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November 21, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

REGARDING: Decision Memorandum for the Preliminary Results of the 2012-2013 Administrative Review of the Antidumping Duty Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China

SUMMARY

At the request of interested parties, the Department of Commerce (the "Department") is conducting an administrative review of the antidumping duty ("AD") order on seamless refined copper pipe and tube ("copper pipe and tube") from the People's Republic of China ("PRC") for the period November 1, 2012 through October 31, 2013. The Department preliminarily determines that Golden Dragon Precise Copper Tube Group, Inc., Hong Kong GD Trading Co., Ltd., and Golden Dragon Holding (Hong Kong) International, Ltd. (collectively, "Golden Dragon") sold subject merchandise in the United States at prices below normal value ("NV"). If these preliminary results are adopted in the final results of this review, the Department will instruct U.S. Customs and Border Protection ("CBP") to assess ADs on entries of subject merchandise during the period of review ("POR"). Interested parties are invited to comment on these preliminary results. In accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the "Act"), the Department will issue final results no later than 120 days from the date of publication of this notice unless extended.

BACKGROUND

On November 22, 2010, the Department published in the Federal Register an AD order on copper pipe and tube from the PRC.¹ On November 1, 2013, the Department published in the Federal Register a notice of opportunity to request an administrative review of the AD order on

¹ See Seamless Refined Copper Pipe and Tube From Mexico and the People's Republic of China: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value From Mexico, 75 FR 71070 (November 22, 2010).



copper pipe and tube from the PRC for the period November 1, 2012 through October 31, 2013.² On November 20, 2013, the Department received a request from Golden Dragon to conduct an administrative review on Golden Dragon.³ On November 29, 2013, the Department received a request from Cerro Flow Products, LLC, Wieland Copper Products, LLC, Mueller Copper Tube Products Inc., and Mueller Copper Tube Company, Inc. (collectively, “Petitioners”) to conduct administrative reviews on the following companies: China Hailiang Metal Trading, Foshan Hua Hong Copper Tube Co., Ltd., Golden Dragon Holding (Hong Kong) International Co., Ltd., Golden Dragon Precise Copper Tube Group, Inc., Guilin Lijia Metals Co., Ltd., Hong Kong GD Trading Co., Ltd., Hong Kong Hailiang Metal, Luvata Alltop (Zhongshan) Ltd. & Luvata Tube (Zhongshan) Ltd. (collectively, “Luvata”), Ningbo Jintian Copper Tube Co., Ltd., Shanghai Hailiang Copper Co., Ltd., Shanghai Hailiang Metal Trading Limited, Sinochem Ningbo Import & Export Co., Ltd., Sinochem Ningbo Ltd., Taicang City Jinxin Copper Tube Co., Ltd., Zhejiang Hailiang Co., Ltd., Zhejiang Jiahe Pipes Inc., and Zhejiang Naile Copper Co., Ltd.⁴ On December 30, 2013, the Department published in the Federal Register a notice initiating an AD administrative review of copper pipe and tube from the PRC for the period November 1, 2012 through October 31, 2013 with respect to 18 companies.⁵

On January 16, 2014, the Department placed on the record CBP data for U.S. imports classified under the Harmonized Tariff Schedule of the United States (“HTSUS”) identified in the scope of the AD order on copper pipe and tube from the PRC.⁶ At that time, the Department invited interested parties to submit comments regarding the CBP data for use in respondent selection.⁷ On January 27, 2014, the Department received comments on respondent selection from Golden Dragon.⁸ No other party submitted comments. On February 21, 2014, the Department selected Golden Dragon as the only mandatory respondent for individual examination in this review.⁹

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 78 FR 65612 (November 1, 2013).

³ See Letter from Golden Dragon to the Department, “Request for Third Administrative Review” (November 20, 2013).

⁴ See Letter from Petitioners to the Department, “Seamless Refined Copper Pipe and Tube from China: Request for Administrative Review” (November 29, 2013).

⁵ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 78 FR 79398, 79397-98 (December 30, 2013) (“Initiation Notice”).

⁶ See Letter from Robert Bolling, Program Manager, Office 4, AD/CVD Operations, to All Interested Parties, “Administrative Review of Seamless Refined Copper Pipe and Tube from the People’s Republic of China for 11/01/2012 – 10/31/2013: Results of U.S. Customs and Border Protection Database Query” (January 16, 2014).

⁷ Id.

⁸ See Letter from Golden Dragon to the Department, “Respondent Selection Comments; Seamless Refined Copper Pipe and Tube from China” (January 27, 2014).

⁹ See Memorandum to Abdelali Elouaradia, Director, Office IV, AD/CVD Operations, through Robert Bolling, Program Manager, Office IV, AD/CVD Operations, from Drew Jackson, International Trade Compliance Analyst, Office IV, AD/CVD Operations, “Respondent Selection in the 2012-2013 Antidumping Duty Administrative Review of Seamless Refined Copper Pipe and Tube from the People’s Republic of China” (February 21, 2014) (“Respondent Selection Memo”).

On February 24, 2014, the Department issued the AD questionnaire to Golden Dragon.¹⁰ From March 2014 through November 2014, Golden Dragon responded to the Department's AD questionnaire and supplemental questionnaires.

On February 20, 2014, the Department received a no shipments certification from Hong Kong Hailiang Metal Trading Limited, Zhejiang Hailiang Co., Ltd., and Shanghai Hailiang Copper Co., Ltd. (collectively, "Hailiang").¹¹ On February 27, 2014, the Department received a no-shipment certification from Luvata.¹² On April 1, 2013, Petitioners filed a timely withdrawal of its review request with respect to all of the companies listed in its November 29, 2013 review request.¹³ Golden Dragon did not rescind the review request that it submitted on behalf of Golden Dragon on November 20, 2013.

On May 20, 2014, the Department released a non-exhaustive list of countries that were at the same level of economic development as the PRC, and requested surrogate country ("SC") and surrogate value ("SV") comments from interested parties.¹⁴ Golden Dragon submitted SC comments on May 30, 2014 and June 6, 2014, requesting that the Department consider Thailand or Ukraine.¹⁵ On June 6, 2014, Petitioners submitted SC comments to the Department requesting that the Department consider Thailand.¹⁶ Between June 10, 2014 and July 7, 2014, Golden Dragon and Petitioners placed publicly available information on the record for the Department to consider as SVs.

On July 8, 2014, the Department extended the time period for issuing the preliminary results of this review by 120 days, until December 1, 2014.¹⁷

¹⁰ See Letter from Robert Bolling, Program Manager, Office 4, AD/CVD Operations, to Golden Dragon Precise Copper Tube Group, Inc., "2012-2013 Antidumping Duty Administrative Review of Seamless Refined Copper Pipe and Tube from the People's Republic of China" (February 24, 2014).

¹¹ See Letter from Hailiang to the Department, "Hailiang No Shipment Letter: Administrative Review of the Antidumping Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China" (February 20, 2014).

¹² See Letter from Luvata to the Department, "Seamless Refined Copper Pipe and Tube from People's Republic of China; A-570-964; Administrative Review – No Shipments Claim" (February 27, 2014).

¹³ See Letter from Petitioners to the Department, "Seamless Refined Copper Pipe and Tube from China: Withdrawal of Requests for Administrative Review" (March 31, 2014) ("Petitioners' Withdrawal").

¹⁴ See Letter from Robert Bolling, Program Manager, Enforcement & Compliance, Office 4 to All Interested Parties, "Seamless Refined Copper Pipe and Tube from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information" (May 20, 2014).

¹⁵ See Letter from Golden Dragon to the Department, "Seamless Refined Copper Pipe and Tube from China: Comments on Surrogate Country List" (May 30, 2014); see also Letter from Golden Dragon to the Department, "Seamless Refined Copper Pipe and Tube from China: Comments on Surrogate Country Selection" (June 6, 2014).

¹⁶ See Letter from Petitioners to the Department, "Seamless Copper Pipe and Tube from the People's Republic of China (3rd Antidumping Administrative Review): Petitioner's Comments on Surrogate Country Selection" (June 6, 2014).

¹⁷ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through Abdelali Elouaradia, Office Director, Antidumping and Countervailing Duty Operations, Office 4, from Maisha Cryor, International Trade Compliance Analyst, Antidumping and Countervailing Duty Operations, Office 4, "Seamless Refined Copper Pipe and Tube from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review" (July 8, 2014).

SCOPE OF THE ORDER

For the purpose of this order, the products covered are all seamless circular refined copper pipes and tubes, including redraw hollows, greater than or equal to six inches (152.4 mm) in length and measuring less than 12.130 inches (308.102 mm) (actual) in outside diameter (“OD”), regardless of wall thickness, bore (e.g., smooth, enhanced with inner grooves or ridges), manufacturing process (e.g., hot finished, cold-drawn, annealed), outer surface (e.g., plain or enhanced with grooves, ridges, fins, or gills), end finish (e.g., plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (e.g., plastic, paint), insulation, attachments (e.g., plain, capped, plugged, with compression or other fitting), or physical configuration (e.g., straight, coiled, bent, wound on spools).

The scope of this order covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials (“ASTM”) ASTM-B42, ASTM-B68, ASTM-B75, ASTM-B88, ASTM-B88M, ASTM-B188, ASTM-B251, ASTM-B251M, ASTM-B280, ASTM-B302, ASTM-B306, ASTM-359, ASTM-B743, ASTM-B819, and ASTM-B903 specifications and meeting the physical parameters described therein. Also included within the scope of this order are all sets of covered products, including “line sets” of seamless refined copper tubes (with or without fittings or insulation) suitable for connecting an outdoor air conditioner or heat pump to an indoor evaporator unit. The phrase “all sets of covered products” denotes any combination of items put up for sale that is comprised of merchandise subject to the scope.

“Refined copper” is defined as: (1) metal containing at least 99.85 percent by weight of copper; or (2) metal containing at least 97.5 percent by weight of copper, provided that the content by weight of any other element does not exceed the following limits:

<u>ELEMENT</u>	<u>LIMITING CONTENT PERCENT BY WEIGHT</u>
Ag - Silver	0.25
As - Arsenic	0.5
Cd - Cadmium	1.3
Cr - Chromium	1.4
Mg - Magnesium	0.8
Pb - Lead	1.5
S - Sulfur	0.7
Sn - Tin	0.8
Te - Tellurium	0.8
Zn - Zinc	1.0
Zr - Zirconium	0.3
Other elements (each)	0.3

Excluded from the scope of this order are all seamless circular hollows of refined copper less than 12 inches in length whose OD (actual) exceeds its length. The products subject to this order are currently classifiable under subheadings 7411.10.1030 and 7411.10.1090 of the HTSUS. Products subject to this order may also enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS subheadings are

provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

DISCUSSION OF THE METHODOLOGY

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. All requesting parties withdrew their respective requests for an administrative review of the companies listed in the Initiation Notice, except for Golden Dragon, within 90 days of the date of publication of the Initiation Notice.

Accordingly, the Department is rescinding this review, in part, with respect to Hailiang and Luvata, in accordance with 19 CFR 351.213(d)(1). At the time of Initiation, Luvata, Shanghai Hailiang Copper Co., Ltd., and Zhejiang Hailiang Co., Ltd. had a separate rate from a prior completed segment of this proceeding. Because we are now rescinding this review for these companies, we will instruct CBP to liquidate their entries at the rates of the cash deposits of estimated ADs required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2).¹⁸

With respect to the remaining 11 companies for which review requests were timely withdrawn,¹⁹ we are not rescinding the reviews for these companies at this time because they are not eligible for a separate rate, and, therefore, each currently remains part of the PRC-wide entity. Thus, the PRC-wide entity is subject to this administrative review (see PRC-Wide Entity section, below).²⁰

¹⁸ See Seamless Refined Copper Pipe and Tube From Mexico and the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 60725, 60729 (October 1, 2010) (“LTFV Final Determination”).

¹⁹ The 11 companies include: China Hailiang Metal Trading, Foshan Hua Hong Copper Tube Co., Ltd., Guilin Lijia Metals Co., Ltd., Hong Kong Hailiang Metal, Ningbo Jintian Copper Tube Co., Ltd., Shanghai Hailiang Metal Trading Limited, Sinochem Ningbo Ltd. & Sinochem Ningbo Import & Export Co., Ltd., Taicang City Jinxin Copper Tube Co., Ltd., Zhejiang Jihe Pipes Inc., and Zhejiang Naile Copper Co., Ltd. These companies are not included in the collapsed entity of Hong Kong Hailiang Metal Trading Limited, Zhejiang Hailiang Co., Ltd., and Shanghai Hailiang Copper Co., Ltd.

²⁰ See, e.g., Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 77 FR 47363, 47365 (August 8, 2012), unchanged in Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010- 2011, 78 FR 10130 (February 13, 2013) (collectively “Narrow Woven Ribbons from the PRC”). A change in practice with respect to the conditional review of the PRC-wide entity is not applicable to this administrative review. See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65964, 65969-70 (November 4, 2013) (“Conditional Review of the NME Entity”) (applying the change in practice to reviews for which the notice of opportunity to request an administrative review is published on or after December 4, 2013).

Non-Market Economy Country Status

No party contested the Department's treatment of the PRC as a nonmarket economy ("NME") country, and the Department treated the PRC as an NME country in all past AD investigations and administrative reviews.²¹ Designation as an NME country remains in effect until it is revoked by the Department.²² Accordingly, the Department continues to treat the PRC as a NME country in this proceeding.

Separate Rate

In proceedings involving NME countries, the Department maintains a rebuttable presumption that all companies are subject to government control, and, therefore, should be assigned a single weighted-average dumping margin.²³ The Department's policy is to assign all exporters of subject merchandise this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.²⁴ The Department analyzes whether each entity exporting the subject merchandise to the United States is sufficiently independent under a test established in Sparklers²⁵ and further developed in Silicon Carbide.²⁶ According to this separate rate analysis, the Department will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both de jure and de facto government control over its export activities. If, however, the Department determines that a company is wholly foreign owned, then analysis of the de jure and de facto criteria are not necessary to determine whether that company is independent from the NME government's control and is thus eligible for a separate rate.

The Department received responses from Golden Dragon to Section A of the AD questionnaire and Section A supplemental questionnaires, which contained information pertaining to Golden Dragon's eligibility for a separate rate.²⁷

²¹ See, e.g., Seamless Refined Copper Pipe and Tube From the People's Republic of China: Preliminary Results of the First Antidumping Duty Administrative Review, and Intent To Rescind in Part, 77 FR 47030 (August 7, 2012), unchanged in Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Results and Partial Revocation of 2010/11 Antidumping Duty Administrative Review, 78 FR 35251 (June 12, 2013).

²² See section 771(18)(C)(i) of the Act.

²³ See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039, 55040 (September 24, 2008).

²⁴ See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588, 20589 (May 6, 1991) ("Sparklers").

²⁵ Id.

²⁶ 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").

²⁷ See Letter from Golden Dragon to the Department, "Section A Questionnaire Response, Seamless Refined Copper Pipe and Tube from China" (March 24, 2014) ("March 24, 2014 Response"); Letter from Golden Dragon to the Department, "Supplemental Section A, C & D Questionnaire Response, Seamless Refined Copper Pipe and Tube from China" (July 10, 2014) ("July 10, 2014 Response").

Separate Rate Recipients

1. Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

Golden Dragon stated that it is a joint venture between Chinese and foreign entities.²⁸ In accordance with its practice, the Department analyzed whether Golden Dragon demonstrated the absence of de jure and de facto governmental control over their respective export activities.

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.²⁹ The evidence provided by Golden Dragon supports a preliminary finding of an absence of de jure government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the companies; and (3) the implementation of formal measures by the government decentralizing control of companies.³⁰

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 export prices ("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.³¹ 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 which would preclude the Department from assigning separate rates. The evidence provided by Golden Dragon supports a preliminary finding of an absence of de facto government control based on record statements and supporting documentation showing that the companies: (1) set their own EPs independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.³²

²⁸ See March 24, 2014 Response at A-1 and A-2.

²⁹ See Sparklers, 56 FR at 20589.

³⁰ See March 24, 2014 Response at A-1 through A-10.

³¹ 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).

³² See March 24, 2014 Response at A-1 through A-10.

Therefore, the evidence placed on the record of this administrative review by Golden Dragon demonstrates an absence of de jure and de facto government control under the criteria identified in Sparklers and Silicon Carbide. Accordingly, the Department preliminarily grants Golden Dragon a separate rate.

PRC-Wide Entity

As discussed above, in this administrative review, we limited the selection of respondents using CBP import data, and selected Golden Dragon as the sole mandatory respondent.³³ Petitioners timely filed a withdrawal of their review request, which included the following 11 companies: China Hailiang Metal Trading, Foshan Hua Hong Copper Tube Co., Ltd., Guilin Lijia Metals Co., Ltd., Hong Kong Hailiang Metal, Ningbo Jintian Copper Tube Co., Ltd., Shanghai Hailiang Metal Trading Limited, Sinochem Ningbo Ltd. & Sinochem Ningbo Import & Export Co., Ltd., Taicang City Jinxin Copper Tube Co., Ltd., Zhejiang Jihe Pipes Inc., and Zhejiang Naile Copper Co., Ltd.

However, as stated above, we are not rescinding the reviews for these 11 companies because they neither had a separate rate at the time of the initiation of this review nor have they submitted a separate-rate application in this administrative review. Therefore, these 11 companies remain part of the PRC-wide entity, which is therefore a part of this review.³⁴

We consider the influence that the government has been found to have over the economy to warrant determining a rate for the entity that is distinct from the rates found for companies that have provided sufficient evidence to establish that they operate freely with respect to their export activities.³⁵ Therefore, we are assigning to the PRC-wide entity its current rate, 206.00 percent, the only rate ever determined for the PRC-wide entity in this proceeding.³⁶

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs the Department to base NV, in most circumstances, on the NME producer's factors of production ("FOPs") valued using the best available information in a surrogate market-economy ("ME") country or countries considered appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department will value FOPs using "to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—(A) at a level of economic development comparable to that of the nonmarket economy country, and (B) significant producers of comparable merchandise." Further, pursuant to 19 CFR 351.408(c)(2), the Department will normally value FOPs in a single country.

³³ See Respondent Selection Memo.

³⁴ See, e.g., Narrow Woven Ribbons from the PRC. As noted, a change in practice with respect to the conditional review of the PRC-wide entity is not applicable to this administrative review. See Conditional Review of the NME Entity, 78 FR at 65969-70.

³⁵ See, e.g., Notice of Final Determination of Sales at Less than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079, 53080 (September 8, 2006).

³⁶ See LTFV Final Determination, 75 FR at 60729.

As explained in the Surrogate Country Memorandum released concurrently with these preliminary results, the Department, in accordance with section 773(c)(4) of the Act and 19 CFR 351.408(c)(2), selected Thailand as the primary SC in this administrative review.³⁷ The Department determined that (1) Thailand is at a level of economic development comparable to that of the PRC and (2) Thailand is a significant producer of merchandise comparable to the subject merchandise. Moreover, the record indicates that Thailand has the best available information to value Golden Dragon's FOPs. Therefore, the Department preliminarily determines that Thailand is the most appropriate primary SC for purposes of this administrative review. Accordingly, the Department used Thai data, when available and appropriate, to value Golden Dragon's FOPs.

Date of Sale

Golden Dragon reported the invoice date as the date of sale because it claims that for its U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the invoice date.³⁸ After evaluating Golden Dragon's claim in light of record evidence, the Department, in accordance with 19 CFR 351.401(i) and its long-standing practice of determining the date of sale,³⁹ preliminarily determines that the invoice date is the most appropriate date to use as Golden Dragon's date of sale.

Fair Value Comparisons

To determine whether sales of copper pipe and tube to the United States were made at less than NV, the Department compared the constructed export price ("CEP") and EP to NV, as described in the "Determination of Comparison Method," "Export Price," "Constructed Export Price," and "Normal Value" sections below.⁴⁰ In particular, the Department compared monthly weighted-average EPs (or CEPs) with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department normally calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (the average-to-average

³⁷ See Memorandum to Abdelali Elouaradia, Director, AD/CVD Operations, Office IV, through Robert Bolling, Program Manager, AD/CVD Operations, Office IV, from James Martinelli, International Trade Compliance Analyst, AD/CVD Operations, Office IV, "2012-2013 Antidumping Duty Administrative Review of Seamless Refined Copper Pipe and Tube from the People's Republic of China: Selection of Surrogate Country," dated concurrently with this decision memorandum ("Surrogate Country Memorandum").

³⁸ See Letter from Golden Dragon to the Department, "Supplemental Questionnaire Response; Seamless Refined Copper Pipe and Tube from China" (October 3, 2014) at question 6.

³⁹ 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.

⁴⁰ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012) ("Final Modification for Reviews").

method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether comparing weighted-average NVs to individual EPs (or CEPs) (the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.⁴¹ In recent investigations, the Department applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.⁴² The Department finds that the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination zip code and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the 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 calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular

⁴¹ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

⁴² See Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013).

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 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, and the sales in the test group were found to have passed the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large threshold (i.e., 0.8).

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

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

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

For Golden Dragon, based on the results of the differential pricing analysis, the Department finds that 80.5 percent of Golden Dragon's export sales pass the Cohen's *d* test,⁴³ and confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods. Further, the Department determines that the average-to-average method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the average-to-average method and an alternative method based on the average-to-transaction method applied to all U.S. sales. Accordingly, the Department determines to use the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Golden Dragon.

Export Price

According to section 772(a) of the Act, EP is "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under {section 772(c) of the Act}." In accordance with section 772(a) of the Act, the Department has used EP for the Golden Dragon's U.S. sales that were sold directly to the unaffiliated customers in the United States prior to importation.

The Department based EP on delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, the Department made deductions, where appropriate, from the starting price for movement expenses, including expenses for foreign inland freight from the plant to the port of exportation, international brokerage and handling, international freight, marine insurance, U.S. customs duties, U.S. warehousing, U.S. inland freight from port to warehouse, and U.S. inland freight from warehouse to the customer.⁴⁴

Constructed Export Price

According to section 772(b) of the Act, CEP is "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under {sections 772(c) and (d) of the Act}." The Department considered sales made by Golden Dragon's U.S. affiliate in the United States to be CEP sales. The Department calculated CEP based on prices to unaffiliated purchasers in the United States. In accordance with sections 772(c)(2)(A) and 772(d)(1) and of the Act, the Department made deductions, where applicable, from the starting price for movement expenses, credit expenses, inventory carrying costs, and indirect selling expenses which relate to commercial activity in the United States.⁴⁵ Movement

⁴³ See Memorandum to the File, from James Martinelli, International Trade Compliance Analyst, Office IV, AD/CVD Operations, through Robert Bolling, Program Manager, Office IV, AD/CVD Operations, "2012-2013 Antidumping Duty Administrative Review of Seamless Refined Copper Pipe and Tube from the People's Republic of China: Analysis Memorandum for Golden Dragon Precise Copper Tube Group, Inc., Hong Kong GD Trading Co., Ltd. and Golden Dragon Holding (Hong Kong) International, Ltd." dated concurrently with this decision memorandum ("Golden Dragon's Preliminary Analysis Memo") at 11.

⁴⁴ Id.

⁴⁵ Id.

expenses, where applicable, included foreign inland freight from the plant to the port of exportation, international brokerage and handling, international freight, marine insurance, U.S. customs duties, U.S. warehousing, U.S. inland freight from port to warehouse, and U.S. inland freight from warehouse to the customer.⁴⁶ Additionally, the Department deducted CEP profit from U.S. price in accordance with sections 772(d)(3) and 772(f) of the Act.⁴⁷ In accordance with section 773(a) of the Act, the Department calculated Golden Dragon's credit expenses and inventory carrying costs based on short-term interest rates. Because Golden Dragon did not incur short-term U.S. dollar borrowings during the POR, the Department based its interest rate on the short-term interest rate from the Federal Reserve.⁴⁸ For those expenses that were paid directly to an ME provider and paid for in an ME currency, the Department used the reported expense.⁴⁹ See Golden Dragon's Preliminary Analysis Memo for additional information regarding EP and CEP adjustments.

Value Added Tax

The Department's practice in NME cases is to now adjust EP or CEP for the amount of any unrefunded value added tax ("VAT"), in accordance with section 772(c)(2)(B) of the Act.⁵⁰ In implementing this practice, the Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.⁵¹ Where the irrecoverable VAT is a fixed percentage of CEP or EP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. CEP or EP downward by this same percentage.⁵² The Department's methodology, as explained above and applied in this review, incorporates two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one.

Golden Dragon reported that the official VAT rate for exports of subject merchandise is 17 percent and the refund rate is 13 percent, under the applicable PRC regulations.⁵³ Thus, Golden Dragon incurred an effective VAT rate of four percent on exports of copper pipe and tube.

Because Golden Dragon reported that it pays VAT associated with subject merchandise that is not refunded at a rate of four percent, the Department adjusted Golden Dragon's net price for the unrefunded VAT, in order to calculate a CEP and EP net of VAT.⁵⁴ We note that this is

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481, 36483-84 (June 19, 2012) ("Methodological Change").

⁵¹ Id.; see also Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 4875 (January 30, 2014), and accompanying Issues and Decision Memorandum at Comment 5.A.

⁵² Id.

⁵³ See Golden Dragon's July 10, 2014 response at 14 and Exhibit SC-12.

⁵⁴ See Golden Dragon's Preliminary Analysis Memo at Attachment 1.

consistent with the Department's longstanding policy and the intent of the statute, that dumping comparisons be tax-neutral.⁵⁵

Normal Value

Section 773(c)(1) of the Act provides that, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the Department finds that the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. When determining NV in an NME context, the Department will base NV on FOP because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. This methodology ensures that the Department's calculations are as accurate as possible.⁵⁶ Under section 773(c)(3) of the Act, FOP include, but are not limited to: (1) hours of labor required, (2) quantities of raw materials employed, (3) amounts of energy and other utilities consumed, and (4) representative capital costs.

Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on FOPs reported by Golden Dragon for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SVs to value each FOP, but when a producer sources an input from an ME and pays for it in an ME currency, the Department normally will value the factor using the actual price paid for the input.⁵⁷ To calculate NV, the Department multiplied the reported per-unit FOP-consumption rates by publicly available SVs (except as discussed below). In selecting SVs, the Department considered the quality, specificity, and contemporaneity of the data.⁵⁸ As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added to import SVs surrogate freight cost using the shorter of the

⁵⁵ See Methodological Change (citing Antidumping Duties; Countervailing Duties, 62 FR27296, 27369 (May 19, 1997) and Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. I, 827, reprinted in 1994 U.S.C.A.N. 3773, 4172); see also Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Results of Antidumping Administrative Review: 2011-2012, 78 FR 78333 (December 26, 2013), and accompanying Preliminary Decision Memorandum at Issue 9, unchanged in Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review: 2011-2012, 79 FR 37715 (July 2, 2014).

⁵⁶ See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products From the People's Republic of China, 71 FR 19695, 19703 (April 17, 2006), unchanged in 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 (September 8, 2006).

⁵⁷ See 19 CFR 351.408(c)(1); see also Shakeproof Assembly Components Div of Ill Tool Works v. United States, 268 F.3d 1376, 1382-83 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

⁵⁸ See, e.g., Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.

reported distance from the domestic supplier to the factory or the distance from the nearest port to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in Sigma Corp. v. United States, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

For the preliminary results, except where noted below, the Department used data from the Thai import statistics in Global Trade Atlas ("GTA") and other publicly available Thai sources in order to calculate SVs for Golden Dragon's FOPs (i.e., direct materials, energy, and packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.⁵⁹ The record shows that Thai import statistics obtained through GTA are contemporaneous with the POR, product-specific, and tax-exclusive.⁶⁰ In those instances where the Department could not obtain publicly available information contemporaneous to the POR with which to value factors, the Department adjusted the SVs using, where appropriate, the Thai Producer Price Index ("PPI") or Consumer Price Index ("CPI"), as published in the International Monetary Fund's International Financial Statistics.⁶¹

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized or dumped.⁶² In this regard, the Department has previously found that it is appropriate to disregard such import statistics from India, Indonesia, the Republic of Korea ("Korea"), and Thailand because the Department determined that these countries maintain

⁵⁹ See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warm water Shrimp from the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).

⁶⁰ See Memorandum to the File, from James Martinelli, International Trade Compliance Analyst, Office IV, AD/CVD Operations, through Robert Bolling, Program Manager, Office IV, AD/CVD Operations, "2012-2013 Administrative Review of the Antidumping Duty Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China: Preliminary Results Surrogate Value Memorandum" dated concurrently with this decision memorandum ("Surrogate Value Memorandum") at Exhibit 1.

⁶¹ See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 74 FR 9600 (March 5, 2009), unchanged in Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less than Fair Value, 74 FR 36656 (July 24, 2009).

⁶² See Omnibus Trade and Competitiveness Act of 1988, H.R. REP. No. 576, 100th Cong., 2d Sess. 590 (1988) (Conf. Rep.), reprinted in 1988 U.S.C.C.A.N. 1547.

broadly available, non-industry specific export subsidies.⁶³ Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, Korea, and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from India, Indonesia, Korea, and Thailand in calculating the import-based SVs. Additionally, the Department disregarded prices from NME countries.⁶⁴ Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.⁶⁵

On August 2, 2013, the Department amended 19 CFR 351.408.⁶⁶ Pursuant to amended 19 CFR 351.408(c)(1), for all proceedings initiation after September 3, 2013, when a respondent sources inputs from an ME supplier and paid for the inputs in ME currency in meaningful quantities, the Department uses the actual price paid by the respondent to value those inputs, if substantially all of the factor, by total volume, is purchased from the ME supplier. In accordance with the amended regulation, substantially all is defined to be 85 percent or more of the total volume purchased of the factor.⁶⁷ Alternatively, when the volume of an NME firm’s purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the ME purchase price with an appropriate SV, according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.⁶⁸ When a firm has made ME input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold. With respect to one input (*i.e.*, copper), record evidence indicates that this input was produced in a market economy country, purchased from a market economy supplier, and paid for in a market economy currency, but at purchase quantities less than

⁶³ See, e.g., Steel Threaded Rod From India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances, 79 FR 40712 (July 14, 2014); Certain Frozen Warmwater Shrimp From the Republic of Indonesia: Final Negative Countervailing Duty Determination, 78 FR 50383 (August 19, 2013); Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; 2011, 78 FR 55241 (September 10, 2013), unchanged in final Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2011, 79 FR 5378 (January 31, 2014); Large Residential Washers From the Republic of Korea: Final Affirmative Countervailing Duty Determination, 77 FR 75975 (December 26, 2012); Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination, 77 FR 17410 (March 26, 2012); Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination, 78 FR 50379 (August 19, 2013).

⁶⁴ See, e.g., Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final determination, 74 FR 9591, 9600 (March 5, 2009), unchanged in Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 36656 (July 24, 2009) and Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order, 74 FR 46971 (September 14, 2009).

⁶⁵ Id.

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

⁶⁷ Id.

⁶⁸ Id.

substantially all of the total purchases (*i.e.*, less than 85 percent of the total purchases). We valued copper using a weighted-average of the volume demonstrated to be manufactured in a market economy country and purchased from a market economy supplier using the market economy price, and the volume manufactured in a NME country using a surrogate value.⁶⁹ Where appropriate, we added freight expense to the market economy prices for these inputs.

The Department valued water using contemporaneous data from the Metropolitan Waterworks Authority.⁷⁰

The Department valued truck freight charges using contemporaneous data from the World Bank's Doing Business 2014: Thailand. This report gathers information concerning the cost to transport imported or exported products from the largest city in Thailand to the most commonly used seaport.⁷¹

The Department valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Thailand. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand as reported in Doing Business 2014: Thailand published by the World Bank.⁷²

The Department valued international ocean freight from the PRC to the United States using data obtained from the Descartes Carrier Rate Retrieval Database, available at www.descartes.com.⁷³

The Department valued marine insurance using a marine insurance rate offered by RJG Consultants. The Department inflated this rate using the Thai PPI as published in the IMF's International Financial Statistics.⁷⁴

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.⁷⁵ 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 SC. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization ("ILO") Yearbook of Labor Statistics.

In these preliminary results, the Department is valuing labor using industry-specific 2007 labor wage rate data published by Thailand's National Statistics Office ("NSO"). The Department inflated this rate using the Thai CPI as published in the IMF's International Financial Statistics.⁷⁶

⁶⁹ See 19 CFR 351.408(c)(1)(2013); see also Use of Market Economy Input Prices in Nonmarket Economy Proceedings, 78 FR 46799 (August 2, 2013); see also Golden Dragon Preliminary Analysis Memo.

⁷⁰ See Surrogate Value Memorandum at Exhibit 3.

⁷¹ Id., at Exhibit 7.

⁷² Id., at Exhibit 6.

⁷³ Id., at Exhibit 8.

⁷⁴ Id., at Exhibit 9.

⁷⁵ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) ("Labor Methodologies").

⁷⁶ See Surrogate Value Memorandum at Exhibit 4.

Although the 2007 NSO data are not from the ILO, the Department finds that this does not preclude it from using this as a source for valuing labor. In Labor Methodologies, the Department decided to change to the use of ILO Chapter 6A data 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.⁷⁷ The Department 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. And thus, we find that the 2007 NSO data are the best available information for valuing labor. Specifically, the 2007 NSO data are significantly more contemporaneous than the ILO Chapter 6A from Thailand, which is from 2000.⁷⁸ As stated above, the Department used Thailand data reported under 2007 NSO data, which reflects all costs related to labor, including wages, benefits, housing, training, etc.

According to 19 CFR 351.408(c)(4), the Department is directed to value overhead, general and administrative expenses (“G&A”), and profit using non-proprietary information gathered from producers of identical or comparable merchandise in the SC. To value overhead, G&A and profit, the Department used audited financial statements for the year ending December 2013 of Furukawa Metal (Thailand) Public Company Limited, a Thai producer of merchandise identical to the subject merchandise.⁷⁹

The Department was unable to segregate, and, therefore, unable to exclude energy costs from the calculation of the surrogate financial ratios. Accordingly, for the preliminary results, the Department disregarded Golden Dragon’s energy inputs in the calculation of NV, in order to avoid double-counting energy costs that have necessarily been captured in the surrogate financial ratios.⁸⁰

Golden Dragon reported that it reclaims and reintroduced copper scrap and sells a small amount of copper slag and copper ash.⁸¹ Therefore, the Department granted by-product offsets for the quantities of Golden Dragon’s reported by-products generated from production, valued using Thai import statistics from GTA.⁸²

Currency Conversion

Where appropriate, 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 date of the U.S. sales as certified by the Federal Reserve Bank.

⁷⁷ See Labor Methodologies, 76 FR at 36093.

⁷⁸ See Surrogate Value Memorandum at Exhibit 4.

⁷⁹ Id., at Exhibit 5.

⁸⁰ See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, 74 FR 16838 (April 13, 2009), and accompanying Issues and Decision Memorandum at Comment 2; see also Surrogate Value Memorandum at 5.

⁸¹ See Golden Dragon’s April 16, 2014 response at Exhibit D-8; see also Golden Dragon’s July 10, 2014 response at 24-26 and Exhibit SD-20.

⁸² See Golden Dragon’s Preliminary Analysis Memo.

Recommendation

We recommend applying the methodology described above for these preliminary results.

✓
Agree

Disagree


Paul Piquado
Assistant Secretary
for Enforcement and Compliance

21 November 2014
Date