



DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-849]

Steel Wire Garment Hangers from Taiwan: Preliminary Determination of Sales at Less than Fair Value

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

SUMMARY: The U.S. Department of Commerce (the “Department”) preliminarily determines that steel wire garment hangers (“hangers”) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 733(b) of the Tariff Act of 1930, as amended (the “Act”). The estimated margins of sales at LTFV are listed in the “Preliminary Determination” section of this notice. Interested parties are invited to comment on this preliminary determination.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Scot Fullerton at (202) 482-1386, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 2011, the Department received an antidumping duty (“AD”) petition concerning imports of steel wire garment hangers from Taiwan filed in proper form on behalf of M&B Metal Products Company, Inc.; Innovative Fabrication LLC/Indy Hanger; and US Hanger

Company, LLC (collectively, the “Petitioners”).¹ On January 25, 2012, the Department initiated an AD investigation on hangers from Taiwan.²

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of the date of publication of the *Initiation Notice*.³ We received no comments from interested parties concerning product coverage. The Department also set aside a period of time for parties to comment on product characteristics for use in the AD questionnaire.⁴ We received no comments from interested parties concerning product characteristics.

On February 21, 2012, the International Trade Commission (“ITC”) published its affirmative preliminary determination that there is a reasonable indication that imports of hangers from Taiwan are materially injuring the U.S. industry, and the ITC notified the Department of its findings.⁵

On March 9, 2012, we selected Golden Canyon Ltd. (“Golden Canyon”) and Taiwan Hanger Manufacturing Co., Ltd. (“Taiwan Hanger”) as mandatory respondents in this investigation. *See* the “Selection of Respondents” section of this notice, below. On March 14, 2012, we issued the AD questionnaire to Golden Canyon and Taiwan Hanger. On April 9, 2012, we again issued the AD questionnaire to Golden Canyon and Taiwan Hanger. We did not receive questionnaire responses from Golden Canyon or Taiwan Hanger.⁶ Golden Canyon’s

¹ *See* “Petitions for the Imposition of Antidumping Duties on Steel Wire Garment Hangers from Taiwan and Antidumping and Countervailing Duties on Steel Wire Garment Hangers from the Socialist Republic of Vietnam,” filed on December 29, 2011 (the “Petition”).

² *See Steel Wire Garment Hangers from the Socialist Republic of Vietnam and Taiwan: Initiation of Antidumping Duty Investigations*, 77 FR 3731 (January 25, 2012) (“*Initiation Notice*”).

³ *See Initiation Notice*.

⁴ *Id.*

⁵ *See Steel Wire Garment Hangers from Taiwan and Vietnam*, Investigation Nos. 701-TA-487 and 731-TA 1197-1198 (Preliminary).

⁶ *See* Memorandum to the File, “Steel Wire Hangers from Taiwan: Questionnaire Delivery Attempts,” dated concurrently with this notice (“Questionnaire Delivery Memo”) which details our attempts to deliver the questionnaires to Golden Canyon and Taiwan Hanger.

questionnaires were returned due to incorrect addresses.⁷ Taiwan Hanger did not respond to the questionnaires.⁸ On April 27, 2012, Petitioners requested that the preliminary determination be postponed. On May 14, 2012, we postponed our preliminary determination by 50 days.⁹

Period of Investigation

The period of investigation (“POI”) is October 1, 2010, through September 30, 2011.¹⁰

Scope of Investigation

The merchandise subject to this investigation 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 whether or not fashioned with paper covers or capes (with or without printing) 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 investigation are (a) wooden, plastic, and other garment hangers that are not made of steel wire; (b) steel wire garment hangers with swivel hooks; (c) steel wire garment hangers with clips permanently affixed; and (d) chrome plated steel wire garment hangers with a diameter of 3.4 mm or greater.

The products subject to the investigation are currently classified under U.S. Harmonized Tariff Schedule (“HTSUS”) subheadings 7326.20.0020 and 7323.99.9080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

⁷ *Id.*

⁸ *Id.*

⁹ See *Steel Wire Garment Hangers from the Socialist Republic of Vietnam and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 77 FR 28356 (May 14, 2012).

¹⁰ See section 351.204(b)(1) of the Department’s regulations.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters or producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. The data on the record indicates that there are 22 potential producers or exporters of hangers from Taiwan that exported the subject merchandise to the United States during the POI.¹¹ In the *Initiation Notice* we stated that we intended to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports under HTSUS numbers 7326.20.0020 and 7323.99.9080, the two categories most specific to subject merchandise, for entries made during the POI.¹² Moreover, we invited comments on CBP data and selection of respondents for individual examination.¹³

On January 30, 2012, we released the CBP data to all parties with access to information protected by administrative protective order.¹⁴ Based on our review of the CBP data and the consideration of the comments we received from the Petitioners on February 6, 2012, we determined that we had the resources to examine two companies. Accordingly, we selected Golden Canyon and Taiwan Hanger for individual examination in this investigation. These companies are the two producers/exporters of subject merchandise that account for the largest volume of the subject merchandise imported during the POI that we can reasonably examine in accordance with section 777A(c)(2)(B) of the Act.¹⁵

Golden Canyon

¹¹ See the Petition at Exhibit 6.

¹² See *Initiation Notice*.

¹³ *Id.*

¹⁴ See Letter to All Interested Parties dated January 30, 2012.

¹⁵ See Memorandum to Christian Marsh, “Antidumping Duty Investigation of Steel Wire Garment Hangers from Taiwan: Respondent Selection Memorandum,” dated March 9, 2012.

Questionnaires that were sent to Golden Canyon were returned as undeliverable.¹⁶ Therefore, we are classifying Golden Canyon as an “unlocated company,” and in accordance with our practice with respect to companies to which we cannot send a questionnaire, we are assigning Golden Canyon the “all others” rate, which is 69.98 percent.¹⁷

Taiwan Hanger

For the reasons stated below, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to Taiwan Hanger. As indicated in the “Background” section above, Taiwan Hanger did not respond to the AD questionnaire.¹⁸ Specifically, Taiwan Hanger twice received the questionnaire, and then returned the questionnaire to the Department at a later date.¹⁹

Because Taiwan Hanger did not respond to our questionnaire, it withheld information necessary to calculate a margin for its sales to the United States. Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, significantly impedes a proceeding under the Act, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the

¹⁶ See Questionnaire Delivery Memo.

¹⁷ See, e.g., *Chrome-Plated Lug Nuts from Taiwan; Preliminary Results of Antidumping Duty Administrative Review*, 64 FR 55234, 55234 (October 12, 1999), unchanged in *Chrome-Plated Lug Nuts from Taiwan; Final Results of Antidumping Duty Administrative Review*, 65 FR 7491 (February 15, 2000).

¹⁸ See Questionnaire Delivery Memo.

¹⁹ See Questionnaire Delivery Memo for more details.

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; (5) the information can be used without undue difficulties.

In this case, Taiwan Hanger did not respond to our request for information, withheld information the Department requested, and significantly impeded the proceeding. Because Taiwan Hanger failed to provide any information, section 782(e) of the Act is inapplicable. Accordingly, pursuant to section 776(a) of the Act, we are relying upon facts otherwise available for Taiwan Hanger's margin.

Section 776(b) of the Act provides 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 may use an inference adverse to the interests of that party in selecting the facts otherwise available.²⁰ In addition, the *Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. 103-316, Vol. 1, 103d Cong. (1994) ("SAA"), explains that the Department may employ an adverse inference "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."²¹ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.²² It is the Department's practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.

²⁰ See *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005), and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002).

²¹ See SAA at 870; and, e.g., *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

²² See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Antidumping Duties, Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

Although we twice served Taiwan Hanger with the AD questionnaire, Taiwan Hanger refrained from participating in this investigation and has failed to provide any response to our request for information. This failure to respond indicates that Taiwan Hanger has determined not to cooperate with our requests for information, or to participate in this investigation. Taiwan Hanger's decision not to participate in this investigation has precluded the Department from performing the necessary analysis and verification of Taiwan Hanger's questionnaire responses, as required by section 782(i)(1) of the Act. Accordingly, the Department concludes that Taiwan Hanger failed to cooperate to the best of its ability to comply with a request for information by the Department pursuant to section 776(b) of the Act. Based on the above, the Department has preliminarily determined that Taiwan Hanger has failed to cooperate to the best of its ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted.²³

Corroboration of AFA Rate

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record.²⁴ In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. Normally, it is the Department's practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the

²³ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR at 42985, 42986 (July 12, 2000) (where the Department applied total adverse facts available ("AFA") where the respondent failed to respond to the antidumping questionnaire).

²⁴ See also section 351.308(c) of the Department's regulations and the *SAA* at 868-870.

necessary information.²⁵ The rates in the petition range from 18.90 percent to 125.43 percent.²⁶

We have selected the petition rate of 125.43 percent.

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. The SAA clarifies that “corroborate” means the Department will satisfy itself that the secondary information to be used has probative value.²⁷ As stated in *Japanese TRBs*, to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used.²⁸ The Department’s regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.²⁹

For the purposes of this investigation and to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis and for purposes of this preliminary determination.³⁰ We examined

²⁵ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose from Finland*, 69 FR 77216, 77219 (December 27, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose from Finland*, 70 FR 28279 (May 17, 2005).

²⁶ See *Initiation Notice*.

²⁷ See *SAA* at 870.

²⁸ 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 (November 6, 1996) (“*Japanese TRBs*”), 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, 11843 (March 13, 1997).

²⁹ See section 351.308(d) of the Department’s regulations, and the *SAA* at 870.

³⁰ See “Antidumping Duty Investigation Initiation Checklist: Steel Wire Garment Hangers from Taiwan” (“Initiation Checklist”) dated January 18, 2012, at 6-9.

evidence supporting the calculations in the petition to determine the probative value of the margins alleged in the petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis we examined the key elements of the export price (“EP”) and normal value calculations used in the petition to derive margins. During our pre-initiation analysis we also examined information from various independent sources provided either in the petition or in supplements to the petition that demonstrated the accuracy and validity of key elements of the EP and normal value calculations used in the petition to derive estimated margins.³¹

Based on our examination of the information, as discussed in detail in the Initiation Checklist, we consider the Petitioners’ calculation of the EP and normal value to be reliable. Therefore, because we confirmed the accuracy and validity of the information underlying the calculation of margins in the petition by examining source documents as well as publicly available information, we preliminarily determine that the margins in the petition are reliable for the purposes of this investigation.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant.³² Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin.³³

³¹ *Id.*

³² See *Certain Steel Nails from the United Arab Emirates: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 76 FR 68129, 68132 (November 3, 2011), unchanged in *Certain Steel Nails from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 77 FR 17029 (March 23, 2012).

³³ See *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest dumping margin as best information available because the margin was based on another company’s uncharacteristic business expense resulting in an unusually high margin).

The rates in the petition reflect commercial practices of the hangers industry and, as such, are relevant to Taiwan Hanger.³⁴ The courts have acknowledged that the consideration of the commercial behavior inherent in the industry is important in determining the relevance of the selected AFA rate to the uncooperative respondent by virtue of it belonging to the same industry.³⁵ Such consideration typically encompasses the commercial behavior of other respondents under investigation; however, as there are no participating respondents in this investigation, we have relied upon the rates found in the petition, which is the only information regarding the hangers industry reasonably at the Department’s disposal. Because the petition rates are derived from the hangers industry and are based on information related to aggregate data involving the hangers industry, we have determined that the petition rates are relevant. Accordingly, by using information that was determined to be reliable in the pre-initiation stage of this investigation and preliminarily determining it to be relevant for the uncooperative respondent in this investigation, we have corroborated the AFA rate of 125.43 percent “to the extent practicable” as provided in section 776(c) of the Act. Therefore, we have applied the petition rate of 125.43 percent to Taiwan Hanger, as AFA.

Preliminary Determination

The Department determines that the following margins exist for the manufacturers/exporters under investigation as follows:

Manufacturer/Exporter	Margin
Golden Canyon Ltd.	69.98 %
Taiwan Hanger Manufacturing Co., Ltd.	125.43%
All Others Rate	69.98 %

³⁴ See Initiation Checklist at 6-9.

³⁵ See, e.g., *Ferro Union, Inc. v. United States*, 44 F. Supp. 2d 1310, 1334 (1999).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct CBP to suspend liquidation of all entries of hangers from Taiwan that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. We will instruct CBP to require a cash deposit equal to the weighted-average margins, as indicated below, as follows: (1) The rates for Golden Canyon and Taiwan Hanger will be the rates we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 69.98 percent, as discussed in the “All Others Rate” section, below. These suspensions of liquidation instructions will remain in effect until further notice.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins and any margins determined entirely under section 776 of the Act. No respondent has participated in this investigation. Therefore, because the only dumping margins for this preliminary determination are found in the petition, the all others rate is a simple average of these values, which is 69.98 percent.³⁶

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination. In accordance with section 735(b)(2) of the Act, if the Department's

³⁶ See Initiation Checklist at Attachment V; see, e.g., *Certain Steel Nails from the United Arab Emirates: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27421 (May 10, 2012) (where the Department determined the all others rate using a simple average).

final determination is affirmative, the ITC will determine before the latter of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of hangers from Taiwan are materially injuring, or threatening material injury to, the U.S. industry.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than forty days after the publication of this preliminary determination. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs.³⁷ A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department.³⁸ Executive summaries should be limited to five pages total, including footnotes. Case and rebuttal briefs must be submitted to the Department electronically using IA ACCESS.³⁹

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on issues raised in case briefs, provided that such a hearing is requested by an interested party by electronically filing the request via IA ACCESS.⁴⁰ If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the deadline for filing a rebuttal brief. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

³⁷ See section 351.309(d) of the Department's regulations.

³⁸ See section 351.309(c)(2) of the Department's regulations.

³⁹ Electronic filing requirements via IA ACCESS can be found at section 351.303 of the Department's regulations; see also *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

⁴⁰ *Id.*

Any interested party may request a hearing within 30 days of publication of this notice.⁴¹ Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.⁴²

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

July 27, 2012 _____
Date

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⁴¹ See section 351.310(c) of the Department's regulations.

⁴² See section 351.310(d) of the Department's regulations.