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**MEMORANDUM TO:** Carole Showers  
Executive Director, Office of Policy,  
performing the duties of  
Deputy Assistant Secretary for Enforcement and Compliance

**FROM:** James Maeder  
Senior Director  
performing the duties of Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Results of the  
Antidumping Duty Administrative Review of Steel Wire Garment  
Hangers from the People's Republic of China; 2015-2016

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## SUMMARY

In response to requests from interested parties, the Department of Commerce (Department) is conducting an administrative review (AR) of the antidumping duty (AD) *Order*<sup>1</sup> on steel wire garment hangers from the People's Republic of China (PRC) for the period of review (POR) October 1, 2015, through September 30, 2016.<sup>2</sup> The Department preliminarily determines that sales of the subject merchandise in the United States were made at prices below normal value (NV). In accordance with the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties to this proceeding to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of these preliminary results pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), unless extended.

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

<sup>2</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 91122 (December 16, 2016) (*Initiation Notice*).



## BACKGROUND

### Initiation

On October 31, 2016, the Department received timely requests for review pursuant to 19 CFR 351.213(b) from M&B Metal Products Company Inc. (the petitioner)<sup>3</sup> and Shanghai Wells Hanger Co., Ltd., Hong Kong Wells Ltd., and Hong Kong Wells Ltd. (USA) (collectively, Shanghai Wells).<sup>4</sup> On December 16, 2016, the Department published a notice of initiation of the eighth AR of steel wire garment hangers from the PRC with respect to 46 companies.<sup>5</sup> On January 13, 2017, the Department partially rescinded the review on 42 companies.<sup>6</sup>

### Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter or producer of the subject merchandise.<sup>7</sup> However, section 777A(c)(2) of the Act gives the Department the discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to determine individual dumping margins for all exporters or producers because of the large number of exporters or producers involved in an AR.

On December 16, 2016, the Department placed on the record of this review CBP import data showing AD entries into the United States from the PRC during the POR under the Harmonized Tariff Schedule of the United States (HTSUS) subcategories listed in the scope of the *Order*, and requested comments on the data for use in respondent selection.<sup>8</sup> On December 23, 2016, we received comments from the petitioner.<sup>9</sup> No other party submitted comments and no party submitted rebuttal comments. On December 22, 2016, the petitioner timely withdrew its request for review of 42 companies.<sup>10</sup> As a result, the only remaining companies under review are Hangzhou Yingqing Material Co., Ltd. and Hangzhou Qingqing Mechanical Co., Ltd.

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<sup>3</sup> See Letter to the Secretary of Commerce from the Petitioner “Steel Wire Garment Hangers from China: Request for Eighth Administrative Review,” (October 31, 2016).

<sup>4</sup> See Letter to the Secretary of Commerce from Shanghai Wells “Steel Wire Garment Hangers from the People’s Republic of China: Review Request,” (October 31, 2016).

<sup>5</sup> See *Initiation Notice*.

<sup>6</sup> See *Steel Wire Garment Hangers from the People’s Republic of China; 2015-2016; Partial Rescission of the Seventh Antidumping Duty Administrative Review*, 82 FR 4290 (January 13, 2017) (*Partial Rescission*).

<sup>7</sup> See 19 CFR 351.204(c) regarding respondent selection, in general.

<sup>8</sup> See Department Letter to All Interested Parties re: 2015-2016 Administrative Review of the Antidumping Duty Order of Steel Wire Garment Hangers from the People’s Republic of China: CBP Data for Respondent Selection, dated December 16, 2016.

<sup>9</sup> See Letter to the Secretary of Commerce from the Petitioner “Eighth Administrative Review of Steel Wire Garment Hangers from China - Petitioner’s Comments on CBP Data for Respondent Selection” (December 23, 2016).

<sup>10</sup> See Letter to the Secretary of Commerce from the Petitioner “Eighth Administrative Review of Steel Wire Garment Hangers from China — Petitioner’s Withdrawal of Review Request for Specific Companies,” (December 22, 2016).

(collectively, Yingqing)<sup>11</sup> and Shanghai Wells Hanger Co., Ltd. and Hong Kong Wells Ltd. (collectively, Shanghai Wells).<sup>12</sup>

On December 29, 2016, the Department selected Yingqing and Shanghai Wells as mandatory respondents.<sup>13</sup> Additionally, the Department sent the non-market economy (NME) AD questionnaire to Yingqing and Shanghai Wells on the same date.<sup>14</sup> On January 26, 2017, Shanghai Wells submitted a timely response to section A of the Department's AD questionnaire (*i.e.*, the section relating to separate rates and general information), and on February 21, 2017, Shanghai Wells timely responded to sections C and D of the Department's AD questionnaire (*i.e.*, the sections relating to U.S. sales and factors of production (FOPs)). From February through June 2017, we issued supplemental questionnaires to Shanghai Wells, and we received timely responses to these supplemental questionnaires.

As Yingqing had not entered an appearance for this AR by December 29, 2016, the Department sent the questionnaire by FedEx on December 29, 2016. However, according to the FedEx tracking details, Yingqing refused receipt of the questionnaire on January 2, 2017.<sup>15</sup> Furthermore, Yingqing did not submit a response to the Department's questionnaire. Section 776(a)(2) of the Act provides that if an interested party withholds information requested by the Department, fails to provide information by the deadline or in the form or manner requested, or significantly impedes a proceeding, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Moreover, section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Yingqing refused receipt of the Department's questionnaire and subsequently failed to submit a response. Therefore, Yingqing did not act to the best of its ability to comply with the Department's request for information. Thus, the Department determines that Yingqing is not eligible for a separate rate. Applying facts available, pursuant to sections 776(a) and (b) of the Act and 19 CFR 351.308, the Department finds that Yingqing is a part of the PRC-wide entity. The dumping margin in effect for the PRC-wide

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<sup>11</sup> Hangzhou Yingqing Material Co., Ltd. and Hangzhou Qingqing Mechanical Co., Ltd. are currently assigned an exporter/manufacturer combination rate. *See 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, 31300 (June 2, 2014).

<sup>12</sup> In the first administrative review of the *Order*, the Department found that Shanghai Wells Hanger Co., Ltd. and Hong Kong Wells Ltd. are a single entity and, because there were no changes to the facts that supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. *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).

<sup>13</sup> See Memorandum to the file "Eighth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China," (December 29, 2016).

<sup>14</sup> See Department Letter to Shanghai Wells re: Eighth Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China, dated December 29, 2016; *see also* Department Letter to Hangzhou Yingqing Material Co., Ltd. re: Eighth Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China, dated December 29, 2016.

<sup>15</sup> See Memorandum to the file "Eighth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Hangzhou Yingqing Material Co. Ltd. FedEx Delivery," (January 27, 2017).

entity is 187.25 percent, which is the highest dumping margin on the record of any segment of the proceeding.<sup>16</sup>

## 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 HTSUS subheadings 7326.20.0020, 7323.99.9060, and 7323.99.9080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

## DISCUSSION OF THE METHODOLOGY

### Non-Market Economy Country Status

The Department considers the PRC to be an NME country.<sup>17</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME shall remain in effect until revoked by the administering authority. None of the parties to this proceeding contested NME treatment for the PRC. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

### Separate Rates

In NME proceedings, there is a rebuttable presumption that all companies are subject to government control and, thus, should be assessed a single AD rate.<sup>18</sup> It is the Department's policy to assign exporters of the subject merchandise from an NME country a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department

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<sup>16</sup> See *Steel Wire Garment Hangers from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value*, 73 FR 53188, (September 15, 2008), and accompanying Issue and Decision Memorandum; see also *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012-2013*, 80 FR 13332, (March 13, 2015), and accompanying Issues and Decision Memorandum.

<sup>17</sup> See, e.g., *Certain Steel Nails from the People's Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2010-2011*, 78 FR 16651, 16652 (March 18, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>18</sup> See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

analyzes each exporting entity in an NME country under the test established in *Sparklers*,<sup>19</sup> as amplified by *Silicon Carbide*.<sup>20</sup> However, if the Department determines that a company is wholly foreign-owned or located in a market-economy (ME) country, then a separate rate analysis is not necessary to determine whether it is independent from government control.<sup>21</sup>

The Department received a complete response to the Section A portion of the NME questionnaire from the only participating respondent in this AR, *i.e.*, Shanghai Wells, which contained information pertaining to eligibility for separate rate status for Shanghai Wells Hanger Co., Ltd. and Hong Kong Wells Ltd.<sup>22</sup>

#### Separate Rate Recipients - Wholly Foreign-Owned

Shanghai Wells reported that Shanghai Wells Hanger Co., Ltd. and Hong Kong Wells Ltd. are wholly-owned by a company located in a ME country, Hong Kong.<sup>23</sup> Therefore, as there is no PRC ownership of these companies, and because the Department has no evidence indicating that these companies are under the control of the PRC government, further analysis of the *de jure* and *de facto* criteria are not necessary to determine whether these companies are independent from government control of their export activities.<sup>24</sup> For these reasons, we preliminarily determine that further separate rate analysis is not necessary to determine whether this entity is independent from government control.<sup>25</sup> Thus, we preliminarily grant separate rate status to Shanghai Wells.

#### Surrogate Country and Surrogate Value Data

On January 9, 2017, the Department sent interested parties a letter inviting comments on the non-exhaustive list of countries the Department determined are at the same level of economic development as the PRC, surrogate country selection, and surrogate value (SV) data, and

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<sup>19</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

<sup>20</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

<sup>21</sup> See, e.g., *Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011*, 78 FR 9493 (February 6, 2013), and accompanying Decision Memorandum at pg. 9, unchanged in final results, 78 FR 35249 (June 12, 2013); *Certain Pneumatic Off-the-Road Tires from the People's Republic of China, Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9284 (February 20, 2008), unchanged in final determination, 73 FR 40485 (July 15, 2013).

<sup>22</sup> See Shanghai Wells' Section A questionnaire response, dated January 26, 2017 at pages 1-9.

<sup>23</sup> *Id.*, at 2 and 3.

<sup>24</sup> See, e.g., *Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001), unchanged in *Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review*, 66 FR 27063 (May 16, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104-05 (December 20, 1999).

<sup>25</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104-05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).

specified the deadlines for these respective submissions.<sup>26</sup> In February 2017, we timely received comments on surrogate country selection from the petitioner.<sup>27</sup> In March 2017, we received SV information from Shanghai Wells<sup>28</sup> and the petitioner.<sup>29</sup> Shanghai Wells timely submitted rebuttal comments in March 2017.<sup>30</sup> Pursuant to 19 CFR 351.301(c)(3)(ii), the petitioner and Shanghai Wells submitted additional SV information for Thailand on June 5, 2017.<sup>31</sup>

### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs us to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.<sup>32</sup> As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons.<sup>33</sup> Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at the same level of economic development, the Department generally relies on per capita gross national income (GNI) data from the World Bank's World Development Report.<sup>34</sup> It is our practice to value inputs using data from the primary surrogate

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<sup>26</sup> See Department Letter to All Interested Parties re: Steel Wire Garment Hangers from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information, dated January 9, 2017 (Surrogate Country and Values Letter). The countries on the Department's surrogate country list are Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand.

<sup>27</sup> See Letter to the Secretary of Commerce from the Petitioner "Eighth Administrative Review of Steel Wire Garment Hangers from China - Petitioner's Comments on Surrogate Country Selection," (February 27, 2017).

<sup>28</sup> See Letter to the Secretary of Commerce from Shanghai Wells "Re: Eighth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China - Submission of Surrogate Value Information," (March 20, 2017) (Shanghai Wells' SV Submission).

<sup>29</sup> See Letter to the Secretary of Commerce from Shanghai Wells "Re: Eighth Administrative Review of Steel Wire Garment Hangers from China: Petitioner's Submission of Surrogate Value Information," (March 20, 2017) (Petitioner's SV Submission).

<sup>30</sup> See Letter to the Secretary of Commerce from Shanghai Wells "Re: Eighth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China - Submission of Rebuttal Surrogate Value Information," (March 27, 2017).

<sup>31</sup> See Letter to the Secretary of Commerce from the Petitioner "Eighth Administrative Review of Steel Wire Garment Hangers from China - Petitioner's Submission of Additional Surrogate Value Information," (June 5, 2017) (Petitioner's 2<sup>nd</sup> SV Submission); see also Letter to the Secretary of Commerce from Shanghai Wells "Re: Eighth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China - Submission of Surrogate Value Information," (June 5, 2017) (Shanghai Wells' 2<sup>nd</sup> SV Submission).

<sup>32</sup> For a description of our practice, see Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (*Policy Bulletin*).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

country in accordance with 19 CFR 351.408(c)(2) and resort to data from a secondary surrogate country only if data from the primary surrogate country are unavailable or unreliable.<sup>35</sup> The sources of the SVs we used in this review are discussed under the “Normal Value” section below.

The petitioner submitted SV information from Thailand and South Africa for consideration.<sup>36</sup> Shanghai Wells submitted SV information from Thailand and Bulgaria.<sup>37</sup>

#### A. Economic Comparability

As noted above, the Department determined that Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand, are countries whose *per capita* GNI are at the same level of economic development as the PRC.<sup>38</sup> Therefore, we consider all six countries identified in the Surrogate Country and Values Letter as having met this prong of the surrogate country selection criteria.

Within this letter, we requested comments on the list of potential surrogate countries as a starting point for surrogate country selection, pursuant to 773(c)(4) of the Act, and requested that parties submit for consideration other countries that are at a level of economic development comparable to the PRC. No party provided comments on the list or offered alternatives to the countries already on the list. Therefore, unless we find that all the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data, or are unsuitable for use for other reasons, we will rely on data from one of the surrogate countries the Department deemed to be economically comparable to the PRC (*i.e.*, Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand).<sup>39</sup>

#### B. Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Although the legislative history states that “the term ‘significant producer’ includes any country that is a significant net exporter and, if appropriate, Commerce may use a significant, net exporting country in valuing factors,”<sup>40</sup> that does not preclude reliance on additional or alternative metrics.<sup>41</sup> Moreover, neither the statute nor the Department’s regulations provide further guidance on what may be considered

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<sup>35</sup> See, e.g. *Certain Activated Carbon from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 61172 (October 9, 2015), and accompanying Issues and Decision Memorandum at Comments 2 and 5.

<sup>36</sup> See Petitioner’s SV Submission; see also Petitioner’s 2<sup>nd</sup> SV Submission.

<sup>37</sup> See Shanghai Wells’ SV Submission; see also Shanghai Wells’ 2<sup>nd</sup> SV Submission.

<sup>38</sup> See Surrogate Country and Values Letter at Attachment 1.

<sup>39</sup> See *Certain Steel Wheels from the People’s Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 76 FR 67703, 67708 (November 2, 2011), unchanged in *Certain Steel Wheels from the People’s Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances*, 77 FR 17021 (March 23, 2012).

<sup>40</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Conf. Rep. No. 576, 100 Cong, 2d Sess. (1988), reprinted in Cong. Rec. H2032 (Daily Ed. April 20, 1988).

<sup>41</sup> See *Dorbest Ltd. v. United States*, 462 F. Supp. 2d 1262, 1274 n.5 (CIT 2006).

comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources, such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that “the terms ‘comparable level of economic development,’ ‘comparable merchandise,’ and ‘significant producer’ are not defined in the statute.”<sup>42</sup> The *Policy Bulletin* further states that “in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”<sup>43</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>44</sup> Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the Thus, we analyzed exports of comparable merchandise from the economically comparable countries, as a proxy for production data, during the POR and obtained export data using the Global Trade Atlas (GTA) for HTS 7326.20: “Other Articles of Iron or Steel Wire.”<sup>45</sup> The Department found that, of the six countries provided in the Surrogate Country List, all countries were exporters of comparable merchandise. Therefore, because each of the six countries on the Surrogate Country List satisfy the “economic comparability” and “significant producer” prongs of the surrogate country analysis, the Department also will consider data availability and reliability in selecting a surrogate country.<sup>46</sup>

### C. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, the Department selects the primary surrogate country based on data availability and reliability.<sup>47</sup> When evaluating SV data, the Department considers several factors including whether the SV data are publicly available, contemporaneous with the POR, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.<sup>48</sup> There is no hierarchy among these criteria; it is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.<sup>49</sup> As stated above, of the countries in the Surrogate Country and Values Letter, interested parties submitted information for Bulgaria, South Africa, and Thailand.

The Department examined the potential SVs provided on the record for steel wire rod. For steel wire rod, the primary input used in the production of subject merchandise, the petitioner placed SV data on the record for Thailand and South Africa and Shanghai Wells placed SV data on the

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<sup>42</sup> For a description of our practice, see *Policy Bulletin* at Background.

<sup>43</sup> *Id.*

<sup>44</sup> In addition, the *Policy Bulletin* at note 6, states that “if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise.”

<sup>45</sup> See Memorandum to the File, “Eighth Administrative Review of Steel Wire Garment Hangers from the People’s Republic of China: Surrogate Values for the Preliminary Results,” dated concurrently with this memorandum (Prelim Surrogate Value Memo).

<sup>46</sup> See *Policy Bulletin* at Data Considerations.

<sup>47</sup> *Id.*

<sup>48</sup> See, e.g., *Electrolytic Manganese Dioxide from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>49</sup> See *Ad Hoc Shrimp Trade Action Comm. v. United States*, 618 F.3d 1316, 1322 (Fed. Cir. 2010).

record for Bulgaria and Thailand.<sup>50</sup> The Thai harmonized system (HS) codes provided on the record cover a range of carbon content from zero percent to 0.18 percent while the Bulgarian HS codes provided on the record cover a range of carbon content from zero to less than 0.25 percent. Shanghai Wells used steel wire rod with a carbon content of 0.05 percent to 0.06 percent during the POR to produce the subject merchandise.<sup>51</sup> Of the SV information on the record for steel wire rod, the Thai HS code of 72139190010 and the Bulgarian HS code of 72139141 are equally specific because each includes the total range of carbon content of steel wire rod used by Shanghai Wells during the POR.<sup>52</sup> In comparison, the South African HS code for steel wire rod does not indicate a carbon content, and is, therefore, less specific than the Thai and Bulgarian data.

There are fourteen financial statements on the record (two Bulgarian, five South African, and seven Thai financial statements) that the Department considered for these preliminary results. We preliminarily determine that the Bulgarian and South African statements do not provide quality financial statements to value surrogate financial ratios. The two Bulgarian statements are contemporaneous with the POR, are from producers of comparable merchandise, and are publicly available.<sup>53</sup> However, the Bulgarian statements contain unidentified “other revenue” and a large expense item for “book value of assets sold.” As there are no explanatory notes for these line items, it is unclear how they relate to the comparable merchandise sold, how they should be classified, or if there is a translation error affecting the identification of these line items. Therefore, it would be difficult for the Department to correctly classify these items in its surrogate financial ratio calculation, which could introduce unintentional distortions to surrogate financial ratios. Additionally, one of the financial statements does not include a detailed breakout of energy. It is the Department’s practice to avoid double counting,<sup>54</sup> which could occur when the Department uses SVs for a respondent’s energy FOPs and also uses financial statements that include energy. The five South African financial statements are publicly available and contemporaneous with the POR but are not from producers of comparable merchandise.<sup>55</sup>

Of the seven Thai financial statements considered for these preliminary results, three are not contemporaneous with the POR (2014 Sahasilp Rivet Industrial Co., Ltd., 2014 Thai Mongkol Fasteners Co., Ltd, and 2014 Hi-Tech Fastener Manufacturer Co., Ltd.).<sup>56</sup> However, four of the Thai financial statements considered for these preliminary results are contemporaneous with the POR and are from producers of comparable merchandise. These include the 2015 financial

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<sup>50</sup> See Petitioner’s 2<sup>nd</sup> SV Submission; *see also* Shanghai Wells’ 2<sup>nd</sup> SV Submission.

<sup>51</sup> See Shanghai Wells’ Section C&D Questionnaire response, dated April 21, 2017, (Section C&D) at page 2.

<sup>52</sup> The Thai HS code 72139190010 is described as “bars and rods, hot-rolled, in irregularly wound coils, of iron or nonalloy steel, of circular cross-section measuring less than 14 mm in diameter, nesoi; containing by weight not more than 0.06% of carbon and silicon not more than 0.06% and aluminum not more than 0.02%.” The Bulgarian HS code 72139141 is described as “bars and rods, hot-rolled, of iron or non-alloy steel, in irregularly wound coils, containing by weight less than or equal to 0.06% of carbon, of circular cross-section measuring less than 14 mm in diameter (excl. free-cutting steel, bars and rods, hot-rolled, for concrete reinforce).”

<sup>53</sup> See Shanghai Wells’ SV Submission at Exhibits SV-10-13.

<sup>54</sup> See *Drawn Stainless Steel Sinks from the People’s Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013) (it is the Department’s practice to avoid double counting costs where the data are available to do so).

<sup>55</sup> See Petitioner’s SV Submission at Exhibits III D-H.

<sup>56</sup> *Id.*, at Exhibits III A-C.

statements of Hi-Tech Fastener Manufacturer Co., Ltd., Thai Mesh Company Limited, Bangkok Fastening Company Limited, and LS Industry Company Limited.<sup>57</sup> The financial statements of Hi-Tech Fastener Manufacturer Co., Ltd. contain evidence of a subsidy we have previously found to be countervailable in another case.<sup>58</sup> The Department's usual practice is not to rely on financial statements where there is evidence that the company received subsidies previously found by the Department to be countervailable and (as the Department finds here) there are other, more reliable and representative data on the record for the purposes of calculating surrogate financial ratios.<sup>59</sup> As with the Bulgarian financial statements on the record, the financial statements for Thai Mesh Company Limited include undetermined "other revenue" and do not contain a breakout of energy. Additionally, Bangkok Fastening Company Limited's financial statements do not include a breakout of labor and energy. However, the 2015 financial statements of LS Industry Company Limited are from a producer of comparable merchandise (*i.e.* nails),<sup>60</sup> contemporaneous with the POR, publicly available, and include a breakout of energy. As all other financial statements considered for these preliminary results suffer defects (*i.e.* undetermined other revenue, no breakout of energy, previously found to be countervailable, etc.), the 2015 audited financial statements of LS Industry Company Limited represent the best information to value factory overhead, selling, general and administrative expenses and profit for these preliminary results.<sup>61</sup>

With regard to the remaining FOPs, the Thai and Bulgarian information on the record for truck and brokerage and handling are equally specific and more contemporaneous with the POR than the South African information for these FOPs. For labor, the 2014 Thai data is more contemporaneous with the POR than the 2007 Bulgarian information and is industry specific, unlike the South African data. In *Labor Methodologies*, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates.<sup>62</sup> Thus, the Thai data for labor provides the best quality data to value labor. Regarding electricity, the information provided on the record for Bulgaria is not supported by original source documentation and the information provided on the record for South Africa is not as contemporaneous as the Thai or Bulgarian information. However, the Thai information provided on the record for electricity is contemporaneous, specific to business customers, and is supported by source documentation.<sup>63</sup>

With respect to water, data placed by respondents on the record for Bulgaria, Thailand, and South Africa either provide no documentation on the record or unreliable supporting source

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<sup>57</sup> See Petitioner's 2<sup>nd</sup> SV Submission at Attachment 2; *see also* Shanghai Wells' 2<sup>nd</sup> SV Submission at Exhibits 2-5.

<sup>58</sup> See *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013).

<sup>59</sup> See, *e.g.*, *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2009-2010*, 78 FR 11143 (February 15, 2013), and accompanying Issues and Decision Memorandum at Comment 14.

<sup>60</sup> See *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2012-2013*, 80 FR 13332 (March 13 2015), and accompanying Issues and Decision Memorandum at Comment 3; *see also Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014* 80 FR 69942 (November 12, 2015), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>61</sup> See Shanghai Wells' 2<sup>nd</sup> SV Submission at 3.

<sup>62</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092-36094 (June 21, 2011) (*Labor Methodologies*).

<sup>63</sup> See Petitioner's SV Submission at Exhibit IIA.

documentation. Therefore, the Department is placing publicly available SV water data on the record for Thailand.<sup>64</sup> Based on an analysis of all of the SV water information on the record, we find that the Thai SV water data, unlike the Bulgarian or South African SV water data, is supported by original source documentation. Thus, of the information placed on the record for water, the Department preliminarily finds that Thailand provides the best source for valuation of water.

The only available SVs on the record for valuation of two of Shanghai Wells' scrap FOPs are from Bulgaria. Information placed on the record by Shanghai Wells indicates that the HTS code provided for use in valuing these scrap materials is publicly available, contemporaneous with the POR, product-specific, tax-exclusive, and represents a broad market average.<sup>65</sup> The *Policy Bulletin* states that the Department's practice when assessing data and data sources is to use "review period wide-price averages, prices specific to the input in question, prices that are net of taxes and import duties, prices that are contemporaneous with the period of investigation or review, and publicly available data."<sup>66</sup> Thus, this information is useable to value these scrap materials as per the *Policy Bulletin* and the Department's practice.<sup>67</sup>

Regarding the valuation of steel wire rod, the data placed on the record for Thailand provides an HTS code that meets Shanghai Wells' specification for steel wire rod consumed during the POR, is the most contemporaneous with the POR, and provides the most complete data by which to value FOPs (except as described below), and usable financial statements by which to value surrogate financial ratios.

Given all of the above, the Department is selecting Thailand as the primary surrogate country for this administrative review. In sum, 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 the same level of economic development as the PRC; (2) Thailand is a significant exporter of comparable merchandise; and (3) Thailand provides the best opportunity to use quality, publicly available, and contemporaneous data with the POR to value the majority of Shanghai Wells' FOPs. As such, we have selected Thailand as the primary surrogate country.

Although the Department prefers to value all inputs from the primary surrogate country, as stated above, interested parties only provided a scrap SV from Bulgaria. While we did not select Bulgaria as the primary surrogate country, we determined that Bulgaria is at the same level of economic development as the PRC and was included on the surrogate country list.<sup>68</sup> As this is the only information available on the record, the Department must depart from the primary surrogate country to select a SV for the scrap FOPs. As such, the Department has determined to use the Bulgaria SV information to value woodfree and paper scrap.<sup>69</sup> Accordingly, the

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<sup>64</sup> See Prelim Surrogate Value Memo.

<sup>65</sup> See Shanghai Wells' SV Submission at Exhibits SV-1 and SV-3.

<sup>66</sup> See Policy Bulletin at Data Considerations.

<sup>67</sup> See, e.g., *Certain Activated Carbon from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 11513 (March 4, 2016), and accompanying Issues and Decision Memorandum.

<sup>68</sup> See Surrogate Country and Values Letter.

<sup>69</sup> See Prelim Surrogate Value Memo.

Department has calculated NV using Thai and Bulgarian import values to value Shanghai Wells' FOPs.<sup>70</sup>

### Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, we will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation further provides that we may use a date other than the date of the invoice if satisfied that a different date better reflects the date on which the material terms of sale are established.

Shanghai Wells reported the date of the invoice issued to its unaffiliated U.S. customer as the date of sale.<sup>71</sup> The Department found no evidence contrary to Shanghai Wells' claims that invoice date reflected the date on which the material terms of sale were established. Thus, because record evidence does not demonstrate that the material terms of sale were established on another date, the Department used invoice date as the date of sale for these preliminary results, in accordance with 19 CFR 351.401(i).<sup>72</sup>

### Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Shanghai Wells' sales of the subject merchandise from the PRC to the United States were made at less than normal value, the Department compared the export price and constructed export price to the normal value as described in the "Export Price" and "Constructed Export Price" and "Normal Value" sections of this memorandum.

#### A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values with the export prices (or constructed export prices) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.<sup>73</sup>

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<sup>70</sup> See below at "Factor Valuation Methodology" section.

<sup>71</sup> See Shanghai Wells' Section C&D Questionnaire response (February 21, 2017) (SCDQR) at C-16.

<sup>72</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

<sup>73</sup> See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty*.

In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>74</sup> The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between export price (or constructed export price) and normal value for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8,

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*Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and the accompanying Issues and Decision Memorandum at comment 1; *see also Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

<sup>74</sup> *See, e.g., Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *see Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); *see also Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

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

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

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

#### Results of the Differential Pricing Analysis

For Shanghai Wells, based on the results of the differential pricing analysis, the Department preliminarily finds that 62.8 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>75</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, the Department is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Shanghai Wells.

### U.S. Price

For these preliminary results, the Department will use the constructed export price (CEP) and export price (EP), as appropriate, for sales made by Shanghai Wells or its affiliated entity to its first unaffiliated U.S. customers of subject merchandise during the POR.

#### A. Export Price

Pursuant to section 772(a) of the Act, EP is "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. The Department considers the U.S. prices of certain sales by Shanghai Wells to be EPs in accordance with section 772(a) of the Act because they were the prices at which the subject merchandise was first sold before the date of importation by the exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States. We calculated EPs based on the sales price to the unaffiliated purchaser(s) in the United States. In accordance with section 772(c)(2)(A) of the Act, as appropriate, the Department deducted from the sales price certain foreign inland freight, brokerage and handling (B&H), and international movement costs. Because the inland freight and B&H services were either provided by an NME vendor or paid for using an NME currency, the Department based the deduction of these charges on SVs.<sup>76</sup> For international freight provided by an ME provider and paid in U.S. dollars, the Department used the actual cost per kilogram (kg) of the freight.

#### B. Constructed Export Price

Pursuant to section 772(b) of the Act, CEP is "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the

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<sup>75</sup> See the Memorandum to the File, "Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Preliminary Results Analysis Memorandum for Shanghai Wells Hanger Co., Ltd." dated concurrently with this memorandum (Prelim Analysis Memorandum) at 1.

<sup>76</sup> See Prelim Surrogate Value Memo for details regarding the SVs for movement expenses.

producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under {sections 772(c) and (d) of the Act}." The Department considered certain of Shanghai Wells' sales in the United States to be CEP sales, and in accordance with our practice, calculated CEP based on prices to unaffiliated purchasers in the United States. In accordance with sections 772(c)(2)(A) and 772(d)(1) and of the Act, the Department made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by NME service providers or paid for in an NME currency, the Department valued these services using SVs.<sup>77</sup> For those expenses that were provided by an ME provider and paid for in a ME currency, the Department valued these services the reported expense. In accordance with section 772(d)(1) of the Act, the Department also deducted those selling expenses associated with economic activities occurring in the United States. The Department deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty expenses, and indirect selling expenses. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price, *see* the Shanghai Wells' Preliminary Analysis Memorandum, dated concurrently with these preliminary results.<sup>78</sup>

#### Value-Added Tax (VAT)

The Department's practice in NME cases is to adjust EP or CEP for the amount of any irrecoverable VAT,<sup>79</sup> in accordance with section 772(c)(2)(B) of the Act.<sup>80</sup> The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.<sup>81</sup> Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.<sup>82</sup> In the initial questionnaire, the Department instructed Shanghai Wells to report VAT on merchandise sold to the U.S. and identify which taxes are not rebated upon export.<sup>83</sup> In response, Shanghai Wells reported the irrecoverable VAT amount by multiplying the FOB export value with the difference of the applicable VAT rate and the refund rate.<sup>84</sup>

The Department's methodology, as explained above and applied in this review, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise per the Chinese VAT

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<sup>77</sup> See Prelim Surrogate Value Memo.

<sup>78</sup> See Prelim Analysis Memorandum dated concurrently with these preliminary results.

<sup>79</sup> See, e.g., *Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015*, 81 FR 62088 (September 8, 2016), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>80</sup> 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*).

<sup>81</sup> *Id.*; see also *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014), and accompanying Issues and Decision Memorandum at Comment 5.A.

<sup>82</sup> See *Methodological Change*, at 77 FR 36481.

<sup>83</sup> See Shanghai Wells' SCDQR at C-40 and C-41.

<sup>84</sup> *Id.*, at C-41.

regulations, and (2) reduce U.S. price by the amount of the irrevocable VAT determined in step one. Information placed on the record of this review by Shanghai Wells indicates that according to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is nine percent.<sup>85</sup> As Shanghai Wells reported the VAT for the subject merchandise as per the Department's methodology, we used the VAT amount reported by Shanghai Wells for these preliminary results.<sup>86</sup>

### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

### Factor Valuation Methodology

In accordance with section 773(c)(1) of the Act, we calculated NV based on FOPs reported by Shanghai Wells for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value a particular FOP. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as noted below). Because the statute is silent concerning what constitutes the "best available information" for a particular SV, the courts have recognized that the Department may use "broad discretion to determine the best available information for an antidumping review."<sup>87</sup> The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.<sup>88</sup>

The Department valued all raw materials (with the exclusion of water), all packing materials, an energy input, and one byproduct using Thai import statistics reported by the GTA.<sup>89</sup> Additionally, the Department valued two byproducts using Bulgarian import statistics reported by the GTA.<sup>90</sup> These data are generally contemporaneous with the POR, publicly available, product-specific, tax-exclusive, and represent a broad market average. In accordance with section 773(c)(5) of the Act and the legislative history of the Omnibus Trade and Competitiveness Act of 1988, the Department continues to apply its long-standing practice of disregarding certain prices as SVs if it has reason to believe or suspect that those prices may

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<sup>85</sup> *Id.*, at C-40 and C-41.

<sup>86</sup> *Id.*

<sup>87</sup> *See Ad Hoc Shrimp Trade Action Comm. v. United States*, 618 F.3d 1316, 1322 (Fed. Cir. 2010).

<sup>88</sup> *See, e.g., Electrolytic Manganese Dioxide from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>89</sup> *See Prelim Surrogate Value Memo.*

<sup>90</sup> *Id.*

have been dumped or subsidized.<sup>91</sup> In this regard, the Department previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we determined that these countries maintain broadly available, non-industry specific, export subsidies.<sup>92</sup> Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from these countries in calculating the Thai import-based SVs. The Department similarly disregarded prices from NME countries. Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, since the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.<sup>93</sup>

The Department adjusted the SVs as appropriate for exchange rates and taxes, and converted all applicable items to measurement on a per kg basis. In addition, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997), the Department added to the Thai import SVs a surrogate freight value using the shorter of the reported distance between (1) the domestic supplier and the factory or (2) the nearest seaport and the factory.<sup>94</sup>

The Department valued electricity using prices published by the World Bank’s “Doing Business Thailand 2017” report, which contains pricing data for electricity rates for business customers. These electricity rates are contemporaneous with the POR and are publicly available.<sup>95</sup>

The Department valued water using data from Thailand’s Metropolitan Waterworks Authority. This data contains pricing data that is publicly available, contemporaneous with the POR, and exclusive of VAT.<sup>96</sup>

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<sup>91</sup> See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

<sup>92</sup> See, e.g., *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20.

<sup>93</sup> See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039 (September 24, 2008); see also Prelim Surrogate Value Memo.

<sup>94</sup> See Prelim Surrogate Value Memo.

<sup>95</sup> *Id.*; see also Petitioner’s SV Submission at Exhibit II.

<sup>96</sup> See Prelim Surrogate Value Memo.

In *Labor Methodologies*,<sup>97</sup> the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.<sup>98</sup> Additionally, we determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics.<sup>99</sup> For these preliminary results, we valued labor using 2014 manufacturing specific data published by the ILO Statistics.<sup>100</sup> In *Labor Methodologies*, the Department decided to use ILO Chapter 6A instead of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better accounts for all direct and indirect labor costs.<sup>101</sup> We did not, however, preclude all other sources from evaluation for use in valuing labor costs in NME AD proceedings.<sup>102</sup> Rather, we continue to follow the Department's practice of selecting the best available information to determine SVs for inputs such as labor.<sup>103</sup> Therefore, we find that the 2014 manufacturing specific ILO Statistics data are the best available information because it is the most contemporaneous labor information on the record and it is industry specific.<sup>104</sup>

To value factory overhead, selling, general and administrative expenses, and profit, the Department is using the audited financial statements of one Thai company, LS Industry Company Limited, for the year ending December 31, 2015.<sup>105</sup> This company is a Thai manufacturer of nails, which, we have found to be comparable merchandise.<sup>106</sup> See the Prelim Surrogate Value Memo for details regarding other financial statements on the record.

#### Currency Conversion

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

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<sup>97</sup> See *Labor Methodologies*, 76 FR 36092.

<sup>98</sup> *Id.*, at 36093.

<sup>99</sup> *Id.*; see also Prelim Surrogate Value Memo.

<sup>100</sup> See Prelim Surrogate Value Memo.

<sup>101</sup> See *Labor Methodologies*.

<sup>102</sup> See, e.g., *Fresh Garlic from the People's Republic of China: Preliminary Results and Partial Rescission of the 21st Antidumping Duty Administrative Review; 2014-2015*, 81 FR 89050 (December 9, 2016).

<sup>103</sup> See *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33354 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 6-C; see also *Drawn Stainless Steel Sinks from the People's Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

<sup>104</sup> See Prelim Surrogate Value Memo

<sup>105</sup> *Id.*; see also Shanghai Wells' 2<sup>nd</sup> SV submission at Exhibit 3.

<sup>106</sup> See Shanghai Wells' 2<sup>nd</sup> SV Submission at Exhibit 7.

Conclusion

We recommend applying the above methodology for these preliminary results.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

8/2/2017

**X**

*Carole Showers*

Signed by: CAROLE SHOWERS

\_\_\_\_\_  
Carole Showers  
Executive Director, Office of Policy,  
performing the duties of  
Deputy Assistant Secretary for Enforcement and Compliance