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MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Antidumping Duty Investigation of Lightweight Thermal Paper from the People's Republic of China: Issues and Decision Memorandum

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SUMMARY:

We have analyzed the case and rebuttal briefs submitted by interested parties in the antidumping investigation of lightweight thermal paper from the People's Republic of China. As a result of our analysis, we have made changes to the margin calculations in the Preliminary Determination. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues for which we received comments from interested parties. Please see the appendix for a list of abbreviations and acronyms, as well as short citations for case determination *Federal Register* notices and memoranda, and court decisions, used throughout the memorandum.

I. GENERAL ISSUES

II. ISSUES SPECIFIC TO GUANHAO

III. ISSUES SPECIFIC TO HANHONG

Comment 11: Invoice Date

DISCUSSION OF THE ISSUES

I. GENERAL ISSUES

Comment 1: Surrogate Country

Hanhong argues that the Department should reconsider its decision to use India as the primary surrogate country because the record now contains more complete surrogate data for Indonesia. Hanhong states that prior to the Preliminary Determination, the Department determined that both India and Indonesia are at a level of economic development comparable to that of the PRC, and that both India and Indonesia are significant producers of comparable merchandise.[1] Hanhong points to the Surrogate Country Selection Memo, where the Department found that "certain significant factors of production such as jumbo coated rolls of thermal paper are available in the Indian HTS data, but are only available in broad HTS data categories in the Indonesian HTS data," and that while there are "three financial statements on the record for the Indian producers of comparable merchandise from which surrogate financial information ratios may be derived, there are no financial statements on the record from Indonesian producers of comparable merchandise."[2] Hanhong also notes that on April 11, 2008, ten days before the Surrogate Country Selection Memo was issued, Hanhong placed on the record Indonesian financial statements of a producer of comparable merchandise.[3]

Hanhong asserts that evidence on the record supports its contention that the Indian surrogate value used by the Department in the Preliminary Determination for Hanhong's material input (i.e., CJRs) is wholly inadequate. Specifically, Hanhong provided data it claims represent appropriate benchmarks for testing the adequacy of the Indian data. See Comment 10 for a summary of Hanhong's arguments with respect to this issue. In addition, Hanhong argues that when determining the adequacy of the CJR data, the Department should consider the fact that CJRs account for a significant percentage of Hanhong's COM. Hanhong contends that the NME Surrogate Selection Policy Bulletin directs the Department to use the best available information and to calculate AD margins as accurately as possible.[4] Hanhong argues that even though the Department found prior to the Preliminary Determination that the Indonesian HTS categories are broad, record evidence nonetheless supports that these broad categories are not distorted or aberrational. Hanhong also contends that the Indian surrogate value (i.e., WTA import statistics for CJRs, HTS category 4811.90.94) used to value Hanhong's CJR material input in the Preliminary Determination is distorted and aberrational.

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[1] Citing Surrogate Country Selection Memo.

[2] Citing Surrogate Country Selection Memo at page 9.

[3] Citing Hanhong's Pre-Preliminary Determination Comments at Attachment 1.

[4] Citing NME Surrogate Selection Policy Bulletin at page 4, which states "data quality is a critical consideration affecting surrogate country selection. After all, a country that perfectly meets the requirements of economic comparability and significant producer is not much use as a primary surrogate if crucial factor price data from that country are inadequate or unavailable."

Additionally, Hanhong states that since the Preliminary Determination, it placed on the record Indonesian surrogate values for all of Hanhong's and Guanhao's FOPs, energy information, movement costs, transportation costs,[5] and financial statements from which the Department can calculate Indonesian financial ratios.[6] Hanhong argues that the Department should reject Petitioner's claim that the Indonesian financial statements cannot be used because the companies are subsidized and because: 1) the totality of record evidence indicates that Indonesia offers the best available information; 2) the Department in OTR Tires – PRC 7/15/08 explained that when the information is the best available, as it is LWTP, the Department will overlook the subsidy issue; 3) there is no indication of distortions; 4) the "subsidized" companies' financial ratios are higher than those used from India in the Preliminary Determination; and 5) there is no record evidence that the Indonesian company (i.e., Fajar) is subsidized.

Furthermore, Hanhong argues that the Indonesian data more accurately reflect all significant values, while the Indian data in which the surrogate value for the crucial FOP, accounting for a significant percentage of COM, are aberrational and distorted. Hanhong asserts that, based on the totality of the record evidence, the Indonesian data represent the best available information from which the Department can most accurately calculate Hanhong's AD margin. Lastly, Hanhong argues that if the Department continues to use India as the surrogate country, then, at a minimum, the Department should use an Indonesian surrogate value for the CJR FOP.

In rebuttal, Petitioner argues that the Department should continue to use India as the surrogate country in the final determination because Hanhong has not shown that the submitted Indonesian surrogate value data and financial statements are more reliable or accurate than the corresponding Indian data. Petitioner further argues that for the final determination, the Department should calculate the surrogate financial ratios using Indian financial statements as described in Comment 2.

Petitioner argues that Hanhong's argument is premised entirely on the assumption that the Indonesian surrogate value information for CJRs is more reliable and accurate than the Indian information and that Hanhong's assumption that the Indonesian surrogate value information for CJRs is more reliable is not correct and references its argument on CJRs in Comment 10. Petitioner also argues that even if there were usable Indonesian surrogate value information for CJRs, there is no usable Indonesian financial statement on the record. Additionally, Petitioner contends that Hanhong submitted the financial statements of companies involved in the recent Indonesian coated free sheet paper investigation (i.e., Pindo Deli, Tjiwi Kimia, and Indah Kiat)[7] where the Department found that these companies received subsidies, such as the

[5] Citing Hanhong Surrogate Value Submission at Exhibits 7, and 9 through 11.

[6] Citing Hanhong's Pre-Preliminary Determination Comments at Attachment 1 and Hanhong's Surrogate Value Submission at Exhibit 8.

[7] Citing Hanhong's Surrogate Value Submission at Exhibit 8.

provision of timber by the Indonesian government for less than adequate remuneration,[8] subsidized loans for reforestation,[9] and debt forgiveness.[10]

Petitioner argues that when the Department calculates surrogate financial ratios, it is the Department's practice not to use financial statements for companies when there is "reason to believe or suspect that the company may have received subsidies."[11] Petitioner asserts that Hanhong presents no compelling reason for the Department to "overlook the subsidy issue." Petitioner contends that there are numerous Indian financial statements on the record that do not have subsidies and the Department should continue using India as the primary surrogate country. Petitioner also argues that the financial statements for Fajar are inappropriate, as Fajar is not a proper surrogate company for valuing financial ratios in this investigation because Fajar does not make any paper products that are comparable to LWTP; rather, Fajar makes packaging materials (e.g., cardboard boxes) from recycled waste.[12]

Department's Position: The process of selecting an appropriate surrogate country for an NME is a crucial element of an NME proceeding, particularly since the regulations direct the Department to normally value all of the NME FOPs with data from the primary surrogate country. See 19 CFR 351.408(c)(2). Customarily, we select an appropriate surrogate country from the Surrogate Country Policy Memo based on the availability and reliability of data from the countries that are significant producers of comparable merchandise.[13] In our Preliminary Determination, following the guidance outlined in the NME Surrogate Selection Policy Bulletin in selecting a surrogate country, we found that both India and Indonesia were significant producers of LWTP because both countries had exports of subject merchandise during the POI. We selected India as the primary surrogate country in the Preliminary Determination because we found that India: 1) is at a level of economic development comparable to that of the PRC; 2) is a significant producer of comparable merchandise (i.e., LWTP); and 3) has publicly available and reliable data.[14]

With respect to data considerations in selecting a surrogate country, the NME Surrogate Selection Policy Bulletin states:

> . . . if more than one country has survived the selection process to this point, the country with the best factors data is selected as the primary surrogate country. . .

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[8] Citing CFS Indonesia 10/25/07 IDM at pages 18-24.

[9] Citing CFS Indonesia 10/25/07 IDM at pages 35-36.

[10] Citing CFS Indonesia 10/25/07 IDM at pages 36-46.

[11] Citing CFS – PRC 10/25/07 IDM at Comment 3.A and Crawfish – PRC 4/17/07 IDM at Comment 1.

[12] Citing Petitioner's Pre-Preliminary Determination Comments at Exhibit 1.

[13] See Preliminary Determination at 27507.

[14] See Preliminary Determination at 27507.

> In assessing data and data sources, it is the Department's stated practice to use investigation or review period-wide price averages, prices specific to the input in question, prices that are net of taxes and import duties, prices that are contemporaneous with the period of investigation or review, and publicly available data.[15]

At the preliminary stage of this investigation, we thoroughly examined the data submitted by interested parties with respect to several major and minor FOPs. Based on our examination of record evidence, at the Preliminary Determination we determined that contemporaneous product-specific values for significant FOPs such as CJRs of thermal paper were available with respect to India but not with respect to Indonesia. Thus, in the Preliminary Determination, we selected India as the primary surrogate country for purposes of this investigation.

Regarding Hanhong's argument that Indonesia is a more appropriate surrogate country because WTA Indian import statistics for CJRs are distorted and aberrational while those for CJRs are not, we disagree. After examining the record evidence, we found no evidence to support Hanhong's claim that Indian import data for CJRs are distorted and aberrational. See Comment 10. Further, we continue to find that the WTA Indian import data for CJRs based on HTS category 4811.90.94 are specific to CJRs (i.e., "thermal paper in jumbo rolls (size 1 meter and above in width and 5,000 meter and above in length)") while the Indonesian HTS categories 4811.40.000 ("paper and paperboard, coated, impregnated or covered with wax, paragon wax, stearin, oil or glycerol") and 4809.10.000 ("carbon and similar copying papers") represent much broader categories. See Comment 10. Based on our examination of the record evidence,[16] we continue to find that the contemporaneous WTA Indian import statistics for CJRs represent the best available information for valuation purposes. Thus, we cannot conclude, based on valuation of CJRs, that Indonesia is a more appropriate surrogate country in the context of this investigation.

With respect to Hanhong's assertions regarding the availability of Indonesian financial statements, first we note that the Department's stated deadline for comments on the selection of the surrogate country was no later than February 5, 2008.[17] In our Surrogate Country Request for Comments Letter, we specifically requested that interested parties submit information by the stated deadline regarding the selection of a single surrogate country and to provide the following information regarding that country: 1) information on whether the country is a significant producer of merchandise comparable to the merchandise subject to this investigation; 2) information regarding data availability and quality of the data available within that single country for the major FOPs used to produce the merchandise subject to this investigation; and 3) information regarding data availability and quality of financial statements available within that single country for producers of merchandise identical or comparable to the merchandise subject to this investigation. In determining a surrogate country for the Preliminary Determination, Hanhong did not provide the requested information by the

[15] See Surrogate Country Selection Memo at page 9.

[16] See Comment 10.

[17] See Surrogate Country Request for Comments Letter in which we requested comments on surrogate country selection.

Department's stated deadline (i.e., it submitted it on February 5, 2008, 34 days late).

Nonetheless, we address below Hanhong's argument with respect to subsidies reflected in the Indonesian financial statements. Hanhong argues that we should overlook the subsidy issue. We disagree. The statute directs the Department to base the valuation of the FOPs on "the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate . . ." See section 773(c)(1) of the Act. Additionally, in valuing such factors, Congress further indicated that the Department should "avoid using any prices which it has reason to believe or suspect may be dumped or subsidized prices." See OTCA Legislative History at 590-91. Further, 19 CFR 351.408(c)(4) stipulates that the Department normally will value manufacturing overhead, SG&A expenses and profit using "non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country." In complying with the statute and the regulations, the Department calculates the financial ratios based on contemporaneous financial statements of companies producing comparable merchandise from the surrogate country, some of which may contain evidence of subsidization. However, where the Department has reason to believe or suspect that the company producing comparable merchandise may have received a subsidy, the Department has countervailed in the context of a CVD proceeding, it may consider the financial ratios derived from that company's financial statement less representative of the financial experience of the relevant industry than the ratios derived from financial statements that do not contain evidence of such countervailed subsidies. Consequently, the Department does not rely on a financial statement where there is evidence that the company received countervailable subsidies and there are other reliable and representative data on the record for purposes of calculating surrogate financial ratios. See OTR Tires – PRC 7/15/08 IDM at Comment 17.A and Shrimp-PRC 9/12/07 IDM at Comment 2, citing Crawfish-PRC 4/17/07 IDM at Comment 1, where the Department determined that the financial statements of several companies that had received countervailable subsidies did not constitute the best available information to value the surrogate financial ratios and, consequently, did not use them.

The Department has relied upon financial statements with some evidence of subsidization when the record evidence does not conclusively support a finding that the company received a subsidy previously found by the Department to be countervailable. For example, the Department determined in certain frozen fish fillets from Vietnam that it was appropriate to use a financial statement where there was insufficient information on the record regarding the subsidy program to warrant disregarding the financial statement. See Fish Fillets – Vietnam 3/21/07 IDM at Comment 9. The Department also has previously accepted the financial statement of a surrogate producer (Pidilite) which contained evidence that the company received a subsidy that the Department had found to be countervailable.[18] However, in that case the only other reliable alternative was Reserve Bank of India data, which were not industry-specific and comprised two sets of data, one based on 997 selected public limited companies based in India and the other based on 2,204 selected public limited companies based in India.[19] Consequently, the Department found, in that case, that the financial ratios of Pidilite, a producer of identical merchandise, represented the best available information on the

[18] See CVP 23 – PRC 11/17/04 IDM at Comment IV.A.1.b

[19] See CVP 23 – PRC 11/17/04 IDM at Comment 1(summary of parties' comments).

record in comparison to the extremely broad-based data from the Reserve Bank of India. See CVP 23 – PRC 11/17/04 IDM at Comment 1.

In the instant case, we have determined that the financial statements submitted by Hanhong for the Indonesian companies (i.e., Pindo Deli, Tjiwi Kimia, and Indah Kiat) are not appropriate for use because in CFS – Indonesia 10/25/07, the Department found that these companies received countervailable subsidies from the Indonesian Government.[20] Therefore, for purposes of this final determination, we find that the financial statements of Pindo Deli, Tjiwi Kimia, and Indah Kiat are not representative of the financial experience of the relevant industry in Indonesia and thus not appropriate for use in determining surrogate financial ratios.

We also find that Fajar's Indonesian financial statement is not suitable for use in determining surrogate financial ratios because Fajar's financial statement indicates that it is not a producer of identical or comparable merchandise.[21] Guidance regarding surrogate values for manufacturing overhead, general expenses, and profit is provided by 19 CFR 351.408(c)(4), which states that these values will normally be based on public information from companies that are in the surrogate country and that produce merchandise that is identical or comparable to the subject merchandise.[22] While the statute does not define "comparable merchandise," it is the Department's practice to apply a three-prong test to determine "comparable merchandise" that considers 1) physical characteristics, 2) end uses, and 3) production processes.[23] We have evaluated Fajar's production based on the three-prong test and, after examining record evidence (i.e., Fajar's financial statement), have determined that Fajar is not a producer of "comparable merchandise." According to record evidence, Fajar's financial statement does not identify the products Fajar manufactures and it indicates that the company's only business segment is packaging paper. While Fajar's financial statement does indicate that it is a producer of merchandise (i.e., note 18 lists manufacturing costs), Fajar's financial statement fails to identify the raw materials used or describe the production processes employed.[24] Thus, the record evidence does not support a conclusion that Fajar's production is comparable to that of LWTP producers.

As a result of the above, based on our examination of record evidence, the Department has determined that there are no usable Indonesian financial statements on the record from which to derive surrogate financial ratios. Moreover, as noted above, the Department finds that India continues to provide the best available information with respect to valuation of CJRs. Thus, we cannot conclude for purposes of this final determination that Indonesia represents a more appropriate surrogate country as compared to India. As we continue to find that: 1) India is at a comparable level of economic development to the PRC; 2) India is a significant producer of comparable merchandise; and 3) India provides the best opportunity to use quality, publicly

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[20] See CFS – Indonesia 10/25/07 IDM at pages 18-24, 29-30, and 35-46.

[21] See Hanhong's Pre-Preliminary Determination Comments at Attachment 1.

[22] See, e.g., CLPP-PRC 9/08/06 IDM at Comment 1.

[23] See Pencils – PRC 7/25/02 IDM at Comment 5.

[24] See, Hanhong's Pre-Preliminary Determination Comments at Attachment 1.

available data to value the FOPs, in accordance with 19 CFR 351.408(c)(2), we find that India is the most appropriate primary surrogate country for determining surrogate values in this investigation.

With respect to Indian financial statements, in the Preliminary Determination, we calculated surrogate financial ratios using financial statements for only two of the three Indian producers of comparable merchandise for which data were submitted. After the Preliminary Determination, interested parties submitted seven additional Indian financial statements for the record. See Comment 2 for a detailed explanation of the rejection of these additional statements.

Comment 2: Financial Statements

Hanhong argues that if the Department continues to use India as the surrogate country for the final determination, the Department should include the following Indian companies in its financial ratio calculations: Air Paper,[25,26] Parag,[27] Alpha Carbon,[28] and Shree Krishna.[29]

Hanhong and Guanhao assert that Air Paper's financial statements are more representative of Hanhong's production than the other financial statements on the record because Air Paper is a "producer convertor" of thermal paper.[30] Hanhong and Guanhao also contend that it is the Department's preference to use multiple financial statements to calculate surrogate financial ratios for overhead, SG&A and profit when there are similar financial statements on the record.[31]

Hanhong argues that in the Preliminary Determination, the Department did not use Shree Krishna's financial statements in its financial ratio calculations and provided no explanation for not doing so.[32] Hanhong and Guanhao claim that the Department specifically relied upon Shree Krishna's financial statement in its determination and analysis of whether India is a significant producer of comparable merchandise in its selection of India as a surrogate country.[33] Hanhong contends that in the Indian Government's investigation of imports of

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[25] Citing Hanhong's Surrogate Value Submission at Exhibit 14.

[26] See Petitioner's Surrogate Value Submission at Exhibit 2.

[27] See Petitioner's March 19, 2008 Submission at Exhibit 1.

[28] See Petitioner's March 19, 2008 Submission at Exhibit 2.

[29] See Petitioner's Surrogate Value Submission at Exhibit 2 for Shree Krishna's 2007 financial statement. See also Petition at Volume II, Exhibit II-2 for Shree Krishna's 2006 financial statement.

[30] Citing Hanhong's Surrogate Value Submission at Exhibit 14. Also, Hanhong provided its financial ratio calculations for Air Paper in Exhibit 6 of its case brief.

[31] Citing FMTCs – PRC 12/17/07 IDM at Comment 1.

[32] Citing Preliminary FOP Memo at pages 8 and 9.

[33] Citing Surrogate Country Selection Memo at page 9.

thermal sensitive paper into India, the Indian Government indicated that Shree Krishna is the only significant producer of LWTP in India.[34] Additionally, Guanhao notes that Petitioner recommended that the Department use data from Shree Krishna's financial statements to value base paper. Hanhong argues that the Department's failure to use Shree Krishna's financial ratio calculations in the final determination, whether or not they are contemporaneous with the POI, would make the Department's use of India as the surrogate country that much more distortive.

In rebuttal, Petitioner argues that, consistent with the Department's practice,[35] the Department should reject Hanhong's argument that the Department should include Air Paper in the financial ratio calculations, because Air Paper's financial statements do not include its "Schedule F - Fixed Assets" schedule.[36] Petitioner contends that Air Paper's fixed asset schedule is essential in determining whether Air Paper is a true manufacturer or merely a distributor, because the fixed asset schedule would reveal the nature of the company's assets (e.g., factory, production equipment, offices, etc.).

Also, Petitioner argues that, consistent with the Department's practice,[37] it should not include Shree Krishna in its financial ratio calculations, as Hanhong suggests, because Shree Krishna's financial statement indicates that it had no profit for the year ending March 31, 2007.[38] Petitioner contends that it is the Department's practice to disregard financial statements of unprofitable companies when other financial statements are available. Petitioner argues that the Department should not use Shree Krishna's financial statement for the year ending March 31, 2006, because there are financial statements on the record for other companies that 1) are contemporaneous with the POI, and 2) are profitable.[39] Thus, Petitioner argues that there is no reason to include Shree Krishna in the surrogate financial ratio calculations.

In rebuttal, Guanhao agrees with Hanhong that the Department should include Shree Krishna's financial statements in its financial ratio calculations because: 1) the company's financial ratios are already on the record; 2) the Department relied on the company's financial statement in its determination that India is a significant producer of the merchandise under investigation; and 3) Petitioner recommended that the Department use data from Shree Krishna's financial statements to value base paper. Additionally, Guanhao also states that it supports Hanhong's

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[34] Citing Hanhong's Surrogate Value Submission at page 15 (stating that "{Shree Krishna} is the sole producer of subject merchandise in 1999, and finding that Shree Krishna accounted for 74 percent the total subject merchandise production in 2002-3").

[35] Citing, e.g., WBF – PRC 12/06/06 IDM at Comment 2 ("It is the Department's practice to disregard incomplete financial statements as a basis for calculating surrogate financial ratios where the statement is missing key sections").

[36] Citing Hanhong's Surrogate Value Submission at Exhibit 14.

[37] Citing, e.g., Fish Fillets - Vietnam 6/30/08 IDM at Comment 1.B; Fish Fillets – Vietnam 3/24/08 IDM at Comment 1.A.

[38] Citing Petitioner's Surrogate Value Submission at Exhibit 3, page 19.

[39] Citing Petitioner's case brief at Attachment 4.

reasoning for including Air Paper's financial statements in the Department's financial ratio calculations.

Petitioner argues that for the final determination, the Department should use in its surrogate financial ratio calculations the financial statements of four Indian companies (i.e., Parag, Lucky Forms, JK Paper, and Seshasayee Paper)[40] because they are contemporaneous with the POI. Petitioner also argues that for the final determination, the Department should continue to use Alpha Carbon's year ended March 31, 2006, financial statement in its financial ratio calculations. Petitioner contends that the Department should use Parag's year ended March 31, 2007 financial statement in its financial ratio calculations, but not its year ended March 31, 2006 financial statement because the 2007 statement is more contemporaneous. Further, Petitioner asserts that the Department should include Lucky Forms' financial statements in its financial ratio calculations because Lucky Forms is a manufacturer of thermal paper in India.[41] Finally, Petitioner argues that the Department should include JK Paper's[42] and Seshasayee Paper's[43] statements in its financial ratio calculations because both produce a variety of coated paper products, which are comparable to the merchandise under investigation.[44]

In rebuttal, Hanhong states that based on the quality of the Indian import statistics surrogate value data, there is no reasonable basis for the Department to continue to use India as the surrogate country. However, Hanhong argues that if the Department continues to use India as the surrogate country, the Department must reject the non-contemporaneous and non-product specific producers' financial statements because there is better information available on the record.[45] Hanhong further argues that the record contains two financial statements from Indian companies (i.e., Air Paper and Parag) that represent better information because they are contemporaneous and are specific to Hanhong's production, while the Indian financial statements that Petitioner recommends (i.e., JK Paper, Seshasayee Paper, and Alpha Carbon (2006)[46]) are non-contemporaneous and non-production specific. Hanhong asserts that if the Department determines to use the non-contemporaneous Alpha Carbon financial statement, then the Department should also use the 2006 Shree Krishna financial statement in its financial ratio calculation for the final determination.

Additionally, Hanhong argues that the Department should not use the Indian financial

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[40] Citing Petitioner's Surrogate Value Submission at Exhibit 2.

[41] See Petitioner's Surrogate Value Submission at Exhibit 7 (showing Lucky Forms' production of point-of-sale thermal rolls).

[42] See Petitioner's Surrogate Value Submission at Exhibit 4.

[43] See Petitioner's Surrogate Value Submission at Exhibit 10.

[44] See Petitioner's Surrogate Value Submission at Exhibits 9-10.

[45] Citing Nails – PRC 6/16/08 IDM at Comment 11 (stating that it is the Department's practice to reject financial statements of surrogate producers whose production process is not comparable to the respondent's production process when better information is available, citing Persulfates PRC 2/9/05 IDM at Comment 1).

[46] See Petition at Exhibit 2, Volume II.

statements for the following Indian companies: Lucky Forms, JK Paper, and Seshasayee Paper, in its financial ratio calculations for the final determination because none of these companies are thermal paper producers. Hanhong contends that there is no record evidence that supports Petitioner's claim that Lucky Forms is a producer of thermal paper as evidenced by Lucky Forms' website. Hanhong also argues that record evidence contradicts Petitioner's claim that Lucky Forms is a producer of thermal paper. Hanhong asserts that in the Indian Government's investigation of imports of thermal sensitive paper into India, the Indian Government found that Lucky Forms is an importer of thermal sensitive paper, not a producer of merchandise subject to its investigation.[47] Therefore, Hanhong argues that the Department should reject Petitioner's argument to include Lucky Forms' financial statement in its financial ratio calculations for the final determination.

Hanhong also argues that the Department should reject JK Paper's and Seshasayee Paper's financial statements because their production processes are not specific to Hanhong's production process and that both companies: 1) are fully integrated paper producers; 2) generate their own electricity; and 3) include chemicals in the stores and spares value. Hanhong contends that it is the Department's practice to disregard the surrogate financial statements of companies whose production process is not comparable to the respondents' when better information is on the record.[48] Hanhong contends that there are equally contemporaneous and more specific financial statements of LWTP producers on the record of this investigation.

Hanhong also argues that the Department should not use JK Paper's and Seshasayee Paper's financial statements because chemical inputs, which normally are included in the MLE calculation, are included in both companies' stores and spares line item. As a result, it is impossible to separate out the chemical inputs from the other overhead items in the stores and spares line item. Thus, Hanhong contends that if the Department determines to use JK Paper's and Seshasayee Paper's financial statements in the financial ratio calculations for the final determination, it should treat JK Paper's and Seshasayee Paper's stores and spares as MLE.

Hanhong argues that the Department should not use Ballarpur's[49] financial statements in the final determination because Ballarpur: 1) is an integrated producer whose primary business includes sales of non-comparable merchandise; 2) generates its own electricity; and 3) includes its chemicals in its stores and spares line item. Finally, Hanhong argues that the Department should make corrections to Petitioner's proposed ratio calculations consistent with its recent determinations in Ironing Tables – PRC 3/21/07, Shrimp – PRC 9/12/07, and OTR Tires – PRC 7/15/08.[50]

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[47] Citing Hanhong Surrogate Value Submission at Exhibit 15 (Final findings in the Indian AD investigation concerning imports of thermal sensitive paper from Indonesia, Malaysia and the UAE).

[48] Citing Nails – PRC 6/16/08.

[49] See Petitioner's Surrogate Value Submission at Exhibit 8.

[50] Citing Ironing Tables – PRC 3/21/07 IDM at Comment 1; Shrimp – PRC 9/12/07 IDM at Comment 3; and OTR Tires – PRC 7/15/08 IDM at Comment 18.

Department's Position: The Department has determined to base the surrogate financial ratio calculations for the final determination only on Parag's financial statement for the year ending March 31, 2007, because Parag produces and sells merchandise identical to LWTP and because the financial statement is contemporaneous with the POI.[51]

The statute directs the Department to base the valuation of the FOPs on "the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate . . ."[52] Moreover, in valuing such factors, Congress further directed Commerce to "avoid using any prices which it has reason to believe or suspect may be dumped or subsidized prices."[53] Additionally, 19 CFR 351.408(c)(4) further stipulates that the Department normally will value manufacturing overhead, SG&A expenses and profit using "non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country." In complying with the statute and the regulations, the Department calculates the financial ratios based on contemporaneous financial statements of companies producing comparable merchandise from the surrogate country, some of which may contain evidence of subsidization.[54]

Further, it is the Department's practice in NME proceedings to use, whenever possible, surrogate country producers of identical merchandise for surrogate value data, provided that the surrogate data are not distorted or otherwise unreliable.[55] The Department's criteria for choosing surrogate companies are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.[56] The Department also has an established practice of rejecting financial statements of surrogate producers whose production process is not comparable to the respondent's production process.[57]

In accord with these criteria, the Department has determined not to use the financial statements of Lucky Forms, Parag (year ending March 31, 2006), Seshasayee Paper, JK Paper, Alpha Carbon, Air Paper, Shree Krishna (years ending March 31, 2006 and March 31, 2007), and Ballarpur for the reasons enumerated below.

Lucky Forms' audited financial statement indicates that Lucky Forms participated in the DFRC

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[51] See Petitioner's Surrogate Value Submission at Exhibit II-2.

[52] See section 773(c)(1) of the Act.

[53] See OTCA Legislative History at 590.

[54] See OTR Tires – PRC 7/15/08 IDM at Comment 17.A.

[55] See 19 CFR 351.408(c)(4). See also Persulfates PRC 2/9/05 IDM at Comment 1; Pure Magnesium – PRC 10/17/06 IDM at Comment 3; and Hand Tools – PRC 10/29/01 IDM at Comment 18.

[56] See Shrimp - PRC 12/8/04 IDM at Comment 9F.

[57] See, e.g., Hot-Rolled Carbon-Steel Flat –PRC 5/3/01 (unchanged in the final determination, Hot-Rolled Carbon-Steel Flat – PRC 9/28/01), where the Department rejected the surrogate financial statements of a producer because "its financial information would be less comparable to that of the respondents."

Scheme, which the Department has previously determined to be countervailable.[58,59] Consequently, because Lucky Forms received countervailable subsidies from the Indian Government, and we have other reliable financial statements on the record, we determine that its financial statement is not representative of the financial experience of the relevant industry in India and, therefore, is not appropriate for use in valuing the surrogate financial ratios in this proceeding.[60] Additionally, Lucky Forms' audited financial statement indicates that Lucky Forms has installed capacity for computer paper, without any indication that Lucky Forms produced merchandise identical to the subject merchandise during the POI.[61] Because we find that Lucky Forms' financial statement is not representative of the industry in India, we do not reach a decision on whether Lucky Forms produced identical or comparable merchandise during the POI.

Consistent with the Department's practice not to use incomplete or illegible statements, we did not use Air Paper's financial statement in our calculation of surrogate financial ratios because Air Paper's financial statement does not include its fixed asset schedule.[62]

We did not use the financial statements of Parag, Alpha Carbon and Shree Krishna for the year ending March 31, 2006, because they were not contemporaneous with the POI. While contemporaneity on its own would not be a reason to reject the statements if they otherwise constituted the best available information,[63] because we find that there remains at least one surrogate financial statement on the record of this proceeding that we deem to constitute the best available information, it is not necessary to use non-contemporaneous data.[64] In addition, we find that Alpha Carbon did not produce merchandise that was identical to LWTP. Moreover, because Alpha Carbon's and Shree Krishna's financial statements for the year ending March 31, 2006 are not contemporaneous with the POI, and we have other reliable financial statements on the record, we have not evaluated whether Alpha Carbon produced similar merchandise, or whether Shree Krishna earned a profit, during the POI.

Furthermore, we find that Shree Krishna's 2007 financial statement is not suitable for use in

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[58] See Petitioner's Surrogate Value Submission at Exhibit 1, page LF-17.

[59] See Lined Paper – India 2/15/06 at 7922 (upheld in the final determination).

[60] See OTR Tires – PRC 7/15/08 IDM at Comment 17.A., citing 19 CFR 351.408(c)(4), and Shrimp – PRC 9/12/07 IDM at Comment 2, citing Crawfish – PRC 4/17/07 IDM at Comment 1 (where the Department determined that the financial statements of several companies that had received countervailable subsidies did not constitute the best available information to value the surrogate financial ratios and, consequently, did not use them).

[61] See Petitioner's Surrogate Value Submission at Exhibit 1, page LF-29.

[62] See, e.g., CLPP-PRC 09/08/06 IDM at Comment 1 (the Department used a surrogate producer's financial statement after pages that were initially missing were supplied by an interested party); and Rebar-Belarus 06/22/01 IDM at Comment 2 (the Department chose not to use a financial statement because "financial statement on the record appears incomplete").

[63] See OTR Tires – PRC 7/15/08 IDM at Comment 17.A.

[64] See OTR Tires – PRC 7/15/08 IDM at Comment 17.A.

deriving the surrogate financial ratios because it shows no profit[65] and because we have at least one surrogate financial statement on the record of this proceeding that records a profit. In past cases, we have disregarded surrogate financial statements that have not earned a profit,[66] stating that "a company's profit amount is a function of its total expenses and, therefore, is intrinsically tied to the other financial ratios for that company."[67]

The Department also has an established practice of rejecting financial statements of surrogate producers whose production process is not comparable to the respondent's production process when better information is available.[68] We have determined that Seshasayee Paper, JK Paper and Ballapur are integrated producers, and therefore, their production process is not comparable to that of the respondents. As a result, we have not used the audited financial statements of Seshasayee Paper, JK Paper and Ballapur to determine the financial ratios for this investigation.

Therefore, because Parag's financial statement for the year ending March 31, 2007 is publicly available, is contemporaneous with the POI, reflects the cost experience of the respondents, and does not indicate that Parag received subsidies during the POI, we have determined to use its audited financial statements as the basis for determining the surrogate financial ratios in this investigation.

Comment 3: Financial Ratios

Hanhong argues that the Department should make several adjustments to the surrogate financial ratio calculations. First, consistent with the Department's practice to exclude items that are already included in NV,[69] Hanhong argues that the Department should exclude export expenses, freight & cartage-outward expense, freight & cartage-export, carriage inwards, carriage outward, and insurance premium from the SG&A ratio calculation. Hanhong contends that if these items continue to be included in the SG&A ratio calculation it will result in a double-counting of these expenses with respect to Hanhong because these expenses are already valued in the NV calculation. Hanhong also argues that it did not incur some of the above-mentioned expenses. Second, Hanhong argues, consistent with the Department's practice to offset SG&A when the financial statements do not indicate that such income is specific to

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[65] See Petitioner's Surrogate Value Submission at Exhibit 3.

[66] See WBF – PRC 08/20/08 IDM at Comment 1C.

[67] See Silicon Metal – Russia 2/11/03 IDM at Comment 9 (disregarding the financial statement for Sinai Manganese because it experienced a negative profit and noting that the Department has previously rejected companies with zero or negative profit in favor of profitable companies); Barium Carbonate – PRC 8/6/03 IDM at Comment 6 ("[I]t is [the Department's] preference not to use any of the financial information from a given year during which a company experienced a loss"); see also Shrimp – Vietnam 9/12/07 IDM at Comment 2B.

[68] See Nails – PRC 6/16/08 IDM at Comment 11. See also Persulfates PRC 2/9/05 IDM at Comment 1.

[69] Citing Ironing Tables – PRC 3/21/07 at Comment 1, finding the above expenses should be excluded from the calculation of the surrogate financial ratios because these expenses are already accounted for in the normal value; and Shrimp – PRC 9/12/07 at Comment 3.

manufacturing or selling activities,[70] the Department should treat other income or miscellaneous income as an offset to SG&A. Third, Hanhong argues, consistent with the Department's practice,[71] it should only include or exclude interest income or interest expense in the financial ratio calculations when it is possible to determine whether the expense or income is short-term in nature. Finally, Hanhong argues, it is the Department's practice[72] to ensure that its calculation regarding the inclusion and exclusion of certain labor costs to overhead or to MLE are consistent with its determination in OTR Tires – PRC 7/15/08.

In rebuttal, Petitioner contends that Hanhong's arguments are moot and should be rejected. Petitioner argues that Hanhong is not correct in its assertion that interest expense is included in SG&A only when it is short-term in nature. Petitioner contends that interest expense, regardless of its nature, is always included in SG&A,[73] and is only offset by short-term interest income.[74] Petitioner further argues that the Department should calculate financial ratios based on the financial statements that it provided. Petitioner argues that if the Department uses Air Paper's financial statement in its financial ratio calculations, it should include "bank interest" and "other interest" in the numerator of the SG&A ratio.

Department's Position:

Freight, Carriage, and Insurance Charges, and Export Expenses

We agree with Hanhong that freight and carriage charges should be excluded from the SG&A ratio calculation. In deriving appropriate surrogate values for overhead, SG&A, and profit, the Department typically examines the financial statements on the record of the proceeding and categorizes expenses as they relate to MLE, factory overhead, SG&A and profit, and excludes certain expenses (e.g., movement expenses) consistent with the Department's practice of accounting for these expenses elsewhere.[75] In so doing, it is the Department's longstanding practice to avoid double-counting costs where the requisite data are available to do so.[76] We include freight expenses in our AD margin calculations for each company; therefore, to also include them in our calculation of the surrogate SG&A financial ratio that is then applied to these AD margin calculations would result in double counting. Accordingly, for the final determination, we have excluded freight and carriage charges from the surrogate SG&A ratio

[70] Citing OTR Tires – PRC 7/15/08 at Comment 18.

[71] Citing Id.

[72] Citing Id.

[73] Citing OTR Tires – PRC 7/15/08 at Comment18.D.

[74] Citing OTR Tires – PRC 7/15/08 at Comment18.D.

[75] See Crawfish-PRC 04/17/07 IDM at Comment 1. This is also consistent with the cases cited by Hanhong, i.e., Ironing Tables – PRC 3/21/07 at Comment 1 and Shrimp – PRC 9/12/07 at Comment 3.

[76] See HSLW-PRC 01/24/08; Tissue Paper-PRC 10/16/07 IDM at Comment 2; and CVP-PRC 05/10/07 IDM at Comment 2, where in each case the Department clearly articulated its practice to avoid double-counting costs in calculating dumping margins.

calculation.[77] With regard to the insurance expenses reported in Parag's financial statement, we have determined that it is appropriate to include this expense in our SG&A ratio calculation as general insurance expenses are not included elsewhere in our AD margin calculations for each company. Furthermore, with regard to the line item for export expenses reported in Parag's financial statement, there is no detail in Parag's financial statement indicating that this expense is related to non-general operations of the company. Therefore, as export expenses have not been included elsewhere in our calculations of NV, we have included this line item in our calculation of the surrogate financial ratio for SG&A.

Miscellaneous Income or Other Income

We agree with Hanhong's argument for the treatment of miscellaneous income in the surrogate financial ratio calculations. In response to Hanhong's comments regarding miscellaneous income, we have evaluated the full miscellaneous income category in Parag's financial statement. Because we cannot go behind the financial statement to determine the appropriateness of including this item in the financial ratio calculations, we looked to information in Parag's financial statement to determine the possible nature of the activity generating the miscellaneous income to see if a relationship exists between the activity and the general operations of the company.[78] In doing so, we found that the miscellaneous income was described as: "1) interest on FDR & others; 2) miscellaneous balance written off; 3) miscellaneous receipts; and 4) profit on sale of vehicle." It is the Department's practice to include miscellaneous revenues as an offset to SG&A when we cannot determine that the revenues are related to specific manufacturing or selling activities.[79] In this instance, we have not found any information in Parag's financial statement or other record information to indicate that the four categories above are not related to the general operations of the company or related to specific manufacturing or selling activities. Therefore, we have treated these items as offsets to SG&A in the surrogate financial ratio calculations based on their treatment in Parag's financial statement.[80]

Interest Income and Expense

We agree with Petitioner that interest income should be disaggregated between short-term and long-term interest income and that only short-term interest revenue should offset interest expense. The Department's longstanding practice is to 1) include all interest expense from the financial statements in the financial ratio calculations; 2) disaggregate interest income between short-term and long-term income; and 3) offset interest expense with only the short-term interest revenue earned on working capital.[81] Additionally, it is the Department's practice to exclude income earned from long-term assets/investments because such income is not

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[77] See Final FOP Memo.

[78] See OTR Tires – PRC 7/15/08 IDM at Comment 18B.

[79] See Id.

[80] See Final FOP Memo.

[81] See, e.g., PRCBs – PRC 03/17/08 IDM at Comment 1; ISOS-PRC 05/10/07 IDM at Comment 7; and WBF-PRC 12/06/06 IDM at Comment 8.

associated with the general operations of the company.[82] Further, as discussed above, the Department does not go behind the financial statement of the surrogate company.[83] Accordingly, as stated in OTR Tires – PRC 7/15/08 IDM at Comment 18.D, PRCBs – PRC 03/17/08 IDM at Comment 1; ISOS-PRC 05/10/07 IDM at Comment 7 and WBF-PRC 12/06/06, the Department will reduce interest and financial expenses by amounts for interest income only to the extent it can determine from those statements that the interest income was short-term in nature.[84]

We have reviewed Parag's financial statement and determined that all of Parag's assets that generated interest income are classified in the Balance Sheet as current (i.e., short-term) assets. Therefore, the interest income generated from these assets is short-term in nature. Accordingly, we have applied the full interest income from the financial statement as an offset to Parag's financial expense as recorded in its financial statement.[85]

Labor Costs

The Department has continued to treat all labor-related items as it did in the Preliminary Determination, consistent with our regression-based expected PRC wage rate calculation and our current practice as elaborated in OTR Tires – PRC 7/15/08. Accordingly, as we stated in AD Methodologies- NME Wages (2006) at 61721:

> in order to ensure that labor costs not included in the ILO defined "earnings" are accounted for in its calculation of normal value, it is best to adjust, where possible, the surrogate financial ratios employed by the Department to value overhead expenses, selling, general and administrative ("SG&A") expenses, and profit. Accordingly, it is the Department's practice to categorize all individually identifiable labor costs not included in the ILO's definition of "earnings" under Chapter 5 of the Yearbook of Labour Statistics as overhead expenses. See Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 2905 (January 18, 2006) and accompanying Issues and Decision Memorandum, at Comment 1. Such adjustments are fact-specific in nature and subject to available information on the record. Specifically, where warranted, individually identifiable labor costs in the surrogate financial statements which are not included in "earnings" are categorized as overhead or SG&A expenses for purposes of the Department's calculation of surrogate financial ratios.

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[82] See Silicon Metal-Brazil 02/13/06 IDM at Comment 4.

[83] See OTR Tires – PRC 7/15/08 IDM at Comment 18B.

[84] See also Aspirin – PRC 02/10/03 IDM at Comment 5 (stating that we offset interest expense with short-term interest revenue where we could discern the short-term nature of the interest revenue from the financial statements) and Honey – PRC 10/04/01 IDM at Comment 3 (stating that we did not offset interest expense because the financial statements did not provide sufficient data for us to identify short-term interest revenue.)

[85] This is consistent with our recent decision in OTR Tires – PRC 7/15/08 IDM at Comment18D and PRCBs – PRC 03/17/08 IDM at Comment 1 (where we determined from review of the surrogate financial statement that all interest-bearing assets of the company were current assets, and thus generated short-term interest revenue); see also Final FOP Memo.

Based on the above, it is clear that the earnings category (Chapter 5) is exclusive of employee benefits such as pension and social security, while the labor cost category (Chapter 6) is inclusive of these employee expenses. Because the Department based its calculation of the regression-based expected PRC wage rate on "earnings" data from Chapter 5B of the YLS, in the instant investigation, the Department examined the financial statements to determine whether the statements contained the detail to permit the Department to easily segregate labor expenses into "earnings" (which correspond to Chapter 5B of the ILO database and, therefore, to the Department's expected NME wage rate), and other labor costs (which are not included in the Department's calculated NME wage rate).

Accordingly, to be consistent with the methodology employed in calculating the expected PRC wage rate, in each instance where the financial statement contained data allowing the Department to segregate labor into 1) wages corresponding to Chapter 5B of the ILO database and 2) other labor costs, the Department did so, and has treated as direct labor only those items corresponding to the wages described in Chapter 5B as direct labor costs. Specifically, we have determined that only Salaries and Wages and Labour Expenses within Parag's financial statement correspond to wages as identified in Chapter 5B of the ILO database and have treated these items as direct labor in the surrogate financial ratio calculations. While Hanhong argued that the Department should treat labor expenses at it did in OTR Tires – PRC 7/15/08, Hanhong did not specifically describe how the Department should treat certain labor expenses. Therefore, the Department was unable to determine to which labor expenses Hanhong was referring. Thus, consistent with our practice as articulated above, we have continued to treat all remaining labor-related items as overhead as we did in the Preliminary Determination, because these expenses correspond to "other labor costs," not "wages" as defined above.[86]

Air Paper's Financial Statements

The Department has determined that Parag's 2006-2007 financial statement is the most appropriate source for calculating the surrogate financial ratios in this investigation. See Comment 2 above. Therefore, Petitioner's arguments for the treatment of certain line items in Air Paper's financial statement are inapposite.

Comment 4: New NME Wage Rate

Petitioner argues that the Department should use the newly announced expected NME wage rate for the final determination. No other interested party commented on this issue.

Department's Position: Since the Preliminary Determination, the Department published its 2007 NME Wage Rate where the Department articulated that the "expected NME wage rates are finalized on the date of publication of this notice in the Federal Register and will be in effect for all antidumping proceedings for which the Department's final decision is due after the publication of this notice."[87] Therefore, given that the final decision for this instant investigation is September 25, 2008, for the final determination, we have determined to use the revised wage rate of $1.04 for China.

[86] See also AD Methodologies- NME Wages (2006) for further discussion of this issue.

[87] See NME Wages

Comment 5: Zeroing

Petitioner argues the dumping margins for the final determination must be calculated without applying offsets for non-dumped sales. Citing section 771(35)(A) of the Act, Petitioner contends the statute provides for the elimination of negative margins from the numerator of margin calculations. Petitioner disagrees with the Department's interpretation of this statutory language to not apply offsets for non-dumped sales only in administrative reviews and not when the Department applies the average-to-average methodology in investigations. According to Petitioner, the Department may not interpret the statute inconsistently to mean one thing in reviews and another in investigations. Petitioner further contends that in Timken 2004 and Corus Staal 2005, the Federal Circuit has found the denial of offsets for non-dumped sales to be authorized by the statute. Petitioner argues, however, that key issues were not brought to the Federal Circuit's attention in Timken 2004 and were not addressed in Corus Staal 2005. These issues, Petitioner contends, do not merely authorize the denial of offsets for non-dumped sales, they require it. Petitioner argues that Congress specifically provided for two different comparison methods to be used to calculate dumping margins (i.e., either comparing NVs to weighted-average U.S. prices, or to individual U.S. transaction prices) depending on the circumstances of the case. According to Petitioner, such an approach would be rendered pointless if the Department continues to provide offsets for non-dumped sales because the same dumping margin would always be achieved no matter which comparison method is employed. Therefore, Petitioner argues, Congress must have intended for the Department not to offset dumping margins with non-dumped sales. Petitioner cites the following cases in support of its argument: ISOS – PRC 1/2/08 IDM at Comment 18, Steel Sheet and Strip – Mexico 2/11/08 IDM at Comment 2, Polyethylene Film – Korea 4/3/08 IDM at Comment 6, Fogerty 1994 at 517, Timken 2004 at 1334, Corus Staal 2005, and Ishida 1995 at 1224, 1230.

Hanhong argues that the Department should continue its practice of applying offsets for non-dumped sales. This practice, Hanhong contends, is consistent with the Department's Zeroing Notice and the United States' WTO obligations. Hanhong argues that until the Department provides further notice or modification to this practice, there is no basis for the Department to change or deviate from its Zeroing Notice in this investigation. Hanhong cites the following cases in support of its argument: Activated Carbon – PRC 3/2/07 and Polyester Staple Fiber – PRC 4/19/07.

Department's Position: We disagree with Petitioner and will continue to provide offsets for non-dumped sales in this final determination.

We do not agree with Petitioner's assertion that the Department's interpretation of section 771(35)(A) of the Act in the context of investigations must be identical to the Department's interpretation of the same provision in the context of administrative reviews such that, if offsets for negative margins are denied in administrative reviews, offsets must also be denied in investigations. The Federal Circuit has found the language and Congressional intent behind section 771(35) of the Act to be ambiguous. See Timken 2004 at 1342. An administering

agency's authority to give an ambiguous statutory provision different meanings in different contexts is well established.[88]

The calculation of a dumping margin in a less-than-fair-value investigation and in an AD administrative review are different contexts in which the ambiguous language of section 771(35)(A) of the Act applies. In investigations, the statute specifies particular types of comparisons that may be used to calculate the dumping margin and the conditions under which those types of comparisons may be used. See section 777A(d)(1) of the Act. The statute also sets conditions for the type of comparison used in administrative reviews. See section 777A(d)(2) of the Act. The Department has further clarified in its regulations the types of comparison that will be used and under what conditions. See 19 CFR 351.414. In investigations, the Department generally uses average-to-average comparisons, whereas in administrative reviews, the Department generally uses average-to-transaction comparisons. See 19 CFR 351.414(c). The purpose of the dumping margin calculation varies significantly between investigations and administrative reviews. In investigations, the primary function of the dumping margin is to determine whether an AD order will be imposed on the subject imports. See sections 735(a) and (c) and section 736(a) of the Act. In administrative reviews, in contrast, the dumping margin is the basis for the assessment of AD duties on entries of merchandise subject to the AD order. See section 751(a) of the Act. These differences permit an interpretation of section 771(35)(A) of the Act that varies according to the context in which this provision is being applied. In Timken 2004, the Federal Circuit found that section 771(35)(A) permitted but did not require zeroing in the context of administrative reviews. In Corus Staal 2005, the Federal Circuit agreed that "a distinction exists between administrative investigations and reviews," but found that the ambiguity in section 771(35)(A) was no less present in the context of investigations, such that the Department was permitted, but not required to zero in investigations. See Corus Staal 2005 at 1347.

The Zeroing Notice sets forth an interpretation of section 771(35)(A) of the Act that applies only in the context of investigations using average-to-average comparisons and determines that offsets will be granted in this context.[89] Thus, pursuant to the explicit terms of the Zeroing Notice, this interpretation of section 771(35)(A) of the Act applies to investigations, including this proceeding. As the Federal Circuit recognized in Corus Staal 2005, Congress has authorized the executive branch to determine "whether or not to implement WTO reports and determinations and, if so implemented, the extent of implementation." See Corus Staal 2005 at 1349 (citing 19 U.S.C. § § 3533(f), 3538, and 3533(g)). In enacting the URAA, Congress contemplated that such implementation of an adverse WTO report could create different, but permissible, interpretations of the statute that may lawfully coexist. See SAA at 1027.

With respect to Petitioner's argument that providing offsets for non-dumped sales would result in the same margin regardless of which comparison methodology is employed, we recognize that the Department may not interpret or apply the statute in a way so as to nullify a statutory provision and in the instant case the Department is not making such an interpretation. The

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[88] See Chevron 1984 (EPA may adopt two different interpretations of the same statutory definition of the term "source" in two different contexts).

[89] See Zeroing Notice.

argument put forth by Petitioner that the average-to-transaction methodology would be nullified presumes that offsets would be provided under that methodology and that certain other methodological choices would be made. Because we are not applying the average-to-transaction methodology in the instant case, there is no evidence to support Petitioner's allegation.

With respect to Petitioner's argument that the Department is not acting in accordance with Congress' intent, we note that as part of the implementation process that led to the Zeroing Notice, the Department consulted with Congress regarding the scope of that implementation. See 19 USC § 3533(g). This consultation combined with Congress' express acknowledgement that addressing adverse WTO reports could lead to differing interpretations of the same statute, demonstrates that Commerce has not violated Congressional intent. We therefore have not changed our calculation of the weighted-average dumping margin as suggested by Petitioner for this final determination, and continue to apply offsets for non-dumped sales in accordance with the policy set forth in the Zeroing Notice.

Comment 6: Exchange Rates

Hanhong argues that pursuant to section 773A of the Act and the Exchange Rate Policy Bulletin 96-1,[90] for the final determination the Department should adjust the daily exchange rate used in the Preliminary Determination for fluctuations in these rates that occurred during the POI. Hanhong asserts that Exchange Rate Policy Bulletin 96-1 defines and describes a model the Department uses for determining whether exchange rates are fluctuating or have had a sustained movement. Hanhong argues that in the final determination, the Department should follow its policy[91] and use the benchmark exchange rate,[92] as defined in Exchange Rate Policy Bulletin 96-1, as the official exchange rate to convert Hanhong's surrogate values for the following dates: May 10, 2007 through June 30, 2007. Hanhong states that Exchange Rate Policy Bulletin 96-1 directs the Department to use a benchmark rate as the official exchange rate for daily exchange rates that are greater than the benchmark rate by more than two-and-a-quarter percent. See Exchange Rate Policy Bulletin 96-1 at 9435. Hanhong argues that Exchange Rate Policy Bulletin 96-1 specifically states that "{w}henever the actual daily rate varies from the benchmark rate by more than two-and-a-quarter percent, the actual daily rate is classified as fluctuating" and "when an actual daily rate is classified as fluctuating, the benchmark rate is the official rate for that day." See Exchange Rate Policy Bulletin 96-1. Hanhong contends that unlike Honey – Argentina 1/6/04, where the fluctuations were due to a precipitous drop, Hanhong's fluctuations are due to a "fluctuating increase." Hanhong contends that the "actual daily exchange rate" the Department used in the Preliminary Determination should be adjusted for the final determination for the dates noted above because

[90] Citing Exchange Rate Policy Bulletin 96-1.

[91] Citing Honey – Argentina 1/6/04.

[92] Hanhong states that the benchmark is a moving average of the actual daily exchange rates for the eight weeks (40 days) immediately prior to the date of the actual daily exchange rate to be classified.

the actual daily exchange rate varied by more than two-and-a-quarter percent from the benchmark rate.[93]

Petitioner argues that the Department should not adjust its exchange rate methodology because the exchange rates used in the Preliminary Determination have already been adjusted in accordance with the Department's longstanding policy. Petitioner points out that in the Preliminary Determination, the Department stated "the exchange rates for each date in the POI were taken from the Department's website"[94] and that the exchange rates appearing on the Department's website have already been adjusted as required by Exchange Rate Policy Bulletin 96-1. Petitioner notes that as discussed on the website, the Department pulls daily actual exchange rates from the "Federal Reserve Statistical Release H.10"[95] and uses a SAS program[96] to adjust the daily rates to smooth out fluctuations, as required by the Exchange Rate Policy Bulletin 96-1. Petitioner further notes that the SAS output file from that SAS program is then uploaded to the Department's web site.[97] Petitioner asserts that it is the SAS output file and not the raw daily Federal Reserve exchange rates that the Department used in Hanhong's margin calculation.[98] Thus, Petitioner contends for the final determination no further adjustments to the exchange rates are required.

Department's Position: We disagree with Hanhong that the Department did not follow its standard exchange rate policy in its Preliminary Determination. In the Preliminary Determination, we stated that currency conversions were made into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. See Preliminary Determination at 27512. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation.

Exchange Rate Policy Bulletin 96-1 describes an exchange rate model[99] that defines fluctuations and sustained movements with the following three goals in mind:

1. To implement the statutory requirements as simply as possible;
2. To ensure that all exporters, when they set their U.S. prices and whether under order or not, can know with certainty the daily exchange rate the Department will use in a dumping analysis; and

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[93] Citing a worksheet in Hanhong's case brief that contains six columns of data, which are labeled as: date, rate, rate, benchmark, and fluctuation.

[94] Citing Preliminary FOP Memo at page 3 and Attachment 7.

[95] Citing the Department's website at < http://ia.ita.doc.gov/exchange/index.html >.

[96] Citing the Department's website at < http://ia.ita.doc.gov/exchange/Currency_Program.sas.txt >.

[97] Petitioner states that the "smoothed" U.S. dollar-to-rupee exchange rates used in the Preliminary Determination are available at < http://ia.ita.doc.gov/exchange/india.txt >.

[98] Citing the Preliminary FOP Memo at page 3 and Attachment 7.

[99] See Exchange Rate Policy Bulletin 96-1 at 9435.

3. To capture the model in simple computer code (i.e., SAS program) to reduce the administrative burdens on the Department and other parties that wish to monitor exchange rates.

The SAS program of this model can be found on the Department's website at <http://ia.ita.doc.gov/exchange/index.html>. For a specified country, the computer code model has been designed to convert a file of "actual" daily exchange rates to a file of "official" daily exchange rates. For purposes of AD investigations, the program classifies the daily rates as "normal," "fluctuating," or "sustained movement." For purposes of AD administrative reviews, the program classifies the daily rates as "normal" or "fluctuating." It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by more than two-and-a-quarter percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. See Exchange Rate Policy Bulletin 96-1. The SAS program has been designed to substitute the benchmark rate for the daily rate, which results in a listing (i.e., SAS output file) of "official" daily exchange rates.

An extended pattern of appreciating rates defines a "sustained movement." Based on these classifications, the model assigns the appropriate "official" exchange rate for each day. Further, section 773A(b) of the Act directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. See Exchange Rate Policy Bulletin 96-1 at 9435, 9436. Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. In investigations, the SAS program has been designed to assign the appropriate "official" exchange rate if a sustained movement has occurred. Exchange Rate Policy Bulletin 96-1 at 9436.

The SAS program mentioned above produces a SAS data file containing two types of "official" daily exchange rate variables for each country, one that is used in an investigation and one that is used in a review. The exchange rate variable name in these files includes the country name (e.g., India) and a suffix (i.e., "I" and "R") that identifies which variable is to be used in an investigation (e.g., "IndiaI") and which variable is to be used in a review (e.g., "IndiaR"). These "official" exchange rate SAS data files are created from the model mentioned above (the SAS program and the "official" exchange rate data file can be found on the Department's website at <http://ia.ita.doc.gov/exchange/index.html >).

Regarding Hanhong's argument that the daily exchange rate used in its preliminary SAS margin program has fluctuations that are due to a "fluctuating increase," Hanhong has not clearly identified the type of fluctuation it wants the Department to address, thus we can only explain how we applied our exchange rate practice in the current investigation. Further, Hanhong has not provided an explanation or the source of the worksheets in its exhibit (i.e., Exhibit 7) from its case brief that it provided as support for its contention that the actual daily exchange rates used in the Preliminary Determination varied by more than two-and-a-quarter percent from a benchmark rate. Therefore, without a detailed explanation of its exchange rate exhibit, we are unable to respond to Hanhong's argument.

In the Preliminary Determination, we selected India as the primary surrogate country for purposes of valuing the FOPs in the calculation of NV.[100] To calculate Hanhong's NV, we multiplied its reported per-unit factor-consumption rates by publicly available Indian surrogate values.[101] We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.[102] In Hanhong's preliminary margin calculation program,[103] we used the "official" exchange rate data file for India, which contained two variables (i.e., IndiaI and IndiaR).[104] As stated previously, the exchange rate variable with a suffix of "I" is to be used in investigations, and we used the variable IndiaI in Hanhong's preliminary margin calculation program.[105] In the Preliminary Determination, the Department released its margin calculation program to Hanhong, which included an "official" India exchange rate SAS data file.

As previously stated, one of the Department's goals is to reduce the administrative burden on the Department and other parties that wish to monitor exchange rates by implementing a computer model that: 1) captures the daily exchange rate data that are certified by the Federal Reserve Bank; 2) performs the analysis (i.e., classifies the daily rates as "normal," "fluctuating," or "sustained movement") for the Department and other parties; and 3) provides an "official" exchange rate data file by country (i.e., SAS output file). In the Preliminary Determination, we used "the exchange rates for each date in the POI, which were taken from the Department's website."[106] Further, as noted above, the exchange rates appearing on the Department's website have already been adjusted for fluctuations as required by Exchange Rate Policy Bulletin 96-1. Accordingly, we see no reason to further adjust the exchange rates. Additionally, the Department has a practice of updating the exchange rate files on a quarterly basis. Therefore, for the final determination, we will continue to use the "official" daily exchange rate SAS data file in calculating Hanhong's final margin.

II. ISSUES SPECIFIC TO GUANHAO

Comment 7: Separate Rate Eligibility

Petitioner argues that Guanhao is de facto controlled by the PRC government and therefore is not entitled to a separate rate for three reasons. First, Petitioner contends, Guanhao's

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[100] See Preliminary Determination at 27507.

[101] See Preliminary Determination 27510.

[102] See Preliminary Determination at 27512.

[103] See Hanhong's Preliminary Analysis Memo.

[104] See the "official" India exchange rate data file on the Department's website at <http://ia.ita.doc.gov/exchange/index.html>).

[105] See Preliminary FOP Memo at Attachment 2 in section titled "Access Exchange Rates Dataset and Sort by Date."

[106] See Preliminary FOP Memo at page 3 and Attachment 7.

prominence in the Guangdong provincial and local papermaking industry development plans indicates a high level of government involvement with Guanhao's investment and production decisions. At the provincial level, Petitioner argues, Guanhao is identified as a "backbone enterprise," and asserts that Guanhao received a sizeable government subsidy, demonstrating government involvement and control over Guanhao's operations.[107]

Second, Petitioner comments that Guanhao's public shareholders lack the power to impede the direct operational decision making of the controlling shareholders as the publicly listed portion of Guanhao's shares is limited to 49.5 percent -- below the majority vote required to control operations. Because the controlling shareholders represent the government, Petitioner argues, the exercise of shareholder rights cannot insulate Guanhao from government control, contrary to the Department's finding in the Preliminary Determination.

Third, Petitioner contends, government control of Guanhao is exercised through two specific individuals, the Chairman of the BoD and the GM who, according to Petitioner, function to implement government policies on investment, production, and the sale of thermal paper at Guanhao. Specifically, Petitioner claims that the Chairman of the BoD at Guanhao operates under government influence as evidenced by: 1) his prior employment with the provincial government; 2) his membership in the Communist Party Branch Committee at GFIH; and 3) his position on the board at GFIH, a government-owned entity. The GM of Guanhao, Petitioner claims, also acts on behalf of the government as demonstrated by: 1) his position as Secretary of the Communist party at Guanhao; and 2) his leadership role in various trade and technology associations which function as "secondary governments." Petitioner cites the following case in support of its argument: LWTP CVD – PRC 3/14/08.

Guanhao disputes Petitioner's contentions above, arguing that Petitioner has not made a single compelling argument to support its contention that Guanhao is subject to government control.

First, Guanhao asserts that the subsidy it received cannot be construed to imply government control over its investment and production activities because there is no information on the record that the receipt of these funds by Guanhao means the provider thereby exercised any control over the recipient. Second, Guanhao argues, contrary to Petitioner's assertion, its shareholders do not facilitate government control of Guanhao. According to Guanhao, there is no evidence on the record to suggest that the government shareholders were united in the way they voted, that they were able to overcome the will and votes of the general public shareholders, or that they had agendas different from the general public shareholders of the company. Further, Guanhao contends, because the GM of Guanhao does not work for or act on behalf of the PRC government, contrary to the claims made by Petitioner, the public shareholders amount to greater than 50 percent of Guanhao's shareholders. Moreover, even if Guanhao were majority owned by state-owned enterprises, Guanhao argues that fact would not disqualify it from being eligible for separate-rate status. Guanhao contends the Department has often granted separate-rate status to companies in a position similar to Guanhao's (i.e., they were owned in whole or part by state-owned enterprises). Finally, Guanhao states that the

[107] Petitioner cites Brake Rotors – PRC 5/09/05, and Brake Rotors – PRC 11/18/ 05 IDM at Comment 7, to support its contention that the Department's analysis is not limited to central government control, but includes levels of sub-national government as well.

Chairman of the BoD and the GM at Guanhao do not function to implement government policies in their respective positions at the company, but rather are private individuals. Guanhao argues that membership in the Chinese communist party and affiliations with trade associations, for example, do not equate to being government officials. Guanhao cites the following cases in support of its argument: Foundry Coke – PRC 3/8/01, and Sawblades – PRC 5/22/06.

Department's Position: We agree with Guanhao that the information on the record of this investigation demonstrates that Guanhao has established de jure and de facto independence from government control with respect to its export activities. In analyzing a company's separate-rate status, the Department focuses on controls over the investment, pricing, and output decision-making process at the individual firm level. See, e.g., Steel Pipe – PRC 1/15/08; Steel Plate – Ukraine 11/ 19/97; and TRBs – PRC 11/17/97.

Petitioner has alleged that Guanhao should not receive a separate rate because, Petitioner argues, Guanhao is subject to the de facto control of the PRC government. As detailed in the Preliminary Determination, the Department found that 1) Guanhao's export prices are neither set by nor subject to the approval of a government agency; 2) it independently negotiated sales contracts; 3) it maintained autonomy over the distribution of profits, and 4) the company demonstrated independence with respect to the setting of export prices. The Department preliminarily found that Guanhao has both de jure and de facto control over its export activities, and granted Guanhao a separate rate.

We disagree with Petitioner that record evidence and arguments submitted after the Preliminary Determination warrant a reversal of the Department's preliminary finding. First, with respect to the subsidy received by Guanhao, because there is no evidence on the record indicating that the subsidy conferred any control over Guanhao's investment and production activities by the entity providing the subsidy, we find that the mere existence of the subsidy is not sufficient to demonstrate de facto control of Guanhao by that entity. Second, we find that the exact percentage of Guanhao's shares which are owned by government entities (i.e., whether greater or less than 50 percent) is not germane to the company's separate-rate status because there is no evidence that those various owners exert control over the company's export activities. In other words, absent evidence of such control, government ownership alone does not warrant denying Guanhao separate-rate status.[108] Indeed, the Department has in the past granted separate rates to companies that were wholly owned by government entities when evidence of actual government control was not present.[109]

Third, we find that the record evidence and arguments submitted by Petitioner do not establish that either the Chairman of the BoD or the GM of Guanhao are employed by, or act under the direction of, any level of the PRC government in their respective capacities as officials at Guanhao. With respect to the Chairman of the BoD, we do not find that his prior work for the

[108] See, e.g., Foundry Coke – PRC 3/8/01, and Sawblades – PRC 5/22/06 (both affirming preliminary determinations that the respective records demonstrated that the respondents in question, despite being substantially owned by government entities, had demonstrated de facto control over their respective activities).

[109] See Sawblades – PRC 5/22/06 IDM at Comment 16

provincial government demonstrates an integration with the government as it occurred 15 years prior to the POI. Similarly, we find that his membership in the Communist Party Branch Committee at GFIH does not demonstrate that his actions at Guanhao are necessarily influenced by the government. Further, the mere fact that Guanhao's Chairman of the BoD is a board member of a government-owned entity does not demonstrate that he is a government official or otherwise controlled by the PRC Government. With respect to the GM of Guanhao, we find that his position as Secretary of the Communist party at Guanhao does not establish that he acts on behalf of the PRC Government in his day-to-day duties at Guanhao. Moreover, the GM's official positions at various technology and trade associations do not demonstrate government control over his actions, and record evidence does not support a conclusion that these associations operate as "secondary governments," as argued by Petitioner.[110]

Therefore, because no new compelling and direct evidence has been placed on the record with respect to the separate-rate status of Guanhao, and because it has demonstrated that it operates its export activities free of de jure and de facto government control, the Department has determined for this final determination that Guanhao should receive a separate rate.

Comment 8: Vertical Integration

Petitioner argues the Department should revise its FOP methodology by treating the base paper obtained from ZG as having been self-produced by Guanhao. This method would be accurate, Petitioner contends, because Guanhao and ZG are a single, vertically integrated entity. Thus, Petitioner argues, the Department should begin with the inputs consumed by ZG (e.g., pulp) to make base paper rather than beginning the cost buildup with base paper.

First, Petitioner contends, the rationale for the decision in the Preliminary Determination not to begin the cost buildup with the base paper inputs was not explained by the Department. Consequently, Petitioner suggests that the Department may have misunderstood the facts of the case or applied an incorrect legal standard to the issue. Specifically, Petitioner argues, a respondent and its input supplier need not be "collapsed" in order to be considered vertically integrated. Petitioner contends the standard for vertical integration involves an analysis of whether there is sufficient common control over the respondent and its affiliated input supplier to manipulate prices and production, regardless of whether the two are legally distinct entities. In addition, Petitioner argues, the collapsing elements set forth in 19 CFR 351.401(f)(1), which require that the companies both have the ability to produce subject merchandise, are not relevant to the vertical integration analysis. Thus, Petitioner states that the Department should not reverse its practice as articulated in EMD- PRC 3/26/08, by adopting a rule that limits its ability to treat vertically integrated companies as a single entity whenever those companies are not otherwise collapsible under 19 CFR 351.401(f)(1).

Further, Petitioner argues, the Department's finding of cross-ownership of these companies in the CVD investigation of this product demonstrates that the requisite control exists between Guanhao and ZG to support a finding of vertical integration. Citing the determinations in the

[110] See Guanhao Verification Report at 5

AD and CVD investigations of hot-rolled carbon steel flat products from South Africa,[111] Petitioner comments that the Department has, in past AD cases where an affirmative cross-ownership determination was made in the companion CVD investigation, inferred from such determination that criteria for collapsing the affiliated companies were also met. Arguing that the collapsing criteria are more stringent than vertical integration criteria, Petitioner asserts that the Department has no basis to conclude that Guanhao and ZG meet the standard for cross-ownership but fail to meet the standard for vertical integration.

Finally, Petitioner contends, Guanhao and ZG operate as a single, vertically integrated entity under the common control of their ultimate parent company, GFIH. Moreover, Petitioner argues that the common control is extended through both direct and indirect holdings by additional parties and the ultimate consolidation of Guanhao's and ZG's financial data in GFIH's consolidated financial statements. In addition, Petitioner contends that Guanhao and ZG had intertwined operations and overlapping directors and managers during the POI, further demonstrating common control and the potential to manipulate production and prices. As evidence of this connection, Petitioner contends that all of the base paper consumed by Guanhao in making the subject merchandise is procured exclusively from ZG, and Guanhao, conversely, provides ZG a portion of the pulp used in the production of base paper. Additionally, Petitioner argues that Guanhao closely monitors and directs ZG's manufacture of base paper.

Petitioner cites the following cases in support of its arguments, above: Manganese Dioxide - PRC 3/26/08, Sinopec II 2006, Mushrooms - PRC 9/14/05 IDM at Comment 9, Magnesium Metal – PRC 2/24/05 IDM at Comment 14, Fish Fillets – Vietnam 3/24/08 IDM at Comment 5C, OTR Tires – PRC 7/15/08 IDM at Comment 41, China Steel 2003 at 1339, 1354, CLPP CVD – Indonesia 8/16/2006 IDM at Comment 2, Pasta CVD – Italy 12/7/04, Hot Rolled Steel CVD – South Africa 4/20/01, and Hot Rolled Steel – South Africa 5/3/01.

Respondent contends that the Department's decision on this issue is in accordance with the law, and is supported by substantial evidence on the record. First, Guanhao argues, by instructing Guanhao to provide it with its base paper consumption factor, the Department clearly signaled that it was considering starting Guanhao's NV calculation with the input of base paper. Moreover, Guanhao contends, the facts on the record do not demonstrate that Guanhao and ZG operate as a single entity, nor do they demonstrate that transactions between the two were anything other than at arm's length. With respect to common control over the respondent and its affiliated input supplier, Guanhao argues; 1) it is on the record that ZG determines its production methods by itself; 2) there is no evidence to suggest that the base paper transactions between Guanhao and ZG were not at arm's length; 3) Guanhao and ZG did not share any managers during the POI; and 4) as this is an NME case, the price charged by ZG to Guanhao for the base paper can have no impact on the margins in this case and is not relevant to the decision regarding whether to value the base paper or the inputs used to produce the base paper.

With respect to the Department's practice, Guanhao argues there are numerous distinctions between the facts in Mushrooms - PRC 9/14/05 and the facts in the instant case. Similarly, Guanhao contends, numerous distinctions exist between the instant case and the line of Sinopec

[111] See Hot Rolled Steel CVD – South Africa 4/20/01, and Hot Rolled Steel – South Africa 5/3/01

decisions that address the issue of when it is appropriate for the Department to consider an input self-produced when it is purchased from an affiliate. Finally, according to Guanhao, the decision here is consistent with the Department's treatment of the respondent in Magnesium Metal – PRC 2/24/05, where the Department determined not to value the inputs to inputs partly based on the fact that the companies were not consolidated in their financial accounting. With respect to Petitioner's argument concerning the determination of cross-ownership in the companion CVD investigation, respondent contends that the argument is inapposite, as 19 CFR 351.525(b)(6) is not a regulation applicable to AD cases, and decisions made pursuant to that regulation relate to a separate section of the statute.

Guanhao further argues that it would have been excessive and unnecessary for the Department to conduct an investigation into both Guanhao's FOPs as well as ZG's FOPs. Moreover, Guanhao contends, none of the financial statements on the record in this investigation for purposes of the financial ratios are from integrated Indian producers. As a result, Guanhao comments, it would be inappropriate and distorting to use their financial ratios for Guanhao if the Department were to reverse itself and treat Guanhao as an integrated producer. Guanhao cites the following cases in support of its argument: Mushrooms - PRC 9/14/05, Magnesium Metal – PRC 2/24/05, and Sinopec I 2005.

Department's Position: For this final determination, the Department has continued to value the base paper purchased by Guanhao from its affiliate ZG for purposes of margin calculation, rather than valuing the FOPs of its affiliate, ZG, in producing the base paper sold to Guanhao. The Department has concluded that record evidence does not support treating Guanhao and ZG as a single entity pursuant to 19 CFR 351.401(f). First, ZG is not a producer of products similar or identical to those produced by Guanhao, and could not produce such products without substantial retooling.[112] Second, ZG is not involved in the export or sale of subject merchandise. Thus, we find that the initial regulatory criteria for treating affiliated producers as a single entity is not met, nor are circumstances similar to that under which the Department has treated affiliated exporters as a single entity present in this case.[113]

In NME cases, the Department must value **the producer's** FOPs using surrogate values obtained from a comparable market economy country. Section 773(c) of the Act requires the Department to "determine the normal value of the subject merchandise on the basis of the value of the factors of production utilized in producing the merchandise . . ." in NME cases. The Department's regulations further provide that, in identifying dumping from an NME country, the Department normally will calculate NV by valuing the "nonmarket economy producers' factors of production in a market economy country." See 19 CFR 351.408(a).

Consistent with its regulations and administrative practice in both NME and market economy determinations, the Department considers a producer's FOPs as those factors purchased by the producer of the merchandise under investigation, or otherwise obtained from other entities. In other words, the Department values only the FOPs that the producer of subject merchandise uses to manufacture the merchandise because it reflects the producer's own production

[112] See Guanhao First Supplemental Section D Response (3/12/2008) at Exhibits 7, 8, and 9.

[113] We respectfully disagree with the court's finding in Sinopec regarding the Department's collapsing analysis.

experience. See, e.g., Fish Fillets – Vietnam 3/24/08 IDM at Comment 5C; Magnesium Metal – PRC 2/24/05 IDM at Comment 14; and PVA – PRC 8/11/03 IDM at Comment 1.

According to 19 CFR 351.401(f), the Department will treat "two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the {Department} concludes that there is a significant potential for the manipulation of price or production." Before deciding whether to treat multiple entities as a single entity, the Department must first reach a finding of affiliation. The Department determines affiliation under section 771(33) of the Act, which provides that:

The following persons shall be considered to be "affiliated" or "affiliated persons":

> (A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.
> (B) Any officer or director of an organization and such organization.
> (C) Partners.
> (D) Employer and employee.
> (E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
> (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
> (G) Any person who controls any other person and such other person.
> For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

Consistent with section 771(33) (F) of the Act, we find that the record evidence demonstrates that Guanhao and ZG are affiliated because they are indirectly under the common control of GFIH.[114] A finding of affiliation between a producer and its supplier, however, does not justify a departure from the Department's standard practice of valuing the actual FOPs consumed by the producer of subject merchandise. Affiliation, by itself, does not necessarily imply that a producer's factors obtained from an affiliated supplier are self-produced.[115] Nor does the Department consider control a determinative factor in determining whether the upstream inputs of an affiliated supplier should be valued as the producer's own. While control may be a basis for finding affiliation, it does not necessarily mean the two affiliates should be collapsed and treated as a single entity for purposes of determining the margin of dumping.

Under its collapsing regulation (19 C.F.R. 351.401(f)), the Department may collapse affiliated producers where it finds that a significant potential for manipulation of price or production exists. The regulation addresses the specific situation of affiliated producers. However, the

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[114] See Guanhao Section A Response (December 21, 2007) at E-7 at page 48.

[115] See Fish Fillets – Vietnam 3/24/08 at Comment 5C; Magnesium Metal – PRC 2/24/05 IDM at Comment 14; CITIC 2003.

regulation is not exhaustive of the situations that may call for collapsing of affiliated entities, and the Department has developed a practice of collapsing entities that do not qualify as producers. For example, in the past the Department has collapsed producers and affiliated exporters of subject merchandise; and in one case has collapsed a producer with an affiliated processor.[116] In each of these cases, the Department found a significant potential for manipulation that led it to conclude collapsing was necessary.

In this case, the record evidence is clear that ZG is an affiliated supplier that does not produce subject merchandise nor is it involved in the sale/export of subject merchandise, and thus there is no basis to conclude that significant potential for manipulation of price or production exists in this case. See 19 CFR 351.401(f). Accordingly, even though Guanhao and its supplier, ZG, are affiliated through indirect common control, absent a significant potential for manipulation, we find it unnecessary to value upstream inputs that were not used by the actual producer of subject merchandise in NV calculations because such valuation would not reflect the producer's, i.e., Guanhao's, own production experience.[117] Therefore, for the final determination, we have continued to value Guanhao's inputs of base paper with a surrogate value.

With respect to the findings in the concurrent CVD investigation on this product, we disagree with Petitioner that a finding of cross-ownership between two entities necessarily supports a determination that parties affected by such cross-ownership should be treated as a single entity for purposes of an AD investigation. The Department applies two different standards when considering cross-ownership in CVD cases and whether to treat affiliated parties as a single entity in AD cases, for two distinct purposes.

Specifically, cross-ownership in a CVD proceeding is defined as "where one company can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets." See 19 CFR 351.525(b)(6)(vi). Normally, when considering cross-ownership, the Department looks to whether there is a majority voting interest between two companies or common ownership. See Id. The purpose of the cross-ownership analysis is to determine whether a subsidy received by a company can be attributed to the product produced by the other company. For a collapsing analysis, however, the question is whether the two companies have facilities for identical or similar products such that manufacturing priorities could be shifted, or whether two companies both involved in the sale and export of subject merchandise could shift sales activity resulting in a significant manipulation of U.S. price and/or NV. Thus, whether a subsidy is attributed to the various products produced by both companies based upon cross-ownership is not determinative of whether price and/or production are subject to manipulation as a result of affiliation. Further, the facts of the instant case differ substantially from those present in Hot Rolled Steel – South Africa 5/3/01, in that Guanhao and ZG: 1) do

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[116] See Mushrooms - PRC 9/09/04 IDM at Comment 1 (The Department collapsed producers of subject merchandise and their affiliated exporters to prevent manipulation of price or production cost as envisioned by 19 CFR 351.401(f)); Shrimp – Brazil 12/23/04 IDM at Comment 5 (the Department collapsed a producer of shrimp with an affiliated processor of shrimp because we concluded that there was a significant potential for the manipulation of price or production).

[117] See Fish Fillets – Vietnam 3/24/08 at Comment 5C; Magnesium Metal – PRC 2/24/05 IDM at Comment 14; CITIC 2003.

not produce similar or identical merchandise; and 2) did not give the Department reason to infer the potential for manipulation of production and price by refusing to cooperate in this investigation.

In the instant case, we have determined that the two companies should not be treated as a single entity because they do not make similar or identical merchandise, their facilities would require substantial retooling to produce each other's merchandise, and Guanhao's affiliate is not involved in the sale or export of subject merchandise. Thus, we find no evidence of a significant potential for the manipulation of price and production. As a result, we continue to value the base paper purchased by Guanhao as a factor of its production of subject merchandise.

Comment 9: Base Paper Surrogate Value

Petitioner argues that the Indian HTS category used by the Department to value base paper, 4802.20.90, does not provide a reliable surrogate value for base paper. According to Petitioner, that HTS category is a basket category and so it is reasonable to question its reliability by comparing the AUV for the POI with prior periods, and with alternative public sources of pricing information such as those available on the record of this investigation. Scrutinizing this category reveals, Petitioner contends, that it is encompassed almost entirely of mill rejects and other entries from the United States that have been misclassified as base paper.

Petitioner argues this misclassification is made clear by comparing Indian WTA import data with the corresponding U.S. export data, as reported by the U.S. Census Bureau. The export quantities and values for base paper, Petitioner argues, constitute a tiny fraction of the imports reported in the WTA statistics. Moreover, Petitioner contends, ship manifest data, as collected by InfoDrive India, demonstrate that the imports from the United States are comprised almost entirely of misclassified defective merchandise. Petitioner argues that, as a consequence of these misclassified imports, the AUV is driven down to a value that is aberrational. Petitioner contends that value is aberrational when compared to three benchmarks: 1) the surrogate value used to value raw wood pulp, a major input into base paper; 2) the market economy purchase price reported by Hanhong for base paper; and 3) historical prices for imports under this tariff code.

Further, Petitioner contends that the Department should instead value base paper using the financial statements of Shree Krishna and Parag. These figures represent a more reliable surrogate value for base paper than the Indian HTS category, Petitioner argues, because: 1) they are specific to base paper; 2) they are of a far larger quantity; and 3) they are not aberrational. Finally, if the Department chooses to continue valuing base paper using the Indian HTS category, Petitioner contends that imports from the United States should be excluded from the Department's calculations. Petitioner cites the following cases in support of its argument: ISOS - PRC 1/2/08 IDM at Comment 2, CVP 23 – PRC 5/10/07 IDM at Comment 1, Mushrooms – PRC 8/9/07 IDM at Comment 1, Mushrooms – PRC 7/17/06 IDM at Comment 1, Glycine – PRC 10/17/07 IDM at Comment 3, Saccharin – PRC 5/4/07, Pure Magnesium – PRC 10/17/06 IDM at Comment 1, Saccharin – PRC 2/13/06 IDM at Comment 1, and THFL – PRC 1/27/04.

Guanhao argues that the surrogate value used by the Department in the Preliminary Determination to value Guanhao's base paper input is the best information on the record in this investigation. Guanhao disagrees with Petitioner that Indian HTS 4802.20.90 is a basket category and contends that Petitioner's other arguments in this regard are not persuasive enough to cause the Department to reject a value that was appropriately used for the Preliminary Determination. Specifically, Guanhao contends, Petitioner's misclassification argument cannot be confirmed by examining U.S. export statistics because they cannot be deemed more reliable than Indian import data. Further, Guanhao argues, Infodrive India data are also not a reliable source by which to examine official Indian import data because they are generated by a private entity that is not held to the accuracy requirements of the Indian Government. In addition, comparing the surrogate value of base paper with the surrogate value for wood pulp is not persuasive, Guanhao argues, because the NME NV methodology creates these types of anomalies often, and such a difference in values suggests that the surrogate value for pulp is too high, not that the surrogate value for base paper is too low. Moreover, Guanhao contends that the Department's threshold for reviewing whether the value is aberrational has not been met because Petitioner has failed to demonstrate that the AUV for base paper is aberrational based on comparisons with either U.S. import statistics or import statistics from other potential surrogate countries.

With respect to valuing base paper by using the Indian financial statements on the record, Guanhao disagrees with Petitioner. Guanhao argues that the figures reported on the financial statements are not those purchased, but are those consumed, and there is no indication as to when the material consumed was purchased, or how the companies valued the materials consumed. Moreover, Guanhao disputes the assertion by Petitioner that the base paper consumed by the two suggested companies is specific to the same type of base paper used by Guanhao. Guanhao cites the following cases in support of its arguments: Sawblades – PRC 5/22/06, and CVP 23 – PRC 11/17/08.

Department's Position: The Department reviews surrogate value information on a case-by-case basis, and in accordance with section 773(c)(1) of the Act, selects the best available information from the surrogate country to value the FOPs. When doing this, the Department's practice is to select, to the extent practicable, surrogate values which are publicly available, non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive.[118] For purposes of this final determination, we continue to find that the WTA Indian import data represent the best available data with which to value Guanhao's base paper. However, we further determine that the record provides substantial evidence to support Petitioner's claim that certain imports within the relevant HTS category for base paper represent defective or substandard merchandise and thus should be removed from the overall weighted average of import prices, as detailed below.

ISOS – PRC 1/2/08 and CVP 23 – PRC 5/10/07 illustrate the Department's practice of "looking behind" official import data only where substantial evidence which give us reason to question the accuracy of the import data exists on the record of the proceeding (e.g., evidence that the majority of imports into the category are of products other than the input in question or a

[118] See, e.g., Artist Canvas – PRC 3/30/06 IDM at Comment 4

significant change occurs in the AUV of a particular HTS category as compared to previous time periods).

Contrary to Petitioner's argument, we do not normally consider export statistics from the relevant exporting country reliable for purposes of evaluating the legitimacy of the corresponding import values into the importing country. Given differing reporting and inspection requirements and timing considerations, it would be unrealistic to expect export statistics to match perfectly import statistics for any given shipment of merchandise. Therefore, while we find factors, as described below, which justify a closer examination of the Indian base paper HTS category, the lack of U.S. exports of base paper evidenced by data submitted from the U.S. Census bureau is not among them.

It is the Department's preference to examine the accuracy and reliability of an HTS category by comparing it to import statistics from other countries on the list of potential surrogate countries. See CVP 23 – PRC 11/17/08. In this case, however, the Department cannot make such a comparison because the Indian HTS category for base paper is significantly more specific than the corresponding HTS category from the other potential surrogate countries.[119] The Department also considers Infodrive data when further evaluating import data, provided the following conditions are met: 1) there is direct and substantial evidence from Infodrive reflecting the imports from a particular country; 2) a significant portion of the overall imports under the relevant HTS category is represented by the Infodrive India data; and 3) distortions of the AUV in question can be demonstrated by the Infodrive data.[120]

In this case, we note that the AUV for the base paper HTS category has changed significantly when compared to previous time periods (i.e., falling nearly 50 percent from the previous year). Further, because the category description includes the term "other than photographic" we can conclude that this category should contain a narrower and more stable array of products than a broad basket category. In light of these factors, we find it reasonable to more closely examine this HTS category.

Petitioner has placed on the record Infodrive import data representing approximately 88 percent of the imports of the base paper HTS category from the United States into India for the POI. These data indicate that a significant majority (i.e., over 90 percent) of these imports are not first quality base paper, but rather are almost all "mill rejected" paper (i.e., defective merchandise) along with some "coated printing" paper. Because the total imports from the United States constitute 68 percent of all imports into India under this HTS category, and because they have an AUV that is 70 percent below that of the next largest exporter, we find that such imports of "mill rejected" paper are aberrational with respect to other base paper import values and have a demonstrably distortive effect on the overall AUV, lowering it by more than 60 percent.

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[119] The Indian base paper HTS category description reads "base paper, other than photographic" while comparable HTS categories from other potential surrogate countries read "base paper" only, thus including photographic paper.

[120] See Dorbest 2006 at 51.

In such unique circumstances as described above, the Department has diverged from its strong preference for using all import data for the relevant HTS category at issue.[121] As such, for purposes of this final determination, we find it appropriate to remove the import data from the United States, comprised mainly of "mill-rejected paper," which we believe represent aberrational values with respect to base paper. By removing these imports, we have improved the accuracy of the overall import data while continuing to use values which are publicly available, average values, most contemporaneous with the POI, product-specific, and tax-exclusive.

With respect to the base paper prices derived from Indian financial statements, we do not find that they represent the best available information on the record with which to value base paper. First, the Department has articulated a clear preference to use prices net of taxes for factor valuation purposes, and we cannot determine whether prices recorded in the Indian financial statements are tax-exclusive. Further, the Department relies on financial statements to value factors only when such represent the best available information, because, while financial statements typically involve several purchases of any given input, they represent data from only one company.[122] In contrast, WTA data are collected from imports into the whole of India, and therefore represent a broader, overall more representative data source. While we have departed from WTA data in favor of financial statements in the past, as in Mushrooms – PRC 8/9/07, Mushrooms – PRC 7/17/06, Glycine – PRC 10/17/07, Saccharin – PRC 5/4/07, Pure Magnesium – PRC 10/17/06, and Saccharin – PRC 2/13/06, in this case we have no indication that the financial statement values are more specific to base paper than are the WTA statistics. Therefore, for the above-mentioned reasons, we have continued to value base paper using WTA statistics and have excluded U.S. imports into India from our surrogate value calculation.

III. ISSUES SPECIFIC TO HANHONG

Comment 10: Coated Jumbo Rolls Surrogate Value

Hanhong argues that the Department should reject the Indian thermal paper surrogate value used to value CJRs in the Preliminary Determination. Rather, Hanhong asserts the Department should use the Chinese WTA import statistics for HTS category 4811.90.00 ("other coated paper") AUV to value CJRs because they are the most representative data. Alternatively, Hanhong proposes, if the Department declines to use the Chinese WTA data, it should either: 1) calculate a weighted AUV using WTA import statistics for Indonesian HTS categories 4811.40.000 ("paper and paperboard, coated, impregnated or covered with wax, parafin wax, stearin, oil or glycerol") and 4809.10.000 ("carbon and similar copying papers"), because both HTS categories reflect commercial quantities (representing at least five percent of Hanhong's total U.S. sales quantity) and are within the standard deviation it identified using its proposed benchmarks; or 2) use Indonesian WTA import statistics for HTS 4811.40.000 because they represent the largest quantity and broadest range of prices with which to value CJRs.

First, Hanhong contends that the WTA value for Indian HTS category 4811.90.94 ("thermal

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[121] See ISOS – PRC 5/10/05 IDM at Comment 1

[122] See Brake Rotors – PRC 11/14/06 IDM at Comment 3

paper in jumbo rolls (size 1 meter and above in width and 5,000 meter and above in length)") is aberrational when compared to a number of benchmarks on the record of this investigation including: 1) Chinese WTA import statistics for HTS category 4811.90.00 ("Other Coated paper"); 2) Indonesian prices; 3) German prices for CJRs; 4) Indian price quotes obtained by the Department; 5) Petitioner's prices for CJRs; 6) Other values; and 7) Market economy price for the base paper Hanhong used to produce subject merchandise. Hanhong argues that the Department should consider these benchmarks in lieu of the Department's preferred source of comparison (i.e., value data reflecting the same HTS category from the list of potential surrogate countries) because such data from that source are not available. Further, according to Hanhong, the surrogate value used by the Department in the Preliminary Determination is also demonstrated to be aberrational when statistically compared (i.e., using a standard deviation analysis) with its proposed benchmarks on the record of this investigation.

Second, Hanhong argues that the quantity on which the surrogate value was based does not represent a significant commercial quantity or a broad range of prices. Citing LABEC 2008, Hanhong argues that, by comparing total import volume of an input to a respondent's sales figures, the Department can determine what represents a commercial quantity. In this case, the 116 MT of merchandise that the WTA import statistics show was imported under the Indian HTS category 4811.90.94 represents less than five percent of Hanhong's total POI U.S. sales quantity, and thus, Hanhong concludes it is not of commercial quantity. Moreover, Hanhong contends, after adjusting the WTA Indian import statistics for imports that reflect non-subject merchandise (based on data from Infodrive India), only 71 MT remain to value CJRs, an insignificant quantity according to Hanhong. Hanhong then proposes that the data be further adjusted, based on an unspecified value analysis and claims that such an adjustment leaves values for only 22.56 MT with which to value CJRs. Hanhong argues that because the overwhelming majority of these remaining WTA Indian import statistics come from a single country (i.e., Germany), the Department's preference for using a broad range of prices is not met. Further, with respect to this argument, Hanhong asserts that the data are unreliable because neither the total volume nor total value of the individual transactions represent commercially significant quantities.

Third, Hanhong contends that the Infodrive India data demonstrate that the WTA Indian import statistics used by the Department in the Preliminary Determination reflect substantial quantities of merchandise that would not be used to produce subject merchandise. Specifically, Hanhong claims that 11 out of 12 transactions identified by Infodrive India, which reflects 33 percent of the WTA data, represent transactions for higher quality paper, sold in non-commercial quantities.
In addition, Hanhong asserts that record evidence suggests that CJRs, such as those used to produce subject merchandise, in fact enter India under a completely different HTS category than that used by the Department in the Preliminary Determination. Finally, Hanhong concludes that if the Department incorrectly decides to stay with this HTS category, it should then limit the data used for surrogate value purposes to a single transaction reflecting imports of "KT 58 F20" from Germany.

Hanhong cites the following cases in support of its arguments, above: LABEC 2008; Lasko 1994; Sawblades – PRC 05/22/06 IDM at Comment 11; SFTE 2004; Pencils – PRC 07/25/02 IDM at Comment 4; PRCB 2005; Dorbest 2006; CVP 23 – PRC 11/17/04 IDM at Comment 7; Saccharin – PRC 09/11/07 IDM at Comment 2; PMIA – TD in ADI 05/9/2008,

Nation Ford 1999, and Pencils 2006.

Petitioner argues that the Department properly calculated the surrogate value for CJRs in its Preliminary Determination. According to Petitioner, the Indian HTS category 8411.90.94 (i.e., "thermal paper in jumbo rolls (size 1 meter and above in width and 5,000 meter and above in length)") remains the best available information on the record as it is specific to the input in question and not a broad basket category. Further, Petitioner contends that the AUV for the Indian HTS category 8411.90.94 is reliable as it has remained consistent over time and is consistent among the various exporting countries which supply CJRs to India. Citing ISOS – PRC 1/2/08 at Comment 1, Petitioner argues that the Department has a well established methodology for testing the reliability of surrogate values. Further, citing PRCBs – PRC 03/17/08 at Comment 6 and Sacks-PRC 06/24/08 at Comment 2, with respect to Hanhong's proposed benchmark comparisons, Petitioner argues that the burden rests entirely with Hanhong to submit benchmark data from the Department's list of potential surrogate countries and Hanhong failed to meet that burden. Because of this failure, Petitioner contends, Hanhong has no basis to direct the Department to consider Hanhong's self-selected benchmarks. Nevertheless, Petitioner addressed each benchmark proposed by Hanhong and asserts that none of them support the respondent's claim that the Indian WTA import value used in the Preliminary Determination is aberrational.

Petitioner also takes issue with Hanhong's statistical argument, asserting that there is no precedent for analyzing whether potential surrogate values are aberrational using a standard deviation analysis.

Petitioner cited the following cases in support of its arguments: Silicon Metal – PRC 10/16/07 IDM at Comment 5, OTR Tires – PRC 7/15/08 IDM at Comment 10, Pencils – PRC 7/25/02 IDM at Comment 4, ISOS – PRC 1/2/08 IDM at Comment 1, PRCBs – PRC 3/17/08 IDM at Comment 6, Sacks-PRC 6/24/08 IDM at Comment 2, Pencils – PRC 7/06/06 IDM at Comment 1, PRCBs – PRC 6/18/04 IDM at Comment 5, Sawblades – PRC 5/22/06 IDM at Comment 11, TRBs – PRC 7/17/08, Garlic – PRC 5/4/06 IDM at Comment 7, CLPP-PRC 09/08/06 IDM at Comment 3, Laizhou 2008 at 13-14, Silicon Metal – PRC 10/16/07 IDM at Comment 5, Polyester Staple Fiber – PRC 4/19/07 IDM at Comment 7, and Mushrooms – PRC 8/9/07 IDM at Comment 2.

Department's Position: With respect to factor valuation, we agree with Hanhong that the Department is obligated to calculate an accurate dumping margin by using the best available information. The Department selects the best available information based on the quality, specificity, and contemporaneity of the data. See section 773(c)(1) of the Act.[123] Normally, the Department will use publicly available information to value FOPs. See 19 CFR 351.408(c)(1). With respect to surrogate value selection, "it is the Department's stated practice to use investigation or review period-wide price averages, prices specific to the input in question, prices that are net of taxes and import duties, prices that are contemporaneous with

[123] See also Honey-PRC 11/3/04 IDM at Comment 4.

the period of investigation or review, and publicly available data.[124] With that in mind, the Department first attempts to find publicly available surrogate values from the primary surrogate country that are contemporaneous and representative of the factors being valued. In applying the Department's surrogate value selection criteria as mentioned above, the Department has found in numerous NME cases[125] that the import data from WTA represent the best information available for valuation purposes because they represent an average of multiple price points within a specific period and are tax-exclusive.

In some instances, the Department has disregarded import data where record evidence demonstrates that per-unit values are aberrational with respect to the product at issue or the time period in question. The Department determines whether data are aberrational on a case-by-case basis after considering the totality of the circumstances.[126]

In this case, we selected India as our primary surrogate country. Thus, the Department's first preference in selecting surrogate value data for this investigation is to utilize publicly available prices within India. With respect to CJRs, in the Preliminary Determination, the Department relied on Indian import data for HTS category 4811.90.94, derived from WTA, for valuation purposes. Hanhong argues that these import data do not represent the best available information for valuing CJRs because: 1) they are aberrational as evidenced by a series of benchmarks placed on the on the record of this proceeding by Hanhong; 2) they do not represent commercial quantities; and 3) they are not specific with respect to the input in question. For purposes of this final determination, and as outlined below, we continue to find that the Indian import data for HTS 4811.90.94 are not aberrational and that they represent the best available information for valuing CJRs. As such, we have relied upon these data for margin calculation purposes in this final determination.

With respect to Hanhong's request that we use the AUV derived from the WTA PRC import statistics to value CJRs because it is the most representative price, we do not agree. Section 773(c) of the Act directs the Department when valuing respondents' FOPs to utilize to the extent possible the prices or costs in a market economy country that is at a level of economic development comparable to that of the NME subject to the AD proceeding. Under certain circumstances, for valuation purposes, the Department does rely on invoice prices paid by PRC exporters/producers under investigation for inputs produced and sold by market economy suppliers and exported to the PRC (e.g., where such market economy inputs are purchased directly by an exporter/producer under investigation in sufficient quantities). In such instances, however, the Department relies on the actual export price listed on the invoice from the market economy supplier to value the input in question. Further, with respect to such purchases, the Department is able to evaluate the specific circumstances of the transactions in detail through questionnaires and verification to determine if the transactions are appropriate for use in valuing the input in question. An AUV derived from WTA PRC import statistics, however,

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[124] See NME Surrogate Selection Policy Bulletin at page 4. See also Sawblades – PRC 5/22/06 IDM at Comment 11.

[125] See, e.g., Sawblades – PRC 05/22/2006 IDM at Comment 11(citing CVP 23 – PRC 11/17/04 IDM at Comment 3).

[126] See, e.g., Garlic – PRC 12/4/02 IDM at Comment 6.

does not allow for use of actual export prices from the market economy supplier, nor does it provide the level of detail necessary for the Department to further evaluate the specifics of the transactions contained therein. As a result, we do not consider such AUVs, representing general imports into an NME country, to be appropriate for valuation purposes.

Further, we do not find Indonesian import data derived from WTA to represent an appropriate surrogate value for Hanhong's CJRs. The record evidence in this case indicates that the Indian HTS category for CJRs is significantly more specific to the input than the Indonesian HTS categories identified by Hanhong. The Indian HTS category description reads "thermal paper in jumbo rolls (size 1 meter and above in width and 5,000 meter and above in length)" while Hanhong's proposed Indonesian HTS categories read as follows: category 4811.90.000 "paper and paperboard, coated, impregnated or covered with wax, paraffin wax, stearin, oil or glycerol," and HTS 4809.10.000 "carbon and similar copying papers." In light of these descriptions, the 4811.90.000 Indonesian category appears to represent a much broader category of paper products and the 4809.10.000 category appears to represent different paper products altogether. As neither description appears to cover CJRs and there is no evidence on the record demonstrating that the Indonesian HTS categories mentioned above actually contain imports of CJRs, we do not consider Indonesian import data to represent the best available information for valuation purposes.

We agree with Hanhong in principle that aberrational data should not be utilized for factor valuation purposes. For this reason, where a party provides sufficient evidence on the record to suggest that a particular surrogate value is aberrational or otherwise inappropriate for use, the Department examines appropriate benchmarks to test the reliability of that value. See, e.g., TRBs – PRC 11/17/1998 remand redetermination.[127] In Hot-Rolled Steel - Romania 6/14/05, the Department addressed the issue of further evaluating surrogate values using appropriate benchmarks. In so doing, the Department acknowledged inconsistencies in its past practice, and articulated a hierarchy for evaluating surrogate values alleged to be aberrational: "To test the reliability of the surrogate values alleged to be aberrational, we compared the selected surrogate value for each FOP to the AUVs calculated for the same period using data from the other surrogate countries the Department designated for this review, to the extent that such data are available."[128] More recently, the Department again articulated this practice for evaluating the reliability of data for purposes of factor valuation. See Saccharin – PRC 9/11/07 IDM at Comment 2 ("While in the past the Department has used U.S. prices to benchmark surrogate values, . . . , the Department's current practice has been to benchmark surrogate values against imports from the list of potential surrogate countries for a given case, if available.")[129]

In this case, none of the other potential surrogate countries on the Department's surrogate country list (i.e., Indonesia, Colombia, Thailand and the Philippines),[130] maintain data for coated paper at an eight-digit HTS category corresponding to the Indian category. Thus, the

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[127] See TRBs – PRC 11/17/1998.

[128] See Hot-Rolled Steel - Romania 6/14/05 IDM at Comment 2

[129] See also ISOS –PRC 1/2/08 at Comment 1.

[130] See Surrogate Country Policy Memo.

Department is unable to compare such values. In addition to the above-discussed analysis, in past cases the Department has also examined data from the same HTS category for the same country over multiple years to determine if the current data appear aberrational with respect to historical values.[131] While Hanhong did not address this comparison, the record evidence indicates that the AUV for the Indian HTS category during the POI is comparable to historical AUVs for this same category. Thus, the record evidence with respect to historical values does not support a conclusion that the Indian import value for CJRs is aberrational during the POI.[132]

Citing Pencil 2006, Hanhong asserts that in evaluating import statistics the Department has the discretion to consider all "available" benchmarks on the record. According to Hanhong, there are over 20 data points from market and non-market economy countries that serve as benchmarks for CJR import data on the record of this investigation. Further, Hanhong asserts that all the benchmarks demonstrate that the Indian WTA value for the Indian HTS Category 8411.90.94 is aberrational. With respect to the benchmarks proffered by Hanhong to determine whether the Indian import value is aberrational, we find that such benchmarks do not serve as reliable indicators of representative prices in a market economy at a comparable level of economic development, as discussed in detail below.

1) Chinese WTA import statistics for HTS category 4811.90.00

As discussed above, section 773(c) of the Act directs the Department to utilize as surrogate values prices from market economies at a level of economic development comparable to that of the NME subject to the AD proceeding. For valuation purposes, the Department will accept invoice prices for inputs produced in and sourced from a market economy country and exported to the PRC where the PRC exporter/producer under examination directly purchases such inputs in sufficient quantities. However, in such instances, the Department relies on the export price from the market economy country as evidenced on the relevant invoice(s). Further, with respect to such transactions, the Department is able to evaluate the specific circumstances of the purchases in detail through questionnaires and verification to determine if the transactions are appropriate for use in valuing the input in question. With respect to general PRC import statistics, however, we are unable evaluate the circumstances surrounding the underlying transactions. Moreover, we do not have on the record the relevant invoices which would allow us to rely on the actual export prices from the market economy country. Therefore, we do not believe general statistics for imports into an NME are appropriate benchmarks against which to evaluate potential surrogate values. Accordingly, in this proceeding, we have not relied upon import prices into the PRC for benchmarking purposes.

2) Indonesian Prices:

We also do not find Hanhong's proposed Indonesian invoices appropriate for purposes of benchmarking Indian import data. With respect to the first two invoices, Hanhong claims that these are sales from Japan to Indonesia of CJRs. However, the invoices that Hanhong submitted to substantiate its claims regarding these transactions indicate that the merchandise is

[131] See, e.g., Saccharin – PRC 2/13/06 IDM at Comment 5.

[132] We conducted this analysis in response to the arguments in the briefs. See Final FOP Memo.

actually heat transfer paper, not CJRs.[133] Thus, there does not appear to be any record information supporting Hanhong's contention that these invoices represent appropriate benchmarks for CJR values. With regard to the remaining two invoices, these reflect sales of thermal paper from Korea to Indonesia. However, the Department has previously determined that Korea provides generally available export subsidies and therefore does not use prices or data from Korea in deriving surrogate values. Accordingly, for these same reasons, the Department determines that such prices cannot serve as reliable benchmarks for evaluating potential surrogate values.

3) German prices for CJRs:

Hanhong argues that the Department should use three German prices as benchmarks in evaluating the Indian WTA data including: 1) an invoice for a sale of German CJRs to the PRC; 2) an invoice for a sale of German merchandise to India, and 3) an average invoice price within Germany. Hanhong asserts that because the Department uses market economy purchases in valuing FOPs, it should also use these purchase values for benchmarking purposes. Further, citing Nation Ford 1999, Hanhong asserts that in determining whether information is the best available, it must use a surrogate value that is "as representative of the situation in the NME country as is feasible." According to Hanhong, there is nothing more representative than the actual import price a producer paid for a purchase specific to that FOP, from the market economy country in question. Further, Hanhong asserts that the WTA statistics used to value CJRs in the Preliminary Determination were derived predominantly from sales of German product into India, and thus, the German values serve as appropriate benchmarks in evaluating the Indian import data. In reviewing the record, we examined each of Hanhong's proffered German prices, in turn.

First, with respect to the market economy purchase of CJRs from Germany, we find that the record identifies Hanhong's Hong Kong affiliate as the purchaser of the product from Germany. The record further demonstrates that the Hong Kong affiliate sent the CJRs to Hanhong for processing, and that Hanhong did not use its affiliate's MEP of CJRs from Germany in its production of subject merchandise.[134] Therefore, its argument that these purchases represent its actual FOP is misplaced.

Second, with regard to the German sale to India, we note that Hanhong pulled a single transaction from the Infodrive India data. As we have stated in past cases, we do not believe that a single transaction is an appropriate basis upon which to evaluate the broader import statistics. Moreover, the WTA data indicate that there may be additional transactions of the same material within the dataset with a varying range of prices. Therefore, while we agree with Hanhong that Nation Ford stands for the premise that the Department should rely on representative surrogate values, we cannot conclude that the single price from the Infodrive data is representative of the prices from Germany.

Third, with regard to the average invoice price within Germany, we note that the information

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[133] See Hanhong's Surrogate Value Submission at Exhibit 1.

[134] See Hanhong's April 9, 2008 supplemental response at pages 1-2, and its March 10, 2008 submission at Exhibit SD-16.

provided is from the public version of Koehler's section B response for the Department's companion Germany LWTP case.[135] Thus, the average price from the public version questionnaire response reflects ranged data rather than Keohler's actual sales prices for CJRs within Germany. Germany is not at a level of economic development comparable to that of the PRC, the country subject to this investigation, and is not named on the Department's list of potential surrogate countries.[136] Nor has any party argued that Germany should be considered an appropriate surrogate country. Therefore, we do not consider internal German prices to be appropriate benchmarks against which to test the reliability of the Indian WTA data.

4) Indian price quotes obtained by the Department:
During the course of the proceeding, the Department obtained two price quotes from Indian manufactures of CJRs. In general, the Department's strong preference is not to rely on price quotes for factor valuation purposes as they do not represent actual prices, broad ranges of data, and normally the Department does not know the conditions under which they were solicited and whether or not they were self-selected from a broader range of quotes. In this instance, because the Department solicited the quotes, self-selection is not at issue. However, such quotes still fail to represent a broad range of actual prices for the input at issue. Moreover, in reviewing those price quotes, the Department suspects that certain information contained within one of the quotes is in error, as the quotes, both for the same exact product, reflect prices ranging from $0.02 cents per kilogram to $2.18 per kilogram. Consequently, the Department has determined that these quotes are not suitable benchmarks against which to evaluate Indian import data.

5) Petitioner's prices for CJRs
We do not find any evidence to support Hanhong's contentions that the values it purports to be Petitioner's prices paid for CJRs and Petitioner's sales of CJRs in India are appropriate for benchmarking purposes. First, with respect to the price quotes provided in the Petition, we note that these are quotes from a Chinese producer of CJRs to a U.S. converter. Thus, they do not represent actual prices or prices in a market economy country that is at a comparable level of economic development to the PRC. Therefore, consistent with the statute and our practice not to use such prices as surrogate values, we determine they similarly are not appropriate as surrogate value benchmarks. Moreover, these quotes are for the product under investigation and thus may represent dumped prices of CJRs. Thus, such quotes cannot serve as reliable benchmarks against which to evaluate Indian import data. With respect to Petitioner's purported prices to India, Hanhong relied on Infodrive India data that reported these sales in a unit of measure that requires a conversion to derive the price per kilogram for comparison with the Indian WTA import data. In order to effect the conversions, the Department would require information regarding the GSM weight, length, and width of the product. However, the Infodrive data Hanhong submitted do not contain the relevant measurement information necessary for the Department to calculate this conversion on its own. Further, Hanhong did not provide the information that it used to effectuate its conversions. We are therefore unable to analyze the accuracy of Hanhong's conversions. Consequently, we have determined that these data are not adequate for benchmarking purposes in this proceeding.

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[135] See Hanhong's February 12, 2008 submission at Exhibit 5.

[136] See Surrogate Country Policy Memo.

6) Other values:
Hanhong also submitted an invoice from a Japanese supplier for a higher GSM thermal paper (i.e., a higher GSM than is used to produce subject merchandise), and three other German invoices taken from Infodrive India data. With respect to the Japanese invoice, we note that this is a single invoice for a type of CJR that is not used in the production of subject merchandise. Accordingly, it is for a different product and is not reflective of period-wide prices. Consequently, for the reasons discussed above with respect to several of Hanhong's other proffered benchmarks, it does not constitute an appropriate benchmark against which to evaluate Indian import data.

With respect to the German invoices taken from the Infodrive India data, we first note that the Infodrive India data from which they are derived represent approximately 54 percent of the total Indian WTA import data under the relevant HTS category. After removing data for imports from countries that the Department does not utilize in its surrogate value calculations,[137] the percentage represented by the Infodrive India data drops to approximately 10 percent of the remaining WTA import values (i.e., only 10 percent of the data used in our surrogate value calculation).[138] First, we do not consider such a small percentage to be representative of the category as a whole. Further, while German imports represent 93 percent of the Indian WTA data used to derive the surrogate value for CJRs, the German data from Infodrive India reflect only seven percent of the overall German imports in the Indian WTA data. Thus, we do not consider the three invoices to represent a significant portion of imports such that the invoices would serve as a representative benchmark against which to evaluate the overall Indian import data.

The Department has indicated in prior cases that it prefers not to use Infodrive data to derive surrogate values or to use as a benchmark to evaluate other potential surrogate values because it does not account for all of the imports which fall under a particular HTS subheading, as is the case here.[139] While we diverged from that practice in ISOS- PRC 5/10/05, this case is distinguishable from ISOS- PRC 5/10/05. Specifically, in that case, because of other unique circumstances, where direct evidence from Infodrive on two specific countries had been introduced, showing that imports from these countries do not contain the product in question, the Department diverged from its strong preference for using the entirety of the HTS classification. In the instant case, the respondent was not able to make a similar showing with respect to the relevant Infodrive India data.

Thus, based on the above, we find that the three German import prices as reflected in Infodrive India data do not cover a significant portion of imports into India such that they can serve as representative benchmarks against which to evaluate the overall AUV of imports of CJRs into

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[137] See Preliminary FOP Memo, where we excluded from the surrogate value calculations all data pertaining to imports from NMEs, countries the Department has deemed to provide non-specific generally available export subsidies, and those listed as being from unspecified countries. In this particular instance, there were no data from unspecified countries.

[138] See Final FOP Memo.

[139] See WBF – PRC 11/17/04 IDM at Comment 10

India.

7) The market economy price for the base paper Hanhong used to produce merchandise subject to this investigation:

First, we note that the price referenced above for uncoated base paper represents a price not for CJRs but for a completely different product. While Hanhong argues that the difference between this price and the surrogate value applied in the Preliminary Determination could not possibly be reflected by the added cost of coating, we do not find record evidence to support this contention. We have no record evidence regarding additional movement and handling costs that might be incurred in transporting uncoated base paper, nor do we have evidence regarding the costs of coating paper via Hanhong's tolling arrangement. Moreover, as Hanhong has the paper coated in the PRC, we could not rely on such costs even if they were on the record, as they would represent costs incurred in an NME rather than a market economy. As a result, prices paid by Hanhong's supplier for uncoated base paper cannot serve as a reliable benchmark against which to evaluate Indian import data for CJRs.

Hanhong has also provided a standard deviation analysis using its proposed benchmark data. Because, we have determined that the underlying data that Hanhong relied on in its calculations is not appropriate for purposes of determining a benchmark, the resulting standard deviation analysis, based on that data, cannot be relied upon to reach a determination that the Indian WTA import data are aberrational.

With respect to Hanhong's arguments regarding commercial quantities, we find that the record does not support Hanhong's argument that the AUV used in the Preliminary Determination to value CJRs was based on data that do not represent significant commercial quantities or a broad range of data. Specifically, Hanhong's contention that the Indian data are unreliable because its single purchase of base paper is larger than the total quantity of imports into India under the relevant HTS category is misplaced. Hanhong has provided no information on the record to indicate that base paper sales quantities are relevant to the Indian CJR import quantities. Nevertheless, even if we considered the base paper purchase, there is no information on the record to indicate that Hanhong's single MEP of this base paper represents the industry norm. Similarly, while Hanhong indicates that its sales of thermal paper exceeded the Indian imports of CJRs, it again has provided no clear link between these two statistics that would warrant a determination that the Indian import data are aberrational.

In addition, Hanhong draws conclusions about the Indian WTA statistics based on the 10 percent covered by the Infodrive India data. However, there is no factual basis for Hanhong's conclusions. For example, Hanhong asserts that 35 percent of the German imports can be reasonably excluded, thus further diminishing the import quantities, but this assertion is based on the fact that only three percent of the data overall is proven not to be directly comparable to the CJRs used by Hanhong.[140] Thus, the record does not support Hanhong's arguments that the Indian data do not reflect commercial quantities. Moreover, Hanhong's reliance on LABEC 2008 is inapposite to this case. In the underlying determination to that litigation, the Department determined that because the import quantities exceeded the respondents'

[140] See Final FOP Memo at the analysis comparing Infodrive India data to Indian WTA.

consumption of the input, there was sufficient evidence to determine that the import volumes were commercially significant. It does not automatically follow, as Hanhong purports, that if the import volumes are exceeded by the respondent's sales that they cannot be commercially significant. In fact, in that case the Department actually selected as its surrogate value the import statistics that represented a smaller quantity than other potential surrogate value source data on the record. Moreover, the Court specifically upheld the determination to use the smaller dataset because the Department had determined that the "relatively smaller amount of data that was representative (in both contemporaneity and specificity to the raw material at issue) was preferable in this case to a larger amount of data whose representativeness was dubious." See LABEC 2008 at "A. Selection of Import Data to Value Pig Iron." This might be considered analogous to the comparison to the Indonesian WTA import data proffered by Hanhong in this case, which are larger in quantity, but appear to reflect imports of merchandise that are less representative of Hanhong's CJRs than the Indian import data.

Finally, we similarly do not agree with Hanhong's third argument, that the Indian WTA data do not reflect the FOP for which they are being used as a surrogate value. Rather, the Infodrive India data indicate that there were significant imports of CJRs into India during the POI. While some of the imports reflected in the Infodrive India data submitted by Hanhong might be of specifications, i.e., GSM weight, that do not meet the description of the input used by Hanhong, such imports represent only three percent of the imports used to derive the surrogate value used in the Preliminary Determination. Moreover, Hanhong has not presented any information that would indicate that the remaining Indian imports (i.e., 90 percent of the imports used to derive the surrogate value) are not of CJRs similar to the factor being valued. Further, while Hanhong argues that the Infodrive India values are for merchandise that should be more expensive than the factor being valued, thus proving that the WTA value is distorted, it has not provided any evidence to support such claims.

As a result of our analysis and record evidence, we determine that the publicly available WTA Indian import statistics for HTS category 4811.90.94 (i.e., "thermal paper in jumbo rolls (size 1 meter and above in width and 5,000 meter and above in length)") are not aberrational because they represent an average of import prices, net of taxes and import duties, during the POI for the input in question. Thus, we find that Indian import data represent the best available information for purposes of valuing CJRs and have relied upon these data in calculating margins for this final determination.

Comment 11: Invoice Date

Petitioner argues that certain of Hanhong's sales should be excluded from Hanhong's sales listing because the terms of sales were established pursuant to a pre-POI binding contract. Petitioner maintains that the pre-POI binding contract places the sale date for these sales outside the POI and, therefore, they should be excluded from Hanhong's U.S. sales listing. Petitioner asserts that Hanhong provided contradictory information in its section A and supplemental responses regarding its agreements for sales to the United States (e.g., long-term purchase contract, short-term purchase contract, purchase order, order confirmation, etc.). Petitioner contends that Hanhong reported its date of sale as the invoice date in its section A

response, and that Hanhong's "price and quantity are fixed at the time the invoice is issued."[141] However, Petitioner contends that in Hanhong's supplemental response, it provided a pre-POI binding contract with its U.S. customer,[142] in which the terms were not renegotiated at any time.[143] Petitioner further argues that Hanhong's assertion that its contract prices are not "binding" but rather are used as "guidance,"[144] is countered by the contract itself, which Hanhong reports is a valid, binding contract. Petitioner points out that the Department normally uses the invoice date as the date of sale, and that it may use a different date if another date "better reflects the date on which the exporter or producer establishes the material terms of sale."[145] Thus, Petitioner argues that because some of Hanhong's invoices during the POI were governed by the terms of its binding contract, the sales from those invoices should have a sale date outside the POI and should be excluded from Hanhong's U.S. sales listing.

Hanhong argues that for the final determination, the Department should continue to use the invoice date as Hanhong's date of sale. Hanhong disagrees with Petitioner's argument that the Department should exclude certain of its sales in the final determination because the Department reviewed Hanhong's reported date of sale and found no evidence that its sales contract with its U.S. customer better reflects Hanhong's date of sale.[146] Hanhong maintains that record evidence demonstrates that the sales terms in the contract were not followed, and, thus the contract cannot be relied upon as the date of sale.[147] Hanhong contends that there is no evidence that the contract better reflects the date on which the material terms of sale were set. Hanhong further argues that record evidence[148] demonstrates that: 1) the material terms of the sale were not set on the date of the contract; 2) the price changed from the stated terms in the contract; 3) the contract does not specify the quantity to be sold or purchased; and 4) the contract does not establish binding shipment dates. Finally, Hanhong asserts that Petitioner has not provided support or precedent for cases in which the Department has used a date of sale when the quantity and price were not established prior to invoice being issued, as in this case.

Department's Position: The Department's regulations express a preference for using the invoice date as a respondent's date of sale. Section 351.401(i) states that "{i}n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice**,** as recorded in the exporter or producer's records kept in the ordinary course of business." This preference is qualified, however, by the following statement: "the Secretary

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[141] Citing Hanhong's Section A Response, dated January 3, 2008, at page 25.

[142] Citing Hanhong's Supplemental Response, dated March 5, 2008, at page 4 and Exhibit SA-4; and Hanhong's Supplemental Response, dated April 9, 2008, at Exhibit 7.

[143] Citing Hanhong's Supplemental Response, dated April 9, 2008, at pages 11 and 12.

[144] Citing Hanhong's Supplemental Response, dated April 9, 2008, at pages 11

[145] Citing 19 CFR 351.401(i).

[146] Citing Hanhong Verification Report.

[147] Citing Hanhong's Supplemental Response, dated April 9, 2008, at page 11 and Exhibit 8.

[148] Citing Hanhong's Supplemental Response, dated April 9, 2008, at page 11 and Exhibit 8.

may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale." See 19 CFR 351.401(i). We note that this issue is specifically addressed in the Preamble to the regulations, which notes that 19 CFR 351.401(i) provides that "absent satisfactory evidence that the terms of sale were finally established on a different date, the Department will presume that the date of sale is the date of invoice."[149] The Preamble also notes that "a preliminary agreement on terms, even if reduced to writing, in an industry where renegotiation is common, does not provide any reliable indication that the terms are truly 'established' in the minds of buyers and sellers. This holds even if, for a particular sale, the terms were not renegotiated."[150] Thus, the regulations allow the Department the flexibility to examine the date-of-sale issue on a case-by-case basis. For our final determination, we agree with Hanhong, and with our preliminary finding, that invoice date is the appropriate date of sale for all of Hanhong's sales to the United States.

At verification, we reviewed with company officials Hanhong's customer order procedure for sales of LWTP to the United States as described in its questionnaire and supplemental responses, as well as the documentation generated as part of Hanhong's sales process; we observed no discrepancies with the information Hanhong previously submitted on the record.[151] Additionally, our examination of record evidence found that Hanhong's sales contract sufficiently demonstrates that the invoice date is the appropriate date because the actual quantity and price were not firm in the contract.[152] Further, there is no evidence to conclude that essential terms of sale were set and not subject to change at the initial contract date.[153] No evidence submitted by Petitioner suggests that Hanhong's approach to selling to its U.S. customer, or any other aspects of Hanhong's standard business practices, which appear to allow for changes to the material terms of sale, during the time period between contract date and invoice date, supports Petitioner's contention that the terms of sale were not renegotiated after the contract date. In summary, our examination of the evidence on the record of this investigation shows that changes occurred after the contract date for Hanhong's sales to the United States, and that the material terms of sale were not established until the invoice date. Therefore, we have continued to use invoice date as the date of sale in the final determination.

[149] See Rules and Regulations.

[150] See id.

[151] See Hanhong Verification Report at page 7.

[152] See Hanhong's supplemental questionnaire response, dated March 5, 2008, at Exhibit 4.

[153] See Hanhong Verification Report at page 7.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final determination of sales at less than fair value and the final weighted-average dumping margins in the Federal Register.

_____ _____

Agree Disagree

_____

David M. Spooner
Assistant Secretary
for Import Administration

_____

Date

LIST OF ABBREVIATIONS AND ACRONYMS

The Act	Tariff Act of 1930, as amended
AD	Antidumping
Air Paper	Air Paper India Pvt. Ltd.
Alpha Carbon	Alpha Carbonless Paper Ltd
AUV	Average Unit Value
Ballarpur	Ballarpur Industries Limited
BoD	Board of Directors
CJRs	Coated Jumbo Rolls
COM	Cost of Manufacture
CVD	Countervailing Duty
DFRC	Duty Free Replenishment Certificate
Fajar	PT Fajar Sruya Wisea TBK
Federal Circuit	U.S. Court of Appeals for the Federal Circuit
FOP	Factor of Production
GFIH	Guandong Finance Investment Holding Co., Ltd.
GM	General Manager
GSM	Grams per Square Meter
Guanhao	Guangdong Guanhao High-Tech Co., Ltd.
Hanhong	Shanghai Hanhong Paper Co., Ltd.
HTS	Harmonized Tariff Schedule
IDM	Issues and Decision Memorandum
ILO	International Labor Organization
Indah Kiat	PT Indah Kiat Pulp & Paper
JK Paper	JK Paper Limited
Koehler	Papierfabrik August Koehler AG
Lucky Forms	Lucky Forms Private Limited
LWTP	Lightweight Thermal Paper
MEP	Market Economy Purchase
MLE	Materials, Labor, and Energy
MT	Metric Tons
NV	Normal Value
NME	Non-market Economy
Parag	Parag Copigraph Pvt. Ltd.
Petitioner	Appleton Papers, Inc.
Pindo Deli	PT Pindo Deli Pulp & Paper Mills
POI	Period of Investigation
PRC	People's Republic of China
Seshasayee Paper	Seshasayee Paper and Board Limited
SG&A	Selling, General, and Administrative Expenses
Shree Krishna	Shree Krishna Paper Mills Limited
URAA	Uruguay Round Agreements Act
WTA	World Trade Atlas® Online
WTO	World Trade Organization
YLS	Yearbook of Labour Statistics
ZG	Zhanjiang Guanlong Paper Industrial Co., Ltd.

CASES AND LITIGATION CITES
(Alphabetical by Short Cite)

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Activated Carbon – PRC 3/2/07	Certain Activated Carbon from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 72 FR 9508 (March 2, 2007)
AD Methodologies-NME Wages (2006)	Antidumping Methodologies: Market Economy Inputs. Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716 (October 19, 2006)
Artist Canvas – PRC 3/30/06	Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China, 71 FR 16116 (March 30, 2006)
Aspirin-PRC 02/10/03	Bulk Aspirin from the People's Republic of China, 68 FR 6710 (February 10, 2003)
Barium Carbonate – PRC 8/6/03	Notice of Final Determination of Sales at Less Than Fair Value: Barium Carbonate From the People's Republic of China, 68 FR 46577 (August 6, 2003)
Brake Rotors – PRC 5/09/05	Preliminary Results, Seventh Administrative Review, Eleventh New Shipper Review, 70 FR 24382 (May 9, 2005)
Brake Rotors – PRC 11/18/05	Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review, 70 FR 69937 (November 18, 2005)
Brake Rotors – PRC 11/14/06	Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review, 71 FR 66304 (November 14, 2006)
Brake Rotors – PRC 8/2/07	Final Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of the 2005-2006 Administrative Review: Brake Rotors from the People's Republic of China, 72 FR 4236 (August 2, 2007)
CFS – Indonesia 10/25/07	Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination, 72 FR 60642 (October 25, 2007)
CFS – PRC 10/25/07	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)
Chevron 1984	Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984)
China Steel 2003	China Steel Corp. V. U.S., 264 F. Supp. 2d 1339 (Ct. Int'l Trade 2003)
CITIC 2003	CITIC Trading Company, Ltd. v. United States of America and ABC Coke, et al: Final Results Pursuant to Remand, at http://ia.ita.doc.gov/remands/03-23.pdf (June 17, 2003)
CLPP CVD – Indonesia 8/16/06	Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from Indonesia, 71 FR 47174 (August 16, 2006)
CLPP-PRC 9/08/06	Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006)
Corus Staal 2005	Corus Staal BV v. U.S. Department of Commerce, 395 F.3d 1343 (Fed. Cir. 2005)
Crawfish – PRC 4/17/07	Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews, 72 FR 19174 (April 17, 2007)
CVP 23 – PRC 11/17/04	Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 from the People's Republic of China, 69 FR 67304 (November 17, 2004)
CVP 23 – PRC 5/10/07	Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 72 FR 26589 (May 10, 2007)
Dorbest 2006	Dorbest v. United States, 462 F. Supp.2d 1262 (Ct Int'l Trade 2006)
EMD – PRC 8/18/08	Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008)
EMD – PRC 3/26/08	Electrolytic Manganese Dioxide from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 73 FR 15988 (March 26, 2008), unchanged in EMD Final – PRC 8/18/08

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Exchange Rate Policy Bulletin 96-1	Notice: Change in Policy Regarding Currency Conversions, 61 FR 9434 (March 8, 1996)
Fish Fillets – Vietnam 3/21/07	Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Second Administrative Review, 72 FR 13242, March 21, 2007
Fish Fillets – Vietnam 3/24/08	Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission, 73 FR 15479 (March 24, 2008)
Fish Fillets - Vietnam 6/30/08	Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results and Partial Rescission of New Shipper Reviews, 73 FR 36840 (June 30, 2008)
FMTCs – PRC 12/17/07	Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 72 FR 71355 (December 17, 2007)
Fogerty - 1994	Fogerty v. Fantasy, Inc., 510 U.S. 517 (1994)
Foundry Coke – PRC 3/8/01	Notice of Preliminary Determination of Sales at Less Than Fair Value: Foundry Coke From the People's Republic of China, 66 FR 13885 (March 8, 2001), unchanged in Notice of Amended Final Determination of Sales at Less Than Fair Value: Foundry Coke From the People's Republic of China, 66 FR 45962 (August 31, 2001)
Garlic – PRC 12/4/02	Fresh Garlic from the People's Republic of China; Final Results of Antidumping Duty New Shipper Review, 67 FR 72139 (December 4, 2002)
Garlic – PRC 5/4/06	Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Final Results of New Shipper Reviews, 71 FR 26329, May 4, 2006
Glycine – PRC 10/17/07	Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part, 72 FR 58809 (October 17, 2007)
Hand Tools – PRC 10/29/01	Heavy Forged Hand Tools From the People's Republic of China: Final Results of New Shipper Administrative Review, 66 FR 54503 (October 29, 2001)
Honey – Argentina 1/6/04	Honey From Argentina: Preliminary Results of Antidumping Duty Administrative Review, 69 FR 621 (January 6, 2004)
Honey-PRC 11/3/04	Honey from the People's Republic of China; Notice of Final Results and Final Rescission, In Part, of Antidumping Duty New Shipper Review, 69 FR 64029 (November 3, 2004)
Honey-PRC 10/04/01	Honey from the People's Republic of China, 66 FR 50608 (October 4, 2001)
Hot Rolled Steel – South Africa 5/3/01	Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon-Steel Flat Products from South Africa, 66 FR 22173 (May 3, 2001), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products from South Africa, 66 FR 37002 (July 16, 2001)
Hot Rolled Steel CVD – South Africa 4/20/01	Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products From South Africa, 66 FR 20261 (April 20, 2001), unchanged in Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from South Africa, 66 FR 50412 (October 3, 2001)
Hot-Rolled Carbon-Steel Flat – PRC 9/28/01	Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China, 66 FR 49632 (September 28, 2001)
Hot-Rolled Carbon-Steel Flat –PRC 5/3/01	Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon-Steel Flat Products From the People's Republic of China, 66 FR 22183, 22193 (May 3, 2001)
Hot-Rolled Steel - Romania 6/14/05	Certain Hot-Rolled Carbon Steel Flat Products From Romania: Final Results of Antidumping Duty Administrative Review, 70 FR 34448 (June 14, 2005)
HSLW-PRC 01/24/08	Helical Spring Lock Washers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 4175 (January 24, 2008)
Ironing Tables – PRC 3/21/07	Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review, 72 FR 13239 (March 21, 2007)

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ISOS – PRC 5/10/05	Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China, 70 FR 24502 (May 10, 2005)
LABEC 2008	LABEC v. U. S., 08-71 Slip Op. (Ct. Int'l Trade 2008)
Laizhou 2008	Laizou Auto Brake Equipment Co. v. U.S., Slip Op. 08-071, 2008 WL 2562915 (Ct. Int'l Trade 2008)
Lasko 1994	Lasko Metal Products Inc. v. U.S., 43 F.3d 1442 (Fed. Circ. 1994)
Lined Paper – India 2/15/06	Notice of Preliminary Affirmative Countervailing Duty Determination and Preliminary Negative Critical Circumstances Determination: Certain Lined Paper Products From India, 71 FR 7916 (February 15, 2006)
Luoyang 2002	Luoyang Bearing Factory v. U.S., Slip Op. 02-118 (Ct. Int'l Trade 2002)
LWTP CVD – PRC 3/14/08	Lightweight Thermal Paper from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination, 73 FR 13850 (March 14, 2008)
Magnesium Metal – PRC 2/24/05	Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal from the People's Republic of China, 70 FR 9037 (February 24, 2005)
Manganese Dioxide - PRC 3/26/08	Electrolytic Manganese Dioxide from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 73 FR 15988 (March 26, 2008)
Mushrooms – PRC 7/17/06	Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review, 71 FR 40477 (July 17, 2006)
Mushrooms – PRC 8/9/07	Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 72 FR 44827 (August 9, 2007)
Mushrooms - PRC 9/09/04	Certain Preserved Mushrooms From the People's Republic of China: Final Results of Sixth Antidumping Duty New Shipper Review and Final Results and Partial Rescission of the Fourth Antidumping Duty Administrative Review, 69 FR 54635 (September 9, 2004)
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Nation Ford 1999	Nation Ford Chemical Co., v. United States, 166 F.3d 1377 (Federal Circuit 1999)
Nails – PRC 6/16/08	Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 33977 (June 16, 2008)
NME Wages	2007 Calculation of Expected Non-Market Economy Wages, 73 FR 26363 (May 9, 2008)
OTR Tires – PRC 7/15/08	Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008)
Pasta CVD – Italy 12/7/04	Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review, 69 FR 70657 (December 7, 2004)
Pencils 2006	China First Pencil v. United States, 427 F. Supp.2d 1236
Pencils – PRC 7/25/02	Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 48612 (July 25, 2002)
Pencils – PRC 7/6/06	Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 71 FR 38366 (July 6, 2006)
Persulfates PRC 2/9/05	Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 70 FR 6836 (February 9, 2005)

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Poly Staple Fiber – PRC 4/19/07	Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China, 72 FR 19690 (April 19, 2007)
Polyethylene Film – Korea 4/3/08	Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement of the Antidumping Duty Order, 73 FR 18259 (April 3, 2008)
PRCB 2005	Polyethylene Retail Carrier Bag Committee v. U.S., 29 C.I.T. 1418 (Ct Int'l Trade 2005)
Pencils – PRC 7/6/06	Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From the People's Republic of China, 69 FR 34125 (June 18, 2004)
PRCBs – PRC 3/17/08	Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Review, 73 FR 14216 (March 17, 2008)
Preliminary Determination	Lightweight Thermal Paper From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 73 FR 27504 (May 13, 2008)
Pure Magnesium – PRC 10/17/06	Pure Magnesium from the People's Republic of China: Final Results of 2004-2005 Antidumping Duty Administrative Review, 71 FR 61019 (October 17, 2006)
Pure Magnesium – PRC 9/27/01	Pure Magnesium in Granular Form from the People's Republic of China, 66 FR 49345 (September 27, 2001)
PVA – PRC 8/11/03	Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China, 68 FR 47538 (August 11, 2003)
Rebar-Belarus 06/22/01	Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Belarus, 66 FR 33528 (June 22, 2001)
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Saccharin – PRC 9/11/07	Saccharin from the People's Republic of China: Final Results of the 2005-2006 Antidumping Duty Administrative Review, 72 FR 51800 (September 11, 2007)
Saccharin – PRC 2/13/06	Saccharin from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 71 FR 7515 (February 13, 2006)
Saccharin – PRC 5/4/07	Saccharin from the People's Republic of China: Preliminary Results of the 2005-2006 Antidumping Duty Administrative Review, 72 FR 25247 (May 4, 2007) , unchanged in Saccharin from the People's Republic of China: Final Results of the 2005-2006 Antidumping Duty Administrative Review, 72 FR 51800 (September 11, 2007)
Sacks-PRC 6/24/08	Laminated Woven Sacks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 35646 (June 24, 2008)
Sawblades – PRC 5/22/06	Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China, 71 FR 29303 (May 22, 2006)
SFTE 2004	Shanghai Foreign Trade Enterprises Co., Ltd. v. U.S., 318 F. Supp. 2d 1339 (Ct. Int'l Trade 2004)
Shrimp – Brazil 12/23/04	Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil, 69 FR 76910 (December 23, 2004)
Shrimp – PRC 9/12/07	Certain Frozen Warmwater Shrimp From the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews, 72 FR 52049 (Sept. 12, 2007)
Shrimp - PRC 12/8/04	Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China, 69 FR 70997 (December 8, 2004)

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Silicon Metal - Brazil 2/13/06	Notice of Final Results of Antidumping Duty Administrative Review: Silicon Metal from Brazil, 71 FR 7517 (February 13, 2006)
Silicon Metal – PRC 10/16/07	Silicon Metal from the People's Republic of China: Notice of Final Results of 2005/2006 New Shipper Reviews, 72 FR 58641 (October 16, 2007)
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Sinopec I 2005	Sinopec Sichuan Vinylon Works v. U.S., 366 F. Supp. 2d 1339 (Ct. Int'l Trade 2005)
Sinopec II 2006	Sinopec Sichuan Vinylon Works v. U.S., Slip Op. 06-078, 2006 WL 1550005 (Ct. Int'l Trade 2006)
Sinopec III 2006	Sinopec Sichuan Vinylon Works v. U.S., No. 06-191, 2006 WL 3929638 (Ct. Int'l Trade 2006)
Steel Pipe – PRC 1/15/08	Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 73 FR 2445 (January 15, 2008), unchanged in Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China, 73 FR 31970 (June 5, 2008)
Steel Plate – Ukraine 11/19/97	Certain Cut-to-Length Carbon Steel Plate from Ukraine, 62 FR 61754 (November 19, 1997)
Steel Sheet and Strip – Mexico 2/11/08	Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review, 73 FR 7710 (February 11, 2008)
THFL – PRC 1/27/04	Notice of Preliminary Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol from the People's Republic of China, 69 FR 3887 (January 27, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol From the People's Republic of China, 69 FR 34130 (June 18, 2004)
Timken 2004	Timken Co. v. U.S., 354 F.3d 1334 (Fed. Cir. 2004)
Tissue Paper-PRC 10/16/07	Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review, 72 FR 58642 (October 16, 2007)
TRBs – PRC 11/17/98	Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of 1996-1997 Antidumping Duty Administrative Review and New Shipper Review and Determination Not To Revoke in Part, 63 FR 63842, 63851 (November 17, 1998)
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WBF – PRC 11/17/04	Final Determination of Sales at Less Than Fair Value: Wooden Bedroom Furniture From the People's Republic of China, 69 FR 67313 (November 17, 2004)
WBF – PRC 12/06/06	Wooden Bedroom Furniture from the People's Republic of China: Final Results of the 2004-2005 Semi-Annual New Shipper Reviews, 71 FR 70739 (December 6, 2006)
WBF – PRC 8/20/08	Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 73 FR 49162 (August 20, 2008)
Zeroing Notice	Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification, 71 FR 77722 (December 27, 2006)

UNPUBLISHED CITES (Alphabetical by Short Cite)	
Final FOP Memo	Department's memorandum entitled, "Surrogate Values for the Final Determination" dated concurrently with this final determination
Guanhao Verification Report	Department's memorandum entitled, "Verification of the Sales and Factors Responses of Guangdong Guanhao High Tech Co., Ltd. in the Antidumping Investigation of Lightweight Thermal Paper from the People's Republic of China," dated July 16, 2008
Hanhong's Surrogate Value Submission	Hanhong's submission regarding, "Lightweight Thermal Paper from the People's Republic of China: Surrogate Value Submission," dated June 23, 2008
Hanhong's Preliminary Analysis Memo	Department's memorandum entitled, "Investigation of Lightweight Thermal Paper from the People's Republic of China: Analysis of the Preliminary Determination Margin Calculation for Shanghai Hanhong Paper Co., Ltd.," dated May 6, 2008
Hanhong's Pre-Preliminary Determination Comments	Hanhong's submission regarding, "Lightweight Thermal Paper from the People's Republic of China: Pre-Preliminary Determination Comments," dated April 11, 2008
Hanhong Verification Report	Department's memorandum entitled, "Verification of the Sales and Factors Responses of Hanhong International Limited, Shanghai Hanhong Paper Co., Ltd., Hong Kong Hanhong Co., Ltd. in the Antidumping Investigation of Lightweight Thermal Paper from the People's Republic of China," dated July 16, 2008
NME Surrogate Selection Policy Bulletin	Department's memorandum entitled, "Non-Market Economy Surrogate Country Selection Process," dated March 1, 2004, available at <http://ia.ita.doc.gov/policy/index.html>
OTCA Legislative History	Omnibus Trade and Competitiveness Act of 1988 (OCTA), Conference Report to Accompany H.R. 3, H. Report No. 100-578 at 590-91, 1988 U.S. Code and Adm. N. 1547, 1623 (1988)
Petition	Petition for the Imposition of Antidumping and Countervailing Duties, September 19, 2007
Petitioner's Pre-Preliminary Determination Comments	Petitioner's submission regarding, "Lightweight Thermal Paper from China: Petitioner's Pre-Preliminary Comments Regarding Shanghai Hanhong," dated April 18, 2008
Petitioner's Surrogate Value Submission	Petitioner's submission regarding, "Lightweight Thermal Paper from China: Petitioner's Submission of Surrogate Value Investigation," dated February 29, 2008
Surrogate Country Policy Memo	Department's memorandum entitled, "Investigation of Lightweight Thermal Paper from the People's Republic of China (PRC): Request for a List of Surrogate Countries," dated December 20, 2007
Preliminary FOP Memo	Department's memorandum entitled, "Factors Valuation Memorandum for the Preliminary Determination," dated May 6, 2008
SAA	Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session (1994)
Surrogate Country Request for Comments Letter	Department's letter regarding "Antidumping Investigation of Lightweight Thermal Paper from the People's Republic of China," dated January 15, 2008
Surrogate Country Selection Memo	Department's memorandum entitled, "Antidumping Investigation of Lightweight Thermal Paper from the People's Republic of China: Selection of a Surrogate Country," dated April 21, 2008.