Sonha's counsel to confirm by December 9, 2013. This FOP questionnaire was uploaded to IA ACCESS only after the Department received the requested confirmation that the supplemental contained only public information.¹⁵ Thus, contrary to Sonha's contention, the FOP questionnaire and the financial statement questionnaire were not officially released through IA ACCESS on the same day.

Furthermore, the official notification for all documents and requests for information released by the Department is the automatic e-mail generated and sent by the IA ACCESS system. The Department has confirmed through the IA ACCESS system that an automatic notification e-mail was sent for each supplemental questionnaire on the day that each questionnaire posted to IA ACCESS. The automatic notification for the supplemental questionnaire requesting a legible copy of the financial statement was sent on December 6, 2013, at 5:04 pm. The automatic notification for the FOP supplemental questionnaire was sent on December 11, 2013, at 5:03 pm (after Sonha's counsel confirmed that no proprietary information was in the questionnaire). Thus, Sonha received notification by the designated method for both supplemental questionnaires and failed to respond to the supplemental questionnaire requesting a legible copy of the financial statement. Although Department officials may communicate with parties through other means (for example, as we did in this case to confirm that a supplemental questionnaire contained no proprietary information before releasing the document publicly),

Cir. 2004); *Crawfish Processors Alliance v. United States*, 343 F. Supp. 2d 1242, 1251 (CIT 2004) ("If Commerce's determination of what constitutes the best available information is reasonable, then the Court must defer to Commerce").

¹² See Preliminary SV Memorandum at 6.

¹³ See Sonha Case Brief at 3-4. In addition to the request for a legible copy of the Reliable financial statements, the Department also released a supplemental questionnaire concerning valuation of Sonha's FOPs.

¹⁴ *Id.* at Exhibit 1a.

¹⁵ See Letter from the Department to Sonha International Corporation, dated December 6, 2013, which was uploaded to IA ACCESS on December 11, 2013.

parties are responsible for monitoring IA ACCESS for official notification of case filings, releases, and other case-related activity.

Sonha argues that the 2013 Reliable financial statements are legible enough to allow the calculation of financial ratios, but we disagree. We find that the illegible portions of the 2013 Reliable financial statements prevent a full and accurate analysis of the statements and prevent their use in calculating financial ratios for the final determination. Specifically, many numbers and line-item descriptions within the company's balance sheet and associated schedules cannot be determined with certainty; thus, the resulting financial ratios cannot be calculated with accuracy.¹⁶ We find that, unlike the cases cited by Sonha,¹⁷ the illegibility in the 2013 Reliable financial statements occurs in key sections that are necessary to the calculation of financial ratios. Although the record contains a worksheet in which Sonha claims to have deciphered the illegible values in the financial statement, we must rely on the financial statement itself, not a secondhand interpretation of the data within the surrogate financial statement by counsel for an interested party.¹⁸ Additionally, because we have found the 2013 Reliable financial statements to be unusable due to their illegibility, we find that it is unnecessary to address Petitioner's contention that Reliable is not actually a pipe producer.

Consistent with the *Preliminary Determination*, we have also disregarded the 2013 financial statements of Ratnamani and Prakash for the final determination because we continue to find that both statements contain evidence of packing credits, which the Department has previously found to be a countervailable subsidy.¹⁹ Petitioners suggest that the Department may wish to consider whether an export subsidy actually has a tainting impact on production; however, we agree with Sonha that Petitioners have not provided adequate support for this suggestion, and that such subsidy benefits may impact overall company performance, including production. While Petitioners argue that the amount of benefit to Ratnamani is minimal, we agree with Sonha that, in analyzing surrogate financial statements that contain evidence of subsidies previously found to be countervailable, the Department is not required to undertake an investigation into the actual amount of benefit received.²⁰ The Department's preference is to not rely on surrogate financial statements that show evidence of subsidies previously found to be countervailable, "particularly when other sufficient, reliable, and representative data are available for calculating surrogate financial ratios."²¹ The record of this proceeding contains another usable financial statement that

¹⁶ See Submission from Sonha, "Sonha's 2nd Surrogate Value Submission: Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam (A-552-816)," dated December 2, 2013 ("Sonha's December 2, 2013, SV Submission") at Exhibit 3.

¹⁷ *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results and Partial Rescission of the Seventh Antidumping Duty Administrative Review*, 77 FR 15039, 15042 (March 14, 2012) and *Ass'n of Am. Sch. Paper Suppliers v. United States*, 791 F. Supp. 2d 1292, 1304-1305 (CIT 2011).

¹⁸ See, e.g., *Home Meridian Int'l, Inc. v. United States*, 865 F. Supp. 2d 1311, 1322 (CIT 2012) (holding that the Department may not rely on conclusory statements of counsel in its review of the record evidence).

¹⁹ See Preliminary SV Memorandum, at 6-7.

²⁰ See *Jiaxing Brother Fastener Co. v. United States*, 751 F. Supp. 2d 1345, 1357-8 (CIT 2010) ("Commerce need not turn the search for suitable proxy financial statements into a full blown countervailing duty investigation before it may reject a financial statement that indicates that the company may have received subsidies. And Commerce does not err in rejecting such a financial statement where an interested party offers mere speculation that the subsidy 'might well' be at a *de minimis* level were a countervailing duty investigation conducted").

²¹ See *Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 77 FR 14493 (March 12,

does not contain any evidence of subsidies previously found by the Department to be countervailable, (*i.e.*, the 2013 Bhandari financial statements, discussed below). Therefore, we find there is no need to rely on financial statements that do contain evidence of such subsidies, regardless of the extent of the benefit.

Finally, we disagree with Petitioners' contention that the 2013 Bhandari financial statements are incomplete. Petitioners allege that the statements contain a reference to a report on borrowings that is not included with the financial statements, and that this excluded report might have shown evidence of subsidies previously found by the Department to be countervailable. We find that there is no evidence that the 2013 Bhandari statements are missing a borrowing report, or that they are otherwise incomplete. The 2013 Bhandari statements contain explanatory notes within the auditor's report, and no pages have been omitted from the page numbering of the financial statements or auditor's report explanatory notes.²² Thus, regardless of references to a report on borrowings, the financial statements on the record are complete. Further, we note that the burden of building the factual record of the proceeding rests with the interested parties and not with the Department, and in this case, Petitioners have not provided enough evidence to support a finding that the 2013 Bhandari financial statements are incomplete.²³ We also disagree with Petitioners' argument that Sonha did not prove that the 2013 Bhandari financial statements were publicly available. The Department asked counsel for Sonha to explain how both the 2013 Bhandari and Prakash financial statements were obtained, and Sonha's counsel then provided the requested explanation of how they were downloaded from the website of the Indian Ministry of Corporate Affairs.²⁴ Further, the Department has previously considered financial statements downloaded from the Indian Ministry of Corporate Affairs website to be publicly available.²⁵ We found in the *Preliminary Determination* that Sonha provided sufficient evidence of the public availability of the 2013 Bhandari financial statements, and we continue to find that these statements are, in fact, publicly available.

Therefore, because we continue to find that the 2013 Bhandari statements are complete, contemporaneous, publicly available, and that they contain no evidence of subsidies previously found to be countervailable, we have continued to rely on these financial statements in calculating surrogate financial ratios for the final determination. Although we agree with Sonha that the Department often prefers to calculate surrogate financial ratios using multiple financial statements, in order to derive ratios that are representative of a broader segment of the industry, we find in this case that the 2013 Bhandari financial statements are the only usable financial statements on the record.

2012) and accompanying Issues and Decision Memorandum at Issue 2, citing *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) and accompanying IDM at Comment 17A.

²² See Sonha's December 2, 2013, SV Submission at Exhibit 2.

²³ See *QVD Food Co. v. United States*, 658 F.3d 1318, 1324 (Fed. Cir. 2011).

²⁴ See Memorandum to the File from James Martinelli, International Trade Analyst, "Welded Stainless Pressure Pipe from the Socialist Republic of Vietnam: Telephone Conversation with Sonha International Corporation Counsel," dated December 13, 2013.

²⁵ See *First Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 57995 (November 10, 2009) and accompanying IDM at Comment 2B.

Comment 2: Date of Sale

Petitioners' Argument:

- The Department should use as the date of sale Sonha's pro-forma commercial invoice rather than VAT commercial invoice. The Department has recognized that a change in the quantities or cost that is within the tolerance permitted in the terms of the purchase order does not result in a later date of sale.²⁶ Therefore, line-item tolerances in Sonha's pro-forma commercial invoice do not provide a sufficient basis for changing the date of sale to the date on the VAT commercial invoice. Furthermore, the Department should use the invoice that is sent to the customer as the appropriate invoice for determining date of sale; the verification report indicates that Sonha's VAT commercial invoice is never sent to the customer.

Sonha's Rebuttal:

- The Department should continue using the date of the VAT commercial invoice as the date of sale because the issuance of the VAT commercial invoice is when the terms of sale are fixed and occurs at the time of the shipment of merchandise. Until the VAT commercial invoice is issued, both price and quantity can, and often do, change from the pro-forma commercial invoice. Sonha updates its pro-forma invoice with the changes in the material terms of sale but it does not re-date it. Furthermore, Sonha books its export sales in its financial accounting system on the date of the VAT commercial invoice and none of the information from the pro-forma commercial invoice is recorded in Sonha's books and records.

Department's Position: For the final determination, we continue to rely on the date of Sonha's commercial VAT invoice as the date of sale. According to 19 CFR 351.401(i), “[i]n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business.” We find that the date of Sonha's VAT commercial invoice, as opposed to Sonha's pro-forma invoice, is the appropriate date of sale because it is maintained in company's financial accounting system or, in other words, “recorded in the exporter's or producer's records kept in the ordinary course of business.”²⁷

Furthermore, the Department verified that the material terms of sale do not change after the VAT commercial invoice is issued.²⁸ Sonha stated in its responses and demonstrated at verification that when changes in price or quantity take place, the company officials reflect those changes in the commercial VAT invoice and the shipping documents, and later update the pro-forma

²⁶ See *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 62 FR 37030 (July 10, 1997) and accompanying IDM at Comment 1 (“SSB from India”); *Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement in the Antidumping Duty Order*, 74 FR 22885 (May 15, 2009) and accompanying IDM at Comment 2; *Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of the Antidumping Duty Administrative Review*, 77 FR 34344 (June 11, 2012) and accompanying IDM at Comment 2 (“Steel Pipe from Korea”).

²⁷ See 19 CFR 351.401(i).

²⁸ See Verification Report at 9-10.

commercial invoice without re-dating it.²⁹ During verification, company officials explained that any quantity discrepancy or change takes place between the pro-forma commercial invoice and the VAT commercial invoice because the actual quantity in kg often changes at the time of the shipment.³⁰ According to Sonha, its customers are not interested in the kg difference; instead they are interested only in the quantity in pieces.³¹ Therefore, the pro-forma commercial invoice reflects an estimated piece and kg quantity that may change by the time of the shipment.³² At this point, Sonha accountants enter the correct terms of sale on the VAT commercial invoice. Thus, we have determined that the most appropriate date of sale is the one based on the VAT commercial invoice because material terms of sale (*i.e.*, quantity and value) are set on that date. By contrast, the pro-forma invoice date does not “better reflect{ } the date on which the exporter or producer establishes the material terms of sale.”³³

With respect to the cases cited by Petitioners, we agree with Sonha that these cases, which dealt with quantity changes within tolerances permitted in their respective purchase orders or sales contracts, are different from Sonha’s circumstances.³⁴ Changes in Sonha’s material terms of sale included not only changes in the quantity but also in price.³⁵ Therefore, based on the foregoing, the Department has continued to rely upon the VAT commercial invoice date as the date of sale for Sonha’s U.S. sales.

Comment 3: Electricity

Petitioners’ Argument:

- The Department should adjust the rates used to value electricity because they are not contemporaneous with the POI. The rates are derived from a CEA publication dated March 2008, and the rates themselves are dated between 2000 and 2007.
- Rather than average the electricity rates applicable to small, medium, and large industries, the Department should value Sonha’s electricity based on the rates listed in one electricity rate table with a monthly kWh cap that corresponds to Sonha’s average monthly consumption of electricity during the POI (*i.e.*, a large industry rate).

Sonha’s Rebuttal:

- The electricity rates used in the *Preliminary Determination* are not outdated and should not be inflated. The fact that the publication includes tariffs applicable in July 2007, and dated as far back as February 2000, suggests that tariffs generally remain unchanged over several years. It is reasonable to presume that the rates in the publication were still current during the POI. Further, there is no record evidence to suggest that the rates were revised subsequent to the publication used in the *Preliminary Determination*. The

²⁹ See Submission from Sonha, “Sonha Supplemental Section A Response: Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam (A-552-816),” dated September 9, 2013, at 8-10 and Exhibit SA-6; see also Verification Report at 9-10 and VE-8. We observed Sonha’s pro-forma commercial invoices containing the same information as the VAT commercial invoice but carrying earlier date. This indicated that Sonha updated the pro-forma commercial invoice but did not re-date it.

³⁰ *Id.*

³¹ See Verification Report at 10.

³² See Verification Report at VE-8.

³³ See 19 CFR 351.401(i).

³⁴ See *SSB from India; Steel Pipe from Korea*.

³⁵ See Verification Report at VE-8 at 2 and 5.

Department has used the same electricity price data in other cases without inflating the figures.

- The Department should not value electricity based on a single rate table for large industries, as suggested by Petitioners. However, if the Department accepts Petitioners' argument to value electricity with only rates corresponding to Sonha's actual electricity usage, it should use an average of all large industry rate tables, rather than just one, as proposed by Petitioners.
- Although the record contains evidence of Sonha's average monthly electricity consumption, it does not contain evidence of Sonha's specific voltage requirements, which is a factor in differentiating between the multiple electricity tables for large industries. Additionally, the individual prices contained in the relevant tables are not clear, so the Department should average the rates on the record corresponding to all large industry rate tables.

Department's Position: For the final determination, we have valued electricity with the SV derived from the average price data for large industries, as published by the CEA. These data were published in "Electricity Tariff & Duty and Average Rates of Electricity Supply in India," dated March 2008.

The Department's practice when selecting the "best available information" for valuing FOPs, in accordance with section 773(c)(1) of the Act, is to select, to the extent practicable, surrogate values which are publicly available, product-specific, representative of a broad market average, tax-exclusive and contemporaneous with the POI.³⁶

In the *Preliminary Determination*, we valued electricity using the average price data for small, medium, and large industries, as published by the CEA in its March 2008 publication, "Electricity Tariff & Duty and Average Rates of Electricity Supply in India." For the final determination, we agree with Petitioners' argument that the record contains evidence of Sonha's electricity consumption during the POI.³⁷ When Sonha's electricity consumption is averaged over the entire POI, the average monthly consumption falls within the kWh usage threshold for large industrial electricity usage.³⁸ We agree with Petitioners, therefore, that it would be more specific to Sonha's experience to value its electricity using only rates corresponding to its actual usage.

The CEA electricity publication lists multiple rate tables for large industrial electricity usage, with each table corresponding to a specific combination of kilowatt, voltage, and load factor requirements.³⁹ We find that, while the record contains evidence of Sonha's monthly kWh

³⁶ See *Fuwei Films (Shandong) Co. v. United States*, 837 F. Supp. 2d 1347, 1350-51 (CIT 2012); *Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 71 FR 16116 (March 30, 2006) and accompanying IDM at Comment 2.

³⁷ See Submission from Sonha, "Sonha Supplemental Section D Response: Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam (A-552-816)," dated November 4, 2013, at Exhibit SD-24.

³⁸ See Final Analysis Memo.

³⁹ See Submission from Sonha, "Sonha Surrogate Value Submission: Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam (A-552-816)," dated August 29, 2013 ("Sonha's August 29, 2013, SV Submission") at Exhibit 7; see also Submission from Petitioners, "Welded Stainless Pressure Pipe from Vietnam: Surrogate Value Comments and Information," dated August 29, 2013, at Exhibit 8.

usage, it does not contain any evidence of these additional factors, which makes it impossible to select a single electricity rate table as the most specific to Sonha's experience.⁴⁰ As a result, we disagree with Petitioners' suggestion to value Sonha's electricity with only a single large industry rate table. We have, instead, revised the electricity SV based on an average of electricity rates contained in all rate tables for large industries.⁴¹ This electricity SV contains an average of all large industry rates at both 11 and 33 KV.

We have not inflated these data because, contrary to Petitioners' argument, we find that the record contains effective dates for the electricity rates, and that it contains no indication that the rates would be, or have been, updated since the publication of the 2008 CEA report.⁴² As in the *Preliminary Determination*,⁴³ we continue to find that these electricity rates are appropriate to use as published, and that they should not be inflated. Finally, we note that there are no other electricity SVs from the surrogate country, India, on the record, making the 2008 CEA report the most contemporaneous data for valuing this FOP.⁴⁴

Comment 4: Valuation of Argon and Hydrogen

Sonha's Argument:

- The Department should use prices from the Bhorukha financial statements to value the argon and hydrogen FOPs. Infodrive data indicate that the aberrational GTA data for HTS category 2804.21 and 2804.10 are not the best information to value Sonha's argon and hydrogen FOPs. Contrary to the Department's preliminary determination, record evidence indicates that Infodrive data cover all GTA imports for these HTS categories, and the Department should employ the Infodrive data as a corroborative tool to check the reliability of the corresponding GTA India data. Detailed analysis of the underlying Infodrive India data shows that in virtually every instance the goods imported under these HTS subheadings do not match the type of argon and hydrogen purchased by Sonha. The argon mixtures reported in Infodrive are also inflated by additional packing costs, meaning that collectively the GTA India HTS 2804.21 import data are distorted by non-subject goods and additional packing costs. Furthermore, the hydrogen GTA India import data are distorted by the inclusion of costlier air freight charges.
- Prices of commercial grade argon reported in the Bhorukha financial statements is the best SV for valuing Sonha's argon and hydrogen because both have similar purity levels and quality, packing and delivery methods.
- Non-contemporaneity of data is a lesser issue in light of the superior specificity of Bhorukha prices for valuing argon. "Commerce cannot create a blanket rule that prevents it from comparing the merits of contemporaneous and non-contemporaneous data, and

⁴⁰ See Submission from Sonha, "Sonha Supplemental Section D Response: Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam (A-552-816)," dated November 4, 2013, at Exhibit SD-24.

⁴¹ See Final Analysis Memo.

⁴² The Department valued electricity with data from the same source, without inflating, in the antidumping duty investigation of Utility Scale Wind Towers from the Socialist Republic of Vietnam. See Sonha's August 29, 2013, SV Submission at Exhibit 7 (containing the Preliminary Surrogate Value Memorandum for Utility Scale Wind Towers from the Socialist Republic of Vietnam, unchanged in Utility Scale Wind Towers From the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value, 77 FR 75984 (December 26, 2012)).

⁴³ See Preliminary SV Memorandum.

⁴⁴ The burden of building an adequate record to, among other things, value factors of production, rests with interested parties to the proceeding, and not with the Department. See *QVD Food*, 658 F.3d at 1324.

thereby prevents Commerce from determining the best available information.”⁴⁵ The Department did not compare the Bhorukha financial statement data with the GTA India import data to determine if they were equally accurate or specific, but merely cited to the non-contemporaneity of the Bhorukha data. The choice of using Bhorukha price data as a reliable source to value argon and similar FOPs is supported by recent Department practice.

Petitioners’ Rebuttal:

- The Department should not change the valuation of Sonha’s argon and hydrogen FOPs based on information derived from Infodrive. Infodrive data indicate that both hydrogen and argon were shipped in a certain number of pieces and kg, which does not corroborate the shipment data reported in GTA, which is in kg.
- In the past, the Department has rejected Infodrive data as unusable to assess whether GTA data are aberrational when reporting units are mixed.⁴⁶
- The Bhorukha financial statements are not “a little bit ‘non-contemporaneous,’” but are sixteen or seventeen years non-contemporaneous.

Department’s Position: For the final determination, we have not changed our valuation of Sonha’s argon and hydrogen. Prior to the *Preliminary Determination*, Sonha had submitted Bhorukha’s financial statements for the fiscal year ending October 31, 1996.⁴⁷ Sonha also submitted Infodrive data to substantiate its claim that argon and hydrogen SVs from GTA are not specific to the argon and hydrogen FOPs consumed by Sonha.⁴⁸ However, in the *Preliminary Determination*, we valued argon with the HTS category 2804.21 - “Argon” and hydrogen with the HTS category 2804.10 - “Hydrogen.”⁴⁹ After examination of the record evidence with respect to GTA-based SVs and the prices from Bhorukha, we preliminarily determined that Bhorukha’s prices are non-contemporaneous. We also determined the Infodrive data do not match GTA shipments due to various units of measure.⁵⁰

To rebut the Department’s conclusion that Infodrive data insufficiently cover GTA imports, Sonha shifts the argument from the units of measure and quantity to the total value of the shipments. According to Sonha, because Infodrive-based total value is higher than the GTA-based total value, Infodrive must cover all GTA-based shipments of argon and hydrogen. Sonha further emphasizes the corroboration of Infodrive data by pointing out that the list of countries of imports between Infodrive and GTA are the same. However, we agree with Petitioners that Denmark imports of argon are in cylinders,⁵¹ and there is no possibility of reconciling the cylinders to kg as we do not know how many kgs are in a cylinder. For example, the larger total

⁴⁵ *Home Meridian International Inc. D/B/A Samuel Lawrence Furniture Co. and Import Services, Inc. v. United States*, slip op. 12-120 (CIT Sept. 19, 2012).

⁴⁶ See *Frontseating Service Valves From the People’s Republic of China: Final Results of the 2008-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 76 FR 70706 (November 15, 2011) and accompanying IDM at Comment 3.

⁴⁷ See Sonha’s August 29, 2013, SV Submission, at Exhibit 5.

⁴⁸ See Submission from Sonha, “Sonha Surrogate Value Rebuttal Submission: Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam (A-552-816),” dated September 17, 2013, at Exhibit 3.

⁴⁹ See Preliminary SV Memorandum at 5 and Attachment 1.

⁵⁰ See *id.*

⁵¹ See Sonha’s September 17, 2013, SV Submission, at Exhibit 3A.

value of Infodrive could indicate that there were additional shipments of merchandise compared to those reported in GTA. Moreover, GTA data indicate total imports of argon from the United States equal 394 kg, whereas Infodrive data show the U.S. imports to be 12 kg.⁵² Thus, the fact that the total value of Infodrive data exceeds the total value of GTA data does not necessarily mean that the two sources are reconciled and that Infodrive data corroborate GTA data. Based on the foregoing analysis, we continue to find that Infodrive data do not render GTA data unusable.

Finally, Sonha argues that the Infodrive data on the record of this investigation pass the three-part test for applying Infodrive data to corroborate GTA import data.⁵³ The Department has at times accepted Infodrive data to corroborate GTA data when: 1) there is direct and complete evidence from Infodrive showing that imports from a particular country do not contain the product in question; 2) a significant portion of the overall imports under the relevant HTS category is represented by the Infodrive India data; and 3) distortions of the AUV in question can be demonstrated.⁵⁴ However, we find that the Infodrive data fail the first part of the test as there is no direct link between the Infodrive and GTA data for argon, as Denmark imports are in cylinders in Infodrive and in kg in GTA; U.S. imports are in kg but do not match; and the United Kingdom (UK) imports are close but are not the same.⁵⁵ Therefore, we agree with Petitioners that nothing in the Infodrive data indicates that the GTA data are unreliable or do not match Sonha's own argon with the exception of diborane argon from the UK that does not match the UK shipment of argon in GTA.⁵⁶ We also agree with Petitioners that when reporting units are mixed, the Department finds Infodrive data unusable to corroborate GTA data.⁵⁷ As we have not established a direct link between Infodrive and GTA data, we find Sonha's argument that argon and hydrogen prices are further distorted by air freight and packing expenses to be moot because those expenses do not relate directly to the specific shipments listed in GTA data.

Sonha further argues that the Bhorukha price for commercial grade argon is the best available data for valuing Sonha's argon FOP. With respect to the Department finding Bhorukha as a reliable source in *Wind Towers from Vietnam*, we find that we do not have sufficient information to compare the record of that investigation and our record.⁵⁸ We note that, the Department valued oxygen and argon using Bhorukha's price and not hydrogen and argon.⁵⁹ Second, we

⁵² *Id.*; see also Sonha's August 29, 2013, SV Submission, at Exhibit 5.

⁵³ See *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 73 FR 49162 (August 20, 2008) and accompanying IDM at Comment 1.D.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ See *Frontseating Service Valves From the People's Republic of China: Final Results of the 2008-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 76 FR 70706 (November 15, 2011) and accompanying IDM at Comment 3.

⁵⁸ See *Utility Scale Wind Towers From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 77 FR 46058 (August 2, 2012) ("*Wind Towers from Vietnam*"), unchanged in *Utility Scale Wind Towers From the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value*, 77 FR 75984 (December 26, 2012) and accompanying IDM at Comment 8 (continuing to rely on Bhorukha financial statement for oxygen, but changing reliance from Bhorukha's gaseous oxygen to liquid oxygen to align with respondent's experience).

⁵⁹ See Sonha's August 29, 2013, SV Submission, at Exhibit 5.

have no information on the record of the instant case regarding what alternative SVs were on the record of *Wind Towers from Vietnam* and whether GTA data were available. Finally, we have no record information establishing the type of argon gas used by the respondent in *Wind Towers from Vietnam*.

Similar to argon, we find that there is no direct link between the quantities of hydrogen reported in Infodrive and GTA data. Infodrive data indicate total imports of 16 kg from the UAE, whereas GTA data indicate 25 kg.⁶⁰ Similarly, Infodrive data indicate total imports of 7.18 kg from the United States, whereas GTA data indicate 102 kg.⁶¹ As both quantities are lower in Infodrive, it is not clear why the total value is higher. Therefore, we find that Infodrive data do not corroborate the GTA data used by the Department to calculate Sonha's hydrogen FOP. We disagree with Sonha's claim that the small percentages of data that appear in Infodrive indicate that GTA imports are not specific to Sonha's hydrogen FOP because in order to corroborate GTA data Infodrive data should be directly linked to those in GTA. The fact that some data are perhaps covered by Infodrive is not an evidence of the whole universe of GTA data and the remaining portion of GTA is specific to Sonha's input based on the description of the HTS category. Finally, the UAE AUV for hydrogen is 9,014.24 Rs in Infodrive, whereas the UAE AUV in GTA is 5,712 Rs. Again, we find no correlation between Infodrive and GTA other than the lists of country names of import.

Based on the foregoing, we continue to find that GTA HTS categories 2804.10 – “Hydrogen” and 2804.21 – “Argon” are the best available data to value Sonha's hydrogen and argon as they are contemporaneous, specific, and are in the same units of measure as Sonha's argon and hydrogen FOPs.⁶²

Comment 5: Adjustment of Brokerage and Handling Charges

Sonha's Argument:

- The Department should adjust Sonha's B&H charges by 28.2 MT for a dry 20-foot container load as provided by Maersk, instead of a hypothetical 10 MT.⁶³ Alternatively, the Department should use Sonha's average actual net weight used in each 20-foot container.

Petitioners' Rebuttal:

- The Department should not use 28.2 MT listed in the Maersk data because it is defined as a payload of up to 28.2 MT.⁶⁴ If the Department intends to adjust the weight for Sonha's B&H charges, it should use Sonha's actual average weight for a 20-foot container.

Department's Position: For the final determination, we have updated Sonha's B&H charges by adjusting the container weight by Sonha's actual average load weight per 20-foot container.⁶⁵ In

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² See Final Analysis Memo, at Attachment 3.

⁶³ *Id.*, at Exhibit 10.

⁶⁴ *Id.*

⁶⁵ See Final Analysis Memo at 2 and Attachments 3-4; see also Submission from Sonha, “Sonha Sections C and D Responses: Antidumping Duty Investigation of Welded Stainless Pressure Pipe from Vietnam (A-552-816),” dated August 28, 2013, at Exhibit C-25.

the *Preliminary Determination*, we applied the load weight of 10 MT because it is normally the assumed weight for the B&H charges in the World Bank's *Doing Business* publications. However, after careful examination of the record, specifically *Doing Business in India 2013*, we find that the assumed weight of 10 MT is not referenced in that publication.⁶⁶ Therefore, we have revised the weight applied to the B&H charges to apply Sonha's actual average load weight per 20-foot container.

Additionally, we agree with Petitioners that the Maersk shipping line data use a maximum weight capacity and not an actual weight of the 20-foot container.⁶⁷ Accordingly, we find Sonha's 20-foot container load weight to be more appropriate weight for determining Sonha's SV for B&H charges because it represents the actual weight of WSPP. Therefore, for the final determination, we have divided the B&H charges from *Doing Business in India 2013* by Sonha's actual load weight of WSPP for a 20-foot container.⁶⁸

Comment 6: Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Less-Than-Fair-Value Investigations

Sonha's Argument:

- The Department should reinstate its previous targeted dumping regulation, which was illegally withdrawn.
- The Department's withdrawal of its targeted dumping regulation is unlawful because it denied parties due process in addressing the issue and methodology. The CIT held in *Gold E. Paper (Jiangsu) Co. v. United States*, 918 F. Supp. 2d 1317, 1319-1334 (Ct. Int'l Trade 2013) that the Department's withdrawal was unlawful, and the Court agreed with that holding in *Baroque Timber Indus. (Zhongshan) Co. v. United States*, 925 F. Supp. 2d 1332, 1340-1343 (Ct. Int'l Trade 2013). The Department subsequently issued a notice pursuant to *Gold E. Paper* calling for comments on the withdrawn regulation, and there is no doubt that the Department is still bound by the regulation.
- Consequently, the Department should revise its analysis to conform with the withdrawn regulations, including the application of the "limiting" rule, 19 CFR 351.414(f)(2) (1997).

Petitioner's Rebuttal:

- The Department should determine for this final determination that the question of using the targeted dumping analysis is moot because it used the average-to-average method in its *Preliminary Determination*, and, therefore, this would be a hypothetical exercise.

Department's Position: As in the *Preliminary Determination*, for the final determination the Department has continued to use the standard average-to-average method to calculate the estimated weighted-average dumping margin for Sonha.⁶⁹ Therefore, Sonha's arguments are moot.

⁶⁶ See Sonha's August 29, 2013, SV submission at Exhibit 10.

⁶⁷ *Id.*

⁶⁸ See Final Analysis Memo at 2 and Attachments 3-4.

⁶⁹ See *Preliminary Determination*, and accompanying Preliminary Decision Memorandum at 13-15.

Comment 7: Differential Pricing Analysis

Sonha's Argument:

- Even under a differential pricing analysis, the Department must limit its application of the average-to-transaction method to those sales which are targeted and dumped.
- The Department must consider “why” a “pattern of targeting” exists “and if the variance is based on a valid business reason, the Department should conclude that the merchandise is not target dumped.” Sonha presents several hypotheses to explain why its prices might vary; the Department should consider these and accordingly not find these sale prices to be “target dumped.”
- The Cohen’s *d* test “is not a recognized statistical measure whose purpose is to identify ‘targeted sales’.” Rather it is a tool whose purpose is to measure, in standardized units, the difference between two means, *i.e.*, the effect size. The Cohen’s *d* test used in the context of “the targeted dumping analysis” fails to account for the relative magnitude of the difference between the mean values of the two groups.
- The Department’s application of the Cohen’s *d* test fails to identify targeting, “which by definition consists of sales below a certain base level” because it considers sales that are both below and above the average as passing the Cohen’s *d* test. Therefore, the Department should only consider sales which are below the mean price (*i.e.*, a positive result) to be consistent “with the very premise of targeted dumping.”
- In calculating the Cohen’s *d* coefficient, the pooled standard deviation (*i.e.*, the denominator of this coefficient) should be calculated as a weighted average of the variances of the test and comparison groups and not the simple average.
- The Department should control for time when evaluating whether there exists a pattern of prices that differ significantly among purchasers or regions.
- The Department should eliminate higher-priced sales from its Cohen’s *d* test as part of the test group because “such sales are not being dumped, much less target dumped, since these were sold at more than their fair value.”
- The Cohen’s *d* coefficient “says nothing about the relative magnitude of the difference between the two mean values” since it is only measuring the difference in the mean values of the test and comparison groups based on “the variability within the overall population, *i.e.*, its pooled standard deviation.” Thus, when there is little variability in the data, a “de minimis price difference,” *i.e.* “0.5%,” could lead to “an improper finding of targeting.” Instead, Sonha asserts that the Department should measure the difference in the mean values relative to the absolute value of these mean values.

Petitioner's Rebuttal:

- In the *Preliminary Determination*, the Department used the average-to-average method to calculate the rate for Sonha. This set of circumstances and analysis is similar to a previous decision the Department made in which it decided to use the average-to-average method.⁷⁰
- Therefore, as was done in the prior case, the Department should simply not address hypothetical issues and determine, in this investigation, that this issue is moot.

⁷⁰ See *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 17503 (March 28, 2014) and corresponding Issues and Decision Memorandum at 15-16.

Department's Position: As in the *Preliminary Determination*, for the final determination the Department has continued to use the standard average-to-average method to calculate the estimated weighted-average dumping margin for Sonha.⁷¹ Therefore, Sonha's arguments are, in fact, moot.

RECOMMENDATION:

Based on our analysis of the comments received, we recommend adopting the above position. If accepted, we will publish the final determination of this investigation and the final weighted-average dumping margins in the *Federal Register*.

AGREE_____ DISAGREE_____

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Date

⁷¹ See *Preliminary Determination*, and accompanying Preliminary Decision Memorandum at 13-15.

ACRONYM AND ABBREVIATION TABLE

All cites in this table are listed alphabetically by acronym/abbreviation

<u>Acronym/Abbreviation</u>	<u>Full Name</u>
Act	Tariff Act of 1930, as amended
AUV	Average Unit Value
B&H	Brokerage and Handling
Bhandari	Bhandari Foils & Tubes Limited
Bhorukha	Bhorukha Gases Limited
CEA	Central Electricity Authority
CIT	United States Court of International Trade
CFR	Code of Federal Regulations
Department	Department of Commerce
Final Analysis Memo	Welded Stainless Pressure Pipe from the Socialist Republic of Vietnam: Analysis of the Final Determination Margin Calculation for Sonha International Corporation
FOP(s)	Factor(s) of Production
HTS	Harmonized Tariff Schedule
GTA	Global Trade Atlas
IDM	Issues and Decision Memorandum
Infodrive	Infodrive India Pvt. Ltd.
Kg	Kilogram
KV	Kilovolt
kWh	Kilowatt Hour
Maersk	Maersk Line
MT	Metric Ton
NME	Non Market Economy
Petitioners	Bristol Metals, LLC, Felker Brothers Corp., and Outokumpu Stainless Pipe, Inc.
POI	Period of Investigation
Prakash	Prakash Steelage Limited
Preliminary SV Memorandum	Investigation of Welded Stainless Pressure Pipe from the Socialist Republic of Vietnam: Surrogate Values for the Preliminary Determination
Ratnamani	Ratnamani Metals and Tubes Ltd.
Reliable	Reliable Pipes & Tubes Ltd.
Rs	Rupees
Sonha	Sonha International Corporation
SG&A	Selling, General, and Administrative
SV	Surrogate Value
UAE	United Arab Emirates
VAT	Value-Added Tax
VE	Verification Exhibit
Verification Report	Memorandum Regarding: Verification of Sales and Factors

Responses of Sonha International Corporation in the
Antidumping Investigation of Welded Stainless Steel Pipe
from the Socialist Republic of Vietnam, dated February 26,
2014

Vietnam
WSPP

Socialist Republic of Vietnam
Welded Stainless Pressure Pipe