

November 1, 2009, through October 31, 2010. The Department intends to instruct CBP fifteen days after the publication of this notice to liquidate such entries with respect to the PRC-wide entity. With respect other entries, as indicated in the *Preliminary Results*, the Department will refer this matter to CBP to determine the appropriate Customs classification for the merchandise in question.

#### Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Tariff Act of 1930, as amended and 19 CFR 351.213(d)(4).

Dated: October 21, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-918]

#### Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the Second Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce ("Department") is conducting the second administrative review of steel wire garment hangers from the People's Republic of China ("PRC") for the period October 1, 2009, through September 30, 2010. The Department has preliminarily determined that sales have been made below normal value ("NV") by the respondent. If these preliminary results are adopted in our final results of this review, the Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the period of review ("POR"). Interested parties are invited to comment on these preliminary results.

**DATES:** *Effective Date:* October 28, 2011.

**FOR FURTHER INFORMATION CONTACT:** Bob Palmer, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; *telephone:* (202) 482-9068.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department received a timely request from Petitioner<sup>1</sup> in accordance with 19 CFR 351.213(b), during the anniversary month of October, to conduct a review of steel wire garment hanger exporters from the PRC. On November 29, 2010, the Department initiated this review with respect to 102 producers/exporters of subject merchandise from the PRC.<sup>2</sup>

On December 23, 2010, Petitioner withdrew its request for an administrative review of 87 companies out of the 102 companies under review. On March 18, 2011, the Department published a notice of rescission in the *Federal Register* for those 87 companies for which the request for review was

withdrawn.<sup>3</sup> Fifteen companies remain subject to this review.<sup>4</sup> Between January 28, 2011, and May 26, 2011, the Department received no-shipment certifications from eight of these companies. For a detailed discussion of the companies that certified they had no shipments during the POR, see the "Preliminary Partial Rescission of Administrative Review" section below. For a detailed discussion of the remaining seven companies subject to this review, see the "Respondent Selection" and "Separate Rates" sections below.

On May 19, 2011, the Department published a notice in the *Federal Register* extending the deadline for issuing the preliminary results by 120 days to October 31, 2011.<sup>5</sup>

#### Respondent Selection

Section 777A(c)(1) of the Tariff Act of 1930, as amended ("the Act"), directs the Department to calculate individual dumping margins for each known exporter or producer of the subject merchandise.<sup>6</sup> However, section 777A(c)(2) of the Act gives the Department the discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to examine all exporters or producers involved in an administrative review.

On December 6, 2010, the Department released CBP data for entries of subject merchandise during the POR under administrative protective order ("APO") to all interested parties having an APO as of five days after publication of the *Initiation Notice*, and invited comments regarding the CBP data and respondent selection. On December 20, 2010, the Department received comments from Petitioner regarding respondent selection for this review. No other

<sup>3</sup> See *Steel Wire Garment Hangers From the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 14918 (March 18, 2011).

<sup>4</sup> These companies are: Jiaxing Boyi Medical Device Co., Ningbo Dasheng Hanger Ind. Co., Ltd., Pu Jiang County Command Metal Products Co., Ltd., Shanghai Wells Hanger Co., Ltd., Shangyu Baoxiang Metal Manufactured Co., Ltd., Shaoxing Andrew Metal Manufactured, Shaoxing Gangyuan Metal Manufacture, Shaoxing Guochao Metallic Products Co., Ltd., Shaoxing Liangbao Metal Manufactured Co., Ltd., Shaoxing Meideli Metal Hanger Co., Ltd., Shaoxing Shunji Metal Clotheshorse Co., Ltd., Shaoxing Tongzhou Metal Manufactured Co., Ltd., Shaoxing Zhongbao Metal Manufactured Co., Ltd., Yiwu Ao-si Metal Products Co., Ltd., Zhejiang Lucky Cloud Hanger Co., Ltd.

<sup>5</sup> See *Steel Wire Hangers From the People's Republic of China: Extension of Time Limits for the Preliminary Results of the Second Antidumping Duty Administrative Review*, 76 FR 28953 (May 19, 2011).

<sup>6</sup> See also 19 CFR 351.204(c) regarding respondent selection, in general.

<sup>1</sup> M&B Metal Products Co., Inc.

<sup>2</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 75 FR 73036 (November 29, 2010) ("*Initiation Notice*").

interested parties submitted comments for respondent selection and no interested parties rebutted Petitioner's respondent selection comments.

On January 21, 2011, the Department issued the respondent selection memorandum after assessing its resources and determining that it could only reasonably examine two exporters subject to this review. Pursuant to section 777A(c)(2)(B) of the Act, the Department selected Shanghai Wells Hanger Co., Ltd. ("Shanghai Wells") and Jiaxing Boyi Medical Device Co. ("Jiaxing Boyi") as mandatory respondents.<sup>7</sup> The Department sent the non-market economy ("NME") antidumping questionnaire to Shanghai Wells and Jiaxing Boyi on January 24, 2011. As stated in the cover letter of our questionnaire, the deadlines for Section A was February 10, 2011, and for Sections C & D were February 26, 2011.<sup>8</sup> Jiaxing Boyi did not respond to the Department's Section A questionnaire by the stated deadline and did not request an extension.

On February 24, 2011, we selected an additional mandatory respondent, Shaoxing Liangbao Metal Manufactured Co., Ltd. ("Shaoxing Liangbao") as a replacement for Jiaxing Boyi.<sup>9</sup> Shaoxing Liangbao's response to Section A was due on March 26, 2011.<sup>10</sup> However, Shaoxing Liangbao did not submit a response by the stated deadline or request an extension.

On March 28, 2011, as a replacement for Shaoxing Liangbao, we selected another additional mandatory respondent, Pu Jiang County Command Metal Products Co., Ltd. ("Command Metal Products").<sup>11</sup> However, Command

Metal Products did not submit a response, or request an extension, to the Department's Section A questionnaire by the deadline, April 18, 2011.<sup>12</sup>

On April 29, 2011, we selected an additional two mandatory respondents, Shaoxing Guochao Metal Products Co., Ltd. ("Guochao Metal Products") and Yiwu Ao-Si Metal Products Co., Ltd. ("Yiwu") as replacements for Command Metal Products.<sup>13</sup> On May 23, 2011, Guochao Metal Products and Yiwu filed a letter with the Department stating that they would not participate as mandatory respondents in this administrative review.<sup>14</sup>

On June 13, 2011, we selected Shaoxing Meideli Metal Hanger Co., Ltd. ("Meideli"), the sole remaining company in the CBP entry data that had not been selected by the Department for individual examination.<sup>15</sup> However, Meideli did not submit a response, or request an extension, to the Department's Section A questionnaire by the deadline, July 5, 2011.<sup>16</sup>

#### Period of Review

The POR is October 1, 2009, to September 30, 2010.

#### 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,

International Trade Analyst, Office 9, regarding the Second Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Selection of Additional Mandatory Respondent (March 28, 2011).

<sup>12</sup> See Letter to Command Metal Products from Catherine Bertrand, Program Manager, Office 9, Import Administration re: Antidumping Duty Administrative Review of Steel Garment Wire Hangers from the People's Republic of China: Non-Market Economy Questionnaire (March 28, 2011).

<sup>13</sup> See Memorandum to Jim Doyle, Director, Office 9, Import Administration, from Jamie Blair-Walker, International Trade Analyst, Office 9, regarding the Second Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Selection of Additional Mandatory Respondent (April 29, 2011).

<sup>14</sup> See Letter to from Guochao Metal Products and Yiwu, re: Steel Wire Garment Hangers from the People's Republic of China: Participation of Yiwu Ao-si Metal Products Co., Ltd. and Shaoxing Guochao Metallic Products Co., Ltd., dated May 23, 2011.

<sup>15</sup> See Memorandum to Jim Doyle, Director, Office 9, Import Administration, from Jamie Blair-Walker, International Trade Analyst, Office 9, re: Second Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Selection of Additional Mandatory Respondent (June 13, 2011).

<sup>16</sup> See Letter to Meideli from Catherine Bertrand, Program Manager, Office 9, Import Administration, re: Antidumping Duty Administrative Review of Steel Garment Wire Hangers from the People's Republic of China: Non-Market Economy Questionnaire (June 13, 2011).

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, capped, or latex (industrial) hangers. Specifically excluded from the scope of the order are wooden, plastic, and other garment hangers that are not made of steel wire. Also excluded from the scope of the order are chrome-plated steel wire garment hangers with a diameter of 3.4 mm or greater. The products subject to the order are currently classified under U.S. Harmonized Tariff Schedule ("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.

#### Preliminary Partial Rescission of Administrative Review

*Shaoxing Zhongbao Metal Manufactured Co., Ltd. ("Zhongbao")*

On January 28 2011, the Department received a separate rate certification from Zhongbao indicating that it had made one U.S. sale during the POR.<sup>17</sup> On April 6, 2011, the Department issued a supplemental questionnaire to Zhongbao regarding its claim.<sup>18</sup> On April 18, 2011, Zhongbao provided its sales documentation upon which it based its claim of a U.S. sale during the POR.<sup>19</sup> In the same response, Zhongbao stated that the importer was responsible for the CBP paperwork and did not respond to Zhongbao's requests for the entry documentation.<sup>20</sup> On May 19, 2011, the Department issued a letter to Zhongbao requesting entry documentation and disclosing that we may rescind the review with respect to Zhongbao should it be found to have no entries during the POR.<sup>21</sup> On May 26, 2011, Zhongbao submitted a no shipment certification.<sup>22</sup> On June 15,

<sup>17</sup> See Letter from Zhongbao, re: Steel Wire Garment Hangers from the People's Republic of China: Separate Rate Certification, dated January 28, 2011.

<sup>18</sup> See Letter from the Department to Zhongbao, re: Steel Wire Garment Hangers from the People's Republic of China: Separate Rate Certification of Shaoxing Zhongbao Metal Manufactured Co., Ltd., dated April 6, 2011.

<sup>19</sup> See Letter from Zhongbao, re: Steel Wire Garment Hangers from the People's Republic of China: First Supplemental Response, dated April 18, 2011 at 1 and Exhibit 1.

<sup>20</sup> *Id.*

<sup>21</sup> See Letter to Zhongbao, re: Steel Wire Garment Hangers from the People's Republic of China: Request for Proof of Suspended Entry, dated May 19, 2011.

<sup>22</sup> See Letter from Zhongbao, re: Steel Wire Garment Hangers from the People's Republic of

<sup>7</sup> See "Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, from Irene Gorelik, Senior International Trade Analyst, Office 9; Second Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Selection of Respondents for Individual Review," dated January 21, 2011.

<sup>8</sup> See Letters to Shanghai Wells and Jiaxing Boyi from Catherine Bertrand, Program Manager, Office 9, Import Administration; regarding the Antidumping Duty Administrative Review of Steel Garment Wire Hangers from the People's Republic of China: Non-Market Economy Questionnaire (January 21, 2011).

<sup>9</sup> See Memorandum to Jim Doyle, Director, Office 9, Import Administration, from Jamie Blair-Walker, International Trade Analyst, Office 9, regarding the Second Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Selection of Additional Mandatory Respondent (February 24, 2011).

<sup>10</sup> See Letter to Shaoxing Liangbao from Catherine Bertrand, Program Manager, Office 9, Import Administration; regarding the Antidumping Duty Administrative Review of Steel Garment Wire Hangers from the People's Republic of China: Non-Market Economy Questionnaire (February 24, 2011).

<sup>11</sup> See Memorandum to Jim Doyle, Director, Office 9, Import Administration, from Jamie Blair-Walker,

2011, Petitioner submitted comments regarding Zhongbao's no shipment certification. On June 22, 2011, Zhongbao responded to Petitioner's comments.

The Department has considered Petitioner's comments and Zhongbao's submissions and determined to accept Zhongbao's no shipment certification. Zhongbao's no shipment certification, although untimely, relates to its timely separate rate certification and to its inability to obtain entry documentation from its unaffiliated importer for the sale and entry Zhongbao believed was made during the POR. In addition, the CBP data on the record does not contradict Zhongbao's claims. Further, the record indicates that Zhongbao has attempted to cooperate with the Department's requests for information to the best of its abilities. Additionally, we intend to refer this matter to CBP to investigate whether this entry was entered properly.

*Shaoxing Shunji Metal Clotheshorse Co., Ltd. ("Shunji")*

On January 28 2011, the Department received a separate rate certification from Shunji which indicated that it had made one U.S. sale during the POR.<sup>23</sup> On April 6, 2011, the Department issued a supplemental questionnaire to Shunji regarding its claim that it made a sale to the United States during the POR.<sup>24</sup> On April 15, 2011, Shunji responded to the Department's questionnaire and stated that it did not have sales or exports to the United States during the POR. Consequently, Shunji now certifies that it made no shipments of subject merchandise to the United States during the POR.<sup>25</sup> Shunji clarifies, and provides supporting documentation, that its administrative staff mistakenly identified the U.S. consignee as the destination of the sale, when in fact the destination of this sale was Canada.<sup>26</sup>

Additionally, between January 28, 2011, and May 26, 2011, the following companies filed no shipment certifications indicating that they did

China: Shaoxing Zhongbao Response to the Department's Letter of May 19, 2011.

<sup>23</sup> See Letter from Shunji, re: Steel Wire Garment Hangers from the People's Republic of China: Separate Rate Certification, dated January 28, 2011.

<sup>24</sup> See Letter from the Department to Shunji, re: Steel Wire Garment Hangers from the People's Republic of China: Separate Rate Certification of Shaoxing Shunji Metal Clotheshorse Co., Ltd., dated April 6, 2011.

<sup>25</sup> See Letter from Shunji, re: Steel Wire Garment Hangers from the People's Republic of China: Separate Rate Certification, dated April 15, 2011 at Exhibit 3.

<sup>26</sup> See Letter from Shunji, re: Steel Wire Garment Hangers from the People's Republic of China: Separate Rate Certification, dated April 15, 2011 at 1 and Exhibit 1-2.

not export subject merchandise to the United States during the POR: Ningbo Dasheng Hanger Ind. Co., Ltd.; Shangyu Baoxiang Metal Manufactured Co., Ltd.; Shaoxing Andrew Metal Manufactured; Shaoxing Gangyuan Metal Manufacture; Shaoxing Tongzhou Metal Manufactured Co., Ltd.; and Zhejiang Lucky Cloud Hanger Co., Ltd. In order to examine these claims, we sent an inquiry to CBP requesting that if any CBP office had any information contrary to the no shipments claims, to alert the Department within ten days of receiving our inquiry. CBP received our inquiries on February 23, 2011, and April 29, 2011. We have not received a response from CBP with regard to our inquiries which indicates that CBP did not have information that was contrary to the claims.

Therefore, pursuant to 19 CFR 351.213(d)(3), we preliminarily determine that the above companies made no shipments of subject merchandise during the POR. Consequently, we preliminary determine that none of the above-named companies had shipments of subject merchandise to the United States during the POR, and we are preliminarily rescinding the review with respect to the above-named companies.<sup>27</sup>

#### Surrogate Country and Surrogate Value Data

On February 25, 2011, the Department sent interested parties a letter inviting comments on surrogate country selection and information regarding valuing factors of production ("FOPs"). On April 4, 2011, Petitioner filed comments on surrogate country selection, stating India and Thailand may be appropriate surrogates if their data is publicly available, reliable and contemporaneous. On May 4, 2010, the Department received information to value FOPs from Petitioner. Petitioner provided surrogate values ("SV") from sources in India and Thailand.

#### Surrogate Country

When the Department investigates imports from an NME country and available information does not permit the Department to determine NV pursuant to section 773(a) of the Act, then, pursuant to sections 773(c)(1) and

<sup>27</sup> See, e.g., *Fourth Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results, Preliminary Partial Rescission of Antidumping Duty Administrative Review and Intent Not To Revoke, In Part*, 75 FR 11855, 11856-57 (March 12, 2010), unchanged in *Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 49460, 49462 (August 13, 2010).

773(c)(4) of the Act, the Department bases NV on an NME producer's FOPs, to the extent possible, in one or more market-economy countries that (1) Are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. Regarding the "level of economic development," the Department relied on per capita gross national income ("GNI") data to measure economic comparability.<sup>28</sup> Using per capita GNI, the Department determined that India, Indonesia, Philippines, Peru, Ukraine and Thailand are countries comparable to the PRC in terms of economic development.<sup>29</sup> Once we have identified the countries that are economically comparable to the PRC, we select an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether the data for valuing FOPs are both available and reliable.

The Department has determined that India is the appropriate surrogate country for use in this review. The Department based its decision on the following facts: (1) India is at a level of economic development comparable to that of the PRC; (2) India is a significant producer of comparable merchandise; and (3) India provides the best opportunity to use quality, publicly available data to value the FOPs. Although Petitioner provided SV data for both Thailand and India, India's data is the best available data on the record for selection as the primary surrogate country, because the record contains Indian SV data for all FOPs used by Shanghai Wells. Therefore, we have selected India as the surrogate country and, accordingly, have calculated NV using Indian prices to value the respondent's FOPs, when available and

<sup>28</sup> Although 19 CFR 351.408(b) instructs the Department to rely on gross domestic product ("GDP") data in such comparisons, it is Departmental practice to use "per capita GNI, rather than per capita GDP, because while the two measures are very similar, per capita GNI is reported across almost all countries by an authoritative source (the World Bank), and because the Department finds that the per capita GNI represents the single best measure of a country's level of total income and thus level of economic development." See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006).

<sup>29</sup> The Department notes that these six countries are part of a non-exhaustive list of countries that are at a level of economic development comparable to the PRC. See the Department's letter to "All Interested Parties; First Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments," dated February 25, 2011 at 1 and Attachment I.

appropriate. We have obtained and relied upon publicly available information wherever possible.

### Non-Market Economy Country Status

In every proceeding conducted by the Department involving the PRC, we have treated it as an NME country. 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 Department. None of the parties to this proceeding have contested such treatment. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

### Separate Rates

In NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate.<sup>30</sup> However, a company in the NME applying for separate rate status may rebut that presumption by demonstrating an absence of both *de jure* and *de facto* government control over its export activities.<sup>31</sup>

The Department analyzes each entity's export independence under a test first articulated in *Sparklers* and as further developed in *Silicon Carbide*.<sup>32</sup> Importantly, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME") country, then the Department need not conduct a separate rate analysis to determine whether the company is independent from government control.<sup>33</sup>

The Department received a complete response to the Section A portion of the

NME questionnaire from Shanghai Wells, which contained information pertaining to the companies' eligibility for a separate rate. As noted above, Jiaxing Boyi, Shaoxing Liangbao, Command Metal Products, Guochao Metal Products, Yiwu, and Meideli, have terminated participation in this administrative review. Therefore, these six companies have failed to demonstrate their eligibility for a separate rate.

### Separate Rate Recipients

#### Wholly Foreign-Owned

Shanghai Wells reported that it is a wholly foreign-owned entity.<sup>34</sup> Additionally, there is no evidence that the Wells Group<sup>35</sup> is under the control of the PRC government, and we have determined that further separate rate analysis is not necessary to determine whether this entity is independent from government control.<sup>36</sup> Thus, we have preliminarily granted separate rate status to Shanghai Wells and/or HK Wells.

### Facts Available

Sections 776(a)(1) and 776(a)(2) of the Act provide that, if necessary information is not available on the record, or if an interested party (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, then the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party "promptly after receiving a request from {the Department} \* \* \* for information, notifies {the Department} \* \* \* that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information," the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, then the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed "deficient" under section 782(d) if (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department; and (5) the information can be used without undue difficulties.

However, section 776(b) of the Act states that if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department "in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available."<sup>37</sup> Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."<sup>38</sup> An adverse inference may include reliance

<sup>30</sup> See *Separate Rates and Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, 70 FR 17233, 17233 (April 5, 2005) ("Policy Bulletin 05.1"), also available at: <http://ia.ita.doc.gov/policy/index.html>; see also *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); 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).

<sup>31</sup> See *Policy Bulletin 05.1*.

<sup>32</sup> *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"); see also *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586-87 (May 2, 1994) ("Silicon Carbide").

<sup>33</sup> See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

<sup>34</sup> See Shanghai Wells' Section A Questionnaire Response, dated February 17, 2011, at 2.

<sup>35</sup> In *AR1 Hangers*, the Department found that Shanghai Wells, Hong Kong Wells Limited ("HK Wells") and Hong Kong Wells Limited (USA) ("USA Wells") (collectively, "Wells Group") are affiliated and that Shanghai Wells and HK Wells comprise a single entity. Because there were no changes from the previous review, we continue to find Shanghai Wells, HK Wells, and USA Wells are affiliated and that Shanghai Wells and HK Wells comprise a single entity. See *Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review*, 75 FR 68758, 68761 (November 9, 2010), unchanged in *First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 27994, 27996 (May 13, 2011) ("AR 1 Hangers").

<sup>36</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).

<sup>37</sup> See also *Uruguay Round Agreements Act Statement of Administrative Action*, H.R. Rep. No. 103-316, Vol. 1, at 870 (1994), reprinted in 1994 U.S.C.C.A.N. 4040, 4198-99 ("SAA").

<sup>38</sup> *Id.* at 870, 1994 U.S.C.C.A.N. at 4198-99.

on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.<sup>39</sup>

#### Non-Responsive Companies

As stated in the “Respondent Selection” section above, the Department issued the NME questionnaire to Jiaying Boyi, Shaoxing Liangbao, Command Metal Products, and Meideli and did not receive a request for an extension of time or a response to Sections A, C or D of the Department’s questionnaire on the established deadlines. Additionally, as stated above, counsel to Guochao Metal Products and Yiwu filed a letter stating that they would not participate as mandatory respondents in this administrative review. Therefore, the Department finds it appropriate to rely on the facts otherwise available in order to determine a margin for Jiaying Boyi, Shaoxing Liangbao, Command Metal Products, Meideli, Guochao Metal Products and Yiwu for purposes of these preliminary results, pursuant to section 776(a)(2) of the Act.<sup>40</sup>

As stated above, section 776(b) of the Act provides that, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. As a result of these six companies’ decision to terminate participation in this review, the Department will not grant these six companies a separate rate and considers them part of the PRC-wide entity. See “PRC-Wide Entity and Selection of Adverse Facts Available Rate” section below. See also the “Corroboration” section below for a discussion of the probative value of the PRC-wide rate of 187.25 percent rate.

#### PRC-Wide Entity and Selection of Adverse Facts Available (“AFA”) Rate

The Department finds that the PRC-wide entity, including Jiaying Boyi, Shaoxing Liangbao, Command Metal Products, Meideli, Guochao Metal Products, and Yiwu withheld requested information, failed to provide

<sup>39</sup> See section 776(b) of the Act; see also 19 CFR 351.308(c).

<sup>40</sup> See, e.g., *Certain Preserved Mushrooms from the People’s Republic of China: Partial Rescission and Preliminary Results of the Sixth Administrative Review*, 71 FR 11183, 11185–86 (March 6, 2006) (unchanged in final results); *Stainless Steel Sheet and Strip in Coils From Japan: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 18369, 18371 (April 11, 2005) (unchanged in final results).

information in a timely manner and in the form requested, and significantly impeded this proceeding. Moreover, by refusing to answer the Department’s questionnaire, these six companies failed to cooperate to the best of their ability. Therefore, the Department must rely on adverse facts otherwise available in order to determine a margin for the PRC-wide entity, pursuant to sections 776(a)(2)(A), (B), (C) and 776(b) of the Act.<sup>41</sup> By so doing, the Department avoids the concern that the PRC-wide entity might obtain a more favorable result by failing to cooperate than had they cooperated fully in this review.

As previously stated, the Department may rely on information derived from any of the following sources in deciding which facts to use as AFA: (1) The petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse “as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.”<sup>42</sup> In reviews, the Department normally selects as AFA the highest rate on the record of any segment of the proceeding.<sup>43</sup> The U.S. Court of International Trade (“CIT”) and the U.S. Court of Appeals for the Federal Circuit (“Federal Circuit”) consistently have upheld the Department’s practice in this regard.<sup>44</sup> In choosing the appropriate

<sup>41</sup> See, e.g., *Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 69546, 69548 (December 1, 2006) and accompanying Issues and Decision Memorandum at Comment 1; see also *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the First Administrative Review and New Shipper Review*, 72 FR 10689, 10692 (March 9, 2007) (decision to apply total AFA to the NME-wide entity), unchanged in *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review*, 72 FR 52052 (September 12, 2007).

<sup>42</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

<sup>43</sup> See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 3987, 3989 (January 22, 2009).

<sup>44</sup> See *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190–91 (Fed. Cir. 1990) (“*Rhone Poulenc*”); see also, *Shanghai Taoen Int’l Trading Co. v. United States*, 360 F. Supp. 2d 1339, 1346–48 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review); *NSK Ltd. v. United States*,

balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent’s prior commercial activity, selecting the highest prior margin “reflects a common sense inference that the highest prior margin is the most probative evidence of current margins because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.”<sup>45</sup> Therefore, consistent with the statute, court precedent, and its normal agency practice, the Department will use AFA to assign the rate of 187.25 percent, the highest rate on the record of any segment of the proceeding, to the PRC-wide entity (including Jiaying Boyi, Shaoxing Liangbao, Command Metal Products, Guochao Metal Products, Yiwu, and Meideli).<sup>46</sup> See “Corroboration of Information” section below.

#### Corroboration of Information

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information on which it relies as facts available. The SAA defines secondary information as “information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.”<sup>47</sup> The SAA also explains that the Department sufficiently corroborates secondary information when it determines that such information has probative value.<sup>48</sup> The Department previously has reasoned that “corroborated information” amounts to information it finds both reliable and relevant.<sup>49</sup>

346 F. Supp. 2d 1312, 1335–36 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a LTFV investigation); *Kompass Food Trading Int’l v. United States*, 24 CIT 678, 683 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent).

<sup>45</sup> *Rhone Poulenc*, 899 F.2d at 1190 (emphasis omitted).

<sup>46</sup> See, e.g., *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, 52051 (September 12, 2007).

<sup>47</sup> See SAA at 870, 1994 U.S.C.C.A.N. at 4199.

<sup>48</sup> *Id.*

<sup>49</sup> See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392

In this case, the Department selected the highest rate assigned in any segment of this proceeding (*i.e.*, 187.25 percent) as the AFA rate for the current review. For purposes of corroboration, the Department will consider whether that margin is both reliable and relevant. The Department continues to find the information reliable, given that it corroborated the AFA rate used in the current review during the LTFV investigation.<sup>50</sup> No information has been presented in the current review that calls into question the reliability of this information. The Department considers information reasonably at its disposal to determine whether a margin continues to have relevance.<sup>51</sup> A selected margin remains relevant when it accurately reflects commercial practices in the industry.<sup>52</sup> For example, in *Flowers*, because the highest margin in that case was based on another company's uncharacteristic business expense resulting in an unusually high margin, the Department disregarded the margin as irrelevant.<sup>53</sup> Turning to the present case, the Department relied on credible information within the realm of actual selling practices to calculate the AFA rate during the LTFV investigation. In that proceeding, the Department took a simple average of the following: (1) The weighted-average of the calculated rates for the two mandatory respondents, and (2) a simple average of petition rates based on U.S. prices and normal values within the range of U.S. prices and normal values calculated for the two mandatory respondents.<sup>54</sup> Furthermore, the calculation of this margin in the investigation was subject to comment from interested parties in

(November 6, 1996) unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

<sup>50</sup> See *Steel Wire Garment Hangers From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 47587, 47591 (August 14, 2008), as amended, *Steel Wire Garment Hangers From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value*, 73 FR 53188, 53189 (September 15, 2008) ("*Hangers LTFV*").

<sup>51</sup> See section 776(c) of the Act.

<sup>52</sup> See *Universal Polybag Co. v. United States*, 577 F. Supp. 2d 1284, 1300 (CIT 2008).

<sup>53</sup> See *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) ("*Flowers*").

<sup>54</sup> See *Hangers LTFV*, 73 FR at 53189; *Steel Wire Garment Hangers From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR at 47591.

the proceeding.<sup>55</sup> Therefore, because the record does not contain information on the record of this review that demonstrates that this rate is not appropriate to use as AFA, the Department determines that this rate has relevance.

As the 187.25 percent rate is both reliable and relevant, the Department determines that it has probative value. Accordingly, the Department determines that the calculated rate of 187.25 percent, which is the current PRC-wide rate, is in accord with the requirement of section 776(c) of the Act that secondary information be corroborated to the extent practicable (*i.e.*, that it have probative value). The Department has assigned this AFA rate to exports of the subject merchandise by the PRC-wide entity, which includes Jiaying Boyi, Shaoxing Liangbao, Command Metal Products, Guochao Metal Products, Yiwu, and Meideli.

#### Date of Sale

The Wells Group reported the invoice date as the date of sale because they claim that, for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established based on the invoice date. The Department preliminarily determines that the invoice date is the most appropriate date to use as the Wells Group date of sale in accordance with 19 CFR 351.401(i) and the Department's long-standing practice of determining the date of sale.<sup>56</sup>

#### Fair Value Comparisons

To determine whether sales of steel wire garment hangers to the United States by the Wells Group were made at less than NV, the Department compared either export price ("EP") or constructed export price ("CEP") to NV, as described in the "U.S. Price" and "Normal Value" sections below.

#### U.S. Price

##### Export Price

In accordance with section 772(a) of the Act, the Department calculated EP for a portion of sales to the United States for the Wells Group because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise

<sup>55</sup> *Steel Wire Garment Hangers From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR at 47588.

<sup>56</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.

warranted. The Department calculated EP based on the sales price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, as appropriate, the Department deducted from the sales price certain foreign inland freight, brokerage and handling ("B&H"), and international movement costs. Because the inland freight and B&H services were either provided by a NME vendor or paid for using a NME currency, the Department based the deduction of these charges on surrogate values. See "Memorandum to the File from Bob Palmer, Analyst, through Catherine Bertrand, Program Manager; Second Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Surrogate Values for the Preliminary Results," dated concurrently with these preliminary results, ("Prelim Surrogate Value Memo") for details regarding the SVs for movement expenses. For international freight provided by a ME provider and paid in U.S. dollars, the Department used the actual cost per kilogram ("kg") of the freight.

#### Constructed Export Price

For some of the Wells Group's sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act, because sales were made on behalf of the Chinese-based company by a U.S. affiliate to unaffiliated purchasers in the United States. For these sales, the Department based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, the Department made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and appropriate selling adjustments, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, the Department also deducted those selling expenses associated with economic activities occurring in the United States. The Department deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty expenses, and indirect selling expenses. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by PRC service providers or paid for in renminbi, the Department valued these services using SVs (see "Factor Valuations" section below for further discussion). For those expenses that were provided by an ME provider and paid for in an ME currency, the Department used the reported expense. Due to the proprietary

nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for each company, see the company specific analysis memoranda, dated concurrently with these preliminary results.

### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Further, pursuant to section 773(c)(1) of the Act, the valuation of an NME respondent's FOPs shall be based on the best available information regarding the value of such factors in an ME country or countries considered to be appropriate by the Department. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

The Department used Indian import statistics to value the raw material and packing material inputs that the Wells Group used to produce the subject merchandise during the POR, except where listed below. With respect to the SVs based on Indian import statistics, in accordance with the Omnibus Trade and Competitiveness Act of 1988 ("OTCA") and long-standing agency practice, the Department has disregarded prices that the Department has reason to believe or suspect may be subsidized.<sup>57</sup> The Department has previously found that it is appropriate to disregard such prices from Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific, export subsidies.<sup>58</sup> Based on the existence of

these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it has reason to believe or suspect that all exporters from Indonesia, South Korea, and Thailand may have benefitted from these subsidies and that we should therefore disregard any data from these countries contained in the Indian import statistics used to calculate SVs. The Department similarly disregarded prices from NME countries. Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, since the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.<sup>59</sup> For further discussion regarding all SV calculations using Indian Import Statistics, see Prelim Surrogate Value Memo.

### Factor Valuations

In accordance with section 773(c)(1) of the Act, for subject merchandise produced by the Wells Group, the Department calculated NV based on the FOPs reported by the Wells Group for the POR. The Department used data from the Indian import statistics and other publicly available Indian sources in order to calculate SVs for the Wells Group's FOPs (direct materials, energy, and packing materials) and certain movement expenses. To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly available Indian SVs (except as noted below). Because the statute is silent concerning what constitutes the "best available information" for a particular SV, the courts have recognized that on this topic the Department enjoys "broad discretion to determine the best available information for an antidumping review."<sup>60</sup> The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available,

contemporaneous with the POR, and exclusive of taxes and duties.<sup>61</sup>

In this case, the Department adjusted the SVs as necessary to ensure a fair calculation of the production costs. First, the Department made adjustments to the SVs for exchange rates and taxes, and converted all applicable items to measurement on a per kg basis. Second, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, to accord with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997), the Department added to the Indian import SVs a surrogate freight cost using the shorter of the reported distance between (1) The domestic supplier and the factory or (2) the nearest seaport and the factory. For a detailed description of all SVs used for the Wells Group, see Prelim Surrogate Value Memo.

The Department valued electricity using the updated electricity price data for small, medium, and large industries, as published by the Central Electricity Authority, an administrative body of the Government of India, in its publication titled Electricity Tariff & Duty and Average Rates of Electricity Supply in India, dated March 2008. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to small, medium, and large industries in India. We did not inflate or otherwise alter this value because utility rates remain contemporaneous with the POR, as indicated by the effective dates listed for each of the rates provided. See Prelim Surrogate Value Memo.

The Department valued water using publicly available data from the Maharashtra Industrial Development Corporation (<http://www.midcindia.org>) because these data include a wide range of industrial water tariffs. This source provides industrial water rates within the Maharashtra province for "inside industrial areas" and "outside industrial areas" from October 2009 through August 2010. Because the average of these values is contemporaneous with the POR, we did not adjust it for inflation. See Prelim Surrogate Value Memo.

As previously stated, the Department values FOPs in NME cases using the best available information for such factors in a ME country or countries considered appropriate by the administering authority. In so doing, the

<sup>57</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>58</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; *See 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; *See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3,

2001) and accompanying Issues and Decision Memorandum at 23.

<sup>59</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) ("PET Film").

<sup>60</sup> See *Ad Hoc Shrimp Trade Action Comm. v. United States*, 618 F.3d 1316, 1322 (Fed. Cir. 2010).

<sup>61</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.

Department utilizes, to the extent possible, the prices or costs of factors of production in one or more ME countries that are (1) at a comparable level of economic development and (2) significant producers of comparable merchandise. See section 773(c)(4) of the Act.

Previously, to value the respondent's cost of labor, the Department used regression-based wages that captured the worldwide relationship between per capita Gross National Income ("GNI") and hourly manufacturing wages, pursuant to 19 CFR 351.408(c)(3). However, on May 14, 2010, the Federal Circuit in *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1372–73 (Fed. Cir. 2010) ("*Dorbest*"), invalidated 19 CFR 351.408(c)(3). As a consequence of the Federal Circuit's ruling in *Dorbest*, the Department no longer relies on the regression-based wage rate methodology described in its regulations. On February 18, 2011, the Department published in the **Federal Register** a request for public comment on the interim methodology and the data sources.<sup>62</sup> On June 21, 2011, the Department revised its methodology for valuing the labor input in NME antidumping proceedings.<sup>63</sup> In *Labor Methodologies*, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics ("Yearbook").

In these preliminary results, the Department calculated the labor input using the Labor method described in *Labor Methodologies*. To value the Wells Group's labor input, the Department relied on data reported by India to the ILO in Chapter 6A of the Yearbook. The Department further finds the two-digit description under Division 28 (Manufacture of Fabricated Metal Products, Except Machinery and Equipment) of the ISIC–Revision 3 to be the best available information on the record because it is specific to the industry being examined, and is therefore derived from industries that

<sup>62</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor; Request for Comment*, 76 FR 9544, 9544–47 (February 18, 2011).

<sup>63</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092, 36093–94 (June 21, 2011) ("*Labor Methodologies*").

produce comparable merchandise. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using labor data reported by India to the ILO under Division 28 of ISIC–Revision 3 standard, in accordance with Section 773(c)(4) of the Act. A more detailed description of the labor rate calculation methodology is provided in the Prelim Surrogate Value Memo.

As stated above, the Department used Indian ILO data reported under Chapter 6A of Yearbook, which reflects all costs related to labor, including wages, benefits, housing, training, etc. Because the financial statements used to calculate the surrogate financial ratios include itemized detail of indirect labor costs, the Department made adjustments to the surrogate financial ratios. See *Labor Methodologies*, 76 FR at 36093. For further information on the calculation of the labor rate, see Prelim Surrogate Values Memo.

The Department valued truck freight expenses using an Indian per-unit average rate calculated from publicly available data on the following Web site: <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. We did not inflate this rate since it is contemporaneous with the POR. See Prelim Surrogate Value Memo.

To value B&H, the Department used a price list of export procedures necessary to export a standardized cargo of goods in India. The price list is publicly available and compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in India as published in *Doing Business 2011: India* (published by the World Bank). See Prelim Surrogate Value Memo.

To value factory overhead, selling, general, and administrative ("SG&A") expenses, and profit, the Department is using the 2009–2010 audited financial statement of Sterling Tools Ltd. ("Sterling"), which is an Indian fastener manufacturer.

Petitioner placed on the record five financial statements for consideration: Three financial statements from Indian companies, Lakshmi Precision Screws Ltd. ("Lakshmi"), Sterling, and Usha Martin Ltd. ("Usha Martin"), and two from Thai companies, Kato Spring (Thailand) Co. Ltd. ("Kato"), and Capital Engineering Network Public Company Limited ("Capital

Engineering").<sup>64</sup> With respect to the financial statements of Lakshmi and Usha Martin, these companies may have benefitted from subsidies found to be countervailable by the Department, namely the DEPB subsidy program,<sup>65</sup> which we have found actionable in the past.<sup>66</sup> With regard to the two Thai financial statements, we note that these financial statements are not from the primary surrogate country and that we have a financial statement from the primary surrogate country which we find to be the best available information as discussed below. Further, we note our preference is to value all FOPs utilizing data from the primary surrogate country and to consider alternative sources only when a suitable value from the primary surrogate country does not exist on the record.<sup>67</sup>

With regard to Sterling, we note that we have previously disregarded Sterling's financial statement because it apparently indicated a raw material consumption quantity and value which did not include steel wire rod.<sup>68</sup> However, the Department has further examined Sterling's financial statement and concluded that Sterling's description of its raw materials, "Cold Head Quality Steel/Wire Rods Straight Length Bar," does not definitively exclude the consumption of steel wire rod.<sup>69</sup> Therefore, for these preliminary results, the Department will include the statement from Sterling for use in calculating the surrogate financial ratios. See Prelim Surrogate Value Memo.

Therefore, the Department has used Sterling's 2009–2010 financial statement

<sup>64</sup> See Letter from Petitioner, re: SV submission, dated May 4, 2011, at Exhibit 3, 4, 5, 7, and 8 respectively.

<sup>65</sup> See Letter from Petitioner, re: SV submission, dated May 4, 2011, at Exhibit 3, page 42 and Exhibit 5, page 71.

<sup>66</sup> See *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 (May 13, 2011) and accompanying Issues and Decisions Memorandum at Comment 2.

<sup>67</sup> See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Sixth Antidumping Duty Administrative Review and Sixth New Shipper Review*, 76 FR 15941 (March 22, 2011) ("*Fish Fillets AR6*") and accompanying Issues and Decisions Memorandum at Comment IV.1.i; see also, *Final Determination of Sales at Less Than Fair Value: Wooden Bedroom Furniture From the People's Republic of China*, 69 FR 67313 (November 17, 2004) ("*Bedroom Furniture LTFV*") and accompanying Issues and Decisions Memorandum at Comment 3.

<sup>68</sup> See *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 (May 13, 2011) and accompanying Issues and Decisions Memorandum at Comment 2.

<sup>69</sup> See Letter from Petitioner, re: SV submission, dated May 4, 2011, at Exhibit 4, page 54.

to value factory overhead, SG&A, and profit, for these preliminary results. For a detailed discussion regarding our selection of Sterling's 2009–2010 financial statement to calculate the surrogate financial ratios, see Prelim Surrogate Value Memo.

### Company Specific Issues

#### The Wells Group

In its questionnaire responses and sales databases, the Wells Group reported certain expenses incurred, and corresponding revenues earned, related to the transportation or movement of the subject merchandise sales during the POR. For a full discussion of the adjustments to the gross unit price, see "Memorandum to the File from Bob Palmer, Analyst: Program Analysis for the Preliminary Results of Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Shanghai Wells Hanger Co., Ltd.," dated concurrently with these preliminary results.

### Currency Conversion

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

### Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter	Weighted average margin (percent)
Shanghai Wells Hanger Co., Ltd. ....	16.64
PRC-Wide Entity <sup>70</sup> .....	187.25

### Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review.<sup>71</sup> Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or

comments, may be filed no later than five days after the deadline for filing case briefs.<sup>72</sup> Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>73</sup>

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of this administrative review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results. Interested parties must provide the Department with supporting documentation for the publicly available information to value each FOP. Additionally, in accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1).<sup>74</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *Id.* Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP

shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. In accordance with 19 CFR 351.212(b)(1), we calculated exporter/importer (or customer)-specific assessment rates for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importers'/customers' entries during the POR. See 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). See 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. See 19 CFR 351.106(c)(2).

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be established in the final results of this review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which

<sup>72</sup> See 19 CFR 351.309(d).

<sup>73</sup> See 19 CFR 351.309(c)(2), (d).

<sup>74</sup> See *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>70</sup> The PRC-Wide entity includes Jiaying Boyi, Shaoxing Liangbao, Command Metal Products, Guochao Metal Products, Yiwu, and Meideli.

<sup>71</sup> See 19 CFR 351.309(c)(ii).

have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 187.25 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: October 21, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2011-27976 Filed 10-27-11; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Environmental Technologies Trade Advisory Committee Public Meeting

**AGENCY:** International Trade Administration, DOC.

**ACTION:** Notice of Federal Advisory Committee Meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a meeting of the Environmental Technologies Trade Advisory Committee (ETTAC).

**DATES:** The teleconference meeting is scheduled for Wednesday, November 16, 2011, at 3 p.m. Eastern Standard Time (EST). Please register by 5 p.m. EST on Thursday, November 10, 2011 to listen in on the teleconference meeting.

**ADDRESSES:** The meeting will take place via teleconference. For logistical reasons, all participants are required to register in advance by the date specified above. Please contact Mr. Todd DeLelle at the contact information below to register and obtain call-in information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Todd DeLelle, Office of Energy & Environmental Industries (OEEI), International Trade Administration, Room 4053, 1401 Constitution Avenue NW., Washington, DC 20230. *Phone:* (202) 482-4877; *Fax:* (202) 482-5665; *email:* [todd.delelle@trade.gov](mailto:todd.delelle@trade.gov).

**SUPPLEMENTARY INFORMATION:** The meeting will take place from 3 p.m. to 4 p.m. EST. This meeting is open to the public. Written comments concerning ETTAC affairs are welcome any time before or after the meeting. Minutes will be available within 30 days of this meeting.

*Topics to be considered:* The agenda for the November 16, 2011 ETTAC meeting has only one item as follows: 3 p.m.-4 p.m. Presentation of, and deliberation on, an ETTAC Trade Liberalization Subcommittee draft recommendation letter regarding the possible inclusion of "Buy American" provisions in pending Congressional legislation and the impact this language may have on international trade in environmental goods and services.

*Background:* The ETTAC is mandated by Section 2313(c) of the Export Enhancement Act of 1988, as amended, 15 U.S.C. 4728(c), to advise the Environmental Trade Working Group (ETWG) of the Trade Promotion Coordinating Committee, through the Secretary of Commerce, on the development and administration of programs to expand U.S. exports of environmental technologies, goods, services, and products. The ETTAC was originally chartered in May of 1994. It was most recently re-chartered until October 2012.

The teleconference will be accessible to people with disabilities. Please specify any requests for reasonable accommodation when registering to participate in the teleconference. Last minute requests will be accepted, but may be impossible to fill.

No time will be available for oral comments from members of the public during this meeting. As noted above, any member of the public may submit pertinent written comments concerning the Committee's affairs at any time before or after the meeting. Comments may be submitted to Mr. Todd DeLelle at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5 p.m. Eastern Standard Time on Thursday, November 10, 2011, to ensure transmission to the Committee prior to the meeting. Comments received after that date will be

distributed to the members but may not be considered at the meeting.

**Edward A. O'Malley,**

*Director, Office of Energy and Environmental Industries.*

[FR Doc. 2011-27959 Filed 10-27-11; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration (NOAA)

#### Marine Protected Areas Federal Advisory Committee; Public Meeting

**AGENCY:** National Ocean Service, NOAA, Department of Commerce.

**ACTION:** Notice of open meeting.

**SUMMARY:** Notice is hereby given of a meeting of the Marine Protected Areas Federal Advisory Committee (Committee) in New Orleans, Louisiana.

**DATES:** The meeting will be held Tuesday, November 15, 2011, from 8:30 a.m. to 5:45 p.m., and Thursday, November 17, from 8:30 a.m. to 4:30 p.m. These times and the agenda topics described below are subject to change. Refer to the Web page listed below for the most up-to-date meeting agenda.

**ADDRESSES:** The meeting will be held at the Ritz Carlton Hotel, 921 Canal Street, New Orleans, 70112.

**FOR FURTHER INFORMATION CONTACT:** Kara Yeager, Designated Federal Officer, MPA FAC, National Marine Protected Areas Center, 1305 East West Highway, Silver Spring, Maryland 20910. (Phone: (301) 713-3100 x162, Fax: (301) 713-3110); email: [kara.yeager@noaa.gov](mailto:kara.yeager@noaa.gov); or visit the National MPA Center Web site at <http://www.mpa.gov>.

**SUPPLEMENTARY INFORMATION:** The Committee, composed of external, knowledgeable representatives of stakeholder groups, was established by the Department of Commerce (DOC) to provide advice to the Secretaries of Commerce and the Interior on implementation of Section 4 of Executive Order 13158, which calls for the development of a National System of MPAs. The National System aims to strengthen existing MPAs and MPA programs through national and regional coordination, capacity building, science and analysis. The meeting is open to the public, and public comment will be accepted from 4:30 p.m. to 5:30 p.m. on Tuesday, November 15, 2011. In general, each individual or group will be limited to a total time of five (5) minutes. If members of the public wish to submit written statements, they