

(minor amendment issued on May 26, 2006), authorizes the permit holder to conduct research to determine the abundance, distribution, movement patterns, habitat use, contaminant levels, prey, behavior, energetics, and stock structure of cetacean species in the eastern North Pacific off the coast of Washington, Oregon, and California. These studies are carried out through vessel surveys, photo-identification from large and small vessels, biological sample collection, passive acoustic monitoring, and satellite/radio and data log/time-depth tagging and tracking. The permit authorizes NWFSC to take endangered blue whales (*Balaenoptera musculus*), fin whales (*Balaenoptera physalus*), humpback whales (*Megaptera novaeangliae*), sperm whales (*Physeter macrocephalus*), and Southern Resident killer whales (SRKW, *Orcinus orca*), as well as 15 non-ESA-listed cetacean species. The permit expires on April 14, 2011.

The permit holder is requesting the permit be amended to increase the number of SRKW suction cup tagged (from 10 to 20 animals annually) and to add satellite tagging of six SRKW with dart tags annually. The primary purpose of this request is to determine winter ranges and increase data on distribution patterns of SRKW for use in critical habitat determinations. The activities are requested for the duration of the permit.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a draft supplemental environmental assessment (SEA) has been prepared to examine whether significant environmental impacts could result from issuance of the proposed scientific research permit. The draft SEA is available for review and comment simultaneous with the scientific research permit application.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 3, 2010.

**P. Michael Payne,**

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

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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 First Antidumping Duty Administrative Review**

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

**SUMMARY:** The Department of Commerce ("Department") is conducting the first administrative review of the antidumping duty order on steel wire garment hangers from the People's Republic of China ("PRC") for the period March 25, 2008, through September 30, 2009. The Department has preliminarily determined that sales have been made below normal value ("NV") by the respondents. 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:* November 9, 2010.

**FOR FURTHER INFORMATION CONTACT:** Irene Gorelik or Josh Startup, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-6905 or (202) 482-5260, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On October 6, 2008, the Department published in the **Federal Register** an antidumping duty order on steel wire garment hangers ("hangers") from the PRC. *See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China*, 73 FR 58111 (October 6, 2008). On October 1, 2009, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of hangers from the PRC for the period March 25, 2008, to September 30, 2009.<sup>1</sup> *See Antidumping or*

*Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 74 FR 50772 (October 1, 2009). On October 30, 2009, certain PRC exporters requested that the Department conduct an administrative review. On November 2, 2009, Petitioner<sup>2</sup> also requested that the Department conduct an administrative review of 187 companies. On November 25, 2009, the Department initiated this review of hangers from the PRC with respect to 187 requested companies covering the period of March 25, 2008, through September 30, 2009. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 74 FR 61658 (November 25, 2009) ("*Initiation Notice*").

Between December 28, 2009, and January 21, 2010, we received separate rate certifications or applications from 15 exporters, in addition to those received from the mandatory respondents as discussed in the "Respondent Selection" section below. For a detailed discussion of the separate rate applicants, *see* the "Separate Rates" section below. Additionally, between December 16, 2009, and December 28, 2009, the Department received no-shipment certifications from five 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.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. *See Memorandum to the Record regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm,"* dated February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. On April 30, 2010, the Department also published a notice in the **Federal Register** extending the deadline for issuing the preliminary results by 120 days to November 7, 2010.<sup>3</sup> *See First Antidumping Duty*

not subject to antidumping duties. *See, e.g., Notice of Preliminary Results of Antidumping Duty Administrative Review: Low Enriched Uranium from France*, 69 FR 3883 (January 27, 2004). However, for the purposes of these preliminary results, we are basing the margin calculation on all reported U.S. sales made during the POR because we are unable to determine whether any of the respondents' reported U.S. sales entered during the gap period.

<sup>2</sup> M&B Metal Products Co., Inc.

<sup>3</sup> Department practice dictates that where a deadline falls on a weekend, the appropriate

<sup>1</sup> The Department generally does not include merchandise that entered the United States during the provisional measures gap period ("gap period"), in this case, September 22, 2008, to October 2, 2008, in our margin calculation because these entries are

*Administrative Review of Steel Wire Hangers From the People's Republic of China: Extension of Time Limit for the Preliminary Results*, 75 FR 22739 (April 30, 2010).

### 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>4</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 November 30, 2009, 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. The Department received comments and rebuttal comments from Petitioner and certain PRC exporters between November 30, 2009, and December 7, 2009.

On February 12, 2010, 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 Shaoxing Dingli Metal Clotheshorse Co., Ltd. ("Shaoxing Dingli") as mandatory respondents.<sup>5</sup> The Department sent the non-market economy ("NME") antidumping questionnaire to Shanghai Wells and Shaoxing Dingli on February 12, 2010.

### Period of Review

The POR is March 25, 2008, to September 30, 2009.

deadline is the next business day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 75 FR 24533 (May 10, 2005).

<sup>4</sup> See also 19 CFR 351.204(c) regarding respondent selection, in general.

<sup>5</sup> See "Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, from Josh Startup, Analyst; First Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Selection of Respondents for Individual Review," dated February 12, 2010.

### Preliminary Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), we preliminarily determine that the following companies made no shipments of subject merchandise during the POR: Viet Anh Import-Export Joint Stock Company; Dong Nam A Co., Ltd.; Vietnam Hangers Joint Stock Company; Royal McGoun Chemicals Inc.; and NV Hanger Co., Ltd. As stated above, the Department received no-shipment certifications from the aforementioned companies between December 16, 2009, and December 28, 2009.

The Department also issued a no-shipments inquiry to CBP, asking it to provide any information contrary to our CBP run showing zero entries of subject merchandise for merchandise manufactured and shipped by the aforementioned companies. We did not receive any response from CBP indicating whether there were any entries of subject merchandise into the United States during the POR which were exported by these companies. Consequently, we preliminarily 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>6</sup>

### Scope of the Order

The merchandise that is subject to the order is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers. Specifically excluded from the scope of the order are wooden, plastic, and other garment hangers that are not made of steel wire. Also excluded from the scope of the order are chrome-plated steel wire garment hangers with a diameter of 3.4 mm or greater. The products subject to the order are currently classified under

<sup>6</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 (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 (August 13, 2010).

U.S. Harmonized Tariff Schedule ("HTSUS") subheadings 7326.20.0020 and 7323.99.9060.

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

### Affiliation/Single Entity

Based on the evidence presented in the Shanghai Wells' questionnaire responses, we preliminarily find that Shanghai Wells, Hong Kong Wells Limited ("HK Wells"), and Hong Kong Wells Limited (USA) are affiliated, pursuant to sections 771(33)(A), (E), and (F) of the Act. In addition, based on the evidence presented in its questionnaire responses, we preliminarily find that Shanghai Wells and HK Wells should be treated as a single entity for the purposes of this administrative review. This finding is based on our determination that HK Wells is involved in the export of subject merchandise produced by Shanghai Wells and that a significant potential for manipulation of price or production exists between these two entities.<sup>7</sup> See 19 CFR 351.401(f)(1) and (2). For further discussion of the Department's affiliation and single-entity decisions, see "Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Irene Gorelik, Senior Case Analyst, AD/CVD Operations, Office 9: Preliminary Results in the Antidumping Duty Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Affiliation/Single Entity Memorandum for Shanghai Wells Hanger Co., Ltd.," dated concurrently with this notice. Consequently, we have calculated a single antidumping duty rate for the single entity comprised of Shanghai Wells and HK Wells, hereinafter referred to as the Wells Group.

### Surrogate Country and Surrogate Value Data

On March 25, 2010, the Department sent interested parties a letter inviting comments on surrogate country selection and information regarding valuing factors of production ("FOPs"). On May 21, 2010, Petitioner filed

<sup>7</sup> While HK Wells is not a producer of hangers, we note that where companies are affiliated, and there exists a significant potential for manipulation of prices and/or export decisions, the Department has found it appropriate to treat those companies as a single entity. The Court of International Trade upheld the Department's decision to include export decisions in its analysis of whether there was a significant potential for manipulation. See *Hontex Enterprises v. United States*, 248 F. Supp. 2d 1323, 1343 (CIT 2003). In this case, not only is HK Wells an exporter of subject merchandise, but it is an exporter of the subject merchandise produced by its affiliate, Shanghai Wells.

comments on surrogate country selection, stating India, the Philippines, Indonesia and Thailand may be appropriate surrogates if there were publicly available, reliable and contemporaneous data for them, and Shaoxing Dingli filed comments recommending the Department select India as a surrogate country. On June 1, 2010, the Department received information to value FOPs from Shaoxing Dingli and Petitioner. On June 1, 2010, the Department also received surrogate value ("SV") information from Fabricare Choice Distributors Group, an interested party. On June 11, 2010, Petitioner and Shaoxing Dingli filed rebuttal comments with respect to SVs. On June 21, 2010, Petitioner and Shaoxing Dingli provided additional factual information concerning SV information. On July 1, 2010, Shaoxing Dingli filed rebuttal comments to Petitioner's factual information concerning SV information. Both Petitioner and Shaoxing Dingli provided SVs from sources in India, while Petitioner also provided SVs from 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 section 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 places primary emphasis on per capita gross national income ("GNI") as the measure of economic comparability.<sup>8</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>9</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. Regarding the "significant producer" prong of section 773(c)(4)(B) of the Act, the Department identified all countries that had exports of comparable merchandise (defined as exports under HTS 7326.20, 7323.99, the HTS numbers identified in the scope of the order) between 2007 and 2009, and deemed such countries to be significant producers. In this case, we have defined a "significant producer" as a country that has exported comparable merchandise in between 2007 and 2009.

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. 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 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. *See, e.g., Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). 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

To obtain separate rate status, the Department requires exporters and producers to submit a separate rate status certification and/or application. *See Separate Rates and Combination Rates in Antidumping Investigations*

*involving Non-Market Economy Countries*, 70 FR 17233 (April 5, 2005) ("Policy Bulletin 05.1"), also available at: <http://ia.ita.doc.gov/policy/index.html>. However, the standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* government control over its export activities) has not changed.

As noted above, a designation of a country as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(c)(i) of the Act. In proceedings involving NME countries, it is the Department's practice to begin 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. *See Policy Bulletin 05.1; 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, 53080 (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).

It is the Department's policy to assign all NME exporters of merchandise subject to an administrative review this single rate unless an exporter can affirmatively demonstrate that it is sufficiently independent from government control so as to be entitled to a separate rate. *See Policy Bulletin 05.1*. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as further developed in *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"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME") country, then a separate rate analysis is not necessary to determine whether it is independent from government control. *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).

Excluding the companies selected for individual review, the Department received separate rate applications or certifications from the following 15

<sup>8</sup> 19 CFR 351.408(b).

<sup>9</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 March 25, 2010 at 1 and Attachment I.

companies: (1) Shaoxing Gangyuan Metal Manufactured Co. Ltd.; (2) Shaoxing Tongzhou Metal Manufactured Co. Ltd.; (3) Shaoxing Andrew Metal Manufactured Co., Ltd.; (4) Shaoxing Shunji Metal Clotheshorse Co., Ltd.; (5) Yiwu Ao-Si Metal Products Co., Ltd.; (6) Shangyu Baoxiang Metal Manufactured Co., Ltd.; (7) Jiaying Boyi Medical Device Co., Ltd.;<sup>10</sup> (8) Pu Jiang County Command Metal Products Co., Ltd.; (9) Shaoxing Meideli Metal Hanger Co., Ltd.; (10) Shaoxing Zhongbao Metal Manufactured Co., Ltd.; (11) Zhejiang Lucky Cloud Hanger Co., Ltd.; (12) Ningbo Dasheng Hanger Ind. Co., Ltd.; (13) Shaoxing Guochao Metallic Products Co., Ltd.; (14) Shanghai Jianhai International Trade Co., Ltd.; and (15) Shaoxing Liangbao Metal Manufactured Co., Ltd.

#### A. Separate Rate Recipients

##### 1. Wholly Foreign-Owned

Shanghai Wells reported that it is a wholly foreign-owned entity.<sup>11</sup> Additionally, there is no evidence that the Wells Group 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>12</sup> Thus, we have preliminarily granted separate rate status to the Wells Group.

##### 2. Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

Shaoxing Dingli<sup>13</sup> and the 15 separate rate applicants in this administrative review stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies. The Department has analyzed whether Shaoxing Dingli and the 15 separate rate applicants have demonstrated the absence of *de jure* and *de facto* governmental control over their respective export activities.

##### a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be

<sup>10</sup> The Department inadvertently misspelled Jiaying Boyi Medical Device Co., Ltd.'s name in the *Initiation Notice* as "Jianxing Boyi Medical Device Co., Ltd." The name has been corrected for these preliminary results.

<sup>11</sup> See Shanghai Wells' Section A Questionnaire Response, dated March 12, 2010, at 2.

<sup>12</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>13</sup> See Shaoxing Dingli's Section A Questionnaire Response, dated March 8, 2010, at 2.

granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589. The evidence provided by Shaoxing Dingli and the 15 separate rate applicants supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies.<sup>14</sup>

##### b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The evidence provided by Shaoxing Dingli and the 15 separate rate applicants supports a preliminary finding of *de facto* absence of government control based on the following: (1) The companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate

<sup>14</sup> See, e.g., Shaoxing Dingli's Section A Questionnaire Response dated March 8, 2010, at 2-4; Shaoxing Shunji Metal Clotheshorse Co., Ltd.'s Separate Rate Certification dated December 28, 2009, at 4; Shaoxing Meideli Metal Hanger Co., Ltd.'s Separate Rate Certification dated December 28, 2009, at 4-5.

and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.<sup>15</sup> Therefore, the Department preliminarily finds that Shaoxing Dingli and the 15 separate rate applicants have established that they qualify for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers*.

##### B. Companies Located Outside the PRC

Based on the public certificate of service in Petitioner's request for administrative review, dated November 2, 2009, the record indicates that 70 of the 187 companies upon which the Department initiated this administrative review are located outside of the PRC.<sup>16</sup>

<sup>15</sup> See, e.g., Shaoxing Dingli's Section A Questionnaire Response dated September 5, 2008, at 5-9; Shaoxing Guochao Metallic Products Co., Ltd.'s Separate Rate Certification dated December 28, 2009, at 5; Shaoxing Andrew Metal Manufactured Co., Ltd.'s Separate Rate Certification dated December 28, 2009, at 7.

<sup>16</sup> See Petitioner's November 2, 2009, review request. These 70 companies are: Ahlers Vina Logistics; Alpi Trading Service Co., Ltd.; Amerasian Shipping Logistics Corp.; Anc Service Co., Ltd.; Angang Clothes Rack Manufacture Co.; Apex Holding Group Limited.; Arturo Huizar Velazquez; Biz Sources Inc. (Biz Sources PTY Ltd.); Canada Cleaning Supply Corp.; Centurion Logistics Services Ltd.; Cohesion Freight (HK) Ltd.; Cong Ty Duoc Thao; Cong Ty Trach Nhiem (CTN Co., Ltd.); Diep Son Hangers One Member Co., Ltd.; Dma Logistics Inc.; Dong Nam A Co., Ltd.; Evergreen Logistics Vietnam Co., Ltd.; Far Go Express Company Limited; Focus Shipping Corp.; For You Beautiful Industrial Co., Ltd.; General Merchandise Consolidators, Inc.; Giant Choice Co., Ltd.; Gle Logistics Co., Ltd.; Globe Express Services S.a.r.l. Co., Ltd.; Good Wonder Limited; Hcmc General Import and Export Investment Joint Stock Company (IMexico); Hippo Logistics Co., Ltd.; Honour Lane Logistics Co., Ltd.; Honour Lane Shipping Limited; Intercontinental Shipping Co., Ltd.; Ju Fu Co., Ltd.; KB Steel; Kingly Industry (Canada) Corp.; Korea Laundry Industry Co., Ltd.; Kyong Dong Industrial Co., Ltd.; Limpiaduria Zaragoza Huizar; Maple Hangers Inc.; Mico Mit Co., Ltd.; Moc Viet Manufacture Co., Ltd.; Multi-Sander Tech. Co., Ltd.; N2j Co., Ltd.; NV Hanger Co., Ltd.; Oec Freight Worldwide Co., Ltd.; Orient Star Shipping Pte.; Oriental Dragon Co., Ltd.; Oriental Logistics Group Ltd.; P T Transportation Ltd.; Pacific Star Express Corporation; Price Group Ltd.; Prolim De Baja California; Quiky-yanglei International Co., Ltd.; Rising Trade Inc.; Royal Cargo Combined Logistics, Inc.; Royal McGoun Inc.; Seamount Logistics Inc.; Sirius Global Logistics Co., Ltd.; Smart Concept Trading Limited; Star Glory Ltd.; Summit Logistics International Inc.; Sun Vn Transport Corp. (Sunvn Transport Corporation); Tay Ruy Enterprise Co.; Thanh Hieu Manufacturing Trading Co., Ltd.; Top Harvest Metal Co. Ltd.; Topocean Vietnam; Transworld Transportation Co., Ltd.; Twt-Transworld Transportation Co., Ltd.; Unitex International Forwarding (HK) Ltd.; Vantage Logistics Corporation; Viet Anh Import-Export Joint Stock Company; Vietnam Hangers Joint Stock Company; Wiexin Cargo Services Co., Ltd.; Whale Logistics Company Ltd.; Winwell Industrial

None of these companies have requested that the Department assign to them their own rate or certified that they had no shipments of subject merchandise during the POR. Because the 70 companies did not request the Department to assign to them their own rate, any exports of subject merchandise by these non-PRC exporters will be subject to the cash deposit rate of the PRC exporters that supplied them.

### C. PRC-Wide Entity

As stated above in the "Background" section, the Department initiated an administrative review with respect to 187 companies. The Department provided companies not selected for individual examination the opportunity to file either a separate rate application or certification, which was made available on the Department's website. See *Initiation Notice*, 74 FR at 61658–9. Out of the 187 companies, excluding the two mandatory respondents, 15 filed either separate rate certifications or separate rate applications. Of the remaining companies, five reported having made no shipments to the United States during the POR and 70 companies appear to be located outside of the PRC, thus an analysis of whether these companies have rebutted the presumption of PRC government control is moot.

However, 94 companies upon which we initiated a review, and which are located within the PRC, did not: (1) Apply for separate rate status; or (2) notify the Department that they had no shipments of subject merchandise during the POR.<sup>17</sup> These 94 companies

Limited; Zowenzi Hardware Hanger Fty Ltd.; and Zynpak Packaging Products Inc.

<sup>17</sup> These 94 companies are: Acrowell International Logistics; Acx Logistics (China) Ltd.; Agility Logistics (Shanghai) Ltd.; Alcon Express Corp.; Anhui Whywin International Co., Ltd.; Apex Maritime Co. Ltd.; Apl Logistics China, Ltd.; Ate Logistics Co., Ltd.; Beijing Kang Jie Kong Cargo Agent Co., Ltd.; Brilliant Globe Logistics Inc.; China Coast Freight Co., Ltd.; China Container Line (Shanghai) Ltd.; China International Freight Co., Ltd.; China Ocean Shipping Agency (Ningbo); City Ocean Logistics Co., Ltd.; Cixi K&J International Co., Ltd.; Cohesion Freight Agency Ltd. (Shanghai); De Well Container Shipping Corp.; Direct Service Inc.; Distribution Rsjj Inc.; Dragon Trading Shipping Co., Ltd.; Dynamic Network Container Line Ltd.; Expeditors China; Fastic Transportation Co., Ltd.; Fortune Freight International Co., Ltd.; Ge Li Commerce Co., Ltd.; Goldever International Logistics Co.; Guangdong Provincial Taoyue Mfg. Co., Ltd.; Guangxi Shengfeng Import and Export Co., Ltd.; Guangzhou Yanglei—Packing Co., Ltd.; Guilin Yc Enterprise Co., Ltd.; Hangzhou Rico Homeware and Apparel Inc.; Hanhen Shipping (China) Co., Ltd.; Hanjin (Shenzhen) Co., Ltd.; Hanjin Logistics (Shanghai) Co., Ltd.; Hecny Shipping Limited; Huada Fashion Enterprise, Inc.; Huguang Huojia Factory; Jiangmen Hongjun Hardware & Elect.; Jiangsu Globe Logistics Limited Co.; Jiangyin Hongji Metal Products Co., Ltd.; Jr Metal Products Shanghai; Kaiping Youming

listed in the *Initiation Notice* have not demonstrated their eligibility for separate rate status in this administrative review. Therefore, the Department preliminarily determines that because there were exports of merchandise under review from PRC exporters that did not demonstrate their eligibility for separate rate status, we are treating these companies as part of the PRC-wide entity, and subject to the PRC-wide entity rate of 187.25 percent.

### Separate Rate Calculation

The statute and our regulations do not address directly how we should establish a rate to apply to imports from companies which we did not select for individual examination in accordance with section 777A(c)(2) of the Act in an administrative review. Generally, we have used section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, as guidance when we establish the rate for respondents not examined individually in an administrative review.<sup>18</sup> Section 735(c)(5)(A) of the Act provides that "the estimated all-others rate shall be an

Hardware & Plastic Products Co., Ltd.; Kuehne & Nagel Ltd.; Laidlaw Company LLC; Laidlaw Metal Products Co., Ltd.; Laidlaw Shanghai; Lights Out Machinery Co., Ltd.; Link & Link Shipping Ltd.; Nanchang Tuhai Industry Co., Ltd.; Ningbo Eidz Holding Ltd.; Ningbo Jude Trading Co., Ltd.; Ningbo Peacebird Import & Export Co., Ltd.; Ningbo Yifan International Forwarding Agency Co., Ltd.; Ocean Star International Logistics Co., Ltd.; Odyssey International (China) Ltd.; Orient Express Container Co., Ltd.; Orient Star Transport International Ltd.; Pacific Star International Logistics (China) Co., Ltd.; Phoenix International Freight Services Ltd.; Pingye Foreign Transportation Co., Ltd.; Post—Pop Art Co., Ltd.; Pudong Trans USA, Inc.; RDD Freight International Inc.; Rich Shipping Company Limited; Schenker China Ltd.; Sea Bright International Industrial; Shanghai Air Sea Transport Inc.; Shanghai Channel International Logistics; Shanghai Fanyuan Freight Forwarding; Shanghai Garment Group Import/Export Corp.; Shanghai Light Industry and Textile Group Co., Ltd.; Shanghai T.H.I Transport Co., Ltd.; Shaoguang International Trade Co.; Shaoxing Leiluo Metal Manufactured; Shenzhen Center Link International; Shenzhen Pacific—Net Logistics Inc.; Shipping & Distribution Ltd.; Sino Connections Logistics Inc.; Sinobo International Logistics Co., Ltd.; Sinotrans Zhejiang Co., Ltd.; The Houjie Town Yongxiang/Hardware Processing Plant; Tianjin Hongtong Metal Manufacture Co., Ltd.; Top Shipping Logistics Co., Ltd.; Topocean Consolidation Service (China) Ltd.; Translink Shipping Inc.; U.S. United Logistics Inc.; Unique Logistics International (HK) Ltd.; Ups Scs Ltd.; Wuhu Rising International Trade Co., Ltd.; Xin Chang Heng Xin Yi Jia Factory; Zhejiang Hailiang Co., Ltd.; Zhejiang King Merchandise Industrial; and Zhejiang Peace Industry and Trade Inc.

<sup>18</sup> See, e.g., *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 (August 13, 2010); *Certain Pasta from Italy: Notice of Final Results of the Twelfth Administrative Review*, 75 FR 6352 (February 9, 2010), and accompanying Issues and Decision Memorandum at Comment 2.

amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated \* \* \*

Because using the weighted-average margin based on the calculated net U.S. sales values for the Wells Group and Shaoxing Dingli would allow these two respondents to deduce each other's business-proprietary information and thus cause an unwarranted release of such information, we cannot assign to the separate rate companies the weighted-average margin based on the calculated net U.S. sales values from these two respondents.

For these preliminary results, we determine that using the ranged total U.S. sales values the Wells Group and Shaoxing Dingli reported in the public versions of their responses (dated April 12, 2010, and October 13, 2010, respectively) to our request for information concerning the quantity and value of their exports to the United States is more appropriate than applying a simple average. These publicly available figures provide the basis on which we can calculate a margin which is the best proxy for the weighted-average margin based on the calculated net U.S. sales values of the Wells Group and Shaoxing Dingli. We find that this approach is more consistent with the intent of section 735(c)(5)(A) of the Act and our use of section 735(c)(5)(A) of the Act as guidance when we establish the rate for respondents not examined individually in an administrative review.

Because the calculated net U.S. sales values for the Wells Group and Shaoxing Dingli are business-proprietary figures, we find that 6.58 percent, which we calculated using the publicly available figures of U.S. sales values for these two firms, is the best reasonable proxy for the weighted-average margin based on the calculated net U.S. sales values of the Wells Group and Shaoxing Dingli. See "Memorandum to the File from Joshua Startup, Analyst, through Catherine Bertrand, Program Manager, Office 9; First Administrative Review of Steel Wire Garment Hangers from the PRC: Calculation of the Separate Rate," dated concurrently with this notice.

### Date of Sale

Both the Wells Group and Shaoxing Dingli 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 and Shaoxing Dingli 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>19</sup>

### Fair Value Comparisons

To determine whether sales of hangers to the United States by the Wells Group and Shaoxing Dingli 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 and Shaoxing Dingli because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted. The Department calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, the Department deducted from the starting price to unaffiliated purchasers foreign inland freight and brokerage and handling ("B&H"). Each of these services was either provided by a NME vendor or paid for using a NME currency. Thus, the Department based the deduction of these movement charges on surrogate values. See "Memorandum to the File from Josh Startup, Analyst, through Catherine Bertrand, Program Manager; First Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Surrogate Values for the Preliminary Results," dated November 8, 2010 ("*Prelim Surrogate Value Memo*") for details regarding the surrogate values 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 and Shaoxing Dingli'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 companies 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 November 8, 2010.

### 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 and Shaoxing Dingli used to produce the merchandise under investigation during the POR, except

where listed below. In past cases, it has been the Department's practice to calculate an SV for various FOPs using import statistics of the primary selected surrogate country from World Trade Atlas ("WTA"), as published by Global Trade Information Services ("GTIS").<sup>20</sup> However, in October 2009, the Department learned that Indian import data obtained from the WTA, as published by GTIS, began identifying the original reporting currency for India as the U.S. dollar. The Department then contacted GTIS about the change in the original reporting currency for India from the Indian rupee to the U.S. dollar. Officials at GTIS explained that while GTIS obtains data on imports into India directly from the Ministry of Commerce, Government of India, as denominated and published in Indian rupees, the WTA software is limited with regard to the number of significant digits it can manage. Therefore, GTIS made a decision to change the official reporting currency for Indian data from the Indian rupee to the U.S. dollar in order to reduce the loss of significant digits when obtaining data through the WTA software. GTIS explained that it converts the Indian rupee to the U.S. dollar using the monthly Federal Reserve exchange rate applicable to the relevant month of the data being downloaded and converted.<sup>21</sup>

However, the data reported in the GTA software report import statistics, such as data from India, in the original reporting currency and thus these data correspond to the original currency value reported by each country. Additionally, the data reported in GTA software are reported to the nearest digit and thus there is not a loss of data by rounding, as there is with the data reported by the WTA software. Consequently, the Department will now obtain import statistics from GTA for valuing FOPs because the GTA import statistics are in the original reporting currency of the country from which the data are obtained and have the same level of accuracy as the original data released.

With respect to the SVs based on Indian import statistics, the Department

<sup>20</sup> See *Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review*, 74 FR 50946, 50950 (October 2, 2009), unchanged in *Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 74 FR 65520 (December 10, 2009).

<sup>21</sup> See *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum at Comment 4.

<sup>19</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.

has disregarded prices that the Department has reason to believe or suspect may be subsidized. In accordance with the OTCA 1988 legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.<sup>22</sup> The Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific, export subsidies.<sup>23</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. Additionally, the Department disregarded prices from NME countries. Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.<sup>24</sup> For further discussion regarding all SV calculations using Indian import statistics derived from the GTA data, see Prelim Surrogate Value Memo.

<sup>22</sup> 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>23</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>24</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”).

### Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by the Wells Group and Shaoxing Dingli, the Department calculated NV based on the FOPs reported by the Wells Group and Shaoxing Dingli for the POR. The Department used data from GTA and other publicly available Indian sources in order to calculate SVs for the Wells Group and Shaoxing Dingli 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 the Department enjoys “broad discretion to determine the best available information for an antidumping review.” See *Ad Hoc Shrimp Trade Action Comm. v. United States*, 2010 U.S. App. LEXIS 18745 (Fed. Cir. 2010). 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. 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.

As appropriate, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, the Department added to the Indian import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all SVs used for the Wells Group and Shaoxing Dingli, see Prelim Surrogate Value Memo.

In those instances where the Department could not obtain publicly available information contemporaneous to the POR with which to value FOPs, consistent with our practice, we adjusted the SVs using, where appropriate, the Indian Wholesale Price Index as published in the International Financial Statistics of the International

Monetary Fund, a printout of which is attached to the Prelim Surrogate Value Memo at Exhibit 2. See also *PET Film*. Where necessary, the Department adjusted SVs for inflation, exchange rates, and taxes, and the Department converted all applicable items to a per kg basis.

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 this value because utility rates represent current rates, 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 April 2009 through June 2009. Because the average of these values is contemporaneous with the POR, we did not adjust it for inflation. See Prelim Surrogate Value Memo.

On May 14, 2010, the Court of Appeals for the Federal Circuit (“CAFC”) in *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1372 (CAFC 2010), found that the “{regression-based} method for calculating wage rates {as stipulated by 19 CFR 351.408(c)(3)} uses data not permitted by {the statutory requirements laid out in section 773 of the Act (i.e., 19 U.S.C. 1677b(c))}.” The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. However, for these preliminary results, we have calculated an hourly wage rate to use in valuing the respondents’ reported labor input by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.

For the preliminary results of this administrative review, the Department is valuing labor using a simple average industry-specific wage rate using earnings or wage data reported under Chapter 5B by the International Labor

Organization (“ILO”). To achieve an industry-specific labor value, we relied on industry-specific labor data from the countries we determined to be both economically comparable to the PRC, and significant producers of comparable merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the Prelim Surrogate Value Memo. The Department calculated a simple average industry-specific wage rate of \$1.39 for these preliminary results. Specifically, for this review, the Department has calculated the wage rate using a simple average of the data provided to the ILO under Sub-Classification 28 of the ISIC–Revision 3 standard by countries determined to be both economically comparable to the PRC and significant producers of comparable merchandise. The Department finds the two-digit description under ISIC–Revision 3 (Manufacture of Fabricated Metal Products, Except Machinery and Equipment) to be the best available wage rate SV on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise.

Consequently, we averaged the ILO industry-specific wage rate data or earnings data available from the following countries found to be economically comparable to the PRC and are significant producers of comparable merchandise: Ecuador, the Arab Republic of Egypt, Indonesia, Jordan, Peru, Philippines, Thailand, and Ukraine. For further information on the calculation of the wage 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 that is published in *Doing Business 2010: 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 used the 2008–2009 audited financial

statements of Lakshmi Precision Screws Ltd. (“Lakshmi”) and Nasco Steels Private Limited (“Nasco”), both of which are Indian screw/nail and fastener manufacturers.<sup>25</sup> Among all the other financial statements placed on the record of this review, we find that Lakshmi’s and Nasco’s financial statements are the most appropriate for these preliminary results because they are both producers of downstream products made of steel wire rod. Furthermore, the Department finds that both financial statements are appropriate sources given that no usable financial statements are available for producers of identical merchandise. Finally, Lakshmi’s and Nasco’s 2008–2009 financial statements fulfill the broadest range of the criteria examined by the Department when selecting appropriate financial statements with which to value SG&A expenses, such as contemporaneity, specificity, and quality of data.<sup>26</sup> For a detailed discussion regarding our selection of Lakshmi’s and Nasco’s 2008–2009 financial statements to calculate the surrogate financial ratios, see Prelim Surrogate Value Memo.

### Company Specific Issues

#### *Shaoxing Dingli*

For these preliminary results, the Department is not granting Shaoxing Dingli a by-product offset for “Scrap Iron Buckets” because they are not generated from the subject merchandise production process. This is consistent with the Department’s practice of not granting offsets to by-products which are not generated in the production process.<sup>27</sup>

Shaoxing Dingli reported a warranty expense for damaged or defective merchandise, and reported its sales quantity net of these returns in its Section C database. Shaoxing Dingli credited its customers for the damaged merchandise, and allocated the cost out over all of its sales. Consistent with the Department’s practice, for these preliminary results, we are allowing the warranty expenses to be allocated over all of Shaoxing Dingli’s CEP sales.<sup>28</sup>

<sup>25</sup> Lakshmi’s 2008–2009 audited financial statements were submitted by Petitioner on June 1, 2010.

<sup>26</sup> See, e.g., *Certain Preserved Mushrooms From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 44827 (August 9, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>27</sup> See, e.g., *Prestressed Concrete Steel Wire Strand From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 28560 (May 21, 2010) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>28</sup> See, e.g., *Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China: Final*

Petitioner submitted comments alleging that Shaoxing Dingli may have not reported the universe of subject merchandise sales to the United States during the POR, following the indictment of an importer of subject merchandise on a duty evasion charge.<sup>29</sup> The Department has taken note of this issue, but for these preliminary results is not including the sales alleged by Petitioner as unreported, because Shaoxing Dingli produced documentation showing that a bonded truck was contracted to transport all of the merchandise in question to Mexico and there is no CBP documentation that any of the alleged unreported sales entered the United States for consumption.<sup>30</sup>

#### *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. Our practice with respect to revenue earned, such as freight revenue, from sales is to add the revenue to the gross unit price.<sup>31</sup> Here, to account for post-sale adjustments of various reported transportation-related revenues as an addition to the gross unit price and the corresponding transportation-expenses incurred as a deduction included in the international and U.S. movement charges, we deducted the transportation-related revenues from the corresponding transportation-related expenses, where applicable, resulting only in a deduction of the actual transportation-related expense incurred, which inherently accounts for the Wells Group’s transportation-related revenues earned by reducing the associated expenses. This is consistent with our

*Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comments 59 and 69 (where we stated that “consistent with the Department’s practice, we have utilized all expenses incurred during the {period of investigation} and allocated such across all {period of investigation} sales using a value-based allocation methodology”).

<sup>29</sup> See Petitioner’s comments dated August 27, 2010.

<sup>30</sup> See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Third New Shipper Reviews*, 74 FR 29473 (June 22, 2009), and accompanying Issues and Decision Memorandum at Comments 4 and 5.

<sup>31</sup> See, e.g., *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 51781 (September 11, 2007), unchanged in *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 14437 (March 18, 2008).

treatment of the Wells Group's transportation-related revenues in the underlying investigation.<sup>32</sup>

However, with respect to U.S. antidumping duty revenue reported by the Wells Group, the Department excluded this "revenue" item as an addition to gross unit price, because the increased "revenue" of the Wells Group's U.S. sales during the POR to cover antidumping duties are already accounted for in the reported gross unit price, as confirmed by the Wells Group itself.<sup>33</sup> For a full discussion of the adjustments to the gross unit price, see "Memorandum to the File from Irene Gorelik, Senior 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 November 8, 2010.

**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:

**STEEL WIRE GARMENT HANGERS FROM THE PEOPLE'S REPUBLIC OF CHINA**

Manufacturer/exporter	Weighted average margin (percent)
Shanghai Wells Hanger Co., Ltd. and/or Hong Kong Wells Limited .....	1.10
Shaoxing Dingli Metal Clotheshorse Co., Ltd. ....	12.25
Shaoxing Metal Companies <sup>34</sup> ....	6.58
Shaoxing Shunji Metal Clotheshorse Co. Ltd. ....	6.58
Yiwu Ao-Si Metal Products Co., Ltd. ....	6.58
Shangyu Baoxiang Metal Manufactured Co., Ltd. ....	6.58
Jiaxing Boyi Medical Device Co., Ltd. ....	6.58

<sup>32</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 (August 14, 2008) and accompanying Issues and Decision Memorandum at Comment 9A ("*Hangers LTFV*").

<sup>33</sup> See Shanghai Wells' Supplemental Section C Questionnaire Response dated May 13, 2010 at 13, where Shanghai Wells stated that it reported "in the field REVDICT the revenue of antidumping duty that is being part of the invoiced price that Shanghai Wells charged its customers."

**STEEL WIRE GARMENT HANGERS FROM THE PEOPLE'S REPUBLIC OF CHINA—Continued**

Manufacturer/exporter	Weighted average margin (percent)
Pu Jiang County Command Metal Products Co. Ltd. ....	6.58
Shaoxing Meideli Metal Hanger Co., Ltd. ....	6.58
Shaoxing Zhongbao Metal Manufactured Co., Ltd. ....	6.58
Zhejiang Lucky Cloud Hanger Co., Ltd. ....	6.58
Ningbo Dasheng Hanger Ind. Co., Ltd. ....	6.58
Shaoxing Guochao Metallic Products Co. Ltd. ....	6.58
Shanghai Jianhai International Trade Co., Ltd. ....	6.58
Shaoxing Liangbao Metal Manufactured Co., Ltd. ....	6.58
PRC-Wide Entity <sup>35</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). Because the Department intends to seek additional information, the Department will establish the briefing schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309. 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. See 19 CFR 351.309(c) and (d).

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

<sup>34</sup> In the this administrative review, Shaoxing Gangyuan Metal Manufactured Co. Ltd., Shaoxing Tongzhou Metal Manufactured Co. Ltd., and Shaoxing Andrew Metal Manufactured Co., Ltd. all reported in their respective separate rate certifications that their affiliations, legal structure, and ownership structure have not changed since the underlying investigation. Thus, we continue to find that these three companies comprise a single entity, as determined in the underlying investigation, where we found that Shaoxing Gangyuan Metal Manufactured Co. Ltd., Shaoxing Tongzhou Metal Manufactured Co. Ltd., and Shaoxing Andrew Metal Manufactured Co., Ltd. were a single entity pursuant to 19 CFR 351.401(f)(1) and (2). See *Hangers LTFV*, 73 FR at 47589.

<sup>35</sup> The PRC-Wide entity includes the 94 companies listed in footnote 16 of this notice.

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 these reviews. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review excluding any reported sales that entered during the gap period. 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). See 19 CFR 351.212(b)(1). 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).

For the companies receiving a separate rate that were not selected for individual review, we will calculate an assessment rate based on the weighted-average of the publicly-ranged values reported by the companies selected for individual review pursuant to section 735(c)(5)(B) of the Act.

## 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 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: November 3, 2010.

**Susan H. Kuhbach,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-28287 Filed 11-8-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration [C-570-915]

#### Light-Walled Rectangular Pipe and Tube From the People's Republic of China: Rescission of Countervailing Duty Administrative Review

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

**DATES:** *Effective Date:* November 9, 2010.

**FOR FURTHER INFORMATION CONTACT:** Austin Redington or Patricia Tran, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1664 and (202) 482-1503, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On August 2, 2010, the U.S. Department of Commerce ("Department") published a notice of opportunity to request an administrative review of the countervailing duty order on light-walled rectangular pipe and tube from the People's Republic of China ("PRC") for the period of review January 1, 2009, through December 31, 2009. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 75 FR 45094 (August 2, 2010). On August 30, 2010, in accordance with 19 CFR 351.213(b), the Department received a timely request from Sun Group Co., Ltd. ("Sun Group") to conduct an administrative review of Sun Group. No other party requested an administrative review.

On September 29, 2010, the Department published the notice of initiation of this countervailing duty administrative review with respect to Sun Group. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 75 FR 60076, 60082 (September 29, 2010).

#### **Rescission of Countervailing Duty Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party who requested the administrative review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested administrative review. On October 15, 2010, Sun Group timely withdrew its

request for an administrative review, and no other party requested a review. Therefore, in response to Sun Group's withdrawal of its request for review, and pursuant to 19 CFR 351.213(d)(1), the Department hereby rescinds this administrative review.

#### **Assessment Instructions**

The Department will instruct U.S. Customs and Border Protection ("CBP") to assess countervailing duties on all appropriate entries. For the Sun Group, countervailing duties shall be assessed at rates equal to the cash deposit or bonding rate of the estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

#### **Notification Regarding Administrative Protective Order**

This notice serves as a final reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: November 1, 2010.

**Susan H. Kuhbach,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2010-28283 Filed 11-8-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XZ23**

#### **Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; request for comments.