

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-918]

Steel Wire Garment Hangers From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination

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

Preliminary Determination

We preliminarily determine that steel wire garment hangers ("garment hangers") exported by Angang Clothes Rack Manufacture Co., Ltd. ("Angang") and Quiky Yanglei International Co., Ltd. ("Quiky") are circumventing the antidumping duty order on garment hangers from the People's Republic of China ("PRC"), as provided in section 781(b) of the Tariff Act of 1930, as amended ("the Act"). See *Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China*, 73 FR 58111 (October 6, 2008) ("Order").

DATES: Effective Date: May 10, 2011.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik or Jamie Blair-Walker, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-6905 or (202) 482-2615, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On May 5, 2010, M&B Metal Products Co., ("Petitioner") requested that the Department of Commerce ("the Department") initiate an anti-circumvention inquiry pursuant to section 781(b) of the Act, and 19 CFR 351.225(h), to determine whether U.S. imports of garment hangers shipped from Vietnam by Angang and Quiky, and made from PRC-origin, semi-finished garment hangers¹ are circumventing the Order. In its request, Petitioner alleged that PRC manufacturers of subject merchandise have been circumventing the Order by using two Vietnamese companies to

export their hangers.² Specifically, Petitioner indicated that it had evidence that: (1) Angang is exporting hangers from Vietnam made from components manufactured and supplied by its alleged Chinese owner, Shaoxing Gangyuan Metal Manufactured Co., Ltd. ("Gangyuan")³; (2) Quiky is exporting hangers from Vietnam made from components manufactured and supplied by a Chinese company, Shanghai Ruishan Metal Products Co., Ltd. ("Ruishan"); and (3) the evidence obtained by Petitioner supported a finding that these parties were circumventing the Order pursuant to section 781(b) of the Act.⁴

On May 20, 2010, the Department issued a letter to Petitioner with supplemental questions concerning both Angang and Quiky and Petitioner responded to this request on May 25, 2010. After reviewing Petitioner's submissions, on July 16, 2010, the Department initiated an anti-circumvention inquiry on imports of garment hangers from Vietnam exported by Angang and Quiky.⁵ In the *Initiation Notice*, the Department stated that it would focus its analysis on the significance of the production process in Vietnam by Angang and Quiky.⁶

The Department issued questionnaires to Quiky and Angang on July 23, 2010. The Department has, to date, not received any responses to our requests for information from Quiky. The Department also issued multiple supplemental questionnaires to Angang between August 2010 and March 2011. On December 22, 2010, Angang requested that the Department preliminarily rule that it was not circumventing the Order and submitted arguments regarding its hanger production facilities and exports as they relate to the statutory criteria for anti-circumvention proceedings. Angang has

stated on the record that its affiliates⁷ in the PRC were the sole suppliers⁸ of the PRC-origin semi-finished garment hangers⁹, to which Angang added either PRC-origin powder coating or paint and paper attachments such as tubes and then exported¹⁰ this merchandise to the United States.

Scope of the Antidumping Duty Order

The merchandise that is subject to the order is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers. Specifically excluded from the scope of the order are wooden, plastic, and other garment hangers that are not made of steel wire. Also excluded from the scope of the order are chrome-plated steel wire garment hangers with a diameter of 3.4 mm or greater. The products subject to the order are currently classified under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 7326.20.0020, 7323.99.9060 and 7323.99.9080.

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

Scope of the Anti-Circumvention Inquiry

The products covered by this inquiry are hangers, as described in the "Scope of the Antidumping Duty Order" section above, that are exported from Vietnam, but manufactured from PRC-origin, semi-finished garment hangers and completed in Vietnam with PRC-origin, paper attachments and other direct materials such as latex or glue. While we acknowledge that Angang has repeatedly stated on the record that it also self-produces garment hangers from

² See Petitioner's Requests for Circumvention Inquiries dated May 5, 2010.

³ The names of Angang's actual parent company in the PRC and another affiliated company, (hereinafter referred to as "Company X") are business proprietary information. For further details, see "Memorandum to the File through Catherine Bertrand, Program Manager, Office 9 from Irene Gorelik, Senior Analyst, re: Circumvention Inquiry on Steel Wire Garment Hangers from the People's Republic of China: Proprietary Analysis of Certain Statutory Factors for Angang Clothes Rack Manufacture Co., Ltd. for the Preliminary Determination," ("Angang Prelim Analysis Memo"), dated concurrently with this **Federal Register** notice.

⁴ See *id.*

⁵ See *Steel Wire Garment Hangers From the People's Republic of China: Initiation of Anti-Circumvention Inquiry*, 75 FR 42685 (July 22, 2010) ("Initiation Notice").

⁶ See *id.* at 42689.

⁷ Angang has stated on the record that it is affiliated with Company X. See Angang's Questionnaire Response dated September 17, 2010 at 2-3 and Exhibit 3. The name of this affiliated company is business proprietary information.

⁸ See Angang's Questionnaire Response dated November 19, 2010, at 27-28.

⁹ For the purposes of these circumvention inquiries, we refer to the PRC-origin uncoated, paper-less hanger-shaped steel wire as "semi finished" steel wire hangers.

¹⁰ See, e.g., Angang's Questionnaire Response dated October 8, 2010 at Exhibit 1; Angang's Questionnaire Response dated November 19, 2010, at 13.

¹ See Petitioner's Requests for Circumvention Inquiries dated May 5, 2010. In this proceeding, semi-finished steel wire garment hangers ("semi-finished hangers") refer to both shirt hangers and strut hangers that have not been "finished" with coating powder or paint and paper capes or paper tubes.

steel wire rod¹¹, the focus and intent of this proceeding is to determine whether the semi-finished garment hangers: (1) Manufactured in the PRC; (2) exported to Angang's facility in Vietnam for completion (by adding PRC-origin paper attachments, such as tubes, PRC-origin latex or glue)¹²; and (3) then exported by Angang to the United States as Vietnamese-origin steel wire garment hangers constitutes circumvention of the *Order* under section 781(b) of the Act.

Surrogate Country and Factor Valuation Comments

In this case, both the country that produced the semi-finished garment hangers and the country that produced the steel wire hangers from the semi-finished garment hangers are considered to be non-market economy ("NME") countries by the Department. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority.¹³ No party has challenged the designation of the PRC or Vietnam as an NME country in this anti-circumvention inquiry. Therefore, we continue to treat the PRC and Vietnam as NME countries for purposes of the preliminary determination of this anti-circumvention inquiry.

On January 7, 2011, the Department determined that India, the Philippines, Indonesia, Thailand, Ukraine, and Peru are countries comparable to the PRC and also determined that Bangladesh, Pakistan, India, Sri Lanka, the Philippines, and Indonesia are countries comparable to Vietnam in terms of economic development.¹⁴ On January

12, 2011, the Department solicited comments from interested parties regarding the selection of a surrogate country and of surrogate factor valuations. On February 11, 2011, Petitioner submitted comments on the selection of a surrogate country. No other interested party commented on the selection of a surrogate country. On February 18, 2011, Petitioner submitted surrogate factor valuation comments. No other interested party submitted surrogate factor valuation comments.

Extension of Determination Deadline

On February 28, 2011, the Department extended the final determination deadline of this anti-circumvention inquiry to November 1, 2011.

Affirmative Preliminary Determination of Circumvention

For the reasons described below, we preliminarily determine that, pursuant to section 781(b) of the Act, circumvention of the *Order* is occurring by reason of exports of semi-finished garment hangers from the PRC imported by, or sold to, Angang and Quiky, and which subsequently undergo further assembly in Vietnam before exportation to the United States.

Quiky

Facts Available

Section 776(a) of the Act requires the Department to rely on facts otherwise available if necessary information is not available on the record or an interested party or any other person: (A) Withholds information requested by the Department; (B) fails to provide requested 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; (C) significantly impedes a proceeding; or (D) provides requested information, but the information cannot be verified as provided in section 782(i) of the Act. One of the Vietnamese companies subject to this anti-circumvention inquiry, Quiky, failed to respond to any of the Department's requests for information. Therefore, we preliminarily find that, pursuant to sections 776(a)(2)(A) and (B) of the Act, it is appropriate to apply facts available to Quiky. In addition, section 776(b) of the Act permits the Department to use an inference that is adverse to the interests of an interested party if that party fails to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, a final determination in the less-than-fair-

value investigation, any previous administrative review, or any other information placed on the record.

At no point during this entire proceeding, did Quiky notify the Department that it was unable to comply with our requests. Quiky's refusal to respond to our questionnaire precludes the Department from making an informed determination based on record evidence as to whether it is (or is not) circumventing the *Order*. In addition, because Quiky failed to provide the Department with any information at all, we are also unable to distinguish between its imports or purchase of semi-finished garment hangers from the PRC for purposes other than assembly into merchandise covered by the *Order*. Consequently, because Quiky refused to comply with the Department's request for information, we find that it failed to cooperate to the best of its ability, and therefore, that an adverse inference is warranted pursuant to section 776(b) of the Act. Accordingly, as an adverse inference, the Department preliminarily finds that all of the hangers produced and/or exported by Quiky to the United States are circumventing the *Order*.

Angang

Applicable Statute

Section 781 of the Act addresses circumvention of antidumping or countervailing duty orders. With respect to merchandise assembled or completed in a third country, section 781(b)(1) of the Act provides that if: (A) The merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping duty order; (B) before importation into the United States, such imported merchandise is completed or assembled in a third country from merchandise which is subject to such an order or is produced in the foreign country with respect to which such order applies; (C) the process of assembly or completion in a third country is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the Department determines that action is appropriate to prevent evasion of an order. The Department, after taking into account any advice provided by the United States International Trade Commission ("ITC"), under section 781(e) of the Act, may include such imported

¹¹ See, e.g., Angang's Questionnaire Response dated January 19, 2011 at 5; Angang's Questionnaire Response dated February 1, 2011 at Exhibit 9; and Angang's Comments dated December 22, 2010 at 2–5.

¹² Angang has reported that the direct materials applied to the PRC-origin, semi-finished hangers are also manufactured in, and supplied from, the PRC. See, e.g., Angang's Questionnaire Response dated November 19, at Exhibit 5; Angang's Questionnaire Response dated March 21, 2011 at 4.

¹³ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007); *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Second Administrative*, 72 FR 13242 (March 21, 2007) ("Fish Fillets Anticircumvention").

¹⁴ See "Memorandum from Carole Showers, Director, Office of Policy, to Catherine Bertrand, Program Manager, China/NME Group, Office 9; Anti-Circumvention Inquiry of the Antidumping Duty Order of Steel Wire Garment Hangers from the People's Republic of China ("PRC"): Request for a List of Surrogate Countries," dated January 7, 2011 ("Surrogate Country List").

merchandise within the scope of an order at any time an order is in effect.

In determining whether the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs the Department to consider: (A) The level of investment in the third country; (B) the level of research and development in the third country; (C) the nature of the production process in the third country; (D) the extent of production facilities in the third country; and (E) whether the value of processing performed in the third country represents a small proportion of the value of the merchandise imported into the United States. However, none of these five factors, by itself, is controlling on the Department's determination of whether the process of assembly or completion in a third country is minor or insignificant.¹⁵ Accordingly, it is the Department's practice to evaluate each of these factors as they exist in the third country depending on the particular anti-circumvention inquiry.¹⁶ Further, section 781(b)(3) of the Act sets forth the factors to consider in determining whether to include merchandise assembled or completed in a third country in an antidumping duty order. Specifically, the Department shall take into account such factors as: (A) The pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble in the merchandise which is subsequently imported into the United States; and (C) whether imports into the third country of the merchandise have increased after the initiation of the investigation which resulted in the issuance of an order.

Statutory Analysis

(A) Whether Merchandise Imported Into the United States Is of the Same Class or Kind as Other Merchandise That is Subject to the Order

The *Order* covers garment hangers produced 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. The merchandise subject to this inquiry is garment hangers exported to the United States by Angang produced from PRC-origin, semi-finished garment hangers.

The Department has reviewed the information provided by Angang in its questionnaire responses and finds that this evidence indicates that Angang's garment hangers, produced from PRC-origin, semi-finished garment hangers and exported to the United States meet the written description of the products subject to the *Order*.¹⁷ Specifically, Angang submitted a product list showing that all the garment hanger types it produced and exported to the United States, which fit the description of the merchandise subject to the *Order*.¹⁸ Further, we preliminarily find that the products identified and described in the product list are no different than those identified in the scope of the *Order*.¹⁹ Angang also indicated that 100 percent of its production is steel wire garment hangers, that 100 percent of its production is for export to the United States, and provided sample invoices and packing lists which show the description of the exported merchandise, which we find also matches the descriptions in the scope of the *Order*.²⁰ Finally, we note that Angang itself admitted that, from September 2008 through August 2010, it sold steel wire hangers that meet the scope of the *Order*.²¹ Accordingly, we find that the merchandise subject to this inquiry is the same class or kind of merchandise as that subject to the *Order*.

(B) Whether, Before Importation Into the United States, Such Imported Merchandise Is Completed or Assembled in A Third Country From Merchandise Which Is Subject to the Order or Produced in the Foreign Country That Is Subject to the Order

As noted above, the merchandise subject to this proceeding are garment hangers exported to the United States that are finished or processed in Vietnam from PRC-origin, semi-finished garment hangers. As stated above,

although Angang has repeatedly noted on the record that it also self-produces garment hangers from steel wire rod,²² we find the fact that Angang self-produces garment hangers from wire rod is irrelevant here. As stated above, the merchandise subject to this proceeding are Angang's exported garment hangers that were further processed from semi-finished garment hangers obtained from the PRC. Angang has also plainly stated on the record that between April 2009 and August 2010, it purchased semi-finished garment hangers from the PRC as a main input and further processed these semi-finished garment hangers by applying either PRC-origin paint or powder coating and paper attachments, which were then packaged as Vietnamese-origin and exported to the United States.²³ Accordingly, we find that the merchandise subject to this anti-circumvention inquiry was completed or assembled in Vietnam from PRC-origin merchandise which is subject to the *Order*.

Whether the Process of Assembly or Completion in the Third Country is Minor or Insignificant

Under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act provides the criteria for determining whether the process of assembly or completion is minor or insignificant. These criteria are:

- (A) The level of investment in the third country;
- (B) The level of research and development in the third country;
- (C) The nature of the production process in the third country;
- (D) The extent of the production facilities in the third country; and
- (E) Whether the value of the processing performed in the third country represents a small proportion of the value of the merchandise imported into the United States.

The SAA at 893 explains that no single factor listed in section 781(b)(2) of the Act will be controlling. Accordingly, it is the Department's practice to evaluate each of the factors as they exist in the United States or foreign country depending on the

²² See e.g., Angang's Comments dated December 22, 2010, at 2–5. The Department notes that the fact that Angang also produces hangers from wire rod is irrelevant here because the products subject to this proceeding are Angang's exported garment hangers that were further processed from semi-finished hangers obtained from the PRC.

²³ See Angang's Questionnaire Response dated October 8, 2010, at Exhibit 1; Angang's Questionnaire Response dated November 19, 2010, at 10; Angang's Questionnaire Response dated October 1, 2010, at Exhibit 1.

¹⁵ See SAA at 893.

¹⁶ See *Certain Tissue Paper Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 73 FR 57591, 57592 (October 3, 2008) ("*Tissue Paper Anti-Circumvention 2008 Final*").

¹⁷ See Angang's Questionnaire Response dated September 7, 2010 at 6–11.

¹⁸ See *id.*

¹⁹ As the product descriptions in the product list are business proprietary information, see Angang Prelim Analysis Memo for further detail.

²⁰ See Angang's Questionnaire Response dated October 12, 2010 at 3 and Exhibit 3.

²¹ See Angang's Questionnaire Response dated November 22, 2010 at 5.

particular anti-circumvention inquiry.²⁴ In this anti-circumvention inquiry, based on the record, we have considered and evaluated each statutory criterion and all factors in determining whether the process of converting the PRC-origin, semi-finished garment hangers in Vietnam were minor or insignificant, in accordance with section 781(b)(2) of the Act, consistent with our analysis in prior anti-circumvention inquiries.²⁵

781(b)(2)(A): The Level of Investment in Vietnam

For purposes of this anti-circumvention inquiry, we analyzed the level of investment in Angang by its Chinese parent company that is associated with converting the PRC-origin, semi-finished garment hangers into finished garment hangers for export to the United States. Specifically, we reviewed the level of investment in Angang for the conversion process by Angang's Chinese parent company and the parent company's Chinese affiliate, Company X, and Angang's investment on its own behalf. Angang reported that its operations in Vietnam for converting PRC-origin, semi-finished garment hangers into garment hangers are comprised of capital investment and equipment sourced in two ways: (1) Equipment and machinery that Angang purchased from its Chinese parent company; and (2) equipment that Angang purchased from other PRC companies.²⁶ Angang stated that its total investment from the Chinese parent company included capital investment and equipment investment.²⁷ Angang also stated that it made its own

equipment investment in October 2008.²⁸ However, we note that Angang also clearly states that "all of these investments were made by its (Chinese) parent company."²⁹ Additionally, Angang identified the types of equipment and where that equipment was used in the production of finished garment hangers, (*i.e.*, Angang identified what type of equipment, such as powder coating, painting, paper tube and paper cape attaching, were used in the processing workshop where the PRC-origin, semi-finished garment hangers were converted to finished garment hangers).³⁰

With respect to the equipment investment, Angang stated that "all equipment was fully invested by" its Chinese parent company and that "all equipment is brand-new and made by" its parent company.³¹ However, while Angang provided a listing of machinery³² obtained for its facility, there were no equipment purchase invoices or receipts provided to the Department, except for one oven and other non-hanger specific machines purchased by Angang.³³ Thus, we find that there is no information on the record of this proceeding to support Angang's claim that the hanger-making machinery supplied by its Chinese parent company was "brand new." The only information placed on the record with respect to Angang obtaining machines specific to garment hanger production is limited to a Vietnamese customs declaration, which: (1) Does not indicate an invoice value; (2) if the machines were even purchased; or (3) whether the machines are brand new or previously used by a PRC company.³⁴ Thus, without any other information on the record to substantiate its claim that the machinery supplied by the parent company, apart from one oven and a few non-hanger specific machines,³⁵ was brand new, we find that the totality of the record does not support Angang's claim that the Chinese parent

company's investment in Angang's production equipment was new investment.³⁶

Moreover, Angang has stated that all the direct materials required to complete the PRC-origin, semi-finished garment hangers were supplied by the Chinese parent company or affiliated Company X.³⁷ Accordingly, based on the totality of the record evidence, we find that the level of investment by Angang for equipment and direct materials used in converting the semi-finished garment hangers to finished garment hangers is minor or insignificant compared to the level of investment provided by the Chinese parent company and its affiliated Chinese Company X.

781(b)(2)(B): The Level of Research and Development ("R&D") in Vietnam

We find that the record evidence for this anti-circumvention inquiry demonstrates that Angang has not undertaken a significant level of R&D in order to process finished garment hangers. In describing the level of R&D in the garment hanger industry in Vietnam, Angang reported that R&D efforts are focused on quality control, work efficiency, and other efforts that were not substantiated by any supporting documentation.³⁸ However, according to Angang, its production of garment hangers began within two months of the set-up of the operations and management teams,³⁹ which we find is not indicative of a young industry that requires significant time for R&D prior to initial production. Furthermore, Angang reported that its Chairman, General Manager, and Production Manager are all previously employed by either the Chinese parent company or its affiliated Chinese Company X.⁴⁰ Accordingly, based on the facts on the record of this anti-circumvention inquiry, we find that the level of R&D in Vietnam was low because Angang employs senior individuals previously employed by its Chinese parent or affiliated producer of garment hangers and because there is no record evidence otherwise demonstrating that the level of R&D in Vietnam was high.

²⁴ See *Tissue Paper Anti-Circumvention 2008 Final*.

²⁵ See, e.g., *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta From Italy: Affirmative Preliminary Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 46571 (August 6, 2003) (*"Pasta Circumvention Prelim"*) (unchanged in *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta From Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003) (*Pasta Circumvention Final*)); and *Hot-Rolled Lead and Bismuth Carbon Steel Products From Germany and the United Kingdom: Negative Final Determination of Circumvention of Antidumping and Countervailing Duty Orders*, 64 FR 40336, 40347-48 (July 26, 1999) (explaining that Congress has directed the Department to focus more on the nature of the production process and less on the difference in value between the subject merchandise and the parts and the imported parts or components and that any attempt to establish a numerical standard would be contrary to the intent of Congress).

²⁶ See, e.g., Angang's Questionnaire Response dated September 17, 2010, at 10-12, and Exhibits 10-12; Angang's Questionnaire Response dated November 19, 2010, at 23-24.

²⁷ See Angang's Questionnaire Response dated September 17, 2010, at 7.

²⁸ See *id.*

²⁹ See *id.*

³⁰ See *id.*, at 14-21.

³¹ See *id.*, at 12.

³² See *id.*, at Exhibit 10.

³³ See Angang's Questionnaire Response dated November 19, 2010 at Exhibit 10.

³⁴ See Angang's Questionnaire Response dated September 17, 2010, at Exhibit 11.

³⁵ See Angang's Questionnaire Response dated November 19, 2010, at Exhibit 10, for the value-added tax ("VAT") invoice of the fuel oven first reported on page 11 of the September 17, 2010, questionnaire response. Angang also provided several VAT invoices for machines that were not previously noted in the September 17, 2010, response, as equipment investments. There is no indication on the record that these machines are used solely for garment hanger production. See Angang Prelim Analysis Memo.

³⁶ See Angang Prelim Analysis Memo at Attachment I.

³⁷ See Angang's Questionnaire Response dated November 19, 2010, at Exhibit 5.

³⁸ See Angang's Questionnaire Response dated September 17, 2010, at 13.

³⁹ See *id.*, at 10.

⁴⁰ See Angang's Questionnaire Response dated September 3, 2010, at 1-2; see also Angang's Questionnaire Response dated September 17, 2010, at 2.

781(b)(2)(C): The Nature of the Production Process in Vietnam

As discussed above, the element of Angang's garment hanger production process in Vietnam that we are reviewing is the conversion of the PRC-origin, semi-finished garment hangers to finished garment hangers. According to Angang, the entire process to produce such garment hangers from steel wire rod occurs in twelve stages.⁴¹ Angang has reported that the process to produce semi-finished garment hangers comprises the first two steps of the twelve-step process and that these two steps are performed in the PRC, while the processes performed in Vietnam to produce "finished" garment hangers comprise the latter ten steps reported.⁴² Angang also provides a very detailed description of each stage of garment hanger production.⁴³

First, the Department notes that Angang's description of the Chinese production processes for the first two steps (wire drawing stage and wire shaping forming stage) appear to be understated in its response compared to information we are placing on the record.⁴⁴ According to Angang, the equipment and labor involved in the wire drawing, cutting, and shaping stages of the production process (which occur in the PRC) are limited, simple, and fully automated.⁴⁵ However, the information we are placing on the record in conjunction with these preliminary results regarding certain garment hanger production processes, indicates that drawing wire rod into wire, cutting wire into pre-determined sizes, and shaping/forming the cut wire into semi-finished garment hangers are more material-labor-energy intensive than intimated by Angang in its responses.⁴⁶

Moreover, Angang's narrative describing these two stages shows an apparent de-emphasis of the importance of these stages. Unlike the other stages (performed in Vietnam), such as paint dipping and glue application, which,

according to Angang, are "technically critical" and require "experienced" workers,⁴⁷ Angang provides scant description of the requirements for the Chinese wire drawing, cutting, and shaping stages. However, the Department notes that, based on information we are placing on the record, gauge and length of the drawn wire are directly and crucially associated with the product code (and the Department's CONNUM), which are determined in the wire drawing, cutting, and shaping/forming processes.⁴⁸ Accordingly, we find that the production processes in Vietnam conducted by Angang in converting the PRC-origin, semi-finished garment hangers to finished garment hangers are minor when compared to the Chinese production process of the steel wire drawing, cutting, and shaping process, which result in the semi-finished garment hanger, the main input to Angang's processing of PRC-origin semi-finished garment hangers.

781(b)(2)(D): The Extent of Production Facilities in Vietnam

In analyzing the extent of Angang's production facilities, we have considered the capital equipment used in the production process, the types of employees, and whether the facilities used by Angang in the conversion process were permanent facilities. Angang states that when it first rented the space in 2007 for a five-year lease term,⁴⁹ the facility had a workshop used to convert PRC-origin, semi-finished garment hangers into finished garment hangers.⁵⁰ A review of the record of the equipment at Angang's rented facility shows that the capital equipment used to convert PRC-origin, semi-finished garment hangers to finished garment hangers only consisted of: (1) Fuel ovens used to dry the powder coating applied to the semi-finished garment hangers; (2) paint vats into which the semi-finished garment hangers are manually dipped while suspended from a metal rod, then dried and "baked"; (3) machines to coat paper tubes with glue, then dried; and (4) machines to attach the paper tubes; (5) and manual paper cape attachment to shirt garment hangers.⁵¹ Packing labor, packing materials, and "warehouse management" were also alleged by Angang to be "crucial" steps in the production

process.⁵² However, the Department finds that Angang has overstated the importance of these steps vis-a-vis the steps relating to wire drawing, wire cutting, and wire shaping/forming, which Angang significantly understated⁵³ when reviewing these same steps in the information we are placing on the record.

Second, the Department is not persuaded by Angang's emphasis on the production steps performed in Vietnam, as several of the steps identified by Angang actually occur within a single step. For example, while Angang identifies stage 3 of the process alone as "Dipping painting and blowing dry,"⁵⁴ Angang's detailed description of stage 3 shows "Stage 3 of the process (including stage 5 and stage 7): Dipping painting and blowing dry (including baking at high temperature and low temperature) * * *."⁵⁵ Angang reported several steps of the production process in this overlapping manner, such that, we find the actual stages of converting semi-finished garment hangers to finished garment hangers to be actually less than the twelve individual stages reported by Angang. Another example of Angang's emphasis of the Vietnam production process is Angang's inclusion of Stage 9: "paper wrapping and packing," as a production stage, which, while may be relevant to Angang's self-produced garment hangers, is not relevant to Angang's completion of PRC-origin, semi-finished garment hangers.⁵⁶ Moreover, Angang included stages of production that are typically not comprised of workers that fit in the "direct labor" category, such as Warehouse Management, Packing, and Loading/Shipping.⁵⁷ We find that Angang's inclusion of these "stages" as actual production stages indicates that Angang has attempted to overstate the nature of the Vietnamese production process for completing PRC-origin, semi-finished garment hangers, which is further contradicted by the information we are placing on the record.⁵⁸

Based on the above descriptions and information we placed on the record, we find that, in contrast to Angang's

⁴¹ See *id.*, at 14. Although Angang reported all twelve stages of production, the first two stages, described as steel wire drawing and molding, were performed in the PRC by Company X.

⁴² See *id.*

⁴³ See *id.*, at 14–21.

⁴⁴ See Angang Prelim Analysis Memo at Attachment I.

⁴⁵ See Angang's Questionnaire Response dated September 17, 2010, at 14–15 (where Angang stated that "the process of wire drawing is technically simple and fully automatic" * * * and "the process of molding is technically simple and fully automatic.")

⁴⁶ See *id.* The information we compared shows that the production of the same products in the PRC requires a fraction of the steps identified by Angang.

⁴⁷ See *id.*

⁴⁸ See Angang Prelim Analysis Memo at Attachment II.

⁴⁹ See Angang's Questionnaire Response dated September 17, 2010, at 10.

⁵⁰ See *id.*, at 10–11.

⁵¹ See Angang's Questionnaire Response dated November 19, 2010, at 7–9.

⁵² See Angang's Questionnaire Response dated September 17, 2010, at 15–17.

⁵³ See *id.*, at 14–15.

⁵⁴ See *id.*, at 14.

⁵⁵ See Angang's Questionnaire Response dated September 17, 2010, at 15.

⁵⁶ See, e.g., Angang's Questionnaire Response dated March 21, 2011, at Exhibit 13.

⁵⁷ See Angang's Questionnaire Response dated September 17, 2010, at 14, 17. See also the Department's supplemental questionnaire dated December 22, 2010, where we individually defined direct labor, indirect labor and packing labor.

⁵⁸ See Angang Prelim Analysis Memo at Attachment I, II, and III.

description of the first two Chinese stages (wire drawing, wire cutting, and wire molding) of the overall production process, the first two Chinese stages require significant equipment and the largest direct material input involved in the process, the remaining Vietnamese stages of the overall production process (conversion of PRC-origin, semi-finished garment hangers using materials that are also produced in the PRC) are limited to painting and drying the semi-finished garment hangers or coating and drying the semi-finished garment hangers, and attaching tubes (affixed with glue and dried) to semi-finished garment hangers.

Angang further stated that intensive training was provided to unskilled workers⁵⁹ in Vietnam before they engaged in processing the semi-finished garment hangers into finished garment hangers.⁶⁰ With regard to the level of employees involved in the conversion of PRC-origin, semi-finished garment hangers to finished garment hangers, Angang reported that experienced, skilled, and responsible workers are necessary for jobs such as “Stage 11: warehouse management” or, “Stage 12: loading and shipping.”⁶¹ However, Angang’s narrative describing the stages for drawing wire into wire rod, cutting the drawn wire, and shaping the wire into hanger forms does not discuss the same requirement for “skilled,” “responsible,” or “experienced” workers, despite, as we stated above, these stages being crucial to the finished product with respect to wire gauge and length.⁶²

Further, we find that Angang over-emphasizes the skill level of its Vietnamese workers, who, according to Angang were trained to be “experienced” and “skilled” with the ability to perform crucial production functions, considering that Angang trained these workers within the reported two-month time period of operations/management set-up (May 2008) and the start of production (July 2008).⁶³ Thus, based on Angang’s submissions and the information we are placing on the record, the Department finds that the cost and labor involved in the stages for the production of the semi-finished garment hangers, as

performed in the PRC in this case, requires as much, if not more, skill than attributed to these stages by Angang, especially when compared to the production stages performed in Vietnam, such as dip-painting or coating paper tubes with latex or glue.⁶⁴

The totality of the information reported by Angang, when compared with the information we are placing on the record, indicates that Angang’s stages of the production process for completing PRC-origin, semi-finished garment hangers are overstated to emphasize the Vietnamese production process versus that of Company X in the PRC, the sole producer of Angang’s imported, semi-finished garment hangers.

781(b)(2)(E): Whether the Value of the Processing Performed in Vietnam Represents a Small Portion of the Value of the Merchandise Imported Into the United States

In prior anti-circumvention inquiries, the Department has explained that Congress directed the agency to focus more on the nature of the production process and less on the difference in value between the subject merchandise and the parts and components imported into the processing country.⁶⁵

Additionally, the Department has explained that, following the Uruguay Round Agreements Act, Congress redirected the agency’s focus away from a rigid numerical calculation of value-added toward a more qualitative focus on the nature of the production process.⁶⁶ In this anti-circumvention inquiry, we note that semi-finished garment hangers as well as certain paper attachments and the other direct material inputs added to the semi-finished garment hangers in Vietnam were manufactured and supplied by Company X in the PRC.⁶⁷ Petitioner’s request for an anti-circumvention inquiry contains clear evidence that the production process of garment hangers

rests mainly with the production of the main (and largest) direct material input: steel wire.⁶⁸ The data therein shows that consumption of steel wire far outweighs the relative consumption of all other inputs.⁶⁹ Thus, because the production process of the semi-finished garment hangers, which involves production of the main input, as well as the source of all the other direct materials, are of PRC-origin, we preliminarily find that the total value of processing performed in the PRC is significant compared to the assembly or completion performed in Vietnam. Therefore, because the entirety of production of the semi-finished garment hangers and the other direct materials applied to those semi-finished garment hangers are of PRC-origin and are supplied by Company X using the main direct material input and significant labor, energy, and equipment,⁷⁰ we find that the processing performed in Vietnam represents a small portion of the total manufacture of the merchandise sold in the United States.

Summary of Analysis of Whether the Process of Assembly or Completion in Vietnam is Minor or Insignificant (Sections 781(b)(1)(C) and 781(b)(2) of the Act)

In sum, pursuant to section 781(b)(1)(C) of the Act, we preliminarily conclude that the record evidence of this anti-circumvention inquiry supports a finding that the process or completion of the PRC-origin, semi-finished garment hangers to finished garment hangers in Vietnam is minor or insignificant. Pursuant to section 781(b)(2)(A) of the Act, we find that the level of investment in Vietnam by Angang in the equipment used to complete the PRC-origin, semi-finished garment hangers is minor compared to the level of investment, both capital and equipment, in the PRC provided by the parent company and its affiliate, Company X. Pursuant to section 781(b)(2)(B) of the Act, we find that the lack of evidence of R&D initiatives by Angang in the production of garment hangers shows that R&D is not a significant factor in Angang’s completion of PRC-origin, semi-finished garment hangers. Pursuant to section 781(b)(2)(C) of the Act, we find that the portion of the overall production process of garment hangers conducted by Angang in assembling or completing

⁵⁹ See Angang’s Questionnaire Response dated November 19, 2010, at 29, where Angang stated that the unskilled Vietnamese workers it hired “knew nothing about the production of wire hangers, and they did not understand the function of the equipment and their operation.” Angang further stated that the intensive training they provided to the unskilled workers took from 15 to 30 days depending on an individual’s learning capabilities.

⁶⁰ See Angang’s Questionnaire Response dated September 17, 2010, at 12.

⁶¹ See *id.*, at 15–17.

⁶² See *id.*, at 14–15.

⁶³ See *id.*, at 10.

⁶⁴ See *id.*, at 15–17; see also Angang Prelim Analysis Memo at Attachment II.

⁶⁵ See, e.g., *Pasta Circumvention Prelim*, 68 FR at 46575 (unchanged in *Pasta Circumvention Final*, 68 FR 54888); and *Lead and Bismuth from Germany and the UK*, 64 FR at 40347. We note that, although these cases involved assembly or processing in the United States under section 781(a) of the Act, the language regarding the value of processing or assembly is essentially the same under both sections 781(a)(2)(E) and (b)(2)(E) of the Act. Accordingly, we find that our prior rationale is equally applicable to value of assembly or processing in a third-country under section 781(b)(2)(E) of the Act.

⁶⁶ See *Pasta Circumvention Prelim*, 68 FR at 46575; and *Lead and Bismuth from Germany and the UK*, 64 FR at 40348.

⁶⁷ See, e.g., Angang’s Questionnaire Response dated November 19, at Exhibit 5; Angang’s Questionnaire Response dated March 21, 2011 at 4.

⁶⁸ See Petitioner’s May 5, 2010, request for an circumvention inquiry at Exhibit 5.

⁶⁹ See *id.*

⁷⁰ See Angang Prelim Analysis Memo at Attachment III, page 8, where information we placed on the record indicates that wire rod is the major cost factor of a finished garment hanger.

the PRC-origin, semi-finished garment hangers into finished garment hangers is limited and minor compared to the Chinese parent company's and Chinese affiliate Company X's share of the overall production process in the production of the semi-finished garment hangers and the other direct materials they supply to Angang to finish the semi-finished garment hangers in Vietnam. Pursuant to section 781(b)(2)(D) of the Act, we find that the extent of Angang's production facilities is minor with respect to completing PRC-origin, semi-finished garment hangers to finished garment hangers because the energy, labor, and capital equipment used by Angang in converting the PRC-origin, semi-finished garment hangers into finished garment hangers is not substantial in comparison to the materials, labor, energy, and capital equipment used by Company X to produce the semi-finished garment hangers. Despite Angang's contention that its labor force is composed of skilled labor, we note that Angang hired primarily unskilled workers,⁷¹ and Angang's facilities were leased, not permanent. Finally, pursuant to section 781(b)(2)(E) of the Act, we find that the value of the processing performed by Angang to convert the PRC-origin, semi-finished garment hangers into finished garment hangers represents a small proportion of the value of the finished merchandise imported into the United States.

Therefore, we preliminarily find that, pursuant to sections 781(b)(2)(A)–(E) of the Act, Angang's processing operation to convert PRC-origin, semi-finished garment hangers into finished garment hangers in Vietnam is minor or insignificant. We have based our decision as to whether the processing operation to convert PRC-origin, semi-finished garment hangers into finished garment hangers is minor or insignificant based on the totality of the record evidence of this anti-circumvention inquiry and have compared the relative information regarding the production processes for Angang and Company X. Specifically, the legislative history to section 781(b) indicates that Congress intended the Department to make determinations regarding circumvention on a case-by-case basis in recognition that the facts of individual cases and the nature of specific industries vary widely.⁷²

⁷¹ See Angang's Questionnaire Response dated November 19, 2010, at 29.

⁷² See *S. Rep. No. 103–412* (1994), at 81–82.

(C) Whether the Value of the Merchandise Produced in the Foreign Country to Which the Order Applies Is a Significant Portion of the Total Value of the Merchandise Exported to the United States

Under section 781(b)(1)(D) of the Act, the value of the merchandise produced in the foreign country to which an antidumping duty order applies must be a significant portion of the total value of the merchandise exported to the United States in order to find circumvention. The major parts and components that consist of the total value of the finished garment hangers exported to the United States are: Semi-Finished garment hangers, coating powder or paint, paper attachments such as tubes, and packaging materials. As discussed in the section *"Whether Merchandise Sold in the United States Is Completed or Assembled in Another Foreign Country from Merchandise Which is Subject to the Order or Produced in The Foreign Country That is Subject to the Order,"* in all instances the semi-finished garment hangers, the coating powder and paint, and paper attachments such as tubes, and glue are all supplied to Angang by either the parent company or the affiliate, Company X, both located in the PRC. Additionally, with the production of these direct materials occurring in the PRC, the remaining production processes to complete or assemble a garment hanger are limited to the application of these imported materials to the PRC-origin, semi-finished hanger, using only some machinery and manual labor. As discussed above, we find that the nature of the production process in the PRC to manufacture the main inputs and the fact that all the direct materials are sourced from the PRC, in addition to the limited production process in Vietnam, shows that a great majority of the value of the finished merchandise is based on the PRC-production of the semi-finished garment hangers and the other direct materials which are applied to those PRC-origin, semi-finished hangers in Vietnam. Based on our analysis and record evidence, we find that the value of the PRC-origin, semi-finished garment hangers taken as a whole constitutes a significant portion of the value of the finished product ultimately exported to the United States.

Other Factors To Consider

In making a determination whether to include merchandise assembled or completed in a foreign country within an order, section 781(b)(3) of the Act instructs us to take into account such factors as: (A) The pattern of trade, including sourcing patterns; (B) whether

affiliation exists between the manufacturer or exporter of the merchandise in the country subject to the order and the person who uses the merchandise to assemble or complete in the third country the merchandise that is exported to the United States; and (C) whether imports into the third country of the merchandise described in section 781(b)(1)(B) have increased since the initiation of the original investigation. Each of these factors is examined below.

(A) Pattern of Trade and Sourcing

The first factor to consider under section 781(b)(3) is changes in the pattern of trade, including changes in the sourcing patterns. To evaluate the pattern of trade in this case, we examined the method in which Angang obtained the semi-finished garment hangers. According to Angang, it started sourcing PRC-origin, semi-finished garment hangers from its Chinese parent company and affiliate Company X in April 2009, to produce garment hangers that Angang exported to the United States.⁷³ Additionally, Angang has stated on the record that it did not purchase PRC-origin, semi-finished garment hangers from any other supplier.⁷⁴ Based on the facts on the record, we find that the fact that Angang sourced all of the semi-finished garment hangers that it purchased from a PRC supplier to produce finished garment hangers that were exported to the United States, supports a finding that circumvention was occurring during this period.

We also examined the timing and quantities of Angang's exports to the United States of garment hangers that were produced from PRC-origin, semi-finished garment hangers since the initiation of the LTFV investigation in September 2007. We note that, based on Angang's reported export data, Angang did not export any garment hangers to the United States until the amended final determination⁷⁵ of the LTFV investigation which determined the dumping rates assigned to the PRC producers/exporters subject to the LTFV investigation.⁷⁶ Further, a review of Angang's quarterly exports shows that from September 2008 to August 2010, Angang's exports of garment hangers significantly increased with the

⁷³ See, e.g., Angang's Questionnaire Response dated October 1, 2010, at Exhibit 1.

⁷⁴ See Angang's Questionnaire Response dated November 19, 2010, at 27–28.

⁷⁵ See *Steel Wire Garment Hangers From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value*, 73 FR 53188 (September 15, 2008).

⁷⁶ See, e.g., Angang's Questionnaire Response dated October 8, 2010, at Exhibit 1a.

additional purchases of PRC-origin, semi-finished garment hangers completed in Vietnam prior to exportation to the United States.⁷⁷ These data indicate that the quarterly volume of Angang's exports of garment hangers produced from PRC-origin, semi-finished garment hangers to the United States was significant subsequent to the initiation of the LTFV investigation. Additionally, we examined import data obtained from the Global Trade Atlas ("GTA") noting the timing and quantities of exports of garment hangers from the PRC to the United States between 2008 and 2009, and exports of garment hangers from Vietnam to the United States between 2008 and 2009, using only HTSUS 7326.20.0020: Garment Wire Hangers Of Iron Or Steel.⁷⁸ A review of the data shows that PRC exports of garment hangers to the United States under this HTSUS category, which is specific to the subject merchandise, decreased by 89 percent between 2008 and 2010, whereas imports to the United States from Vietnam under the identical HTSUS category increased by 77 percent between 2008 and 2010, while there were zero imports from Vietnam under this HTSUS category in 2007.⁷⁹ Accordingly, we find that the data show that PRC exports have decreased significantly whereas Vietnamese exports have increased exponentially since the initiation of the LTFV investigation. Therefore, based on the facts on the record, we find that the pattern of trade has changed since the initiation of the LTFV investigation and the imposition of the *Order* and thus, supports a finding that circumvention has occurred.

(B) Affiliation

The second factor to consider under section 781(b)(3) of the Act is whether the manufacturer or exporter of the semi-finished garment hangers in the country subject to the order is affiliated with the entity that assembles or completes the merchandise exported to the United States. Generally, we consider circumvention to be more likely to occur when the manufacturer of the covered merchandise is related to the third country assembler and is a critical element in our evaluation of

circumvention.⁸⁰ The record evidence of this anti-circumvention inquiry clearly shows that, Angang, a Vietnamese entity, that converted the PRC-origin, semi-finished garment hangers into finished garment hangers, is a wholly-owned subsidiary of a PRC company,⁸¹ which in turn, is affiliated with Company X.⁸² Accordingly, because Angang is wholly owned by the Chinese parent company, we find that Angang, the Chinese parent company, and Company X are affiliated, pursuant to section 771(33) of the Act. Additionally, the record evidence shows that the Chinese parent company and Company X were Angang's sole suppliers of PRC-origin, semi-finished garment hangers, which were produced by Company X in its production facility.⁸³ Further, Company X also produced some of the paper attachments, and both the Chinese parent company and Company X supplied all of the direct materials to Angang, which were used to complete the semi-finished garment hangers in Vietnam.⁸⁴ In sum, we find that the record evidence demonstrates that the relationship between Angang, its Chinese parent company and Company X supports a finding that circumvention of the *Order* may have occurred. For a detailed affiliation analysis, see Angang Prelim Analysis Memo.

(C) Whether Imports Have Increased

The third factor to consider under section 781(b)(3) is whether imports into the third country of the merchandise described in section 781(b)(1)(B) have increased since the initiation of the LTFV investigation. Generally, we consider circumvention to be more likely when imports of semi-finished garment hangers, the merchandise imported from the PRC,

⁸⁰ See, e.g., *Certain Tissue Paper Products From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination*, 73 FR 21580, 21586 (April 22, 2008) ("*Tissue Paper Anti-Circumvention 2008 Prelim*") unchanged in *Tissue Paper Anti-Circumvention 2008 Final*; *Color Picture Tubes from Canada, Japan, Republic of Korea & Singapore: Negative Final Determinations of Circumvention of Antidumping Duty Orders*, 56 FR 9667 (March 7, 1991) and accompanying Issues and Decision Memorandum at Comment 8.

⁸¹ The names of the Chinese parent company and affiliated Company X in the PRC are business proprietary information. For a detailed affiliation analysis, see Angang Prelim Analysis Memo.

⁸² For a detailed affiliation analysis, see Angang Prelim Analysis Memo.

⁸³ See Angang's Questionnaire Response dated September 17, 2010, at 8.

⁸⁴ See Angang's Questionnaire Response dated March 21, 2011, at 4.

have increased into Vietnam.⁸⁵ Because Angang began importing semi-finished garment hangers from the PRC in April 2009, which is six months after the issuance of the *Order*, under a basket category in the PRC's Harmonized Tariff Schedule ("HTSCN"): HTSCN 8308.90.9000: "Claps, Buckles & Like, Beads & Spangles of Base Metal," we reviewed Angang's imports of PRC-origin, semi-finished garment hangers, which shows a steady increase in PRC exports to Vietnam since 2007.⁸⁶ The Department finds that Angang's imports of PRC-origin, semi-finished garment hangers, under the HTSCN number reported by Angang, were at their highest levels in the months after the issuance of the *Order* in 2008 through 2010.⁸⁷ Although HTSCN 8308.90.9000 does not necessarily provide PRC export data specific to semi-finished garment hangers, we find that Angang's description of the imported PRC-origin, semi-finished garment hangers accompanied by sample invoices from affiliated Company X to Angang were sufficient for us to determine that there were exports from the PRC to Vietnam of merchandise that fits the description of the scope of the *Order*.

In any case, upon review of PRC exports of HTSCN 8308.90.9000 between 2007 and 2010, the Department finds that PRC exports to Vietnam have steadily increased since the initiation of the LTFV investigation. Specifically, the Department finds that the PRC total exports of HTSCN 8308.90.9000 to Vietnam increased by 28.77 percent between 2007 and 2009, and a 15.31 percent increase between 2008 and 2010. This increase corresponds with the initiation of the LTFV investigation and issuance of the *Order*. Accordingly, we find that both the increase in Angang's imports of PRC-origin, semi-finished garment hangers and the increase in PRC exports to Vietnam since the initiation of the LTFV investigation supports a finding that circumvention may have occurred.

Summary of Analysis

As discussed above, in order to make an affirmative determination of

⁸⁵ See, e.g., *Tissue Paper Anti-Circumvention 2008 Prelim* unchanged in *Tissue Paper Anti-Circumvention 2008 Final*.

⁸⁶ See Angang Prelim Analysis Memo at Attachment IV. We acknowledge that the HTS number provided by Angang for its imports of PRC-origin, semi-finished hangers is a basket category; nevertheless, the import quantities still show a steady increase from 2007 through 2010. This is also consistent with the import quantities of HTSCN 7236.20.90: "Articles Of Iron/Steel Wire, Nes, Not For Technical Use," which is similar to the "clean" HTSUS that is part of the scope of the *Order*.

⁸⁷ See *id.*

⁷⁷ See Angang's Questionnaire Response dated October 8, 2010 at Exhibit 1a; Angang's Questionnaire Response dated October 1, 2010 at Exhibit 1.

⁷⁸ See Angang Prelim Analysis Memo at Attachment IV. We used a 2008 to 2010 comparison because there was no import data from Vietnam for this HTSUS category in 2007.

⁷⁹ See *id.*

circumvention, all the elements under sections 781(b)(1) of the Act must be satisfied, taking into account the factors under section 781(b)(2). In addition, section 781(b)(3) of the Act instructs the Department to consider, in determining whether to include merchandise assembled or completed in a foreign country within the scope of an order, such factors as: pattern of trade, affiliation, and whether imports into the foreign country of the merchandise described in section 781(b)(1)(B) have increased after the initiation of the investigation.

With respect to Quyky, we preliminarily find that Quyky has circumvented the *Order* because it failed to provide the Department with any information at all, thus we are unable to distinguish between its imports or purchase of semi-finished garment hangers from the PRC for purposes other than assembly into merchandise covered by the *Order*. Consequently, because Quyky refused to comply with the Department's request for information, we find that it failed to cooperate to the best of its ability, and, therefore, that an adverse inference is warranted pursuant to section 776(b) of the Act. Accordingly, as stated above, as an adverse inference the Department preliminarily finds that all of the garment hangers produced and/or exported by Quyky to the United States are circumventing the *Order*. Therefore, in light of our preliminary determination, the Department will instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation on all entries of garment hangers produced and/or exported by Quyky that were entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the anti-circumvention inquiry.

Further, with respect to Angang, we preliminarily find that Angang has circumvented the *Order* in accordance with section 781(b)(1) and (2) of the Act. Pursuant to section 781(b)(1) of the Act, we find that the merchandise sold in the United States is within the same class or kind of merchandise that is subject to the *Order* and was completed or assembled in a third country. Additionally, pursuant to section 781(b)(2), we find that the process or assembly of the PRC-origin semi-finished garment hangers into finished garment hangers by Angang is minor and insignificant. Furthermore, in accordance with section 781(b)(1)(D) of the Act, we find that the value of the merchandise produced in the PRC is a significant portion of the total value of the merchandise exported to the United States. While Angang did provide

documentation showing quantity and value for PRC-origin, semi-finished garment hangers and the garment hangers it self-produces in Vietnam,⁸⁸ Angang has also reported that it "cannot further differentiate the source of each final product because the pre-formed steel wire that Angang procures from the PRC are stored in the same warehouse as the hanger forms that Angang itself fashions from purchased steel wire rod."⁸⁹ Therefore, because it appears from the record that Angang's garment hangers are commingled prior to exportation to the United States, we preliminarily determine that Angang has not demonstrated on the record that there is a way for CBP to distinguish between the garment hangers which we preliminarily find to be circumventing the *Order* and the garment hangers which are self-produced by Angang. Furthermore, the Department has an obligation to administer the law in a manner that prevents evasion of the *Order*.⁹⁰ Section 781(b)(1)(E) of the Act directs the Department to take necessary action to "prevent evasion" of antidumping and countervailing duty orders when it concludes that "merchandise has been completed or assembled in other foreign countries" and is circumventing an order, therefore, we find that action is appropriate to prevent evasion of the *Order*.

Thus, we find affirmative evidence of circumvention in accordance with section 781(b)(1) and (2) of the Act. Moreover, we find the factors required by section 781(b)(3) of the Act indicate that there is circumvention of the *Order*. Consequently, our statutory analysis leads us to find that during the period of time examined there was circumvention of the *Order* as a result of Angang's assembly of the PRC-origin, semi-finished garment hangers into finished garment hangers in Vietnam for export to the United States, as discussed above. Therefore, in light of our preliminary determination, the Department will instruct CBP to suspend liquidation on all entries of garment hangers produced and/or exported by Angang that were entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the anti-circumvention inquiry.

⁸⁸ See Angang's Questionnaire Response dated October 8, 2010, at Exhibit 1.

⁸⁹ See Angang's Questionnaire Response dated November 19, 2011, at 12–13.

⁹⁰ See, e.g., *Tung Mung Development v. United States*, 219 F. Supp. 2d 1333, 1343 (CIT 2002), affirmed 354 F.3d 1371 (January 15, 2004) (finding that the Department has a responsibility to prevent the evasion of payment of antidumping duties).

Should the Department conduct an administrative review of the *Order* in the future, both Quyky and Angang will have the opportunity to provide information related to their use of PRC-origin or self-produced garment hangers so that the appropriate assessment rate can be determined.

Suspension of Liquidation

As stated above, the Department has made a preliminary affirmative finding of circumvention of the *Order* by both Quyky and Angang. In accordance with section 733(d) of the Act, the Department will direct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the PRC-wide rate of 187.25 percent, on all unliquidated entries of garment hangers produced and/or exported by Angang and Quyky that were entered, or withdrawn from warehouse, for consumption on or after July 16, 2010, the date of initiation of the anti-circumvention inquiry.

Notification to the International Trade Commission

The Department, consistent with section 781(e) of the Act, has notified the ITC of this preliminary determination to include the merchandise subject to this anti-circumvention inquiry within the antidumping duty order on garment hangers from the PRC. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning the Department's proposed inclusion of the subject merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 15 days to provide written advice to the Department.

Public Comment

Because the Department may seek additional information, the Department will establish the case and rebuttal brief schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309.

Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days after the date of publication of this notice, pursuant to 19 CFR 351.310. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's

rebuttal brief. If a hearing is requested, we will notify those parties that requested a hearing of a hearing date and time.

Final Determination

The final determination with respect to this anti-circumvention inquiry will be issued no later than November 1, 2011, including the results of the Department's analysis of any written comments. This preliminary affirmative circumvention determination is published in accordance with section 781(b) of the Act and 19 CFR 351.225.

Dated: May 3, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 110425262-1258-02]

Evaluating Test Procedures for Voting Systems

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: NIST is soliciting interest in supplying voting equipment used in an election in 2008 or later and/or certified (or submitted for certification) by the Election Assistance Commission for use by NIST in research to develop and assess NIST's test procedures for voting equipment. Manufacturers interested in participating in this research will be asked to execute a Letter of Understanding. Interested parties are invited to contact NIST for information regarding participation, Letters of Understanding and shipping.

DATES: Manufacturers who wish to participate in the program must submit a request and an executed Letter of Understanding by 5 p.m. Eastern Standard Time on July 11, 2011.

ADDRESSES: Letters of Understanding may be obtained from and should be submitted to Benjamin Long, National Institute of Standards and Technology, Software and Systems Division, Building 222, Room B306, 100 Bureau Drive, Mail Stop 8970, Gaithersburg, MD 20899-8970. Letters of Understanding may be faxed to: Benjamin Long at (301) 975-6097.

FOR FURTHER INFORMATION CONTACT: For shipping and further information, you

may telephone Benjamin Long at (301) 975-2816, or *e-mail:* blong@nist.gov.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Help America Vote Act (Pub. L. 107-252), the National Institute of Standards and Technology (NIST) will be conducting research on voting equipment used in an election in 2008 or later and/or certified (or submitted for certification) by the Election Assistance Commission to develop and assess NIST test protocols for voting equipment. NIST research is designed to: (1) Develop advanced test protocols, (2) validate test protocols, and (3) support additional research and test protocol development for next generation voluntary voting system guidelines. NIST may also examine relevant instructions, documentation, and error messages, without doing any direct studies thereon.

NIST is soliciting interest in supplying voting equipment used in an election in 2008 or later and/or certified (or submitted for certification) by the Election Assistance Commission for use by NIST in research to develop and assess NIST's test procedures for voting equipment. Interested manufacturers should contact NIST at the address given above. NIST will supply a Letter of Understanding, which the manufacturer must execute and send back to NIST. The Letters of Understanding will be entered into pursuant to the authorities granted NIST under 15 U.S.C. 3710a. NIST will then provide the manufacturer with shipping instructions for the manufacturer's equipment. NIST anticipates that it will take approximately two years to conduct all necessary experiments to the equipment. No modification to the equipment is permitted during the testing process beyond that which is necessary and sufficient for performing test method validation activities. Manufacturers should be aware that some of the testing could damage or destroy the equipment, although NIST expects only normal wear and tear. NIST may transport equipment to locations off site from NIST's main campus as required for the purpose of conducting usability tests. NIST will ensure that all off site benchmark testing locations have the same or higher level of security and equipment protection procedures as the on-site NIST labs located in the Voting System Laboratory in Gaithersburg, MD. At the conclusion of the experiments, the equipment will be returned to the manufacturer in its post-testing condition. NIST, the Election Assistance Commission, and/or the Technical Guidelines Development

Committee, will not be responsible for the condition of the equipment when returned to the manufacturer. As a condition for participating in this program, each manufacturer must agree in advance to hold harmless all of these parties for the condition of the equipment.

Information acquired during the tests regarding potential problems will be reported to the respective manufacturer. Testing results for identifiable vendor equipment will not be released subject to the terms and conditions in the Letters of Understanding. Comparative information (e.g., testing results from unidentified machine A, B, and C) may be released in a blind manner. Performance standards, benchmarks and conformance test procedures will be made publicly available.

Participating manufacturers should include or provide a technical tutorial on the setup and deployment of the equipment. NIST will pay all shipping costs except those not permitted by law (such as shipping insurance, which, if desired, must be purchased by the manufacturer). Unless the manufacturer desires to pay such shipping insurance costs, there is no other cost to the manufacturer for the testing.

Voting equipment used in an election in 2008 or later and/or certified (or submitted for certification) by the Election Assistance Commission that will be accepted for the experiments may include direct record electronic systems, optical scan systems, accessible voting systems, tabulation and reporting systems, ballot-on-demand, or electronic poll book systems as well as software used for ballot design and creation.

Dated: May 4, 2011.

Charles H. Romine,

Acting Associate Director for Laboratory Programs.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA420

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Applications for two new scientific research permits.