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June 3, 2010

MEMORANDUM TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty Investigation of Wire Decking from the People's Republic of China: Final Antidumping Duty Determination

SUMMARY:
We have analyzed the case and rebuttal briefs of interested parties in the antidumping duty investigation of wire decking from the People's Republic of China. As a result of our analysis, we have made changes to 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 and rebuttal comments from the parties:

Case Issues:

List Of Abbreviations And Acronyms Used In This Memorandum:

Acronym/Abbreviation	Full Name
Act or Statute	Tariff Act of 1930, as amended
AD	Antidumping
AD/CVD	Antidumping and Countervailing Duty
AD Agreement	Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
AFA	Adverse Facts Available
AP Act	Administrative Procedure Act
AUV(s)	Average Unit Value(s)
Bansidhar	Bansidhar Granites Private Limited
Bedmutha	Bedmutha Wire Com. Ltd.
Bihar	Bihar Tubes limited
BOM	Bill of Material
CEA	Central Electricity Authority
DHMP	Dalian Huameilong Metal Products Co., Ltd.
Eastfound	Dalian Eastfound Material Handling Products Co., Ltd. and its affiliate Dalian Eastfound Metal Products Co., Ltd.
Eastfound Material	Dalian Eastfound Material Handling Products Co., Ltd.
Eastfound Metal	Dalian Eastfound Metal Products Co., Ltd.
CEA	Central Electricity Authority
CFR	Code of Federal Regulations
CIT or Court	U.S. Court of International Trade
COM	Cost of Manufacture
CONNUM	Control Number
Customs or CBP	U.S. Customs and Border Protection
CVD	Countervailing Duty
Department	Department of Commerce
ERP	Enterprise Resource Planning
FA	Facts Available
FOP(s)	Factor(s) of Production
GATT	General Agreement on Tariffs and Trade
GOC	Government of China
Good Luck	Good Luck Steel Tubes
HTS	Harmonized Tariff Schedule
IDM	Issues and Decision Memorandum
ITC	U.S. International Trade Commission
Jyoti	Jyoti Structures Limited
JPC	Indian Join Plant Committee
LTFV	Less Than Fair Value
ME	Market Economy
Mekins	Mekins Agro Products Ltd.
mm	Millimeters
MT	Metric Ton
NME	Non-Market-Economy

List Of Abbreviations And Acronyms Used In This Memorandum:

Acronym/Abbreviation	Full Name
Nasco	Nasco Steels Private Limited
Nezone Ind.	Nezone Industries Limited
Nezone Tubes	Nezone Tubes Limited
Nezone Strips	Nezone Strips Limited
North Eastern	North Eastern Tubes Limited
OTCA 1988	Omnibus Trade and Competitiveness Act of 1988, H.R. Conf. Rep. No. 76 100th Cong., 2nd Session (1988)
PAI	Publicly Available Information
Petitioners	AWP Industries, Inc., ITC Manufacturing, Inc., J&L Wire Cloth, Inc., Nashville Wire Products Mfg. Co., Inc., and Wireway Husky Corporation
POI	Period of Investigation
Pratibha	Pratibha Industries Limited
PRC	People's Republic of China
Rama	Rama Steel Tubes Limited
Rajratan	Rajratan Global Wire Limited
Rs	Rupees
Shivalik	ShivalikWires Private Limited
Stelco	Stelco Strips
SG&A	Selling, General, and Administrative Expenses
SV	Surrogate Value
Visakha	Visakha Wire Ropes Limited
WTA	World Trade Atlas®
Zenith	Zenith Birla

Background:

On January 4, 2010, the Department of Commerce published in the *Federal Register* its *Preliminary Determination* in the antidumping duty investigation of wire decking from the PRC.[1] On February 12, 2010, the Department tolled all existing deadlines associated with this investigation by seven days.[2] Accordingly, the revised deadline for this final determination is June 3, 2010. On March 12, 2010, Petitioners, DHMP, and Eastfound submitted surrogate value information for the record, and each party submitted rebuttal comments to this information on March 22, 2010. On April 22, 2010, case briefs were filed by Petitioners, Nucor, DHMP, Eastfound, and the Government of China. On April 30, 2010, Petitioners, Nucor, Eastfound, and the Government of China each filed the final version of their rebuttal briefs, and on May 3, 2010, DHMP filed the final version of its rebuttal brief. The Department held a public hearing on May 5, 2010. On May 10, 2010, the Department rejected Nucor's case brief, but provided Nucor an opportunity to correct and resubmit its case brief. On May 11, 2010, Nucor filed its corrected case brief.

[1] *See Preliminary Determination* (January 4, 2010).

[2] *See* Tolling of Administrative Deadlines (February 12, 2010).

DISCUSSION OF ISSUES

Comment 1: Whether Applying NME Methodology and CVD Law to Respondents Constitutes a Double Remedy

- The Government of China argues the Department must abandon its NME methodology in the AD case or terminate the parallel CVD investigation because the Department lacks the authority to treat a country as an NME for AD purposes and simultaneously conduct a CVD investigation concerning the same country.[3]
- The Government of China also argues that the Department is engaging in double-counting and creating duplicative remedies by applying NME methodology and conducting a CVD investigation.[4]

- DHMP requests that the Department treat the wire decking industry in the PRC as a participant in the ME in this investigation and value all inputs as ME inputs since the NME AD methodology for calculating normal value eliminates the effects of virtually all countervailed domestic subsidies.[5]

- Eastfound argues that a review of legislative history and judicial precedent demonstrates that the Department's imposing CVDs and ADs concurrently on the same imports from an NME is extremely likely to result in double remedies against the imports.[6] In the event that the Department does not terminate the CVD investigation, Eastfound urges the Department to set the CVD to zero, or rely on the prices paid by respondents for steel wire rod and hot-rolled strip.
- Eastfound also argues that the Department has violated the AP Act, because the Department has not provided an opportunity to interested parties to comment on the "rule making" change of applying both CVDs and ADs to NME imports.[7]

- Petitioners argue that Respondents have cited to no statutory authority that would permit or require the Department to terminate the parallel CVD investigation or to adjust the CVD rate to zero. They argue that the statute only allows for adjusting AD duties for export subsidies.[8]
- Petitioners argue that extension of this concept (*i.e.*, adjustment of CVD rate to zero) would provide the PRC with preferential treatment to all other countries with no legal justification, and that the Protocol of Accession with the PRC expressly allows for the application of the CVD law to the PRC even while the PRC remains classified as an NME.[9]

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[3] *See Georgetown Steel* (Fed. Cir. 1986) at 1318.

[4] *See GPX Int'l Tire Corp (CIT 2009).*

[5] *See Georgetown Steel (Fed. Cir. 1986); GPX Int'l Tire Corp (CIT 2009); see also Certain Steel Products/Austria (July 9, 1993).*

[6] *See GPX Int'l Tire Corp (CIT 2009)* at 1238-39, 42.

[7] *See* 5 U.S.C. §553(c).

[8] *See* Section 772(c) of the Act. *See also KASR/PRC (July 27, 2009)* at Comment 2.

[9] *See Accession of the PRC (Nov. 23, 2001)*; *see also* 22 U.S.C. § 6941(5) (legislative directive that the U.S. government must monitor and enforce its rights under the agreements on the accession of China to the WTO).

- Petitioners argue that in *OCTG/PRC (April 19, 2010)*, the Department has found that "the concurrent application of AD duties calculated under the Department's NME methodology" while applying CVDs does not impose a "double remedy."[10] Further, they argue that the *GPX* court found only that the "potential" for double counting may exist where both CVD and AD duties are imposed, not that there was necessarily double counting in such instances.[11]

Department's Position: The Department disagrees with the GOC, Eastfound, and DHMP that the concurrent application of AD duties calculated under the Department's NME methodology, and the imposition of CVDs, creates a double remedy for domestic subsidies in China. As such, we find that the Department is not required to terminate the parallel CVD case, set the CVD duties to zero, or use actual prices paid for inputs, regardless of whether they are ME or NME prices.

The Department notes that the Act is silent with respect to this issue. The automatic offset in section 772(c)(1)(C) of the Act provides for an adjustment to the AD calculation to offset CVDs based on export subsidies. This, combined with the absence of any such adjustment to offset domestic subsidies, would imply that Congress did not intend for any adjustment to be made to offset domestic subsidies. The AD and CVD laws are separate regimes that provide separate remedies for distinct unfair trade practices. The CVD law provides for the imposition of duties to offset foreign government subsidies. Such subsidies may be countervailable regardless of whether they have any effect on the price of either the merchandise sold in the home market or the merchandise exported to the United States. AD duties are imposed to offset the extent to which foreign merchandise is sold in the United States at prices below its fair value. With one exception, AD duties are calculated the same way regardless of whether there is a parallel CVD proceeding.

The one point of contact between the AD and CVD regimes is section 772(c)(1)(C) of the Act. This provision requires that the price used to establish the export price shall be increased by "the amount of any CVD imposed on the subject merchandise . . . to offset an *export subsidy* (emphasis supplied)." The GOC, Eastfound, and DHMP suggest that the Department erred in refusing to interpret this provision as if it actually read, "to offset an export subsidy *or, where the NME antidumping methodology is applied, a domestic subsidy* (emphasis supplied)." In other words, the GOC, Eastfound, and DHMP would have the Department read an automatic 100-percent offset for domestic subsidies in NME AD proceedings into the Act, based upon the logic purportedly inherent in Congress's decision to provide an automatic offset for export subsidies to implement the requirements of Article VI(5) of the GATT. Plainly, the highlighted language is not in the Act, which does not provide the automatic offset sought by Eastfound. As the Department noted in *Low Enriched Uranium/France* (August 3, 2004), Congress amended the Act to provide for an adjustment to the AD calculation to offset CVDs for export subsidies. If anything, the absence of the additional language related to a domestic subsidy implies that Congress intended to not provide the additional adjustment for domestic subsidies.

[10] *See OCTG/PRC (April 19, 2010)* at Comment 7.
[11] *See GPX Int'l Tire Corp (CIT 2009)* at 1243.

In fact, the legislative history of the export subsidy adjustment establishes only that Congress considered it to satisfy the obligations of the United States under Article VI:5 of the GATT. The legislative history does not appear to be based on any specific assumption about whether foreign government subsidies lower prices in the United States and, in fact, is not solely concerned with the effects of subsidies in the United States.[12] Thus, although the Act requires a full adjustment of AD duties for CVDs based on export subsidies in all AD proceedings, it provides no basis for concluding that Congress's action was based on any specific assumptions about the effect of subsidies upon export prices. It may be simply that Congress recognized the complexity of the issues that would have had to have been resolved in order to provide anything less than a complete offset for export subsidies, and simply opted for a full offset to avoid those potential problems.

Whether Congress considered the economic assumptions that might have been behind the failure of the GATT contracting parties to address domestic subsidies in Article VI:5 is not clear. In any event, all that the contracting parties may have assumed was that domestic subsidies had a symmetrical effect upon export and domestic prices. This presumed symmetrical impact may have been a *pro rata* or *de minimis* reduction in these prices. Thus, it is not correct to conclude that Congress assumed that the GATT contracting parties assumed that domestic subsidies lower export prices, *pro rata*, still less that Congress built any assumptions about the price effects of domestic subsidies into the antidumping law.

Indeed, Eastfound cited no statutory provision that would be a basis for imposing such an adjustment because there are no such provisions in the Act. The various theories advanced by respondents in prior cases to support their requests for an automatic 100-percent offset of AD duties determined under the NME methodology by any CVD duties are based on mistaken premises. Accordingly, the Department has consistently and properly rejected these claims.[13]

Although the GOC, Eastfound, and DHMP have asserted that the Department should terminate the parallel CVD investigation, adjust the CVD rate to zero, or use actual prices paid for inputs, they cite no statutory provision that would provide a basis for permitting or requiring the Department to adopt any of these measures. Section 701 of the statute requires the Department to impose CVDs equal to the full amount of the subsidy. The Department does not see how any matter related to dumping could alter this statutory command. Thus, the Department has always considered that this issue of a potential offset arises under the AD law, rather than the CVD law. Moreover, section 773(c)(1)(B)(2) states that the valuation of the FOPs shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate, and pursuant to 19 CFR 351.408(c)(1), where an FOP is purchased from an ME and paid for in an ME currency, the Department will use the price paid to the ME supplier. Therefore, there is no provision in the statute or provided by the Department's regulations to value FOPs using prices paid for these inputs to NME suppliers, as Eastfound and DHMP suggest.

We disagree with the GOC's and Eastfound's characterization of the Department's previous practice with respect to NME countries and, by implication, of the decision of the Federal Circuit

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[12] *See Trade Agreements Act of 1979, Report of the Committee on Finance United States Senate*; *SAA (1979).*

[13] *See, e.g KASR/PRC* (July 27, 2009) at Comment 1.

in *Georgetown Steel.* The GOC and Eastfound imply that the Department did not apply the CVD law to NMEs concurrently with the NME AD methodology before 2007, because the distortions allegedly offset by the NME methodology remedied any distortions from countervailable subsidies. In fact, the Department declined to apply the CVD law to the Soviet Bloc countries in the mid-1980s because the whole exercise appeared to be meaningless in the context of those economies at that time.

Georgetown Steel (Fed. Cir. 1986), concerned potash imported from the USSR and the German Democratic Republic, and carbon steel wire rod from Czechoslovakia and Poland. In those proceedings, the Department determined that those governments had not bestowed any subsidy (referred to under the statute at that time as a bounty or grant) upon the exported merchandise, because the concept of a subsidy had no meaning in an economy that had no markets and in which activity was controlled according to central plans.[14]

The Federal Circuit noted the broad discretion due the Department in determining what constituted a subsidy (then called a bounty or grant), and held that:

> We cannot say that the administrations' conclusion that the benefits the Soviet Union and the German Democratic Republic provided for the export of potash to the United States were not bounties or grants under section 303 was unreasonable, not in accordance with law, or an abuse of discretion.

Georgetown Steel (Fed. Cir. 1986) at 1318. As the Court noted, even if one were to label these incentives as a subsidy, in the loosest sense of the term, the governments of these nonmarket economies would in effect be subsidizing themselves.[15] Thus, *Georgetown Steel* (Fed. Cir. 1986) did not hold that the CVD law could never be applied to exports from a NME country. It simply upheld the Department's determination that it could not identify a subsidy in the conditions of the Soviet Bloc that were before it.

Because the Department's previous refusal to apply the CVD law to NME countries was not based on the theory that the NME AD methodology already remedied any domestic subsidies in NME countries, the Department's current practice of applying the CVD law to exports from China is not inconsistent with that earlier practice.

Another argument put forth by the GOC and the respondents, *i.e.*, that AD and CVD proceedings against NME countries automatically result in the application of a double remedy is even vaguer. The GOC, Eastfound, and DHMP argue that the effects of countervailable domestic subsidies can pass through to normal value under the Department's NME methodology, so that AD duties on Chinese exports, by themselves, remedy all subsidies attributable to that merchandise. In other words the GOC, Eastfound, and DHMP assert that the NME methodology inherently provides a remedy for any and all countervailable subsidies such that concurrent application of CVDs is necessarily duplicative. Apparently, the GOC and respondents conclude that the NME methodology arrives at this result mechanically because of the lack of any statutory provision that requires or achieves this result.

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[14] *Georgetown Steel (Fed. Cir. 1986)* at 1310.
[15] *Georgetown Steel (Fed. Cir. 1986)* at 1316.

It appears that the general premise of this argument is that concurrent ADs and CVDs do not create automatic double remedies in ME proceedings, because domestic subsidies automatically lower normal value, and hence the dumping margins, *pro rata*. The NME AD methodology, on the other hand, produces a normal value that is not affected by subsidies in any way, so that it necessarily exceeds what would have been the ME dumping margin by the full amount of the subsidy, thus creating a double remedy, which the statue requires the Department to offset. We reject this proposition.

There are several reasons why subsidies in ME cases would not necessarily lower the normal value calculated by the Department, *pro rata*, below what it would have been absent any subsidies. Subsidies often come with conditions attached that reduce the cost savings to the recipient below the nominal amount of the benefit received. For example, subsidy recipients may be required to retain redundant workers, maintain higher levels of production than would be optimum, remain in economically disadvantageous locations, reduce pollution, obtain supplies from favored sources, and so forth. Even if subsidies come with no strings attached, there is no guarantee that they will result in a lower cost of production. Subsidies could be paid out as dividends, used to increase executive pay, or wasted in any number of ways.

Moreover, the Act provides that normal value in ME cases is to be based on home market prices, where possible. Where normal value is based on prices, the relationship of subsidies to normal value becomes yet more tenuous. Not only is the extent to which the subsidies will affect costs uncertain but, even to the extent that subsidies may lower costs, the extent to which the producer will pass these cost savings through to home market or third-country prices is uncertain. Basic economic principles indicate that the prices are a function of the supply and demand for the product in the relevant market, so that any cost savings will be reflected in prices only indirectly. Finally, to the extent that domestic subsidies lower normal value in ME cases, they may lower export prices commensurately, so that the dumping margins may not change. Thus, it is not safe to conclude that subsidies in MEs automatically reduce dumping margins, still less that they automatically reduce dumping margins, *pro rata.*

The counterpoint to the argument that domestic subsidies automatically lower normal values (and, thus, dumping margins) in ME cases, *pro rata*, is that domestic subsidies have no effect whatsoever on normal values (and, thus, dumping margins) determined under the NME methodology. The GOC and respondents argue that domestic subsidies do not affect normal value in NME cases because normal value is essentially imported from surrogate, ME, countries. As explained above, this premise is also incorrect, as there are several ways in which subsidies can lower NME normal values.

Moreover, the whole idea of comparing AD margins under the NME methodology to the theoretical margins that the Department would find if it treated China as an ME country is dependent upon other things being equal, so that any actual difference could be attributed to the difference in the distortion from subsidies. But this is not the case. The most obvious difference between normal values determined in ME and NME situations involves exchange rates. In ME proceedings, normal values are converted from the home-market currency to the currency of the importing country at prevailing exchange rates. In NME proceedings, however, normal values

are derived from the actual factors of production, valued based on information from the surrogate country using the currency of that surrogate country. Thus, normal values in NME proceedings are not influenced by the exchange rate between the exporting country and the importing country. How the different roles that currencies play in NME and ME antidumping proceedings affect any difference in dumping margins calculated under the two methodologies is uncertain, and highly complex. What is certain, however, is that this key difference would prevent any simple comparison of NME and ME AD margins.

The GOC and respondents assert that the fact that the Department may find that an input for a particular product was provided for less than adequate remuneration in a CVD case, and then used an SV for that input in the AD case, proves that the subsidy lowered normal value, *pro rata*. This conclusion is not logical. NME methodology involves more than the simple addition of input costs. It is a complex calculation that takes into consideration operating efficiencies, administrative expenses, the cost of capital, and numerous other factors. An SV for one factor of production that is higher than the price actually paid by the respondent company does not necessarily result in a higher dumping margin, nor does a lower SV for one factor of production necessarily result in a lower dumping margin. The individual elements of the NME methodology do not exist in a vacuum; the various elements necessarily work together. Moreover, respondents did not provide evidence demonstrating how the CVD the Department found on inputs in the companion CVD case lowered normal value in this AD case.

The Department is charged with calculating dumping margins as accurately as possible. The GOC, Eastfound, and DHMP fail to identify any item in the dumping margin calculation that is being counted twice. Rather, because the GOC and respondents argue that the CVD law cannot be applied concurrently with the NME AD methodology, they argue that the Department should terminate the CVD case, adjust CVD duties, or use actual input prices. Contrary to the GOC and respondents' assertions, nothing is being double counted in the dumping margin calculation and, as such, we find that the Department is not required to terminate the parallel CVD case, adjust CVD duties, or use actual input prices. In other words, the accurately calculated dumping margin should be collected in full as the remedy for pricing at less than normal value.

With respect to Eastfound's contention that the Department's imposition of CVD's on imports from an NME without first modifying its AD methodology violates the APA, the Department disagrees that the application of the CVD law to China, while applying NME methodology to China, constitutes a retroactive amendment to a binding rule that requires a formal rulemaking. An agency has broad discretion to determine whether notice-and-comment rulemaking or case-by-case adjudication is the more appropriate procedure for changing a policy or a practice.[16] Indeed, the CIT has not required that the Department follow the notice-and-comment rulemaking when following its practice of applying CVD law to NMEs. The CIT held that the decision of whether a subsidy can be calculated in an NME hinges on the facts of the case, and should be made exercising the Department's "informed discretion."[17] The CIT has repeatedly recognized the Department's discretion to modify its practice and has upheld decisions by the Department to

[16] *See, e.g.*, *SEC (USSC 1947)* at 202-03 ("the choice made between proceeding by general rule or by individual, ad hoc litigation is one that lies primarily in the informed discretion of the administrative agency").

[17] *See Gov't of the People's Republic of China (CIT 2007)* at 1282 (citing *SEC* v. *Chenery Corp*., (1947) at 203).

change its policies on a case-by-case basis rather than by rulemaking when it has provided a reasonable explanation for any change in policy.[18] Furthermore, the "APA does not apply to antidumping administrative proceedings" because of the investigatory and not adjudicatory nature of the proceedings.[19]

Eastfound claims the Department has three times in the past issued a determination that it would not apply the CVD law to China and that the Department's interpretation and application of the CVD law in these instances constitutes a rule under the APA. According to Eastfound, in 1984, after a specific notice and comment period, the Department found that CVDs could not be imposed on the same NME imports. Eastfound argues that the Department affirmed this in 1993 in *Certain Steel Products from Austria*[20] and then affirmed this "rule" again in 1998 when it issued its CVD regulations.[21] Eastfound asserts that because the Preamble to the CVD Final Rule was issued in accordance with the APA's requirement that all final rules include a "general statement of their basis and purpose," the Preamble has legal affect.[22] As discussed above, the argument premised on these determinations is incorrect because the Department does not create binding rules under the APA through its administrative determinations. Instead, in these determinations, the Department expounds on its practice in light of the facts before the Department in each proceeding. Furthermore, in the determinations which Eastfound cites, the Department never found that Congress has prohibited the imposition of both AD and CVD law on China.

Eastfound references *Certain Steel Products/Austria (July 9, 1993),* claiming that a reference to the Department's practice elevated that practice to the level of a rule. However, the statement is simply an explanation that the CVD law is not concerned with the subsequent use or effect of a subsidy and that "*Georgetown Steel* cannot be read to mean that countervailing duties may be imposed only after the Department has made a determination of the subsequent effect of a subsidy upon the recipient's production."[23] This reference to *Georgetown Steel* does not set forth a broad rule, but merely acknowledges the Department's prior practice regarding non-application of the CVD law to NMEs.

The Department has appropriately, and consistently, determined that formal rulemaking was not appropriate for this type of decision. The Department reiterated its position that the decision to not apply the CVD law in prior investigations involving NMEs was a practice: "In this regard, it

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[18] *See, e.g., Budd Co. Wheel (CIT 1990)* (holding that the Department did not engage in rulemaking when it modified its hyperinflation methodology: "because it fully explained its decision on the record of the case it did not deprive plaintiff of procedural fairness under the APA or otherwise"); *Sonco Steel Tube Div. (CIT 1988)* (formal rulemaking procedures were not required in determining whether it was appropriate to deduct further manufacturing profit from the exporter's sales price). This is because it is necessary for the Department to have the flexibility to observe the actual operation of its policy through the administrative process and as opposed to formalized rulemaking. *See Ceramica Regiomontana, (Fed. Cir. 1987).* The Department provided a fully reasoned analysis for its change of practice in this case.

[19] *See GSA, S.R.L.* (*CIT 1999*) at 1359 (citing *SAA* (1979) at 892) ("Antidumping and countervailing proceedings . . . are investigatory in nature.").

[20] *See Certain Steel Products/Austria (July 9, 1993)* at 37261.

[21] *See Countervailing Duties Final Rule (November 25, 1998)* at 65360.

[22] *See* 5 U.S.C. §553(c).

[23] *See Certain Steel Products/Austria (July 9, 1993)* at 37261.

is important to note here our *practice* of not applying the CVD law to non-market economies. The CAFC upheld this practice in *Georgetown Steel (Fed Cir. 1986).*"[24]

In a subsequent determination, the Department continued to explain that it has a practice of not applying the CVD law to NMEs, and did not refer to this practice as a rule. "The Preamble to the Department's regulations states that . . . it is important to note here our *practice* of not applying the CVD law to non-market economies. . . . We intend to continue to follow this *practice*." *Sulfanilic Acid from Hungary*, IDM at Comment 1 (emphasis added). The claim that the Department has somehow created a rule, when it has neither referred to its practice as such nor adopted notice-and-comment rulemaking for this practice, is erroneous. Therefore, by extension, Eastfound's claim that the Department should have engaged in notice-and-comment in its decision not to change its AD methodology when it determined to apply CVD law to China is also erroneous.

Furthermore, there is no requirement that the Department address each instance where a prior practice was applied when changing that practice. The Department is only required to provide a "reasoned analysis" for its change.[25] As explained by the U.S. Supreme Court: "{a}n agency is not required to establish rules of conduct to last forever, but rather must be given ample latitude to adapt its rules and policies to the demands of changing circumstances."[26]

Additionally, the GOC and respondents' reliance on *GPX (CIT 2009)* is misplaced. This decision is not final, as a final order has not been issued by the CIT, nor have all appellate rights been exhausted. Even if reliance on *GPX (CIT 2009)* were not misplaced, *GPX (CIT 2009)* does not support the positions attributed to it by the GOC and respondents. *GPX (CIT 2009)* did not find a double remedy necessarily occurs through concurrent application of the CVD statue and NME provision of the AD Act, only that the "potential" for such double counting may exist.

Comment 2: Selection of Financial Statements

- Petitioners argue that the Department should only rely on the financial statements of Mekins, a producer of identical merchandise,[27] to calculate surrogate financial ratios because they are audited and comply with all applicable legal and accounting standards, including the Indian Companies Act, and are sufficiently detailed to allow for the proper calculation of financial ratios.

[24] *See CVD Preamble (November 25, 1998)* (emphasis added). *See also Certain Steel Products/Austria (July 9, 1993)* at 37261.

[25] *See, e.g., Rust (USSC 1991)* at 187.

[26] *Id.*, at 186-87 (citations and internal quotations omitted).

[27] *See, e.g., Rhodia* (CIT 2002), 240 F. Supp. 2d at 1250 (stating that the Department may consider how closely surrogate companies approximate the respondent's own experience). *See also Pencils/PRC (July 25, 2002)* IDM at Comment 5; *CLPP/PRC (September 8, 2006)* IDM at Comment 1; *Certain Steel Nails/PRC (June 16, 2008) IDM* at Comment 11.

- Petitioners also argue that DHMP's allegation of subsidies in Mekins' statements should be rejected, because Mekins' financial data are not distorted by subsidies and any alleged subsides are immaterial.[28]
- Further, Petitioners argue that the Department should reject Eastfound's proposal to calculate surrogate financial ratios using all, or some subset, of the 15 other companies' statements submitted by respondents because of deficiencies including a lack of comparability in production process, inputs, degree of integration, and the differences between the merchandise produced by these companies.[29]
- Petitioners also argue that the Department should not use the 2007-2008 financial statements of Bansidhar and Bedmutha in the surrogate financial ratio calculations because these companies do not produce identical or comparable merchandise.[30]

- Eastfound argues that the Department should use the financial statements supplied by respondents because the inputs used by these companies in production are comparable to those used by Eastfound.[31]
- Eastfound maintains that the Department should not have rejected Shivalik's financial statements in the *Preliminary Determination* because, contrary to the Department's determination that Shivalik's activities focuses on traded goods rather than on production, Shivalik's financial statements indicate that they are a producer of comparable merchandise and should not be rejected on the basis of company size.[32]
- Eastfound also argues that the Department should reject any statements of Mekins. Eastfound contends that Mekins did not produce significant quantities of wire decking; thus, Mekins cannot be considered a producer of identical merchandise.[33]
- Additionally, Eastfound asserts that Mekins' products, production processes, machinery, and accounting practices do not approximate those of Eastfound, depart from accounting standards, are distorted by accelerated depreciation, and are of insufficient detail.[34]
- Additionally, Eastfound argues that Mekins' 2008-2009 financial statements appear to be incomplete.[35]

- DHMP argues that the Department should not use Mekins' financial statements because:

  (1) it cannot be shown that Mekins made wire decking during the POI;
  (2) Mekins is a recipient of countervailable subsidies;[36]

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[28] *See, e.g., CVP 23/PRC (November 17, 2004)* IDM at Comment 1 and *Persulfates/PRC (December 5, 2003)* IDM at Comment 3; *HR/Steel India (July 14, 2008)* IDM at Comment 11; *Magnesium/PRC* (December 16, 2008) IDM at Comment 6; *Concrete Bars/PRC* (June 22, 2001) IDM at Comment 8. *See, e.g., PET Film/India (February 10, 2010)* IDM at Comment 5. *See also Goldlink (CIT 2006)* (Final Results of Remand Redetermination Pursuant to United States Court of International Trade Remand Order) at 7, available at http://ia.ita.doc.gov/remands/index.html.

[29] *See, e.g., FMTC/PRC (January 21, 2009)* IDM at Comment 1; *Staple Fiber/PRC (April 19, 2007)* at 34-35; *Chlorinated Isocyanurates/PRC (May 10, 2005)*.

[30] *See, e.g., KASR/PRC (July 24, 2009)* at 44; *see also OCTG/PRC (April 19, 2010)* IDM at Comment 13.

[31] *See, e.g., KASR/PRC (July 24, 2009)* IDM at Comment 10.

[32] *See, e.g., WBF/PRC* (August 17, 2009) IDM at Comment 14.

[33] *See, e.g., ISOS/PRC (December 14, 2009)* IDM at Comment 3.

[34] *See, e.g., Tires/PRC (July 15, 2008),* IDM at Comment 17.B and 17.A.

[35] *See, e.g., Dorbest* (CIT 2006); ISOS/*PRC (December 14, 2009)* IDM at Comment 3; *Tires/PRC (July 15, 2008),* IDM at Comment 17.A and 18.F.

(3) the statements contain aberrant and inconsistent rates and amounts of depreciation; and
(4) the statements contain little breakdown of Mekins' costs and expenses relating to both the sales and production of its products.[37]

- The GOC argues that the Department should reject the financial ratios of Mekins for the same reasons put forth by Eastfound and DHMP.

Department's Position: In the *Preliminary Determination*, the Department determined that the financial statements of Mekins, Bansidhar, and Bedmutha were the best available information on the record to calculate the surrogate financial ratios because each of these producers makes a range of products (*e.g.*, wire decking, drawn and welded wire products, fasteners or nuts and bolts, *etc*.) identical and/or comparable to that produced by the respondents. *See Preliminary Determination*, 75 FR at 1606.

For the final determination, we are calculating the surrogate financial ratios using the 2008-2009 audited financial statements of Rajratan, Visakha, and Nasco, because each of these financial statements is contemporaneous with the POI, complete and reliable, and these producers make a range of products (*e.g.*, drawn and/or welded steel products, such as tyre wire, nails, hinges *etc*.) comparable to wire decking. While Petitioners argue that the surrogate producers other than Mekins are not producers of comparable merchandise, we disagree. We note that the statute does not define "comparable merchandise." It is the Department's practice, where appropriate, when determining whether the company is a producer of comparable merchandise to consider 1) physical characteristics, 2) end uses, and 3) production processes.[38]

Eastfound and DHMP consume, *inter alia*, wire rod and hot-rolled steel in their production of wire decking, which mainly includes wire drawing/cutting, cutting of steel sheet strips/forming of steel sheet channel, welding, and powder coating. In our examination of Rajratan's, Visakha's, and Nasco's financial statements, we found that all three companies are producers of wire products, and that they also consume wire rod and/or hot-rolled steel in their production processes, which involves two or more of the following processes: wire drawing, cutting, and forming steel sheet. While Petitioners allege that Rajratan, Visakha, and Nasco's production processes are less complex than those of DHMP and Eastfound because they either do not galvanize their products or employ welding in their production processes, we find this argument unpersuasive. The production process of wire decking is not very complex. In its December 7, 2009, submission at 2, Eastfound states that "{t}he production process includes wire drawing/cutting, forming of the channel, welding, powder coating, and packing." DHMP's October 16, 2009, submission at Exhibit D-1, confirms that its production process is similar to that of Eastfound, *i.e.*, wire drawing/welding, shaping steel channels, galvanizing, and packing. The Department finds that although Rajratan, Visakha, and Nasco appear to have had no production of identical merchandise, they did have production of comparable merchandise. Specifically, Rajratan produced tyre bead wire, Visakha produced steel wire rope and other wire

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[36] *See, e.g., HR Steel/India (April 29, 2009)*; *Matchbooks/India (October 22, 2009)*; and *Wire Strand/India (April 8, 2009.)*

[37] *See, e.g., KASR/PRC (July 24, 2010); see also Tires/PRC (July 15, 2008),* IDM at Comment 18.F.

[38] *See Pencils/PRC* at Comment 5.

products, and Nasco produced hinges, nails and blades for agricultural equipment. Further, we find that the physical characteristics of these products share many of the same characteristics as wire decking products, that is, drawn wire and hot-rolled steel sheet both of which are cut to product specifications. Although the end use of tyre bead, steel wire rope, other wire products, hinges, nails and blades may differ from wire decking the raw material inputs, production process, and machinery required are sufficiently similar to that of wire decking.[39] Therefore, we find that Rajratan, Visakha, and Nasco had production of comparable merchandise for purposes of determining financial ratios for Eastfound and DHMP.

During the course of this investigation, parties placed nineteen publicly available financial statements on the administrative record. After examining the financial statements submitted by all parties, and taking into account the Department's criteria for considering whether to use financial statements for calculating surrogate financial ratios, we concluded that we have three useable financial statements (of Rajratan, Visakha, and Nasco) and determined that the remaining sixteen financial statements were not suitable for use in deriving the surrogate financial ratios for purposes of the final determination, as discussed below.

The statute directs the Department to base the valuation of the factors of production 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. 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." *See OTCA 1988* at 590.

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. However, where the Department has a reason to believe or suspect that the company producing comparable merchandise may have received subsidies which the Department has found to be countervailable, it may consider that the financial ratios derived from that company's financial statements are less representative of the financial experience of the relevant industry than the ratios derived from financial statements that do not contain evidence of subsidization. Consequently, the Department does not rely on financial statements where there is evidence that the company received countervailable subsidies and there are other sufficiently reliable and representative data on the record for purposes of calculating the surrogate financial ratios. *See Shrimp/PRC (September 12, 2007)* IDM at Comment 2 (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).

Nevertheless, the Department has used financial statements with some evidence of subsidies when the circumstances of the particular case warranted. For example, the Department determined in *Fish/Vietnam (March 21, 2007)* that it was appropriate to use a financial statement which indicated that the company received a subsidy where there was insufficient information on

[39] Consistent with Department's practice in *ISOS/PRC (May 10, 2005)* at Comment 2.

the record regarding the subsidy program to warrant disregarding the financial statement. *See Fish/Vietnam (March 21, 2007)* IDM at Comment 9. For purposes of this final determination, we have reviewed the financial statements of Rajratan, Visakha, and Nasco to determine whether the financial statements provide any evidence that the respective companies received actionable subsidies.

In our examination of Rajratan's financial statements, we found that the statements identify it as having accounted for export incentive programs, but they do not identify any specific program. While this company may have received one or more subsidies, we find that there is no evidence of any specific export program, and no evidence that the company received subsidies which the Department has previously found to be countervailable. Consequently, we find this scenario to be analogous to that addressed in *Fish/Vietnam 03/21/07* IDM at Comment 9 (and discussed above), where we found that there was insufficient information to warrant disregarding the financial statement in question. We also find that the other contemporaneous statements, those of Visakha and Nasco, make no mention at all of export incentive or benefit programs. Consequently, we find that there is no evidence that these companies received actionable subsidies during the period and we have determined to use the financial statements of Rajratan, Visakha, and Nasco for purposes of the final determination.

Further, for the final determination, we concluded that the 2007-2008 financial statements of Bansidhar, Bedmutha, Mekins, and Shivalik were not suitable for use in deriving the surrogate financial ratios because these statements are not contemporaneous with the POI. We have found that there are additional contemporaneous surrogate financial statements on the record of this proceeding that we deemed to constitute the best available information, for the reasons discussed above. Accordingly, we did not use non-contemporaneous data. Thus, we determined that the 2008-2009 financial statements of Rajratan, Visakha, and Nasco cover all of the months of the POI and, as such, are contemporaneous with the POI, whereas the 2007-2008 statements on the record are not..

Consistent with the Department's practice to not use incomplete or illegible statements,[40] we determined that Mekins' 2008-2009 statements were not suitable for use because they are incomplete. Specifically, Mekins' auditor's report, as provided to the Department, did not contain schedules A through D accompanying the balance sheet.[41] Thus, we have not addressed whether Mekins' statements indicate profitability or whether they indicate that Mekins received actionable subsidies.

Although the 2008-2009 Indian financial statements of Bihar, Rama, Good Luck, Zenith, Nezone Tubes, Nezone Strips, Nezone Industries, North Eastern, and Pratibha are contemporaneous with the POI, we have determined that these statements are not suitable for use in deriving the surrogate financial ratios because each company's financial statement indicates that it is not a producer of identical or comparable merchandise. Thus, we did not review these statements to determine whether they were complete, were profitable, or whether they contained subsidies. An examination of the information on the record[42] indicates that Bihar, Rama, Good Luck, Zenith,

[40] *See, e.g., LWTP/PRC (October 2, 2008)* at Comment 2; *Tires/PRC(July 15, 2008)* at Comment 17.A.
[41] *See* Petitioners SV Submission at Exhibit 3.
[42] *See* Eastfound's SV Submission at Exhibits 1 through 3 and 5 through 10.

Nezone Tubes, Nezone Strips, Nezone Industries, North Eastern, and Pratibha mainly produced galvanized and/or un-galvanized pipes and tubes. With regard to physical characteristics and end use, we find that while the major material inputs (*e.g.*, hot-rolled coils and/or strip, *etc*.) in all of these companies' production may be similar to some of those used in the production of wire decking, the majority of each surrogate company's production appears to be pipes and tubes,[43] which are not physically similar, nor do they have the same end use as that of wire decking. Additionally, there is no information in these companies' financial statements describing the production processes employed to produce these non-wire decking items that would enable the Department to determine whether the production processes are similar to wire decking. *Id*. Therefore, we have determined that Bihar, Rama, Good Luck, Zenith, Nezone Tubes, Nezone Strips, Nezone Industries, North Eastern, and Pratibha do not produce merchandise that is comparable to that of wire decking.

We also found that the 2008-2009 Indian financial statements of Stelco, Jyoti, and Godrej are not suitable for use in deriving the surrogate financial ratios because each company's financial statement indicates that it is not a producer of identical or comparable merchandise, as discussed below.

Stelco's financial statements do not indicate what was produced by the company, only that the company had the licensed capacity to produce cold rolled steel in strips, sheets, and coils, as well as galvanized plain and corrugated sheets. With regard to physical characteristics and end uses for products Stelco may have produced, we find that while the major material input in Stelco's production may be similar to those used in the production of some of respondent's wire decking (*e.g.*, hot rolled steel[44]) the majority of Stelco's production[45] process would not have been physically similar (steel cut in sheets or wound around a spool) to that of respondents (*i.e.*, the drawing and cutting of wire rod, the cutting and forming of hot rolled steel sheet strips, and the assembly/welding of the drawn wire rod and formed hot rolled steel strip). Further, we determined based on the above, that Stelco's finished product would not have had the same end use as that of wire decking because it would have been the input to wire decking, not the finished wire decking. Therefore, we have determined that Stelco does not produce merchandise that is comparable to wire decking.

Information on the record indicates that Jyoti used, among others, steel and zinc as raw materials in its production process.[46] However, Jyoti's statements do not indicate what types of products the company actually produced, but rather only what the company had the licensed capacity to produce, (*e.g.*, transmission lines, towers, and structures). With regard to physical characteristics and end uses for products Jyoti may have produced, we find that while the major material input in Jyoti's production may be similar to those used in the production of some of respondent's wire decking (*e.g.*, steel and zinc) the majority of the company's production may have been of transmission lines, towers, and structures which are not physically similar, nor do they have the same end use, which appears to be related to power transmission, while wire decking is used as

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[43] *See Id*.

[44] See *U.S. Steel (CIT 2004) at 1942 at footnote 4, where it states that "{h}ot rolled steel is the primary input for cold rolled steel."*

[45] *See Id*.

[46] *See* DHMP's SV Submission at Exhibit FSV-3(b).

"bulk storage shelving." *See* the scope of this investigation in the *Preliminary Determination*. Additionally, there is no information in these companies' financial statements describing the production processes employed to produce these non-wire decking items that would enable the Department to determine whether the production processes are similar to wire decking. *Id*. Thus, based on the above, we have determined that Jyoti did not produce merchandise that is comparable to that of wire decking. Finally, information on the record indicates that Godrej is not a producer of merchandise comparable to wire decking.[47] Rather, it is a producer of, among others, steel furniture, process plant and equipment, forklift trucks, electric motors. *Id*. Thus, we have determined that Godrej does not produce merchandise that is comparable to that of wire decking.

As noted above, 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.[48] For the final determination, we have three sets of financial statements from Indian producers of comparable merchandise, and these statements are contemporaneous with the POI, and are publicly available, which satisfy the Department's criteria for selecting surrogate companies.

We note that in evaluating financial statements for use in calculating the surrogate financial ratios, it is the Department's preference to match the surrogate companies' production experience with respondents' production experience, and whenever possible, surrogate-country producers of identical merchandise provided that the surrogate value data is not distorted or otherwise unreliable.[49] While Petitioners request that the Department only use the financial statements of Mekins because they claim it is the only producer of identical merchandise, we find that the surrogate value data, with respect to Mekins is unreliable, and thus, overcomes our preference for identical over comparable merchandise in this case. Specifically, as noted above, Mekins' 2008-2009 statements are not suitable for use because they are incomplete, and Mekins' 2007-2008 statements are not suitable for use because they are not contemporaneous with the POI. Further, we find that after consideration of the totality of the circumstances in selecting the financial statements of Rajratan, Visakha, and Nasco, we have determined not to use the 2007-2008 financial statements of Shivalik for the final determination, because they are not contemporaneous with the POI. Therefore, the arguments raised against using Mekins' and Shivalik's financial statements are moot, and we have not addressed them for this final determination.

Finally, Petitioners argue that we should only use the financial statements of one surrogate company (*e.g.*, Mekins, which we have disregarded for other reasons above) to calculate the surrogate financial ratios. However, given the Department's preference for using multiple financial statements in order to determine surrogate financial ratios for manufacturing overhead, SG&A expenses, and profit,[50] the Department has used the average of the audited financial statements of Rajratan, Visakha, and Nasco to calculate surrogate financial ratios for both respondents in the final determination.

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[47] *See* DHMP's SV Submission at Exhibit FSV-2(b).
[48] *See KASR/PRC (July 24, 2009)* IDM at Comment 10.
[49] *See, e.g.*, Persulfates/PRC December 5, 2003) IDM at Comment 1.
[50] *See OCTG/PRC (April 19, 2010)* IDM at Comment 13.

Comment 3: Whether to Inflate the Surrogate Value for Electricity

- Petitioners and Nucor argue that the July 2006 electricity value used in the *Preliminary Determination* should be inflated, in accordance with the Department's practice.

Department's Position: It is the Department's practice to carefully consider the evidence in light of the particular facts of each industry when valuing FOPs and to value them on a case-by-case basis.[51] Furthermore, in accordance with section 773(c)(1) of the Act, "the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country."[52]

Accordingly, the Department has determined to continue valuing electricity using data from CEA of the Government of India in its publication titled Electricity Tariff & Duty and Average Rates of Electricity Supply in India, dated July 2006, for the final determination because it is the best available information on the record. More specifically, these electricity rates represent actual country-wide, publicly-available information on tax-exclusive electricity rates charged to industries in India. We note that the Department prefers to use pricing data that are contemporaneous with the POI in calculating surrogate values.[53] Because we do not have a more contemporaneous source on the record in this case, we continue to value electricity with the July 2006 surrogate value used for the *Preliminary Determination*.

Additionally, with respect to whether the Department should inflate electricity, we continue to not adjust the surrogate value of electricity for inflation, consistent with the Department's practice. As we found in *OCTG/PRC* (April 19, 2010)[54] and *Prestressed Concrete Steel Wire Strand/PRC* (May 21, 2010) with respect to using CEA data, because the rates listed in this source became effective on a variety of different dates, we are not adjusting the average value for inflation.[55] In other words, the Department did not inflate this value to the POI because the utility rates represent current rates, as indicated by the effective date listed for each of the rates provided.

Comment 4: Valuation of Steel Wire Rod

- Petitioners argue that the Department found at verification that DHMP and Eastfound misreported the characteristics of the wire rod they consumed in the production of subject merchandise and that the Department should use HTS category 7213.91.90, "Bars and Rods, Hot Rolled, In Irregularly Wound Coils, of Iron or Non-Alloy Steel, of Circular Cross-Section Measuring Less than 14mm in Diameter: other" instead of the 6 mm and 8 mm JPC wire rod data the Department used for the *Preliminary Determination*.

- DHMP argues that it properly reported its wire rod characteristics and the Department verified these facts with DHMP's books and records. DHMP also argues that

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[51] *See FSVs/PRC (March 6, 2009)* at Comment 8.
[52] *Id.*
[53] *Id.*
[54] *See, e.g. OCTG/PRC* (April 19, 2010).
[55] *See Prestressed Concrete Steel Wire Strand/PRC (May 21, 2010)* (this refers to prelim rather than the final).

consumption of wire rod of other diameters was used by DHMP in the production of other products, *i.e.*, non-subject merchandise.

- DHMP also argues that the Department should reject verification exhibits attached to Petitioners' case brief upon which Petitioners had written "additional" translations regarding wire rod characteristics, as these constitute new factual information.

- Eastfound argues that the Department confirmed at verification that Eastfound consumed wire rod with gauges of 6.5mm and 8mm in the production of subject merchandise, consistent with what it reported in its questionnaire responses.

Department's Position: In valuing the FOPs, section 773(c)(1) of the Act instructs the Department to use "the best available information" from the appropriate ME country. The Department's criteria for selecting SV information are normally based on the use of PAI, and the Department considers several factors when choosing the most appropriate PAI, including the quality, specificity, and contemporaneity of the data.[56] We find that the JPC data for 6mm and 8mm steel wire rod best satisfy the Department's SV criteria, and we are continuing to use this information to value the steel wire rod input for DHMP and Eastfound for the final determination. The JPC data are publicly available, specific to the input in question, represent a broad market average, and are tax-exclusive.

With respect to specificity, while Petitioners claim that the Department should use the Indian HTS category 7213.91.90, (Bars and Rods, Hot Rolled, In Irregularly Wound Coils, of Iron or Non-Alloy Steel, of Circular Cross-Section Measuring Less than 14mm in Diameter: other) instead of JPC wire rod data the Department used for the *Preliminary Determination*, we continue to find that the Department should use the JPC data because it is more specific to the wire rod consumed by both respondents. For instance, in DHMP's December 1, 2009 Supplemental Response to Sections C and D at Exhibit SD-4-1, DHMP reported the diameter of the wire rod that was used to produce subject merchandise.[57] At verification, we confirmed this information: "{O}ur discussion with company officials regarding DHMP's raw material purchases and the allocation of raw materials consumption to subject merchandise produced supported the information previously placed on the record."[58]

Additionally, during verification, we requested accounting vouchers and corresponding source documentation for several raw materials as part of numerous completeness tests[59] to determine whether DHMP properly reported the type of raw material inputs consumed in producing the subject merchandise. We found no indication at verification that DHMP was consuming wire rod for specifications other than what it had reported in its questionnaire responses.

Similarly, for Eastfound, we stated in our verification report that, during our plant tour, "we examined the markings on the wire rod and verified that some of the wire rod examined during the tour was the input to produce subject merchandise (*i.e.*, the markings on the wire rod

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[56] *See KASR/PRC (July 24, 2009)* IDM at Comment 6.

[57] *See* DHMP's Submission (December 1, 2009) at Exhibit SD-4-1.

[58] *See* DHMP's Verification Report at 27-28.

[59] *See id* at page 25 and 28 (We explained that "numerous completeness tests may be performed using but not limited to the following records" and our reference to Section IX: Completeness Tests.)

indicated 6.5 mm wire rod)."[60] During verification, we also examined Eastfound's books and records to determine whether Eastfound correctly reported the type of the steel wire rod used in the production of wire decking. We were able to trace the consumption of the wire rod back to the raw material sub-ledger at verification and found no indication that Eastfound had misreported the type of wire rod it used in the production of wire decking.[61]

Moreover, the Department examined source documentation at Eastfound's verification (Verification Exhibit 23) that confirmed what Eastfound reported in its December 7, 2009, supplemental Section D response at Exhibit SD-16 and December 10, 2009, supplemental response at 2, with respect to the type of wire rod Eastfound consumed in the production of wire decking. Thus, at verification, we found no indication that Eastfound had incorrectly reported the nature of the wire rod it had consumed in its production of wire decking, nor did we find that Eastfound consumed wire rod of other gauges in its production of wire decking.

We find that Petitioners' argument that the Department discovered during verification that DHMP and Eastfound misreported the characteristics of the wire rod they consumed in the production of wire decking is not supported by record evidence. For instance, Petitioners do not cite to any statements in the Department's March 26, 2010, verification report of DHMP and the April 14, 2010,verification report of Eastfound that demonstrate that wire rod of other dimensions was being used for the production of wire decking by either respondent. Moreover, the documents to which Petitioners point are documents that are not specific to the production of wire decking. Both respondents produce products other than wire decking,[62] and, as stated above, we found no indication at verification that the wire rod of other dimensions was consumed in either respondent's wire decking production during the POI.

With respect to the verification exhibits attached to Petitioners' case brief with additional translations that DHMP claims constitute new information and should be rejected, we do not find that the additional translations constitute new factual information but, rather, information that is being used to support Petitioners' argument. The verification exhibits themselves are already on the record of this proceeding, and we note that we are not relying on Petitioners' additional translations because, as stated above, our discussion with company officials and our testing at verification supported the information previously placed on the record with respect to the type of wire rod consumed by DHMP and Eastfound.

Therefore, we continue to find that both respondents correctly reported the characteristics of the wire rod they consumed in their production of wire decking and that the JPC data are more specific (*i.e.*, 6mm and 8mm) than the WTA data (*i.e.*, a range that includes wire rod less than 14mm in diameter).

[60] *See* Eastfound's Verification Report at 21.
[61] *See* Eastfound's Verification Report at 35.
[62] *See, e.g.* Eastfound's Verification Report at 19; *see also*, DHMP's Verification Report at 14.

Comment 5: Flat Rolled Steel Characteristics & Valuation

- Petitioners and Nucor argue that the Department should use an average of the HTS categories 7208.27.40,[63] 7208.54.40,[64] and 7211.19.50[65] to value flat-rolled steel strip because these categories reasonably cover codes for flat-rolled steel products under 2.0 mm thickness.
- Petitioners argue that for the final determination, should the Department continue to use HTS category 7211.19.50[66] when valuing respondents' flat-rolled steel strip input, it should include the imports from South Korea that were excluded in the *Preliminary Determination* in its surrogate AUV calculation for this input. Petitioners contend that it is unlikely that South Korean subsidization is a significant factor for this input because its effect would be lower market prices in India, rather than result in higher prices paid to other suppliers.
- Petitioners argue that the Department should apply an adverse inference to DHMP's and Eastfound's "steel sheet" input because at verification, the Department discovered that both companies' steel sheet consumption included a steel strip product other than hot-rolled steel. Specifically, Petitioners argue the Department should apply HTS category 7211.19[67] to the steel sheet input of Eastfound and DHMP.

- Eastfound, DHMP and the GOC argue that the Department should not include import values from HTS category 7208.27.40 and 7208.54.40 in the surrogate value calculation for hot-rolled steel strip because DHMP and Eastfound use hot-rolled steel strip of a width less than 600mm.
- DHMP, Eastfound and the GOC maintain that the HTS category 7211.19.50 used to value Eastfound's hot-rolled steel strip in the *Preliminary Determination* most closely describes the hot-rolled steel strip input that DHMP and Eastfound used in the production of wire decking. Eastfound and DHMP also argue that HTS category 7211.19.50 is specific to the thickness and type of the materials used by Eastfound and DHMP because the hot-rolled strip they consume in the production of wire decking is purchased in widths of 52 to 91 mm and has thicknesses of 1.2 to 2.0 mm.
- DHMP and Eastfound argue that Petitioners' argument regarding applying an adverse inference to DHMP and Eastfound's surrogate value for their "steel sheet" input should be rejected because the Department verified the inputs and found that hot-rolled steel was used in the production of wire decking. DHMP states that it did have limited purchases of cold-rolled steel, but such steel was not used in the production of wire decking.

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[63] Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, hot-rolled, not clad, plated or coated - Other, in coils, not further worked than hot-rolled, pickled: of a thickness of less than 3 mm: strip.

[64] Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, hot-rolled, not clad, plated or coated - Other, not in coils, not further worked than hot-rolled: of a thickness of less than 3 mm: strip.

[65] Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, not clad, plated or coated - not further worked than hot-rolled: other: strip.

[66] *Id*.

[67] Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, not clad, plated or coated - not further worked than hot-rolled: other

- DHMP, Eastfound and the GOC argue that the Department should not include imports from South Korea because it is the Department's practice to exclude imports from countries with broadly available, non-industry specific export subsidies.[68]

Department's Position: In valuing the FOPs, section 773(c)(1) of the Act instructs the Department to use "the best available information" from the appropriate ME country. The Department's criteria for selecting SV information are normally based on the use of PAI, and the Department considers several factors when choosing the most appropriate PAI, including whether it is contemporaneous with the POI, represents a broad market average, comes from an approved surrogate country, is tax and duty exclusive, and specific to the input.[69] As there is no hierarchy for applying the above-mentioned principles, the Department must weigh the best available information with respect to each input value and make a product-specific and case-specific decision as to what the "best" SV is for each input.[70] In this case, we find that the Indian WTA import data under the HTS category 7211.19.50 for flat-rolled steel strip best satisfy the Department's SV criteria, and for the final determination, we are continuing to use HTS category 7211.19.50 to value Eastfound's hot-rolled steel strip input; and for DHMP, we have determined to use HTS category 7211.19.50 to value its hot-rolled steel strip input, instead of the HTS category 7208.27,[71] that was used in the *Preliminary Determination*. The WTA import data are from an approved surrogate country, publicly available, specific to the input in question, represent a broad market average, and are tax-exclusive. We continue to find that the Department should use the Indian HTS category 7211.19.50 because it is more specific to the hot-rolled steel strip consumed by both respondents.

In analyzing the Indian WTA import data for product specificity, the Department examined the major characteristics that are identified by the Indian HTS number: width and thickness of the hot-rolled steel strip, and whether in coils. We find that width is the most important characteristic of the hot-rolled steel input, in examining the HTS categories. In our examination of the description of each Indian HTS category, we found that HTS category 7208.27.40 is described as "{f}lat-rolled products of iron or non-alloy steel, . . .in coils, . . .of a thickness of less than 3 mm: strip." However, we also found that the width characteristic of this HTS category, "of a width of 600 mm or more," is not similar to that of respondents, which is less than 600mm. With respect to HTS category 7208.54.40, this category is also described as "{f}lat-rolled products of iron or non-alloy steel, . . . of a thickness of less than 3 mm: strip." Similar to HTS category 7208.27.40, the width of this HTS category is described as "of a width of 600 mm or more," dissimilar to that of respondents, which is less than 600mm.
With respect to HTS category 7211.19.50, we found that it is similar to respondents' input because it includes "{f}lat-rolled products of iron or non-alloy steel, of a width less than 600 mm." Thus, we find that HTS category 7211.19.50 most reasonably represents the respondents' input.

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[68] *See Carbon Steel Plate/Romania* (March 15, 2005); *Polyester Staple Fiber/PRC* (April 19, 2007) IDM at Comment 13.

[69] *See KASR/PRC* (July 24, 2009) IDM at Comment 6.

[70] *See Mushrooms/PRC (August 9, 2007)* IDM at Comment 1; *see also Nation Ford (Fed. Cir. 1999)* (noting that the Department is given wide discretion in the valuation of factors of production and in the determination of what constitutes the "best available information").

[71] Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, hot-rolled, not clad, plated or coated - Other, in coils, not further worked than hot-rolled, pickled: of a thickness of less than 3 mm.

With respect to thickness, while HTS categories 7208.54.40 and 7208.27.40 specify that the hot-rolled steel is of a thickness of less than 3 mm, HTS category 7211.19.50 does not specify thickness; thus, the hot rolled steel input consumed by both respondents still would be properly classified under 7211.19.50 based on the width characteristic with no specification for thickness. The same holds true with respect to whether the hot rolled steel is in coils. While HTS category 7211.19.50 does not specify whether the hot rolled steel is in coils or sheets, the hot rolled steel input consumed by both respondents still would be properly classified under 7211.19.50, based on the width characteristic with no specification of whether or not it is in coils.

Additionally, as stated above, the Indian HTS categories (*i.e.*, 7208.27.40 and 7208.54.40) that Petitioners are recommending the Department average with the Indian WTA import data that was used in the *Preliminary Determination* to value Eastfound's hot-rolled steel strip input, include products in which 100 percent of the product's characteristics are more than 600 mm wide and have a thickness of 3mm, while the flat-rolled steel strip the respondents used in their production of wire decking during the POI have a thickness of less than 3mm, and the width was less than 600mm. Based on our analysis above, we find that the HTS categories 7208.27.40 and 7208.54.40 are not as similar to respondents' hot-rolled steel strip input as HTS category 7211.19.50 and, consequently, are not the best available record information for purposes of calculating an SV. Thus, we have not averaged these categories with the HTS category used in the *Preliminary Determination* to value respondents' hot-rolled steel strip input.

Additionally, at verification, we confirmed the type of hot-rolled steel strip used by Eastfound and DHMP in the production of subject merchandise. For instance, in DHMP's response to the Department's supplemental Section D questionnaire at Exhibit 2SD-4-2, DHMP reported that the width of its hot-rolled steel strip used to produce wire decking as less than 600mm.[72] At verification, we confirmed this information: "{O}ur discussion with company officials regarding DHMP's raw material purchases and the allocation of raw materials consumption to subject merchandise produced supported the information previously placed on the record."[73]

Additionally, during verification, we requested accounting vouchers and corresponding source documentation for several raw materials as part of numerous completeness tests[74] to determine whether DHMP properly reported the type of raw material inputs consumed in producing the subject merchandise. We found no indication at verification that DHMP was consuming flat-rolled steel strip with specifications other than what it had reported in its questionnaire responses.

Similarly, during Eastfound's verification, we also examined Eastfound's books and records to determine whether Eastfound correctly reported the nature of the flat-rolled steel strip used in the production of subject merchandise. We were able to trace the consumption of the flat-rolled steel strip back to the raw material sub-ledger at verification and found no indication that

[72] *See* DHMP's Submission (December 23, 2009) at Exhibit 2SD-4-2.

[73] *See* DHMP's Verification Report at 27-28.

[74] *See id* at page 25 and 28 (We explained that "numerous completeness tests may be performed using but not limited to the following records" and our reference to Section IX: Completeness Tests.)

Eastfound had misreported the type of flat-rolled steel strip it used in the production of subject merchandise.[75]

Moreover, the Department examined source documentation at Eastfound's verification (Verification Exhibit 23) that confirmed what Eastfound reported in its December 7, 2009, supplemental Section D response at Exhibit SD-16 and December 10, 2009, supplemental response at 2, with respect to the type of flat-rolled steel strip Eastfound consumed in the production of wire decking. Thus, at verification, we found no indication that Eastfound had incorrectly reported the nature of the flat-rolled steel strip it had consumed in its production of wire decking, nor did we find that Eastfound consumed flat-rolled steel strip with specifications other than what it had reported in its questionnaire responses.

We find that Petitioners' argument that the Department discovered during verification that DHMP and Eastfound misreported the characteristics of the hot-rolled steel strip they consumed in the production of wire decking is not supported by record evidence. For instance, Petitioners do not cite to any statements in the Department's March 26, 2010, verification report of DHMP and the April 14, 2010, verification report of Eastfound that demonstrate that a steel strip product other than hot-rolled steel strip was used in the production of respondents' wire decking by either respondent. Moreover, the documents to which Petitioners point are documents that are not specific to the production of wire decking. Both respondents produce products other than wire decking,[76] and as stated above, we found no indication at verification that a steel strip product other than hot-rolled steel strip was consumed in either respondent's wire decking production during the POI.

Furthermore, with respect to Petitioners and Nucor's argument that the Department should include the imports from South Korea that were excluded from the WTA Indian HTS category 7211.19.50 in the *Preliminary Determination* because Petitioners and Nucor believe that subsidization is not a significant factor for this HTS category, we continue to exclude the South Korean imports in the surrogate value calculation because, consistent with the Department's practice, we have reason to believe or suspect these prices may be subsidized. *See* H.R. Rep. Conf. 100-576 at 590; *Citric Acid/PRC (April 13, 2009)* IDM at Comment 11.B.

The Department is not required to conduct a formal investigation to ensure that prices are subsidized; rather, it is sufficient if the Department has "substantial, specific, and objective evidence in support of its *suspicion* that the prices are distorted." *China Nat'l Mach. Imp. & Exp. Corp. v. United States*, 293 F. Supp. 2d 1334, 1339 (CIT 2003) (emphasis in original); H.R. Rep. Conf. 100-576 at 590. Therefore, the Department is instructed by Congress to base its decision on information that is available to it at the time it is making its determination. We have found in other proceedings that South Korea maintains broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from this country may be subsidized. *See TRBs/PRC* (January 17, 2006) 71 FR at 2522. Therefore, we have determined to exclude imports from South Korea from the WTA Indian HTS category 7211.19.50.

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[75] *See* Eastfound's Verification Report at 35.

[76] *See, e.g*. Eastfound's Verification Report at 19; *see also*, DHMP's Verification Report at 14.

In conclusion, for the reasons stated above, we continue to find that both respondents correctly reported the characteristics of the hot-rolled steel strip they consumed in their production of wire decking and that the WTA Indian import data for HTS category 7211.19.50 are more specific (*i.e.*, less than 600 mm) to the hot-roll steel strip input consumed by both respondents.

Comment 6: Eastfound's US Price and Freight Charges

- Petitioners further argue that the Department should apply AFA to the freight revenue that the Department discovered at verification, and that the Department should not add the claimed freight revenues to Eastfound's U.S. price and not subtract the SV amounts on the sales where Eastfound reported "yes" in the field for international freight.

- Eastfound argues that the Department should include freight charged on the commercial invoice in export price when the terms include ocean freight to a named U.S. port and the customer paid the full amount of the invoice which includes the freight charges. [77]
- Eastfound also argues that the Department should rely on the prices paid for international freight where the payment was in market currency and a market carrier was used or apply a surrogate value where NME carriers were used.
- Eastfound further argues that there is no basis to apply AFA to Eastfound's freight revenue.

Department's Position: We agree with Eastfound that we should not apply AFA to the ocean freight charged to its U.S. customer because, while Eastfound had not directly stated that freight revenue was included in its gross unit selling price, the information was on the record prior to the *Preliminary Determination*. *See, e.g.*, Eastfound Material's SRA at Exhibit 1. Furthermore, we disagree with Petitioners' argument that we should not deduct a surrogate international freight expense on a significant percentage of Eastfound's U.S. sales, and not subtract the SV amounts on the sales where Eastfound reported a "yes" in the international freight field in its sales database. The Department is charged with calculating dumping margins as accurately as possible with the information on the record.[78] Eastfound's information was not readily apparent to the Department in the *Preliminary Determination* and, thus, not properly addressed in the Department's preliminary margin calculation for Eastfound. Nevertheless, the information was on the record. Thus, we have determined to include Eastfound's freight revenue in the Department's final margin calculation for Eastfound, subject to the limitation noted below.

In the *Preliminary Determination*, consistent with our practice, we deducted ocean freight in the calculation of Eastfound's U.S. net prices.[79] For those sales transactions where Eastfound reported an ME ocean freight expense, we deducted Eastfound's reported ME ocean freight expense, and for those sales transactions where Eastfound reported a "yes" in the international freight field of its U.S. sales database, we applied an SV (*i.e.*, Maersk Line)[80] to value Eastfound's ocean freight expense. *See* Eastfound's Preliminary Analysis Memo.

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[77] *See, e.g., Ball Bearings/France, Germany, Italy, Japan, and the United Kingdom (Aug. 30, 2002)* IDM at Comment 4.

[78] *See Rhone (Fed Cir. 1990)* at 1191.

[79] See Eastfound's Preliminary Analysis Memo.

[80] *See* Maersk Line's website https://www.maerskline.com.

At verification, we found that Eastfound had incorrectly included freight revenue in its reported gross unit selling price in its sales database. Specifically, we found that Eastfound's gross unit price included an allocated amount for the freight surcharge it charged its U.S. customer, and we reviewed with company officials how Eastfound allocated the freight surcharge to each product on the invoice. *See* Eastfound's Verification Report at 28 and Exhibits 19, 36(a), 36(b), 36(c), 36(d), and 36(e). On March 2, 2010, pursuant to instructions from the Department at verification, Eastfound submitted a revised sales database, in which Eastfound reported its freight revenue in a separate field from its reported gross unit sales price, where applicable.[81] Accordingly, the Department has used this revised sales database in its final margin calculation to account for the freight revenue that was originally included in Eastfound's reported gross unit selling price. For the final determination, we reduced Eastfound's movement expenses, where appropriate, by the amount of freight revenue paid by the customer to Eastfound.[82] Further, in accordance with our practice, we capped the amount of freight revenue deducted from Eastfound's movement expenses at no greater than the amount of the surrogate movement expenses.[83]

With respect to Eastfound's argument that it contracted with ME ocean freight providers through an NME agent, and that we should allow its claimed ME ocean freight costs, we have determined to apply an SV to all of Eastfound's ocean freight costs. As we stated in Eastfound's verification report at 31:

> Eastfound reported that it had used a market economy freight provider for its international freight to the United States. However, when we reviewed the freight documentation contained within the sales trace packages, Eastfound explained that it had in fact contracted with a Chinese freight forwarder who had then contracted with a market economy freight provider. We asked Eastfound officials if the freight forwarder could provide any documentation to demonstrate that its charges to Eastfound reflected the charges from the market economy providers; however, by this time, Eastfound officials were unable to reach anyone at their freight forwarder and stated that they did not expect to be able to as they anticipated most places had already closed for the upcoming Chinese New Year.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value FOPs, but when a producer sources an input from a ME supplier and pays for it in ME currency, the Department may value the factor using the actual price paid for the input.[84] However, we will allow the claimed ME ocean freight costs only if a respondent provides evidence of the ME purchase. Our practice of requiring adequate evidence of an ME purchase, in particular for ocean freight, has been upheld by the courts. *See e.g.*, *Luoyang Bearing* (CIT 2004) at 1349-50. In addition, it is the Department's practice to require a respondent to establish a link between payments to the ME carrier through the ME ocean freight

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[81] *See* Eastfound's Submission (March 2, 2010).

[82] *See* 19 CFR 351.408(c)(1).

[83] *See, e.g., Woven Ribbon/PRC (February 18, 2010)* 75 FR at 7252 (citing to *Bags/PRC (February 11, 2009)* IDM at Comment 4).

[84] *See* 19 CFR 351.408(c)(1); *see also Shakeproof* (Fed. Cir. 2001) at 1382-1383 (affirming the Department's use of market-based prices to value certain FOPs).

carrier's PRC agent. For instance, in *Tires/PRC (July 15, 2008)*, the respondent used a local PRC ocean freight agent rather than an independent PRC broker (who typically resells freight services at a profit). We allowed the ME price in *Tires/PRC (July 15, 2008)* as the respondent demonstrated a link from its USD payments to the ME carrier through the ME ocean freight carrier's PRC agent. *See Tires/PRC (July 15, 2008)* at Comment 35. *See also WBF/PRC (August 17, 2009)* IDM at Comment 12 (using the ME purchase price for ocean freight where respondent established a link between payments to the ME carrier through the PRC agent). In the instant case, Eastfound was unable to demonstrate a link from its payments to the ME carrier through the ocean freight carrier's agent located in the PRC. Therefore, we have applied an SV to all of Eastfound's ocean freight costs, which we deducted in the calculation of U.S. net price.

Comment 7: Eastfound's Consumption Factors

- Petitioners argue that Eastfound understated consumption of two steel inputs required to produce individual decking models and request that the Department make an adjustment to the entire database to ensure that the input quantities for both steel inputs and the other raw materials allocated on the basis of the steel weight reflect the actual unit weights of the finished decking products as recorded in Eastfound's ERP system.[85]

- Petitioners also argue that Eastfound's consumption calculation methodology does not account for scrap generated during production, and that the Department should apply a neutral FA adjustment to Eastfound's entire FOP database so that the input quantities reflect the scrap that Eastfound stated that it generated during production.

- Eastfound argues that the verification report indicates that the consumption weight of steel reported in its FOP database is correct. Eastfound also argues that Petitioners' allegation that Eastfound understated its consumption of other materials consumed in production has no merit because Eastfound allocated the total quantities consumed of all "other materials" used in the production of subject merchandise by the steel weight consumption in the ERP system.

Department's Position: As an initial matter, we agree with Petitioners that the Department should determine Eastfound's margin as accurately as possible, consistent with *Rhone (Fed. Cir. 1990)*. However, we disagree with Petitioners that to achieve this we should make an "across the board adjustment to Eastfound's FOP database."

In the *Preliminary Determination*, the Department found that the steel consumption weight Eastfound reported for certain CONNUMs in its FOP database was less than the weight reported in its sales database (based on the products as physically weighed by the company recorded in the ERP system), and we applied partial FA (*i.e.*, the weighted average margin calculated for Eastfound's other sales) to these transactions. *See Preliminary Determination*, 75 FR at 1606.

[85] *See, e.g., Rhone (Fed. Cir. 1990)* (stating that margins should be calculated as accurately as possible) and *NSK (Fed. Cir. 1990)* (affirming partial AFA when respondent reported freight costs using a sales-based allocation rather than a weight-based allocation, as Commerce requested).

At verification, we found that Eastfound recorded in its ERP system (1) the actual weight of the finished product as physically weighed, which is what it reported in its sales database and (2) its BOM weight which represents the weight of steel consumed in its production of wire decking (also listed on its production order), which was the basis for Eastfound's reported steel consumption in its FOP database. *See* Eastfound's Verification Report (April 14, 2010) at 37.

Based on information obtained at verification, for the final determination, we are revising the facts available determination for these CONNUMs, as discussed below. First, for several CONNUMs where we were unable to verify Eastfound's assertion that its BOM weights overstated steel consumption for these products, we have applied FA for these CONNUMS and made an upward adjustment to its reported steel consumption and its reported consumption of each material input whose consumption Eastfound had originally allocated using the products' steel weight as the allocation basis by the percent difference between Eastfound's BOM weight and its reported FOP steel consumption weight. *See* Eastfound's verification report at 37 through 43*; see also* Eastfound's final analysis memo.

Second, for certain other CONNUMs where we verified that the weight Eastfound reported in its sales database (where Eastfound had physically weighed the products) was less than the BOM weight (*i.e.*, consumption weight), we have applied FA and set Eastfound's sales database weight for these CONNUMs equal to the BOM weight, because as Eastfound's company officials stated, and we verified (*see* steel scrap discussion below), that the weight of Eastfound's wire decking (as physically weighed) cannot be less than the BOM weight. *See* Eastfound's verification report at 37 through 43*; see also* Eastfound's final analysis memo.

Finally, for certain other CONNUMs to which we applied AFA in the *Preliminary Determination*, we have not adjusted Eastfound's reported steel consumption for the final determination because based on information examined at verification, we determined that Eastfound had not underreported its FOP consumption. Specifically we found that the difference in weights between the FOP database and the U.S. sales database generally reflected the weight gained during the galvanizing process, which is done by outside processors and was not accounted for in the reported FOPs. Further, for other CONNUMs we verified that the amount of steel consumed agreed with the product specific BOM, which generally reflects Eastfound's consumption weights. *See* Eastfound's verification report at 37 through 43. Due to the proprietary nature of the discussion above, please see final analysis memo for further detail.

Additionally, with respect to Petitioners' argument that we should apply neutral facts available to Eastfound's entire FOP database in order to account for Eastfound's claimed by-product offset for steel, we have determined that it is more appropriate to deny Eastfound's claimed scrap by-product offset for the final determination, as discussed below.

In Section D of the original NME questionnaire sent to Eastfound on August 31, 2009, the Department instructed Eastfound to report its by-product offsets and explained that "{b}y-product/co-product offsets are only granted for merchandise that is either sold or reintroduced into production during the POI/POR, up to the amount of that byproduct/co-product actually produced during the POI/POR." *See* Department's Original Questionnaire at D-8. In its section

D response, Eastfound reported that it generated steel scrap in its production of wire decking. *See* Eastfound's Submission (October 23, 2009) at D-16.

At verification, we observed that Eastfound purchased its wire rod and hot-rolled steel strip in rolls in the widths required for production. We also observed that Eastfound maintains distinct BOMs for each of its products, and that these BOMs contain exact measurements for each wire and channel that is used to make a finished wire decking model. Eastfound used these measurements as the basis for determining the amount of steel consumed by each product. We also observed at verification that the production processes for these inputs use the BOM measurements as the basis for cutting the wire and steel strip to the required length needed to produce a finished wire decking model. In both of these operations, we observed that the amount of yield loss generated at the point of the cut was so minute that it was not measurable. Based on this and the fact that, in general, Eastfound's reported BOM consumption weights were higher than the weight of its reported finished products, we determined that, with the exception of the few CONNUMs discussed above, Eastfound reported FOP consumption that accounted for the minor yield loss incurred during the cutting processes.

Further, we observed that Eastfound generated scrap during the production process, *e.g.*, the end of the wire rod or steel sheet roll that was too short to be used in production was collected and when a large enough mass accumulated, sold for scrap. *See* Eastfound's Verification report at 33 51. However, based on Eastfound's FOP reporting methodology, as discussed above, the amount of this scrap material was not included in Eastfound's reported consumption. In other words, Eastfound reported its FOPs net of this latter scrap. *See* Eastfound's Verification report at 33 through 43; *see also* Eastfound's Submission (October 23, 2009) at D-16. Therefore, because Eastfound reported the actual amount of steel consumed to produce one finished wire decking unit without accounting for scrap generated in the production process, for the final determination, the Department is not granting Eastfound a by-product offset for steel scrap. *See* Eastfound's Verification report at 33 through 43.

Comment 8: Eastfound's Wire Rod Correction from Verification

- Petitioners argue that the Department should correct Eastfound's reported wire rod per-unit consumption error for a certain CONNUM with the actual wire rod per-unit consumption amount found during Eastfound's verification.[86]

Department's Position: We agree with Petitioners that Eastfound's reported wire rod per-unit consumption error found at verification[87] should be corrected for the final determination. Accordingly, in Eastfound's final margin calculation we have corrected the wire rod per-unit consumption for this CONNUM. It is now the actual wire rod per-unit consumption found at verification.[88]

[86] *See* Eastfound's Verification Report at 37 through 43 and Exhibit 38.
[87] *See Id.*
[88] *See* Eastfound's Final Analysis Memo.

Comment 9: Galvanization

A. *Whether Galvanizing Information Submitted by Eastfound at Verification is New Factual Information and, if so, Whether the Department should reject this Information*

- Petitioners argue that the Department should refuse to consider any of the information that Eastfound submitted at verification concerning galvanization operations or the cost of galvanization because it is new factual information that Eastfound had previously refused to provide to the Department.[89]

- Eastfound argues that the Department should reject Petitioners' request to strike various parts of the verification exhibits, because the Department is free to gather what information it deems necessary to understand a respondent's sales, costs, and manufacturing processes at verification.[90]

Department's Position: We disagree with Petitioners' argument that information related to Eastfound's galvanizing costs obtained at verification, placed on the record by the Department, is new factual information and should be rejected. While Petitioners cite to *Fujian (CIT 2003)* where the Court stated that respondents do not have the right to respond selectively to relevant information requests, in this case, we cannot conclude that Eastfound's responses to the Department's requests for information were incomplete or insufficient. We note that the Department has already reviewed and accepted the information provided by Eastfound at verification and compiled it in a verification exhibit and placed it on the record.

As we stated in the verification agenda sent to Eastfound on January 29, 2010,[91] "{n}ew information will be accepted at verification only when: (1) the need for that information was not evident previously; (2) the information makes minor corrections to information already on the record; or (3) the information corroborates, supports, or clarifies information already on the record." At verification, the Department asked Eastfound company officials several questions with respect to the galvanizing that is done for Eastfound by unaffiliated tolling companies, in order to clarify information already on the record. In other words, the Department requested the information in order to understand Eastfound's production process. Specifically, we reviewed the business licenses of the three galvanizers in order to determine the scope of the parties' galvanizing activities. We also reviewed the price-lists for the companies that performed Eastfound's galvanizing, which identified the type of products on which they performed services and the price for each type of product. We also reviewed invoices from the one service provider which identified the galvanizing cost per kg of material that underwent this processing. *See* Eastfound's Verification Report at 20. We found that the information we collected was relevant to clarifying the types of services provided by the unaffiliated galvanizers and the types of products that underwent these processes and, as such, we collected them as verification exhibits. Thus, for the final determination the Department will not reject Eastfound's galvanizing cost information collected by the Department at verification and placed on the record. [92]

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[89] *See Fujian (CIT 2003).*
[90] *See CLPP/India (August 8, 2006)* IDM at Comment 3.
[91] *See* Eastfound's Verification Agenda, dated January 29, 2010, at 2.
[92] *See, e.g., CITIC (CIT 2003)*

Further, with respect to Petitioners' argument that Eastfound was not forthcoming with its galvanizing toller's information prior to verification, we find that with respect to FOP deficiencies Eastfound was forthcoming in its supplemental questionnaire response because it indicated that it had been unable to obtain FOP information from its galvanizing tollers and demonstrated that it made efforts to obtain the missing FOP data, (s*ee* Eastfound's Submission (December7, 2009) at 7 and Exhibit SD-2), and, as discussed below, we applied facts available for galvanizing because the tollers did not provide this information. Additionally, we do not find that Eastfound failed to cooperate by not acting to the best of its ability to comply with a request for information. Furthermore, the information presented at verification, at the Department's request, was not related to the tollers' FOPs or per unit consumption; rather, the information clarified Eastfound's use of galvanizing in its production process. *See* Eastfound's Verification Report at 20.

B. *Whether the Department should not use a surrogate value for galvanizing*

- Eastfound argues that if for the final determination the Department uses the financial statements of a company that already includes galvanizing in its financial ratios, then the Department should not value galvanizing, as Eastfound will have already been charged for the overhead costs associated with galvanizing.[93] Eastfound states that only the Nasco financial statements do not include evidence of internal galvanizing.

- Petitioners argue that the Department should reject Eastfound's argument to remove galvanizing from the calculation of NV, as section 773(c)(1) requires the Department to base NV on the factors utilized in production and Eastfound concedes its products are galvanized. Additionally, Petitioners state that the courts have held that the Department is neither required to "duplicate the exact production experience of the Chinese manufacturers," nor undergo "an item-by-item analysis in calculating factory overhead."[94]

- Petitioners also argue that the use of financial statements for a company which performs internal galvanizing will not result in double counting, and that Eastfound has not demonstrated that there is evidence of internal galvanizing in any of the other financial statements.[95]

Department's Position: For the three useable financial statements (*i.e.*, Rajratan, Visakha, and Nasco) that the Department has determined to use in the final determination (*see* Comment 2 above), we found no evidence of consumption of zinc as a raw material or of any type of galvanizing process, either in-house or tolled, within these companies' statements. We do not agree that only the Nasco financial statement does not contain evidence of internal galvanizing, nor has Eastfound provided support for this claim. Therefore, we will continue to apply a surrogate value for galvanizing to Eastfound's products that are galvanized, pursuant to section

[93] *See, e.g., Citric Acid (April 13, 2009)* IDM at Comment 2.
[94] *See, e.g., OCTG/PRC* (April 13, 2010) IDM at Comment 13.
[95] *Goldlink* (CIT 2006).

773(c)(1) of the Act (determining normal value on the basis of the value of the factors of production utilized in producing the merchandise).

C. *Whether the Department should revise the surrogate value for galvanizing*

- Eastfound argues that if the Department continues to use a galvanizing service fee factor for the final determination, the Department should use only one of the surrogate values, from Galrebars, which it used in its calculation of the surrogate value for galvanizing because a letter from the source of this surrogate value, and a second article placed on the record, indicate that the JPC value is incorrect.[96] Eastfound also argues that the Department should not use a single price list from an Indian retailer of wire products, submitted by Petitioners, to value galvanizing, because this list is not country-wide and is not representative of the operations performed on subject merchandise.

- Petitioners argue that the Department should use the galvanization surrogate value posted on the JPC website for its final determination and reject Eastfound's argument that the Department rely only on Galrebars' galvanization value. Petitioners also argue that the Department should not rely on private, non-public letters to an interested party to adjust public surrogate data and should reject Eastfound's claim of error in the published JPC galvanization value, and that evidence suggest that the cost of galvanizing wire decking is likely higher than the JPC value, and that these costs do not take into account the significant overhead costs involved in galvanization.

Department's Position: In the *Preliminary Determination*, as facts available, the Department applied the average of the surrogate galvanizing costs from the *Petition* (JPC's 80,000 Rs per ton and Galrebars' 8,000 Rs/ MT) to the galvanizing performed by Eastfound's unaffiliated tollers, because these tollers did not provide the requested FOP information. *See Preliminary Determination*, 75 FR at 1606. For the final determination, we continue to use facts available to value Eastfound's cost of galvanizing performed by its unaffiliated tollers. However, we have determined to only use surrogate costs of Galrebars to value the galvanizing performed by Eastfound's tollers.

The Department's practice when selecting the best available information for valuing factors of production, in accordance with section 773(c)(1) of the Act, is to select surrogate values which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR and exclusive of taxes and duties.[97] In complying with the statute, the Department undertakes its analysis of valuing the factors of production on a case-by-case basis, carefully considering the available evidence in light of the particular facts of each industry. There is no hierarchy for applying the above-stated principles. Thus, the Department must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to the "best" surrogate value for each input.[98]

However, where the evidence on the record indicates that a surrogate value produces unreasonable results, it may consider that the source of that surrogate value is less representative

[96] *See Threaded Rod (October 8, 2008)*, 73 FR at 58940.
[97] *See KASR/PRC* (July 24, 2009) IDM at Comment 6.
[98] *See, e.g., Garlic/PRC (June 22, 2009)* at IDM Comment 2.

of the input's cost than other sources on the record.[99] In this investigation, at issue is whether the two surrogate value sources for galvanizing are representative of the experience of the relevant industry, and whether they constitute the best available information to value the galvanizing performed by Eastfound's unaffiliated tollers.

In our examination of the record, we found that the Galrebars information ("Rs. 8000 per tonne of steel") is sourced from its "frequently asked questions" ("FAQs") section of its website,[100] and that JPC's information ("Rs. 80000 per tonne of steel") is contained within an article written by Mr. L Pugazhenthy entitled, "Galvanized Reinforcement Rods in RCC Structures," and is found at JPC's "steel builds the nation" section of JPC's website.[101] Additionally, the record contains a letter from Mr. K Sridhar, Secretary of the India Lead and Zinc Development Association ("ILZDA"), in which he states that the JPC article was written by the executive director of ILZDA (*i.e.*, Mr. L Pugazhenthy), and was originally posted to ILZDA's former website "Galrebars.com" "indicating a cost of 8,000 rupees per metric ton (prevailing cost at the time of writing)," which he states is the correct cost.[102] Mr. K Sridhar also states that the ILZDA "article was reproduced in a similar form and posted on JPC's website in India with an incorrect figure of 80,000 rupees per metric ton." *Id*.

Further, the Department is not persuaded by Petitioners' arguments against relying on private, non-public letters to an interested party because they allow for the selective revisions to public data with private letters. We have evaluated the letter, which Eastfound provided, and we have found that because the letter is from the association (*i.e.*, ILZDA), which owned the former Galrebars website and authored the JPC article, it corroborates Eastfound's claim that the JPC galvanizing cost is incorrect. We note that Eastfound bears the burden of creating an adequate record to corroborate its argument that surrogate values are unreasonable.[103] Therefore, we find that the non-public letters to an interested party submitted by Eastfound support a conclusion that the JPC galvanizing cost is incorrect because reliance on this value would produce an unreasonable result.

While we do not have the original ILZDA article, we do have a printout of Galrebars' FAQs sections of ILZDA's former website, which indicates that the surrogate cost for galvanizing is (8,000 Rs/ MT). We also compared the "Economics of galvanized reinforcement in concrete" section of the article on JPC's website to Galrebars's FAQ "What are the economics of galvanized reinforcement in concrete," and we found that the two websites, except for differences in spelling of the word galvanizing (*i.e.*, the use of the letter "s" over "z") and the omission of the words "frequent repair" in the first sentence of JPC's information, were identical in content.

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[99] *See, e.g.*, *Certain Steel Nails/PRC* (June 16, 2008) IDM at Comment 12; and *TRBs/PRC* (January 22, 2009) IDM at Comment 5.

[100] *See* Eastfound's SV Submission (March 12, 2010) at Exhibit 14a. Also the website indicated on the Galrebars information is http://www.galrebars.com/static_html/faqs.html.

[101] *See* Eastfound's SV Submission (March 12, 2010) at Exhibit 14b. Also the website indicated on the JPC information is http://www.jpcindiansteel.nic.in/rccp.asp.

[102] *See* Eastfound's SV Submission (March 12, 2010) at Exhibit 14c.

[103] See *Shandong Huarong Mach. Co. v. United States*, 29 C.I.T. 484, 491 (CIT 2005) (holding that it is the burden of creating an adequate record lies with respondents)

Galrebars Website:

> When frequent repair costs and consequences of corrosion damage to a reinforced concrete building are analyzed, the extra cost of galvanising is small. It can be regarded as an "insurance premium," but a premium which is low and needs to be paid once only. Currently, the cost of galvanising of rebar is approximately Rx. 8000 per tonne of steel, and this depends on the quantity to be galvanized, bar diameter etc.[104]

JPC Website:

> When the costs and consequences of corrosion damage to a reinforced concrete building are analyzed, the extra cost of galvanizing is small. It can be regarded as an "insurance premium," but a premium which is low and needs to be paid once only. Currently, the cost of galvanizing of rebar is approximately Rx. 80000 per tonne of steel, and this depends on the quantity to be galvanized, bar diameter etc.[105]

Further, we agree with Eastfound that the Howrah article it obtained from the website of the Government of India's Bureau of Energy Efficiency ("BEE") corroborates the Galrebars information. We evaluated Galrebars' and BEE's Howrah information, which Eastfound provided, and we found that the Galrebars galvanizing costs are presented to the public as informative facts, while the Howrah "summary of findings" appears to be an energy audit associated with an Indian government energy saving scheme for small and medium Indian enterprises, which includes certain galvanizing cost information.[106] Specifically, the BEE summary of findings indicates that Howrah's galvanizing costs are approximately "Rs. 8/-per kg."

We disagree with Petitioners' assertion that Howrah's "units," in BEE's summary of findings, indicates that all of Howrah's galvanizing materials are supplied to the galvanizer by the "party," which Petitioners assert means manufacturer, which is therefore dissimilar to Eastfound's galvanizing tollers that provide the raw material as well as the galvanizing service. We have evaluated BEE's summary of findings, and found that while we do not know what operating "unit" (*i.e.*, galvanizing or other wire drawing) is being referred to in the BEE summary, it is unclear as to which unit ". . . procure{s} the raw material directly from the manufacturer. . . ." Further, there is no indication as to what type of raw material is being referenced (*e.g.*, zinc, wire rod, *etc*.). Moreover, we find no evidence in the galvanizing summary that indicates that the term "party" is necessarily referring to the above-mentioned manufacturer, because the term "party" is only referenced once in the entire summary and it is not in connection with the term "manufacturer." Therefore, we find that there is insufficient evidence to support Petitioners' conclusion that the galvanizing materials are supplied by any party, other than Howrah. Thus, we find that BEE's galvanizing costs corroborates Galrebars' galvanizing costs.

In conclusion, based on the letter from the Secretary of ILZDA, our comparison of Galrebars' and JPC's information, and BEE's corrobative information, we determine that Galrebars'

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[104] *See* Eastfound's SV Submission (March 12, 2010) at 1 and Exhibit 14a. Also the website indicated on the Galrebars information is http://www.galrebars.com/static_html/faqs.html.

[105] *See* Eastfound's SV Submission (March 12, 2010) at 4 and Exhibit 14b. Also the website indicated on the JPC information is http://www.jpcindiansteel.nic.in/rccp.asp.

[106] See Eastfound's SV Submission (March 12, 2010) at Exhibit 14(d).

information constitutes the best available information to value the galvanizing performed by Eastfound's unaffiliated tollers. Further, we find this scenario also to be analogous to that addressed in *Nails/PRC* IDM at Comment 12 (and discussed above), where we found that a surrogate value produced results which were unreasonable and, thus, warranted disregarding the surrogate value in question. In this case, we found that galvanizing costs represents a significant percentage of the surrogate NV costs when the average of the JPC and Galrebars galvanizing costs are applied to Eastfound's steel weight consumption. Thus, for the final determination, we find that the JPC data are not suitable for valuing Eastfound's galvanizing costs because reliance on this value will produce an unreasonable result. Therefore, we have determined to use Galrebars' surrogate costs to value Eastfound's galvanizing costs.

Additionally, Eastfound is correct in pointing out that the Department was faced with this same issue in *Threaded Rod (October 8, 2008).*[107] However, in that case the Department never made a final determination as to whether the JPC produced an unreasonable result because the Department applied total AFA to the respondent in the final results.

Comment 10: DHMP's Date of Sale

- Petitioners argue that for the final determination, the Department should find that DHMP failed to cooperate to the best of its ability and significantly impeded the investigation with respect to reporting the correct date of sale.
- Petitioners argue that the Department confirmed at verification that the purchase order date is the correct date of sale because documents provided by DHMP at verification indicate that when there is a change to the price or quantity, the customer issues a change order reflecting these changes under the same purchase order number.

- DHMP submits that the Department should disregard Petitioners' date of sale argument because it is not based on the facts of record. As stated to the Department during verification, DHMP asserts that when the customer issues a "change" order, it does not change the number of the purchase order. Rather, the "new" purchase order bears the original purchase order number.
- DHMP argues that the purchase order can be changed and reissued up until the goods are shipped and, thus, the proper date of sale is the date that the goods are shipped.
- DHMP argues that it should not be found to have impeded the investigation and/or to have not cooperated with the Department because DHMP provided multiple databases to the Department, complying with each of the Department's requests for information.

Department's Position: The Department has determined for DHMP that the commercial invoice date should be used as the date of sale for purposes of the final determination. 19 CFR 351.401(i) states:

> in 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. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better

[107] *See Threaded Rod (October 8, 2008)* 73 FR at 58940.

reflects the date on which the exporter or producer establishes the material terms of sale.

The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes price, quantity, delivery terms, and payment terms.[108]

In *Allied Tube (CIT 2001)*, the CIT noted that a "party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to satisfy the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale."[109] In order to simplify the determination of date of sale for both the respondent and the Department, and in accordance with 19 CFR 351.401(i), the date of sale normally will be the date of the invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, unless satisfactory evidence is presented that the exporter or producer establishes the material terms of sale on some other date.[110] In other words, the date of the invoice is the presumptive date of sale, although this presumption may be overcome.[111] For instance, in *Certain Lined Paper Products from India: Notice of Final Results of Antidumping Duty Administrative Review*, 75 FR 7563 (Feb. 22, 2010) and accompanying Issues and Decision Memorandum at Comment 10, the Department used the date of the purchase order as the date of sale because it determined that changes to order quantity and price did not normally occur after the date of the purchase order.

In the *Preliminary Determination*, we selected the shipment date as the date of sale because, based on record evidence to date, we preliminarily found that it best represented the date on which the essential terms of sale were fixed and final.[112] However, we explained that subsequent to the *Preliminary Determination*, we would request additional information with respect to this issue.[113] On January 19, 2010, we issued a supplemental questionnaire and requested that DHMP provide a revised U.S. sales database based on the purchase order date. We explained that we were requesting a revised U.S. sales database because, in DHMP's December 23, 2009, submission, DHMP stated that its material terms of sale are set at the time of shipment, though during the POI, the quantity and value between the order date, invoice date, and shipment date, and customs clarification date remained "nearly the same."[114] On January 26, 2010, pursuant to the Department's instructions, DHMP prepared a new sales database based on the purchase order date.

At verification, the Department reviewed with DHMP officials the company's process for selling subject merchandise to the United States and examined DHMP's sales documentation to determine whether there were changes in the substantive terms of the sale throughout the sales process. As stated in our verification report, "we observed that the customer requested changes to the initial purchase order's quantity and/or product before the commercial invoice date."[115] We explained in the report that, "DHMP presented documentation (*i.e.*, purchase orders) to

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[108] *See, e.g., Certain Steel Nails/PRC (June 16, 2008).*
[109] *See Allied Tube (CIT 2001).*
[110] *See Certain Steel Nails/PRC (June 16, 2008).*
[111] *Id.*
[112] *See Preliminary Determination*, 75 FR at 1604.
[113] *See Id.*
[114] *See* Department's Third Supplemental Questionnaire for Section D.
[115] *See* DHMP's Verification Report at 11.

support the customer's request, and we observed that wherever a change was requested by the customer and approved by DHMP, the customer resubmitted the purchase order, which reflected the new terms. Though the purchase order number stayed the same, the revision was identified by the 'change order' field (*i.e.*, Change Order: (blank) for the initial order, Change Order: 1 for the first revision, Change Order: 2 for the second revision, etc.)."[116] Therefore, based on our discussions with company officials during verification, we disagree with Petitioners that the purchase order date is the correct date of sale. The documents provided by DHMP, and our discussion with company officials at verification, indicate that there were changes to the material terms of sale after the customer resubmitted its purchase orders. After the date of the invoice, the material terms did not change. Therefore, the Department is able to conclude that the material terms were set at the date of invoice.

Additionally, we reject Petitioners' claim that the Department should rely on the purchase order date as the date of sale because DHMP impeded the investigation and/or failed to cooperate with the Department with respect to reporting the correct date of sale. The Department issued several supplemental questionnaires to DHMP in order to determine the correct date of sale, and DHMP responded to each of these questionnaires. As such, we cannot conclude that DHMP failed to cooperate by not acting to the best of its ability.

Finally, we disagree with DHMP that the shipment date is the correct date of sale. During our verification of DHMP's sales process, "company officials explained that quantity and price can change up to, but not after, issuance of the commercial invoice. In our verification of the sales trace documentation, we observed changes in quantity or price to the customer's purchase order up to, but not after issuance of the commercial invoice."[117] As such, the Department finds that the commercial invoice date is the correct date of sale because the Department confirmed during verification that this is the point when the material terms of sales are set. Moreover, DHMP did not provide sufficient evidence to support its claim that shipment date better reflects the date on which the material terms of sale are set.

Comment 11: Valuation of Sulfuric Acid, Thiourea, Caustic Soda, Zinc Oxide, and Nitric Acid

- DHMP argues the Department should use *Chemical Business* because the Department has a preference for domestic data over imports[118] and that sources such as *Chemical Business* have been used by the Department in valuing SVs in other cases.[119]
- DHMP argues that the Department did not address the use of *Chemical Business* as a source of SVs in the *Preliminary Determination* and thus DHMP has been deprived of the opportunity to comment on the Department's reasoning as to why *Chemical Business* was not used.
- Finally, DHMP argues the Department should use data from *Chemical Business* for thiourea and nitric acid, because it finds that the import data for these inputs is

[116] *Id.*
[117] *Id* at 12-13.
[118] *See Hebei Metals* (*CIT 2005*).
[119] *See, e.g., Sebacic Acid/PRC (December 15, 1997)* at Comment 1.

problematic, due to both low quantities and a small number of countries, or low quantity, respectively.

- Petitioners argue that the Department should continue to use WTA data because the Department has long recognized that import values are domestic prices. Petitioners argue that WTA import values are generally considered to be the best indicator of broad, market prices within the domestic market.

Department's Position: We continue to use WTA data to value sulfuric acid, thiourea, caustic soda, zinc oxide, and nitric acid for the final determination, because we have determined that WTA data constitute the best available information on the record, pursuant to section 773(c)(1) of the Act. When selecting possible surrogate values for use in an NME proceeding, the Department's preference is to use, where possible, publicly available values which are: 1) average non-export values; 2) representative of a range of prices within the POI or most contemporaneous with the POI; 3) product-specific; and 4) tax-exclusive.[120] In applying the Department's surrogate value selection criteria, as mentioned above, the Department has found in numerous NME cases that the import data from WTA represent the best available information for valuation purposes because they provide average import prices, are representative of prices within the POI, and are product-specific and tax-exclusive.[121] In this case, we have determined that WTA data constitute the best available information to value these factors because they are publicly available, product-specific, contemporaneous with the POI, and are average, non-export values.

While the Department has used domestic prices rather than import prices in prior cases, as cited by DHMP, the Department determines what constitutes the best available information on a case-by-case basis. Additionally, the Department has determined that import prices may be preferable to domestic prices because import prices do not include domestic taxes.[122] In general, import prices also have the advantage of representing a large number of transactions. For instance, in *Bags/PRC* (June 18, 2004) IDM at Comment 5, the Department explained in its final determination that it chose Indian import statistics because they were more reliable, as they were based on the sum of all imports into India during the POI. The CIT affirmed the Department's determination in *Polyethylene Retail Carrier Bag Committee (CIT 2005).*

DHMP has made an argument that the WTA import quantities are small for thiourea and nitric acid, and then speculates that a small import quantity translates into these imports being of a "specialized" variety. We find that DHMP has not provided sufficient evidence on the record that WTA data are aberrational or otherwise unreliable, or that small quantities necessarily indicate that the imports are specialized, and therefore aberrational. For instance, while DHMP notes that in the case of thiourea and nitric acid, the total quantity of imports is small, DHMP has provided no evidence to substantiate the claim that these are imports of non-commercial quantities. Moreover, DHMP has provided no evidence (such as Infodrive data or industry publications) to substantiate its claim that Indian imports of thiourea and nitric acid are of a specialized variety. As such, all that DHMP has done is claim that the quantities are small and

[120] *See, e.g. Tires/PRC (July 15, 2008)* at Comment 9.
[121] *Id.*
[122] *See ISOS/PRC (May 10, 2005)* at Comment 1.

assert that this is sufficient reason to warrant exclusion, but it has not provided the Department with any information with which we can benchmark these data. We do not find this to be sufficient evidence to support a finding that the values for these inputs are aberrational.

Additionally, we note that *Chemical Business*, the source proffered by DHMP, does not cite to actual prices. The publication states that "{t}he prices published below are based on the market enquiries and are only indicative prices, as such the accuracy of these cannot be guaranteed. They are published only with a view to give an idea of the market conditions."[123] Because *Chemical Business* does not cite to actual prices and the accuracy of these prices cannot be guaranteed, we find that the use of *Chemical Business* would be less reliable than the use of WTA data, which represent, as noted above, actual average import prices that are product-specific and tax-exclusive. Therefore, we continue to find that the WTA Indian import data are the best available information on the record to value sulfuric acid, thiourea, caustic soda, zinc oxide, and nitric acid for purposes of the final determination.

Moreover, while DHMP claims that the Department has relied on publications such as *Chemical Business* as a source to value FOPs, DHMP has not provided any examples where the Department has actually used *Chemical Business* for this purpose. Rather, DHMP only cites to *Sebacic Acid*/*PRC* (December 15, 1997), as an example where the Department discussed *Chemical Business* in valuing inputs, but we note that the Department did not actually use *Chemical Business* as a source in that case. In that case, the only mention of *Chemical Business* is where respondents argued that sebacic acid was absent from *Chemical Business*, suggesting that the chemical was not produced in India.

Finally, with respect to DHMP's argument that the Department did not address in the *Preliminary Determination* why it chose not to use values from *Chemical Business*, depriving DHMP a full opportunity to comment on the Department's reasoning, we find this argument unpersuasive. In the *Preliminary Determination*, we stated:

> In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive. *See, e.g., Shrimp/Vietnam (July 16, 2004)*, unchanged in the final determination, *see Shrimp/Vietnam (December 8, 2004)*.[124]

In addition, in the SV Memo for the *Preliminary Determination*, we selected WTA data for these particular inputs.[125] Therefore, interested parties had opportunities subsequent to the *Preliminary Determination* to address and comment on the SVs selected by the Department. In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping investigation, interested parties may submit publicly available information to value the FOPs within 40 days after the date of publication of the preliminary determination and, consequently, DHMP could have submitted additional information regarding the valuation of these chemicals.

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[123] *See* DHMP's SV Submission at SV—2(a).
[124] *See Preliminary Determination*, 75 FR at 1605.
[125] *See* Prelim SV Memo at 6-7

Further, interested parties had the opportunity to submit case briefs and other written comments to the Department subsequent to the *Preliminary Determination*, in accordance with 19 CFR 351.309, to discuss the Department's selection of surrogate values. Therefore, DHMP was not deprived of an opportunity to comment on the Department's selection of SVs but, rather, did so in its case brief, to which the Department has responded here.

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 this investigation and the final weighted-average dumping margins in the *Federal Register*.

_____ _____

Agree Disagree

_____

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

_____

Date

Attachment I

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table ***All cites in this table are listed alphabetically by short cite***	
Case Short Cite:	**Case Full Cite:**
• *AD Agreement (1994)*	*WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade* (1994)
• *Bags/PRC (June18, 2004)*	*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)
• *Bags/PRC (February 11, 2009)*	*Polyethylene Retail Carrier Bags from the People's Republic ofChina: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857, February 11, 2009
• *Ball Bearings/France, Germany, Italy, Japan, and the United Kingdom (Aug. 30, 2002)*	*Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 67 FR 55780 (Aug. 30, 2002)
• *Carbon Steel Plate/Romania (March 15, 2005)*	*Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 12651 (March 15, 2005)
• *Certain Steel Nails/PRC (June 16, 2008)*	*Certain Steel Nails From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination*, 73 FR 3928 (January 23, 2008), unchanged in, *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)
• *Certain Steel Products/Austria (July 9, 1993)*	*Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria*, 58 FR 37217 (July 9, 1993)

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table ***All cites in this table are listed alphabetically by short cite***	
Case Short Cite:	**Case Full Cite:**
• *Citric Acid/PRC (April 13, 2009)*	*Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value,* 74 FR 16838 (April 13, 2009)
• *CLPP/India (August 8, 2006)*	*Notice of Final Determination of Sales at Less Than Fair Value and Negative Determination of Critical Circumstances: Lined Paper from India,* 71 FR 45012 (August 8, 2006)
• *CLPP/PRC (September 8, 2006)*	*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)
• *Concrete Bars/PRC (June 22, 2001)*	*Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the People's Republic of China,* 66 FR 33522 (June 22, 2001)
• *Crawfish/PRC (April 17, 2007)*	*Freshwater Crawfish Tailmeat 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 (November 17, 2004)*	*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 (March 19, 2010)*	*Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order,* 75 FR 13257 (March 19, 2010)
• *Fish/Vietnam (March 21, 2007)*	*Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Second Administrative Review,* 72 FR 13242 (March 21, 2007)

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table ***All cites in this table are listed alphabetically by short cite***	
Case Short Cite:	**Case Full Cite:**
• *FMTC/PRC (January 21, 2009)*	*Folding Metal Tables and Chairs from the People's Republic of China : Final Results of Antidumping Duty Administrative Review*, 74 FR 3560 (January 21, 2009)
• *FSVs/PRC (March 13, 2009)*	*Frontseating Service Valves From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 74 FR 10886 (March 13, 2009)
• *Garlic/PRC (June 22, 2009)*	*Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the Eleventh Administrative Review and New Shipper Reviews*, 72 FR 34438 (June 22, 2007)
• *HR Steel/India (January 9, 2008) (Preliminary Results)*	*Certain Hot-Rolled Carbon Steel Flat Products from India: Notice of Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 73 FR 1578 (January 9, 2008).
• *HR Steel/India (July 14, 2008)*	*Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review*, 73 FR 40295 (July 14, 2008)
• *HR Steel/India (May 6, 2009)*	*Certain Hot–Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 74 FR 20923 (May 6, 2009)
• *ISOS/PRC (May 10, 2005)*	*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)
• *ISOS/PRC (December 14, 2009)*	*Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 66087 (December 14, 2009)

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Case Short Cite:	**Case Full Cite:**
• *KASR/PRC (July 24, 2010)*	*Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less than Fair Value*, 74 FR 36656 (July 24, 2010)
• *LWTP/PRC (October 2, 2008)*	*Lightweight Thermal Paper From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 57329 (October 2, 2008)
• *Magnesium/PRC (December 16, 2008)*	*Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 76336 (December 16, 2008)
• *Matchbooks/India (October 22, 2009)*	*Commodity Matchbooks From India: Final Affirmative Countervailing Duty Determination*, 74 FR 54547, (October 22, 2009)
• *Mushrooms/PRC (August 9, 2007)*	*Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 44827 (August 9, 2007)
• *OCTG/PRC (April 19, 2010)*	*Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117 (November 17, 2009), unchanged during final, *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010)
• *Pencils/PRC (July 25, 2002)*	*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)

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table ***All cites in this table are listed alphabetically by short cite***	
Case Short Cite:	**Case Full Cite:**
• *Persulfates/PRC (December 5, 2003)*	*Persulfates from China: Final Results of Antidumping Duty Administrative Review*, 68 FR 68030 (December 5, 2003)
• *PET Film/India (February 10, 2010)*	*Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of the Countervailing Duty Administrative Review of* , 75 FR 6634 (February 10, 2010)
• *PET-Resin/India (March 21, 2005)*	*Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate (PET) Resin from India*, 70 FR 13460 (March 21, 2005)
• *Polyethylene Retail Carrier Bags/PRC (June 18, 2004)*	*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).
• *Polyester Staple Fiber/PRC (April 19, 2007)*	*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)
• *Polyvinyl Alcohol/Taiwan (March 29, 1996)*	*Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14064, 14067 (March 29, 1996)
• *Preliminary Determination*	*Wire Decking From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 1597 (January 12, 2010)
• *Prestressed Concrete Steel Wire Strand/PRC (May 21, 2010)*	*Prestressed Concrete Steel Wire Strand From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 74 FR 68230 (December 23, 2009), unchanged during final, *Prestressed Concrete Steel Wire Strand From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 28560 (May 21, 2010)

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Case Short Cite:	**Case Full Cite:**
• *Sebacic Acid/PRC (December 15, 1997)*	*Sebacic Acid From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 62 FR 42755 (August 8, 1997), unchanged in, *Sebacic Acid from the PRC: Final Results of Antidumping Administrative Review*, 62 FR 65674 (December 15, 1997).
• *Shrimp/Vietnam (July 16, 2004)*	*Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004)
• *Shrimp/Vietnam (December 8, 2004)*	*Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004)
• *Shrimp/PRC (September 12, 2007)*	*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 (September 12, 2007)
• *Staple Fiber/PRC (April 19, 2007)*	*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)
• *Threaded Rod/PRC (October 8, 2008)*	*Certain Steel Threaded Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 58931, (October 8, 2008)

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table ***All cites in this table are listed alphabetically by short cite***	
Case Short Cite:	**Case Full Cite:**
• *Tires/PRC (July 15, 2008)*	*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)
• *TRBs/PRC (January 17, 2006)*	*Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517, 2522 (January 17, 2006)
• *TRBs/PRC (January 22, 2009)*	*Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 3987, January 22, 2009
• *WBF/PRC (August 17, 2009)*	*Wooden Bedroom Furniture form the People's Republic of china: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews*, 74 FR 41374 (August 17, 2009)
• *Wire Strand/India (April 8, 2009)*	*Final Results of Expedited Sunset Review of Countervailing Duty Order: Prestressed Concrete Steel Wire Strand from India*, 74 FR 15938 (April 8, 2009)
• *Woven Ribbons/PRC (February 18, 2010)*	*Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 7244 (February 18, 2010)

Attachment II

Short Cite Table For Litigation ***All cites in this table are listed alphabetically by short cite***	
Litigation: Short Cite	**Litigation: Full Cite**
• *Allied Tube (CIT 2001)*	*Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087 (CIT 2001)
• *Budd Co. Wheel (CIT 1990)*	*Budd Co. Wheel & Brake Div. v. United States*, 746 F. Supp. 1093 (CIT 1990)
• *Ceramica Regiomontana, S.A. (Fed. Cir. 1987)*	*Ceramica Regiomontana, S.A. v. United States*, 10 CIT 399, aff'd, 810 F.2d 1137 (Fed. Cir. 1987)
• *CITIC (CIT 2003)*	*CITIC Trading Co., Ltd. v. United States*, 27 C.I.T. 356 (2003)
• *Dorbest (CIT 2006)*	*Dorbest v. United States*, 462 F. Supp. 2d 1262 (CIT 2006)
• *Fujian (CIT 2003)*	*Fujian Mach. & Equip. Imp. & Exp. Corp. v. United States*, 276 F. Supp. 2d 1371 (2003)
• *Georgetown Steel (Fed Cir. 1986)*	*Georgetown Steel Corp. v. United States*, 801 F.2d. 1308 (Fed. Cir. 1986)
• *Goldlink (CIT 2006)*	*Goldlink Industries Co. v. United States*, 431 F. Supp. 2d 1323 (CIT 2006)
• *Gov't of People's Republic of China (CIT 2007)*	*Gov't of People's Republic of China v. United States*, 483 F. Supp. 2d 1274 (CIT 2007)
• *GPX Intl' Tire Corp (CIT 2009)*	*GPX Int'l Tire Corp. v. United States*, 645 F. Supp. 1231 (CIT 2009)
• *GSA, S.R.L. (CIT 1999)*	*GSA, S.R.L. v. United States*, 77 F. Supp. 2d 1349 (CIT 1999)
• *Hebei Metals (CIT 2005)*	*Hebei Metals & Minerals Imp. & Exp. Corp. v. United States*, 366 F. Supp. 2d 1264 (2005).
• *Luoyang Bearing (CIT 2004)*	*Luoyang Bearing Corp. v. United States*, 347 F. Supp. 2d 1326, 1349-50 (CIT 2004)
• *Nation Ford (Fed. Cir. 1999)*	*Nation Ford Chemical Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1999)*

Short Cite Table For Litigation ***All cites in this table are listed alphabetically by short cite***	
Litigation: Short Cite	**Litigation: Full Cite**
• *NSK (Fed. Cir. 1990)*	*NSK Ltd. v. United States*, 481 F.3d 1355 (Fed. Cir. 2007)
• *Polyethylene Retail Carrier Bag Committee (CIT 2005)*	*Polyethylene Retail Carrier Bag Committee, et al. vs. United States*, 29 C.I.T. 1418 (CIT 2005).
• *Rhodia (CIT 2002)*	*Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247 (CIT 2002)
• *Rhone (Fed. Cir. 1990)*	*Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185 (Fed. Cir. 1990)
• *Rust (USSC 1991)*	*Rust v. Sullivan*, 500 U.S. 186 (USSC 1991)
• *SEC (USSC 1947)*	*SEC v. Chenery, 332 U.S. 194 (1947)*
• *Shakeproof (Fed. Cir 2001)*	*Shakeproof Assembly Components Div. of Ill v. United States*, 268 F.3d 1376, 1382-1383 (Fed. Cir. 2001)
• *Sonco Steel Tube Div. (CIT 1988)*	*Sonco Steel Tube Div. v. United States*, 694 F. Supp. 959, 966 (CIT 1988)
• *U.S. Steel (CIT 2004)*	*United States Steel Corporation and Ispat Inland Inc. v. United States*, 28C.I.T. 1937; 350 F. Supp. 2d 1276; Int'l Trade Rep. (BNA) 1140; (CIT 2004)

Attachment III

Short Cite Table For Memorandum/Reports & Miscellaneous ***All cites in this table are listed alphabetically by short cite***	
Memorandum: Short Cite	**Memorandum: Full Cite**
• 5 U.S.C. §553(c)	5 U.S.C. §553(c)
• 22 U.S.C. § 6941(5)	22 U.S.C. § 6941(5)
• *Accession of the PRC* (Nov. 23, 2001)	World Trade Organization, Protocol on the Accession of the People's Republic of China, pt. I §15d (Nov. 23, 2001)
• *Countervailing Duties Final Rule* (November 25, 1998)	*Countervailing Duties Final Rule*, 63 FR 65348 (November 25, 1998)
• *CVD Preamble* (November 25, 1998)	*CVD Preamble*, 63 FR 65348 (November 25, 1998)
• Department's Original Questionnaire	Letter from the Department regarding, Antidumping Duty Investigation of Wire Decking from the People's Republic of China: Questionnaire (August 31, 2009)
• Department's Third Supplemental Questionnaire for Section D	Letter from the Department regarding, Antidumping Duty Investigation of Wire Decking from the People's Republic of China: Third Supplemental Questionnaire for Section D (January 19, 2010)
• DHMP's Final Analysis Memo	Investigation of Wire Decking from the People's Republic of China: Analysis of the Final Determination Margin Calculation for Dalian Huameilong Metal Products Co., Ltd., dated concurrently with this memorandum
• DHMP's Submission (December 1, 2009)	Letter from DHMP entitled, Wire Decking from the People's Republic of China; A-570-949; Response to the Supplemental Section C and D Supplemental Questionnaire by Dalian Huameilong Metal Products Co., Ltd. (December 1, 2009)
• DHMP's SV Submission	Letter from DHMP entitled, Wire Decking from the People's Republic of China; A-570-949; Submission of Surrogate Value Information, dated March 12, 2010

Short Cite Table For Memorandum/Reports & Miscellaneous ***All cites in this table are listed alphabetically by short cite***	
Memorandum: Short Cite	**Memorandum: Full Cite**
• DHMP's Verification Report (Memo March 26, 2010)	Department's Memorandum regarding, Verification of the Sales and Factors Response of Dalian Huameilong Metal Products Co., Ltd. in the Antidumping Duty Investigation of Wire Decking from the People's Republic of China (March 26, 2010)
• Eastfound's Final Analysis Memo	Investigation of Wire Decking from the People's Republic of China: Analysis of the Final Determination Margin Calculation for Dalian Huameilong Metal Products Co., Ltd., dated concurrently with this memorandum
• Eastfound's Preliminary Analysis Memo	Department's Memorandum regarding, Preliminary Determination Analysis Memorandum for Dalian Eastfound Metal Products Co., Ltd., and Dalian Eastfound Material Handling Products Co., Ltd., dated January 4, 2009
• Eastfound's Submission (October 23, 2009)	Letter from Eastfound entitled, Eastfound regarding, Wire Decking from China – Dalian Eastfound Metal Products Co., Ltd. And Dalian Eastfound Material Handling Products Co., Ltd. – Section C & D (October 23, 2009)
• Eastfound's Submission (March 2, 2010)	Letter from Eastfound entitled, Eastfound regarding, Wire Decking from China – Dalian Eastfound Material Handling Products Co., Ltd. – Revised Section C (March 2, 2010)
• Eastfound's SV Submission	Letter from Eastfound entitled, Wire Decking from China – Dalian Eastfound Surrogate Values for Final Determination, dated March 12, 2010
• Eastfound's Verification Report (April 14, 2010)	Department's Memorandum regarding, Verification of the Sales and Factors Response of Dalian Eastfound Metal Products Co., Ltd., and Dalian Eastfound Material Handling Products Co., Ltd. in the Antidumping Duty Investigation of Wire Decking from the People's Republic of China (April 14, 2010)

Short Cite Table For Memorandum/Reports & Miscellaneous ***All cites in this table are listed alphabetically by short cite***	
Memorandum: Short Cite	**Memorandum: Full Cite**
• Petitioners' SV Submission	Letter from Petitioners entitled, Wire Decking from the People's Republic of China – Post-Preliminary Determination Surrogate Value Comments, March 12, 2010
• *SAA (1979)*	Trade Agreements Act of 1979, Statement of Administrative Action, H. Doc. No. 96-153, Part II (1979), at 412
• Tolling of Administrative Deadlines (February 12, 2010)	Memorandum to the Record from Ronald Lorentzen, Deputy Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm" (February 12, 2010).
• *Trade Agreement Act of 1979, Report of the Committee on Finance United States Senate*	Trade Agreements Act of 1979, Report of the Committee on Finance United States Senate on H.R. 4537, July 17, 1979, 96th Cong., 1st Sess. Rep. No. 96-249