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International Trade Administration
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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Steel Wire Garment Hangers from the People's Republic of China:
Decision Memorandum for the Preliminary Results of the 2011-
2012 Antidumping Duty Administrative Review and New Shipper
Review

SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting the fourth administrative review ("AR") and first new shipper review ("NSR") of the antidumping duty ("AD") Order¹ on steel wire garment hangers ("hangers") from the People's Republic of China ("PRC") for the period of review ("POR") October 1, 2011, through September 30, 2012. The Department has preliminarily determined that the Shanghai Wells Group² and Hangzhou Yingqing Material Co. Ltd. ("Yingqing") sold subject merchandise in the United States at prices below normal value ("NV").

If we adopt these preliminary results in the final results of reviews, we will instruct U.S. Customs and Border Protection ("CBP") to assess ADs on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results. Unless the deadline is extended, we expect to issue the 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 ("Act").

¹ See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China, 73 FR 58111 (October 6, 2008) ("Order").

² See below at "Affiliations" section where the Department discusses its previous finding that Shanghai Wells Hanger Co., Ltd. ("Shanghai Wells"), Hong Kong Wells Ltd. ("HK Wells") and Hong Kong Wells Ltd. (USA) ("Wells USA") are affiliated and that Shanghai Wells and HK Wells comprise a single entity (together, "Shanghai Wells Group").



BACKGROUND

On October 1, 2012, the Department published in the Federal Register a notice of opportunity to request an AR of the AD Order on hangers from the PRC for the POR.³ In response to timely requests from M&B Metal Products Company Inc. (“Petitioner”),⁴ pursuant to 19 CFR 351.213(b)(1), and the Shanghai Wells Group,⁵ and Shaoxing Guochao Metallic Products Co., Ltd. (“Shaoxing Guochao”)⁶ pursuant to 19 CFR 351.213(b)(2) to conduct an AR of the Order, on December 3, 2012, the Department published a notice of initiation of the fourth AR of hangers from the PRC with respect to 22 companies.⁷

On November 28, 2012, the Department initiated the first NSR of hangers from the PRC with respect to Yingqing.⁸ On February 21, 2013, Petitioner withdrew its request for an AR for 10 of the 22 companies under review.⁹ On April 15, 2013, the Department issued a memorandum extending the deadline for issuing the preliminary results by 120 days to October 31, 2013.¹⁰ On August 21, 2013, the Department aligned the NSR with the AR and pursuant to 19 CFR 351.214(j)(3) all deadlines applicable in the AR apply to the NSR.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.¹¹ Therefore, all deadlines in the segments of these proceedings have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department’s practice, the deadline will become the next business day. The revised preliminary results deadline for these aligned reviews is now November 16, 2013.¹²

³ See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review, 77 FR 59894 (October 1, 2012).

⁴ See Letter from Petitioner titled “Steel Wire Garment Hangers from China: Request for Fourth Administrative Review” (October 29, 2012).

⁵ See Letter from the Shanghai Wells Group titled “Steel Wire Garment Hangers from the People’s Republic of China” (October 31, 2012).

⁶ See Letter from Shaoxing Guochao titled “Steel Wire Garment Hangers from the People’s Republic of China: Administrative Review Request” (October 31, 2012).

⁷ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation In Part, 77 FR 71575 (December 3, 2012) (“Initiation Notice”).

⁸ See Steel Wire Garment Hangers From the People’s Republic of China: 2011–2012 Initiation of Antidumping Duty New Shipper Review, 77 FR 70993 (November 28, 2012).

⁹ See Letter from Petitioners titled “Fourth Administrative Review of Steel Wire Garment Hangers from China - Petitioner’s Withdrawal of Review Requests for Specific Companies” (February 21, 2013) (“Petitioner’s Request Withdrawal”).

¹⁰ See Memorandum to: Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, From: Josh Startup, International Trade Compliance Analyst, Office 9 Antidumping and Countervailing Duty Operations, Re: Steel Wire Garment Hangers from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review (April 15, 2013).

¹¹ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (October 18, 2013).

¹² November 16, 2013, is a Saturday. Department practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. See Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533, 24533 (May 10, 2005).

Respondent Selection

Section 777A(c)(1) of the Act, directs the Department to calculate individual dumping margins for each known exporter or producer of the subject merchandise.¹³ However, section 777A(c)(2) of the Act gives the Department the discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to determine individual dumping margins for all exporters or producers because of the large number of exporters or producers involved in an AR.

On December 3, 2012, the Department made available CBP data for subject merchandise entered during the POR under administrative protective order (“APO”) to all interested parties having an APO in the AD AR.¹⁴ We invited comments regarding the CBP data and respondent selection.¹⁵ We received comments from Petitioner.¹⁶ No other party submitted comments.

On December 28, 2012, the Department issued a respondent selection memorandum after considering the large number of exporters for which an AR was initiated, assessing its resources, and determining that it could only reasonably examine two exporters subject to this AR. Pursuant to section 777A(c)(2)(B) of the Act, the Department selected the Shanghai Wells Group and Shaoxing Dingli Metalclotheshorse Co., Ltd. (“Shaoxing Dingli”) as mandatory respondents.¹⁷ The Department sent the non-market economy (“NME”) AD questionnaire to the Shanghai Wells Group and Shaoxing Dingli on December 28, 2012. As stated in the cover letter of our questionnaire, the deadline for Section A was January 18, 2012, and for Sections C & D was February 4, 2013.¹⁸ Although we received timely responses from the Shanghai Wells Group, after filing its section A questionnaire response, Shaoxing Dingli informed the Department that it was no longer able to participate in the review.¹⁹

On April 4, 2013, the Department issued another respondent selection memorandum, in which we selected five additional exporters for individual examination, Shaoxing Tongzhou Metal Manufactured Co., Ltd., Shaoxing Andrew Metal Manufactured Co., Ltd., Shaoxing Gangyuan Metal Manufacture, Shaoxing Shunji Metal Closeshouse Co., Ltd. (“Shaoxing Shunji”), and Shaoxing Guochao.²⁰ Three of these exporters, Shaoxing Tongzhou Metal Manufactured Co., Ltd., Shaoxing Andrew Metal Manufactured Co., Ltd., and Shaoxing Gangyuan Metal

¹³ See also 19 CFR 351.204(c) regarding respondent selection, in general.

¹⁴ See Letter from Catherine Bertrand to All Interested Parties, “2011-2012 Administrative Review of the Antidumping Duty Order of Steel Wire Garment Hangers from the People’s Republic of China: CBP Data for Respondent Selection,” dated December 3, 2012.

¹⁵ Id.

¹⁶ See Petitioners’ Comments on Respondent Selection, dated December 13, 2012.

¹⁷ See Memorandum from Josh Startup, International Trade Analyst, Office 9 to James Doyle, Director, Office 9, “Fourth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Selection of Mandatory Respondents” (December 28, 2012).

¹⁸ See Letters to Shanghai Wells and Shaoxing Dingli from Catherine Bertrand, Program Manager, Office 9, Import Administration; regarding the Antidumping Duty Administrative Review of Steel Garment Wire Hangers from the People’s Republic of China: Non-Market Economy Questionnaire (December 28, 2012).

¹⁹ See Letter from Shaoxing Dingli to the Deputy Secretary of Commerce, Re: Notice of Inability to Further Participate (February 19, 2013) (“Dingli Participation Letter”).

²⁰ See Memorandum to James C. Doyle, Director, Office 9, from Josh Startup, International Trade Analyst, Office 9, regarding Fourth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Selection of Additional Mandatory Respondent (April 4, 2013).

Manufacture (collectively, “the Shaoxing Entity”), were treated as a single entity in Hangers Investigation.²¹ Because there are no changes in this review to the facts that supported that decision, we continue to find these companies are affiliated and comprise a single entity, *i.e.*, the Shaoxing Entity.

The company with the next largest volume of exports is Shanghai Jianhai International Trade Co. (“Shanghai Jianhai”). However, the Department determined that by not filing a separate rate application, Shanghai Jianhai had elected to be treated as part of the PRC-wide entity, and therefore, should not be selected as a mandatory respondent in this review. As a result, the Department departed from its normal practice of sequentially selecting mandatory respondents on the basis of the largest volume of exports during the POR²² and selected Shaoxing Guochao the company with the next largest volume of exports after Shanghai Jianhai.²³ The Department sent the NME AD questionnaire to the Shaoxing Entity, Shaoxing Shunji, and Shaoxing Guochao on April 4, 2013. In our cover letters, we established a Section A questionnaire response deadline of April 25, 2013.²⁴

On April 23, 2013, Shaoxing Shunji requested a one-week extension to submit its Section A questionnaire response.²⁵ On May 2, 2013, Shaoxing Shunji submitted its Section A questionnaire response.²⁶ On May 8, 2013, Shaoxing Shunji requested a two-week extension for its Section C&D responses,²⁷ which the Department granted on May 9, 2013.²⁸ On May 23, 2012, Shaoxing Shunji notified the Department it was no longer able to participate fully as a mandatory respondent in this review.²⁹

On April 25, 2013, counsel for the Shaoxing Entity submitted a letter notifying the Department that they were withdrawing as counsel for the Shaoxing Entity.³⁰ Neither the Shaoxing Entity nor Shaoxing Guochao responded to the Department’s Section A questionnaire, nor did either company request an extension to respond to the questionnaire by the stated deadline.

²¹ See Steel Wire Garment Hangers from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 47587, 47589 (August 14, 2008) (“Hangers Investigation”).

²² See *id.*, and accompanying Issues and Decision Memorandum at 4-5.

²³ See *id.*

²⁴ See Letters to Shaoxing Entity, Shaoxing Shunji, and Shaoxing Guochao from Catherine Bertrand, Program Manager, Office 9, Import Administration; regarding the Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Non-market Economy Questionnaire (April 4, 2013).

²⁵ See Letter from Shaoxing Shunji, Re: Steel Wire Garment Hangers From The People's Republic of China - Extension Request for Section A Questionnaire Response (April 23, 2013).

²⁶ See letter from Shaoxing Shunji, re: Steel Wire Garment Hangers from the People’s Republic of China - Separate Rate Application {sic} (May 2, 2013).

²⁷ See Letter from Shaoxing Shunji to Acting Secretary of Commerce, Re: Extension Request for Sections C and D Questionnaire Responses (May 8, 2013).

²⁸ See Memo To: The File, From: Katie Marksberry, International Trade Specialist, Office 9, Import Administration, Subject: Section C&D Questionnaire Response Deadline for Shaoxing Shunji Metal Clotheshorse Co., Ltd. (“Shunji”) (May 9, 2013).

²⁹ See Letter from Shaoxing Shunji to Acting Secretary of Commerce Re: Participation in Administrative Review (May 23, 2013) (“Shunji Participation Letter”).

³⁰ See Letter from deKieffer & Horgan, PLLC, Re: Steel Wire Garment Hangers from the People's Republic of China: Withdrawal of Representation (April 25, 2013).

On May 7, 2013, the Department issued another respondent selection memorandum, in which we selected Ningbo Dasheng Hanger Ind. Co., Ltd. (“Ningbo Dasheng”) as a mandatory respondent, as it was the only remaining producer/exporter that had suspended AD entries,³¹ and on May 7, 2013, we served its U.S. counsel the questionnaire.³² Ningbo Dasheng did not respond to the Department’s questionnaire.

Petitioner requested a review of two additional companies Yingqing and Hangzhou Qingqing Mechanical Co. Ltd. (“Qingqing”). We determined not to select Yingqing as a mandatory respondent in the AR because it is already under review in the NSR. With respect to Qingqing, because Qingqing did not file a separate rate application in the AR it thereby elected to be treated as part of the PRC-wide entity, and therefore, should not be selected as a mandatory respondent in this review. Thus, Shanghai Wells is the only participating mandatory respondent in the AD AR.

SCOPE OF THE ORDER

The merchandise that is subject to the order is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers. Specifically excluded from the scope of the order are wooden, plastic, and other garment hangers that are not made of steel wire. Also excluded from the scope of the order are chrome-plated steel wire garment hangers with a diameter of 3.4 mm or greater. The products subject to the order are currently classified under U.S. Harmonized Tariff Schedule (“HTSUS”) subheadings 7326.20.0020, 7323.99.9060, and 7323.99.9080.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

PRC-Wide Entity

Seven companies that the Department selected as mandatory respondents in this AR failed to respond to the Department’s requests for information and/or declined to participate in this review.³³ These companies, therefore, are not eligible for separate rate status.³⁴ Accordingly,

³¹ See Memorandum to James C. Doyle, Director, Office 9, from Josh Startup, International Trade Analyst, Office 9, regarding Fourth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Selection of Additional Mandatory Respondent (May 7, 2013).

³² See Letter to Mr. Philippe Bruno of Greenberg Traurig, LLP (May 7, 2013).

³³ These seven companies are: 1) Shaoxing Dingli Metal Clotheshorse Co., Ltd., 2) Shaoxing Tongzhou Metal Manufactured Co., Ltd., 3) Shaoxing Andrew Metal Manufactured Co., Ltd., 4) Shaoxing Gangyuan Metal Manufacture, 5) Shaoxing Shunji Metal Clotheshorse Co., Ltd., 6) Shaoxing Guochao Metallic Products Co., Ltd., and 7) Ningbo Dasheng Hanger Ind. Co., Ltd.

³⁴ See Initiation Notice, 77 FR at 71576 (“For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.”)

the Department preliminarily finds that the PRC-wide entity includes these seven companies. As a result, the PRC-wide entity is now under review.

Petitioner submitted a timely request for withdrawal of review³⁵ for ten of the 22 companies named in the Initiation Notice. No other party had requested a review of these ten companies. However, while the Department timely received the withdrawal request, we are not rescinding the review for these ten companies at this time because, they currently do not have a separate rate and, therefore, remain as part of the PRC-wide entity. As noted above, the PRC-wide entity is under review for these preliminary results. Therefore, we are not rescinding the review with respect to the ten companies at this time.³⁶

Also, during the review, there were two additional companies, Shanghai Jianhai and Qingqing, that did not file a separate rate application or certification, nor did they file a no shipments certification. Accordingly, because Shanghai Jianhai and Qingqing did not demonstrate their eligibility for a separate rate, the Department preliminarily determines that Shanghai Jianhai and Qingqing are also part of the PRC-wide entity.

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 states 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), two or more affiliated companies may be treated as a single entity for antidumping duty purposes if: (1) the producers have production facilities for similar or identical products

³⁵ See Letter from Petitioners to the Acting Secretary of Commerce “Fourth Administrative Review of Steel Wire Garment Hangers from China – Petitioner’s Withdrawal of Review Requests for Specific Companies” (February 21, 2013).

³⁶ The ten companies are: Liaoning Metals & Mineral Imp/Exp Corp., Shanghai Guoxing Metal Products Co. Ltd., Shanghai Lian Development Co. Ltd., Shanghai Shuang Qiang Embroidery Factory, Shangyu Baoxiang Metal Manufactured Co. Ltd., Shang Zhou Leather Shoes Plant, Shaoxing Shuren Tie Co., Ltd., Shaoxing Zhongbao Metal Manufactured Co., Ltd., Shaoxing Zhongdi Foreign Trade Co., Ltd., Zhejiang Lucky Cloud Hanger Co., Ltd.

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.³⁷

Shanghai Wells Affiliation/Single Entity

In the first AR, the Department found Shanghai Wells affiliated with certain related entities, pursuant to sections 771(33)(A), (E) and (F) of the Act, based on familial relationship, ownership and common control, in accordance with our determination in the PRC Hangers AR1.³⁸ The Department also determined to treat Shanghai Wells and one of its affiliated entities, HK Wells, as a single entity for purposes of that review.³⁹ For these preliminary results, because there were no changes to the facts that supported that decision in the first AR, we continue to find these companies part of a single entity in this review.⁴⁰

Additionally, because Shanghai Wells has a U.S. affiliate, for these preliminary results, the Department will use the constructed export price (“CEP”) and export price (“EP”), as appropriate, for sales made by Shanghai Wells and its affiliated entity to their first unaffiliated U.S. customers of subject merchandise during the POR.

DISCUSSION OF THE METHODOLOGY

Bona Fides Analysis

Consistent with the Department’s practice, we examined the bona fides of the sale under review for Yingqing. Evaluating whether a sale in an NSR is commercially reasonable or typical of normal business practices, and therefore bona fide, the Department considers, inter alia, such factors as (a) the timing of the sale, (b) the price and quantity, (c) the expenses arising from the transaction, (d) whether the goods were resold at a profit, and (e) whether the transaction was made on an arm’s-length basis.⁴¹ Accordingly, the Department considers a number of factors in its bona fides analysis, “all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.”⁴² In TTPC, the Court of International Trade (“Court” or “CIT”) also affirmed the Department’s decision that any factor which indicates that the sale under consideration is not likely to be typical of those which the producer will make in the future

³⁷ See also 19 CFR 351.401(f)(2).

³⁸ See Steel Wire Garment Hangers From the People’s Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review, 75 FR 68758, 68761 (November 9, 2010), unchanged in First Administrative Review of Steel Wire Garment Hangers From the People’s Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 27994, 27996 (May 13, 2011) (“PRC Hangers AR1”).

³⁹ See PRC Hangers AR1, 76 FR at 68759.

⁴⁰ See Letter from Shanghai Wells to the Acting Secretary of Commerce regarding Section A Questionnaire Response (January 28, 2013) at pg. 2 and 11 (“Shanghai Wells SAQR”).

⁴¹ See Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States, 366 F. Supp. 2d 1246, 1249-50 (Ct. Int’l Trade 2005) (“TTPC”).

⁴² See Hebei New Donghua Amino Acid Co., Ltd. v. United States, 374 F. Supp. 2d 1333, 1342 (Ct. Int’l Trade 2005) (“New Donghua”) (citing Fresh Garlic from the People’s Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review, 67 FR 11283 (March 13, 2002), and accompanying Issues and Decision Memorandum: New Shipper Review of Clipper Manufacturing Ltd.).

is relevant,⁴³ and found that the weight given to each factor investigated will depend on the circumstances surrounding the sale.⁴⁴ Finally, in New Donghua, the Court affirmed the Department's practice of evaluating the circumstances surrounding an NSR sale, so that a respondent does not unfairly benefit from an atypical sale and obtain a lower dumping margin than the producer's usual commercial practice would dictate.⁴⁵ Where the Department finds that a sale is not bona fide, the Department will exclude the sale from its dumping margin calculations.⁴⁶

We preliminarily find that Yingqing's sale is bona fide. Based on our investigation into the bona fide nature of the sale, the questionnaire responses submitted by Yingqing, and Yingqing's eligibility for a separate rate (see the "Separate Rates" section of this memo, below), we preliminarily determine that Yingqing has met the requirements to qualify as a new shipper during this POR. Because much of the factual information used in our analysis of the bona fides of Yingqing's transaction involves business proprietary information, the full discussion of the basis for our preliminary finding is set forth in the Yingqing Bona Fide Memo.⁴⁷

NME Country Status

In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME shall remain in effect until revoked by the administering authority. The Department considers the PRC to be an NME country.⁴⁸ Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Separate Rates

There is a rebuttable presumption that all companies within an NME are subject to government control, and thus, should be assessed a single AD rate.⁴⁹ 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.⁵⁰ 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

⁴³ See TTPC, 366 F. Supp. 2d at 1250.

⁴⁴ See id., 366 F. Supp. 2d at 1263.

⁴⁵ See New Donghua, 374 F. Supp. 2d at 1344.

⁴⁶ See TTPC, 366 F. Supp. 2d at 1249.

⁴⁷ See Memorandum to the File, from Frances Veith, Senior Case Analyst, "Antidumping Duty New Shipper Review of Steel Wire Garment Hangers from the People's Republic of China: Bona Fide Nature of the Sale under Review for Hangzhou Yingqing Material Co. Ltd.," dated concurrently with this memorandum ("Yingqing Bona Fide Memo").

⁴⁸ See, e.g., Certain Steel Nails from the People's Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2010-2011, 78 FR 16651, 16652 (March 18, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁹ 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).

⁵⁰ See Initiation Notice, 77 FR at 71576.

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,⁵¹ as amplified by Silicon Carbide.⁵² 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.⁵³

In the AR, the Department received a complete response to the Section A portion of the NME questionnaire from the Shanghai Wells Group, Shaoxing Dingli, and Shaoxing Shunji, which contained information pertaining to the companies’ eligibility for a separate rate. Additionally, we also received separate rate certifications from the Shaoxing Entity and Ningbo Dasheng, as well as a separate rate application from Shaoxing Guochao. As noted above, Shaoxing Dingli, the three Shaoxing Entity companies, Shaoxing Shunji, Ningbo Dasheng and Shaoxing Guochao, have terminated participation in this AR. Therefore, these seven companies have failed to demonstrate their eligibility for a separate rate. Thus, the only company from the AR that remains eligible for a separate rate is the Shanghai Wells Group. With respect to the NSR, Yingqing provided a complete section A response, which contained information pertaining to its eligibility for a separate rate.⁵⁴

Separate Rate Recipients

Wholly Foreign-Owned

The Shanghai Wells Group reported that it is a wholly foreign-owned entity.⁵⁵ Additionally, there is no evidence that the Shanghai Wells Group is under the control of the PRC government. For these reasons, we have determined that further separate rate analysis is not necessary to determine whether this entity is independent from government control.⁵⁶ Thus, we have preliminarily granted separate rate status to the Shanghai Wells Group.

⁵¹ Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China, 56 FR 20588, 20589 (May 6, 1991) (“Sparklers”).

⁵² 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”).

⁵³ 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 pg. 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 determination, 73 FR 40485 (July 15, 2013).

⁵⁴ See Letter from Yingqing to the Acting Secretary of Commerce regarding Steel Wire Garment Hangers from China: Section A Questionnaire Response (January 2, 2013) (“Yingqing’s SAQR”).

⁵⁵ See Shanghai Wells SAQR at pg. 2 and 11.

⁵⁶ See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People’s Republic of China, 64 FR 71104, 71104-05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).

a. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.⁵⁷ The evidence provided by Yingqing supports a preliminary finding of de jure absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses;⁵⁸ (2) there are applicable legislative enactments decentralizing control of the companies;⁵⁹ and (3) there are formal measures by the government decentralizing control of companies.⁶⁰

b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to de facto government control of its export functions: (1) whether the EPs are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.⁶¹ The Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control that would preclude the Department from assigning separate rates.⁶²

The evidence provided by Yingqing supports a preliminary finding of absence of de facto government control based on the following: (1) Yingqing set its own EPs independent of the government and without the approval of a government authority;⁶³ (2) Yingqing has authority to negotiate and sign contracts and other agreements;⁶⁴ (3) Yingqing has autonomy from the government in making decisions regarding the selection of management;⁶⁵ and (4) there is no restriction on Yingqing's use of export revenue.⁶⁶ Therefore, the Department preliminarily finds that Yingqing has established that it qualifies for a separate rate under the criteria established by Silicon Carbide and Sparklers.

⁵⁷ See Sparklers, 56 FR at 20589.

⁵⁸ See Yingqing's SAQR at Exhibits A-2.1 and A2.2.

⁵⁹ See id., at 4 where Yingqing states that it is a 100 percent privately-owned limited liability company that operates independently, in accordance with the PRC Company Law; see also Yingqing's SAQR at Exhibit A-1, PRC Company Law.

⁶⁰ See id.

⁶¹ See Silicon Carbide, 59 FR at 22586-87; see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).

⁶² See id.

⁶³ See Yingqing's SAQR at 8.

⁶⁴ See id., at 8-10.

⁶⁵ See id.

⁶⁶ See id.

Use of Facts Available and AFA

Section 776(a) of the Act provides that the Department shall apply “facts otherwise available” if (1) necessary information is not on the record or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the information that cannot be verified as provided by section 782(i) of the Act.

Furthermore, section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous AR, or other information placed on the record.

Application of Total AFA to the PRC-Wide Entity

As stated in the “Respondent Selection” section above, the Department issued its NME questionnaire to Shaoxing Dingli, the Shaoxing Entity, Shaoxing Shunji, Shaoxing Guochao, and Ningbo Dasheng. Both Shaoxing Dingli and Shaoxing Shunji, after submitting their response to section A of the NME questionnaire, informed the Department that they were no longer able to participate in the AR.⁶⁷ While Shaoxing Guochao, the three Shaoxing Entity companies, and Ningbo Dasheng each submitted a timely separate rate application (“SRA”) or separate rate certification (“SRC”), we did not receive a response to the Department’s NME questionnaire from them. Furthermore, we did not receive a request for an extension of time of the established deadlines to submit sections A, C or D of the Department’s NME questionnaire from Shaoxing Guochao, the Shaoxing Entity, or Ningbo Dasheng. Accordingly, as explained further in the “PRC-Wide Entity” section above, these seven companies are part of the PRC-wide entity and the PRC-wide entity is subject to review.

In the Initiation Notice, the Department stated that “if the above-named company does not qualify for a separate rate, all other exporters of hangers from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.”⁶⁸

We have preliminarily applied facts otherwise available to the PRC-wide entity because an element of the entity (*i.e.*, Shaoxing Dingli, the three Shaoxing Entity companies, Shaoxing Shunji, Shaoxing Guochao, and Ningbo Dasheng) withheld requested information, failed to provide information in a timely manner and in the form requested, and significantly impeded this proceeding.⁶⁹ Additionally, the Department finds that these companies failed to cooperate by not acting to the best of their ability to comply with a request for information because they

⁶⁷ See Shaoxing Dingli and Shaoxing Shunji Participation Letters, respectively.

⁶⁸ See Initiation Notice, 77 FR at 71577.

⁶⁹ See section 776(a)(2)(A)-(C) of the Act; see also “Respondent Selection” section above for a discussion of parties’ failure to provide information in this AR.

terminated their participation in the AR.⁷⁰ Therefore, pursuant to section 776(b) of the Act, the Department used an inference that is adverse to the interests of the PRC-wide entity when it selected from among the facts otherwise available.⁷¹ Thus, the Department relied on adverse facts available (“AFA”) in order to determine a margin for the PRC-wide entity, pursuant to sections 776(a)(2)(A), (B), (C) and 776(b) of the Act.⁷²

Selection of AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record. In reviews, the Department normally selects as AFA the highest rate determined for any respondent in any segment of the proceeding.⁷³ The CIT and the Court of Appeals for the Federal Circuit (“CAFC”) have consistently upheld the Department’s practice.⁷⁴ The Department’s practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the rate is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”⁷⁵ The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁷⁶

In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent’s commercial activity, selecting the highest prior margin reflects a “common sense inference that the highest prior margin is the most probative evidence of current rates because, if it were not so, the importer, knowing the rule, would have produced current information showing the respondent’s rate to be less.”⁷⁷ Consistent with the statute, court precedent, and its normal practice, the Department has assigned as AFA a rate of 187.25 percent to the PRC-wide entity, including all companies for which the Department determined are part of the PRC-wide entity.⁷⁸ This margin, which is the

⁷⁰ See section 776(b) of the Act.

⁷¹ See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, Vol. 1, at 870 (1994) (“SAA”).

⁷² See “Selection of Adverse Facts Available (“AFA”) Rate” in this memorandum for a discussion of the AFA rate.

⁷³ See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China: Notice OF Final Results of Antidumping Duty Administrative Review, 68 FR 19504, 19507 (April 21, 2003).

⁷⁴ See KYD, Inc. v. United States, 607 F.3d 760, 766-67 (Fed. Cir. 2010) (“KYD”); Rhone Poulenc, Inc. v. United States, 899 F.2d 1185, 1190 (Fed. Cir. 1990) (“Rhone Poulenc”); NSK Ltd. v. United States, 346 F. Supp. 2d 1312, 1335 (Ct. Int’l Trade 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a less-than-fair-value (LTFV) investigation); Kompass Food Trading Int’l v. United States, 24 CIT 678, 684 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and Shanghai Taoen International Trading Co., Ltd. v. United States, 360 F. Supp. 2d 1339, 1348 (Ct. Int’l Trade 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

⁷⁵ See SAA, at 870.

⁷⁶ See id.; see also Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil, 69 FR 76910, 76912 (December 23, 2004), and D&L Supply Co. v. United States, 113 F.3d 1220, 1223 (Fed. Cir. 1997).

⁷⁷ See KYD, 607 F.3d at 766 (citing Rhone Poulenc, 899 F.2d at 1190) (original emphasis).

⁷⁸ See supra, at 11.

PRC-wide rate from the final determination of the LTFV investigation, is the highest dumping margin on the record of any segment of this proceeding, and the rate currently applicable to the PRC-wide entity.⁷⁹

Corroboration of Information

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information on which it relies as facts available. The SAA defines secondary information as “information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.”⁸⁰ The SAA also explains that the Department sufficiently corroborates secondary information when it determines that such information has probative value.⁸¹ The Department previously has reasoned that “corroborated information” amounts to information it finds both reliable and relevant.⁸²

In this case, the Department has selected the highest rate assigned in any segment of this proceeding (i.e., 187.25 percent) as the AFA rate for the current review. For purposes of corroboration, the Department will consider whether that margin is both reliable and relevant. The Department corroborated the AFA rate used in the current review and prior reviews during the LTFV investigation and continues to find the information reliable.⁸³ No information has been presented in the current review that calls into question the reliability of this information. The Department considers information reasonably at its disposal to determine whether a margin continues to have relevance.⁸⁴ A selected margin remains relevant when it accurately reflects commercial practices in the industry.⁸⁵ For example, in Flowers, because the highest margin in that case was based on another company’s uncharacteristic business expense resulting in an unusually high margin, the Department disregarded the margin as irrelevant.⁸⁶ However, in the present case, the Department relied on credible information within the realm of actual selling practices to calculate the AFA rate during the LTFV investigation. In that proceeding, the Department took a simple average of the following: (1) the weighted-average of the calculated rates for the two mandatory respondents, and (2) a simple average of petition rates based on U.S.

⁷⁹ See Steel Wire Garment Hangers From the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value, 73 FR 53188, 53189 (September 15, 2008).

⁸⁰ See SAA, at 870.

⁸¹ See *id.*

⁸² See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996) unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997).

⁸³ See Steel Wire Garment Hangers From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 47587, 47591 (August 14, 2008), as amended, Steel Wire Garment Hangers From the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value, 73 FR 53188, 53189 (September 15, 2008) (“Hangers LTFV”).

⁸⁴ See section 776(c) of the Act.

⁸⁵ See Universal Polybag Co. v. United States, 577 F. Supp. 2d 1284, 1300 (Ct. Int’l Trade 2008).

⁸⁶ See Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (“Flowers”).

prices and NVs within the range of U.S. prices and NVs calculated for the two mandatory respondents.⁸⁷ Furthermore, the calculation of this margin in the investigation was subject to comment from interested parties in the proceeding.⁸⁸ Therefore, because we have previously corroborated this rate and the record of this review does not contain information that demonstrates that this rate is not appropriate to use as AFA, the Department determines that this rate has relevance.

As the 187.25 percent rate remains corroborated to the extent practicable, the Department determines that the calculated rate of 187.25 percent, which is the current PRC-wide rate, is in accord with the requirement of section 776(c) of the Act that secondary information be corroborated to the extent practicable (*i.e.*, that it have probative value). Accordingly, the Department has assigned this AFA rate to exports of the subject merchandise by the PRC-wide entity.⁸⁹

Surrogate Country and Surrogate Value Data

On February 8, 2013, the Department sent interested parties a letter inviting comments on surrogate country selection and information regarding valuing factors of production (“FOPs”).⁹⁰ On March 1, 2013, the Department received comments from Petitioner and Fabriclean Supply Inc. (“Fabriclean”), a U.S. importer of subject merchandise, on surrogate country selection in the AR,⁹¹ and from Petitioner and Yingqing in the NSR.⁹² For a detailed discussion of the selection of the surrogate country, *see* “Surrogate Country” section below. On March 15, 2013, the

⁸⁷ *See Hangers LTFV*, 73 FR at 53189; *Steel Wire Garment Hangers From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR at 47591.

⁸⁸ *See Steel Wire Garment Hangers From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR at 47588.

⁸⁹ The PRC-wide entity includes all companies for which the Department initiated a review but did not establish their eligibility for a separate rate (*i.e.*, Shaoxing Dingli Metal Clotheshorse Co., Ltd., Shaoxing Tongzhou Metal Manufactured Co., Ltd., Shaoxing Andrew Metal Manufactured Co., Ltd., Shaoxing Gangyuan Metal Manufacture, Shaoxing Shunji Metal Clotheshorse Co., Ltd., Shaoxing Guochao Metallic Products Co., Ltd., Shanghai Jianhai International Trade Co., Ltd., and Ningbo Dasheng Hanger Ind. Co., Ltd.) or was determined to be part of the PRC-wide entity (*i.e.*, Liaoning Metals & Mineral Imp/Exp Corp., Shanghai Guoxing Metal Products Co. Ltd., Shanghai Lian Development Co. Ltd., Shanghai Shuang Qiang Embroidery Factory, Shangyu Baoxiang Metal Manufactured Co. Ltd., Shang Zhou Leather Shoes Plant, Shaoxing Shuren Tie Co., Ltd., Shaoxing Zhongbao Metal Manufactured Co., Ltd., Shaoxing Zhongdi Foreign Trade Co., Ltd., and Zhejiang Lucky Cloud Hanger Co., Ltd.).

⁹⁰ *See* Letter from Catherine Bertrand, Program Manager, Office 9, to Interested Parties “Fourth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Deadlines for the Surrogate Country and Surrogate Value Comments” (February 28, 2013), for the AR and NSR respectively.

⁹¹ *See* Letter from Petitioner to the Secretary of Commerce “Fourth Administrative Review of Steel Wire Garment Hangers from China: Petitioner’s Comments on Surrogate Country Selection” (March 1, 2013) (“Petitioner Surrogate Country Comments”); Letter from Fabriclean to the Secretary of Commerce “Surrogate Country Comments: Steel Wire Garment Hangers from the People’s Republic of China” (March 1, 2013) (“Fabriclean Surrogate Country Comments”).

⁹² *See* Letter from Petitioner to the Secretary of Commerce “New Shipper Review (Hangzhou Yingqing Material Co., Ltd., and Hangzhou Qingqing Mechanical Co., Ltd.) of Steel Wire Garment Hangers from China — Petitioner’s Comments on Surrogate Country Selection” (March 1, 2013) (“Petitioner NSR Surrogate Country Comments”), and Letter from Yingqing to the Acting Secretary, Re: Surrogate Country Comment (March 1, 2013) (“Yingqing Surrogate Country Comments”).

Department received surrogate value (“SV”) comments from Petitioner and Yingqing for the NSR.⁹³

On March 19, 2013, the Department received SV comments from Petitioner and Fabriclean for the AR.⁹⁴ On March 25, 2013, the Department received SV rebuttal comments for the NSR from Petitioner and Yingqing.⁹⁵ On March 29, 2013, the Department received SV rebuttal comments from Petitioner and Fabriclean for the AR.⁹⁶

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 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.⁹⁷ The sources of the SVs we have used in these reviews are discussed under the “Normal Value” section infra.

The comments from interested parties focus on the “significant producer” prong of the surrogate country selection analysis. For the AR and NSR respectively, Petitioner filed comments, stating that Thailand is economically comparable to the PRC, was the largest exporter of identical merchandise to the United States during the POR, and has quality data available, evidenced by the Department’s reliance on Thailand as a surrogate country in a number of other proceedings involving the PRC.⁹⁸

In the AR, Fabriclean also commented on surrogate country selection, stating that the Philippines is economically comparable to the PRC, is a significant producer of comparable merchandise (i.e., wire, nails, wire rope, barbed wire, and other wire products), and has quality data that are

⁹³ See Letter from Petitioner to the Secretary of Commerce “New Shipper Review (Hangzhou Yingqing Material Co., Ltd., and Hangzhou Qingqing Mechanical Co., Ltd.) of Steel Wire Garment Hangers from China — Petitioner’s Submission of Surrogate Value Information” (March 15, 2013) (“Petitioner NSR Surrogate Value Comments”), and Letter from Yingqing to the Acting Secretary, Re: Surrogate Value Comments for the Preliminary Results (March 15, 2013) (“Yingqing Surrogate Value Comments”).

⁹⁴ See Letter from Petitioner to the Secretary of Commerce “Fourth Administrative Review of Steel Wire Garment Hangers from China: Petitioner’s Surrogate Value Data” (March 19, 2013) (“Petitioner SV Comments”); Letter from Fabriclean to the Secretary of Commerce “Surrogate Value Comments: Steel Wire Garment Hangers from the People’s Republic of China” (March 19, 2013) (“Fabriclean SV Comments”).

⁹⁵ See Letter from Petitioner to the Secretary of Commerce “New Shipper Review (Hangzhou Yingqing Material Co., Ltd., and Hangzhou Qingqing Mechanical Co., Ltd.) of Steel Wire Garment Hangers from China — Petitioner’s Submission of Rebuttal Surrogate Value Information” (March 25, 2013), and Letter from Yingqing to the Acting Secretary, Re: Surrogate Value Rebuttals for the Preliminary Results (March 25, 2013).

⁹⁶ See Letter from Petitioner to the Secretary of Commerce “Fourth Administrative Review of Steel Wire Garment Hangers from China: Petitioner’s Surrogate Value Rebuttal” (March 29, 2013), and Letter from Fabriclean to the Secretary of Commerce “Rebuttal Surrogate Value Comments: Steel Wire Garment Hangers from the People’s Republic of China” (March 29, 2013).

⁹⁷ See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (“Policy Bulletin”).

⁹⁸ See Petitioner Surrogate Country Comments, and Petitioner NSR Surrogate Country Comments.

publicly available.⁹⁹ Fabriclean’s submission included the financial statements of three Philippine producers of wire products that Fabriclean contends are comparable to subject merchandise and documentation regarding wire and nail manufacturer trade associations in the Philippines.¹⁰⁰

In the NSR, Yingqing commented on surrogate country selection, stating that the Philippines is economically comparable to the PRC, was selected in AR3 Preliminary Results,¹⁰¹ and that quality data are available from the Philippines.¹⁰²

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.¹⁰³ 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.¹⁰⁴ 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. 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.¹⁰⁵

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. Although the legislative history states that “the term ‘significant producer’ includes any country that is a significant net exporter and, if appropriate, Commerce may use a significant, net exporting country in valuing factors,”¹⁰⁶ that does not preclude reliance on additional or alternative metrics.¹⁰⁷ Moreover, 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

⁹⁹ See Fabriclean Surrogate Country Comments at 2-5.

¹⁰⁰ See *id.*, at Exhibits 1 and 2.

¹⁰¹ See Steel Wire Garment Hangers From the People’s Republic of China: Antidumping Duty Administrative Review, 77 FR 66952 (November 8, 2012) (“AR3 Preliminary Results”).

¹⁰² See Yingqing Surrogate Country Comments at 1-2.

¹⁰³ See letter To All Interested Parties, Re: Fourth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Deadlines for the Surrogate Country and Surrogate Value Comments (February 8, 2013) (“Surrogate Country and Values Letter”), at Attachment I at 2.

¹⁰⁴ See *id.*

¹⁰⁵ 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).

¹⁰⁶ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Conf. Rep. No. 576, 100 Cong. 2d Sess. (1988), reprinted in Cong. Rec. H2032 (Daily Ed. April 20, 1988).

¹⁰⁷ See Dorbest Ltd. v. United States, 462 F. Supp. 2d 1262, 1274 n.5 (Ct. Int’l Trade 2006).

Department looks to other sources, such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that “the terms ‘comparable level of economic development,’ ‘comparable merchandise,’ and ‘significant producer’ are not defined in the statute.”¹⁰⁸ The Policy Bulletin further states that “in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”¹⁰⁹ Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.¹¹⁰ Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.¹¹¹ Importantly, the statute grants the Department discretion to examine various data sources for determining the best available information.¹¹²

In this case, because the record did not contain reliable production data for identical merchandise, we analyzed which of the seven countries were exporters of comparable merchandise, as a proxy for production data, during the POR. We obtained export data using the Global Trade Atlas (“GTA”) for Harmonized Tariff Schedule (“HTS”) 7326.20: “Other Articles of Iron Steel Wire.” We find that “Other Articles of Iron/Steel Wire” are comparable to subject merchandise because this is the HTS subheading that includes steel wire garment hangers and other downstream products manufactured from steel wire. The Department found that, of the six countries provided in the Surrogate Country List, all countries were exporters of comparable merchandise. Therefore, because each of the six countries on the Surrogate Country List satisfy the “economic comparability” and “significant producer” prongs of the surrogate country analysis, the Department also will consider data availability in selecting a surrogate country. Importantly, “the country with the best factors data is selected as the primary surrogate country.”

Data Availability

When evaluating SV data, the Department considers several factors including whether the SV data is publicly available, contemporaneous with the POR, from an approved surrogate country, tax and duty-exclusive, specific to the input, and represents a broad market average.¹¹³ There is no hierarchy among these criteria; 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.¹¹⁴

¹⁰⁸ See Policy Bulletin.

¹⁰⁹ See id.

¹¹⁰ 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.” See id., at note 6.

¹¹¹ See Sebacic Acid from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 65674 (December 15, 1997), and accompany Issues and Decision Memorandum at Comment 1 (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); see also Section 773(c) of the Act and 19 CFR 351.408.

¹¹² See section 773(c) of the Act; Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

¹¹³ 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.

¹¹⁴ See Ad Hoc Shrimp Trade Action Comm. v. United States, 618 F.3d 1316, 1322 (Fed. Cir. 2010).

As noted above, between March 1, 2013, and March 29, 2013, the Department received surrogate country comments and SV data from Petitioner and Fabriclean for the AR, and received surrogate country comments and SV data from Petitioner and Yingqing between March 1, 2013, and March 25, 2013 for the NSR. Those submissions included full sets of data for valuing the Shanghai Wells Group's and Yingqing's FOPs in the Philippines and Thailand including suitable values for the primary input, steel wire rod, with notable differences between the financial statements.

With respect to the availability of steel wire rod data, the main input, we note that both the Shanghai Wells Group and Yingqing have reported using steel wire rod with a carbon content of 0.07 percent.¹¹⁵ Petitioner, Fabriclean and Yingqing each placed Global Trade Atlas ("GTA") import statistics on the record of these reviews.¹¹⁶ Petitioner placed Thai data for the six-digit harmonized system ("HS") code 7213.91 on the record, as well as all of the Thai HS sub-codes under this six-digit code.¹¹⁷ Fabriclean and Yingqing placed Philippine GTA data found under the HS code 7213.91, for the AR and NSR respectively. We note that this HS code's GTA commodity description does not include carbon content specifications.¹¹⁸ However, our research shows that a sub-code of the six-digit Philippine HS code, 7213.91.99.01, included carbon content in its commodity description and contains data for the POR.¹¹⁹

With regard to specificity, both the Philippine HS code 7213.91.99.01¹²⁰ and the Thai HS codes 7213.91.00.010¹²¹ and 7213.91.90.011¹²² indicate that products entered under these codes contain low levels of carbon similar to that of the respondents'. However, we note that the Thai data, which is split between the new HS code 7213.91.90.011 and the old HS code 7213.91.00.010, is more specific to the wire rod consumed by respondents than the Philippine data.

In its SV comments for both the AR and NSR, Petitioner placed on the record six financial statements of Thai companies for consideration: Tycoons Worldwide Group (Thailand) Public Co., Ltd. ("Tycoons"), Advanex (Thailand) Ltd. ("Advanex"), Dynamic Spring Co., Ltd. ("Dynamic"), General Spring Center Co. Ltd. ("General Spring"), Thai Summit Harness Public Co., Ltd. ("Thai Summit"), and Capital Engineering Network Public Company Limited ("Capital

¹¹⁵ See Shanghai Wells Group Letter Section C&D Questionnaire Response at Exhibit 2 (May 13, 2013) ("Shanghai Wells' SCDQR") and Shanghai Wells Group Third Supplemental Questionnaire Response at 1 (June 11, 2013); see also Yingqing's supplemental section A response at Exhibit SQ2-1, Mill Certificate (February 26, 2013).

¹¹⁶ See Petitioner SV Comments, Fabriclean SV Comments, Yingqing's SV Comments, and Petitioner NSR Surrogate Value Comments.

¹¹⁷ See Petitioner SV Comments at Exhibit 1, and Petitioner NSR SV Comments at Exhibit 1.

¹¹⁸ See Fabriclean SV Comments at Exhibit SV-1, and Yingqing's SV Comments at Exhibit SV-1.

¹¹⁹ See Factors Valuation Memorandum where the GTA commodity description indicates that this HS code has carbon content.

¹²⁰ See *id.*, where the GTA commodity description indicates that this HS code has less than 0.60 percent carbon.

¹²¹ See Petitioner SV Comments at Exhibit 1, where the commodity description for HS code 7213.91.00.010 indicates that it contains product with less than 0.08 percent carbon; see also Petitioner NSR Surrogate Value Comments at Exhibit 1.

¹²² See Petitioner NSR Surrogate Value Comments at Exhibit 1 where the GTA commodity description indicates that this HS code has between 0.06 percent and 0.10 percent carbon. Additionally, in our review of the Thai GTA data, we found that effective January 1, 2012, the Thai HS code 7213.91.00.010 was renumbered to 7213.91.90.011.

Engineering”).¹²³ While these financial statements are publicly available and contemporaneous with the POR, the Department has several concerns with regard to their suitability for calculating surrogate financial ratios.

First, we find that Advanex, Dynamic Spring, General Spring, and Thai Summit do not produce comparable merchandise. Specifically, these companies produce springs and electric wire sets for vehicles, dissimilar to scope merchandise, and their financial statements do not indicate that they draw their own steel wire rod. Further, as we found in the AR3 Final Results,¹²⁴ there is no record evidence that Tycoons, Advanex, Dynamic Spring, General Spring or Thai Summit draw wire rod, a factor in determining whether particular financial statements are from a company that produced merchandise comparable to hangers. Therefore, because they produce dissimilar merchandise and their production experience differs from that of the Shanghai Wells Group and Yingqing, they do not represent the best source for calculating financial ratios.

Additionally, the financial statements for Capital Engineering state that “{t}he principal business of the Company is investment”¹²⁵ and its other activities include industrial equipment distribution, generation and distribution of energy, and construction and tunnel boring.¹²⁶ While Capital Engineering’s financial statements also include a subsidiary that appears to be engaged in wire production, the record does not demonstrate that it produces any downstream products from wire that can be considered comparable, or that this subsidiary draws wire from steel wire rod, nor do they demonstrate the proportion of Capital Engineering’s revenues that are generated from this line of business.¹²⁷

The record contains three financial statements for Philippine producers of comparable merchandise (*i.e.*, nails and wire).¹²⁸ The financial statements of APO Industries, Inc. (“APO Industries”) and Sterling Steel, Inc. (“Sterling Steel”), producers of comparable merchandise, are contemporaneous, exhibit no apparent evidence of subsidies, and are for companies that employ an integrated wire-drawing production process that matches that of the Shanghai Wells Group and Yingqing. Although financial statements of a third Philippine producer are on the record, we do not find evidence that the third company, Supersonic Manufacturing Inc. (“Supersonic”), begins with steel wire rod in its production process.

We find the six financial statements for Thai companies to be less appropriate for calculating the Shanghai Wells Group and Yingqing’s financial ratios than the two statements on the record from the Philippines from Sterling Steel and APO Industries. Additionally, we are not using Supersonic’s financial statements for these preliminary results because the record contains

¹²³ See Petitioner SV Comments at Exhibits 2 and 3, and Petitioner NSR SV Comments at Exhibits 2 and 3.

¹²⁴ See Steel Wire Garment Hangers From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 2010-2011, 78 FR 28803 (May 16, 2013) (“AR3 Final Results”), and accompanying Issues and Decision Memorandum at Comment 1.D.

¹²⁵ See Petitioner SV Comments at Exhibit 2.F., pg. 13-14, and Petitioner NSR SV Comments at Exhibit 2.F., pg. 13-14.

¹²⁶ See *id.*, at pg. 13-14.

¹²⁷ See *id.* (for both the AR and NSR), at pg. 13 and Notes 5, 10, and 41.

¹²⁸ See Fabriclean Surrogate Country Comments at Exhibit SC-1.

several usable financial statements from producers that produce comparable merchandise with a production process which more closely mirrors the production experience of the respondent.¹²⁹

Accordingly, based on an analysis of the information on the record, the Department finds the SV data from Thailand to be of superior quality than Philippine data because, while both have contemporaneous and similar quality SV data for every other factor, except for financial statements, Thailand has the most specific data for wire rod, which is the main input for subject merchandise. For surrogate financial statements, the record only contains Thai financial statements which we have determined are for companies that do not produce comparable merchandise. Yet, we find that the Philippine financial statements on the record offer a selection of usable statements of producers of comparable merchandise.

In sum, we find that of the countries listed on the Surrogate Country List, the data from Thailand constitutes the best information available because: (1) Thailand is at a level of economic development comparable to that of the PRC; (2) Thailand is a significant exporter of comparable merchandise; and (3) Thailand provides the best opportunity to use quality, publicly available data to value the Shanghai Wells Group and Yingqing's FOPs, most notably wire rod. Because the record contains usable Thai SV data for all FOPs used by the Shanghai Wells Group and Yingqing, except for financial statements as noted above, we have selected Thailand as the surrogate country and, accordingly, have calculated NV using Thai prices to value the respondents' FOPs, when available and appropriate. We have used APO Industries and Sterling Steel's financial statements, two Philippine financial statements on the record, to calculate financial ratios for these preliminary results.

Date of Sale

Both the Shanghai Wells Group and Yingqing reported the invoice date as the date of sale because they claim that, for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established based on the invoice date.¹³⁰ The Department preliminarily determines that the invoice date is the most appropriate date to use as the Shanghai Wells Group date of sale in accordance with 19 CFR 351.401(i) and the Department's long-standing practice of determining the date of sale.¹³¹

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (the average-to-average ("A-A") method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to compare weighted-average NVs to the EPs or CEPs of individual transactions (the average-to-transaction

¹²⁹ See Prelim Surrogate Value Memo.

¹³⁰ See Shanghai Wells' SAQR at pg. 12 and Shanghai Wells' SCDQR at pg. C-14, and Yingqing's SAQR at 13, respectively.

¹³¹ 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.

("A-T") 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 ARs, the Department finds that the issue arising under 19 CFR 351.414(c)(1) in ARs is, in fact, analogous to the issue in AD investigations.¹³² In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act. 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 AR. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.¹³³

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 code. Regions are defined using the reported destination code (e.g., zip codes or cities) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. 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 here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* 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 quantified by one of three fixed

¹³² 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).

¹³³ As noted above, differential pricing was used in recent investigations. It was also used in the recent antidumping duty administrative review of polyester staple fiber from Taiwan. See Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 17637 (March 22, 2013), and accompanying Decision Memorandum.

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., 0.8) threshold.

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

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

Interested parties may present arguments 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.

Results of the Differential Pricing Analysis

For the Shanghai Wells Group, based on the results of the differential pricing analysis, the Department finds that between 33 and 66 percent of its U.S. sales confirm the existence of a pattern of EPs/CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods.¹³⁴ When comparing the weighted-average dumping margins calculated

¹³⁴ See The Shanghai Wells Group Preliminary Analysis Memorandum, dated concurrently with this notice.

using the standard A-to-A method for all U.S. sales¹³⁵ and the appropriate alternative comparison method, there is a meaningful difference in the results. Therefore, an alternative method was used because there is a meaningful difference in the results (relative margin change greater than 25 percent). Accordingly, the Department has determined to apply the “mixed alternative” methodology to Shanghai Wells (*i.e.* applying the A-T method for U.S. sales that pass the Cohen’s *d* test, and the A-A method for sales that do not pass the test).¹³⁶ With respect to Yingqing, the NSR respondent, because Yingqing only made a single sale, we did not conduct a differential pricing analysis.

Comparisons to Normal Value

To determine whether the respondents’ sales of subject merchandise were made at LTFV, we compared their EP, or CEP, to NV in accordance with section 777A(d)(2) of the Act as described below in the “Export Price” and “Constructed Export Price” and “Normal Value” sections of this memorandum.

U.S. Price

Export Price

In accordance with section 772(a) of the Act, the Department calculated EP for a portion of sales to the United States for the Shanghai Wells Group and Yingqing’s sale because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted. The Department calculated EP based on the sale price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, as appropriate, the Department deducted from the sales price certain foreign inland freight, brokerage and handling (“B&H”), and international movement costs. Because the inland freight and B&H services were either provided by an NME vendor or paid for using an NME currency, the Department based the deduction of these charges on SVs.¹³⁷ For international freight provided by a ME provider and paid in U.S. dollars, the Department used the actual cost per kilogram (“kg”) of the freight.

Constructed Export Price

For some of the Shanghai Wells Group’s sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act, because sales were made on behalf of the Chinese-based company by a U.S. affiliate to unaffiliated purchasers in the United States. For these sales, the Department based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, the Department made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and

¹³⁵ 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 EPs/CEPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

¹³⁶ See *id.*

¹³⁷ See Prelim Surrogate Value Memo for details regarding the SVs for movement expenses.

appropriate selling adjustments, 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 Renminbi, the Department valued these services using SVs (see “Factor Valuations” section below for further discussion). For those expenses that were provided by an ME provider and paid for in an ME currency, the Department used the reported expense.

In accordance with section 772(d)(1) of the Act, the Department also deducted those selling expenses associated with economic activities occurring in the United States. The Department deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty 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 each company, see the company specific analysis memorandum, dated concurrently with these preliminary results.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Further, pursuant to section 773(c)(1) of the Act, the valuation of an NME respondent’s FOPs shall be based on the best available information regarding the value of such factors in an ME country or countries considered to be appropriate by the Department. 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.

The Department used Thai import statistics to value the raw material and packing material inputs that the Shanghai Wells Group and Yingqing used to produce the subject merchandise during the POR, except where listed below. With respect to the SVs based on Thai import statistics, in accordance with the Omnibus Trade and Competitiveness Act of 1988 (“OTCA”) and long-standing agency practice, the Department has disregarded prices that it has reason to believe or suspect may be subsidized.¹³⁸ The Department has previously found that it is appropriate to disregard such prices from India, Indonesia, and South Korea because we have determined that these countries maintain broadly available, non-industry specific, export subsidies.¹³⁹ Therefore, the Department finds that it has reason to believe or suspect that all export from India, Indonesia,

¹³⁸ See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

¹³⁹ 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; See 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; See 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.

and South Korea may have benefitted from these subsidies and that we should, therefore, disregard any data from these countries contained in the Thai import statistics used to calculate SVs. 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 subsidized.¹⁴⁰ Rather, the Department bases its decision on information that is available to it at the time it makes its determination. The Department similarly disregarded prices from NME countries. Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, since the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.¹⁴¹

Factor Valuations

In accordance with section 773(c)(1) of the Act, for subject merchandise produced by the Shanghai Wells Group and Yingqing, the Department calculated NV based on the FOPs reported by the Shanghai Wells Group and Yingqing for the POR. The Department used data from Thai import statistics and other publicly available Thai sources in order to calculate SVs for the Shanghai Wells Group and Yingqing's FOPs (direct materials, energy, and packing materials) and certain movement expenses. To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly available Thai SVs (except as noted below). Because the statute is silent concerning what constitutes the "best available information" for a particular SV, the courts have recognized that on this topic the Department may use "broad discretion to determine the best available information for an antidumping review."¹⁴² 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.¹⁴³

In this case, the Department adjusted the SVs as appropriate for exchange rates and taxes, and converted all applicable items to measurement on a per kg basis. Also, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, to accord with the decision of the Federal Circuit in Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997), the Department added to the Thai import SVs a surrogate freight cost using the shorter of the reported distance between (1) the domestic supplier and the factory or (2) the nearest seaport and the factory.¹⁴⁴

¹⁴⁰ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, 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).

¹⁴¹ See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 73 FR 24552, 24559 (May 5, 2008), unchanged in Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (September 24, 2008). See Prelim Surrogate Value Memo.

¹⁴² See Ad Hoc Shrimp Trade Action Comm. v. United States, 618 F.3d 1316, 1322 (Fed. Cir. 2010).

¹⁴³ 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.

¹⁴⁴ See Prelim Surrogate Value Memo.

We valued electricity using the 2012 prices published by the Metropolitan Electricity Authority, which contains pricing data for electricity rates and other charges for residential and industrial customers. These electricity rates represent contemporaneous, publicly available, broad-market averages, which are tax and duty exclusive.¹⁴⁵

We valued water using Thai data based on The Metropolitan Waterworks Authority (http://www.boi.go.th/index.php?page=utility_costs).¹⁴⁶

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.¹⁴⁷ In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.¹⁴⁸ 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.¹⁴⁹ 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 Thai NSO data"). Although the 2007 Thai 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.¹⁵⁰ We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Rather, we continue to follow our practice of selecting the best available information to determine SVs for inputs such as labor.¹⁵¹ In this case, of the Thai labor data available (the ILO data for Chapter 6A (2000) and Chapter 5B (2003) data, and the 2007 Thai NSO data (2006)) for valuing respondents' labor inputs, we found that the 2007 Thai NSO data are the best available information because the 2007 Thai NSO data are industry-specific and more contemporaneous than the ILO data.¹⁵² Thus, we valued respondent's labor input using the 2007 Thai NSO data.

As stated above, the Department used the 2007 Thai NSO data, which reflects all costs related to manufacturing labor, including wages, benefits, housing, training, etc. Because the financial statements used to calculate the surrogate financial ratios include itemized details of indirect labor costs, the Department made adjustments to the surrogate financial ratios.¹⁵³

¹⁴⁵ See id.

¹⁴⁶ See id.

¹⁴⁷ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092, 36093-94 (June 21, 2011) ("Labor Methodologies").

¹⁴⁸ See id., 76 FR at 36093.

¹⁴⁹ See id.

¹⁵⁰ See id.

¹⁵¹ 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; 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.

¹⁵² See Prelim Surrogate Value Memo; see also Labor Methodologies, at 76 FR 36093.

¹⁵³ See id.

We valued truck freight expenses by averaging the rates charged by DX Place to transport a 20 foot container on a 10-wheel truck, from various Thai cities to Bangkok (<http://www.dxplace.com/price/list>) for 2010 and inflating them accordingly.¹⁵⁴

We valued B&H expenses using a price list of export procedures necessary to export a standardized cargo of goods in the Thailand, as published in the World Bank's Doing Business 2013, Economy Profile: Thailand publication. 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.¹⁵⁵

To value factory overhead, selling, general and administrative expenses, and profit, the Department is using the audited financial statements of APO Industries and Sterling Steel, for the year ending December 31, 2010. These companies are Philippine manufacturers of fasteners and wire-based products.¹⁵⁶ While these companies produce comparable rather than identical merchandise, they appear to use an integrated wire-drawing production process with steel wire rod as the main input, which closely mirrors that of the respondents.¹⁵⁷

Company Specific Issues

In its questionnaire responses and sales databases, the Shanghai Wells Group reported certain expenses incurred, and corresponding revenues earned, related to the transportation or movement of the subject merchandise sales during the POR.¹⁵⁸

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.

¹⁵⁴ See id.

¹⁵⁵ See id.

¹⁵⁶ See Fabriclean Surrogate Country Comments at Exhibit 1, and Yingqing Surrogate Value Comments at Exhibits SV-3 and SV-4.

¹⁵⁷ See Shanghai Wells' SCDQR at D-4 and Exhibit D-2; see also Yingqing's sections C&D submission dated January 18, 2013 at Exhibit D-1.

¹⁵⁸ For a discussion of these issues, see Memorandum to the File from Josh Startup, International Trade Analyst, "Fourth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Preliminary Analysis Memo for Shanghai Wells Hanger Co., Ltd.," dated concurrently with these preliminary results.

Conclusion

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

18 November 2013
(Date)