



UNITED STATES DEPARTMENT OF COMMERCE  
International Trade Administration  
Washington, D.C. 20230

A-552-818  
Investigation  
Public Document  
AD/CVD VI: EAA, DC

DATE: December 17, 2014

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

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

SUBJECT: Decision Memorandum for the Preliminary Determination of the  
Less-Than-Fair-Value Investigation of Certain Steel Nails from the  
Socialist Republic of Vietnam

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## SUMMARY

The Department of Commerce (Department) preliminarily determines that certain steel nails (nails) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is October 1, 2013, through March 31, 2014. The estimated weighted-average dumping margins of sales at LTFV are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

## BACKGROUND

On May 29, 2014, the Department received an antidumping duty (AD) petition concerning imports of nails from Vietnam filed in proper form by Mid-Continent Steel & Wire, Inc., the petitioner in this investigation.<sup>1</sup> The Petition was accompanied by a countervailing duty (CVD) petition.

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<sup>1</sup> See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam, dated May 29, 2014 (Petition).



The Department initiated the less-than-fair-value investigation of nails from Vietnam on June 25, 2014.<sup>2</sup> On July 18, 2014, the U.S. International Trade Commission (ITC) preliminary determined that there is a reasonable indication that an industry in the United States was materially injured by reason of imports of nails from Vietnam.<sup>3</sup>

The Department issued an antidumping duty questionnaire on July 28, 2014, to which mandatory respondents submitted timely responses. The respondents submitted timely responses to supplemental questionnaires through December 5, 2014, and Petitioner commented on several of the questionnaire responses.<sup>4</sup>

On December 9, 2014, Region Industries Co., Ltd. and United Nail Products Co., Ltd. requested a postponement of the final determination and an extension of provisional measures in the event of an affirmative preliminary determination.<sup>5</sup> On December 10, 2014, Petitioner requested a postponement of the final determination in the event of a negative preliminary determination.<sup>6</sup>

### **Postponement of Preliminary Determination**

On October 10, 2014, Petitioner requested that the deadline for the preliminary determination be postponed until no later than 182 days after the initiation of the investigation. The Department granted Petitioner's request and on October 22, 2014, postponed the preliminary determination by 42 days.<sup>7</sup>

### **Postponement of Final Determination and Extension of Provisional Measures**

On December 9, 2014, Region Industries Co., Ltd. and United Nail Products Co., Ltd. requested that, pursuant to section 735(a)(2) of the Act, the Department postpone the final determination and extend the provisional measures from four months to six months. In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b) and (e), and because (1) our preliminary determination is affirmative, (2) the requesting exporters and producers account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and postponing the final determination until no later than 135 days

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<sup>2</sup> See *Certain Steel Nails From India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 79 FR 36019 (June 25, 2014) (*Initiation Notice*).

<sup>3</sup> See *Certain Steel Nails From India, Korea, Malaysia, Oman, Taiwan, Turkey, and Vietnam: Determinations*, 79 FR 42049 (July 18, 2014).

<sup>4</sup> The public record of the review, including all public or public versions of correspondence filed by parties or the Department, may be accessed electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to guest and registered users at <http://access.trade.gov> and is also available to the public in the Central Records Unit, room 7046 of the main Department of Commerce building.

<sup>5</sup> See Letter from Region Industries Co., Ltd. and United Nail Products Co., Ltd., "Certain Steel Nails from Vietnam; Extension Request for Final Results," dated December 9, 2014.

<sup>6</sup> See Letter from Petitioner, "Certain Steel Nails from Vietnam: Extension Request of Final Determination," dated December 10, 2014.

<sup>7</sup> *Certain Steel Nails From the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Postponement of Preliminary Determination of Antidumping Duty Investigations*, 79 FR 63082 (October 22, 2014).

after the publication of the accompanying notice of the preliminary determination in the *Federal Register*. Moreover, we are extending provisional measures from four months to a period not to exceed six months. The suspension of liquidation described in the accompanying preliminary determination notice will be extended accordingly.

## **PERIOD OF INVESTIGATION**

The period of investigation is October 1, 2013, through March 31, 2014. This period corresponds to the two most-recent fiscal quarters prior to the month in which the Petition was filed, or May 2014.<sup>8</sup>

## **SCOPE OF INVESTIGATION**

The merchandise covered by this investigation is certain steel nails having a nominal shaft length not exceeding 12 inches.<sup>9</sup> Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25.

Excluded from the scope of this investigation are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25.

Also excluded from the scope of this investigation are steel nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also excluded from the scope of this investigation are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.20.00 and 7317.00.30.00.

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<sup>8</sup> See 19 CFR 351.204(b)(1).

<sup>9</sup> The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

Also excluded from the scope of this investigation are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (“HRC”), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of this investigation are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of this investigation are thumb tacks, which are currently classified under HTSUS 7317.00.10.00.

Certain steel nails subject to this investigation are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Certain steel nails subject to this investigation also may be classified under HTSUS subheading 8206.00.00.00.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

## SCOPE COMMENTS

In accordance with the preamble to the Department’s regulations, we set aside a period for interested parties to raise issues regarding product coverage.<sup>10</sup> The Department specified that any such comments were due by July 8, 2014, which was 20 calendar days from the signature date of the *Initiation Notice*, and any rebuttal comments were due by July 18, 2014.<sup>11</sup>

On July 8, 2014, IKEA Supply AG and IKEA Distributions Services Inc. (collectively IKEA), Target Corporation, and The Home Depot, interested parties in the investigation, each submitted comments to the Department, expressing concern that the scope would cover nails that were packaged with other types of merchandise (*e.g.*, ready-to-assemble furniture, *etc.*) for use with such other merchandise. These parties believe the existing scope exclusion for nails numbering less than 25 is inadequate, and urge that the language of the scope be modified to broaden the exclusion of nails packaged with non-subject merchandise. On July 18, 2014, Petitioner submitted rebuttal comments, noting the language of the scope as written is clear, and rejecting the aforementioned parties’ proposed changes. On October 17, 2014, Target Corporation and The Home Depot submitted additional comments, reiterating their concerns regarding the coverage of nails packaged with non-subject merchandise. On October 24, 2014, Petitioner submitted additional comments, again advocating that the Department reject the arguments of Target Corporation and The Home Depot. On November 3, 2014, IKEA also submitted additional comments, reiterating the concerns it had expressed in its earlier submission.

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<sup>10</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296 (May 19, 1997).

<sup>11</sup> See *Initiation Notice at 36020*.

We are now evaluating the comments received but, for purposes of this preliminary determination, no change to the scope is being made at this time.

## RESPONDENT SELECTION

Section 777A(c)(1) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted-average dumping margin determinations because of the large number of exporters and producers involved in an investigation. When the Department limits the number of exporters examined in an investigation pursuant to section 777A(c)(2) of the Act, section 782(a) of the Act directs the Department to calculate individual weighted-average dumping margins for companies not initially selected for individual examination who voluntarily provide the information requested of the mandatory respondents if: (1) the information is submitted by the due date specified for the mandatory respondents; and, (2) the number of such companies that have voluntarily provided such information is not so large that individual examination would be unduly burdensome and inhibit the timely completion of the investigation.

In the *Initiation Notice*, the Department notified parties that, in accordance with our standard practice for respondent selection in cases involving non-market economy (NME) countries, we intended to issue quantity-and-value questionnaires to each potential respondent and base respondent selection on the responses received by July 2, 2014.<sup>12</sup> The Department also stated that exporters/producers of nails from Vietnam that did not receive quantity-and-value questionnaires by mail could still submit a quantity-and-value response and could obtain one from the Enforcement and Compliance website.

The Department also notified parties in the *Initiation Notice* of the application process by which exporters and producers may obtain separate-rate status in NME investigations.<sup>13</sup> The process requires exporters and producers to submit a separate-rate application (SRA) and to demonstrate an absence of both *de jure* and *de facto* government control over their export activities. The *Initiation Notice* stated that the SRA was due 60 days after publication of the notice.

On June 27, 2014, the Department mailed quantity-and-value questionnaires to the 15 Vietnamese exporters and/or producers of nails named in the Petition. The Department received five timely responses to the questionnaire and four responses from companies confirming that they neither produced nor exported the merchandise under investigation.<sup>14</sup> Two of the questionnaires were undeliverable due to incorrect addresses and four companies received the questionnaire but did not respond to it.<sup>15</sup> Based on a review of the applicable statutory provisions and the timely responses to the questionnaire, we selected the two largest

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<sup>12</sup> *Id.* at 36024.

<sup>13</sup> *Id.*

<sup>14</sup> For a detailed account of the delivery of and response to the Department's quantity-and-value questionnaire, see Memorandum to the File from Edythe Artman, International Trade Compliance Analyst, regarding "Delivery of and Responses to Quantity-and-Value Questionnaires," dated July 17, 2014 (Quantity-and-Value Responses Memorandum).

<sup>15</sup> *Id.*

producers/exporters of subject merchandise by volume during the period of investigation as mandatory respondents in the investigation – namely, Region Industries Co., Ltd. (Region Industries) and United Nail Products Co., Ltd. (United Nail).<sup>16</sup>

## DISCUSSION OF THE METHODOLOGY

### Non-Market Economy Country

In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the Department. The Department considers Vietnam to be a NME country.<sup>17</sup> The Department has not revoked this status. Therefore, we continue to treat Vietnam as a NME country for purposes of this preliminary determination.

### Separate Rates Determination

In proceedings involving NME countries, the Department maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.<sup>18</sup> The Department's policy is to assign all exporters of merchandise under consideration that are in a NME country this single rate unless an exporter can demonstrate that it is sufficiently independent, so as to be entitled to a separate rate.<sup>19</sup> The Department analyzes if each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*<sup>20</sup> and further developed in *Silicon Carbide*.<sup>21</sup> According to this separate-rate test, the Department will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, however, the Department determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

The Department preliminarily grants Region Industries a separate rate, as it provided evidence that it is a wholly foreign-owned limited company.<sup>22</sup> Accordingly, a separate-rate analysis is not necessary for this company. The Department also preliminarily grants a separate rate to Kosteel Vina Limited Company (Kosteel Vina), one of the four companies that filed a timely response to

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<sup>16</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations from Edythe A. Artman, International Trade Compliance Analyst, regarding "Less-Than-Fair-Value Investigation of Certain Steel Nails from the Socialist Republic of Vietnam: Respondent Selection," dated July 24, 2014.

<sup>17</sup> See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Review; 2011–2012*, 78 FR 55676 (September 11, 2013) (*Ninth AR Prelim*), unchanged in *Ninth AR Final*, 79 FR 19053.

<sup>18</sup> See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).

<sup>19</sup> See *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

<sup>20</sup> *Id.*

<sup>21</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

<sup>22</sup> See Region Industries' Section A questionnaire response, dated August 24, 2014 (Region Industries' AQR), at 7-8 and Appendix 3 and 4; Region Industries' supplemental questionnaire response, dated October 29, 2014.

the quantity-and-value questionnaire and a timely SRA.<sup>23</sup> In its application, Kosteel Vina provided evidence that it is a wholly foreign-owned limited company and, thus, a separate-rate analysis is not necessary for this company.<sup>24</sup>

We further preliminarily determine that United Nail is eligible to receive a separate rate, as explained below.

#### **A. Absence of *De Jure* Control**

The evidence provided by United Nail supports a preliminary finding of an absence of *de jure* government control based on the following: (1) an absence of restrictive stipulations associated with the exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the company; and (3) the implementation of formal measures by the government decentralizing control of Vietnamese companies.<sup>25</sup>

#### **B. Absence of *De Facto* Control**

The evidence provided by United Nail supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that it: (1) set its own export prices (EPs) independent of the government and without the approval of a government authority; (2) has the authority to negotiate and sign contracts and other agreements; (3) maintains autonomy from the government in making decisions regarding the selection of management; and (4) retains the proceeds of its respective export sales and makes independent decisions regarding the disposition of profits or financing of losses.<sup>26</sup>

Therefore, we find that the evidence placed on the record by United Nail demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, the Department preliminarily grants a separate rate to United Nail.

#### **C. Separate Rate Calculation for Companies Not Individually Examined**

Normally, the Department's practice is to assign to separate-rate companies that were not individually examined a rate equal to the average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available.<sup>27</sup>

Because Kosteel Vina was not selected for individual examination in this investigation but preliminarily found to qualify for a separate rate, we calculated a weighted-average dumping

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<sup>23</sup> See Quantity-and-Value Responses Memorandum at 1-2.

<sup>24</sup> See Kosteel's Separate Rate Application, dated August 25, 2014, at 2-10 and exhibits 3, 4, 6 and 11.

<sup>25</sup> See United Nail's Section A questionnaire response, dated August 29, 2014 (United Nail's AQR), at 4-7.

<sup>26</sup> See *Id.* at 7-11 and United Nail's Sections A and C supplemental questionnaire response, dated October 3, 2014, at 3.

<sup>27</sup> See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Review in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

margin for this company based on the weighted-average dumping margins, which are above *de minimis* and not based entirely on facts otherwise available, of the two mandatory respondents.

### **The Vietnam-wide Entity**

As explained in the “Respondent Selection” section above, we provided the opportunity for all producers/exporters of Vietnamese nails to submit timely responses to the quantity-and-value questionnaire and the SRA in order to receive consideration for separate-rate status. Although we issued questionnaires to 15 producers/exporters named in the Petition, four of these companies opted not to respond.<sup>28</sup> We have treated those that did not respond to the quantity-and-value questionnaire as part of the Vietnam-wide entity as they do not qualify for a separate rate.<sup>29</sup>

### **Application of Adverse Facts Available**

Section 776(a)(2) of the Act provides that, if an interested party: (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the AD statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available (FA) in reaching the applicable determination.

Information on the record of this investigation indicates that the Vietnam-wide entity was unresponsive to the Department’s requests for information. Specifically, as discussed above, certain companies did not respond to our questionnaires requesting quantity-and-value information. As a result, pursuant to section 776(a)(2)(A) of the Act, we find that the use of FA is appropriate to determine the rate for the Vietnam-wide entity.<sup>30</sup>

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information.<sup>31</sup> We find that, because

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<sup>28</sup> Specifically, we received no responses from Cong Ty TNHH Công Nghệ Nhựa A Châu, Kim Tin Group, Megastar Co., Ltd. and Simone Accessories Collection, despite tracking information indicating their receipt of delivery of the quantity-and-value questionnaire.

<sup>29</sup> See, e.g., *Prestressed Concrete Steel Wire Strand From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 74 FR 68232, 68236 (December 23, 2009) (*PC Strand from the PRC*) unchanged in *Prestressed Concrete Steel Wire Strand From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 28560 (May 21, 2010); see also *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People’s Republic of China*, 70 FR 77121, 77128 (December 29, 2005), unchanged in *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People’s Republic of China*, 71 FR 29303 (May 22, 2006).

<sup>30</sup> See *PC Strand from the PRC*, 74 FR at 68236.

<sup>31</sup> See also *Statement of Administrative Action accompanying the Uruguay Round Agreements Act (URAA)*, H.R. Doc. 103-316, 870 (1994) (SAA); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000).

the Vietnam-wide entity did not respond to our requests for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the FA, an adverse inference is appropriate.

### **Rate for the Vietnam-Wide Entity**

When employing an adverse inference, section 776(b) of the Act indicates that the Department may rely upon information derived from the petition, the final determination from the less-than-fair-value investigation, a previous administrative review, or any other information placed on the record. The Department's practice, when selecting an adverse facts available (AFA) rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the AFA rule to induce respondents to provide the Department with complete and accurate information in a timely manner."<sup>32</sup> As guided by the SAA, the information used as AFA should ensure that an uncooperative party does not benefit by failing to cooperate by obtaining a more favorable result than if it had cooperated fully.<sup>33</sup> It is the Department's practice to select, as AFA, the higher of the: (a) highest margin alleged in the petition; or (b) the highest calculated rate of any respondent in the investigation.<sup>34</sup> As AFA, we preliminarily assigned a rate of 323.99 percent to the Vietnam-wide entity, the highest margin alleged in the petition, as corrected by the petitioners prior to our initiation of the investigation.<sup>35</sup>

### **Corroboration**

Section 776(c) of the Act provides that, when the Department relies upon secondary information, rather than information obtained in the course of the investigation, as FA, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the merchandise subject to this investigation, or any previous review under section 751 concerning the merchandise subject to this investigation."<sup>36</sup> To "corroborate" means the Department will satisfy itself that the secondary information to be used has probative value by examining the reliability and the relevance of the information. Independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. The AFA rate the Department used is drawn from the June 11, 2013, revised calculations for the petition at the Attachment. To

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<sup>32</sup> See *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55796 (August 30, 2002); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

<sup>33</sup> See SAA at 870.

<sup>34</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

<sup>35</sup> See Petitioner's revised calculations in response to Department instruction for Volume VIII of the petition, dated June 11, 2014, at Attachment; and *Initiation Notice*, 79 FR 36023.

<sup>36</sup> See *Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China*, 73 FR 6479, 6481 (February 4, 2008), quoting the SAA at 870.

corroborate the AFA rate we have selected, we compared it to transaction-specific dumping margins we found for the participating mandatory respondents Region Industries and United Nail. We found that the rate of 323.99 percent is reliable and relevant because it is within the range of Region Industries transaction-specific dumping margins.<sup>37</sup> Accordingly, we find the rate of 323.99 percent is corroborated within the meaning of section 776(c) of the Act.<sup>38</sup> The rate for the Vietnam-wide entity applies to all entries of nails except for entries produced and exported by the mandatory respondents.

### **Facts Available for Region Industries**

Region Industries reported the use of three tollers in the production of merchandise subject to the investigation. Two of the tollers performed electroplating on some of the nails, while a third performed heat treatment on some of the nails.<sup>39</sup> Region Industries obtained factor input information from one of the electroplating firms and the heat-treatment firm. The other toller did not respond to Region Industries request for factor-input information.<sup>40</sup> In particular, Region Industries explained that it was unable to induce cooperation from its unaffiliated toller; despite attempts made by Region Industries to obtain this information. Thus, we preliminary find that, pursuant to section 776(a)(1) of the Act, necessary information is missing from the record and, consequently, we are applying FA for the factor input information that was not provided by the one electroplating firm. As FA, we are relying on the input information provided by the electroplating firm that did respond to Region Industries' request for information, which is consistent with our past practice.<sup>41</sup>

### **Single-Entity Treatment**

To the extent that the Department's practice does not conflict with section 773(c) of the Act, the Department has, in prior cases, treated certain NME exporters and/or producers as a single entity if the facts of the case supported such treatment.<sup>42</sup> Pursuant to 19 CFR 351.401(f)(1), the Department will treat producers as a single entity, or "collapse" them, where: (1) those producers are affiliated; (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to

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<sup>37</sup> See page 119 of the margin calculation output, found in Attachment 2 of the Memorandum from Edythe Artman, International Trade Compliance Analyst, to the File, Analysis for the Preliminary Determination of the Less-than-Fair-Value Investigation of Certain Steel Nails from the Socialist Republic of Vietnam: Region Industries Co., Ltd, dated December 17, 2014.

<sup>38</sup> *Id.*

<sup>39</sup> See Region Industries' AQR at 21.

<sup>40</sup> See Region Industries' Section D questionnaire response, dated September 17, 2014 (Region Industries' DQR), at 7; and Region Industries' supplemental questionnaire response, dated November 21, 2014.

<sup>41</sup> See, e.g., *Certain Steel Nails From the People's Republic of China: Final Results of the First Antidumping Duty Administrative Review*, 76 FR 16379 (March 23, 2011), and accompanying Issues and Decision Memorandum at Comment 17.

<sup>42</sup> See *Certain Steel Nails From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination*, 73 FR 3928, 3932 (January 23, 2008), unchanged in *Certain Steel Nails From the People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 7254 (February 7, 2008) and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008).

restructure manufacturing priorities; and (3) there is a significant potential for manipulation of price or production.<sup>43</sup> In determining whether a significant potential for manipulation exists, 19 CFR 351.401(f)(2) states that the Department may consider various factors, including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether the operations of the affiliated firms are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.<sup>44</sup>

The court has recognized that when determining whether there is a significant potential for manipulation, 19 CFR 351.401(f)(2)(i), (ii), and (iii) are considered by the Department in light of the totality of the circumstances; no one factor is dispositive in determining whether to collapse the producers.<sup>45</sup>

Also, while 19 CFR 351.401(f) applies only to producers, the Department has found it to be instructive in determining whether non-producers should be collapsed or treated as a single entity and has used the criteria in the regulation in its analysis.<sup>46</sup>

Section 771(33) of the Act identifies persons that shall be considered “affiliated” or “affiliated persons,” including, *inter alia*: (1) members of a family, including brothers and sisters (whether by whole or half-blood), spouses, ancestors, and lineal descendants, (2) any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization; (3) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (4) any person who controls any other person and such other person.<sup>47</sup> Section 771(33) of the Act further states that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

We preliminarily determine that Region Industries and the company that exports its subject nails to the United States, Region International Co., Ltd. (Region International), are affiliated pursuant to section 771(33)(F) of the Act and that these companies should be treated as a single entity for

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<sup>43</sup> See, e.g., *Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review*, 63 FR 12764, 12774-12775 (March 16, 1998).

<sup>44</sup> See also, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From Taiwan*, 62 FR 51427, 51436 (October 1, 1997).

<sup>45</sup> See *Koyo Seiko Co., Ltd. v. United States*, 516 F. Supp. 2d 1323, 1346 (CIT 2007), citing *Light Walled Rectangular Pipe and Tube from Turkey: Notice of Final Determination of Sales at Less Than Fair Value*, 69 FR 53675 (September 2, 2004) and accompanying Issues and Decision Memorandum at Comment 10.

<sup>46</sup> See, e.g., *Honey From Argentina: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review*, 77 FR 1458, 1461-62 (January 10, 2012), unchanged in *Honey From Argentina: Final Results of Antidumping Duty Administrative Review*, 77 FR 36253 (June 18, 2012); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil*, 69 FR 76910 (December 23, 2004) and accompanying Issues and Decision Memorandum at Comment 5. The U.S. Court of International Trade (CIT) has found that collapsing exporters is consistent with a “reasonable interpretation of the antidumping duty statute.” See *Hontex Enterprises, Inc. v. United States*, 248 F. Supp. 2d. 1323, 1338 (CIT 2003).

<sup>47</sup> See sections 771(33)(E)-(G) of the Act.

antidumping purposes pursuant to 19 CFR 351.401(f).<sup>48</sup> These companies are both ultimately owned by and under common control of the same group of individuals<sup>49</sup> and, therefore, are affiliated in accordance with section 771(33)(F) of the Act. As explained in the proprietary Region Industries Single Entity Memo, there is significant common ownership and other shared operations between the producing affiliate and the exporting company.<sup>50</sup> We have also determined that there is a significant potential for the manipulation of price or production among these companies as evidenced by the level of common ownership, the degree of management overlap, and the intertwined nature of the operations of these companies.<sup>51,52</sup> Thus we have preliminarily treated these companies as a single entity.

### **Surrogate Country**

When the Department is investigating imports from a NME country, section 773(c)(1) of the Act directs it to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered to be appropriate by the Department. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (A) at a level of economic development comparable to that of the NME country; and (B) significant producers of comparable merchandise.<sup>53</sup> To determine which countries are at a comparable level of economic development, the Department generally relies solely on per capita gross national income (GNI) data from the World Bank's *World Development Report*.<sup>54</sup> In addition, if more than one country satisfies the two criteria noted above, the Department narrows the field of potential surrogate countries to a single country (pursuant to 19 CFR 351.408(c)(2), the Department prefers to value FOPs in a single surrogate country) based on data availability and quality.

In an August 20, 2014, letter to interested parties, we notified them of countries we had identified as being at the same level of economic development as Vietnam – namely, Bangladesh, India, Nicaragua, Nigeria, Pakistan, and the Philippines – and asked them to comment upon this listing of countries, as well as the selections of a surrogate country and surrogate values in the investigation. Both respondents and Petitioner filed timely comments on November 17, 2014 (*i.e.*, 30 days prior to the preliminary determination deadline). In its comments, Petitioner recommended that the Department select India as the primary surrogate country on the bases that India is a significant producer of comparable merchandise and was the

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<sup>48</sup> See Memorandum from Edythe Artman, International Trade Compliance Analyst, Enforcement & Compliance, Office VI, to Richard Weible, Director, Enforcement & Compliance, Office VI, regarding "Certain Steel Nails from the Socialist Republic of Vietnam: Affiliation and Single Entity Status" dated December 17, 2014 (Region Industries Single Entity Memo).

<sup>49</sup> See Region Industries' Supplemental Section A and C questionnaire response dated October 29, 2014. See also Region Industries Single Entity Memorandum.

<sup>50</sup> *Id.*

<sup>51</sup> See Region Industries Single Entity Memorandum.

<sup>52</sup> See 19 CFR 351.401(f)(2).

<sup>53</sup> For a description of the Department's practice, see Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1) available on the Department's website at <http://enforcement.trade.gov/policy/bull04-1.html>.

<sup>54</sup> *Id.*

best source for quality SV data.<sup>55</sup> In their joint submission, the respondents did not directly address the issue of surrogate-country selection but suggested surrogate values for FOPs based on Indian import data.

### A. Economic Comparability

Section 773(c)(4)(A) of the Act is silent with respect to how the Department may determine that a country is economically comparable to the NME country. As such, the Department's long standing practice has been first to identify those countries which are at the same level of economic development as Vietnam based on *per capita* gross national income (GNI) data reported in the World Bank's *World Development Report*.<sup>56</sup> We note that identifying potential surrogate countries based on GNI data has been affirmed by the U.S. Court of International Trade (CIT).<sup>57</sup>

As explained in the Department's *Policy Bulletin*, "{t}he surrogate countries on the list are not ranked."<sup>58</sup> This lack of ranking reflects the Department's long-standing practice that, for the purpose of surrogate country selection, the countries on the list "should be considered equivalent"<sup>59</sup> from the standpoint of their level of economic development based on GNI as compared to Vietnam's level of economic development and recognition of the fact that the concept of "level" in an economic development context necessarily implies a range of GNIs, not a specific GNI. This long-standing practice of providing a non-exhaustive list of countries at the same level of economic development as the NME-country fulfills the statutory requirement to value FOPs using data from "one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country..."<sup>60</sup> In this regard, "countries that are at a level of economic development comparable to that of the nonmarket economy country" necessarily includes countries that are at the same level of economic development as the NME country.

For this investigation, as stated above, the Department identified Bangladesh, India, Nicaragua, Nigeria, Pakistan, and the Philippines as countries at the same level of economic development as Vietnam based on the *per capita* gross national income data for these countries, obtained from the World Bank's *World Development Report 2014*.

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<sup>55</sup> See Petitioner's comments regarding "Surrogate Selection of Submission of Surrogate Value Data", dated November 17, 2014 at 2-8.

<sup>56</sup> See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Review; 2011-2012*, 78 FR 55676 (September 11, 2013), unchanged in *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2011-2012*, 79 FR 19053 (April 7, 2014) and accompanying Issues and Decision Memorandum at Comment I.A.

<sup>57</sup> See *Fujian Lianfu Forestry Co., Ltd. v. United States*, 638 F. Supp. 2d 1325 (CIT 2009).

<sup>58</sup> See *Policy Bulletin*.

<sup>59</sup> *Id.*

<sup>60</sup> See section 773(c)(4) of the Act.

## B. Significant Producer of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."<sup>61</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>62</sup> Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.<sup>63</sup> "In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced. How the Department does this depends on the subject merchandise."<sup>64</sup> In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.<sup>65</sup>

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.<sup>66</sup> Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"<sup>67</sup> it does not preclude reliance on additional or alternative metrics. In this case, because production data of comparable merchandise are not available, we first analyzed exports of comparable merchandise from the six countries, as a proxy for production data. We obtained export data using the Global Trade Atlas (GTA) for HTS 7317.00: Nails, Tacks, Drawing Pins, Staples (Other Than In Strips), And Similar Articles, Of Iron Or Steel, Excluding Such Articles With Heads Of Copper. The potential surrogate countries that reported export volumes for 2013 were

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<sup>61</sup> See *Policy Bulletin* at 2.

<sup>62</sup> The *Policy Bulletin* also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.* at note 6.

<sup>63</sup> See *Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

<sup>64</sup> See *Policy Bulletin* at 2.

<sup>65</sup> *Id.* at 3.

<sup>66</sup> See section 773(c) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

<sup>67</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).

as follows: (1) India (4,211,548 kilograms); (2) Nicaragua (10,233 kilograms); and (3) the Philippines (1,602 kilograms).<sup>68</sup>

### C. Data Availability

The *Policy Bulletin* states that, if more than one country is at a level of economic development comparable to that of the NME and is a significant producer, “then the country with the best factors data is selected as the primary surrogate country.”<sup>69</sup> Importantly, the *Policy Bulletin* explains further that “data quality is a critical consideration affecting surrogate country selection” and that “a country that perfectly meets the requirements of economic comparability and significant producer is not of much use as a primary surrogate if crucial factor price data from that country are inadequate or unavailable.”<sup>70</sup>

Section 773(c)(1) of the Act instructs the Department to value the FOPs based upon the best available information from an ME country or a countries that the Department considers appropriate. When considering what constitutes the best available information, the Department considers several criteria, including whether the SV data are contemporaneous, publicly available, tax and duty exclusive, represent a broad-market average, and are specific to the input.<sup>71</sup> The Department’s preference is to satisfy the breadth of the aforementioned selection criteria.<sup>72</sup> Moreover, it is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs.<sup>73</sup> The Department must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the “best” available SV for each input.<sup>74</sup>

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, the Department selects the primary surrogate country based on data availability and reliability.<sup>75</sup> When evaluating SV data, the Department considers several

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<sup>68</sup> See Memorandum to the File, from Edythe Artman and Dena Crossland, International Trade Compliance Analysts, regarding “Certain Steel Nails from the Socialist Republic of Vietnam: Surrogate Values for the Preliminary Determination of Less-Than-Fair-Value Investigation,” dated concurrently with this memorandum (Preliminary SV Memorandum).

<sup>69</sup> See *Policy Bulletin*.

<sup>70</sup> *Id.*

<sup>71</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People’s Republic of China*, 71 FR 53079, 53082 (September 8, 2006) (*Lined Paper*), and accompanying Issues and Decision Memorandum at Comment 3.

<sup>72</sup> See, e.g., *Administrative Review of Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940, 51943 (August 19, 2011), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>73</sup> See *Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) (*Sixth Mushrooms AR*), and accompanying Issues and Decision Memorandum at Comment 1; see also *Freshwater Crawfish Tail Meat from the People’s Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>74</sup> See, e.g., *Sixth Mushrooms AR*, 71 FR 40477 and accompanying Issues and Decision Memorandum at Comment 1.

<sup>75</sup> For a description of our practice, see *Policy Bulletin* 04.1.

factors, including if the values are publicly available, contemporaneous with the period of investigation, representative of a broad market average, tax- and duty-exclusive, and specific to the inputs being valued.<sup>76</sup>

Both Petitioner and the respondents suggested SVs based on Indian import or domestic data. As a result, the record contains usable Indian SVs for almost every FOP for which we need a SV. In addition, Petitioner and the respondents provided financial information of Indian producers of comparable merchandise to value factory overhead, selling, general, and administrative expenses, and profit.

Because India is a country identified by the Department to be economically comparable to Vietnam, one which is a significant producer of comparable merchandise, and one for which we have reliable record data to value most of the FOPs, we selected it as the primary surrogate country. Because we found India to satisfy the criteria for the selection of a primary surrogate country, it was not necessary to resort to the selection of an alternative surrogate country that was not as economically comparable to Vietnam.

### **Surrogate Value Comments**

Petitioner and Region Industries/United Nail filed SV comments and SV information with which to value the FOPs in this proceeding on November 17, 2014, and November 18, 2014, respectively. For a detailed discussion of the SVs used in this LTFV proceeding, *see* the “Factor Valuation Methodology” section below and the Preliminary SV Memorandum.<sup>77</sup>

### **Combination Rates**

In the *Initiation Notice*, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.<sup>78</sup> This practice is described in Policy Bulletin 05.1.<sup>79</sup>

### **Date of Sale**

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), “use the date of invoice, as recorded in the exporter or producer’s records kept in the normal course of business.” The date of sale is generally the date on which the parties agree upon all material terms of the sale. This normally includes the price, quantity, delivery terms, and payment terms.<sup>80</sup>

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<sup>76</sup> *Id.*

<sup>77</sup> *See* Preliminary SV Memorandum.

<sup>78</sup> *See Initiation Notice.*

<sup>79</sup> *See Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, dated April 5, 2005, found at: <http://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>80</sup> *See, e.g., Carbon and Alloy Steel Wire Rod From Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying Issue and Decision Memorandum at Comment 1; *Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.

Region Industries stated that the date of the sales invoice issued to the U.S. customer by Region International was the most appropriate date to select for date of sale because the material terms, including quantity and price, are set on that date.<sup>81</sup> Therefore, we are relying on this invoice date as the date of Region Industries' U.S. sales for this preliminary determination.<sup>82</sup>

United Nail indicated that the material terms of its U.S. sales occurred on the commercial invoice date and the commercial invoice date precedes the shipment date.<sup>83</sup> Therefore, we are relying on the commercial invoice as the date of sale for United Nail's U.S. sales for this preliminary determination.<sup>84</sup>

### **Export Price**

In accordance with section 772(a) of the Act, "the term 'export price' means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." The Department defined the U.S. price of merchandise under consideration based on the EP for all sales reported by Region Industries and United Nail. The Department calculated the EP based on the prices at which merchandise under consideration was sold to unaffiliated purchasers in the United States.

The Department made deductions, as appropriate, from the reported U.S. price for billing adjustments, movement expenses (*i.e.*, domestic inland freight, domestic brokerage and handling, international movement expenses, and marine insurance).<sup>85</sup> The Department based movement expenses on SVs for services purchased from Vietnamese companies.

### **Normal Value**

Section 773(c)(1) of the Act provides that the Department shall determine NV using the FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.<sup>86</sup> Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), the Department

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<sup>81</sup> See Region Industries' AQR at 16-17 and Region Industries' supplemental questionnaire response, dated October 28, 2014, at SA-6 through SA-7.

<sup>82</sup> See Region Industries' Preliminary Analysis Memorandum for additional information.

<sup>83</sup> See United Nail's AQR at 15; see also United Nail's Section C questionnaire response, dated September 11, 2014 (United Nail's CQR), at 10.

<sup>84</sup> See United Nail's Preliminary Analysis Memorandum for additional information.

<sup>85</sup> See section 772(c)(2)(A) of the Act. See also Region Industries' Section C questionnaire response at 17-21; and United Nail's Section C questionnaire response, dated September 11, 2014, at 17-19.

<sup>86</sup> See, *e.g.*, *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Lined Paper*.

calculated NV based on FOPs. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.<sup>87</sup>

### **Factor Valuation Methodology**

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by Region Industries and United Nail. To calculate NV, the Department multiplied the reported per-unit factor-consumption rates by publicly available SVs or ME purchase prices, where appropriate, as discussed below. Further, we added freight costs, based on surrogate freight rates, where appropriate, to the inputs that we valued using surrogates. Region Industries and United Nail stated that they recovered and sold certain by-products in the production of subject merchandise.<sup>88</sup> In calculating NV, we also granted by-product offsets for Region Industries and United Nail, based upon the reported by-product generated during the period of investigation.

#### **A. Market-Economy Prices**

Region Industries reported that it sourced three of its inputs, those of hard-drawn wire rod, drawing powder, and acrylic resin, from a ME country and paid for those inputs in U.S. dollars. However, these purchases were all made from affiliates in ME countries. Because these purchases were not made at arm's-length and Region Industries reported no ME purchases of the inputs to unaffiliated suppliers during the period of investigation, we have used SVs to calculate the costs of these inputs for our margin calculation, as consistent with our past practice.<sup>89</sup>

United Nail reported that it sourced one of its inputs, copper wire, from a ME country and paid the ME supplier in U.S. dollars. However, these purchases were all made from one of the ME countries the Department has deemed to have generally available export subsidies. Because ME purchases from an export subsidy country are not a reliable basis on which to value United Nail's copper wire, we have used SVs to calculate the costs of these inputs for our margin calculation, as consistent with our past practice.<sup>90</sup> For a detailed description of the values used for the reported ME inputs, *see* Region Industries' Preliminary Analysis Memorandum and United Nail's Preliminary Analysis Memorandum.

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<sup>87</sup> See section 773(c)(3)(A)-(D) of the Act.

<sup>88</sup> See Region Industries' DQR, at D-13 through D-15; and United Nail's Section D questionnaire response, dated September 18, 2014 (United Nail's DQR), at D-11 through D-13 and Exhibits D-6 and D-8.

<sup>89</sup> See *Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 26712 (May 9, 2012), and accompanying Issues and Decision Memorandum at Comment 22.

<sup>90</sup> See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 78 FR 17350 (March 21, 2013) and accompanying Issues and Decisions Memorandum at Comment XIII.

## B. Surrogate Values

When selecting the SVs, the Department considered, among other factors, the quality, specificity, and contemporaneity of the data.<sup>91</sup> As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory.<sup>92</sup> An overview of the SVs used to calculate weighted-average dumping margins for Region Industries and United Nail is below. A detailed description of all SVs used to calculate weighted-average dumping margins for the mandatory respondents can be found in the Preliminary SV Memorandum.

We used Indian import data, as published by Global Trade Atlas (GTA), and other publicly available sources from India to calculate SVs for Region Industries' and United Nail's FOPs. In accordance with section 773(c)(1) of the Act, the Department used the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are (1) non-export average values, (2) contemporaneous with, or closest in time to, the period of investigation, (3) product-specific, and (4) tax-exclusive.<sup>93</sup> The record shows that Indian import data obtained through GTA, as well as data from other Indian sources, are product-specific, tax-exclusive, and generally contemporaneous with the period of investigation.<sup>94</sup> In those instances where the Department could not obtain information contemporaneous with the period of investigation with which to value FOPs, the Department adjusted the SVs using, where appropriate, India's producer price index (PPI) or consumer price index in the case of labor. Both indices were published in the International Monetary Fund's (IMF) *International Financial Statistics*.

When calculating Indian import-based, per-unit SVs, the Department disregarded import prices that it has reason to believe or suspect may be dumped or subsidized. It is the Department's practice, guided by the legislative history, not to conduct a formal investigation to ensure that such prices are not dumped or subsidized; rather, the Department bases its decision on information that is available to it at the time it makes its determination.<sup>95</sup> In this case, the

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<sup>91</sup> See, e.g., *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 Issues and Decision Memorandum at Comment 9.

<sup>92</sup> See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

<sup>93</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

<sup>94</sup> See Preliminary SV Memorandum.

<sup>95</sup> See Omnibus Trade and Competitiveness Act of 1988, Conference Report, H.R. Rep. 100-576 at 590 (1988); *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30763 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007); *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR at 55039 (September 24, 2008).

Department has reason to believe or suspect that prices of exports from Indonesia and South Korea are subsidized. The Department found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, consequently, it is reasonable to infer that all exports from these countries to all markets may be subsidized.<sup>96</sup> Therefore, the Department has not used data from these countries in calculating Indian import-based SVs.

Additionally, the Department disregarded data from NME countries when calculating Indian import-based per-unit SVs. The Department also excluded from the calculation of Indian import-based per-unit SVs imports labeled as originating from an “unidentified” country because it could not be certain that these imports were not from either a NME country or a country with generally available export subsidies.<sup>97</sup>

We valued water using data from Maharashtra Industrial Development Corporation. This source provides industrial water rates within Maharashtra province for “inside industrial areas” and “outside industrial areas” from April 2009 through June 2009. These rates were still current as of December 2013, and, therefore, we did not inflate them.

We valued electricity using data published by India’s Central Electricity Authority. We selected these data because they were representative of broad market average prices, publicly available, and tax-exclusive. Because the rates listed in this source became effective on a variety of dates, we did not adjust for inflation.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in India. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in India that is published in *Doing Business 2014: India* by the World Bank.

We valued inland truck freight using data from the website <http://logistics.infobanc.com/logtruck.htm>. We valued inland water freight using price data for barge freight reported in *The Ministry of Shipping, Road Transport and Highways (India)* for the 2007-2008 period. We inflated the inland water transportation rate by using the appropriate inflator.

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<sup>96</sup> See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People’s Republic of China*, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7; *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; and *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.

<sup>97</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People’s Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People’s Republic of China*, 70 FR 24502 (May 10, 2005).

We valued marine and foreign inland insurance using a marine insurance rate offered by RJG Consultants. RJG Consultants is an ME provider of marine insurance. The rate is a percentage of the value of the shipment; thus we did not inflate or deflate the rate.

We valued ocean freight using data obtained from the Descartes Carrier Rate Retrieval Database (Descartes), which can be accessed via <http://descartes.com/>, which publishes international ocean freight rates offered by numerous carriers.<sup>98</sup> These rates are publicly available and cover a wide range of shipping rates which are reported on a daily basis. We did not inflate or deflate the rate cited in this survey because it is contemporaneous with the period of investigation.

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.<sup>99</sup> In *Labor Methodologies*, the Department explained that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.<sup>100</sup> Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook). The latest year for which ILO Chapter 6A reports national data for India is 2005.

The Department finds the two-digit description under Division 28 (*i.e.*, Manufacture of Fabricated Metal Products, Except Machinery and Equipment) of the ISIC-Revision 3 to be the best available information on the record because it is most specific to the industry being examined, and is, therefore, derived from industries that produce comparable merchandise. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using labor data reported by India to the ILO under Division 287 of ISIC-Revision 3 standard, in accordance with section 773(c)(4) of the Act. A more detailed description of the labor rate calculation methodology is provided in the Preliminary SV Memorandum. We find that this information constitutes the best available information on the record because it is the most contemporaneous data available for the period of investigation and, thus, is more reflective of actual wages in India for the industry being examined.

Therefore, for the preliminary determination, we calculated the labor inputs using the data for average monthly industrial labor rate prevailing during 2005 in India, corresponding to the “Manufacturing” economic sector for Division 28, and adjusted to current price levels using the Indian Consumer Price Index (CPI). A more detailed description of the labor rate calculation methodology is provided in the Preliminary SV Memorandum.<sup>101</sup>

The record contains the 2013-2014 audited financial statements for two Indian companies, Sterling Tools Limited and Sundram Fasteners Limited, who produce merchandise comparable to the merchandise under investigation. We used the 2013-2014 financial statements of these two companies to value factory overhead, selling, general, and administrative expenses, and profit. Specifically, we applied a simple average to both sets of factory overhead, selling,

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<sup>98</sup> See Preliminary SV Memorandum at Exhibit 12.

<sup>99</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

<sup>100</sup> *Id.* at 36093.

<sup>101</sup> See Preliminary SV Memorandum at Exhibit 17.

general, and administrative expenses, and profit and applied that average to Region Industries and United Nail.<sup>102</sup>

### **Comparisons to Normal Value**

Pursuant to section 777A(d) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Region Industries' and United Nail's sales of the subject merchandise to the United States were made at less than NV, the Department compared the EP to the NV as described above in the "Export Price" and "Normal Value" sections of this memorandum.

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

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average EPs (the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping duty investigations, the Department examines whether to compare weighted-average NVs to the EPs of individual transactions (the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In recent investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.<sup>103</sup> The Department finds that the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.<sup>104</sup>

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs for comparable merchandise that differs significantly among purchasers, regions, or time periods. When we find such a pattern the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions,

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<sup>102</sup> See Preliminary SV Memorandum at Exhibit 18.

<sup>103</sup> See, e.g., *Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and accompanying Issues and Decisions Memorandum at Comment 5. Differential pricing was also used in the antidumping duty administrative review of certain activated carbon from the People's Republic of China: *Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 26748 (May 8, 2013), unchanged in *Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 70533 (November 26, 2013) and accompanying Issues and Decisions Memorandum at Comments 2-4.

<sup>104</sup> *Id.*

time periods, and comparable merchandise, which is defined by the parameters within each respondent's reported data fields, *e.g.*, reported consolidated customer code; reported destination code (*e.g.*, zip codes or cities) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau; and quarters within the period of investigation being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP and NV for the individual dumping margins.

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

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

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted average dumping margin as compared to that resulting from the use of the A-A method only. If

the difference between the two calculations is meaningful, this demonstrates that the A-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A meaningful difference in the weighted-average dumping margins occurs if (1) there is a 25 percent relative change in the weighted average dumping margin between the A-A method and the appropriate alternative method where both rates are above the *de minimis* threshold or (2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

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

For Region Industries, based on the results of the first stage of the differential pricing analysis, the Department finds that the value of sales that passed the Cohen's *d* test was more than 33 percent but less than 66 percent of the value of total sales, and as such, these results confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods.<sup>105</sup> Accordingly, the Department considered whether using only the A-A method can appropriately account for such differences. The Department determines that the A-to-A method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the A-to-A method and an alternative method based on the A-to-T method applied to the U.S. sales which pass the Cohen's *d* test. Accordingly, the Department has preliminarily determined to use the A-A method in making comparisons of EP and NV for Region Industries.<sup>106</sup>

For United Nail, based on the results of the first stage of the differential pricing analysis, the Department finds that the value of sales that passed the Cohen's *d* test was greater than 66 percent of the value of total sales, and as such, these results confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods. Accordingly, the Department considered whether using only the A-A method can appropriately account for such differences. The Department finds that, for United Nail, there is not a meaningful difference in the weighted-average dumping margin when calculated using the A-A method and an alternative comparison method based on the A-to-T method applied to all U.S. sales, and, thus, determines that the A-A method can appropriately account for such differences. Accordingly, the Department has determined to use the A-A method in making comparisons of EP and NV for United Nail.<sup>107</sup>

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<sup>105</sup> See Region Industries' Preliminary Analysis Memorandum.

<sup>106</sup> In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8104 (February 14, 2012). In particular, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

<sup>107</sup> See United Nail's Preliminary Analysis Memorandum.

## **Currency Conversion**

We made currency conversions into U.S. Dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

## **VERIFICATION**

As provided in section 782(i)(1) of the Act, we intend to verify the information from Region Industries and United Nail upon which we will rely in making our final determination.

## **SECTION 777A(f) OF THE ACT**

In applying section 777A(f) of the Act, the Department has examined (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether the Department can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted average dumping margin for the class or kind of merchandise.<sup>108</sup> For a subsidy meeting these criteria, the statute requires the Department to reduce the AD by the estimated amount of the increase in the weighted average dumping margin subject to a specified cap.<sup>109</sup> In conducting this analysis, the Department has not concluded that concurrent application of NME ADs and CVDs necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

The Department's practice is to calculate an adjustment under section 777(A)(f) of the Act based on the information provided by the mandatory respondents. In this case, the Department has no information upon which to make an adjustment because the mandatory respondents did not respond to the Department's request for information. Therefore, the Department is preliminarily not making any adjustment pursuant to section 777(A)(f) of the Act to the AD cash deposit rates determined in this investigation.

## **U.S. INTERNATIONAL TRADE COMMISSION NOTIFICATION**

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making all non-privileged and non-proprietary information relating to this investigation available to the ITC. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

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<sup>108</sup> See sections 777A(f)(1)(A)-(C) of the Act.

<sup>109</sup> See sections 777A(f)(1)-(2) of the Act.

In accordance with section 735(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of nails from Vietnam before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

## **DISCLOSURE AND PUBLIC COMMENT**

The Department intends to disclose the calculations performed in connection with this preliminary determination to interested parties within five days of its public announcement.<sup>110</sup> Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.<sup>111</sup>

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>112</sup> This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.<sup>113</sup> Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.<sup>114</sup> Electronically filed documents must be received successfully in their entirety by 5:00 PM Eastern Time,<sup>115</sup> on the due dates established above.

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<sup>110</sup> See 19 CFR 351.224(b).

<sup>111</sup> See 19 CFR 351.309(d); see also 19 CFR 351.303 (for general filing requirements).

<sup>112</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>113</sup> See 19 CFR 351.310(c).

<sup>114</sup> See 19 CFR 351.303(b)(2)(i).

<sup>115</sup> See 19 CFR 351.303(b)(1).

