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October 5, 2016

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: Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review

SUMMARY

Based on a request from one company, SeAH Steel VINA Corporation (SSV), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain oil country tubular goods (OCTG) from the Socialist Republic of Vietnam (Vietnam).¹ The Department preliminarily determines that SSV did not sell subject merchandise below normal value (NV) during the period of review (POR), February 25, 2014, through August 31, 2015.

CASE HISTORY

On November 9, 2015, based on a request from SSV,² in accordance with 19 CFR 351.221(c)(1)(i), the Department initiated this administrative review with respect to one company, SSV.³ As such, SSV is the only company under review. Between November 2015 and June 2016, the Department sent AD questionnaires and supplemental questionnaires to SSV, to which SSV responded in a timely manner. On January 13, 2016, the Department sent

¹ See *Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691 (September 10, 2014) and *Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Notice of Correction to the Antidumping Duty Orders With Respect to Turkey and the Socialist Republic of Vietnam*, 79 FR 59740 (October 3, 2014).

² See Letter from SSV to the Honorable Penny Pritzker, "Re: Oil Country Tubular Goods – Request for Administrative Review," dated September 30, 2015.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 69193 (November 9, 2015) (*Initiation Notice*).



interested parties a letter inviting comments on surrogate country selection and surrogate value (SV) data.⁴ Between February 2016 and May 2016, the Department received surrogate country comments, SV comments, and rebuttal comments from interested parties. As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government.⁵ Accordingly, all deadlines in this segment of the proceeding have been extended by four business days. On June 6, 2016, the Department partially extended the deadline for issuing the preliminary results until September 21, 2016.⁶ On September 20, 2016, the Department fully extended the deadline for issuing the preliminary results until October 5, 2016.⁷

SCOPE OF THE ORDER

The merchandise covered by the order is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the order also covers OCTG coupling stock.

Excluded from the scope of the order are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

⁴ See Letter to All Interested Parties, “First Administrative Review of Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam (Vietnam),” dated January 13, 2016 (Surrogate Country Letter).

⁵ See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,” dated January 27, 2016.

⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Oil Country Tubular Goods from Vietnam: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated June 6, 2016.

⁷ See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Oil Country Tubular Goods from Vietnam: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated September 20, 2016.

The merchandise subject to the order may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country Status

In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a non-market economy (NME) country shall remain in effect until revoked by the Department. The Department considers Vietnam to be an NME country.⁸ Therefore, we continue to treat Vietnam as an NME country for purposes of these preliminary results. Accordingly, we calculated NV using the factors of production methodology in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates

As discussed above, pursuant to section 771(18)(C)(i) of the Act, a designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that all companies within an NME are subject to government control, and thus, should be assessed a single rate.⁹ In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.¹⁰ It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,¹¹ as amplified by *Silicon Carbide*.¹² However, if the

⁸ See, e.g., *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 80 FR 51779 (August 26, 2015).

⁹ See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006) (*Lined Paper*); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006) (*Sawblades*).

¹⁰ See *Initiation Notice*.

¹¹ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*).

¹² 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*), and 19 CFR 351.107(d).

Department determines that a company is wholly foreign-owned by individuals or companies located in a market economy (ME), then a separate rate analysis is not necessary to determine whether it is independent from government control.¹³

In this review, in support of its claim for a separate rate, SSV reported that it is a wholly owned by a foreign-owned company registered and located in the Republic of Korea.¹⁴ Record evidence supports this contention.¹⁵ Because there is no claimed Vietnamese ownership of SSV, and because the Department has no record evidence indicating that SSV is under the control of the Vietnamese government, no additional separate-rate analysis is necessary to determine whether SSV is independent from government control.¹⁶ Consequently, we preliminarily determine that SSV has met the criteria for a separate rate.

Vietnam-Wide Entity

The Department's change in policy regarding conditional review of the Vietnam-wide entity applies to this administrative review.¹⁷ Under this policy, the Vietnam-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity in this review, the entity is not under review and the entity's rate (*i.e.*, 111.47 percent) is not subject to change.

Surrogate Country and Surrogate Value Data

As noted above, on January 13, 2016, the Department sent interested parties a letter, and invited comments on surrogate country selection and SV data.¹⁸ Also, as noted above, between February 2016 and May 2016, interested parties submitted comments and rebuttal comments on surrogate country and SV selection. Specifically, on February 19, 2016, SSV submitted surrogate country comments.¹⁹ We received SV comments from Petitioners²⁰ and SSV²¹ on May

¹³ See, *e.g.*, *Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*; 2011, 78 FR 9493 (February 6, 2013), and accompanying Decision Memorandum at 9, unchanged in final results, 78 FR 35249 (June 12, 2013); *Certain Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9284 (February 20, 2008), unchanged in final affirmative determination, 73 FR 40485 (July 15, 2013).

¹⁴ See SSV's December 8, 2015 submission at Appendix A-2.

¹⁵ *Id.*, at Appendix A-3-J.

¹⁶ See *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104 (December 20, 1999) (determining that the respondent was wholly foreign-owned, and thus, qualified for a separate rate).

¹⁷ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

¹⁸ See Surrogate Country Letter.

¹⁹ See Letter from SSV to the Honorable Penny Pritzker, "Administrative Review of the Antidumping Order on Certain Oil Country Tubular Goods from Vietnam for the 2014-15 Review Period – Comments Regarding the Department's List of Surrogate Countries," dated February 19, 2016.

²⁰ See Letter from Petitioners to the Honorable Penny S. Pritzker, "Re: Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam: Surrogate Valuation Information," dated May 2, 2016.

2, 2016, and May 9, 2016, respectively. We received SV rebuttal comments from SSV²² and Petitioners²³ on May 12, 2016, and on May 19, 2016, respectively.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs the Department to base NV, in most circumstances, on the NME producer's factors of production (FOP), valued using the best available information in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (a) at a level of economic development comparable to that of the NME country; and (b) significant producers of comparable merchandise.²⁴ Reading sections 773(c)(1) and (c)(4) of the Act in concert, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data.²⁵ Further, the Department has stated that it prefers to value all FOPs from a single surrogate country.²⁶ Accordingly, we examine each factor below.

A. Comparable Level of Economic Development

As explained in our Surrogate Country List, the Department identified Bangladesh, India, Indonesia, Nigeria, Pakistan, and the Philippines as being at the same level of economic development as Vietnam.²⁷ The Department treats each of these countries as equally comparable unless we find that none of the countries are viable options because they are: (a) are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that such other considerations outweigh the difference in levels of economic development.²⁸

As explained in the Department's *Policy Bulletin*, "{t}he surrogate countries on the (non-exhaustive) surrogate country list are not ranked."²⁹ This lack of ranking reflects the

²¹ See Letter from SSV to the Honorable Penny Pritzker, "Re: Administrative Review of the Antidumping Order on Certain Oil Country Tubular Goods from Vietnam for the 2014-15 Review Period — Submission of Factual Information to Value Factors of Production," dated May 9, 2016 (SSV surrogate country comments).

²² See Letter from SSV to the Honorable Penny Pritzker, "Re: Administrative Review of the Antidumping Order Certain Oil Country Tubular Goods from Vietnam for the 2014-15 Review Period — Submission of Rebuttal Factor Value Information," dated May 12, 2016."

²³ See Letter from Petitioners to the Honorable Penny S Pritzker, "Re: Circular Oil Country Tubular Goods from the Socialist Republic of Vietnam: Petitioners' Rebuttal Surrogate Valuation Information," dated May 19, 2016.

²⁴ See *Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process* (March 1, 2004) ("*Policy Bulletin*").

²⁵ *Id.*

²⁶ See 19 CFR 351.408(c)(2).

²⁷ See Memorandum from Carole Showers to Robert James, Re: "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods ("OCTG") from the Socialist Republic of Vietnam ("Vietnam")," dated January 8, 2016 (Surrogate Country List).

²⁸ See Surrogate Country List.

²⁹ See *Policy Bulletin*.

Department's long-standing practice that, for the purpose of surrogate country selection, the countries on the list "should be considered equivalent" from the standpoint of their level of economic development, based on *per capita* GNI, as compared to Vietnam's level of economic development.³⁰ This also recognizes that the "level" in an economic development context necessarily implies a range of *per capita* GNI, not a specific *per capita* GNI.³¹ The Department's long-standing practice of selecting, if possible, a surrogate country from a non-exhaustive list of countries at the same level of economic development as the NME country, or another country at the same level of economic development, 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..."³² In this regard, "countries that are at a level of economic development comparable to that of the NME country" necessarily includes countries that are at the same level of economic development as the NME country.

The Department is relying on the Surrogate Country List reflecting 2014 GNI data because it is contemporaneous with the POR, contains the Department's most recent analyses of GNI data, and was placed on the record within the timeframe the Department specified for SV submissions and with sufficient time remaining in this review for the Department to consider it in selecting a surrogate country.³³ Consistent with section 773(c)(4) of the Act, we find that Bangladesh, India, Indonesia, Nigeria, Pakistan, and the Philippines are at the same level of economic development as Vietnam based on 2014 per capita GNI.³⁴

B. Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."³⁵ Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.³⁶ Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the

³⁰ *Id.*

³¹ *Id.*

³² See section 773(c)(4) of the Act.

³³ In other cases where a party has placed contemporaneous GNI data on the record in a timely fashion, the Department has found this data to be the most appropriate one to use for identifying countries that are comparable to the NME country in terms of level of economic development. See, e.g., *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 1167 (January 11, 2016) and accompanying Issues and Decision Memorandum at Comment 1.

³⁴ See Surrogate Country List.

³⁵ See Policy Bulletin at 2.

³⁶ 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

industry.³⁷ “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.”³⁸ 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.³⁹

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.⁴⁰ Moreover, while the legislative history provides that the term “significant producer” includes any country that is a significant “net exporter,”⁴¹ 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 potential surrogate countries on the Surrogate Country List as a proxy for domestic production, we examined export data using the Global Trade Atlas (GTA) (for India, Indonesia, and the Philippines) and the United Nations Comtrade website (www.comtrade.un.org) (for Bangladesh, Nigeria, and Pakistan) for HTSUS numbers 7304.29, 7305.20, and 7306.29, which are comparable to the merchandise under consideration.⁴² The data from the two sources demonstrate that India, Indonesia, Nigeria, Pakistan, and the Philippines were exporters of comparable merchandise during the POR. We thus consider these countries to be “significant producers” of comparable merchandise.⁴³ The two sources we examined also showed that Bangladesh had no exports of comparable merchandise during the POR and, thus, was not a significant producer of comparable merchandise. After determining which potential surrogate countries are significant producers of comparable merchandise, the Department then selects the primary surrogate country based upon whether data for valuing the FOPs are both available and reliable.

³⁷ 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.”).

³⁸ See Policy Bulletin at 2

³⁹ *Id.*, at 3.

⁴⁰ See section 773(c) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

⁴¹ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).

⁴² See Memorandum from Fred Baker, Import Compliance Analyst, Office VI, Antidumping and Countervailing Duty Operations, to Scot Fullerton, Director, Office VI, Antidumping and Countervailing Duty Operations, Antidumping Duty Administrative Review of Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Selection of a Surrogate Country, dated October 5, 2016 (Surrogate Country Memorandum).

⁴³ *Id.* See also Conference Report accompanying H.R. 3, the 1988 Omnibus Trade & Competitiveness Act, H. Rep. No. 100-576, at 590 (1988) (Conference Report).

C. Data Availability

The *Policy Bulletin* states that, if more than one country is at the same level of economic development as the NME and is a significant producer of comparable merchandise, “then the country with the best factors data is selected as the primary surrogate country.”⁴⁴ 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.”⁴⁵

Section 773(c)(1) of the Act instructs the Department to value the FOPs based upon the best available information from an ME country or countries that the Department considers appropriate. When considering what constitutes the best available information, the Department considers several criteria, including whether the SV data are contemporaneous, publicly available, tax and duty exclusive, represent a broad-market average, and are specific to the input.⁴⁶ The Department’s preference is to satisfy the breadth of the aforementioned selection criteria.⁴⁷ 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.⁴⁸ 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.⁴⁹

In selecting SVs, the Department looks for values that are representative of a broad market average, tax and duty exclusive, and publicly available. There is no SV information on the record for Indonesia, Nigeria, Pakistan, or the Philippines, nor has any party argued that one of these countries should be selected as the surrogate country. In contrast, the record contains usable Indian SVs that meet the Department’s selection criteria (listed above) for every FOP for which we need a SV. India is the only country listed on the Surrogate Country List that we find to be both economically comparable to Vietnam and a significant producer of comparable merchandise, and for which we have reliable and specific data to value every one of the FOPs. Furthermore, SSV has argued that, in addition to the fact that India provides sufficient SV data, consistency in the selection of the country to be used as the source of SV information in investigations and reviews involving the same producer may play a valuable role in enhancing the predictability of these proceedings.⁵⁰

⁴⁴ See *Policy Bulletin*.

⁴⁵ *Id.*

⁴⁶ See, e.g., *Lined Paper* and accompanying Issues and Decisions Memorandum at Comment 3.

⁴⁷ 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.

⁴⁸ 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.

⁴⁹ See, e.g., *Sixth Mushrooms AR* at Comment 1.

⁵⁰ See SSV surrogate country comments at 2.

D. Conclusion

Therefore, based on record evidence, the Department is selecting India as the primary surrogate country because we find it to be at the same level of economic development as Vietnam, a significant producer of comparable merchandise, and a reliable source of contemporaneous, publicly available, and reliable data. Because India satisfies the Department's criteria for the selection of a primary surrogate country, resorting to an alternative surrogate country that is not as economically comparable to Vietnam as the countries in the Surrogate Country List is not necessary. A detailed explanation of the SVs appears below in the "Normal Value" and "Factor Value" sections of this notice.

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether SSV's sales of the subject merchandise from Vietnam to the United States were made at less than NV, the Department compared the constructed export price (CEP) to NV as described in the "U.S. Price" and "Normal Value" sections of this memorandum.

Determination of Comparison Method

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether SSV's sales of the subject merchandise to the United States were made at less than NV, the Department compared the EP (or constructed export price (CEP)) to the NV as described in the "Export Price," "Constructed 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 weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs with the EPs (or constructed export prices) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.⁵¹

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation

⁵¹ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and the accompanying Issues and Decision Memorandum at comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.⁵² The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or constructed export price) 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group are found to pass the

⁵² See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); see also *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

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

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

B. *Results of the Differential Pricing Analysis*

The results of the differential pricing analysis for SSV demonstrate that over 80.9 percent of the company's U.S. sales pass the Cohen's *d* test, and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods.⁵³ As such, the Department

⁵³ See Memorandum to the File, from Fred Baker, "Analysis for the Preliminary Results of the Administrative Review of Oil Country Tubular Goods from the Socialist Republic of Vietnam," dated concurrently with this memo (Preliminary Analysis Memorandum).

finds that these results support consideration of an alternative to the average-to-average comparison method. However, we preliminarily determine that the average-to-average method can appropriately account for such differences because there is no meaningful difference in the weighted-average dumping margins when calculated using the average-to-average method and an alternative method based on the average-to-transaction method. Accordingly, the Department has preliminarily determined to use the average-to-average method in making comparisons of EP to NV for SSV.

Date of Sale

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the merchandise under consideration 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. Additionally, under this regulation the Department may use a date other than the date of invoice if the Department is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁵⁴ The Court of International Trade (CIT) stated that a "party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisfy' the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale."⁵⁵ Alternatively, the Department may exercise its discretion to rely on a date other than invoice date if the Department "provides a rational explanation as to why the alternative date 'better reflects' the date when 'material terms' are established."⁵⁶ The date of sale is generally the date on which the parties establish the material terms of the sale,⁵⁷ which normally includes the price, quantity, delivery terms and payment terms.⁵⁸

SSV reported its sale dates based on the date its U.S. affiliate issued an invoice to the unaffiliated U.S. customer.⁵⁹ No information on the record demonstrates that any other date better reflects the date on which the material terms of sale were established. Therefore, consistent with the regulatory presumption for invoice date as expressed in 19 CFR 351.401(i), the Department has preliminarily determined that the invoice date is the date that best reflects when the material terms of sale are set, and used it as the date of sale in this preliminary determination.

U.S. Price

SSV reported that all of its U.S. sales during the POR were CEP sales in accordance with section 772(b) of the Act. Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with producer or exporter..." as adjusted under section 772(c) and (d) of the Act. We preliminarily determine that

⁵⁴ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) ("*Allied Tube*") (quoting 19 CFR 351.401(i)).

⁵⁵ See *Allied Tube*, 132 F. Supp. 2d at 1090 (brackets and citation omitted).

⁵⁶ See *SeAH Steel Corp. v. United States*, 25 CIT 133, 135 (CIT 2001).

⁵⁷ See 19 CFR 351.401(i).

⁵⁸ See *USEC Inc. v. United States*, 31 CIT 1049, 1055 (CIT 2007).

⁵⁹ See SSV's Section C response, dated December 31, 2015, at 14-15.

SSV's sales are CEP sales because all of SSV's sales to the United States were made on behalf of the Vietnam-based company to its U.S. subsidiary, and the U.S. subsidiary then resold the subject merchandise from these sales to unaffiliated U.S. customers. Accordingly, we based U.S. price on the CEP in accordance with section 772(b) of the Act, and CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, and U.S. movement expenses, in accordance with section 772(c)(2)(A) of the Act. We based movement expenses on SVs if the expense was paid to an NME company in NME currency, or on actual expenses if the expense was paid to an ME company in ME currency.⁶⁰

In accordance with section 772(d)(1) of the Act, we also deducted, where appropriate, those selling expenses associated with economic activities occurring in the United States. We made adjustments, where appropriate, for billing adjustments, discounts, credit expenses, further processing, inventory carrying costs, and indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit based on information included in financial statements from the surrogate country.⁶¹

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if (1) the merchandise is exported from an NME and (2) available 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. When determining NV in an NME context, the Department bases NV on an FOP methodology because the presence of government controls on various aspects of an NME renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. The Department's questionnaire requires that the respondents provide information regarding the weighted-average FOPs on a CONNUM-specific basis, either using actual quantities or develop a reasonable methodology, across all of the companies' plants and suppliers that produce the merchandise under consideration, not just the FOPs from a single plant or supplier.⁶² This methodology ensures that the Department's calculations are as accurate as possible.⁶³ Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), the Department 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.⁶⁴ The Department based NV on the respondent's FOPs for hot-rolled coil, scrap offset, emulsified oil, varnish, toluene, labor, water, electricity, packing (steel band, steel clip, and labor), domestic inland freight, brokerage and handling, and financial ratios (*e.g.*, selling, general, and administrative (SG&A) expenses, overhead, and profit).

⁶⁰ See Memorandum from Fred Baker to the File, "Surrogate Values for the Preliminary Results," dated October 5, 2016 (SV Memorandum) and the Preliminary Analysis Memorandum.

⁶¹ *Id.*

⁶² See Letter from Robert James to SSV, dated November 9, 2015 (questionnaire), at D-1 – D-2.

⁶³ See, *e.g.*, *Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings from the People's Republic of China*, 68 FR 61395 (October 28, 2003), and accompanying Issues and Decision Memorandum at Comment 19.

⁶⁴ See section 773(c)(3)(A)-(D) of the Act.

Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on the FOPs that SSV reported for the subject merchandise it produced during the POR. To calculate NV, the Department multiplied the reported per-unit FOP-consumption rates by publicly available SVs. When selecting the SVs, the Department selects, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.⁶⁵

As appropriate, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, the Department added a surrogate freight cost, where appropriate, to Indian SVs 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. This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997). Additionally, where necessary, the Department adjusted SVs for inflation, exchange rates, and taxes, and the Department converted all applicable FOPs to a per-kilogram basis.

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities (*i.e.*, not insignificant quantities) and pays in an ME currency, the Department uses the actual price paid by the respondent to value those inputs, except when prices may have been distorted by findings of dumping and/or subsidization.⁶⁶ Where the Department finds ME purchases to be of significant quantities (*i.e.*, 85 percent or more), in accordance with our statement of policy as outlined in *Market Economy Inputs*,⁶⁷ the Department uses the actual purchase prices to value the inputs. Alternatively, when the volume of an NME firm's purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the ME purchase price with an appropriate SV, according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.⁶⁸ When a firm has made ME input purchases that may have been dumped or subsidized, are not bona fide, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold.⁶⁹ In these preliminary results, the Department valued SSV's inputs of varnish and toluene using purchase prices from ME suppliers because SSV submitted supporting evidence on the record that these ME purchases meet the criteria described above.⁷⁰ It also valued hot-rolled coil by weight-averaging ME prices with a SV based on their

⁶⁵ See, e.g., *Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

⁶⁶ See *Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013) (*Market Economy Inputs*).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ See Preliminary Analysis Memorandum.

respective shares of the total volume of purchases. Where it used ME purchase prices, it also added a SV to represent brokerage and handling on these imports.⁷¹

Except where the Department valued inputs using ME purchase prices or weighted ME purchase prices, it used Indian import data, as reported by the Indian Customs Department and published by GTA, and other publicly available sources, as explained below, from India to calculate SVs for SSV's FOPs and certain movement expenses. In accordance with section 773(c)(1) of the Act, the Department applied the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are: (1) contemporaneous with, or closest in time to, the POI; (2) product-specific; (3) tax-exclusive; (4) representative of a broad market average; and (5) publicly available.⁷² The record shows that Indian import data obtained through GTA, as well as data from other Indian sources, are product-specific, tax-exclusive, generally contemporaneous with the POR, representative of a broad market average, and publicly available.⁷³ In those instances where the Department could not obtain information contemporaneous with the POR with which to value FOPs, the Department adjusted the SVs using, where appropriate, India's consumer price index as published in the International Monetary Fund's *International Financial Statistics*.⁷⁴

Furthermore, with regard to Indian import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized.⁷⁵ We have reason to believe or suspect that prices of inputs from Indonesia, Thailand, and South Korea may have been subsidized because we have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.⁷⁶ Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.⁷⁷ Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not

⁷¹ See SV Memorandum for more information.

⁷² 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).

⁷³ See SV Memorandum.

⁷⁴ *Id.*

⁷⁵ See Section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (June 29, 2015); see also, *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).

⁷⁶ See, e.g., *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

⁷⁷ 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.

subsidized.⁷⁸ Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Additionally, consistent with our practice, we disregarded prices from NME countries and excluded imports labeled as originating from an “unspecified” country from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.⁷⁹ Therefore, we have not used data from these countries either in calculating the India import-based SVs or in calculating ME input values.

We used Indian import statistics from GTA to value the raw material inputs and packing material inputs that SSV used to produce merchandise under consideration during the POR, except where listed below.⁸⁰

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” for March 2016. Because these data are dated after the POR, we deflated the SV using the Indian consumer price index.⁸¹

We valued electricity using data published by India’s Central Electricity Authority. We selected these data because they are representative of broad market average prices, publicly available, and tax-exclusive. The rates listed in this source became effective on a variety of dates; as such we did not adjust for inflation.⁸²

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.⁸³

We valued truck freight using data from Ace InfoBanc Pvt. Ltd. We selected this source because it provides daily rates per truck load from twenty-six major points of origin to four different destinations in India, making it representative of a broad market average. Because these rates are from 2012, we inflated them to the POR using the Indian consumer price index.⁸⁴

⁷⁸ See *Conference Report*, at 590; see also *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People’s Republic of China*, 72 FR 30758, 30763 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People’s Republic of China*, 72 FR 60632 (October 25, 2007).

⁷⁹ 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) (*Chlorinated Isos Prelim*), 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).

⁸⁰ See SV Memorandum at 2-3 and Exhibit 3.

⁸¹ *Id.*, at 5 and Exhibit 4.

⁸² *Id.*

⁸³ *Id.*, at Exhibit 8.

⁸⁴ *Id.*, at 6 and Exhibit 8.

In NME antidumping duty proceedings, the Department prefers to value labor solely based on data from the primary surrogate country.⁸⁵ 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.⁸⁶ 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 27 (*i.e.*, Manufacture of Basic Iron and Metal) of the ISIC-Revision 3 to be the best available information on the record with which to value SSV's labor FOP because it is most specific to the industry and product 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 27 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 SV Memorandum. We find that this information constitutes the best available information on the record because it is the most contemporaneous data available from India for the POR and, thus, more accurately reflective of actual wages in India for the industry being examined.

Therefore, for the preliminary results, 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 27, 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 SV Memorandum.⁸⁷

The Department's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.⁸⁸ Moreover, for valuing factory overhead, SG&A expenses, and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.⁸⁹ In addition, the CIT has held that in the selection of surrogate producers, the Department may consider how closely the surrogate producers approximate the NME producer's experience.⁹⁰

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

⁸⁶ *Id.*, 76 FR at 36093.

⁸⁷ See SV Memorandum at 5 and Exhibit 5.

⁸⁸ 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 Issues and Decision Memorandum at Comment 3,

⁸⁹ See, e.g., *Diamond Sawblades and Parts Thereof from the People's Republic of China, Final Determination in the Antidumping Duty Investigation*, 71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 2; see also section 773(c)(4) of the Act; 19 CFR 351.408(c)(4).

⁹⁰ See *Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-1254 (CIT 2002); see also *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005), and accompanying Issues and Decision Memorandum at Comment 1.

To value factory overhead, selling, general, and administrative expenses, and profit, we used the contemporaneous audited financial statements of APL Apollo Tubes Limited and Surya Global Steel Tubes Ltd., both of which are Indian producers of OCTG.⁹¹ We used the financial statements of these companies because they are both producers of identical merchandise, and the financial statements are contemporaneous with the POR, show no evidence of having received subsidies previously found to be countervailable, and show that the companies realized a profit during the fiscal year.

Currency Conversion

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

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Ronald K Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

October 5, 2016

(Date)

⁹¹ *Id.* at page 6 and Exhibit 6.