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DATE: March 6, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Steel Wire Garment Hangers from the People's Republic of China:
Issues and Decision Memorandum for the Final Results of the Fifth
Antidumping Duty Administrative Review

SUMMARY

The Department of Commerce (“the Department”) analyzed comments submitted by Petitioner,¹ Fabriclean,² and Ningbo Dasheng³ in the fifth administrative review of the antidumping duty order on steel wire garment hangers from the People’s Republic of China (“PRC”). Following the Preliminary Results⁴ and the analysis of the comments received, we have not made any changes to Shanghai Wells’⁵ final margin calculation.⁶ In addition, we continue to find Ningbo Dasheng and four Non-Responsive Mandatories⁷ failed to cooperate by not acting to the best of

¹ M&B Metal Products Inc. (“Petitioner”).

² Fabriclean Supply Inc., a U.S. importer and wholesaler (“Fabriclean”).

³ Ningbo Dasheng Hanger Industry Co., Ltd. (“Ningbo Dasheng”).

⁴ See Steel Wire Garment Hangers From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013, 79 FR 65616 (November 5, 2014) (“Preliminary Results”).

⁵ The Department previously found 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. Because there were no changes in this review to the facts that supported that decision, we continue to find Shanghai Wells, HK Wells, and USA Wells are affiliated and that Shanghai Wells and HK Wells comprise a single entity. 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).

⁶ The deadline for the final results was March 5, 2015, however, due to inclement weather, the government was closed on March 5, 2015. Therefore, the deadline for the final results falls on the next business day, March 6, 2015.

⁷ Beyond Shanghai Wells and Ningbo Dasheng, we selected four additional companies as mandatory respondents for individual examination, however, they did not participate. These four companies are: 1) Shangyu Baoxiang Metal Manufactured Co., Ltd. (“Shangyu Baoxiang”), 2) Shaoxing Dingli Metal Clotheshorse Co., Ltd., (“Shaoxing Dingli”) 3) Zhejiang Lucky Cloud Hanger Co., Ltd (“Lucky Cloud”), and 4) Shaoxing Tongzhou Metal.



their ability to comply with a request for information, warranting the application of facts otherwise available with adverse inferences, pursuant to sections 776(a)-(b) of the Tariff Act of 1930, as amended (“Act”). Furthermore, we continue to treat Ningbo Dasheng as part of the PRC-wide entity. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

BACKGROUND

The Department published the Preliminary Results on November 5, 2014.⁸ On December 12, 2014, Petitioner, Fabriclean and Ningbo Dasheng submitted case briefs. On December 29, 2014, Petitioner submitted a rebuttal brief. On January 29, 2015, the Department held a public hearing where counsel for Petitioner, Fabriclean and Ningbo Dasheng presented issues raised in their case and rebuttal briefs.

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 (“HTS”) subheadings 7326.20.0020, 7323.99.9060, and 7323.99.9080.

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

DISCUSSION OF THE ISSUES

Comment 1: Application of Adverse Facts Available (“AFA”)

Ningbo Dasheng Arguments

- The Department failed to comply with 19 U.S.C 1677m(d), and (e), which requires the Department to give a party an opportunity to remedy or explain deficiencies in its submission, prior to the application of AFA.
- The Department did not issue an additional supplemental subsequent to the September 17, 2014, response filed by Ningbo Dasheng. As such, Ningbo Dasheng did not know that any issues were outstanding or unsatisfactory.
- The steel scrap sales value data were provided and the quantity of raw material consumption was within 99 percent of the finished goods output, an insignificant

⁸ See Preliminary Results.

discrepancy. Although wire rod scrap quantity data were not provided, it is the Department's responsibility to request data if it feels anything is missing from the record.

- Figures are routinely revised during the supplemental stage, and as for the wire rod not reconciling, Ningbo Dasheng did not know this was an issue for the Department.
- The Department questioned how less than one kilogram ("kg") of inputs could result in one kg of output. The Department should have verified the data prior to concluding the data were wrong and applying AFA.
- The Department's decision to resort to AFA was not based on record evidence, nor was it based on a fair and balanced comparison of the data. The Department did not evaluate the data on the record nor did it calculate an accurate margin. Instead the Department should continue the review and calculate a margin for Ningbo Dasheng.

Petitioner's Arguments

- The Department should continue to apply AFA to Ningbo Dasheng. The Department was extraordinarily accommodating by granting Ningbo Dasheng multiple attempts to provide its factors of production reconciliation. Ningbo Dasheng failed to provide complete factor of production ("FOP") information and therefore, the Department was correct to provide AFA.
- The argument that the quantity of input was an issue for verification is without merit. It is physically impossible for less than one kg of raw materials to produce one kg of finished product.
- Ningbo Dasheng requested to participate in this administrative review, and therefore, must have understood the demands and nature of the review. Ningbo Dasheng failed to act in the best of its ability by providing information that it possessed, warranting the application of AFA.

Department's Position: Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or an interested party withholds information requested by the Department; fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; significantly impedes a proceeding; or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(c)(1) of the Act states that the Department shall consider the ability of an interested party to provide information upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation and suggests an alternative form in which the party is able to provide the information. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Section 776(b) of the Act provides that, if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information, the

Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.⁹ In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (“SAA”) explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”¹⁰ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.¹¹ It is the Department’s practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.¹²

We disagree with Ningbo Dasheng that we did not provide it with adequate opportunities to remedy or explain deficiencies in its submissions. In fact, we provided Ningbo Dasheng with three opportunities to remedy deficiencies. At the Preliminary Results,¹³ we preliminarily determined that Ningbo Dasheng failed to provide complete factors of production (“FOP”) information because, after four attempts, Ningbo Dasheng’s FOP reconciliation remained inadequate. Specifically, the Department’s FOP reconciliation requests a three-step reconciliation. Step one is to reconcile the cost of goods sold (“COGS”) to the financial statements. Step two is to reconcile the COGS to the cost of manufacture (“COM”). Step three is to reconcile the COM to per-unit consumption. While Ningbo Dasheng appeared to satisfy step one, there was no link between step one and step two, because the COGS identified in step one was different from the COGS identified in step two, and in step three, Ningbo Dasheng’s wire rod consumption did not reconcile to its sub-ledger.

Specifically, on February 26, 2013, the Department issued the NME questionnaire to Ningbo Dasheng, requesting that Ningbo Dasheng provide an FOP reconciliation with worksheets, supporting documentation (e.g., sub-ledgers, production reports, and inventory records), and narrative describing the reconciliation. After two extensions of the relevant deadline,¹⁴ Ningbo Dasheng filed two one-page worksheets in response to the FOP reconciliation requirement, one listing monthly operation costs for 2013 and one summing the monthly operation costs for

⁹ See also 19 CFR 351.308(a); see also Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India, 70 FR 54023, 54025-26 (September 13, 2005); see also Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil, 67 FR 55792, 55794-96 (August 30, 2002).

¹⁰ See H.R. Doc. 103-316, Vol. 1 (1994) at 870; see also Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review, 72 FR 69663, 69664 (December 10, 2007).

¹¹ See, e.g., Nippon Steel Corp. v. United States, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003); see also Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan, 65 FR 42985 (July 12, 2000); Preamble, 62 FR at 27340.

¹² See, e.g., Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum at page 4, unchanged in Steel Threaded Rod From Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, 79 FR 14476 (March 14, 2014).

¹³ See Preliminary Decision Memo at 7-10.

¹⁴ See Memorandum to the File from Josh Startup, International Trade Compliance Analyst, regarding “Fifth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Sections A, C&D Questionnaire Response Deadlines for Ningbo Dasheng Hanger Ind. Co., Ltd.,” dated March 19, 2014; Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding “Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Second C&D Questionnaire Extension for Ningbo Dasheng Hanger Ind. Co., Ltd.,” dated April 16, 2014.

2013.¹⁵ Ningbo Dasheng did not provide data for the 2012 portion of the POR, nor did it provide supporting documentation or narrative explaining how the 2013 costs reconciled or why it chose to report incomplete information. In Ningbo Dasheng's first attempt at the FOP reconciliation, it only partially completed step one; there was nothing reported for 2012.¹⁶ It did not address steps two and three.

On May 20, 2014, the Department issued its first section D supplemental which included two worksheets to help Ningbo Dasheng demonstrate how the COGS reconcile to the COM, and to its consumption, and again requested supporting documentation and narrative. After two extensions of the relevant deadline,¹⁷ Ningbo Dasheng responded that it is revising its data and will provide the reconciliation response in its next supplemental.¹⁸ Thus, despite Ningbo Dasheng having had a second opportunity to provide the FOP reconciliation, Ningbo Dasheng failed to provide such reconciliation.

On July 21, 2014, the Department issued a second section D supplemental requesting inventory-in slips, production reports, financial ledgers, and narrative explaining the reconciliations. After an extension of the relevant deadline,¹⁹ Ningbo Dasheng completed the two worksheets we issued in our first supplemental and provided some supporting documentation but no narrative to explain how the reported figures reconciled. Ningbo Dasheng did not fully translate the supporting ledgers and the COGS figure was different than reported in its previous attempt, with no explanation.²⁰ Ningbo Dasheng's third attempt at the FOP reconciliation raised additional questions²¹ without fully addressing steps two and three.

On August 27, 2014, the Department issued a third section D supplemental requesting clarity on discrepancies between reported COGS figures, fully translated supporting documentation, and additional narrative. After two extensions of the relevant deadline,²² Ningbo Dasheng provided the 2012 portion of step one.²³ It provided revised COGS and COM worksheets with revised

¹⁵ See Ningbo Dasheng Section D Response, at Exhibit D-15, submitted April 30, 2014.

¹⁶ *Id.*

¹⁷ See Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Extension for Section D Supplemental," dated May 28, 2014; Memorandum to the File from Josh Startup, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Second Extension for Section D Supplemental," dated June 9, 2014.

¹⁸ See Ningbo Dasheng Supplemental Section D Response, at 4-5, submitted June 20, 2014.

¹⁹ See Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Extension for Third Section D Supplemental," dated July 30, 2014.

²⁰ See Ningbo Dasheng Supplemental Sections C&D Response, at Exhibits 16 and 17, submitted August 11, 2014.

²¹ For example, see Ningbo Dasheng Section D Response, at Exhibit D-15, submitted April 30, 2014, compared to Ningbo Dasheng Supplemental Sections C&D Response, at Exhibit 17, submitted August 11, 2014.

²² See Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Extension Supplemental Sections C&D," dated September 5, 2014; Memorandum to the File from Alexis Polovina, International Trade Compliance Analyst, regarding "Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Ningbo Dasheng Hanger Ind. Co., Ltd., Second Extension Supplemental Sections C&D," dated September 12, 2014.

²³ See Ningbo Dasheng Supplemental Sections C&D Response, at Exhibit 14, submitted September 17, 2014.

numbers. The supporting documentation submitted was still not fully translated, making the reconciliation between the worksheets difficult as no narrative was provided. Despite the revised figures, the reconciliation was still deficient because although Ningbo Dasheng appeared to provide what we request in step one, in step two of the reconciliation, Ningbo Dasheng used a different COGS figure from the COGS provided in step one, without any explanation. Furthermore, in step three, steel wire rod consumption did not reconcile to the steel wire rod raw material sub-ledger for two months out of the twelve-month POR, and no explanation was provided. Ningbo Dasheng's fourth attempt at the FOP reconciliation appears to satisfy step one, however, there is no link between step one and step two, and step three does not reconcile. Therefore, after four attempts, Ningbo Dasheng FOPs do not reconcile.

Ningbo Dasheng argues that in its September 17, 2014, response it provided the COGS build-up and therefore has satisfied its requirement. However, as explained in the Preliminary Results, and above, the discrepancy is that the COGS Ningbo Dasheng provided in its September 17, 2014, response is different from the COGS that appears to reconcile to its financial statements, which it provided in step one.²⁴ Therefore, the COGS in step one differs from the COGS in step two. Regarding the issues with step three, at the Preliminary Results, we explained that the steel wire rod consumption did not reconcile to the steel wire rod raw material sub-ledger for two months out of the twelve-month POR.²⁵ In reply Ningbo Dasheng argues that in its September 17, 2014, response it provided wire rod inventory-out slips for two months. Again, Ningbo Dasheng does not directly address the discrepancy identified in the Preliminary Results. The discrepancy is that for the months of October 2012, and July 2013, Ningbo Dasheng's steel wire rod consumption do not reconcile to its October 2012, and July 2013, steel wire rod consumption sub-ledgers.²⁶ This is unrelated to the February 2013, and September 2013, wire rod inventory-out slips Ningbo Dasheng provided in its September 17, 2014 response. The issue still remains that two months of Ningbo Dasheng's wire rod consumption do not reconcile to its steel wire rod sub-ledgers.

Ningbo Dasheng's argument that it did not know there were still outstanding issues subsequent to its September 17, 2014, submission because the Department did not issue a fifth supplemental, is without merit. First, the Department works within statutory and regulatory deadlines for administrative reviews and is not obligated to continue to send out multiple supplement requests for information that was originally requested in the original questionnaire. The original questionnaire was issue on February 26, 2014, and contained a request for a full reconciliation of sales and cost data with a corresponding narrative. After each of Ningbo Dasheng's submissions, we issued supplemental questionnaires identifying the inadequate areas, and providing additional instructions to facilitate the reconciliation.²⁷ The Department has not received this information despite giving Ningbo Dasheng three opportunities to remedy these deficiencies. The Department took extraordinarily steps to allow Ningbo Dasheng multiple opportunities to provide the requested information. Moreover, in each of these supplemental

²⁴ See Preliminary Decision Memo at 8.

²⁵ See Preliminary Decision Memo at 9.

²⁶ See Ningbo Dasheng's September 17, 2014, Response at Exhibits 14 and 15. See Ningbo Dasheng's 2012 steel wire rod sub-ledgers at Exhibit 16-2 of its Third and Fourth Supplemental Sections C & D Response, submitted August 11, 2014; and Ningbo Dasheng's 2013 steel wire rod sub-ledgers at Exhibit 13 of its Fifth Supplemental Sections C & D Response, submitted September 17, 2014.

²⁷ See above at 4-6 for a discussion of each of Ningbo Dasheng's submissions.

questionnaires, the Department specifically identified the deficiencies of the prior submission. Second, the CIT has previously stated that the burden of creating an adequate record lies with the respondent, not the Department.²⁸

Despite the instructions from the Department in each supplemental questionnaire, each of Ningbo Dasheng's FOP database revisions included CONNUM consumption ratios of less than one kg of raw materials to produce one kg of output. We disagree with Ningbo Dasheng that this could have been resolved at verification. It is mathematically impossible to create one kg of subject merchandise with less than one kg of raw materials. Products such as steel wire garment hangers, where the production process involves drawing, and cutting wire, result in yield loss. As such we find Ningbo Dasheng's argument that its consumption was within 99 percent of its output and, therefore, insignificant, unconvincing. Due to yield loss, it is unlikely a company making wire hangers would have consumption data that was 100 percent of its output (i.e., one kg of raw materials to produce one kg of output), let alone less than 100 percent. Ningbo Dasheng's argument that it provided scrap steel sales ledgers for two months in its submission does not address this issue. The sales quantity, not the value, is what is required to link the steel scrap sold to Ningbo Dasheng's production of subject merchandise. If Ningbo Dasheng could not report the steel scrap sales quantity after multiple requests,²⁹ there is no reason to believe that this would be resolved at verification. Furthermore, and more importantly, verification is to verify what is already on the record, not an opportunity to submit new information.

Therefore, for the final results we continue to find that application of facts otherwise available, pursuant to subsections 776(a)(1) and 776(a)(2)(A),(B) and (C) of the Act, is warranted based on Ningbo Dasheng's submissions. Specifically, the Department continues to find that necessary information was not available on the record, Ningbo Dasheng withheld information requested by the Department, failed to provide information by the specified deadlines, and significantly impeded the proceeding as demonstrated, in part, Ningbo Dasheng's failure to reconcile its FOP data despite several opportunities to remedy deficiencies in its submissions and numerous deadline extensions.³⁰ Further, section 782(c)(1) of the Act does not apply because Ningbo Dasheng did not notify the Department that it was unable to submit the information requested in the requested form and manner with a full explanation and suggest alternative forms. Additionally, to the extent that some information was provided, certain information remained untranslated,³¹ and incomplete,³² so that it could not serve as a reliable basis for reaching the determination in this review.³³ Accordingly, pursuant to sections 776(a)(1) and 776(a)(2)(A), (B) and (C) of the Act, we are continuing to rely upon facts otherwise available for Ningbo

²⁸ See, e.g., Tianjin Mach. Import & Export Corp. v. United States, 806 F.Supp. 1008, 1015 (CIT 1992) (“[T]he burden of creating an adequate record lies with respondents and not with Commerce.”); see also Zenith Elecs. Corp. v. United States, 988 F.2d 1573, 1583 (Fed.Cir.1993) (“The burden of production [belongs] to the party in possession of the necessary information.”).

²⁹ See Ningbo Dasheng's Section D Supplemental Questionnaire at 1, issued May 20, 2014; Ningbo Dasheng's Third Section C & D Supplemental Questionnaire at 9, issued July 21, 2014; Ningbo Dasheng's Section C & D Supplemental Questionnaire at 6, issued August 27, 2014;

³⁰ See sections 776(a)(1) and 776(a)(2)(A), (B), and (C) of the Act.

³¹ See, e.g., Ningbo Dasheng's Third and Fourth Supplemental Section C&D, submitted August 11, 2014, at Exhibits 4 and 5.

³² See the description above of Ningbo Dasheng's incomplete three-step COGS reconciliation.

³³ See section 782(e) of the Act.

Dasheng's dumping margin. Moreover, we continue to find that because Ningbo Dasheng did not provide complete FOP reconciliation and FOP consumption information, information that is in its possession, requested by the Department, Ningbo Dasheng failed to cooperate by not acting to the best of its ability, the use of an adverse inference in applying the facts otherwise available, pursuant to section 776(b) of the Act, is warranted.

Comment 2: Selection of the Surrogate Country

Fabriclean Arguments

- In the Preliminary Results, the Department found both the Philippines and Thailand to be economically comparable to the PRC, and that they both produced comparable merchandise.³⁴ However, the Department selected Thailand because:
 - The import statistics for steel wire rod were more specific;
 - The labor value for Thailand is contemporaneous and the labor value for the Philippines is not;
 - The record contains contemporaneous financial statements for Thai and Philippine producers of comparable merchandise.
- The Philippines meets all of the Department's established criteria for selection as a surrogate country. Specifically, it is at a level of economic development comparable to the PRC, is a significant producer of comparable merchandise (e.g., products produced from drawing wire from wire rod such as nails, wire rope, etc.), and has high quality surrogate data available.
- The Department's selection of Thailand as the primary surrogate country was based on a critical error. Specifically, the Department stated that Wells reported consumption of wire rod with carbon content "between five and ten percent." However, Shanghai Wells reported consumption of wire rod with carbon content ranging from 0.05 percent to 0.10 percent. Additionally, the Department characterized the data from the Philippines as containing carbon levels "up to six percent" (meaning 0.06 percent by weight) when, in fact, the import data and the Department's previous findings are clear that the Philippine data concerns steel wire rod with up to 0.60 percent carbon.³⁵
- Record evidence and precedent therefore confirm that the Philippine data covers wire rod with carbon content levels up to sixty percent, not six percent, which means the Philippine data does cover the full range of wire rod consumed by Shanghai Wells during the POR.

³⁴ See Preliminary Results and accompanying Preliminary Decision Memorandum at 15-18.

³⁵ See Dasheng's Surrogate Value Submission, dated May 14, 2014, at Exhibit SV-2; see also Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 2011-2012, 79 FR 31298 (June 2, 2014) ("Hangers 4th Review Final Results") and accompanying Issues and Decision Memorandum at Comment 4; and 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) ("Hangers 3rd Review Final Results"), and accompanying Issues and Decision Memorandum at Comment I.B.

- The Department does not know the composition of products actually imported under HTS 7213.91.9901 such that it can determine that the Philippines imported substantial quantities of steel wire rod with carbon content higher than the 0.12 percent consumed by Shanghai Wells. It is irrelevant that the descriptions of certain HTS codes are more or less specific to the wire rod that Shanghai Wells consumed if the Department does not know the actual composition of the products that were actually imported.
- The record does not contain evidence that steel wire rod prices in the Philippines differ materially based on differences in carbon content. However, if they did, the Department could conservatively use the Philippine data which includes wire rod up to 0.60 percent carbon content.
- Shanghai Wells does not specify the carbon content of the wire rod it purchases, and other attributes, such as diameter or the percentage content of other chemicals also affect the ultimate cost. Therefore the Department should find that the Philippines and Thai HTS categories for wire rod are equally specific.
- The Department must explain why the Thai import data are more reliable than the Philippine import data given that the U.S. Trade Representative (“USTR”) has expressed serious concerns regarding the method Thailand uses to calculate the value of imports into Thailand,³⁶ as have the European Community and the Philippines,³⁷ and the U.S. Commercial Service.³⁸ In particular, Thai Customs arbitrarily inflates the value of imports.
- Even though the Department has contemporaneous labor data for Thailand on the record from the Thai National Statistical Office (“NSO”), the Department should give preference to the Philippine labor data because it comes from the International Labor Organization (“ILO”) Yearbook of Labor Statistics, which is the Department’s expressly preferred source for calculating labor wage rates, even when it is less contemporaneous.³⁹

Petitioner Arguments

- Fabriclean’s argument that the Thai import statistics are unreliable according to USTR has been raised in other antidumping proceedings and rejected by the Department.⁴⁰ Additionally, the Department rejected similar arguments in the Hangers 4th Review Final Results.
- Evidence on the record of this review supports the Department’s determination that the GTA data from Thailand for wire rod is more specific to the input used by Shanghai

³⁶ See Fabriclean’s Case Brief at 11, citing Dasheng’s Surrogate Value Comments, dated May 27, 2014, at Exhibits SV-1.

³⁷ Id. at Exhibits SV-5 and SV-6, respectively.

³⁸ Id. at Exhibit SV-4.

³⁹ See Fabriclean’s Case Brief at 13-15, citing Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092, 36093-94 (June 21, 2011) (“Labor Methodologies,” citing also Silicon Metal from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 54563 (Sept. 5, 2012), and accompanying Issues and Decision Memorandum at Comment 4.

⁴⁰ Citing Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013) and accompanying Issues and Decision Memorandum at Comment 1. (“Xanthan Gum from the PRC”); and Certain Steel Threaded Rod From the People’s Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012, 78 FR 66330 (November 5, 2013) and accompanying Issues and Decision Memorandum at Comment 1 (“Threaded Rod from the PRC”).

Wells. Specifically, the carbon content of the steel wire rod used by Shanghai Wells ranged between 0.05 and 0.10 percent.⁴¹ Therefore the Philippine HTS codes, which cover wire rod with a carbon content up to 0.60 percent, is less specific than the two Thai HTS codes at issue, which cover wire rod with a specificity less than 0.06, and between 0.06 and 0.10 percent. Fabriclean's argument that the Department incorrectly characterized the Philippine import data is incorrect.

- Fabriclean's argument that because the record does not contain evidence that Philippine steel wire rod prices differ materially based on differences in carbon content ignores the Department's preference for using import data that is as specific as possible to the input used by respondents.
- Fabriclean does not provide any evidence to discredit the Thai NSO data, which is contemporaneous to the POR. Additionally, in a recent administrative review, the Department concluded that the Thai NSO data includes the information with regard to bonuses, employee housing, and employee benefits that were a concern with the older version of Thai NSO data to which Fabriclean points in attempting to discredit this data.⁴²

Department's Position: We disagree with Fabriclean that the Department should have selected the Philippines as the primary surrogate country in this review, and continue to find that Thailand provides the most accurate data sources for SVs. Specifically, we find that of the countries listed in the Surrogate Country List, the data from Thailand constitutes the best information to value Shanghai Wells' FOPs.

We continue to determine that Thai Global Trade Atlas ("GTA") import data are more specific for valuing steel wire rod, the primary input. For the Preliminary Results we used Thai HS codes 7213.91.90.010 (Containing By Weight Not More Than 0.06% Of Carbon...) and 7213.91.90.011 (Containing By Weight More Than 0.06% But Not More Than 0.10% Of Carbon...).⁴³ Although Fabriclean argues that the Department's selection of Thailand was based on a "critical error" in comparing the carbon content of the wire rod used by Shanghai Wells to the Thai and Philippine HS codes, we disagree. On the record of this review are supplier mill certificates which demonstrate that Shanghai Wells used wire rod ranging from 0.05 percent to 0.10 percent carbon content.⁴⁴ The wire rod HS codes on the record for Thailand that potentially cover Respondents' wire rod input are 7213.91.90.010 (Containing By Weight Not More Than 0.06% Of Carbon...), and 7213.91.90.011 (Containing By Weight More Than 0.06% But Not More Than 0.10% Of Carbon...). The wire rod HS code on the record from the Philippines is 7213.91.99.01 (Containing By Weight Less Than 0.60% of Carbon).

Shanghai Wells' mill certificates demonstrate that it used wire rod between 0.05 percent and 0.10 percent. Given that the alternative Philippine HS code contains wire rod with up to 0.60 percent

⁴¹ See Preliminary Results and accompanying Preliminary Decision Memorandum at 17-18.

⁴² Citing Drawn Stainless Steel Sinks From the People's Republic of China: Final Affirmative Countervailing Duty Determination, 78 FR 13017 (February 26, 2013) and accompanying Issues and Decision Memorandum at Comment 4 ("Steel Sinks from the PRC").

⁴³ See Memo to The File, Re: Fourth Administrative Review and New Shipper Review of Steel Wire Garment Hangers from the People's Republic of China: Surrogate Values for the Preliminary Results, dated November 18, 2013, ("Preliminary SV Memorandum") at 5.

⁴⁴ See Shanghai Wells' Supplemental Section C&D Questionnaire Response dated June 20, 2014, at page 2 and Exhibit 4.

carbon content which covers a much broader range of carbon contents than what Shanghai Wells used during the POR, we continue to determine that the Thai GTA data are more specific to the wire rod used by Shanghai Wells.

Additionally, Fabriclean argues that there is no evidence on the record that the carbon content of the wire rod is relevant to the import price of wire rod. However, as stated in the Preliminary Results, the Department's preference is for surrogate values which are, to the extent practicable, product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.⁴⁵ Additionally, the Department's extensive experience in examining steel cases leads us to note that low carbon steel such as those mentioned here, other things being equal, is more malleable than higher carbon steels, making them easier to cold form, which in this case means bending the low carbon steel wire into hangers.⁴⁶ Therefore, by using a HS code with a carbon most specific to that consumed by Shanghai Wells, the Department more accurately captures the experience of the respondent in calculating the SV. Finally, we find no merit in Fabriclean's argument that the record does not contain evidence that the Philippine data actually included values up to .6 percent carbon. The Department cannot see behind the HS code import data on the record to determine what products within the relevant HS code were actually imported, and therefore we limit our examination of each HS code to the description in its heading and if there were imports under that number. Further, there is no evidence indicating that the Philippine data for HS code 7213.91.99.01 did not include entries for wire rod with carbon up to .6 percent. Thus, for our analysis, we consider that each HS code covers entries through the full range of the products described within.

With regard to labor, we disagree with Fabriclean that the Department should prefer the 2008 Philippine labor data because it comes from the ILO Yearbook of Labor Statistics, which, according to Fabriclean, is the Department preferred source for calculating labor wages. However, as stated in the Preliminary Results, although the POR Manufacturing-Specific Thai NSO data are not from the ILO, we find that this fact does not preclude us from using this source for valuing labor. Labor Methodologies does not preclude the use of other sources for evaluating labor costs in NME AD proceedings.⁴⁷ Rather, we continue to follow our practice of selecting the best available information to determine SVs for inputs such as labor.⁴⁸ In this case, we find that the POR Manufacturing-Specific NSO Data from Thailand are the best available information because the 2013 Manufacturing-specific NSO Data are industry-specific and contemporaneous with the POR, as opposed to the Philippine ILO data, which is sourced from 2008.⁴⁹ Additionally, as discussed below, we also determined that the Thai financial statements of LS Industry Co, Ltd. ("LS Industry"), Sahaslip Rivet Industrial Co. Ltd. ("Sahaslip") and Thai Mongkol Fasteners Co., Ltd. ("Mongkol Fasteners") are useable. Therefore, there is useable Thai data on the record to calculate all SVs and financial ratios.

⁴⁵ See Preliminary Results and accompanying Preliminary Decision Memorandum at 24; see also 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.

⁴⁶ See Hangers 4th Review Final Results, and accompanying Issues and Decision Memorandum at Comment 5

⁴⁷ See Preliminary Results and accompanying Preliminary Decision Memorandum at 25; see also Labor Methodologies.

⁴⁸ See, e.g., Xanthan Gum From the PRC and accompanying Issues and Decision Memorandum at Comment 6-C.

⁴⁹ See Exhibit 9 for calculation of labor surrogate value; see also Labor Methodologies, at 36093.

Next, we disagree with Fabriclean's concerns over the reliability of the Thai import data, as outlined in the USTR reports. In two recent cases, Xanthan Gum and Certain Steel Threaded Rod from the PRC, as well as in the prior review of this case, the Department determined that these USTR reports do not make Thai import data unreliable or inferior to Philippine data, and we declined to conclude that all Thai import data should be rejected due to the reports.⁵⁰ Additionally, while Fabriclean provided the European Community and Philippines consultation requests with Thailand at the World Trade Organization regarding how Thailand values its imports, we note that these are only requests for consultations. Further, the U.S. Commercial Report cited by Fabriclean expresses similar concerns to the USTR reports, but does not provide additional detail or evidence that would cause the Department to determine that Thai import data are overall inferior to Philippine data. Importantly, this report does not provide conclusive evidence to serve as the basis for rejecting the entirety of Thai import data as unreliable. While this report expresses general concerns about transparency of the regulatory system, and specific concerns about the Thai government's ability to control the price of specific products (*i.e.*, sugar, liquefied petroleum gas, medicines.), the report does not address any of the raw material inputs specific to this proceeding.⁵¹ Therefore, we continue to find in this case that the USTR reports, WTO consultation requests, and U.S. Commercial Service report do lead us to reject all Thai import data as unreliable.

In sum, as in the Preliminary Results,⁵² we find that of the countries listed in 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 Shanghai Wells' FOPs, most notably wire rod. Because the record contains usable Thai SV data for all FOPs used by Shanghai Wells, including financial ratios, we have continued to use Thailand as the surrogate country and, accordingly, have calculated NV using Thai import values to value Shanghai Wells' FOPs.

Comment 3: Selection of Financial Statements

Fabriclean Arguments

- The record only contains one useable set of financial statements from a Thai producer of comparable merchandise and the Philippines offers four sets of financial statements from producers of comparable merchandise. Therefore, based on the Department's long-stated preference for calculating surrogate financial ratios based on the data of multiple companies, the Department should select the Philippines as the primary surrogate country.

⁵⁰ See Xanthan Gum from the PRC and accompanying Issues and Decision Memorandum at Comment 1; Certain Steel Threaded Rod from the PRC, and accompanying Issues and Decision Memorandum at Comment 1; and Hangers 4th Review Final Results, and accompanying Issues and Decision Memorandum at Comment 1.

⁵¹ See Ningbo Dasheng's Surrogate Value Comments, dated May 27, 2014, at Exhibit SV-4, page 77.

⁵² See Preliminary Results, and accompanying Preliminary Decision Memorandum at 20.

- Thai companies Sahaslip Rivet and Mongkol Fasteners are not reliable surrogates because those companies do not produce comparable merchandise and the record lacks information that these companies draw wire from wire rod. Additionally, these two companies have substantially higher SG&A and overhead ratios than the only Thai company which does produce comparable merchandise (LS Industry).
- There is critical ambiguity in Mongkol Fasteners financial data, especially concerning the line item “Article making cost” that comprises more than half of the company’s overhead costs. Without further detail the Department would greatly overstate the overhead ratios by including this financial data.
- In the Hangers 3rd Review Final Results, the Department calculated the surrogate financial ratios based on the financial data of three Philippine companies: APO Industries, Benedicto Steel Corporation, and Sterling Steel Incorporated. Therefore, the Department has already recognized that three of the four Philippine producers for which there is financial data on the record of this review satisfy the selection criteria for surrogate financial ratios.
- Substantial record evidence demonstrates that financial data for Supersonic Manufacturing likewise meet the Department’s criteria.⁵³

Petitioner Arguments

- The three financial statements used by the Department in the Preliminary Results are specific (*i.e.*, manufacturers of comparable merchandise such as fasteners and wire-based products), contemporaneous with the current POR, and provide the best quality data for the Department to calculate financial ratios.
- Fabriclean acknowledges in its case brief that the 2013 Thai financial statement of LS Industry is suitable to calculate financial ratios.⁵⁴
- Although Fabriclean argues that the other two Thai surrogate companies, Sahaslip Rivet and Mongkol Fasteners, do not draw wire rod and therefore cannot be used to calculate financial ratios, the Department has made it clear that evidence that a producer does not draw wire rod will not exclude that producer from consideration, as long as it produces comparable merchandise.⁵⁵

Department’s Position: In the final results, we continue to calculate financial ratios using LS Industry, Sahaslip, and Mongkol Fasteners’ financial statements, and as explained below, we find that these financial statements represent the “best available” information within the meaning of the statute. The statute directs the Department to base the valuation of the FOPs on “the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate. . . .”⁵⁶ 19 CFR 351.408(c)(4) further stipulates that the Department normally will value manufacturing overhead, SG&A expenses and profit using non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. In complying with the statute and the regulations, it is the Department’s practice to determine surrogate financial ratios using use data from market-economy surrogate

⁵³ See Fabriclean’s Surrogate Value submission, dated May 14, 2014, at Exhibit SV-10.

⁵⁴ See Fabriclean Case Brief at 16-17, 22.

⁵⁵ See Hangers 4th Review Final Results at 10.

⁵⁶ See section 773(c)(1) of the Act.

companies in the primary surrogate country based on the specificity, contemporaneity, and quality of the data.⁵⁷

We disagree with Fabriclean’s assertion that just because Sahaslip’s and Mongkol Fasteners’ financial statements do not indicate that they draw wire from wire rod that they are not producers of comparable merchandise or that the statements are not reliable. In Hangers 4th Review Final Results, the Department stated that “where information as to inputs and production {process} is on the record for a producer of comparable merchandise, such information may be useful in determining whether it is appropriate to use.” However, when this type of information is not readily apparent in the surrogate company’s auditor’s report, the absence of such information does not necessarily exclude a potential surrogate producer from consideration.⁵⁸ We note that the statute does not define “comparable merchandise.” It is the Department’s practice, where appropriate, when determining whether the company is a producer of comparable merchandise to consider all information on the record.⁵⁹ While Sahaslip’s and Mongkol Fasteners’ financial statements do not indicate the types of inputs they consume in their production processes, the record does contain information as to kinds of merchandise they produce (e.g., nails, fasteners, etc.),⁶⁰ merchandise the Department has found to be comparable to hangers.⁶¹ Therefore, we find that Sahaslip and Mongkol Fasteners had production of comparable merchandise for purposes of determining financial ratios for respondents.

Additionally, we disagree with Fabriclean that the manufacturing overhead (“MOH”) amount in Mongkol Fasteners’ financial ratio calculations is overstated. Nor do we agree that the line item description “Article making cost,” describing a cost of sale expense in Mongkol Fasteners’ financial statements, is ambiguous. Because the Department relies on the data as reported by the surrogate company, we are unable to go behind the statements to determine the appropriateness of including or excluding income and expense items in the financial ratio calculations.⁶² The Department may make financial ratio adjustments when we can determine whether the income/expense is unrelated to the general operations of the company.⁶³ In our review of Mongkol Fasteners’ financial statements, we found that the current period production costs relating to the cost of sales were fully enumerated in the accompanying notes to the financial

⁵⁷ See, e.g., Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, 74 FR 41374 (August 17, 2009), and accompanying Issues and Decision Memorandum at Comment 14.

⁵⁸ See Hangers 4th Review Final Results and accompanying Issues and Decision Memorandum at Comment 2.

⁵⁹ Id.

⁶⁰ See Petitioner’s Pre-Preliminary Surrogate Value Data submission, dated October 1, 2014, at Exhibit 3.

⁶¹ See Hangers 4th Review Final Results at Comment 1.D.

⁶² See Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 18B.

⁶³ See, e.g., Third Administrative Review of Frozen Warmwater Shrimp from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 74 FR 46565 (September 10, 2009) and accompanying Issues and Decision Memorandum at Comment 4a (stating that the Department made no interest income offset for “deposit and SBI bonds” because the Department could not discern from the financial statements whether income from these assets were long-term or short-term in nature); see also Bulk Aspirin from the People’s Republic of China: Final Results of Antidumping Duty Review, 68 FR 6710 (February 10, 2003) and accompanying Issues and Decision Memorandum at Comment 5 (stating that the Department offset interest expense with short term interest revenue where the Department could discern the short-term nature of the interest revenue from the financial statements).

statements including expenses for raw material, labor, and production expenses, which included, “Article making cost.” There is no information in Mongkol Fasteners’ financial statements indicating that “Article making cost” is not associated with the production operations of the company. Therefore, because the other costs of sales were fully enumerated, we determine that the “Article making cost” is not ambiguous, and find it appropriate to continue to classify the entire line item of “Article making cost” as MOH in the surrogate financial ratio calculation.

Finally, because we have useable financial statements from Thailand, the primary surrogate country in this review, and because it is the Department’s preference to stay within the primary surrogate country, we are not considering the Philippine financial statements. Thus, we determine to continue to use LS Industry, Sahaslip, and Mongkol Fasteners’ financial statements to calculate the surrogate financial ratios for the final results.

Comment 4: Whether the Department Should Revise the Surrogate Value for Brokerage and Handling (“B&H”)

Fabriclean Arguments

- If the Department continues to use Thailand as the surrogate country it should reconsider using Doing Business 2013: Thailand (“Doing Business”) as the surrogate value for B&H.⁶⁴
- Doing Business includes values that are not specific to the B&H service being valued with respect to Shanghai Wells’ exports of subject merchandise. Doing Business includes every document associated with every official procedure from the contract to the delivery of goods, and includes costs unrelated to brokerage services, such as issuing the bill of lading, certificate of origin, or commercial invoice.⁶⁵ Thus, the inclusion of document preparation charges overstates the total brokerage expenses that Shanghai Wells would have incurred if it operated in Thailand.
- The World Bank completed its data collection for Doing Business most recently in June 2013, but the report does not state the dates for which the data was actually collected. Therefore, it is impossible to conclude from the portion of the report on the record whether the data is contemporaneous.⁶⁶
- The Department should use the actual export brokerage rates from two global shipping container lines, OOCL Thailand and Hapag-Lloyd. These sources are not overly broad and provide specific details for the expenses for a 20-foot container, resulting in a SV of \$0.00169 per kg, for a denominator of 10,000 kgs.⁶⁷
- The record also contains the B&H data of Pakfood, a Thai producer and exporter of frozen seafood, which was reviewed in a separate antidumping proceeding, and found to have a SV of 0.067751 Thai baht per kg.⁶⁸
- The average of these three sources represents a broad market average.
- If the Department continues to rely on Doing Business, then it should pro-rate the document preparation expense, as the record shows the Shanghai Wells’ broker would

⁶⁴ See Fabriclean’s Case Brief at 26.

⁶⁵ *Id.* at 27.

⁶⁶ *Id.*

⁶⁷ *Id.* at 27-28.

⁶⁸ *Id.* citing Ningbo Dasheng’s Rebuttal Surrogate Value Submission, dated May 27, 2014, at Exhibit SV-14.

prepare at most two of the five documents included in that expense, resulting in a SV of \$0.0220 per kg.⁶⁹

Petitioner Arguments

- The Department rejected the same arguments in AR4, noting Doing Business was the best available surrogate and it provides a broader market average than the alternatives.⁷⁰
- In AR4 the Department noted that OOCL was based on a price quote and not actual expenses.⁷¹ In that segment, the Department also did not adjust the value for document preparation charges.⁷²
- Even if a respondent had a different actual experience for certain documents, the surrogate value analysis should not be selectively deconstructed to incorporate numerous assumptions which the respondent feels are more favorable. Therefore, the Department should continue to use the entire surrogate value rather than engaging in results oriented manipulation.⁷³

Department's Position: We agree with Petitioner that Doing Business is the best available source on the record to value B&H, and that we should not adjust the expenses related to certain documents. We have relied on Doing Business in Thailand to value B&H in recent antidumping cases, such as the previous review of this case and PRC Shrimp AR7.⁷⁴ We analyzed the OOCL data placed on the record by Fabriclean and note that they are based on a price quote and not actual expenses as we also found in Hangers 4th Review Final Results.⁷⁵ Similarly, the Hapag-Lloyd data is also based on a price quote and not actual expenses,⁷⁶ while the Pakfood data reflects only the experience of one Thai exporter of a product not comparable to subject merchandise. We have previously found that Doing Business is based on companies' actual experience, and not price quotes.⁷⁷ Fabriclean's proposed surrogate value of the average of the above sources is in contrast to Doing Business which is based on the actual experience, rather than price quotes, of multiple sources and is a broad market average. Further, as we noted in the Hangers 4th Review Final Results, that Doing Business is a survey reflecting a broad market average, and was done by a trusted source, the World Bank outside the context of this investigation.⁷⁸ Further, as Fabriclean itself notes, the Doing Business report was completed in June 2013, making it contemporaneous with the POR.⁷⁹

⁶⁹ See Fabriclean's Case Brief at 28.

⁷⁰ See Hangers 4th Review Final Results, and accompanying Issues and Decision Memorandum at comment 5.

⁷¹ Id.

⁷² Id.

⁷³ Id.

⁷⁴ See Hangers 4th Review Final Results, and accompanying Issues and Decision Memorandum at comment 5; see also Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results of Administrative Review; 2011–2012, 78 FR 15696 (March 12, 2013) ("PRC Shrimp AR7"), unchanged in Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results of Administrative Review; 2011–2012, 78 FR 56209 (September 12, 2013).

⁷⁵ See Fabriclean's Surrogate Value Submission at Exhibit 3; see also Hangers 4th Review Final Results, and accompanying Issues and Decision Memorandum at Comment 5.

⁷⁶ See Fabriclean's Surrogate Value Submission at Exhibit 3.

⁷⁷ See Hangers 4th Review Final Results, and accompanying Issues and Decision Memorandum at comment 5.

⁷⁸ See, e.g., Certain Steel Threaded Rod From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013, 79 FR 71743 (December 3, 2014), and accompanying Issues and Decision Memorandum at Comment 5. There the Department found that Doing Business was based on the experience of

Finally, regarding Fabriclean's argument that if we continue to use the Doing Business data it should be pro-rated, the Department may make adjustments to data when we can determine whether an item's amount is clearly identified.⁸⁰ In Doing Business, the aggregate of the data points are not broken down beyond the survey summary description heading, *i.e.*, documents preparation. Therefore because we could not go behind the Doing Business data to determine how the document preparation was calculated, we decline to pro-rate the expense of the surrogate value. Therefore, we have continued to use the full value of the Doing Business value for the final results.

Comment 5: Whether the Thai AUV for Corrugated Paper Is Aberrational

Fabriclean Comments

- The Thai value for HS code 4808.10, Corrugated Paper and Paperboard, Whether or Not Perforated, is aberrationally high compared to record data for other potential surrogate countries and for Thailand for the two previous ARs, with a SV of 4.014 USD/kg.⁸¹
- The Thai AUV is 6.7 time higher than the weighted-average unit value for the six potential surrogate countries, and ten standard deviations away from the average.⁸²
- The AUVs for Costa Rica, Indonesia, and the Philippines are close to the overall weighted-average AUV. The AUVs for Colombia, South Africa and Thailand have AUVs which are far greater than the overall weighted-average AUV.
- The import quantities for Colombia, South Africa and Thailand are low, comprising only 2.6 percent of the overall import volume for the six potential surrogate countries. Conversely, Colombia, South Africa and Thailand imported corrugated paper in large quantities, representing a broad market average.⁸³
- Even though corrugated paper is a commodity product, the POR SV is \$3.27/kg to \$3.40/kg higher than the two previous ARs, and in the last year alone the price increased nearly 550 percent. Additionally, the quantity imported during the POR was 97 percent lower than the levels in the prior two ARs.⁸⁴
- The Great American Advisory & Valuation Services report shows that the price for corrugated recycled folding boxboard in the United States from October 2012 through October 2013 was \$0.955/kg, which corresponds with the 2010-2011 Thai import prices of \$0.75/kg and \$0.62/kg in 2011-2012.⁸⁵
- The Great American Advisory & Valuation Services report also shows that the price for kraft paperboard in Thailand and the United States were similar during the POR. Therefore, because they are both paper-based products, logic would indicate that the price

multiple survey contributors from the largest city in Thailand, meaning the cost represented a broad market average. The Department also noted that the World Bank data was official analysis by an international organization, and a trusted source.

⁷⁹ See Petitioner's Surrogate Value Submission at Exhibit 3.

⁸⁰ See Sinks, and accompanying Issues and Decision Memorandum at Comment 5.

⁸¹ See Fabriclean's Case Brief at 29.

⁸² Id.

⁸³ Id. at 29-30.

⁸⁴ Id. at 31.

⁸⁵ Id. at 31-32, citing Fabriclean's Additional Surrogate Value Submission at Exhibit 5.

for corrugated paper in Thailand and the United States would also be similar, however they were not, indicating that the Thai price is aberrational.⁸⁶

- The ratio of U.S. corrugated paper prices to U.S. kraft paperboard prices is almost one-to-one, while Thai imported corrugated paper to kraft paper for the POR is over four-to-one.⁸⁷
- The Great American Advisory & Valuation Services report benchmark U.S. pricing of kraft paperboard and its similarity to U.S. corrugated paper pricing shows that the Thai import data for HS code 4808.10 do not reflect normal commercial levels.
- Therefore, the Department should use the Philippine value for HS code 4808.10 of \$0.433/kg or the inflated value from AR4 of \$0.62/kg.⁸⁸

Petitioner Comments

- The Department's surrogate country selection memorandum states that the Department should use a single surrogate country if possible.⁸⁹
- The Department's regulations state that normally a single surrogate country should be used if possible.⁹⁰
- The Department does not normally reject data that diverges from other benchmarks, and has noted that when presented with a range of values within a particular HTS category, it cannot have perfect knowledge of what may be an aberrational value.⁹¹
- In Pure Magnesium from the PRC, the Department noted that higher prices may be representative without evidence demonstrating that the prices were not market driven.⁹²
- The Department has also rejected setting strict minimums or maximums beyond which a particular surrogate value may be deemed aberrational to other values. For example, in Pencils from the PRC, the Department did not exclude certain surrogate values which were over four times the overall average surrogate value for a particular input.⁹³
- Nothing on the record supports a finding that the Thai surrogate value for corrugated paper is aberrational and should be rejected. The Thai AUV is not the highest of the six countries on the surrogate country list, nor is the Thai volume of imports the lowest. For

⁸⁶ See Fabriclean's Case Brief at 32.

⁸⁷ Id. at 32.

⁸⁸ Id. at 33.

⁸⁹ See Petitioner Rebuttal Brief at 16, citing Memorandum from Carole Showers, Director, Office Policy, U.S. Department of Commerce, to Catherine Bertrand, Program Manager, Office V, International Trade Administration, U.S. Department of Commerce, regarding Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Steel Wire Garment Hangers from the People's Republic of China, dated December 19, 2013, at 1.

⁹⁰ See 19 CFR 351.408(c)(2).

⁹¹ See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review, 72 Fed. Reg. 52,052 (September 12, 2007); see also Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of the First Antidumping Administrative Review and the First New Shipper Reviews, 72 FR 52052 (September 5, 2007) and accompanying Issues and Decision Memorandum at 18 Comment 4.

⁹² See Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 76336 (December 16, 2008) ("Pure Magnesium from the PRC") and accompanying Issues and Decision Memorandum at Comment 2.

⁹³ See Certain Cased Pencils from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 74 FR 33,406 (July 13, 2009) and accompanying Issues and Decision Memorandum at Comment 6 ("Pencils from the PRC").

both AUVs and import quantities, the South African and Thai data are similar, and the Colombian import value is approximately 60 percent of the Thai value.⁹⁴ These data demonstrate that the Thai value is not aberrational.

Department's Position: We disagree with the Fabriclean's arguments that the Thai HTS code 4808.10 used to value corrugated paper is aberrational. When determining whether data is aberrational, the Department has found that the existence of higher prices alone does not necessarily indicate that the price data is distorted or misrepresentative, and thus is not a sufficient basis upon which to exclude a particular SV.⁹⁵ Interested parties must provide specific evidence showing whether the value is aberrational. If a party presents sufficient evidence to demonstrate a particular SV is aberrational, and therefore unreliable, the Department will examine all relevant price information on the record, including any appropriate benchmark data, in order to accurately value the input in question. With respect to benchmarking, the Department has examined historical import data for the potential surrogate countries for a given case, to the extent such import data is available, and/or examines data from the same HTS category for the surrogate country over multiple years to determine if the current data appears aberrational compared to historical values.⁹⁶

In analyzing whether a value is aberrational, the Department's current practice is to examine GTA import data for potential surrogate countries for a given case, to the extent such import data is available.⁹⁷ We note that the Thai AUV (\$4.017/kg) is not the highest among the data for potential surrogate countries. The highest AUV is from South Africa's (\$4.051/kg). Thus, Thailand's AUV falls within the range of AUVs of GTA import data for countries comparable to the PRC in terms of economic development, indicating that it is representative of market averages. While Fabriclean argues that the Thai value rose significantly in this review from the previous two reviews, the fact that the Thai AUV rose from \$0.62/kg to \$4.02/kg does not mean that the value is aberrational given the AUV still falls within the array of values of other potential surrogate countries. Further, we find that the record evidence does not support a finding that the average unit value from any of the other countries, when compared with that of Thailand, either are more specific to the input or are a more reasonable value. The Court of International Trade has stated that the existence of values that are higher or lower than other data on the record does not, by itself, demonstrate the value to be aberrational, and just because there are differences between proposed FOP from different countries does not necessarily mean that one of those values is aberrational.⁹⁸

⁹⁴ See Fabriclean's Case Brief at 30.

⁹⁵ See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 56158 (September 12, 2011) and accompanying Issues and Decision Memorandum at Comment 12.

⁹⁶ See Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 75 FR 36630 (June 28, 2010) ("Carbazole") and accompanying Issues and Decision Memorandum at Comment 6.

⁹⁷ See Certain Oil Country Tubular Goods From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 77 FR 74644 (December 17, 2012) and Issues and Decision Memorandum at Comment 1.

⁹⁸ See Camau Frozen Seafood Processing Import Export Corporation v. United States, 929 F. Supp. 2d 1352, 1356 n.9 (CIT 2013) ("Camau II"); see also Trust Chem Co. Ltd. v. United States, 791 F. Supp. 2d 1257 (CIT 2011) (affirming Commerce's determination that "higher prices alone do not necessarily indicate that the price data are distorted or misrepresentative, and thus are not sufficient to exclude a particular surrogate value").

Regarding Fabriclean's concerns that the Thai import quantity for the POR is lower than in previous reviews, we find that simply a lowering of the import quantity does not, in and of itself, demonstrate that the AUV is distorted, and the Department has consistently found small quantities alone are not inherently distortive.⁹⁸ Here, the 19,586 kilogram that Thailand imported during the POR is a commercial volume, is not the lowest volume of the countries on the surrogate country list,⁹⁹ and therefore not inherently distortive.

Finally, regarding Fabriclean's argument that the Great American Advisory & Valuation Services report demonstrates that the Thai AUVs are aberrational when compared to U.S. prices, as noted above, the Department's current practice is to examine GTA import data for potential surrogate countries for a given case, to the extent such import data is available. We do not find the comparisons between the prices in Thailand and those in the United States, a country not on the surrogate country list instructive. Additionally, it is unclear that the "recycled folding boxboard" under the heading of "Average Paperboard and Containerboard Market Prices" which Fabriclean cites to, is a comparable product to that found under Thai HS code 4808.10.¹⁰⁰ Therefore, because the Thai AUV is within the array of AUVs on the surrogate country list, and the volume is not so low as to be distortive, for these final results we have continued to use the Thai AUV to value corrugated paper, as we have in previous segments of this case.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions. If accepted, we will publish the final results of review and the final dumping margins in the Federal Register.

Agree Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

6 MARCH 2015

Date

⁹⁸ See, e.g., PRC Shrimp AR7 and accompanying Issues and Decision Memorandum at Comment 4, where the Department found four metric tons distortive. See also Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping New Shipper Reviews, 2011-2012, 78 FR 39708 (July 2, 2013), and accompanying Issues and Decision Memorandum at Comment 4.

⁹⁹ See Fabriclean's Case Brief at 29.

¹⁰⁰ See Fabriclean's Additional Surrogate Value Submission at Exhibit 5.