



A-570-918
Administrative Review
POR: 10/1/2017 – 9/30/2018
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December 9, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
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; 2017-2018

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty *Order* on steel wire garment hangers (hangers) from the People's Republic of China (China).¹ The review covers Shanghai Wells Hanger Co., Ltd. and Hong Kong Wells Ltd. (collectively, Shanghai Wells).² The period of review (POR) is October 1, 2017 through September 30, 2018. Because Shanghai Wells prevented Commerce from conducting verification of its questionnaire responses, we preliminarily find that Shanghai Wells failed to demonstrate its eligibility for separate rate status, including its claim that it is not under *de facto* or *de jure* government control, consistent with sections 782(e) and 782(i) of the Tariff Act of 1930, as amended (the Act). Thus, Commerce preliminarily finds that Shanghai Wells to be part of the China-wide entity.³

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

² Commerce found that Shanghai Wells Hanger Co., Ltd. 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); see also *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2016-2017*, 83 FR 53449 (October 23, 2018) (*Single Entity Determination*).

³ See *Order*, 73 FR at 58112.

If we adopt these preliminary results in the final results of the review, Commerce will instruct U.S. Customs and Border Protection to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results. We expect to issue final results no later than 120 days from the date of publication of this notice pursuant to section 751(a)(3)(A) of the Act.

II. BACKGROUND

On December 11, 2018, Commerce initiated this administrative review of the *Order* on hangers from China in accordance with section 751(a) of the Act with respect to four companies: Hangzhou Qingqing Mechanical Co., Ltd. (Hangzhou Qingqing); Hangzhou Yingqing Material Co., Ltd. (Hangzhou Yingqing); Hong Kong Wells Ltd.; and Shanghai Wells Hanger Co., Ltd.⁴ On May 1, 2019, Commerce rescinded its review of two of these companies, Hangzhou Qingqing and Hangzhou Yingqing, based on a timely-filed withdrawal of the request for review.⁵ Because we have previously found that Shanghai Wells Hanger Co., Ltd. and Hong Kong Wells Ltd. are a single entity, these two companies, collectively Shanghai Wells, serve as the sole respondent remaining under review.⁶

On November 1, 2018, Commerce issued the standard non-market economy (NME) questionnaire to Shanghai Wells.⁷ On November 30, 2018, Shanghai Wells submitted its response to section A of the questionnaire.⁸ On December 17, 2018, Shanghai Wells submitted its response to sections C and D of the questionnaire.⁹ From February 21, 2019 through July 12, 2019, Shanghai Wells timely submitted supplemental questionnaire responses.¹⁰

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.¹¹ On July 18, 2019, pursuant to section 751(a)(3)(A) of the Act, Commerce extended the deadline

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 63615 (December 11, 2018) (*Initiation Notice*).

⁵ See *Steel Wire Garment Hangers from the People's Republic of China; 2017-2018; Partial Rescission of the Tenth Antidumping Duty Administrative Review*, 84 FR 18478 (May 1, 2019).

⁶ See *Single Entity Determination*.

⁷ See Commerce's Letter, "Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Non-Market Economy Questionnaire," dated November 1, 2018 (NME questionnaire).

⁸ See Shanghai Wells' November 30, 2018 Section A Questionnaire Response (Shanghai Wells' November 30, 2018 AQR).

⁹ See Shanghai Wells' December 17, 2018 Section C and D Questionnaire Response.

¹⁰ See Shanghai Wells' February 21, 2019 Section A Supplemental Questionnaire Response; Shanghai Wells' March 19, 2019 Section C Supplemental Questionnaire Response; Shanghai Wells' April 16, 2019 Section D Supplemental Questionnaire Response; Shanghai Wells' May 27, 2019 Second Supplemental Questionnaire Response; Shanghai Wells' June 24, 2019 Third Supplemental Questionnaire Response; Shanghai Wells' July 24, 2019 Fourth Supplemental Questionnaire Response.

¹¹ See Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

for these the preliminary results by 80 days.¹² On September 23, 2019, Commerce extended the deadline for these preliminary results by an additional 40 days.¹³ The revised deadline for the preliminary results in this review is now December 10, 2019.

On February 25, 2019, M&B Metal Products Co. Inc. (the petitioner) requested that Commerce conduct on-site verification of Shanghai Wells to confirm the accuracy and completeness of its responses.¹⁴ On July 23, 2019, after Commerce began planning for on-site verification, Shanghai Wells requested that Commerce reconsider conducting on-site verification of Shanghai Wells.¹⁵ On July 26, 2019, Commerce responded that we continued to find it appropriate to conduct on-site verification.¹⁶ We suggested two different time periods for which we could conduct on-site verification and requested that Shanghai Wells inform us which date would work or propose alternative dates.¹⁷ On July 30, 2019, Shanghai Wells requested that Commerce conduct on-site verification from September 15, 2019 through September 25, 2019.¹⁸ On August 9, 2019, Shanghai Wells agreed to conduct on-site verification with Commerce from November 4, 2019 through November 13, 2019.¹⁹

On October 25, 2019, Shanghai Wells requested that Commerce again reconsider on-site verification and stated that “if Commerce insists to conduct the proposed verification, then Wells’ decides to not participate in this on-site verification.”²⁰ On the same day, Commerce responded to Shanghai Wells that we continued to find that an on-site verification was necessary for this instant review but, because Shanghai Wells’ stated it would not participate in any on-site verification, it had cancelled the on-site verification of its questionnaire responses.²¹ Additionally, we informed Shanghai Wells that “failure to allow full and complete verification of any information may affect the consideration accorded to that or any other verified or non-verified item in the responses.”²²

¹² See Memorandum, “Steel Wire Garment Hangers from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated July 18, 2019; *see also* Memorandum, “Administrative Review of the Antidumping Duty Order on Steel Wire Garment Hangers from the People’s Republic of China: Clarification of Deadline for Preliminary Results,” dated July 22, 2019.

¹³ See Memorandum, “Steel Wire Garment Hangers from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated September 23, 2019.

¹⁴ See Petitioner’s Letter, “Tenth Administrative Review of Steel Wire Garment Hangers from China – Petitioner’s Request for Verification,” dated February 25, 2019 (Petitioner’s Verification Request).

¹⁵ See Shanghai Wells’ Letter, “Steel Wire Garment Hangers from the People’s Republic of China: Comments on Verification Plan,” dated July 23, 2019 (Shanghai Wells’ Request to Reconsider Verification).

¹⁶ See Letter, “Steel Wire Garment Hangers from the People’s Republic of China: Response to Comments on Verification Plans,” dated July 26, 2019 (Verification Decision Letter).

¹⁷ *Id.*

¹⁸ See Shanghai Wells’ Letter, “Steel Wire Garment Hangers from the People’s Republic of China: Response to Verification Decision,” dated July 30, 2019.

¹⁹ See Shanghai Wells’ Letter, “Steel Wire Garment Hangers from the People’s Republic of China: Reply to the Department’s Verification Decision,” dated August 9, 2019 (Shanghai Wells’ Accepted Verification Dates).

²⁰ See Shanghai Wells’ Letter, “Steel Wire Garment Hangers from the People’s Republic of China: Reply to Verification Schedule,” dated October 25, 2019 (Shanghai Wells’ Refusal to Participate in Verification).

²¹ See Letter, “Steel Wire Garment Hangers from the People’s Republic of China: Response to Comments on Verification Plans,” dated October 25, 2019.

²² *Id.*

On October 28, 2019, the petitioner requested that, given Shanghai Wells' failure to cooperate fully by refusing to participate in on-site verification, Commerce apply total adverse facts available (AFA) and assign the China-wide rate to Shanghai Wells.²³

III. 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 Harmonized Tariff Schedule U.S. (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.

IV. DISCUSSION OF THE METHODOLOGY

A. Eligibility for Separate Rate Status

In proceedings involving NME countries, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.²⁴ In the *Initiation Notice*, Commerce notified parties of the application process by which exporters may obtain separate rate status in this review.²⁵ The process requires exporters to submit a separate rate application (SRA) and to demonstrate an absence of both *de jure* and *de facto* government control over their export activities.²⁶

Commerce's policy is to assign all exporters of merchandise under consideration this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.²⁷ Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers* and further

²³ See Petitioner's Letter, "Tenth Administrative Review of Steel Wire Garment Hangers from China – Petitioner's Comments on Shanghai Wells' Cancellation of Verification," dated October 28, 2019 (Petitioner's AFA Request).

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

²⁵ See *Initiation Notice*.

²⁶ See Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005) (Policy Bulletin 05.1), available at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

²⁷ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

developed in *Silicon Carbide and Diamond Sawblades*.²⁸ According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If, however, Commerce determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether that company is independent from government control and eligible for a separate rate.

B. Separate Rate Analysis

Shanghai Wells declined to participate in Commerce's on-site verification.²⁹ As stated in our decision to verify Shanghai Wells, Shanghai Wells had ample notification that on-site verification was a possibility.³⁰ In the *Initiation Notice*, we notified interested parties, on how to apply for a separate rate certification or SRA.³¹ Shanghai Wells timely submitted its SRA.³² As we stated in the directions for the SRA and for the initial questionnaire issued on November 1, 2018, "{a}ll information submitted may be subject to verification. Failure to allow full and complete verification of any information may affect the consideration accorded to that or any other verified or non-verified item in the responses."³³ The information requested to establish Shanghai Wells' eligibility for a separate rate is among the information that Commerce intended to examine at verification. The petitioner submitted its request for Commerce to verify on February 25, 2019.³⁴ Shanghai Wells waited until July 23, 2019, to inform Commerce of its concerns regarding verification.³⁵ Shanghai Wells stated that verification would be difficult because the accountant at HK Wells resigned in February 2019, and Shanghai Wells' accountant was dismissed in June 2019.³⁶ Despite Shanghai Wells' concerns, we found that, pursuant to section 782(i)(3) of the Act, it was appropriate to verify Shanghai Wells' questionnaire responses, including the information to establish its eligibility for a separate rate, and we requested to conduct an on-site verification in August 2019.³⁷ On July 30, 2019, Shanghai Wells confirmed that it would participate in the on-site verification, that it would negotiate to bring back its accountants for verification, and it proposed alternative dates that would best work for it.³⁸ On August 9, 2019, Shanghai Wells subsequently confirmed the dates it proposed for on-site verification (*i.e.*, November 4, 2019 through November 13, 2019).³⁹ Due to Shanghai Wells' difficulties in preparing for an on-site verification, Commerce agreed to postpone the on-site

²⁸ See *e.g.*, *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*) and *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) (*Diamond Sawblades*).

²⁹ See Shanghai Wells' Refusal to Participate in Verification.

³⁰ See Verification Decision Letter.

³¹ See *Initiation Notice*, 83 FR at 63616.

³² See Shanghai Wells' November 30, 2018 AQR.

³³ See NME questionnaire at G-9.

³⁴ See Petitioner's Verification Request.

³⁵ See Shanghai Wells' Request to Reconsider Verification.

³⁶ *Id.*

³⁷ See Verification Decision Letter.

³⁸ See Shanghai Wells' Response to Comments on Verification Plans; *see also* Verification Decision Letter.

³⁹ See Shanghai Wells' Accepted Verification Dates.

verification until November 2019.⁴⁰ On October 25, 2019, nine days prior to the beginning of the verification, Shanghai Wells decided that it would not participate in the on-site verification, citing the same initial reasoning of not having its former accountants available, in addition to stating that the political demonstrations in Hong Kong would be a safety risk to its lawyers.⁴¹

Although Shanghai Wells claimed that it was not possible to participate in verification because of its limited staffing and safety risks, we find this claim to be unpersuasive. Companies both small and large have successfully completed verification. As described above, Shanghai Wells had ample knowledge that verification was going to occur in this instant review. Additionally, Commerce provided multiple opportunities for Shanghai Wells to participate in verification by offering several dates on which to conduct verification, and then agreeing to dates that were several months after Commerce initially intended to verify. Lastly, we informed Shanghai Wells that failure to participate in verification could affect our consideration of its information.⁴² Therefore, we find that Shanghai Wells' prevented Commerce from conducting verification of its questionnaire responses, including the information to establish its eligibility for a separate rate.

The petitioner requested that Commerce apply AFA to Shanghai Wells.⁴³ We disagree. Rather, our policy with respect to a respondent in an NME proceeding that prevents Commerce from conducting verification of its questionnaire responses, including its claim that it is not under *de facto* or *de jure* government control, is to deny the respondent's eligibility for a separate rate.⁴⁴ Therefore, because Shanghai Wells prevented us from conducting verification of its questionnaire responses, including its claim that it is not under *de facto* or *de jure* government control, consistent with sections 782(e) and (i) of the Act, we find that Shanghai Wells has failed to demonstrate its eligibility for separate rate status. Thus, for purposes of these preliminary results, Shanghai Wells will be considered part of the China-wide entity.

C. China-Wide Entity

Because no party requested a review of the China-wide entity and Commerce no longer considers the China-wide entity as an exporter conditionally subject to an administrative review, Commerce is not conducting a review of the China-wide entity.⁴⁵ Thus, the rate for the China-wide entity (*i.e.*, 187.25 percent), is not subject to change as a result of this review.⁴⁶

⁴⁰ See Shanghai Wells' Response to Comments on Verification Plans.

⁴¹ *Id.*

⁴² See Verification Decision Letter.

⁴³ See Petitioner's AFA Request.

⁴⁴ See, e.g., *Certain Plastic Decorative Ribbon from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 84 FR 1055 (February 1, 2019), and accompanying Issues and Decision Memorandum at 6; see also *Certain Tool Chest and Cabinets from the Socialist Republic of Vietnam, Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 15365 (April 10, 2018), and accompanying Issues and Decision Memorandum at 3; and *Cast Iron Soil Pipe Fittings from the People's Republic of China, Final Affirmative Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances*, 83 FR 33205 (July 17, 2018), and accompanying Issues and Decision Memorandum at 5 and Comment 1.

⁴⁵ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65969-70 (November 4, 2013).

⁴⁶ See *Order*, 73 FR at 5811.

V. RECOMMENDATION

We recommend that you approve the preliminary results describe above.

Agree

Disagree

12/9/2019

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance