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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the
2013 – 2014 Administrative Review of the Antidumping Duty
Order on Seamless Refined Copper Pipe and Tube from the
People's Republic of China

Summary

We analyzed the comments from interested parties in the 2013 – 2014 administrative review of the antidumping duty order on seamless refined copper pipe and tube from the People's Republic of China. As a result of our analysis, we made changes to our margin calculations for the GD Single Entity¹ in these final results. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues for which we received comments:

- Comment 1: Surrogate Value for Recovered Copper By-Product
- Comment 2: Application of Financial Ratios to Recovered Inputs
- Comment 3: Inland Freight Surrogate Value
- Comment 4: Distance from Port to Warehouse
- Comment 5: Calculation of Unrecovered Value-Added Tax ("VAT")
- Comment 6: Whether to Value Water as a Direct Material Input

¹ The GD Single Entity includes the following companies: (1) Golden Dragon Precise Copper Tube Group, Inc.; (2) Golden Dragon Holding (Hong Kong) International, Ltd.; (3) Hong Kong GD Trading Co., Ltd.; (4) Shanghai Longyang Precise Copper Compound Copper Tube Co., Ltd.; (5) Jiangsu Canghuan Copper Industry Co., Ltd.; (6) Guangdong Longfeng Precise Copper Tube Co., Ltd.; (7) Wuxi Jinlong Chuancun Precise Copper Tube Co., Ltd.; (8) Longkou Longpeng Precise Copper Tube Co., Ltd.; (9) Xinxiang Longxiang Precise Copper Tube Co., Ltd.; (10) Coaxian Ailun Metal Processing Co., Ltd.; and (11) Chongqing Longyu Precise Copper Tube Co., Ltd. (the "GD Single Entity") See Seamless Refined Copper Pipe and Tube from the People's Republic of China: Preliminary Results and Partial Rescission of Administrative Review; 2013-2014, 80 FR 75968 (December 7, 2015) ("Preliminary Results").



Background

On December 7, 2015, the Department published its Preliminary Results. On February 11, 2016, the Golden Dragon Group Companies² submitted a case brief and on February 16, 2016, Cerro Flow Products, LLC, Wieland Copper Products, LLC, Mueller Copper Tube Products Inc., and Mueller Copper Tube Company, Inc. (collectively, “Petitioners”) submitted a rebuttal brief.³ In accordance with 19 CFR 351.302(d)(1)(i) and 19 CFR 351.104(a)(2)(ii), on March 28, 2016, the Department rejected the Golden Dragon Group Companies’ case brief because it contained untimely filed new factual information.⁴ On March 29, 2016, the Golden Dragon Group Companies resubmitted a redacted version of this case brief.⁵

Extension of Deadlines for Final Results

As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government.⁶ All deadlines in this segment of the proceeding have been extended by four days. Additionally, on March 23, 2016, the Department extended the time period for issuing the final results of this review by 60 days.⁷ The revised deadline for these final results of review is June 10, 2016.

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 6 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).

² Respondent’s submissions in this administrative review are filed on behalf of Golden Dragon Precise Copper Tube Group, Inc., Hong Kong GD, Trading Co., Ltd., GD Copper Cooperatief UA, Golden Dragon Holding (Hong Kong) International, Ltd., and GD Copper (U.S.A.) (“Golden Dragon Group Companies”).

³ See Submission to the Department from the Petitioners, concerning, “Rebuttal Brief of the Copper Tube Coalition,” dated February 16, 2016.

⁴ See Letter to the Golden Dragon Group Companies from Robert Bolling, Program Manager, AD/CVD Operations, Office IV, dated March 28, 2016.

⁵ See Letter to the Department from the Golden Dragon Group Companies, concerning, “Resubmitted Case Brief; Seamless Refined Copper Pipe and Tube from China,” dated March 29, 2016.

⁶ See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding, “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,” dated January 27, 2016.

⁷ See Memorandum to Gary Taverman, Associate Deputy Assistant Director, Antidumping and Countervailing Duty Operations, through Abdelali Elouaradia, Office Director, Antidumping and Countervailing Duty Operations, Office IV, concerning, “2013-2014 Administrative Review of the Antidumping Duty Order on Seamless Refined Copper Pipe and Tube from the People’s Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” dated March 23, 2016.

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 Issues

Comment 1: Surrogate Value for Recovered Copper By-Product

The Golden Dragon Group Companies:

- Value the Golden Dragon Group Companies’ reported copper by-product using the surrogate value for pure copper cathode rather than copper slag, which is effectively a waste product.

- The Department verified that the Golden Dragon Group Companies recover and reintroduce pure copper in all stages of the production process.

Petitioners:

- Continue to value this copper by-product using the Thai Harmonized Tariff System (“HTS”) category for ash and residue consisting mainly of copper.
- Alternatively, value this by-product using the Thai HTS category for copper scrap.
- The Department’s verification findings do not support valuing this reported by-product using a Thai HTS for pure copper.

Department’s position:

The Department agrees with the Golden Dragon Group Companies, and has valued its copper by-product using the Thai import data for copper cathode for these final results of review. In the Preliminary Results, the Department identified the Golden Dragon Group Companies’ copper by-product as “copper slag” and valued this by-product using the Thai HTS category 262030 (“Ash and Residues Nesoi, Containing Mainly Copper”).⁸ However, record evidence indicates and we verified, that this by-product is not copper slag. Rather, the by-product at issue is recovered copper reported by the Golden Dragon Group Companies as an offset to copper that was reintroduced into the production of merchandise under consideration.⁹ Accordingly, the surrogate value for copper ash/residue that was used to value this by-product in the Preliminary Results is not specific to the by-product at issue.

The Department’s practice in prior administrative reviews of this order and the record of the instant administrative review indicate that the copper by-product at issue has the physical characteristics of cathode quality copper rather than scrap or slag. In the second administrative review of this order, the Department found that the Golden Dragon Group Companies’ recovered copper by-product that was “overwhelmingly of cathode quality” and, therefore, declined to value the by-product with a surrogate value for copper scrap.¹⁰ In the instant review, the Golden Dragon Group Companies reported that copper cathode was the primary input in the production of merchandise under consideration.¹¹ Further, a control number (“CONNUM”)-specific analysis of the Golden Dragon Group Companies’ proprietary factors of production (“FOP”) data submitted in the instant review indicate that copper cathode accounted for a significant portion of

⁸ See Memorandum to The File through Robert Bolling, Program Manager, AD/CVD Operations, Office IV, regarding, “2013-2014 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,” (“Preliminary Surrogate Value Memorandum”), dated November 30, 2015, at Exhibit 1.

⁹ The Golden Dragon Group Companies reported recycled copper as a by-product and requested a by-product offset in the event that the Department calculated normal value using the same methodology applied in the second administrative review (i.e., treating recycled copper as a direct material input and granting a by-product offset for recovered copper). See the Golden Dragon Group Companies’ May 6, 2015 submission at 22.

¹⁰ See Seamless Refined Copper Pipe and Tube From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 23324 (April 28, 2014), and accompanying Issues and Decision Memorandum at Comment 2 (AR2 Final Results) (“The reintroduced by-product consists of shavings from the milling process, tube end from drawing, and damaged product that is compressed into blocks called ‘biscuits,’ and reintroduced into the furnace. Because Golden Dragon’s copper inputs are overwhelmingly of cathode quality rather than scrap quality, the by-product must also be overwhelmingly of cathode quality.” (Citations omitted)).

¹¹ See Golden Dragon Group Companies’ Section D Response, dated March 20, 2015, at D-13.

all copper inputs used to produce merchandise under consideration during the POR.¹² Thus, consistent with the Department's finding in the second administrative review, the record of this review indicates that the Golden Dragon Group Companies' copper inputs, and the resultant by-product, were overwhelmingly of copper cathode quality as opposed to scrap or slag quality.¹³

Furthermore, the Department disagrees with Petitioners' assertion that the Department's verification findings support valuing the Golden Dragon Group Companies' copper by-product using a surrogate value for copper ash/residue or, alternatively, scrap. Petitioners argue that the Department's verification findings (much of which is proprietary) indicate that the Golden Dragon Group Companies' recovered copper is degraded during the production process in a manner that makes the application of surrogate value for copper cathode inappropriate.¹⁴ However, as explained in the Department's proprietary discussion of the valuation of this by-product, the Department's verification findings do not support this claim.¹⁵ Accordingly, there is no basis to conclude that the copper recovered by the Golden Dragon Group Companies during production, which is predominately composed of copper cathode, is contaminated or sufficiently degraded to conclude that the surrogate values for copper ash or scrap are more specific to the by-product at issue.¹⁶ Therefore, the Department has valued the Golden Dragon Group Companies' copper by-product using the Thai import data for copper cathode for these final results.¹⁷

Comment 2: Application of Financial Ratios to Recovered Inputs

The Golden Dragon Group Companies:

- The Department's application of manufacturing overhead, selling general and administrative ("SG&A"), and profit ratios (collectively, "financial ratios") to material costs that include cost of recycled copper improperly overstates normal value.
- The financial statement of Furukawa Metal (Thailand) Public Company Limited ("Furukawa") does not indicate that recovered and reintroduced copper is separately added to its material cost, and, thus, it is necessary to apply the financial ratios calculated from this statement to a cost that does not include recovered and reintroduced copper.
- The Department's practice, as articulated in Rebar from Turkey, is to apply financial ratios to costs that are calculated on an equivalent basis.¹⁸

¹² See Memorandum to the File through Robert Bolling, Program Manager, Office IV, AD/CVD Operations, "2013-2014 Administrative Review of the Antidumping Duty Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Results Surrogate Value Memorandum," dated concurrently with this decision memorandum ("Final Surrogate Value Memorandum").

¹³ See AR2 Final Results at Comment 2.

¹⁴ See Final Surrogate Value Memorandum for a discussion of the proprietary information related to the valuation of this by-product.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ See Golden Dragon Group Companies' March 29, 2016 Case Brief at 7 (citing Certain Steel Concrete Reinforcing Bars from Turkey, 71 FR 65082 (Nov. 7, 2006), and accompanying Issues and Decision Memorandum at Comment 10 (Rebar from Turkey)).

Petitioners:

- The Department's practice in non-market economy ("NME") cases, including prior administrative reviews of this antidumping duty order, supports applying the financial ratios to the full cost of raw materials, which includes recovered and reintroduced copper.¹⁹
- There is no evidence that Furukawa's material costs exclude the cost of recovered and reintroduced copper.
- Application of financial ratios to a material cost that includes the cost of recovered copper is supported by the Department's verification findings, which indicate that the Golden Dragon Group Companies invest significant effort in copper recovery.

Department's position:

The Department agrees with Petitioners and has continued to apply the financial ratios to a raw material cost that includes reintroduced copper used to produce finished goods in its normal value calculation. In the two administrative reviews preceding the instant review, the Department found that treating the Golden Dragon Group Companies' recovered copper as raw material input is consistent with the Act.²⁰ As explained below, the Department continues to find that including the quantity of recovered copper consumed in the production of merchandise under consideration in the normal value calculation is warranted.

As the Department explained in the two most recently completed reviews of this order, section 773(c) of the Act requires the Department to value all FOPs utilized in the production of subject merchandise exported from an NME country; specifically, section 773(c)(3)(B) of the Act requires the Department to value the quantities of raw materials used.²¹ Thus, the calculation of normal value in an NME proceeding is based, in part, upon the aggregation of quantities of raw materials consumed in the production of one unit of finished goods.²² Furthermore, the Department has explained why it includes recycled inputs used to produce finished goods in the aggregation of raw materials. That is, the Department requires respondents to report recycled raw material inputs in order to accurately capture expenses associated with the recycling

¹⁹ See Petitioners' February 16, 2016 Rebuttal Brief at 3-4 (citing, inter alia, 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), and accompanying Issues and Decision Memorandum at Issue 3 ("PET Film from the PRC, 2011-2012"), and Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 80 FR 32087 (June 5, 2015), and accompanying Issues and Decision Memorandum at Comment 3 ("Seamless Copper Pipe from the PRC, 2012-2013")).

²⁰ See Seamless Copper Pipe from the PRC, 2012-2013, and accompanying Issues and Decision Memorandum at Comment 3; see also Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 23324 (April 28, 2014), and accompanying Issues and Decision Memorandum at Comment 2.

²¹ Id.

²² See Seamless Copper Pipe from the PRC, 2012-2013, and accompanying Issues and Decision Memorandum at Comment 3; see also Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 23324 (April 28, 2014), and accompanying Issues and Decision Memorandum at Comment 2.

process.²³ Moreover, in prior administrative reviews, the Department specifically addressed the issue of whether to value the Golden Dragon Group Companies' reintroduced copper as a raw material input when calculating normal value. For instance, in the most recently completed administrative review of this order, the Department explained that in calculating a respondent's overhead costs, the Department must determine surrogate values for all inputs, including recycled inputs such as reintroduced copper.²⁴

The Department disagrees with the Golden Dragon Group Companies' assertion that the application of financial ratios to material costs that include cost of recycled copper improperly overstates normal value. Rather, application of the financial ratios to a raw material cost that excludes any raw material -- including recycled inputs -- would inappropriately *understate* normal value. As explained above, in accordance with 773(c)(3)(B) of the Act, the Department must base normal value on an aggregation of raw materials consumed in the production of finished goods, including recycled inputs. To calculate a normal value that accurately captures all costs, including those costs associated with recovering and recycling inputs, the Department must apply the overhead, SG&A, and profit ratios to a material cost that includes the quantity of recycled inputs consumed in the production of finished goods. Furthermore, the Department has granted the Golden Dragon Group Companies' request for a by-product offset for recovered copper, which allows the Department to avoid double counting the same raw materials, while capturing the necessary overhead costs associated with recycling the material back into the production process.²⁵ In light of this, there is no basis to conclude that including reintroduced copper in the normal value calculation distorts normal value.

Furthermore, the record does not support the Golden Dragon Group Companies' assertion that the Furukawa financial statement indicates that this Thai surrogate company's costs, and the Golden Dragon Group Companies' costs, are calculated on two different bases. Specifically, the Golden Dragon Group Companies argue that Furukawa's raw material costs exclude the cost of recycled material inputs while the Golden Dragon Group Companies' costs, as calculated by the Department, include the costs of recycled copper. However, as Petitioners' correctly assert, there is no evidence that Furukawa's material costs exclude the cost of recycled copper.²⁶ Accordingly, there is no basis to conclude that Furukawa's costs and the Golden Dragon Group Companies' costs are calculated on two different bases, and, therefore, the Golden Dragon Group Companies' reliance on Rebar from Turkey is misplaced.

For the foregoing reasons, the Department has continued to apply the financial ratios to a material cost that includes recycled and reintroduced copper in its normal value calculation.²⁷

²³ See Seamless Copper Pipe from the PRC, 2012-2013, and accompanying Issues and Decision Memorandum at Comment 3 (citing, PET Film from the PRC, 2011-2012, and accompanying Issues and Decision Memorandum at Comment 3).

²⁴ Id.

²⁵ Id. See also Memorandum to the File through Robert Bolling, Program Manager, Office IV, AD/CVD Operations, "2013-2014 Administrative Review of the Antidumping Duty Order on Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Results Analysis Memorandum," dated concurrently with this decision memorandum ("Final Analysis Memorandum").

²⁶ See Preliminary Surrogate Value Memorandum at Exhibit 5.

²⁷ See Final Analysis Memorandum.

Comment 3: Inland Freight Surrogate Value

The Golden Dragon Group Companies:

- Value inland freight costs using rates published by the Thai Ministry of Transport, which represent specific, contemporaneous, broad market averages.
- The data published in Doing Business 2014; Economy Profile: Thailand (“Doing Business 2014”) contain flaws that distort the margin because the Department must rely on distance data from an unrelated source to calculate the per-unit cost of freight. The Department must then inflate this rate to reflect contemporaneous costs.
- In a recent review, the Department selected a source nearly identical to the Thai Ministry of Transport data over data published by the World Bank in “Doing Business in Thailand.”²⁸

Petitioners:

- Continue to value inland freight using data published by the World Bank in Doing Business 2014.
- The Thai Ministry of Transport data are not appropriate because these data are not specific to the freight costs incurred by the manufacturing sector, and the record lacks a complete translation of the publication.

Department’s position:

The Department agrees with Petitioners and has continued to use the data provided by Doing Business 2014 to value inland freight for these final results of review. In selecting surrogate values for inputs, section 773(c)(1) of the Act directs the Department to use the “best available information.” In determining the “best available information,” it is the Department’s practice to consider the following five factors: (1) broad market average; (2) public availability; (3) product specificity; (4) tax and duty exclusivity; and (5) contemporaneity of the data.²⁹ The Department has examined both Doing Business 2014 and Strategic Development of Transport Infrastructure in Thailand Year 2015-2022 (“Strategic Development Report”) in light of these factors, and finds that Doing Business 2014 is the best available information valuing inland freight for the reasons explained below.

As an initial matter, the Department finds that both Doing Business 2014 and the Strategic Development Report are comparable with respect to three of the above-referenced criteria. First, both of these potential surrogate value sources are publically available. Second, neither of these sources provides specific inland freight costs for shipments of finished subject merchandise or raw materials used to produce subject merchandise. Accordingly, the Department cannot conclude that one source is more product specific than the other. Third, neither source contains information about whether the freight expense data exclude (or include) taxes or duties. Accordingly, the Department cannot draw a distinction between these two potential surrogate

²⁸ See Golden Dragon Group Companies’ Case Brief, dated March 29, 2016, at 10.

²⁹ See Certain Polyester Staple Fiber from the People’s Republic of China: Final Results of the Antidumping Duty Administrative Review; 2012-2013, 80 FR 4542 (January 28, 2015), and accompanying Issues and Decision Memorandum at Comment 3.

values on the basis of tax and duty exclusivity. Thus, the Department has evaluated the potential surrogate value sources in light of the two remaining factors—broad market average and contemporaneity.

Significantly, Doing Business 2014 reflects a broad market average of inland freight cost data, while the record lacks information that would support the same finding with respect to the Strategic Development Report data. In prior administrative reviews, the Department has found the World Bank provides reliable freight costs from multiple vendors and users (i.e., shipping lines, customs brokers, and banks).³⁰ While the Department based these decisions in prior administrative reviews on evaluations of earlier editions of this World Bank publication, Doing Business 2014 continues to provide freight costs from multiple vendors and users.³¹ By contrast, the translated portions of the Strategic Development Report on the record of the instant review contain no information about the methodology used to derive the single truck rate value published therein.³² Absent information about the underlying data, the Department cannot conclude that the Strategic Development Report contains broad market average cost data. For this reason, the Department finds that Doing Business 2014 better meets the criteria that the surrogate value reflects a broad market average than the Strategic Development Report.

The Strategic Development Report inland freight value is contemporaneous³³ with the POR while the Doing Business 2014 value precedes the POR by five months.³⁴ While the Department prefers surrogate values that are contemporaneous with the POR, it will use non-contemporaneous surrogate values, where appropriate. When the Department uses non-contemporaneous surrogate values, it will adjust the surrogate values to reflect inflation or deflation, as appropriate, using publically available price index data, such as the International Monetary Fund's Producer Price Index. In the Preliminary Results, the Department adjusted Doing Business 2014 inland freight surrogate value to reflect inflation.³⁵ Although the Doing Business 2014 data are not contemporaneous, the Department finds that the World Bank publication provides a more reliable source of information than the Strategic Development Report, which contains no information about the methodology used to derive the inland freight data. Therefore, the Department finds that it is appropriate to use the non-contemporaneous data from Doing Business 2014, as adjusted for inflation, because these data are of better quality than the Strategic Development Report data.

³⁰ 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), and accompanying Issues and Decision Memorandum at Comment 6-A. See also Certain Polyester Staple Fiber from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 2366 (January 11, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

³¹ See Golden Dragon Group Companies' March 30, 2015 surrogate value submission at Exhibit 8 ("Information on the procedures as well as the required documents and the time and cost to complete each procedure is collected from local freight forwarders, shipping lines, customs brokers, port officials and banks.").

³² Id. at Exhibit 7.

³³ The Strategic Development Report states that the source of the inland freight value is Office of Transport and Traffic Policy and Planning (OTP) (Year 2013). Id. at Exhibit 7.

³⁴ Doing Business 2014 indicates that the data are current as of June 1, 2013. Id. at Exhibit 8.

³⁵ See Preliminary Surrogate Value Memorandum at 2, and Exhibits 1 and 2.

Furthermore, the Department disagrees with the Golden Dragon Group Companies' argument that the methodology used to derive a per-unit freight cost from Doing Business 2014 renders the surrogate value inferior to the value provided in the Strategic Development Report. The Golden Dragon Group Companies contend that the freight value contained in the Strategic Development Report is superior to the value derived from Doing Business 2014 because it does not need to be converted to a cost-per kilometer value. The Golden Dragon Group Companies further argue that the Department's methodology for converting the cost of shipping a 20-foot container to a distance based value is flawed because it relies on different data sources and yields inconsistent results.³⁶ In the instant review, the Department used the same methodology to convert the freight surrogate value from a shipping container cost to a distance based cost as it has in recent administrative reviews, and it continues to find that this methodology is reasonable.³⁷ As noted above, the record lacks any information about the methodology used to derive the freight value published in the Strategic Development Report. Accordingly, the Department cannot conclude that the methodology used to derive the freight value provided by the Strategic Development Report is more accurate, reasonable, or reliable than the value derived from Doing Business 2014. Moreover, the Department finds that while it may take less computational steps to derive a distance-based surrogate value from Strategic Development Report, this fact alone does not diminish the aforementioned advantages to Doing Business 2014 or, for that matter, render Doing Business 2014 an inferior surrogate value source.

The Golden Dragon Group Companies also argue that in a recent review, the Department found Thai Ministry of Transport data nearly identical to the data submitted by the Golden Dragon Group Companies to be superior in quality to the data published by the World Bank in "Doing Business in Thailand."³⁸ The Golden Dragon Group Companies' argument, however, is predicated upon untimely filed factual information. In accordance with 19 CFR 351.302(d)(1)(i) and 19 CFR 351.104(a)(2)(ii), the Department rejected the Golden Dragon Group Companies' original case brief, which contained this untimely filed information.³⁹ Accordingly, there is no information on the record of this review that can be used to evaluate the Golden Dragon Group Companies' claim.

³⁶ In the Preliminary Results, the Department converted the cost of shipping a ten metric ton 20-foot container to a cost-per-distance value using the average distance of 76.67 KM based on a simple average of two distances, from the industrial park area in greater Bangkok to Bangkok port, and from the industrial park area in greater Bangkok to and Laem Chabang port. This average distance was calculated in Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire from the People's Republic of China, 79 FR 25572 (May 5, 2014). See Preliminary Surrogate Value Memorandum at 5-6 and Exhibit 7.

³⁷ See, e.g., Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014, 80 FR 77323 (December 14, 2015), and accompanying Issues and Decision Memorandum at Comment 9 ("Moreover, the Department finds that the distances it used to calculate the {surrogate values} are consistent with the methodology employed by Doing Business in constructing its indicators given that distances are calculated to Thailand's two major ports."); and Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Results of New Shipper Review; 2012-2013, 80 FR 41476 (July 15, 2015), and accompanying Issues and Decision Memorandum at Comment 9.

³⁸ See Golden Dragon Group Companies' Case Brief, dated March 29, 2016, at 10.

³⁹ See Letter to the Golden Dragon Group Companies from Robert Bolling, Program Manager, AD/CVD Operations, Office IV, dated March 28, 2016. Golden Dragon subsequently refiled a redacted version of its case brief on March 29, 2016.

For the foregoing reasons, the Department finds that Doing Business 2014 provides best information on the record to value inland freight expenses, and has continued to value the Golden Dragon Group Companies' inland freight expense using this source for the final results.

Comment 4: Distance from Port to Warehouse

The Golden Dragon Group Companies:

- The Department should use the verified distance from the Golden Dragon Group Companies' warehouse to the closest port in China.
- No other interested party commented on this issue.

Department's position:

The Department agrees with the Golden Dragon Group Companies, and has used the verified distance from the Golden Dragon Group Companies' warehouse to the closest port in China in its margin calculations for these final results of review.⁴⁰

Comment 5: Calculation of Unrecovered Value-Added Tax ("VAT")

The Golden Dragon Group Companies:

- The Department should base its calculation of unrecovered VAT on the verified amounts of actual VAT paid by the Golden Dragon Group Companies during the POR.
- The Department's preliminary calculation significantly overstated the amount of unrecovered VAT paid by the Golden Dragon Group Companies.
- No other interested party commented on this issue.

Department's position:

The Department agrees with the Golden Dragon Group Companies, in part, and has revised its calculation of irrecoverable VAT for these final results of review. The Department's current practice in NME cases is to adjust export price ("EP") or constructed export price ("CEP") for the amount of any unrefunded VAT, in accordance with section 772(c)(2)(B) of the Act.⁴¹ 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 respondent's EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.⁴² Where the

⁴⁰ See Memorandum to The File through Robert Bolling, Program Manager, AD/CVD Operations, Office IV, regarding, "Verification of the Questionnaire Responses of Golden Dragon Precise Copper Tube Group, Inc.," dated February 3, 2016 at 2, and Exhibit 1. See also, Final Analysis Memorandum.

⁴¹ 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 (June 19, 2012) (Methodological Change).

⁴² 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 (June 19, 2012) (Methodological Change); 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

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.⁴³ The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one.⁴⁴

Information on the record of this review, much of which is proprietary, supports the Golden Dragon Group Companies' assertion that its U.S. sales were produced exclusively from VAT-exempt copper.⁴⁵ By contrast, in the prior review of this order, Golden Dragon did not so demonstrate.⁴⁶ Rather, the Department found only that "Golden Dragon purchased both domestically sourced and imported copper during the POR."⁴⁷ Accordingly, the record indicates that the irrecoverable VAT rate of four percent should not be applied to the full export price of subject merchandise because we verified that the Golden Dragon Group Companies did not incur VAT expenses on copper used in the production of subject merchandise.⁴⁸ Therefore, the Department finds that it is appropriate to limit the irrecoverable VAT adjustment to the amount of tax paid for non-exempt inputs used in the production subject merchandise.⁴⁹

The Department disagrees, however, with the Golden Dragon Group Companies' assertion that the Department should base the calculation of unrecovered VAT on the verified amounts of actual VAT paid by the company during the POR. The Golden Dragon Companies argue that the Department should first calculate the irrecoverable VAT expense by determining the ratio of the renminbi-denominated, verified amount of VAT paid on exempt sales (*i.e.*, sales of merchandise produced from VAT-exempt copper cathode) to the total renminbi-denominated value of exempt sales made during the POR.⁵⁰ The Golden Dragon Companies state that the Department should then apply this unrecovered VAT expense ratio to the Golden Dragon Companies' reported FOB price to determine the amount of the deduction for irrecoverable VAT.⁵¹ However, the Department has explained that when the VAT tax is a fixed percentage of the price, it will adjust the export price or constructed export price downward by the same percentage.⁵² As noted above, the irrecoverable VAT tax is a fixed percentage of the price (*i.e.*,

Memorandum at Comment 5A.

⁴³ Id.

⁴⁴ See Frontseating Service Valves from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012-2013, 79 FR 71385 (December 2, 2014), and accompanying Issues and Decision Memorandum at Comment 5.

⁴⁵ See Memorandum to The File through Robert Bolling, Program Manager, AD/CVD Operations, Office IV, regarding, "Verification of the Questionnaire Responses of Golden Dragon Precise Copper Tube Group, Inc.," dated February 3, 2016, at 34-35, and Exhibits 1, 10, 11, 17, 18, and 21.

⁴⁶ See Seamless Copper Pipe from the PRC, 2012-2013, and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁷ Id.

⁴⁸ See Certain Uncoated Paper From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 80 FR 51768, (August 26, 2015), and accompanying Preliminary Decision Memorandum at 17, unchanged in Certain Uncoated Paper From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 81 FR 3112 (January 20, 2016).

⁴⁹ Id.

⁵⁰ See Golden Dragon Companies' Case Brief, dated March 29, 2016, at 15.

⁵¹ Id.

⁵² See Methodological Change.

four percent). Accordingly, the use of the Golden Dragon Group Companies' actual renminbi-denominated VAT expenses is not warranted. Therefore, the Department has applied this fixed percentage in calculating irrecoverable VAT attributable to non-VAT-exempt inputs used in the production of subject merchandise (e.g., packing materials, water, phosphor copper, scrap, and solvents).⁵³

For the foregoing reasons, the Department has limited the irrecoverable VAT adjustment to the amount of tax paid by the Golden Dragon Group Companies for non-VAT-exempt inputs used in the production subject merchandise for these final results.

Comment 6: Whether to Value Water as a Direct Material Input

The Golden Dragon Group Companies:

- The Department should exclude the Golden Dragon Group Companies' reported water FOP from the normal value calculation because the surrogate ratio for manufacturing overhead already includes the cost of water consumed by the Thai producer, Furukawa.
- Valuing water as a direct material would distort normal value by double counting the cost of water.

Petitioners:

- The Department should continue to value water as a direct material input.
- There is no basis to conclude that Furukawa treats water as overhead.
- Where water is used in various production stages like in the Golden Dragon Group Companies' production, the Department considers it to be a raw material and values it as such.⁵⁴

Department's position:

The Department disagrees with the Golden Dragon Group Companies and has continued to value its water consumption as a direct material for the final results. The Golden Dragon Group Companies note that in the Preliminary Results, the Department did not value electricity consumption reported by the Golden Dragon Group Companies to avoid double counting because the financial statement of Furukawa, the Thai surrogate company, does not separately break out the cost of electricity from other operating costs. The Golden Dragon Group Companies argue that the Department should make a similar finding for water and exclude the Golden Dragon Group Companies' reported water consumption from the normal value calculation to avoid double counting. As explained below, there is no evidence valuing water as direct material results in double counting.

⁵³ See Final Analysis Memorandum. See also, Golden Dragon Group Companies' March 27, 2015 Section C response at C-42.

⁵⁴ See Petitioners' February 16, 2016 Rebuttal Brief at 8 (citing Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 77 FR 74171 (Dec. 13, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

The Department's treatment of the Golden Dragon Group Companies' consumption of water as a direct material input is consistent with the Department's practice generally to treat an FOP as a direct material input when, as in this instant case, significant amounts of the FOP are continuously used in the production process of subject merchandise.⁵⁵ Moreover, the Department has previously found water to be properly classified as a direct material input, rather than overhead, when it was shown not to be incidental or occasionally consumed in the production of subject merchandise.⁵⁶ The Golden Dragon Group Companies reported that they continuously consumed a substantial amount of water in the production of subject merchandise.⁵⁷ Furthermore, there is no evidence in Furukawa's financial statement that the company treats water as an overhead item.⁵⁸ In the absence of such evidence, there is no basis to conclude that valuing water as a direct material results in double counting.⁵⁹

Therefore, for the final results, the Department has continued to value water as a direct material input in accordance with its practice.⁶⁰


Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish these final results in the Federal Register.

✓

Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

10 JUNE 2016

Date

⁵⁵ See Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 60725 (October 1, 2010), and accompanying Issues and Decision Memorandum at Comment 15.

⁵⁶ See Malleable Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 37051 (June 29, 2006), and accompanying Issues and Decision Memorandum at Comment 18.

⁵⁷ See the Golden Dragon Group Companies' Section D Response, dated March 20, 2015, at Exhibit D-16.

⁵⁸ See the Golden Dragon Group Companies' March 30, 2015 submission to the Department at Exhibit 6.

⁵⁹ See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Antidumping Duty Administrative Review: 2010-2011, 77 FR 74171 (December 13, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

⁶⁰ See Final Analysis Memorandum.