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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Gary Taverman
Senior Advisor
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Certain Kitchen Appliance Shelving
and Racks from the People's Republic of China; 2011-2012

SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on certain kitchen appliance shelving and racks ("kitchen racks") from the People's Republic of China ("PRC") for the period of review ("POR") September 1, 2011, through August 31, 2012. We have preliminarily found that New King Shan (Zhu Hai) Wire Co., Ltd.'s ("New King Shan") sales of subject merchandise in the United States were not sold at prices below normal value ("NV") during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the "Act").

Background

On September 14, 2009, the Department published in the Federal Register the antidumping duty order on kitchen shelving and racks from the PRC.¹ On September 4, 2012, the Department published in the Federal Register a notice of opportunity to request an administrative review of

¹ See Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order, 74 FR 46971 (September 14, 2009) ("Order").



the antidumping duty order on kitchen shelving and racks from the PRC for the POR.² In response to timely requests from Petitioners³ and Electrolux⁴ pursuant to 19 CFR 351.213(b)(1) and (2) to conduct an administrative review of the Order, on October 31, 2012, the Department published a notice of initiation of administrative review with respect to two companies, New King Shan and Jiangsu Weixi Group Co. (“Weixi”).⁵

The Department issued its antidumping duty questionnaire to New King Shan and Weixi on December 6, 2012. On January 22, 2013, Electrolux timely withdrew its request for review of Weixi. We received timely responses to the Department’s original and supplemental questionnaires during January 2013 through June 2013 from New King Shan. In March 2013, we received surrogate country comments from the Petitioners and New King Shan, as well as surrogate value (“SV”) comments from Petitioners. On April 2013, the Department extended the time period for issuing the preliminary results until September 30, 2013.⁶

Scope of the Order

The scope of this order consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens (“certain kitchen appliance shelving and racks” or “the merchandise under order”). Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and subframes (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

- shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or
- baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or
- side racks from 6 inches by 8 inches by 0.1 inch to 16 inches by 30 inches by 4 inches; or
- subframes from 6 inches by 10 inches by 0.1 inch to 28 inches by 34 inches by 6 inches.

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 77 FR 53863 (September 4, 2012).

³ SSW Holding Company, Inc. and Nashville Wire Products, Inc., (collectively, “Petitioners”).

⁴ Electrolux North America, Inc., Electrolux Home Products, Inc., and Electrolux Major Appliances (collectively “Electrolux”).

⁵ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 77 FR 65858 (October 31, 2012) (“Initiation Notice”).

⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, Antidumping and Countervailing Duty Operations, from Emeka Chukwudebe, International Trade Compliance Analyst, Office 9, re: “Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Extension of Deadline for the Preliminary Results of the Third Antidumping Duty Administrative Review,” dated April 17, 2013.

The merchandise under this order is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.2 inch. The merchandise under this order may be coated or uncoated and may be formed and/or welded. Excluded from the scope of this order is shelving in which the support surface is glass.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting numbers 8418.99.8050, 8418.99.8060, 7321.90.5000, 7321.90.6090, 8516.90.8000, 8516.90.8010, 7321.90.6040, and 8419.90.9520. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

PRC-Wide Entity

The only review request for Weixi, a company named in the Initiation Notice⁷ was timely withdrawn. However, we are not rescinding the review for this company at this time. While the request for review of Weixi is timely withdrawn, Weixi does not have a separate rate and, therefore, currently remains part of the PRC-wide entity. Although the PRC-wide entity is not under review for these preliminary results, given any changes subsequent to the preliminary results, the PRC-wide entity could be under review for the final results of this administrative review. Therefore, we are not rescinding the review with respect to Weixi at this time, but we intend to rescind the review with respect to Weixi in the final results if the PRC-wide entity is not reviewed.

Affiliations

Section 771(33) of the Act provides that:

The following persons shall be considered to be 'affiliated' or 'affiliated persons':

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

Additionally, section 771(33) of the Act stipulates that: "For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person." Finally, according to 19 CFR 351.401(f)(1) and (2), two or more affiliated companies may be treated as a single entity for

⁷ See Initiation Notice.

antidumping duty purposes if: (1) the producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and (2) there is a significant potential for manipulation of price or production.⁸

New King Shan Affiliation/Single Entity

In the first administrative review, the Department found New King Shan affiliated with certain related entities, pursuant to sections 771(33)(A), (E) and (F) of the Act, based on ownership and common control, in accordance with our determination in the LTFV Investigation Final.⁹ The Department also determined to treat NKS and one of its affiliated entities as a single entity for purposes of that review.¹⁰ For these preliminary results, because there were no changes to the facts which supported that decision in the first administrative review, we continue to find these companies part of a single entity in this review.¹¹ Accordingly, for these preliminary results, the Department will use the constructed export price (“CEP”) price for sales made by New King Shan and its affiliated entity to their first unaffiliated U.S. customers of subject merchandise during the POR.

DISCUSSION OF THE METHODOLOGY

Nonmarket Economy Country

The Department considers the PRC to be a nonmarket economy (“NME”) country.¹² Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

⁸ See 19 CFR 351.401(f)(1) and (2).

⁹ See Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review, 77 FR 21734 (April 11, 2012) (“AR1 Final Results”); see also Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 36656 (July 24, 2009), amended by Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order, 74 FR 46971 (September 14, 2009) (“LTFV Investigation Final”).

¹⁰ See AR1 Final Results, 77 FR at 21736.

¹¹ See New King Shan’s Section A Response, dated January 3, 2013, at 12-13 and Exhibit 5; see also New King Shan’s Section A Supplemental Questionnaire, dated February 7, 2013, at 2-7.

¹² See Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Antidumping Duty Administrative Review, 2010–2011, 77 FR 61385 (October 9, 2012) (“AR2 Preliminary Results”), unchanged in Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China; 2010–2011; Final Results of Antidumping Duty Administrative Review, 78 FR 5414 (January 25, 2013) (“AR2 Final Results”).

Separate Rates

In NME proceedings, there is a rebuttable presumption that all companies within the NME are subject to government control and, thus, should be assessed a single antidumping duty rate.¹³ 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.¹⁴ 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 of subject merchandise. To determine 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, as amplified by Silicon Carbide.¹⁵ However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME") country, then a separate rate analysis is not necessary to determine whether it is independent from government control.¹⁶ In this review, New King Shan is the only remaining company under review. The Department received a completed response to the Section A portion of the NME antidumping duty questionnaire from New King Shan, which contained information pertaining to its eligibility for a separate rate.¹⁷

We have considered whether New King Shan is eligible for a separate rate. In its Section A response, New King Shan reported that it is wholly-owned by individuals or companies located in an ME country.¹⁸ Therefore, because it is wholly foreign-owned by ME entities, and we have no evidence indicating that it is under the control of the PRC, a separate rate analysis is not necessary to determine whether this company is independent from government control.¹⁹ Accordingly, we have preliminarily granted a separate rate to New King Shan.

Surrogate Country and Surrogate Value Data

On February 14, 2013, the Department sent interested parties a letter inviting comments on surrogate country selection and SV data.²⁰ On March 5, 2013, Petitioners submitted surrogate

¹³ See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079, 53082 (September 8, 2006); Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China, 71 FR 29303, 29307 (May 22, 2006).

¹⁴ See Initiation Notice, 77 FR at 65859.

¹⁵ 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"), as amplified by 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).

¹⁶ See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007) ("Wax Candles from the PRC").

¹⁷ See New King Shan's Response to Section A, dated January 3, 2013 ("New King Shan Section A").

¹⁸ See New King Shan Section A, at 2.

¹⁹ See Wax Candles from the PRC, 72 FR at 52356.

²⁰ See the Department's Letter to All Interested Parties, Re: Third Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments, dated February 14, 2013 ("Surrogate Country and Values Letter").

country comments and on March 7, 2013, New King Shan submitted surrogate country comments.²¹

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs us to base NV, in most circumstances, on the NME producer's factors of production ("FOPs"), valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.²² The sources of the SVs we have used in this investigation are discussed under the "Normal Value" section infra.

Petitioners submit that for purposes of the Department's selection of an appropriate surrogate country, Thailand is at a level of economic development comparable to the PRC and a significant producer of comparable merchandise. Petitioners cite to recent cases, including the most recent completed segment of this proceeding, as evidence that Thailand provides publicly available SV data that are both general and specific to the primary inputs used to produce the subject merchandise.²³ Therefore, Petitioners propose Thailand should be the primary surrogate country.

New King Shan proposes that the Department select India as the surrogate country in this review because India is economically comparable to the PRC and is a producer of comparable merchandise. In addition, New King Shan contends that the Department has historically and consistently found India to be a source of reliable SV information in numerous recent antidumping duty administrative reviews.²⁴ Finally, New King Shan contends that if the Department does not select India, then the Philippines meets the criteria for surrogate country selection.

²¹ See Petitioners' Letter to the Department, Re: 3rd Administrative Review of Kitchen Appliance Shelving and Racks from the People's Republic of China Surrogate Country Selection, dated March 5, 2013 ("Petitioners' Surrogate Country Letter"); see also New King Shan Letter to the Department, Re: Kitchen Appliance Shelving and Racks from the People's Republic of China; Comments on Surrogate Country Selection, dated March 7, 2013 ("New King Shan Surrogate Country Letter").

²² See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin").

²³ See Memorandum to the File: Investigation of Galvanized Steel Wire from the People's Republic of China: surrogate Values for the Preliminary Determination (October 7, 2011); see also Memorandum to the File: Second Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Surrogate Values for the Preliminary Results (October 1, 2012).

²⁴ New King Shan listed *inter alia*: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review and Rescission of Administrative Review, in Part, 77 FR 2271 (January 17, 2012); Pure Magnesium From the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order, 76 FR 76945 (December 9, 2011).

Economic Comparability

The Department determined that Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are countries whose per capita gross national incomes (“GNI”) are comparable to the PRC in terms of economic development.²⁵ As explained in our Surrogate Country and Values Letter, the Department considers these countries to be at a level of economic development comparable to that of the PRC.²⁶ Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data or are unsuitable for use for other reasons, we will rely on data from one of these countries.²⁷ Therefore, we consider all six countries identified in the Surrogate Country and Values Letter as having met this prong of the surrogate country selection criteria.

With respect to India, it is the Department’s established practice to base economic comparability on GNI relative to that of the PRC.²⁸ Based on the most current data available from the GNI data published in the World Bank Development Indicators database, located at <http://databank.worldbank.org/databank/download/GNIPC.pdf>, the Department has determined that India, with a GNI of 1,410 U.S. dollars (“USD”), is less economically comparable to the PRC (4,940 USD) than the six identified countries. Additionally, although New King Shan argues that the Department should use factors other than GNI (e.g., the overall size of the economy) to determine economic comparability, it is the Department’s long-standing practice to use per capita GNI, because per capita GNI is reported across almost all countries by an authoritative source (the World Bank), and because the Department finds that the per capita GNI represents the single best measure of a country’s level of total income and thus level of economic development.²⁹ Also, as we stated in Coated Paper/PRC,³⁰ the Department finds that the selection of the range of economically comparable countries based on GNIs is reasonable and consistent with the Act. Further, we note that in all of the cases that New King Shan cited as examples of recent determinations in which the Department selected India as the surrogate country, India was included in the list of potential surrogate countries.³¹

²⁵ See Surrogate Country and Values Letter.

²⁶ See *id.*

²⁷ See Certain Steel Wheels From the People’s Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination, 76 FR 67703, 67708 (November 2, 2011), unchanged in Certain Steel Wheels From the People’s Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances, 77 FR 17021 (March 23, 2012).

²⁸ See 19 CFR 351.408(b) and Policy Bulletin.

²⁹ See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the New Shipper Review, 77 FR 27435 (May 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

³⁰ See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 59217 (September 27, 2010), and accompanying Issues and Decision Memorandum at Comment 30 (“Coated Paper/PRC”).

³¹ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People’s Republic of China: Preliminary Results of the 2009-2010 Administrative Review of the Antidumping Duty Order and Intent To Rescind Administrative Review, in Part, 76 FR 41207 (July 13, 2011); see also Chlorinated Isocyanurates From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 76 FR 40689 (July 11, 2011).

Significant Producers of Identical or 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."³² Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.³³ Further, when selecting a surrogate country, the Act requires the Department to consider the comparability of the merchandise, not the comparability of the industry.³⁴ "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."³⁵ 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.³⁶

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.³⁷ Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"³⁸ it does not preclude reliance on additional or alternative metrics. In this case, because production data of comparable merchandise was not available, we 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 harmonized system ("HS") code 7321.90: Parts Of Nonelectric Domestic Cooking Appliances And Plate Warmers And Similar Nonelectric Domestic Appliances, Of Iron Or Steel; HS code 8418.99: Parts Of Refrigeration Or Freezing Equipment And Heat Pumps, Nesoi; HS code 8516.90: Wire Parts For Electric Water Heaters, Space Heaters, Hairdressing Apparatus, Flat Irons, Stoves, Ovens, Coffee Or Tea Makers, Toasters, etc.; and HS code 8419.90: Parts For Machinery, Plant Or Laboratory Equipment For

³² See Policy Bulletin at 2.

³³ See id., at n.6 ("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.").

³⁴ See Sebacic Acid From the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 62 FR 65674, 65676 (December 15, 1997) ("To impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

³⁵ See Policy Bulletin, at 2.

³⁶ See id., at 3.

³⁷ See section 773(c) of the Act; see also Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

³⁸ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988).

The Treatment Of Material Involving Temperature Change (Except Domestic Machinery), Nesoi.

All countries on the Surrogate Country List had significant exports of HS codes included in the scope of the Order.³⁹ Because none of the potential surrogate countries have been definitively disqualified through the above analysis, the Department looks to the availability of SV data to determine the most appropriate surrogate country.

Data Availability

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.⁴⁰ When evaluating SV data, the Department considers several factors, including whether the SVs are publicly available, contemporaneous with the POR, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.⁴¹ Petitioners contend that the Department should select Thailand⁴² as the primary surrogate country because Thailand is economically comparable to the PRC, and because Thai SVs, including financial statements for Thai producers of comparable merchandise, are available for all FOPs. New King Shan argues that the Department should select India because it is economically comparable to the PRC and data considerations strongly support the continued use of India and, in the alternative, the Department should select the Philippines.⁴³ However, New King Shan placed no SV information on the record for consideration for either country.

The record of this administrative review only contains publicly-available Thai SV data for all of New King Shan's FOPs. Moreover, because the record only contains SV data for Thailand, we have disqualified Colombia, Costa Rica, Indonesia, the Philippines, and South Africa as potential surrogate countries at this time. Therefore, the Department has preliminarily determined that Thailand offers the best available SV data.

For the reasons stated above, the Department has preliminarily determined, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Thailand as the primary surrogate country because Thailand is (1) at a level of economic development comparable to the PRC and (2) a significant producer of comparable merchandise. Accordingly, the Department has calculated NV using Thai SVs when available and appropriate for valuing New King Shan's FOPs.⁴⁴ In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of an administrative review,

³⁹ See Surrogate Country and Values Letter.

⁴⁰ See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews: 2010-2011, 78 FR 17350 (March 21, 2013), and accompanying Issues and Decision Memorandum at Comment I(C).

⁴¹ See *id.*

⁴² See Petitioners' Surrogate Country Letter.

⁴³ See New King Shan Surrogate Country Letter.

⁴⁴ See "Factor Valuations" section of this memorandum, below.

interested parties may submit publicly available information to value the FOPs within 20 days after the date of publication of these preliminary results.⁴⁵

Date of Sale

New King Shan reported that the date of sale was determined by the invoice issued by its U.S. affiliate⁴⁶ to its unaffiliated U.S. customer. In this case, as the Department found no evidence contrary to New King Shan's claim that its invoice date was the appropriate date of sale, the Department used invoice date as the date of sale for these preliminary results in accordance with 19 CFR 351.401(i).⁴⁷

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether New King Shan's sales of subject merchandise from the PRC to the United States were made at less than NV, the Department compared the CEP to the NV as described in the "U.S. 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 dumping margins by comparing weighted-average NVs to weighted-average export prices ("EPs") (or CEPs) (the average-to-average 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 or CEPs of individual transactions (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 antidumping duty investigations.⁴⁸ In recent antidumping duty investigations, the Department applied a "differential pricing" analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B)

⁴⁵ Parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. See 19 CFR 351.301(c)(1); see also Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2 ("{19 CFR 351.301(c)(1)} permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record; it does not envision the submission of additional, previously absent-from-the-record alternative surrogate value or financial ratio information.").

⁴⁶ See "New King Shan Affiliation/Single Entity" section of this memorandum, *supra*.

⁴⁷ See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

⁴⁸ 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 accompanying Issues and Decision Memorandum at Issue I.

of the Act.⁴⁹ The Department finds the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.⁵⁰ The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and based 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 weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin.

The differential pricing analysis used in these preliminary results 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 customer names. Regions are defined using the reported destination code (e.g., city name) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used in these preliminary results, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be

⁴⁹ See Memoranda to Paul Piquado, Assistant Secretary for Import Administration, from Abdelali Elouaradia, Director of AD/CVD Operations Office 4, entitled "Less Than Fair Value Investigation of Xanthan Gum from Austria: Post-Preliminary Analysis and Calculation Memorandum"; "Less Than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., T Jd.) and Shandong Fufeng Fermentation Co., Ltd."; and "Less Than Fair Value Investigation of Xanthan Gum from the People's Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Deosen Biochemical Ltd.," all dated March 4, 2013.

⁵⁰ See, e.g., Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 78 FR 21101 (April 9, 2013), and accompanying Decision Memorandum; Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review, 78 FR 17637 (March 22, 2013), and accompanying Decision Memorandum.

quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's *d* coefficient is equal to or exceeds the large (i.e., 0.80) 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 (e.g., the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of EPs 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 average-to-average 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 average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: (1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method; 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 these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. *Results of the Differential Pricing Analysis*

For New King Shan, the Department finds that the results of the differential pricing analysis demonstrate that none of New King Shan's sales in the United States passed the Cohen's *d* test. Accordingly, New King Shan's CEP sales do not confirm the existence of a pattern of CEPs for

comparable merchandise that differs significantly among purchasers, regions or time periods.⁵¹ Further, as no sales passed the Cohen's *d* test, we have determined not to consider an alternative method for comparisons to NV. Accordingly, the Department has used the average-to-average method in making comparisons of CEP and NV for New King Shan.⁵²

U.S. Price – Constructed Export Price

New King Shan reported that all of its POR sales were CEP in accordance with section 772(b) of the Act because the first sale to an unaffiliated purchaser was made after importation. For these sales, we based 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, U.S. movement expenses, and appropriate selling expenses, in accordance with section 772(c)(2)(A) of the Act. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by PRC service providers or paid for in PRC currency, we valued these services using SVs.⁵³ For those expenses that were provided by an ME provider and paid for in an ME currency, we used the reported expense.⁵⁴ Additionally, in accordance with section 772(c)(1)(C) of the Act, we adjusted CEP where appropriate to account for countervailing duties attributable to subject merchandise in order to offset export subsidies preliminarily found in the concurrent administrative review of the countervailing duty order on kitchen racks from the PRC.⁵⁵

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States where appropriate. We deducted, where appropriate, commissions, inventory carrying costs, credit expenses, and indirect selling expenses. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for New King Shan.⁵⁶

⁵¹ See Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Emeka Chukwudebe, Case Analyst, AD/CVD Operations, Office 9: Preliminary Results Analysis Memorandum for New King Shan in the Antidumping Duty Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China, dated concurrently with this notice ("New King Shan Prelim Analysis Memo").

⁵² In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average CEPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

⁵³ See Memorandum to The File, through Catherine Bertrand, Program Manager, Office 9, from Emeka Chukwudebe, Case Analyst, Office 9, Re: Third Administrative Review of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Surrogate Factor Valuations for the Preliminary Results, dated concurrently with this notice ("Prelim Surrogate Values Memo") for details regarding the SVs for movement expenses.

⁵⁴ See New King Shan Prelim Analysis Memo.

⁵⁵ See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010, 78 FR 21594 (April 11, 2013).

⁵⁶ See New King Shan Prelim Analysis Memo.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a FOPs 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 the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by New King Shan, the Department calculated NV based on the FOPs reported by New King Shan for the POR. The Department used Thai import data and other publicly available Thai sources in order to calculate SVs for New King Shan's FOPs. To calculate NV, the Department multiplied the reported per-unit FOP quantities by publicly available SVs. The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.⁵⁷

As appropriate, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, the Department added to Thai import SVs, reported on a Cost, Insurance and Freight "CIF" basis, a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where it relied on an import value.⁵⁸ Additionally, where necessary, the Department adjusted SVs for inflation and exchange rates, taxes, and the Department converted all applicable FOPs to a per-kilogram basis.

Furthermore, with regard to the Thai import-based SVs, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from India, Indonesia, 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.⁵⁹ Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.⁶⁰ Further, guided by the legislative history, it is

⁵⁷ 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.

⁵⁸ See Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997).

⁵⁹ 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); Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005); Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009).

⁶⁰ 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 ("Legislative history indicates that Congress intended the Department to exclude prices that the Department believes or suspects may be subsidized. See H.R. Conf. Rep. No. 100-576, at 590 (1988).").

the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized.⁶¹ 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 record did not establish that they were not from either an NME country or a country with general export subsidies.⁶² Therefore, we have not used prices from these countries either in calculating the Thai import-based SVs or in calculating ME input values.

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, we use 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.⁶³ Where we find ME purchases to be of significant quantities (i.e., 33 percent or more), in accordance with our statement of policy as outlined in Antidumping Methodologies: Market Economy Inputs,⁶⁴ we use the actual purchase prices to value the inputs. Information reported by New King Shan demonstrates that certain inputs were sourced from an ME country and paid for in ME currencies.⁶⁵ The information reported by New King Shan also demonstrates that such inputs were purchased in significant quantities (i.e., 33 percent or more) from ME suppliers; hence, we have used New King Shan's actual ME purchase prices to value these inputs.⁶⁶ Where appropriate, we added freight expenses to the ME price of the input.

We used Thai Import Statistics from the GTA to value the raw material, by-products, certain energy inputs and packing material inputs that New King Shan used to produce subject merchandise during the POR, except where listed below.

We valued water using the average tariff rate for "Type 2" ("Commerce, Government Agency, State Enterprise, and Industry") consumers, as reported by the Thailand Board of Investment,

⁶¹ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988); 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).

⁶² 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, 75300 (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).

⁶³ See, e.g., Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27366 (May 19, 1997).

⁶⁴ See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61717-18 (October 19, 2006) ("Antidumping Methodologies: Market Economy Inputs").

⁶⁵ See New King Shan's Section C Questionnaire Response, dated January 10, 2013, at Exhibit C-1.

⁶⁶ Id.

which also reports water rates for industrial users that are exclusive of value-added taxes.⁶⁷ We did not adjust this value for inflation because these water rates were in effect during the POR.⁶⁸

We valued electricity using large general service tariff rates from the Metropolitan Electricity Authority (“MEA”), Energy Regulatory Commission of Thailand.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Thailand. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand that is published in Doing Business 2013: Thailand by the World Bank.⁶⁹

We used Thai transport information in order to value the freight-in cost of the raw materials. We valued truck freight expenses by averaging the rates charged by DX Innovation Co., Ltd., a Thai freight logistics marketplace, as quoted at www.dxplace.com/price/list and the distances to 74 destinations within Thailand. Because these prices were effective June 2010, before the POR, we inflated the rates to comport with the POR by applying the Thai producer price index as published in the IMF’s International Financial Statistics.⁷⁰

On June 21, 2011, we revised our methodology for valuing the labor input in NME antidumping duty proceedings.⁷¹ In Labor Methodologies, we determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, we determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics.⁷² For these preliminary results, we have valued labor using data from the 2007 Industrial Census data published by Thailand’s National Statistics Office (the “2007 NSO data”). Although the 2007 NSO data are not from the ILO, we find that this fact does not preclude us from using this source for valuing labor. In Labor Methodologies, we decided to change to the use of ILO Chapter 6A from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.⁷³ We did not, however, preclude all other sources for evaluating labor costs in NME antidumping duty proceedings. Rather, we continue to follow our practice of selecting the best available information to

⁶⁷ See Thailand Board of Investment, “Cost of Doing Business in Thailand,” available at: http://www.boi.go.th/index.php?page=utility_costs (last accessed July 29, 2013).

⁶⁸ See Prelim Surrogate Values Memo; see also, Galvanized Steel Wire From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 76 FR 68407, 68419 (November 4, 2011) (“Although Petitioners suggested that we value water using information from Thailand’s Metropolitan Waterworks Authority, we find that the information provided is approximate and not explicitly tax-exclusive. Therefore, the data provided by the {Thailand} Board of Investment provides a more specific and accurate surrogate value.”), unchanged in Galvanized Steel Wire From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 17430 (March 26, 2012).

⁶⁹ See Prelim Surrogate Values Memo.

⁷⁰ See *id.*

⁷¹ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (“Labor Methodologies”).

⁷² See *id.*

⁷³ See *id.*, 76 FR at 36093.

determine SVs for inputs such as labor.⁷⁴ In this case, we found that the 2007 NSO data is the best available information for valuing respondent's labor inputs because: (1) the 2007 NSO data is more contemporaneous than the Thai ILO Chapter 6A data, which is from 2005 and (2) the 2007 NSO data is more specific to the kitchen racks industry, while the 2005 ILO data represents Thai manufacturing for all industries.⁷⁵ Thus, we valued respondent's labor input using the 2007 NSO data.

Pursuant to 19 CFR 351.408(c)(4), we valued factory overhead, selling, general and administrative expenses, and profit using non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. For these preliminary results, we used the only Thailand ratios on the record, derived from the financial statements of TS Steel Enterprise for the fiscal year ending December 31, 2011. In the prior review, we found that these financial statements constitute the best available information with which to determine the financial ratios.⁷⁶ As stated above, we used Thailand data reported under the 2007 NSO data, which reflects all costs related to labor, including wages, benefits, housing, training, etc.

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.

Adjustment Under 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.⁷⁷ For a subsidy meeting these criteria, the statute requires the Department to reduce the antidumping duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.⁷⁸ 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.

⁷⁴ See Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33354 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 6-C ("Xanthan Gum from the PRC"); and Drawn Stainless Steel Sinks From the People's Republic of China: Investigation, Final Determination, 78 FR 13019 (February 26, 2013), and accompanying Issues and Decision Memorandum at Comment 3 ("Sinks from the PRC").

⁷⁵ See Prelim Surrogate Values Memo.

⁷⁶ See AR2 Preliminary Results, unchanged in AR2 Final Results.

⁷⁷ See section 777A(f)(1)(A)-(C) of the Act.

⁷⁸ See section 777A(f)(1)-(2) of the Act.

Since the Department has recently started conducting an analysis under section 777A(f) of the Act, the Department is continuing to refine its practice in applying the new law.⁷⁹ The Department examined whether the respondent demonstrated: (1) a subsidies-to-cost link, e.g., subsidy effect on cost of manufacture (“COM”); and (2) a cost-to-price link, e.g., changes to COM arising from subsidies impacted U.S. prices. For the subsidies-to-cost link, New King Shan demonstrated with documentation that its supplier cost for wire rod, cold-rolled steel strip, and electricity had an impact on their COM. However, for the cost-to-price link, New King Shan stated that market demand drives their pricing, not costs and, consistent with that statement, provided no documentation demonstrating a cost-to-price link. Because respondents must demonstrate both linkages to warrant a dumping margin adjustment under section 777A(f) of the Act, and New King Shan provided no evidence with respect to a cost-to-price linkage, the Department has preliminarily determined that New King Shan did not satisfy the second linkage, and no sales adjustment is warranted under section 777A(f) of the Act.

Conclusion

We recommend applying the above methodology for these preliminary results.

Agree Disagree



Paul Piquado
Assistant Secretary
for Import Administration

28 AUGUST 2013
(Date)

⁷⁹ See Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube From the People’s Republic of China, 77 FR 52683, 52686 (August 30, 2012); Sinks from the PRC and accompanying Issues and Decision Memorandum at Comment 1.