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DATE: July 6, 2018

MEMORANDUM TO: Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

FROM: Wendy J. Frankel  
Director, U.S. Customs and Border Protection Liaison Unit  
Antidumping and Countervailing Duty Operations  
Enforcement and Compliance

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; 2016-2017

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## SUMMARY

In response to requests from interested parties, the Department of Commerce (Commerce) 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 (China) for the period of review (POR) October 1, 2016, through September 30, 2017.<sup>2</sup> Commerce 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 the 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*, 82 FR 57705 (December 7, 2017) (*Initiation Notice*).

## BACKGROUND

### Initiation

On October 25, 2017, Commerce received a timely request for review pursuant to 19 CFR 351.213(b) from M&B Metal Products Company Inc. (the petitioner).<sup>3</sup> On October 31, 2017, Commerce received a timely request for review pursuant to 19 CFR 351.213(b) from Shanghai Wells Hanger Co., Ltd., Hong Kong Wells Ltd., and Hong Kong Wells Ltd. (USA) (collectively, Shanghai Wells).<sup>4</sup> On December 7, 2017, Commerce published a notice of initiation of the ninth AR of steel wire garment hangers from China with respect to 20 companies.<sup>5</sup> On April 26, 2018, Commerce partially rescinded the review on all companies other than Shanghai Wells.<sup>6</sup>

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. As a result, the revised deadline for the preliminary results of this administrative review is now July 6, 2018.<sup>7</sup>

### Respondent Selection

Section 777A(c)(1) of the Act directs Commerce to calculate individual dumping margins for each known exporter or producer of the subject merchandise.<sup>8</sup> However, section 777A(c)(2) of the Act gives Commerce 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 8, 2017, Commerce placed on the record of this review CBP import data showing AD entries into the United States from China during the POR under the Harmonized Tariff Schedule of the United States (HTSUS) subcategories listed in the scope of the *Order*, and

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<sup>3</sup> See Petitioner's Letter, "Steel Wire Garment Hangers from China: Petitioner's Request for Ninth Administrative Review," (October 25, 2017).

<sup>4</sup> See Shanghai Wells' Letter, "Steel Wire Garment Hangers from the People's Republic of China: Review Request," (October 31, 2017). In the first administrative review of the *Order*, Commerce found that Shanghai Wells Hanger Co., Ltd. and Hong Kong Wells Ltd., and Hong Kong Wells Ltd. (USA) are affiliated and that Shanghai Wells Hanger Co., Ltd. and Hong Kong Wells Ltd. are a single entity. 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 affiliated and that Shanghai Wells Hanger Co., Ltd. and Hong Kong Wells Ltd. comprise 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>5</sup> See *Initiation Notice*.

<sup>6</sup> See *Steel Wire Garment Hangers from the People's Republic of China; 2016-2017; Partial Rescission of the Ninth Antidumping Duty Administrative Review*, 83 FR 18276 (April 26, 2018).

<sup>7</sup> See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "*Deadlines Affected by the Shutdown of the Federal Government*," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

<sup>8</sup> See 19 CFR 351.204(c) regarding respondent selection, in general.

requested comments on the data for use in respondent selection.<sup>9</sup> On December 13, 2017, we received comments from the petitioner.<sup>10</sup> No other party submitted comments and no party submitted rebuttal comments. On December 18, 2017, the petitioner timely withdrew its request for review of 17 companies.<sup>11</sup> On December 20, 2017, Commerce issued the non-market economy (NME) AD questionnaire to Shanghai Wells because it was the only remaining company for which a review was requested.<sup>12</sup>

On January 16, 2018, Shanghai Wells submitted a timely response to section A of Commerce's AD questionnaire (*i.e.*, the section relating to separate rates and general information).<sup>13</sup> On February 8, 2018, Shanghai Wells timely responded to sections C and D of Commerce's AD questionnaire (*i.e.*, the sections relating to U.S. sales and factors of production (FOPs)).<sup>14</sup> From February through May 2018, we issued supplemental questionnaires to Shanghai Wells.<sup>15</sup> We received timely responses to these supplemental questionnaires.<sup>16</sup> From February through June 2018, the petitioner commented on Shanghai Wells' responses.<sup>17</sup>

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<sup>9</sup> See Memorandum, "U.S. Customs Data for Respondent Selection," dated December 8, 2017.

<sup>10</sup> See Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China - Petitioner's Comments on CBP Data for Respondent Selection" (December 13, 2017).

<sup>11</sup> See Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China - Petitioner's Withdrawal of Review Requests for Specific Companies," (December 18, 2017).

<sup>12</sup> See Commerce Letter re: Ninth Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China, dated December 20, 2017.

<sup>13</sup> See Shanghai Wells' January 16, 2018 Section A Questionnaire Response.

<sup>14</sup> See Shanghai Wells' February 8, 2018 Section C Questionnaire Response (Shanghai Wells' February 8, 2018 CQR); Shanghai Wells' February 8, 2018 Section D Questionnaire Response.

<sup>15</sup> See Commerce Letter re: Ninth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China, dated February 1, 2018; Commerce Letter re: Ninth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China, dated March 20, 2018; Commerce Letter re: Ninth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China, dated April 10, 2018; Commerce Letter re: Ninth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Section A, C, and D Second Supplemental Questionnaire, dated May 24, 2018.

<sup>16</sup> See Shanghai Wells' February 12, 2018 Section A Supplemental Questionnaire Response; Shanghai Wells' April 2, 2018 Section C Supplemental Questionnaire Response (Shanghai Wells' April 2, 2018 SCQR); Shanghai Wells' April 20, 2018 Section D Supplemental Questionnaire Response; Shanghai Wells' June 4, 2018 Section ACD Second Supplemental Questionnaire Response.

<sup>17</sup> See Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China – Petitioner's Deficiency Comments on Shanghai Wells' Response to Section A," dated February 2, 2018; Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China – Petitioner's Deficiency Comments on Shanghai Wells' Response to Supplemental Section A," dated February 16, 2018; Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China – Petitioner's Deficiency Comments on Shanghai Wells' Response to Sections C and D," dated February 21, 2018; Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China – Petitioner's Deficiency Comments on Shanghai Wells' Response to Supplemental Section C," dated April 12, 2018; Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China – Petitioner's Deficiency Comments on Shanghai Wells' Response to Supplemental Section D," dated April 30, 2018; and Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China – Petitioner's Deficiency Comments on Shanghai Wells' Response to Second Supplemental Sections A, C, and D Questionnaires," dated June 14, 2018.

## 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

Commerce considers China to be an NME country.<sup>18</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. Therefore, we continue to treat China 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>19</sup> It is Commerce'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, Commerce analyzes each exporting entity in an NME country under the test established in *Sparklers*,<sup>20</sup> as amplified by

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<sup>18</sup> See *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018), and accompanying Issues and Decision Memorandum at Comment 1; see also *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>19</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).

<sup>20</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*).

*Silicon Carbide*.<sup>21</sup> However, if Commerce 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>22</sup>

Commerce received a complete response to the Section A portion of the NME questionnaire from the only mandatory 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>23</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>24</sup> Therefore, as there is no Chinese ownership of these companies, and because Commerce has no evidence indicating that these companies are under the control of the Chinese 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>25</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>26</sup> Thus, we preliminarily grant separate rate status to Shanghai Wells.

#### Surrogate Country and Surrogate Value Data

On February 9, 2018, Commerce sent interested parties a letter inviting comments on the non-exhaustive list of countries Commerce determined are at the same level of economic development as China, surrogate country selection, and surrogate value (SV) data, and specified

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<sup>21</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>22</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 Preliminary Decision Memorandum at 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>23</sup> See Shanghai Wells' January 16, 2018 AQR at 1-8.

<sup>24</sup> *Id.* at 2-3.

<sup>25</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>26</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).

the deadlines for these respective submissions.<sup>27</sup> In March 2018, we timely received comments on surrogate country selection from the petitioner.<sup>28</sup> In April 2018, we received timely SV information from Shanghai Wells<sup>29</sup> and the petitioner.<sup>30</sup> Shanghai Wells timely submitted rebuttal comments in April 2018.<sup>31</sup> On June 4, 2018, Shanghai Wells' submitted additional information on SVs.<sup>32</sup> On June 6, 2018, the petitioner also submitted additional information on SVs.<sup>33</sup>

### Surrogate Country

When Commerce 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 Commerce. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce 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>34</sup> As a general rule, Commerce 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>35</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, Commerce generally relies on *per capita* gross national income (GNI) data from the World Bank's World Development Report.<sup>36</sup>

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<sup>27</sup> See Commerce Letter re: Ninth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information, dated February 9, 2018 (Surrogate Country and Values Letter). The countries identified in the Attachment to the Surrogate Country and Values Letter are Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand (Surrogate Country List).

<sup>28</sup> See Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China - Petitioner's Comments on Surrogate Country Selection," dated March 5, 2018.

<sup>29</sup> See Shanghai Wells' Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China - Submission of Surrogate Value Information," dated April 9, 2018 (Shanghai Wells' SV Submission).

<sup>30</sup> See Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China: Petitioner's Submission of Surrogate Value Information," dated April 9, 2018 (Petitioner's SV Submission).

<sup>31</sup> See Shanghai Wells' Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China - Submission of Rebuttal Surrogate Value Information," dated April 19, 2018.

<sup>32</sup> See Shanghai Wells' Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from the People's Republic of China – Submission of Surrogate Value Information," dated June 4, 2018 (Shanghai Wells' 2<sup>nd</sup> SV Submission).

<sup>33</sup> See Petitioner's Letter, "Ninth Administrative Review of Steel Wire Garment Hangers from China: Petitioner's Submission of Additional Surrogate Value Information," dated June 6, 2018 (Petitioner's 2<sup>nd</sup> SV Submission).

<sup>34</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>35</sup> *Id.*

<sup>36</sup> *Id.*

It is our practice to value inputs using data from the primary surrogate 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>37</sup> The sources of the SVs we used in this review are discussed under the “Normal Value” section below. Both the petitioner and Shanghai Wells submitted only Thai SV information for consideration.<sup>38</sup>

#### A. Economic Comparability

Commerce 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 China.<sup>39</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.

In the Surrogate Country and Values Letter, we requested comments on the list of potential surrogate countries as a starting point for surrogate country selection, pursuant to section 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 China.<sup>40</sup> 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 Commerce deemed to be economically comparable to China (*i.e.*, Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand).<sup>41</sup>

#### B. Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce 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>42</sup> that does not preclude reliance on additional or alternative metrics.<sup>43</sup> Moreover, neither the statute nor Commerce’s regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, Commerce looks

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<sup>37</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>38</sup> See Petitioner’s SV Submission; see also Shanghai Wells’ SV Submission.

<sup>39</sup> See Surrogate Country and Values Letter at Attachment.

<sup>40</sup> *Id.*

<sup>41</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>42</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>43</sup> See *Dorbest Ltd. v. United States*, 462 F. Supp. 2d 1262, 1274 n.5 (CIT 2006).

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>44</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>45</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>46</sup> Further, when selecting a surrogate country, the statute requires Commerce to consider the comparability of the merchandise, not the comparability of the industry.<sup>47</sup> 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, {not elsewhere specified or included} (NESOI).”<sup>48</sup> Commerce 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, Commerce also will consider data availability and reliability in selecting a surrogate country.<sup>49</sup>

### C. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, Commerce selects the primary surrogate country based on data availability and reliability.<sup>50</sup> When evaluating SV data, Commerce 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>51</sup> There is no hierarchy among these criteria; it is Commerce’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.<sup>52</sup> Of the countries in the Surrogate Country List, interested parties submitted information only for Thailand.<sup>53</sup>

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<sup>44</sup> For a description of our practice see *Policy Bulletin*, at Background.

<sup>45</sup> *Id.*

<sup>46</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>47</sup> See *Sebacic Acid from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) (“{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.”).

<sup>48</sup> See Memorandum, “Ninth 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) at Attachment 2.

<sup>49</sup> See *Policy Bulletin* at Data Considerations.

<sup>50</sup> *Id.*

<sup>51</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>52</sup> See *Ad Hoc Shrimp Trade Action Comm. v. United States*, 618 F.3d 1316, 1322 (Fed. Cir. 2010).

<sup>53</sup> See Petitioner’s SV Submission at Exhibit 1; see also Shanghai Wells’ SV Submission at 1.

Commerce examined the potential SVs provided on the record for steel wire rod, the primary input used in the production of subject merchandise. For steel wire rod, the petitioner and Shanghai Wells placed SV data on the record for Thailand.<sup>54</sup> The Thai harmonized tariff system (HTS) subheadings provided on the record cover a range of carbon content, including HTS subheading 7213.91.90.010, which represents steel wire rod containing by weight not more than 0.06 percent of carbon.<sup>55</sup> 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>56</sup> Of the SV information on the record for steel wire rod, the Thai HTS code of 7213.91.90.010 is most specific because it includes the total range of carbon content of steel wire rod used by Shanghai Wells during the POR.<sup>57</sup>

Commerce considered all six Thai financial statements on the record for these preliminary results. The petitioner submitted financial statements from Hi-Tech Fastener Manufacturer Co., Ltd. (Hi-Tech) for fiscal year ending (FYE) 12/31/2016, Sahasilp Rivet Industrial Co., Ltd. (Sahasilp) for FYE 12/31/2016, and Thai Mongkol Fasteners Co., Ltd (Mongkol) for FYE 12/31/2017.<sup>58</sup> Shanghai Wells submitted the financial statements from LS Industry Company Limited (LS Industry) for FYE 12/31/2016, Bangkok Fastening Company Limited (Bangkok Fastening) for FYE 12/31/2017, and Thai Mesh Company Limited (Thai Mesh) for FYE 12/31/2017.<sup>59</sup> Commerce finds that the six Thai financial statements are contemporaneous with the POR.

Of the six statements on the record, none produced identical merchandise. The financial statements from Hi-Tech indicate production of fasteners and rivets.<sup>60</sup> Sahasilp's financial statements indicate production of nuts, screws, and bolts.<sup>61</sup> Mongkol's financial statements indicate production of fasteners and auto parts.<sup>62</sup> Financial statements from Bangkok Fastening indicate production of steel wire rod and fasteners such as nuts, bolts and screws.<sup>63</sup> Financial statements from LS Industry indicate production of steel nails and chains.<sup>64</sup> Thai Mesh financial statements indicate production of cold drawn steel wire, wire mesh, and wire mesh fences.<sup>65</sup> In prior segments of this administrative review, Commerce determined that fasteners, nuts, bolts, and screws are comparable to subject merchandise.<sup>66</sup> Based on our prior determinations, the

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<sup>54</sup> See Petitioner's SV Submission at Exhibit 1; *see also* Shanghai Wells' SV Submission at Exhibit SV-1.

<sup>55</sup> See Prelim Surrogate Value Memo at Attachment 3.

<sup>56</sup> See Shanghai Wells' April 2, 2018 SCQR at 2 and Exhibit 2.

<sup>57</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%."

<sup>58</sup> See Petitioner's SV Submission at Exhibit 4; *see also* Petitioner's 2<sup>nd</sup> SV Submission at Attachment 1.

<sup>59</sup> See Shanghai Wells' 2<sup>nd</sup> SV Submission at Exhibits 1-3.

<sup>60</sup> See Petitioner's SV Submission at Exhibit 4A.

<sup>61</sup> *Id.* at Exhibit 4B.

<sup>62</sup> See Petitioner's 2<sup>nd</sup> SV Submission at Attachment 1C.

<sup>63</sup> See Shanghai Wells' 2<sup>nd</sup> SV Submission at Exhibits 1 and 5.

<sup>64</sup> *Id.* at Exhibits 2 and 6.

<sup>65</sup> *Id.* at Exhibits 3 and 7.

<sup>66</sup> See *Steel Wire Garment Hangers from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 37194 (August 9, 2017) (*China Hangers AR8 Prelim*), and accompanying Preliminary Decision Memorandum at 8-12, unchanged in final, *Steel Wire Garment Hangers from the People's*

financial statements from Hi-Tech, Sahasilp, Mongkol, and Bangkok Fastening indicate production of merchandise comparable to subject merchandise.

With respect to the Thai Mesh financial statements, we are not determining whether cold drawn steel wire, wire mesh, or wire mesh fences represent comparable merchandise because, as explained below, these statements are unsuitable for other reasons. We are also not reaching a determination with respect to whether LS Industry's products are comparable because as described below it has a negative profit and is therefore not suitable for use as a surrogate.

Further, the financial statements from Hi-Tech<sup>67</sup> and Mongkol<sup>68</sup> contain evidence of subsidies we have previously found to be countervailable in another case.<sup>69</sup> Normally, Commerce does not rely on financial statements where there is evidence that the company received subsidies previously found by Commerce to be countervailable and (as Commerce finds here) there are other, more reliable and representative data on the record for the purposes of calculating surrogate financial ratios.<sup>70</sup> LS Industry's financial statements demonstrate that the company had a negative profit.<sup>71</sup> Commerce's normal practice is to exclude the financial statements of companies that demonstrate a zero/negative profit.<sup>72</sup> Financial statements from Sahasilp and Thai Mesh do not contain breakouts of labor and energy as production expenses.<sup>73</sup> While the Bangkok Fastening financial statements do not include a breakout of energy as a production expense they do contain a breakout of labor. Therefore, Commerce finds the financial statements from Bangkok Fastening to be more suitable than the financial statements from Sahasilp and Thai Mesh. When Commerce is unable to segregate and, therefore, exclude energy costs from the calculation of the surrogate financial ratios, as is the case with the financial statements from Bangkok Fastening, it is Commerce's practice to disregard the respondent's energy inputs in the

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*Republic of China: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 54324 (November 17, 2017) (*China Hangers AR8 Final*); see also *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2014-2015*, 82 FR 18115 (April 17, 2017), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>67</sup> See Petitioner's SV Submission at Exhibit 4A. Evidence of a subsidy previously determined to be countervailable appears in Note 1.

<sup>68</sup> See Petitioner's 2<sup>nd</sup> SV Submission at Attachment 1B. Evidence of a subsidy previously determined to be countervailable appears in Note 11.

<sup>69</sup> See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum (*Warmwater Shrimp from Thailand*); see also *Citric Acid and Certain Citrate Salts from Thailand: Final Negative Countervailing Duty Determination, and Final Negative Critical Circumstances Determination*, 83 FR 26004 (June 5, 2018), and accompanying Issues and Decision Memorandum at 8-12.

<sup>70</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>71</sup> See Petitioner's SV Submission at Exhibit 3B; see also Shanghai Wells' SV Submission at Exhibit SV-9

<sup>72</sup> See, e.g., *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part; 2010-2011*, 78 FR 22513 (April 16, 2013), and accompanying Issues and Decision Memorandum at Comment 6; see also *Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 52049 (September 12, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>73</sup> See Petitioner's SV Submission at Exhibit 4B; see also Shanghai Wells 2<sup>nd</sup> SV Submission at Exhibits 3 and 4.

calculation of NV in order to avoid double-counting energy costs which have necessarily been captured in the surrogate financial ratios.<sup>74</sup> Accordingly, we did not value Shanghai Wells electricity and diesel FOPs for these preliminary results, in accordance with our normal practice.

The financial statements from Bangkok Fastening are from a producer of comparable merchandise (*i.e.* fasteners), contemporaneous with the POR, publicly available, and are more complete with its breakout of labor. As all other financial statements considered for these preliminary results suffer more significant defects (*i.e.* negative profit, no breakout of energy and labor, previously found to contain a countervailable subsidy, *etc.*), the 2017 audited financial statements of Bangkok Fastening represent the best available information to value factory overhead, selling, general and administrative expenses and profit for these preliminary results.<sup>75</sup>

With regard to the remaining FOPs, information submitted on the record by the petitioner and Shanghai Wells for inland freight and brokerage and handling are equally specific for these FOPs.<sup>76</sup> However, Shanghai Wells did not provide complete original source documentation for its inland freight and brokerage and handling information.<sup>77</sup> Thus, Commerce finds the petitioner's information on record for inland freight and brokerage and handling to be more reliable for these preliminary results.<sup>78</sup> Because the petitioner submitted the World Bank's Doing Business in Thailand 2017 publication, and the data in Doing Business 2017 were current as of June 1, 2016,<sup>79</sup> we inflated the inland freight and brokerage and handling SVs, in accordance with our practice.<sup>80</sup>

With respect to labor, the petitioner submitted Thai data that are contemporaneous with the POR from the statistics office of the International Labor Organization (ILO).<sup>81</sup> However, the petitioner did not provide any original source documentation or clearly identify the source of its submitted data, thus calling into question the data's validity. Shanghai Wells submitted data supported with original documentation from the Government of Thailand, National Statistical

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<sup>74</sup> See, *e.g.*, *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 74 FR 16838, 16839 (April 13, 2009), and accompanying Issues and Decision Memorandum at Comment 2; see also *Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results, Partial Rescission, Extension of Time Limits for the Final Results, and Intent to Revoke, in Part, of the Sixth Antidumping Duty Administrative Review*, 77 FR 12801, 12809 (March 2, 2012), unchanged in the final.

<sup>75</sup> See Shanghai Wells' 2<sup>nd</sup> SV Submission at Exhibit 1.

<sup>76</sup> See Petitioner's SV Submission at Exhibit 3B; see also Shanghai Wells' SV Submission at Exhibit 9.

<sup>77</sup> See Shanghai Wells' SV Submission at 3 and Exhibit SV-9 (although Shanghai Wells provided two pages of documentation, it did not include the cover page of the publication or complete methodological descriptions of the data that support its calculation of these SVs).

<sup>78</sup> See Petitioner's SV Submission at Exhibit 3B.

<sup>79</sup> See, *e.g.*, *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission of New Shipper Review; 2015-2016*, 82 FR 47469 (October 12, 2017), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>80</sup> See, *e.g.*, *Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of the Antidumping Duty New Shipper Review*, 71 FR 38617, 38619 (July 7, 2006) (unchanged in *Certain Preserved Mushrooms from the People's Republic of China: Final Results of the Antidumping Duty New Shipper Review*, 71 FR 66910 (November 17, 2006))

<sup>81</sup> See Petitioner's SV Submission at Exhibit 3A.

Office, Labor Force Survey of Whole Kingdom (Thai NSO).<sup>82</sup> However, the Thai NSO data are not contemporaneous with the POR. As such, Commerce must weigh the available information with respect to each SV and make a product-specific and case-specific decision as to what constitutes the “best” available SV for each input.<sup>83</sup> Considering Commerce’s practice and the information placed on the record, we find the data Shanghai Wells submitted, the Thai NSO, to be the best SV available to value labor and we inflated the data to the POR.

With respect to water, the information provided on the record by the petitioner is not supported by original source documentation.<sup>84</sup> The information provided on the record by Shanghai Wells is supported by source documentation.<sup>85</sup> Thus, we find Shanghai Wells’ submitted data to be more reliable to value water.

The data placed on the record for Thailand provide an HTS subheading that meets Shanghai Wells’ specification for steel wire rod consumed during the POR, is the most contemporaneous with the POR, and provide the most complete data by which to value FOPs, and usable financial statements by which to value surrogate financial ratios. Thus, Commerce 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 constitute the best information available because: (1) Thailand is at the same level of economic development as China; (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 all of Shanghai Wells’ FOPs. As such, we have selected Thailand as the primary surrogate country.

#### Date of Sale

Section 351.401(i) of Commerce’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>86</sup> Commerce found no evidence contrary to Shanghai Wells’ claims that the 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

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<sup>82</sup> See Shanghai Wells’ SV Submission at 3 and Exhibit SV-8.

<sup>83</sup> See *Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) and accompanying Issues and Decision Memorandum at Comment 1; see also *Freshwater Crawfish Tail Meat from the People’s Republic of China: Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>84</sup> Petitioner’s SV Submission at Exhibit 3.

<sup>85</sup> See Shanghai Wells’ SV Submission at Exhibits SV-6 and SV-7.

<sup>86</sup> See Shanghai Wells’ February 8, 2018 CQR at C-16.

date, Commerce used the invoice date as the date of sale for these preliminarily results, in accordance with 19 CFR 351.401(i).<sup>87</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 China to the United States were made at less than NV, Commerce compared the export price (EP) and constructed export price (CEP) to the NV 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), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*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, Commerce examines whether to compare weighted-average normal values with the EPs (or CEPs) 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 Commerce's examination of this question in the context of administrative reviews, Commerce 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>88</sup>

In recent investigations, Commerce 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>89</sup> Commerce 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. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

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<sup>87</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>88</sup> See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty. Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and 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>89</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).

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs (or CEPs) 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 POR 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 Commerce uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* 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, 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, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce 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, Commerce preliminarily finds that 58.8 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>90</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce 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, Commerce 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, Commerce will use the CEP and 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.

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<sup>90</sup> See Memorandum, "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 Section V.

## 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. Commerce 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, Commerce 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, Commerce based the deduction of these charges on SVs.<sup>91</sup> For international freight provided by an ME provider and paid in U.S. dollars, Commerce used the actual cost per piece of the freight.<sup>92</sup>

## 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 producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under {sections 772(c) and (d) of the Act}.” Commerce considered some of Shanghai Wells’ sales in the United States to be CEP sales. In accordance with our practice, we 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, Commerce made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, and 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, Commerce valued these services using SVs.<sup>93</sup> For those expenses that were provided by an ME provider and paid for in an ME currency, Commerce used the reported expense. In accordance with section 772(d)(1) of the Act, Commerce also deducted those selling expenses associated with economic activities occurring in the United States. Commerce 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’ Prelim Analysis Memorandum.<sup>94</sup>

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<sup>91</sup> See Prelim Surrogate Value Memo for details regarding the SVs for movement expenses.

<sup>92</sup> See Shanghai Wells’ February 8, 2018 CQR at C-25 and C-26 and Exhibit C-3.

<sup>93</sup> See Prelim Surrogate Value Memo.

<sup>94</sup> See Prelim Analysis Memorandum.

## Value-Added Tax (VAT)

Commerce's practice in NME cases is to adjust EP or CEP for the amount of any irrecoverable VAT,<sup>95</sup> in accordance with section 772(c)(2)(B) of the Act.<sup>96</sup> Commerce 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, Commerce will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.<sup>97</sup> Where the irrecoverable VAT is a fixed percentage of EP or CEP, Commerce 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>98</sup> In the initial questionnaire, Commerce instructed Shanghai Wells to report VAT on merchandise sold to the U.S. and identify which taxes are not rebated upon export.<sup>99</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>100</sup>

Commerce'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 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 refund rate for subject merchandise is nine percent.<sup>101</sup> As Shanghai Wells reported the VAT for the subject merchandise as per Commerce's methodology, we used the VAT amount reported by Shanghai Wells for these preliminary results.<sup>102</sup>

## Normal Value

Section 773(c)(1) of the Act provides that Commerce 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. Commerce 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 Commerce's normal methodologies.

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<sup>95</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>96</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>97</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>98</sup> See *Methodological Change*, 77 FR at 36481.

<sup>99</sup> See Shanghai Wells' February 8, 2018 CQR at C-39 through C-40.

<sup>100</sup> *Id.* at C-40.

<sup>101</sup> *Id.* at C-39 through C-40.

<sup>102</sup> *Id.*

## 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), Commerce 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. Because the statute is silent concerning what constitutes the “best available information” for a particular SV, the courts have recognized that Commerce may use “broad discretion to determine the best available information for an antidumping review.”<sup>103</sup> Commerce’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>104</sup>

Commerce valued all raw materials (with the exclusion of water), all packing materials, all byproducts, and an energy input using Thai import statistics reported by the GTA.<sup>105</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, Commerce 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 have been dumped or subsidized.<sup>106</sup> In this regard, Commerce 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>107</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, Commerce finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, Commerce has not used prices from these countries in calculating the Thai import-based SVs. Commerce similarly disregarded prices from NME countries. Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, since Commerce could not be

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<sup>103</sup> See *Ad Hoc Shrimp Trade Action Comm. v. United States*, 618 F.3d 1316, 1322 (Fed. Cir. 2010).

<sup>104</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>105</sup> See Prelim Surrogate Value Memo.

<sup>106</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>107</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; *Warmwater Shrimp from Thailand* Issues and Decision Memorandum at IV.

certain that these imports were not from either an NME country or a country with generally available export subsidies.<sup>108</sup>

Commerce adjusted the SVs as appropriate for exchange rates and taxes, and converted all applicable items to measurement on a per kg basis. In addition, Commerce 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), Commerce 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>109</sup>

Commerce valued electricity using prices published by the Thailand Board of Investment “Costs of Doing Business in Thailand 2017” report (BOI 2017), which contains pricing data for electricity rates for business customers.<sup>110</sup> Commerce also valued water using data from the same report. We find that the pricing data in BOI 2017 are publicly available and contemporaneous with the POR.<sup>111</sup>

In *Labor Methodologies*,<sup>112</sup> Commerce determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.<sup>113</sup> Thus, we determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the ILO Yearbook of Labor Statistics (ILO Yearbook).<sup>114</sup> For these preliminary results, we valued labor using manufacturing-specific data from the quarterly-specific data (fourth quarter of 2015 and first, second, and third quarters of 2016) from Thai NSO.<sup>115</sup>

Although the Thai NSO data are not from the ILO Yearbook, we find that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, Commerce decided to use ILO Yearbook Chapter 6A instead of ILO Yearbook Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.<sup>116</sup> We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Rather, we continue to follow Commerce’s practice of selecting the best available information to determine SVs for inputs such as labor.<sup>117</sup> In this case, we find that the Thai NSO

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<sup>108</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>109</sup> See Prelim Surrogate Value Memo.

<sup>110</sup> *Id.*; see also Shanghai Wells’ SV Submission at Exhibits SV-5 and SV-6.

<sup>111</sup> *Id.*; see also Shanghai Wells’ SV Submission at Exhibits SV-5 and SV-7.

<sup>112</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>113</sup> *Id.*, 76 FR at 36093.

<sup>114</sup> *Id.*; see also Prelim Surrogate Value Memo.

<sup>115</sup> See Shanghai Wells’ SV Submission at Exhibit 8.

<sup>116</sup> See *Labor Methodologies*.

<sup>117</sup> See *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.

data are the best available information because the data from the ILO submitted by the petitioner are not supported by original source documentation. Although the Thai NSO data are not contemporaneous with the POR, we continue to follow Commerce's practice of inflating the value of the available data.<sup>118</sup>

To value factory overhead, selling, general and administrative expenses, and profit, Commerce is using the audited financial statements of one Thai company, Bangkok Fastening, for the year ending December 31, 2017.<sup>119</sup> See the Prelim Surrogate Value Memo for details regarding other financial statements on the record.

### Currency Conversion

Where necessary, Commerce 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.

### Conclusion

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

7/6/2018

X



Signed by: GARY TAVERMAN

Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

<sup>118</sup> See, e.g., *Final Results of Redetermination Pursuant to Court Remand Order in Jinan Yipin Corp., Ltd., et al. v. United States*, Court No. 06-00189, Slip Op. 09-39 at 8.

<sup>119</sup> See Prelim Surrogate Value Memo; see also Shanghai Wells' 2<sup>nd</sup> SV submission at Exhibit 1.