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March 2, 2012

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

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

CASE: Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China

SUBJECT: Issues and Decision Memorandum for the Final Results of the 2009-2010 Administrative Review

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SUMMARY:

On November 3, 2011, the Department[1] published its Preliminary Results in the antidumping duty administrative review of PET film from the PRC.

On November 28, 2011, Petitioners, Wanhua and Fuwei Films submitted publicly available SV data. On December 8, 2011, Petitioners[2], Wanhua, Fuwei Films and Dongfang submitted rebuttal comments regarding the November 28, 2011, submissions. We received case briefs from Petitioners, Wanhua, Fuwei Films and Green Packing (jointly "Wanhua et. al."), Dongfang, Bemis Company, Inc. ("Bemis") on December 14, 2011, and rebuttal briefs on December 21, 2011. On January 12, 2012 the Department held a public hearing.

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[1] Following this memorandum are short cite tables, respectively, for: (1) acronyms and abbreviations; (2) litigation; (3) Federal Register notices; and (4) unpublished letters, submissions and memorandum. All citations are alphabetized by short cite in their respective lists.

[2] The Department rejected Petitioners' December 8, 2011 SV rebuttal comments because it contained new SV information. Petitioners removed the material and resubmitted the rebuttal comments on December 16, 2011.

Discussion of the Issues

Surrogate Country Selection and Surrogate Financial Ratios

Issue 1: Whether the Department should have selected India or Thailand as the Surrogate Country

Petitioners' Argument

- In the Preliminary Results, the Department found India and the PRC to be economically comparable based upon 2008 GNI data. However, based upon more recent 2009 GNI data placed on the record by Petitioners, India and the PRC are not economically comparable. Further, Thailand is economically comparable to the PRC, and is a significant producer of identical merchandise. All of the financial statements on the record from Indian producers of merchandise identical to the subject merchandise show evidence of countervailable subsidies. In contrast, the Thai financial statements on the record do not show countervailable subsidies. In the Preliminary Results, the Department did not select Thailand as the surrogate country due to SV data considerations; specifically, the financial statement on the record from Polyplex Thailand, a Thai producer of merchandise identical to the subject merchandise, does not subdivide the total raw materials consumed and the total consumables consumed (which are overhead) during the fiscal year. The Department could apportion Polyplex Thailand's raw materials and consumables by applying the ratio of raw materials to consumables of its Indian affiliate Polyplex India. The problem presented by the Thai statement is not as distortive as using an Indian financial statement impacted by countervailable subsidies. The Department could use more than one surrogate country when is there is a specific problem with certain SVs. The Department could apply Thai SVs to value FOPs other than financial ratios.

Dongfang Rebuttal

- The Department properly selected India as the surrogate country, based upon record evidence. The decision was reasonable, as India was the surrogate country in the petition, and in all previous segments of the proceeding. The SV information from Thailand is deeply flawed and inappropriate (i.e., the tariff subheading either do not match the key raw materials or the quantities are too small and the values aberrantly high).
- It is the Department's practice to select SVs from a single surrogate country.

Argument of Wanhua et. al.

- The Department found India to be economically comparable to the PRC for the purposes of this review, while at the same time noting that "the disparity in per capita GNI between India and the PRC has consistently grown in recent years."[3]

[3] See Surrogate Country Request Memo at 1.

- Comparing certain Chinese, Indian, and Thai data points (i.e., unemployment, investment (to GNP), industrial production growth rate, and household income by percentage share lowest 10%), shows that India is at a comparable, if not identical level of development to that of the PRC. India is a major producer of PET film and other comparable products. Polyplex Thailand received several subsidies that the Department has found to be countervailable, e.g., promotional certificates from the Thailand Board of Investment. The Polyplex Thailand financial statement does not include a sufficient breakdown of information to permit the Department to calculate surrogate financial ratios. Applying a ratio derived from the Polyplex India financial statement to the Polyplex Thailand data to calculate surrogate financial ratios would distort the surrogate financial ratios by not only using the ratio itself, but also by applying a ratio taken from a Polyplex India, which also shows evidence of countervailable subsidies.

Department's Position: The Department agrees with Dongfang and Wanhua et. al. in part, and continues to use India as the surrogate country for this administrative review. We continue to find that India is economically comparable to the PRC. As described in Policy Bulletin No. 04/1,[4] the Department's practice is not to rank-order countries' comparability according to how close their per-capita GNI is to that of the NME country in question. Consistent with the statute's requirement that the Department use a surrogate country that is at a level of economic development comparable to that of the NME country, the Department creates a list of possible surrogate countries which are to be treated as equally comparable in evaluating their suitability for use as a surrogate country. Policy Bulletin No. 04/1 explains that the Department's "current practice reflects in large part the fact that the statute does not require the Department to use a surrogate country that is at a level of economic development most comparable to the NME country."[5] The Department has followed the practice set forth in Policy Bulletin No. 04/1 with respect to this administrative review.

Early in this administrative review, Import Administration's Office of Policy provided a list of potential surrogate countries that are at a comparable level of economic development to the PRC. The surrogate countries on the list are not ranked and are considered equivalent in terms of economic comparability. In this case, the Department identified India, Indonesia, Peru, the Philippines, Thailand, and Ukraine as countries which are economically comparable to the PRC.[6] The Office of Policy found these countries to be comparable based upon 2008 per capita GNI.[7] Regarding Petitioners' arguments that the Office of Policy's finding was impacted significantly by the use of 2008 per capita GNI data rather than more recent information obtained by Petitioners, the Department disagrees. The Department notes that Petitioners' GNI data reflect only a small change in the proportionality of the per capita GNI of India in relation to that of the PRC between 2008 and 2010. As stated in the Surrogate Country Request Memo, the disparity in per capita GNI between India and the PRC has consistently grown in recent years. However, the disparity in per capita GNI between India and the PRC did not grow so significantly during

[4] See Policy Bulletin No. 04/1 at note 5.
[5] See Policy Bulletin No. 04/1 at note 5.
[6] See Surrogate Country Request Memo at 2.
[7] Id..

the POR that the two countries cannot be considered economically comparable for the purposes of this administrative review.

As we stated in the Preliminary Results, we found at the time that India and Thailand are both at a level of economic development comparable to that of the PRC and are both significant producers of merchandise comparable to the subject merchandise.[8] However, based upon our determination that the Thai financial statements on the record, that of Polyplex Thailand, did not report separate raw material costs and consumable costs, and that there is no adequate methodology to divide these separate costs from the reported total cost, the Department is unable to use the Polyplex Thailand financial statement to calculate the surrogate financial ratios. Regarding the methodology suggested by Petitioners of using the financial statement of Polyplex Thailand's Indian affiliate Polyplex India as a guide for interpreting the Polyplex Thailand financial statement, the Department's practice is to not make adjustments to material costs in the financial statement data, as doing so may introduce unintended distortions into the data rather than achieving greater accuracy.[9] Petitioners' assertion that affiliated companies in two different countries would have similar ratios of raw materials to consumables cannot be supported by the evidence on the record. Thus, due to the unavailability of other Thai data on the record to calculate this key component of the margin calculation, and the availability of Indian data currently on the record, the Department will continue to use India as the surrogate country for this administrative review.

Additionally, regarding Petitioners' argument that the Department can use surrogate prices from countries other than the selected surrogate country (i.e., India) when a particular input (i.e., PET chips) from an otherwise appropriate surrogate country is lacking, we agree. However, we note that 19 CFR 351.408(c)(2) provides that the Department will normally source the FOPs from a single surrogate country. Though the Department can evaluate each specific SV to determine whether it may be necessary to look to another surrogate country, in the instant case, it is not necessary for the surrogate financial ratio or any of the SVs, because we have suitable data on the record from the primary surrogate country. Therefore, for the final results, the Department has continued to use Indian data from GTA to calculate all SVs.

Regarding Petitioners' arguments that using the Thai financial statement on the record to calculate dumping margins is less distortive than the Indian financial statements on the record, due to evidence of countervailable subsidies in the Indian financial statements, the Department has determined that one Indian financial statement on the record does not contain evidence of the receipt of countervailable subsidies; see Issue 2, below.

Issue 2: Whether the Department should have selected the financial statement of JBF to calculate financial ratios.

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[8] See Surrogate Country Memo at 7-8.

[9] See Bedroom Furniture/PRC (August 17, 2009) at Comment 15 (citing Coated Free Sheet Paper/PRC (October 25, 2007) at Comment 4; Warmwater Shrimp/PRC (September 12, 2007) at Comment 2; and Pure Magnesium/PRC (September 27, 2001) at Comment 4.

Petitioners' Argument

- The Department should continue to exclude the financial statement of JBF due to the fact that the company only produced comparable merchandise, while the financial statements of India producers of identical merchandise are on the record, and all (including JBF) have evidence of receipt of countervailable subsidies.

Wanhua et. al. and Dongfang's Argument

- The Department should use the financial statement of JBF as the basis for calculating surrogate financial ratios. The evidence of a subsidy found by the Department is in fact just an accounting policy statement indicating how the company would account for a subsidy, should the company receive such a subsidy. The policy statement does not indicate that JBF received a subsidy, nor is any subsidy amount identified anywhere in the financial statement. The Department used the previous fiscal year financial statement of JBF to calculate financial ratios in the previous segment of the proceeding, and the financial statement contained the same accounting policy statement regarding subsidies. The Department found JBF to be a producer of comparable merchandise in the previous segment of the proceeding. If the Department decides not to use JBF as the sole basis for calculating surrogate financial ratios, the Department should use an average of the financial statements of Ester, Garware, Jindal, and JBF. All with the exception of JBF show evidence of countervailable subsidies.

Petitioners' Rebuttal

- The Department correctly found that all of the Indian financial statements on the record for the Preliminary Results contained evidence of the receipt of countervailable subsidies, and thus are on equal footing. The Department disqualified Garware in the previous review based on a reference in its financial statement of a specific countervailable subsidy very similar to that found in the notes of the JBF financial statement, regarding the DEPB scheme. The absence of a separate line item for the receipt of subsidy benefits is evidence of shoddy accounting practices, and prevents the Department from evaluating the effects of DEPB subsidies on JBF's financial performance. The Department correctly excluded the JBF financial statement from its surrogate financial ratio calculations, because JBF does not make PET film, and PET film producer financial statements are on the record.

Wanhua et. al. and Dongfang's Rebuttal

- The Department should use the financial statement of JBF to calculate financial ratios because JBF manufactures comparable merchandise, it posted no export subsidy income in its income statement, and there is no evidence that the company actually participated in a countervailable subsidy program. Should the Department rely on the financial statements of subsidized identical merchandise producers to calculate financial ratios, the Department must use all subsidized identical merchandise producer financial statements of record.

Department's Position: In the instant review, for the Preliminary Results, the Department used the financial statement of Polyplex India to calculate surrogate financial ratios for the fiscal year ending March 31, 2010 (i.e., fiscal year 2009). In the Preliminary Results, we stated that the

Polyplex India and the JBF financial statements for fiscal year 2009 showed evidence of participation in the "DEPB scheme, which the Department has found to be a countervailable subsidy."[10] However, because Polyplex India produces merchandise identical to the subject merchandise, and JBF only manufactures comparable merchandise, the Department determined that Polyplex India's financial statement was the best available information for calculating surrogate financial ratios.[11] Since the Preliminary Results, Wanhua et. al. placed three additional financial statements on the record. Therefore, based on the parties' arguments, for the final results, we reconsidered which financial statements constitute the best available information.

For the final results, the Department has relied only on JBF's fiscal year 2010 financial statements to calculate Respondents' surrogate financial ratios. Generally, when calculating "manufacturing overhead, general expenses, and profit" for a NME respondent, the Department will use surrogate financial ratios calculated from "non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country."[12] Pursuant to section 773(c)(1) of the Act, it is the Department's practice to use the best available information to derive the surrogate financial ratios. To do so, the Department considers several factors, including the quality, specificity, and contemporaneity of the source information.[13] Further, the CIT has recognized the Department's discretion when choosing appropriate companies' financial statements to calculate surrogate financial ratios.[14] However, it is also the Department's practice to reject the financial statements of a company that we have reason to believe or suspect may have -received countervailable subsidies during the POR from a program previously investigated by the Department, particularly when other sufficient, reliable, and representative data are available for calculating surrogate financial ratios.[15]

Regarding the six Indian financial statements on the record of this review, four of the financial statements pertain to fiscal year 2009 and two pertain to fiscal year 2010, and thus all are partially contemporaneous with the POR. Although the JBF financial statements from both fiscal years 2009 and 2010 are contemporaneous with the POR, the 2010 JBF financial statement is more contemporaneous because fiscal year 2010 encompasses seven months of the POR, and thus, better meets the criterion of best information available over the 2009 JBF statement.[16] Thus, regarding contemporaneity, five financial statements are suitable as surrogates. In

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[10] See Surrogate Country Memo at 10.
[11] Id.
[12] See 19 CFR 351.408(c)(4).
[13] See, e.g., Lined Paper Products /PRC (September 8, 2006) at Comment 1.
[14] See, e.g., FMC Corp. (where the CIT held that the Department can exercise discretion in choosing between reasonable alternatives).
[15] See Tires/PRC (July 15, 2008) at Comment 17A; see also Warmwater Shrimp/PRC (September 12, 2007) at Comment 2, citing Crawfish/PRC (April 17, 2007) at Comment 1; see also H.R. Conf. Rep. No. 576, 2d Sess., Vol. 4, 590 (1988) ("Commerce shall avoid using any prices which it has reason to believe or suspect may be dumped or subsidized prices").
[16] The Department's practice is to use the best information available on the record when selecting financial statements. When we have multiple financial statements from a single company together with other suitable statements, we will look to contemporaneity as one factor to narrow our selection. See Activated Carbon/PRC (November 10, 2009) at Comment 2c. The 2010 JBF financial statement is more contemporaneous and better meets the criterion of best information available over the 2009 JBF statement which the Department considered for the Preliminary Results.

addition, four companies produce identical merchandise (PET film), and one, specifically JBF, produces PET yarn, which is comparable to PET film.[17] Neither Petitioners nor any respondent contests the comparability of PET film and PET yarn. Thus, regarding product-line comparability, we find that the remaining five financial statements are suitable as surrogates because they produce identical or comparable merchandise.

As stated above, the Department determined in the Preliminary Results that Polyplex India's financial statement showed evidence of the DEPB scheme.[18] Further, the Department agrees that the financial statements of Garware,[19] Ester,[20] and Jindal[21] also provide the Department with a reason to believe or suspect that each received a countervailable subsidy during the POR from a program previously investigated by the Department (i.e., the DEPB scheme and the Advance License scheme). Therefore, these financial statements are less likely to represent the financial experience of the respondents than the ratios derived from financial statements that do not contain evidence of subsidization. The fact that the companies' financial statements indicate the receipt of a countervailable subsidy is sufficient in and of itself for the Department to find reason to believe or suspect that they received countervailable benefits.

Regarding the JBF financial statement, Schedule 'P' "Significant Accounting Policies & Notes On Accounts," mentions two export incentives at note Q, specifically, the DEPB scheme and the Advance License scheme. Further, at note N, the financial statement mentions that export incentives received by the company would be included in turnover. However, the specific language in the JBF financial statement's accounting notes does not indicate that JBF received a countervailable subsidy during the POR.[22] Rather, , the language in the notes only suggest that such subsidies were available to JBF, and this is not a sufficient basis for excluding the financial statement as a source for calculating financial ratios. There is no indication in JBF's received a countervailable subsidy during the fiscal year. In contrast, the Polyplex India, Garware, Ester, and Jindal financial statements that the Department is excluding (as explained immediately above) each recorded income generated through a countervailable subsidy program during the fiscal year. Consequently, we find this situation analogous to prior instances where the Department has found insufficient evidence on the record to conclude that the company received

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[17] Regarding the Department's use of financial statements of producers of comparable merchandise to calculate financial ratios, see Isocyanurates/PRC (May 10, 2005) at Comment 2.

[18] See Petitioners SV submission at Exhibit 28, at 61.

[19] See Wanhua et. al. Final SV submission at Exhibit SV-2, at 22, 26, 27, 42, 46 (Garware received subsidies pursuant to the DEPB scheme). Regarding Petitioners' rebuttal argument that the Department did not cite to any provision indicating that Garware incurred and accounted for an actual subsidy benefit in the previous segment of the proceeding, the Department notes that the citation was missed due to oversight.

[20] See Wanhua et. al. Final SV submission at Exhibit SV-1, at pages 57, 63 (Ester received subsidies pursuant to the DEPB scheme).

[21] See Wanhua et. al. Final SV submission at Exhibit SV-3, page 37, 38, 40, 61. (Jindal received subsidies pursuant to the DEPB scheme and the Advance Licenses scheme; regarding the Advance Licenses scheme, see e.g., PET Film/India (May 27, 2011) at Comment 8).

[22] Regarding the DEPB scheme, the note states that the benefit "is recognized as and when right to receive are established as per the terms of the scheme." Regarding the Advance License scheme, the note states that benefits "are recognized as and when goods are imported against them." See Wanhua et. al. SV submission at Exhibit SV-4(b), page 31.

a countervailable subsidy. .[23] Regarding Petitioners' contention that the absence of a separate line item for the receipt of subsidy benefits is evidence of shoddy accounting practices, we disagree. The Department has reviewed the JBF financial statement's Auditor Report, and has found no basis for determining that JBF's accounting practices are significantly flawed or somehow aberrational in a way that would impact the Department's analysis.

The Department prefers financial statements of companies that manufacture identical merchandise for calculating financial ratios.However, the Department does not give more weight to the financial statements of companies with a greater similarity of production experience if those financial statements showed evidence of countervailable subsidies, than to other financial statements on the record from producers of comparable merchandise that do not show evidence of countervailable subsidies.[24] Consequently, we find that that JBF's 2010 financial statement is the best available information for calculating financial ratios in this review. Therefore, for the final results, we have determined to use the JBF 2010 financial statement for purposes of calculating the surrogate financial ratios.

In sum, while we have on the record of this administrative review financial statements of five Indian producers of identical and/or comparable merchandise that are publicly-available and contemporaneous with the POR, we have reason to believe or suspect that four of these companies received a countervailable subsidy. As a result, we find that these four financial statements are less representative of the financial experience of the relevant industry than the ratios derived from a financial statement that does not contain evidence of subsidization (i.e., JBF's financial statement) or no profit. Thus, for the final results, the Department has determined to only use JBF's 2010-2011 financial statement, which represents the best available information, to calculate surrogate financial ratios for the final results.[25]

Issue 3: Whether the Department should have rejected financial statements submitted in its SV rebuttal comments

Petitioners' Argument

- The Department should not have rejected the financial statements submitted by Petitioners in its rebuttal submission, as they were more recent financial statements (for fiscal year 2010) of the same companies (i.e., Garware, Ester, and Jindal) that the Respondents placed on the record in their direct submission (for fiscal year 2009), and thus were not wholly new SVs. The financial statements served to rebut arguments (1) that newer financial statements were not available, and (2) that JBF is a producer of PET film.

[23] See Tires/PRC (July 15, 2008) at Comment 17.A.

[24] See, e.g., OCTG/PRC (April 19, 2010) at Comment 13 (where the Department excluded financial statements distorted by subsidies prior to assigning specific financial statements to specific respondents based upon the similarity of production experience for calculating financial ratios); see also H.R. Conf. Rep. No. 576, 2d Sess., Vol. 4, 590 (1988) ("Commerce shall avoid using any prices which it has reason to believe or suspect may be dumped or subsidized prices").

[25] See Final Surrogate Value Memorandum at Exhibit 2.

Dongfang's Rebuttal

- The Department properly rejected from the record certain financial statements that Petitioners submitted in their rebuttal SV submission. The Department's decision that the financial statements constituted new information not appropriate for a rebuttal submission was consistent with its standard policy.

Wanhua et. al. Rebuttal

- The policy not allowing the filing of financial statements as part of rebuttal to final SV filings is of longstanding precedent.[26] There was never a claim that JBF Industries produces PET film.

Department's Position: The Department finds that it did not abuse its discretion in rejecting the financial statements submitted in Petitioners' rebuttal SV submission. The Department disagrees with Petitioners' claims that the Department should not have rejected certain parts of their surrogate rebuttal submissions as untimely new factual information. 19 CFR 351.301(c)(1) states that an "interested party may submit factual information to rebut, clarify, or correct factual information submitted by any other interested party." The Department noted in its rejection letter[27] to Petitioners:

> The Department generally will not accept the submission of additional, previously absent-from-the-record alternative SV information under the regulation that allows parties to submit rebuttal factual information (19 CFR 351.301(c)(1)). Permitting parties to submit wholly new SV information as rebuttal to previously submitted SVs after the deadline for SV submissions circumvents the regulation providing that parties have 20 days after publication of the preliminary results of an antidumping administrative review to submit information that could be used to value FOPs (see 19 CFR 351.301(c)(3)(ii)). Moreover, submitting wholly new SV information as rebuttal under 19 CFR 351.301(c)(1) "has the potential to seriously erode the finality of the record necessary for interested parties to make complete assessments of the record for the purposes of the submission of complete briefs . . ."[28]

The Department further notes that this policy was not only stated in the Preliminary Results for the instant case,[29] but has also regularly been stated in other preliminary determinations published in the Federal Register, giving the parties ample notice of the Department's policy regarding acceptance of alternative SV information in parties' rebuttal SV submissions.[30]

Regarding Petitioners' contention that because the rejected financial statements were only more recent financial statements of the same companies that Respondents placed on the record in their direct submission, and thus were not wholly new SVs, we disagree. In the present administrative

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[26] See Glycine/PRC (October 17, 2007) at Comment 2.

[27] See New Fact Rejection Letter.

[28] Glycine/PRC (October 17, 2007) at Comment 2.

[29] See Preliminary Results, 76 FR at 68142.

[30] See, e.g., Hangers/PRC (October 28, 2011); Kitchen Racks/PRC (October 11, 2011); Tires/PRC (October 7, 2011); and Nails/PRC (September 12, 2011).

review, the Department received six timely-filed, contemporaneous financial statements of Indian producers of identical or comparable merchandise from other parties in their SV submissions,[31] including those considered in the Preliminary Results. Due to the nature of data availability, newer or "more accurate" information may become available on a rolling basis, and the Department must establish a cut-off point for acceptance of such new information to enable it to consider the data and fulfill its obligations within the statutory time periods provided. In fact, by their very nature, updated financial statements constitute new information because the data therein reflects an entirely different fiscal year. Because the submission of wholly new SV information can generate further submissions of yet more "rebuttal" information, it has the potential to seriously erode the finality of the record necessary for interested parties to make complete assessments of the record for the purposes of the submission of complete briefs, in accordance with long-standing Department practice. As stated in the preamble to the regulations, "at this point in the proceeding, the Department and the parties have an interest in finalizing the addition of new factual information to the record."[32] Therefore, parties should take note that financial statements that are introduced as rebuttal to a SV submission of financial statements generally will not fall within the meaning and applicability of 19 CFR 351.301(c)(1).

In response to Petitioners' argument that their new financial statements were submitted to rebut an argument that newer financial statements were not available, we note that the newer statements at issue were for the fiscal year ending March 2011, and the deadline for filing new SV information was November 28, 2011. The Department finds the fact that Petitioners waited to submit their own surrogate financial statements until past the deadline for submitting new factual information because Wanhua et. al. submitted financial statements for the same companies, does not constitute good cause to extend the filing deadlines and accept the proffered new factual information onto the record. Under Petitioners' rationale, any new information that is newer than timely filed new information regarding the same item would be permissible. The Department maintains that this line of reasoning seriously erodes the finality of the record necessary for interested parties to make complete assessments of the record for the purposes of the submission of complete briefs, in accordance with long-standing Department practice.

Regarding Petitioners' argument that their new financial statements were submitted to show that JBF is not a producer of PET film, we note that we are still unable to accept a rebuttal SV submission containing previously absent-from-the-record alternative SV information, despite the party's claim that it is intended only as a rebuttal argument rather than a potential SV. In selecting the best information available on the record to value FOPs, the Department must "consider all significant, relevant information on the record" in making its determination.[33] Accordingly, if the Department were to accept a new financial statement solely for the purpose of showing that JBF is not a producer of PET film (whether or not a party made such an argument), once on the record, it is unclear on what basis the Department could limit its purpose in this manner and not affirmatively use the statement for purposes of calculating financial ratios.[34]

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[31] See Wanhua et. al. Final SV submission, at Exhibits SV-1 to SV-4(b); see also Surrogate Value Memo at 6.
[32] See AD/CVD Final Rule (May 19, 1997) at 62 FR 27296, 27332.
[33] See Taian Ziyang Food, 637 F. Supp. 2d 1093, 1108.
[34] See sections 773(c)(1) and 782(e) of the Act,; Dorbest, at 30 C.I.T. 1671, 1710 ("…Congress nonetheless required that if information was available, i.e., placed on the record, Commerce was compelled to consider it.").

Thus, the Department finds that it did not abuse its discretion in rejecting the financial statements submitted in Petitioners' rebuttal SV submission. The Department properly rejected the new information in order to ensure finality to the record, maintaining both a fair and timely process for these final results.

Surrogate Values

Issue 4: Whether the Department should have selected the six-digit HTS subheading 3907.60 to value the Respondents' PET chips

Petitioners' Argument

- The Department should use Indian HTS 3907.60.20 to value Respondent's PET chips, rather than the six-digit subheading, as the eight-digit subheading description more closely matches the specific description of the input on the record (i.e., the IV reported on test certificates submitted by Respondents). The Department does not have a sufficiently sound basis for making an adjustment to the IV measurements reported on test certificates submitted by Respondents, and the measurements should be taken at face value. The submission of the mandatory respondents in the investigation, the DuPont Group, which purports to contain a methodology for translating IV to hypothetical IVs, was based upon bad data, and provides a mere guess about the actual empirical relationship between IV testing using two different solvents. While the Department properly refused to speculate regarding IV testing procedures used for imported Indian merchandise, the Department's conclusion should rely upon the IV level reported by Respondents.

Bemis' Argument

- The Department should base the SV for the Respondents' PET chips on Indian HTS 3907.60.10, as it did in the investigation in this proceeding.
- The Department's preliminary decision to use the six-digit subheading is consistent with the statute's requirement that the Department obtain the most accurate dumping margins.

Bemis' Rebuttal

- Respondents have supported with factual evidence a method to properly translate IV measurements from PET chip suppliers' measurements to those that determine the correct classification under the Indian HTS, submitted by a respondent in the investigation.

Dongfang's Rebuttal

- The most accurate Indian HTS subheading for valuing Dongfang's PET chips is 3907.60.10. Petitioners attempt to question the validity of record evidence regarding IV testing, including Indian governmental procedures, international standards, Respondents' certifications, and information submitted by Respondents in the investigation, are not credible.

Wanhua et. al. Rebuttal

- The majority of chips used by the respondents fall into an IV range of 0.675 or less when tested using the International Standards Organization ("ISO") 1:1 solvent ratio. The use of the 1:1 solvent ratio in the PRC was stated and certified by The Dupont Group in the original investigation and this was not challenged by Petitioners.

Department's Position: When selecting SVs with which to value the FOPs used to produce subject merchandise, the Department is directed to use the "best available information" on the record. See Section 773(c)(1) of the Act. For the Preliminary Results, the Department valued bright PET chips, semi-dull PET chips, additive chips, and reclaimed chips with Indian HTS classification, 3907.60, "Poly(Ethylene Terephthalate)," the six-digit Indian HTS classification applicable to Wanhua's and Dongfang's PET chips.[35] The Department continues to find that the information on the record regarding the IV of the Respondents' bright PET chips, semi-dull PET chips, additive chips, and reclaimed chips cannot be used to identify a specific eight-digit Indian HTS classification, 3907.60.10, 3907.60.20 or 3907.60.90[36], for valuing the PET chips.

Therefore, for these final results, the Department will continue to assign the six-digit Indian HTS (i.e., 3907.60) as the SV, because the results of IV testing do not provide the Department with information that is reliable enough to define a SV at the eight-digit level of the Indian HTS.[37] Data for merchandise for the six-digit Indian HTS subheading are publicly available, represent broad market averages, and are contemporaneous with the POR, tax-exclusive, and representative of significant quantities of imports, thus satisfying critical elements of the Department's SV test. Further, the six-digit subheading specifically applies to PET resin and no other material.

Regarding the Petitioners' argument that the Department should apply Indian HTS 3907.60.20 because it accurately captures the PET chips used by Wanhua and Dongfang with the IV level meeting the description of that subheading, and because a more specific SV constitutes the best available information, we agree in part. The Department's preference is to use eight-digit HTS subheadings to value FOPs. However, the Department disagrees that the information on the record of this review adequately supports Petitioners' contention that the eight-digit Indian HTS category 3907.60.20 most accurately captures the PET chips used by Wanhua and Dongfang.

During the verifications of Wanhua and Dongfang, the Department confirmed that IV results vary depending on the PET film testing methodology used, i.e., ISO[38] using a 1:1 ratio of phenol/1,1,2,2-tetrachloroethane solvent or ASTM using a 3:2[39] ratio of the same solvent. On

[35] See Dongfang Report at 12-13; see also Wanhua Report at 15.

[36] HTS 3907.60.10 applies to PET of intrinsic viscosity less than 0.64 Dl/g, HTS 3907.60.20 applies to PET of intrinsic viscosity between 0.64 Dl/g, and 0.72 Dl/g, and HTS 3907.60.90, applies to PET with intrinsic viscosity values above 0.72 Dl/g.

[37] See Final Surrogate Value Memorandum at Exhibit 1.

[38] ISO is an international-standard-setting body composed of representatives from various national standards organizations, with the mission of promulgating worldwide proprietary industrial and commercial standards.

[39] ASTM, originally known as the American Society for Testing and Materials, is an international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials, products, systems, and services.

this basis, the Department notes that the type and concentration of solvents can vary for different testing procedures for measuring IV.[40] Further, all parties agree that the results of PET chip IV tests yield different results based upon the type and concentration of solvents used in the testing process. Based on the variants possible in these testing methods, specifically the solvent ratios that can be used, coupled with the fact that the exact methodologies and solvent ratios for the companies exporting to India are unknown, the Department cannot with confidence use Indian HTS 3907.60.20 to value respondents' PET chips. Accordingly, we disagree with Petitioners that the IV measurements reported on test certificates submitted by Wanhua and Dongfang should be taken at face value and used to assign an eight-digit Indian tariff subheading. While both Wanhua and Dongfang have provided information to the Department indicating specific PET chip IV measurements, the Department finds that there are many variable factors in measuring the IV of PET (as previously discussed) and that there are also many variable factors in applying an eight-digit HTS classification with an assurance of accuracy. Specifically, the facts on the record show multiple testing standards may be used for testing the PET chips, and that each testing standard used results in different IV results for the same PET chips. Furthermore, we acknowledge that PET chips imported into India come from various sources[41], and the evidence on the record does not provide the Department with a basis to determine the solvents, testing standards, procedures, and laboratory conditions that are used by all sources that exported to India during the POR. Therefore, the Department cannot accurately use the IV as reported to assign an Indian HTS classification to the level of specificity reflected at the eight-digit level.

Nonetheless, the Department does agree with Petitioners that the Department does not have a sufficiently sound basis for making an adjustment to the IV measurements reported on test certificates submitted by Wanhua and Dongfang. Likewise, for the Department to agree with Wanhua et. al. and Dongfang and use Indian HTS 3907.60.10 to value PET chips, the Department would have to determine that IV test results using PET chip testing methodologies performed in the PRC are not applicable to merchandise imported into India. The Department finds that, after review of the Indian Customs document submitted to the record, the information does not support Wanhua et. al.'s conclusion regarding the Indian standard for testing PET chips. The Department finds that the Customs document simply states that IV is an important parameter that can be determined through the methodology prescribed under ASTM D 5603-03.[42] Therefore, the document merely suggests that the ASTM methodology is one method, not a national standard required by Indian Customs. Furthermore, the Department finds that Wanhua's contention that the respondents' IV results can be converted to IV results of another testing methodology using a formula set forth in the ISO standard to be unsupported by the record evidence. The Department notes that the data required to utilize the conversion formula are unreliable due to the variable factors that the Department has determined affect the respondents' reported IV, specifically the solvent ratios used when testing PET chips. After reviewing the PET chip test certificates placed on the record by both respondents, the Department cannot determine the specific solvents used to perform the test itself. Furthermore, as previously stated, the evidence on the record does not provide the Department with a basis to determine the

[40] See Dongfang Report at 13.
[41] See Surrogate Value Memorandum at Exhibit 1.
[42] See Wanhua's Prelim SV Submission at Exhibit SV-15.

solvents, testing standards, procedures, and laboratory conditions that are used by all sources that exported to India. Therefore, the Department does not have the specific solvent ratios necessary to complete an IV conversion based on the ISO formula. As a result, the Department is unable to determine whether the IV test results performed in the PRC are applicable to merchandise imported into India. Therefore, the Department continues to find the six-digit Indian HTS classification 3907.60, rather than an eight-digit classification 3907.60.10, provides the most reliable factor-specific data available to value these companies' PET chips.

Finally, the Department also agrees with Wanhua et. al. that the total import quantity of 3907.60.20 is too small to establish a reliable SV. According to the Global Trade Atlas, only 400 KGs of merchandise were imported into India under HTS 3907.60.20 during the POR.[43] Because PET chips are the respondents' main input to produce PET Film, and Global Trade Atlas import statistics for 3907.60.20 contain an insignificant quantity of imports (400 KGs), we find that this quantity is far less than a tenth of a percent of each respondent's PET chip purchase or consumption volumes, and thus not representative of either respondent's PET chip purchase or consumption experience.[44] Thus, we find the value derived from the insignificant import quantity contained in HTS category 3907.60.20 to be unreliable for purposes of valuing the respondent's PET chip input. Furthermore, in a previous segment of this proceeding, the Department stated that 15,000 KGs of merchandise of Indian HTS category 3907.60.20 was an insignificant quantity of imports to use to value an input.[45] Accordingly, we determine that the import quantity for 3907.60.20 is too small to establish a reliable SV in this review.

Regarding the argument of Wanhua et. al. that the Department should use a SV for PET chips from the financial statement of Polyplex (India), the Department has previously found that it is appropriate to disregard prices based upon exports from India (among other countries) because we have determined that India maintains broadly available, non-industry specific export subsidies.[46] In this instance, the PET chip AUV to which Wanhua et. al. refers states that the value is net of export incentives. Therefore, record evidence indicates that Polyplex (India) received countervailable subsidies pursuant to the DEPB scheme.[47] Accordingly, we are not able to use the Polyplex (India) statement to value the PET chip input.

Regarding the argument of Wanhua et. al. that Petitioners have misled the Department by certifying factual information in the original investigation of this case, while certifying that the same factual information is inaccurate in the instant review, the Department disagrees that this necessarily discredits Petitioners' brief. We note that the certifications cited by Wanhua et. al. only state that the contents of the certified submission are accurate to best of the certifiers' knowledge at the time the submission was made. There is no basis on the record for the Department to determine that Petitioners knowingly certified inaccurate information based on the information available to Petitioners at the time the submission was made.

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[43] See Final Surrogate Value Memorandum at Exhibit 1.

[44] See Wanhua's March 28, 2011 Section D Response at Exhibits D-5 and D-7; see also Dongfang's March 28, 2011, Section D Response at Exhibits D-4 and D-6.

[45] See PET Film/PRC (September 24, 2008) at Comment 1.

[46] See e.g., Pigment 23/India CVD (March 19, 2010).

[47] See Preliminary Results, 76 FR 68146-68147.

Issue 5: Whether the Department should require company certifications for SV submissions

Wanhua et. al. Argument

- Since the SV information is derived from public sources, and certifying parties have no access to the underlying data making up the public document, the party can only certify the fact that the document was obtained from public sources. The Department has been inconsistent in the application of the certification requirement.

Department's Position: The Department disagrees with Wanhua et. al.. 19 CFR 351.303(g), states that "a person must file with each submission containing factual information the certification in paragraph (g)(1) of this section and, in addition, if the person has legal counsel or another representative, the certification in paragraph (g)(2) of this section." The regulation explicitly states that the certification contained in paragraph (g)(1) "must" be filed with each submission of factual information. This requirement has always existed in the regulations.[48]

To clarify, the certification requirement in 19 CFR 351.303(g)(1) applies to submissions containing factual information. The regulation does not make a distinction between factual information procured by the submitter or counsel. If the submitter has legal counsel or another representative, then 19 CFR 351.303(g)(2) requirement also applies. Wanhua et. al.'s argument that a company certification is not needed if the factual information was not gathered by the respondent companies' employees, but by their counsel, from public sources, is not a correct reading of the regulation. The company is ultimately the "person" submitting documents with factual information to the Department for consideration in a proceeding. Thus, even if the submissions are prepared with the aid of counsel, the company certification requirement applies. Regarding the argument of Wanhua et. al. that certifying parties have no access to the underlying data making up SV information from public sources, and thus cannot certify its accuracy, we note that the company certification requires that the certifying party certify accuracy to the best of that person's knowledge. This certification does not require parties to have access to the underlying data before certifying to the information's accuracy. To the contrary, even without access to underlying data, a party could have information that publicly available information is not accurate or complete because, for instance, the party is aware that the publicly available information has been substantially revised due to subsequent corrections. Thus, even in a situation where a party has no access to the underlying data, it is important for a party to complete the certification required under 19 CFR 351.303(g)(1).

Finally, the Department and the public benefit from a certification process that is straightforward and that does not require a complicated analysis to determine if a certification applies. Interjecting a variable pertaining to the extent to which a submitting party has access to underlying data would create undue complexities that would tax the Department's and interested

[48] On February 12, 2011 the Department published an interim final rule amending 19 CFR 351.303(g) and specified that the amended certification requirements applied to segments of AD/CVD proceedings initiated on or after March 14, 2011. We note that all subsequent reviews under this order are subject to the amended certification requirements. See Certification of Factual Info Interim Final Rule (February 10, 2011)

parties' resources. Thus, for all these reasons, the Department will continue to require all submitters of publically available factual information to certify their submissions.

Issue 6: Whether the Department should have selected Indian HTS 3915.10 to value Respondents' scrap PET offset

Petitioners' Argument

- The Department should apply a SV based on Indian HTS 3915.90.90, rather than Indian HTS 3915.10, to value Respondents' scrap PET, because it better meets the description of the Respondents' PET scrap.

Department's Position: The Department disagrees with Petitioners. In the Preliminary Results, the Department selected Indian HTS 3915.10 (covering polyethylene waste and scrap) to value Respondents' scrap. Petitioners claim that Indian HTS 3915.90.90 applies to recycled chips made of broken films, edge films and cast films. After examining the record, we have determined that there is no evidence on the record to conclude that either Indian HTS 3915.10 or 3915.90.90 would cover Respondents' scrap PET because no interested party submitted supporting information regarding the Indian tariff classification descriptions. Therefore, for the final results, we have determined to reject both the HTS category used in our Preliminary Results and Petitioners' proposed HTS category and apply the Indian HTS 3907.60 for the scrap PET that was sold during the POR (i.e., the same subheading we are applying to other PET chips).[49]

Respondent Selection

Issue 7: Whether the Department improperly failed to select Fuwei Films and Green Packing as mandatory respondents, and improperly failed to consider the voluntary responses of Fuwei Films and Green Packing

Wanhua et. al. Argument

- Fuwei Films and Green Packing have submitted voluntary responses to challenge the improper respondent selection. The Department can remedy the respondent selection error by using the reported data of Fuwei Films and Green Packing to calculate an individual rate for each of them. The Department did not reasonably consult with the exporters and producers before engaging in respondent selection, as required by section 777(A)(b) of the Act, when it provided interested parties only seven days to comment on respondent selection. The Department did not make a valid determination that there were a "large" number of respondents in this review.
- The Department ignored information in the Department's questionnaire responses that the exporters with the highest shipping volumes had not been selected as mandatory respondents (i.e., the information did not match the information that the Department obtained from CBP).

[49] See Final Surrogate Value Memorandum at Exhibit 1; see also Wanhua Final Analysis Memo at 2; Dongfang Final Analysis Memo at 2.

- The total number of sales to review was small for Fuwei Films and Green Packing. Fuwei Films and Green Packing had identical or essentially the same material inputs as those of the mandatory respondents, Wanhua and Dongfang.
- The Department failed to state in the Preliminary Results any reason for its refusal to consider the voluntary responses of Fuwei Films and Green Packing, therefore depriving Fuwei Films and Green Packing of their rights to due process in this administrative review.

Petitioners' Rebuttal

- The Department properly used its discretion in limiting the number of mandatory respondents to two, after finding that it would not be practicable to individually examine each known exporter listed in CBP data. If the CBP data upon which the Department relied for Respondent selection was flawed, the Respondents had ample time to state in comments that the data were flawed, but did not. The Department properly used its discretion in managing its resource capabilities, by not individually examining Green Packing and Fuwei Films as voluntary respondents.

Department's Position: The Department disagrees with Wanhua et. al. and has assigned Fuwei Films and Green Packing the separate antidumping duty rate calculated for the companies that were not individually examined. In the instant review, the Department carefully considered all available options regarding the selection of respondents and concluded that it was not practicable to determine individual weighted-average dumping margins for each known exporter of PET film subject to this review.[50] The Department began its respondent selection with the six companies listed in its initiation notice.[51] The Department expressly identified six respondents as a large number of companies in the Respondent Selection Memo.[52] Pursuant to section 777A(c)(2) of the Act, the Department exercised its discretion to limit its selection of respondents to two exporters.[53]

The CIT has upheld the Department's decision to limit the number of respondents selected for examination as mandatory respondents without calculating individual dumping margins for companies that requested voluntary respondent treatment pursuant to, 19 CFR 351.204(d). In its decision, the CIT explicitly rejected the argument that section 782(a) of the Act requires the Department to individually examine voluntary respondents when two voluntary respondents have participated in the proceeding.[54] In rejecting this argument, the CIT made the following finding:

> It is clear from the language of the SAA and the {Act} itself, that Congress has spoken on the matter. The authority to limit the

[50] See Section 777A(c)(1) of the Act. See also Respondent Selection Memo.

[51] See Initiation Notice (December 28, 2010).

[52] See Respondent Selection Memo at 3.

[53] See section 777A(c)(2) of the Act states, in pertinent part: If it is not practicable to make individual weighted-average dumping margin determinations under paragraph (1) because of the large number of exporters or producers involved in the investigation or review, the administering authority may determine the weighted-average dumping margin for a reasonable number of exporters by limiting its examination to…exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can be reasonably examined.

[54] See Longkou Haimeng, 581 F. Supp. 2d 1344, 1351-52.

> number of respondents for examination rests "exclusively" with Commerce. Therefore, the Court finds that Commerce's determination to limit its review to three mandatory respondents was within the bounds of its statutory authority.[55]

Thus, it is clear that the Department's decision not to examine voluntary respondents in the instant review is in accordance with Department practice, legislative intent, and judicial precedent.

The Department disagrees with Wanhua et. al.'s assertion that the Department must calculate individual dumping margins for producers or exporters with few sales and models similar to other respondents have requested voluntary respondent treatment in accordance with 19 CFR 351.204(d). As an initial matter, even assuming arguendo that Fuwei Films and Green Packing had a significantly smaller number of sales and models similar to other respondents, the Department does not find that these facts would lower the resources requires such that the Department can review these companies as voluntary respondents. Thus, the Department continues to find that it would have been unduly burdensome and inhibit the timely completion of the review for the Department to examine Green Packing and Fuwei Films as voluntary respondents. We disagree that the number of sales or similarity of inputs relieves this burden. In the previous administrative review, when both Green Packing and Fuwei Films were mandatory respondents, the Department issued four and six supplemental questionnaires to Green Packing and Fuwei Films, respectively, prior to the preliminary results, and we have no reason to believe that their responses would not require a similar level of analysis here. Given the number of supplemental questionnaires issued to the mandatory respondents in this proceeding and the fact that we conducted on-site verification of those companies, as well as our experience with both Green Packing and Fuwei Films in the most recent administrative review, individual review of these companies would require a significant expenditure of resources and is thus unduly burdensome. Therefore, the Department did not individually examine Green Packing and Fuwei Films, and thus, did not calculate individual margins for Green Packing and Fuwei Films.

Wanhua et. al. contends that because 19 CFR 351.204(d)(1) states that the "Secretary will determine as soon as practicable, whether to examine a voluntary respondent individually," the Department must formally announce its decision not to examine voluntary respondents in each proceeding. Wanhua et. al., however, misconstrues the language of 19 CFR 351.204(d)(1). Unlike other sections of the Department's regulations, 19 CFR 351.204(d)(1) sets forth no regulatory deadline upon which the Department must make its decision to examine voluntary respondents,[56] nor does it require the Department to notify parties when it determines that it cannot examine voluntary respondents. In its respondent selection memorandum, the Department notified parties early in the proceeding that it lacked the resources to examine all potential producers or exporters of subject merchandise.[57] Thus, Fuwei Films and Green Packing were notified that they were not selected for individual examination, and were made aware that constraints on the Department's resources could limit the Department's ability to

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[55] See id., at 1351.

[56] In point of contrast, Congress has imposed many strict statutory deadlines upon the Department. See Empresa Nacional.

[57] See Respondent Selection Memo at 3.

examine information submitted by companies seeking voluntary respondent treatment. Furthermore, it was clear from the Preliminary Results that the Department was not selecting these companies as voluntary respondents. Additional, formal notification is not required or necessary.

Regarding the allegation by Wanhua et. al. that the Department indicated in a memorandum that it would calculate dumping margins for Fuwei Films and Green Packing based upon their voluntary antidumping questionnaire responses, the Department also disagrees. The Department stated in the memorandum that deadlines for voluntary respondents to respond to the antidumping questionnaire would be concurrent with the deadline dates of the mandatory respondents, and that the Department would accept voluntary responses if received by these dates.[58] The Department has accepted the voluntary responses of Fuwei Films and Green Packing, and has included them in the record of this administrative review, within the meaning of 19 CFR 351.104. The Department provided no indication in its memorandum that the acceptance of the voluntary responses would automatically require the Department to calculate individual dumping margins for Fuwei Films and Green Packing using the information contained in them.

We also continue to find that it was appropriate to base our respondent selection decision on CBP data. In determining which two exporters accounted for the largest volume of imports of subject merchandise, we relied on CBP entry data for all AD/CVD entries of PET film from the PRC entering under the HTS numbers included in the scope of the antidumping duty order on PET film from PRC.[59] We disagree with the suggestion of Wanhua et. al. that the Department should have revised its selection of respondents after the receipt of antidumping questionnaire responses from the respondents in this review. The Department must make its respondent selection determination early in the review and this means that the information will be less detailed and more prone to inaccuracies than the information gathered during the administrative review for which the parties and the Department have much more time. Absent evidence and argument at the time of respondent selection that the CBP data is too inaccurate or otherwise unusable, the Department bases respondent selection on the CBP data. In this case, no parties made such arguments[60] and, as such, the Department used the CBP data to select respondents. The Department has only revised respondent selection in instances where the Department finds that a selected mandatory respondent either (1) causes an error in respondent selection by its own conduct;[61] (2) does not have entries of merchandise where CBP has suspended liquidation;[62] (3) becomes a lower volume shipper than other respondents that the Department subsequently determines should be collapsed into a single entity;[63] and (4) withdraws its participation very early in the proceeding.[64] In this instance, the Department selected both of the mandatory

[58] See Voluntary Response Deadline Memo.
[59] See Respondent Selection Memo at 2.
[60] See Respondent Selection Memo at 2; see also Wanhua et. al. Respondent Selection Comments.
[61] See Potassium Phosphate/PRC (March 16, 2010).
[62] See, e.g., Steel Threaded Rod/PRC (November 4, 2011) at Comment 1; Tissue Paper Products/PRC (April 4, 2008).
[63] See Wood Flooring/PRC (May 26, 2011) at 30660 (noting the collapsing of six entities into a single entity, "the Samling Group"); see also Wood Flooring Revised Respondent Selection Memo.
[64] See, e.g., Potassium Phosphate/PRC March 16, 2010).

respondents based upon their suspended entries, and both have participated fully in this administrative review.

Further, selecting respondents from CBP data is normally accurate and reliable. The data are reliable because they are compiled from actual entries of merchandise subject to the order, based on information required by and provided to the U.S. government authority responsible for permitting goods to enter into the United States, i.e., CBP. The entries compiled in this database are the same entries upon which the antidumping duties determined by this review would be assessed. Further, because the CBP is readily available to the Department at the very beginning of each segment of the proceeding, using CBP data for respondent selection is administratively practicable. Interested parties were invited to comment on the respondent selection methodology, and their comments were addressed in the Respondent Selection Memo and the Preliminary Results. We disagree with Wanhua et. al. that the Department precluded meaningful comment on the CBP data by giving parties only seven days to review it. No interested parties requested additional time in this administrative review before they submitted their comments on the CBP data released by the Department. We responded to timely comments on the CBP data in the Respondent Selection Memo.[65] We find that seven days is sufficient time for parties to comment on the CBP data.

We also disagree with Wanhua et. al. that the Department's exclusive reliance on CBP data to select respondents is inconsistent with the statute. Section 777A(c)(2)(B) of the Act requires the Department to examine "exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined." The Act is silent concerning the data source selected by the Department to determine which exporters and producers account for the "largest volume of subject merchandise." Accordingly, the Department has discretion to choose the specific method employed for determining which companies are the largest, so long as that method is reasonable.[66] The Department's current practice is to select respondents using CBP data for AD/CVD entries of subject merchandise.[67] The Department selected the mandatory respondents in this review based upon their ranking in the CBP list based on total export volume.[68]

The Department has the discretion to determine whether or not its resources allow it to review additional respondents, such as Green Packing and Fuwei Films, as individually reviewed respondents, regardless of such a respondent's request to participate as a voluntary respondent, pursuant to section 782(a) of the Act.[69] The Department disagrees with the argument that it is required to individually examine each voluntary respondent simply because a request has been

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[65] See Id.

[66] See generally, Chevron U.S.A.; see also AK Steel Corp, 192 F.3d at 1371 ("Our analysis is not whether we agree with Commerce's conclusions, nor whether we would have come to the same conclusions reviewing the evidence in the first instance, but only whether Commerce's determinations were reasonable.")

[67] See, e.g., Initiation Notice (July 1, 2008); Initiation Notice (August 26, 2008); Initiation Notice (September 30, 2008); Initiation Notice (October 29, 2008); Initiation Notice (November 24, 2008); Initiation Notice (December 24, 2008); Initiation Notice (February 2, 2009); Initiation Notice (March 24, 2009); Initiation Notice (April 27, 2009); Initiation Notice (May 29, 2009).

[68] See Respondent Selection Memo at Attachment 1.

[69] See Longkou Haimeng 581 F. Supp. 2d 1344, 1351-52, citing Sections 777A(c)(2)(B) and 782(a) of the Act.

made, because the Act specifically states that "the administering authority shall establish an individual countervailable subsidy rate or an individual weighted-average dumping margin ... if the number of exporters or producers who have submitted such information is not so large that individual examination of such exporters or producers would be unduly burdensome and inhibit the timely completion of the investigation."[70] The Department did not select Green Packing and Fuwei Films as mandatory respondents because the Department did not find it practicable to individually examine more than two respondents and, pursuant to section 777A(c)(2)(B) of the Act, selected Dongfang and Wanhua as the largest exporters by volume. Moreover, the Department reexamined its resources prior to the completion of the Preliminary Results and found that it did not have the resources to examine these companies as voluntary respondents. As noted in the Respondent Selection Memo, the Department is conducting numerous, concurrent, antidumping proceedings which continued up to the time of the Preliminary Results and throughout this administrative review. In addition, the Department has initiated approximately 133 AD/CVD investigations and reviews since the Department selected respondents in this review and many of these were the responsibility of the case team involved in this administrative review. These proceedings limit the number of analysts that can be assigned to this administrative review. For these and the foregoing reasons, it would have been unduly burdensome and inhibit the timely completion of the review for the Department to examine Green Packing and Fuwei Films as voluntary respondents.

Separate Rate

Issue 8: Whether the separate rate assigned to Fuwei Films and Green Packing inaccurately overstates the AD margin that should be applied to these companies

Wanhua et. al. Argument

- The calculated margins using the voluntary responses of Fuwei Films and Green Packing and the SVs and ratios used by the Department in the Preliminary Results, illustrate that both Fuwei Films and Green Packing had a significant number of transactions with a zero or de minimis dumping margin. In contrast, based on the data from the Preliminary Results, Wanhua did not have transactions with a zero or de minimis margin.
- According to the CAFC's ruling in Martino,[71], in instances where the Department does not use the actual data of a company to calculate a rate, the rate still must have a reasonable relationship to reality. The rates applied to Fuwei Films and Green Packing do not meet this test.
- The Department must use a simple average of the mandatory respondent's rates in order to minimize the clear error in respondent selection, and to provide some weight to Dongfang's dumping margin.

Department's Position: The Department disagrees with Wanhua et. al. that the Department must use a simple average of the mandatory respondent's rates to calculate the separate rate in order to minimize an error in respondent selection. The statute and the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not

[70] See section 782(a)(2) of the Act.
[71] See Martino, 216 F. 3d. at 1027.

selected for individual examination where the Department limited its examination in an AR pursuant to section 777A(c)(2) of the Act. The Department's practice in this regard, in cases involving limited selection based on exporters accounting for the largest volumes of trade, has been to weight-average the rates for the selected companies excluding zero and de minimis rates and rates based entirely on AFA.[72] Generally, we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not individually examine in an AR. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or de minimis margins or any margins based on total facts available. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, de minimis, or based on total facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents.

Wanhua et. al. claims that the rate applied to Fuwei Films and Green Packing is not reasonable and does not "have some basis in reality", as set forth in Martino.[73] Wanhua et. al. supports this claim by stating that the calculated margins for Fuwei Films and Green Packing had a significant number of transactions with a zero or de minimis dumping margin. However, Wanhua et. al. has based its argument on information that would be relevant only if the Department were to examine the voluntary responses of Fuwei Films and Green Packing. But the Department did not. In fact, the calculations proposed by Wanhua were not conducted by the Department on the record of this proceeding. Thus, the purported results of these calculations do not provide an evidentiary basis for the Department to depart from its standard separate rate methodology. In this regard, and as discussed in Issue 7, the Department's decision not to examine voluntary respondents in the instant review is in accordance with Department practice, legislative intent, and judicial precedent.

The Department disagrees with Wanhua et. al. regarding its claim of a Department obligation to use a simple average to provide "some weight to Dongfang's dumping margin" with respect to the calculation of a separate rate. When the Department makes a decision regarding the calculation of a separate rate, it does not use the reported sales quantity volume as a basis for the decision. For the Preliminary Results, we followed our practice[74] and determined that using the total sales quantities reported by Wanhua and Dongfang is more appropriate than applying a simple average.[75] Because these total sales quantities were the proprietary information of Wanhua and Dongfang, the Department used the public-ranged sales quantities in the public versions of their submissions. These publicly available figures provide the basis on which we can calculate a margin which is the best proxy for the weighted-average margin based on the calculated net U.S. sales values of Wanhua and Dongfang. Even if the Department were to accept the premise of Wanhua et. al.'s argument that Dongfang's U.S. sales volume is small in relation to Wanhua's sales volume, its conclusion does not logically follow that calculating a simple average using Dongfang's quantity is less distortive than calculating a weighted average. The Department prefers a weighted-average because it more accurately reflects overall trade by accounting for relative import volumes; using a simple average to increase the impact of lower

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[72] See, e.g., Bedroom Furniture/PRC (August 20, 2008).
[73] See Martino, 216 F. 3d at 1034.
[74] See e.g., Hangers/PRC (May13, 2011) at Comment 3.
[75] See Preliminary Separate Rate Calculation Memo.

volume exporters necessarily distorts the margin by inflating the effect of a smaller amount of data. As discussed above, we do not agree that the purported calculations for Fuwei Films and Green Packing justify departing from this policy. We find that the Department's approach is more consistent with the intent of section 735(c)(5)(A) of the Act and our use of section 735(c)(5)(A) of the Act as guidance when we establish the rate for respondents not examined individually in an AR. Accordingly, the Department finds that the calculation as stated above provides a rate for Fuwei Films and Green Packing that is consistent with the guidelines set forth in Martino.

Therefore, for the reasons stated above, for these final results, the Department will continue to assign the weighted-average of the dumping margins calculated using public-ranged sales quantity made public by Wanhua and Dongfang (neither of which are zero, de minimis, or based on AFA) as the separate rate for Fuwei Films and Green Packing.[76]

Reclaimed PET Chips

Issue 9: Whether the Department should re-calculate the consumption of raw material inputs for Wanhua and Dongfang with respect to reclaimed PET chips

Wanhua et. al. Argument

- Bright chip and additive chip are the only raw materials introduced into the production process. If the Department uses recycled chip as additional material, the Department is creating more raw material than actually purchased and used.
- The Department considered self-recycled chips as part of the consumption, when in fact the Department, during verification, verified that the recycled chip was produced from the original chips during the production process and automatically reintroduced into the production machines. Assigning the recycled chips a SV other than zero results in the same raw material being valued more than one time in the production process. The Department should calculate the PET chip input according to actual raw material used.

Dongfang's Argument

- The Department made a factual error in stating that Dongfang generated one PET by-product that cannot be used for manufacturing PET film.
- The Department improperly did not include a cost offset to Dongfang's reclaimed PET chip by-product consumed in the FOP database. The Department should add the cost offset using the same SV as the input, which is a partial offset due to the application of the financial ratios to the input. If the Department does not partially offset the cost of Dongfang's reclaimed PET chip by-product consumed, the Department should exclude the reclaimed PET chip by-product input to avoid double counting PET chip costs.

Petitioners' Rebuttal

- The Department granted the by-product offsets reported by Wanhua and Dongfang, and the Department should not include any additional by-product offsets that were not claimed or supported by either company. Dongfang's claim that none of its reclaimed

[76] See Final Separate Rate Calculation Memo

PET chip is discarded, but is recycled in production, is contradicted by prior statements in its responses that only production quality reclaimed chips are recycled in production. Dongfang has provided no evidence regarding the proportion of reclaimed chip and discarded chip, and thus the Department lacks information regarding the amount and nature of any claimed by-product offset.

Department's Position: The Department agrees with Petitioners. It is the Department's policy to offset a respondent's cost of production by the value of a reported by-product where the respondent's questionnaire responses indicate that the by-product was sold for revenue, or where the record evidence demonstrates that the by-product was re-entered into the production process.[77] Further, by-product offsets may be granted for recycled material, limited to the amount of recycled scrap reported as an input.[78] The Department's antidumping questionnaire requires respondents who seek a by-product offset to claim the by-product offset in their FOP database.[79] The Department's antidumping questionnaire also states that respondents must provide a detailed explanation of how to derive the claimed offset amount for each claim, and provide the calculations used to derive each claimed amount.[80] Despite the fact that the questionnaire laid out the Department's requirements, neither Dongfang nor Wanhua reported by-product offsets for reintroduced PET chips in their FOP database. Furthermore, neither Dongfang nor Wanhua provided detailed explanations or provided calculations to support any claim for a by-product offset for reintroduced PET chips.[81] The burden for claiming and supporting offsets lies with the respondent, and neither Dongfang nor Wanhua claimed an offset that their own records would have allowed, had they elected to report it. The Department will not grant a by-product offset for reintroduced material in this instance, because the respondents did not provide the information identified in the Department's questionnaire and, as a result, the Department lacks sufficient information to grant a by-product offset.[82]

Both Wanhua and Dongfang sort their PET chip scrap between (1) scrap that can be used for PET film and which is reprocessed so that it can be reintroduced as a direct material, and (2) PET chip scrap that cannot be used for PET film, and which is sold.[83] Both Dongfang and Wanhua maintain production journals that record the monthly quantities of PET chip scrap produced, the quantity reintroduced, and the quantity determined to be unfit for reintroduction.[84] Specifically, Dongfang maintained a monthly by-product journal in the normal course of

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[77] See Silicon Metal/PRC (January 12, 2010) at Comment 5; Citric Acid/PRC (December 14, 2011) at Comment 6; Bedroom Furniture/PRC (August 20, 2008) at Comment 20; Hand Tools/PRC (September 19, 2005) at Comment 8-E.

[78] See Pipe Fittings/PRC (June 29, 2006) at Comment 3; Service Valves/PRC (March 13, 2009) at Comment 12j.

[79] See e.g., Antidumping Questionnaire (Dongfang) at page D-8 and D-9.

[80] See e.g., Antidumping Questionnaire (Dongfang) at page D-9.

[81] Id.

[82] Neither Wanhua nor Dongfang reported an FOP for reclaimed PET chips that were not reprocessed and inventoried (i.e., recirculated without leaving the production process), and the Department did not add any additional costs to the cost of manufacturing for these PET chips. See Dongfang Report at 16; see also Wanhua Report at 13, 18-19.

[83] See Wanhua Section D Response, dated March 28, 2011, at D-16; see Dongfang Section D Response, dated March 28, 2011, at 16.

[84] See Dongfang Report at 16, Exhibit 13; see Wanhua Report at 19, Exhibit 13.

business that recorded the quantity of PET chip by-product produced on a product specific basis, and the quantity of PET chip reintroduced into production on a product-specific basis.[85] However, Dongfang's allocation methodology for reporting its FOP for reintroduced chip was not product specific, but rather was a reported consumption rate that was the same for all products.[86] Based upon its accounting records, Dongfang could have reported its reintroduced PET chip FOP on a product-specific basis, and further, could have derived product-specific offsets for reclaimed PET chips. It did not do either. Wanhua also provided by-product journals kept during the normal course of business.[87] The journals detailed monthly production totals for both reclaimed chip and PET scrap. The journals recorded monthly totals for reintroduced chip, as well as the total PET scrap that could not be reintroduced. Wanhua reported its reintroduced PET chip FOP based upon an allocation methodology that did not pass verification (see Issue 10), and did not use the details of its by-product journals in its responses to the Department. Thus, while there is also information on the record showing that Wanhua could have derived PET chip-specific offsets for reclaimed PET chips, there is insufficient information on the record defining each PET chip type, since Wanhua did not report its reintroduced PET chip FOP on a PET chip type-specific basis, and further, did not report a by-product offset for reintroduced PET chip.

Further, neither Dongfang nor Wanhua stated on the record prior to their case briefs that they expected the Department to assign zero value to the reclaimed PET chip FOP prior to their case briefs. The Department agrees that some portion of each companies' "virgin" PET chip allocated to products became scrap that is reprocessed for later reintroduction into the PET film manufacturing process,[88] and that each company reported and supported the quantity of reclaimed PET chip reintroduced into production. However, this does not support a conclusion that the direct material reclaimed chip should be totally offset (i.e., set to zero). The Department's methodology for applying a by-product offset is that the total value of by-products is subtracted from normal value along with the total cost of manufacturing (i.e., the cost of manufacturing plus overhead costs), selling, general and administrative expenses, profit, and packing. As Dongfang points out, the Department's margin calculation applies the by-product offset to normal value, and not to the cost of manufacturing. Thus, for the Department to render either respondent's reclaimed PET chip direct material input as nil expense by assigning no value would ignore overhead, SG & A expenses, and profit, related to the reprocessing of the raw material.

For the foregoing reasons, for the final results, the Department will make no change from the Preliminary Results, and will not offset either Dongfang's or Wanhua's cost of production by the value of the reclaimed PET chip by-product.

Wanhua

Issue 10: Whether the Department should have calculated the consumption of material inputs of

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[85] See Dongfang Report at 16.

[86] See Dongfang Report at 16 see also Dongfang Section D response, dated March 28, 2011, at Exhibit D-6.

[87] See Wanhua Report at 18-19.

[88] See Wanhua Section D Response, dated March 28, 2011, at D-12; see Dongfang Section D Response, dated March 28, 2011, at 12.

Wanhua based on an application of AFA

Wanhua et. al. Argument

- Wanhua attempted to report a more precise product specific allocation than prior respondents by including allocations based on sizes of the same film, and although Wanhua was unable to support the allocation with documentation, they were able to support a level of precision similar to that used by other respondents in prior reviews. The Department verified Wanhua's overall consumption of PET chips and production of film.
- Wanhua attempted to fully cooperate by supplying more detailed information than its own accounting record would otherwise permit, and therefore the Department should not punish Wanhua by applying adverse inferences. The Department should therefore use neutral facts available.
- The Department should use total consumption of raw materials (bright chip and additive chip) as the numerator and total production as the denominator to calculate a consumption rate. The Department has verified both consumption and productions totals for the POR.
- The Department's methodology has greatly overstated consumption, by using the highest allocation amount for bright chip, additive chip, and recycled chip. The outside limit of AFA would be the highest allocation amounts for bright chip and additive chip only.

Petitioners' Rebuttal

- Wanhua did not disclose its product-specific FOP reporting methodology in response to the Department's questionnaires or at verification, and again forwent the opportunity in its case brief. Wanhua's citation to the previous AR, in which the Department considered non-CONNUM-specific FOP data, is inapposite because in that segment the Department was satisfied that the data would not cause inaccuracies or distortions. The Department has no basis for reaching such a conclusion for Wanhua. Wanhua's contention that the Department should not apply partial AFA to respondents that attempt to submit accurate information to the Department but fail, would in fact reward Wanhua's failure to cooperate.
- Wanhua's objection to the Department's calculation of partial AFA for its material inputs reported is flawed, because the Department was not able to determine Wanhua's true level of PET chip consumption.

Department's Position: In the Preliminary Results, the Department applied partial AFA to Wanhua's direct material PET chip inputs, due to Wanhua's inability to support its claim that the reported consumption rates were accurate, either in response to the Department's supplemental questions, or at verification. In its original March 28, 2011 Section D questionnaire response, Wanhua stated that it had reported its raw material consumption for each FOP by dividing the "actual consumed quantities" of each FOP by the actual production quantity of the subject merchandise.[89] Wanhua submitted a worksheet that reported what appeared to be an actual consumed quantity of raw material for each of its products at specific thicknesses.[90] In order to

[89] See Wanhua's March 28, 2011 Section D response at D-12.

[90] See Wanhua's March 28, 2011 Section D response at Exhibit D-7.

gather more information regarding how Wanhua obtained the product-specific direct material consumption, the Department in its April 11, 2011, supplemental D questionnaire requested a worksheet totaling the quantities consumed for each month of the POR for direct material FOPs, along with supporting copies of Wanhua's monthly raw material sub-ledgers for each FOP.[91] In Wanhua's May 2, 2011, response, Wanhua provided the requested information.[92] However, the Department was still unable to identify the methodology used by Wanhua to report a product specific direct material consumption allocation. Therefore, in our June 13, 2011, supplemental Section D questionnaire, the Department issued the following request:

> 1. In Exhibit D-7 of Wanhua's March 28, 2011 response to Section D of the Department's AD duty questionnaire, Wanhua provided a raw material consumption worksheet detailing specific FOP consumption for each product produced during the POR, for specific product thicknesses. The Department notes that Wanhua has provided copies of its raw material sub-ledger for specific months in Exhibit SD-2 of its May 2, 2011 submission. However, the Department is unable to determine how Wanhua assigned specific quantities of specific FOPs to specific products of specific thicknesses using the above mentioned records.
>
> Please provide a detailed explanation how Wanhua has allocated the FOPs consumption to each product, and to product of specific thicknesses, reported in D-7. Additionally, please provide detailed and fully translated raw material consumption and raw material sub-ledgers that support the consumption allocation reported in Exhibit D-7.[93]

On June 16, 2011, pursuant to a request by Wanhua, the Department extended the deadline for Wanhua to submit its response to the supplemental questionnaire until June 27, 2011.[94] The Department notes that this gave Wanhua two weeks to respond to four questions. On June 27, 2011, Wanhua stated that it "calculated its per unit figure of FOPs by the consumption allocation, based on the actual consumption of FOPs, actual production quantity and technical requirements of each product with specific thickness."[95] Wanhua provided additional pages from its raw material sub-ledger. However, Wanhua did not make any attempt to explain or demonstrate by way of a worksheet calculation how it "assigned specific quantities of specific FOPs to specific products of specific thicknesses." Thus, Wanhua was made aware of exactly what the Department required in order to analyze its consumption of raw materials, but it nevertheless failed to provide the information. By only stating in its response to the Department that its methodology involved the "technical requirements of each product with specific thickness," which it chose not to disclose, Wanhua did not provide the Department with any meaningful information or explanation of how it calculated product-specific consumption rates through supplemental questionnaires.

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[91] See Wanhua's May 2, 2011 supplemental Section D response at 1.
[92] See Wanhua's May 2, 2011 supplemental Section D response at Exhibits SD-1 and SD-2.
[93] See Third Wanhua Section D Supplemental at 1.
[94] See Wanhua Extension Request.
[95] See Wanhua's supplemental Section D response dated June 27, 2011, at 2.

At verification, the Department again requested documentation supporting Wanhua's reported product-specific raw material consumption allocation. Wanhua provided production notes that it stated were maintained by the production manager in the ordinary course of business that contained formulas for producing specific PET film products.[96] With these production notes, Wanhua created a worksheet intended to support the methodology for deriving material input calculations as reported in its questionnaire response. However, using this worksheet, we were unable to substantiate Wanhua's reported figures. The formulas provided to the Department by Wanhua at verification resulted in calculated consumption rates that were significantly inconsistent with those in its questionnaire responses.[97] Thus, pursuant to section 776(a)(2)(D) of the Act, Wanhua provided information to the Department that could not be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying FA when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous AR, or other information placed on the record. Wanhua et. al. claims that the AD law provides that the purpose of applying adverse inferences is not to punish, but rather encourage cooperation. Regarding Wanhua's argument that it attempted to fully cooperate by supplying more detailed information than its own accounting record would otherwise permit, the Department disagrees. Even though the information on the record supports Wanhua's contention that it's accounting records do not account for raw material consumption on a product-specific basis. Wanhua's initial and subsequent questionnaire responses did nothing to clarify its methodology for overcoming this problem. Wanhua could have reported these essential facts in its initial questionnaire response, but did not. Further, Wanhua's subsequent responses to two supplemental questionnaires simply repeated its initial misleading statements indicating that the reported CONNUM-specific FOPs were based on actual consumption. On this basis, the Department finds that Wanhua mislead the Department and failed to cooperate by not acting to the best of its ability to comply with a request for information.

Regarding Wanhua et. al.'s claim that their reported data support a level of detail similar to that used by other respondents in prior reviews using the verified overall consumption of PET chips and production of film to calculate a consumption rate using neutral facts available, the Department agrees, in part. The Department found no discrepancy with Wanhua's reported overall consumed PET chip quantity during the POR.[98] However, the Department maintains that if Wanhua had acted to the best of its ability by being forthcoming about its ability to report its raw material consumption at the level of detail requested in the Department's questionnaires, the Department may have not applied an adverse inference to Wanhua's raw material consumption rates for the preliminary results. Nevertheless, these are not the facts on the record of this segment of the proceeding with respect to Wanhua. Wanhua never contacted the Department to say that it could not provide the CONNUM-specific data. Nor did Wanhua request any assistance from the Department or otherwise indicate that it was having significant problems

[96] See Wanhua Verification Report at 12-13.
[97] See Wanhua Verification Report at 14.
[98] See Wanhua Verification Report at 12.

providing such data. Instead, Wanhua constructed an unreliable system which could not be verified to report CONNUM-specific consumption rates. The Department finds that the construction of such an unreliable and unverifiable CONNUM-specific reporting system does not constitute cooperation to the best of its ability within the meaning of section 776(b) of the Act.

For all these reasons and in accordance with section 776(b) of the Act, we find that an adverse inference is warranted. Consequently, for the final results, pursuant to section 776(a)(2)(D) of the Act, the Department will continue to calculate consumption rates for bright chip, additive chip, and reclaimed chip by using the highest consumption rate in Wanhua's FOP data set[99] for each of the three material inputs.[100]

Wanhua argues that the Department's use of partial AFA in calculating its dumping margin is excessive. The Department disagrees. The partial AFA determination is proportionate and reasonable because it is limited to the unverifiable information on which the Department based its determination that Wanhua failed to cooperate. That is, the partial AFA determination is limited to the consumption rates for the CONNUMs examined.[101]

Dongfang

Issue 11: Whether the Department should have adjusted Dongfang's reported electricity and water FOPs

Dongfang's Argument

- The Department's methodology in adjusting Dongfang's reported electricity and water in the Preliminary Results was unreasonable. The difference noted by the Department between reported consumption and actual consumption was obtained by comparing Dongfang's utility bills with its internal meter readings, which do not always match. The Department would have found no discrepancy had it requested utility bills and meter readings for the entire POR. The Department's adjustments based on the discrepancies it claims to have found should be eliminated, or alternatively, the Department should only make its adjustments to the specific months in which the Department found discrepancies.

Petitioners' Rebuttal

- Dongfang's arguments regarding electricity are misplaced, as the Department made no adjustment to Dongfang's electricity consumption in the Preliminary Results.
- The Department's adjustment to Dongfang's water consumption was based upon verification findings. There are no utility bills on the record that substantiate Dongfang's reported water consumption.

[99] See "Revised FOP Computer Data Base – WANFOP003" submitted on June 27, 2011.
[100] For further details regarding the Department's methodology, see Wanhua Prelim Analysis Memo.
[101] See Wanhua Prelim Analysis Memo at 3.

Department's Position: The Department agrees with Petitioners. Regarding Dongfang's reported electricity FOP, the Department made no adjustment in the Preliminary Results.[102] The Department will continue to make no adjustment to Dongfang's reported electricity FOP for the final results.

Regarding Dongfang's reported water consumption, the Department agrees with Petitioners that the Department had no obligation to either request or receive all twelve months of Dongfang's utilities records, since verification is only a "spot check" and a "selective examination rather than testing of an entire universe."[103] The Department's verification methodology is to survey only a portion of a respondent's data. The choice of data to sample always rests with the Department, and not the respondent. In this instance, the Department chose to sample Dongfang's water records by requesting in its verification agenda supporting documentation for three months of the POR; while at verification, the Department requested supporting documentation for an additional month. The Department made no specific request for meter reading records or utility bills, and it was Dongfang itself that selected the specific supporting documentation that it provided to the Department at verification. The Department obtained Dongfang's full compliance with its requests.

Based upon the supporting documentation provided to the Department by Dongfang, the Department found a discrepancy with respect to its only selected "surprise" month, March 2010, for the reported water consumed in its PET film production lines. Further, for all four selected months, the Department found unreported water consumption for a specific production line, where Dongfang's own methodology required electricity allocation from the same production line.[104] Specifically, the Department requested supporting energy consumption records maintained in the ordinary course of business to support the monthly consumption totals of utilities, including water, reported in the company's Section D response. Dongfang provided the Department with two records, one from each of its production facilities that manufactured subject merchandise during the POR. The electricity kilowatt hour consumption total for both facilities matched the total reported by Dongfang. However, the water consumption for Dongfang's second facility, while not a large quantity, had not been included in the allocation. Based upon this logical inconsistency, the Department noted a discrepancy.[105] The Department quantified the discrepancy on a percentage basis, and applied it to Dongfang's water FOP in its margin calculation for the Preliminary Results.

Dongfang argues that the discrepancy noted by the Department in its verification report between reported consumption and actual consumption was due to a confusion of supporting records; specifically, Dongfang's utility bills and internal meter readings. However, Dongfang itself provided these records to Department for purposes of verification, and used these same records to support its electricity consumption, with which the Department found no discrepancy. Therefore, for the final results, the Department will continue to adjust Dongfang's reported POR water consumption with its verification findings.

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[102] See Prelim Analysis Memo (Dongfang) at 6.
[103] See Fujian Mach., 27 C.I.T. 1059, 1064.
[104] See Dongfang Report at 13.
[105] See Dongfang Report at 14.

Zeroing

Issue 12: Whether the Department should engage in the practice of zeroing

Wanhua et. al. Argument

- Setting all margins where no dumping occurred at zero and not offsetting the amount of dumping by the amount of overselling is inconsistent with the Department's obligation under the World Trade Agreement and the statute. In two recent cases, the CAFC has held that the final results of the ARs in which zeroing was used must be remanded so that Commerce may explain its inconsistent interpretation of the language of section 771(35) with respect to the use of zeroing in investigations and the use of zeroing in ARs. The Department must not apply zeroing in its final results calculations for all parties.

Dongfang's Argument

- The Department must aggregate both positive and negative sales margins to come up with a final margin in this AR, as it does in AD investigations. The methodology used in the Preliminary Results was explicitly rejected by the CAFC in Dongbu Steel.

Petitioners Rebuttal

- The CAFC has repeatedly upheld the Department's practice of zeroing negative dumping margins, and in Dongbu Steel only requested that the Department articulate its reasoning.

Department's Position: We have not changed our calculation of the weighted-average dumping margin, as suggested by the respondents, in these final results.

Section 771(35)(A) of the Act defines "dumping margin" as the "amount by which the normal value exceeds the export price or constructed export price of the subject merchandise" (emphasis added). The definition of "dumping margin" calls for a comparison of NV and EP or CEP. Before making the comparison called for, it is necessary to determine how to make the comparison.

Section 777A(d)(1) of the Act and 19 CFR. 351.414 of the Department's regulations provide the methods by which NV may be compared to EP (or CEP). Specifically, the statute and regulations provide for three comparison methods: average-to-average, transaction-to-transaction, and average-to-transaction. These comparison methods are distinct from each other, and each produces different results. When using transaction-to-transaction or average-to-transaction comparisons, a comparison is made for each export transaction to the United States. When using average-to-average comparisons, a comparison is made for each group of comparable export transactions for which the EPs (or CEPs) have been averaged together (averaging group).

Section 771(35)(B) of the Act defines weighted-average dumping margin as "the percentage determined by dividing the aggregate dumping margins determined for a specific exporter or producer by the aggregate EPs and CEPs of such exporter or producer." The definition of "weighted-average dumping margin" calls for two aggregations which are divided to obtain a

percentage. The numerator aggregates the results of the comparisons. The denominator aggregates the value of all export transactions for which a comparison was made.

The issue of "zeroing" versus "offsetting" involves how certain results of comparisons are treated in the aggregation of the numerator for the "weighted-average dumping margin" and relates back to the ambiguity in the word "exceeds" as used in the definition of "dumping margin" in section 771(35)(A). Application of "zeroing" treats comparison results where NV is less than EP or CEP as indicating an absence of dumping, and no amount (zero) is included in the aggregation of the numerator for the "weighted-average dumping margin". Application of "offsetting" treats such comparison results as an offset that may reduce the amount of dumping found in connection with other comparisons, where a negative amount may be included in the aggregation of the numerator of the "weighted-average dumping margin" to the extent that other comparisons result in the inclusion of dumping margins as positive amounts.

In light of the comparison methods provided for under the statute and regulations, and for the reasons set forth in detail below, the Department finds that the offsetting method is appropriate when aggregating the results of average-to-average comparisons, and is not similarly appropriate when aggregating the results of average-to-transaction comparisons, such as were applied in this administrative review. The Department interprets the application of average-to-average comparisons to contemplate a dumping analysis that examines the pricing behavior on average of an exporter or producer with respect to the subject merchandise, whereas under the average-to-transaction comparison methodology the Department undertakes a dumping analysis that examines the pricing behavior of an exporter or producer with respect to individual export transactions. The offsetting approach described in the average-to-average comparison methodology allows for an overall examination of pricing behavior on average. The Department's interpretation of section 771(35) of the Act to permit zeroing in average-to-transaction comparisons, as in this administrative review, and to permit offsetting in average-to-average comparisons reasonably accounts for differences inherent in the distinct comparison methodologies.

Whether "zeroing" or "offsetting" is applied, it is important to note that the weighted-average dumping margin will reflect the value of all export transactions, dumped and non-dumped, examined during the POR; the value of such sales is included in the aggregation of the denominator of the weighted-average dumping margin. Thus, a greater amount of non-dumped transactions results in a lower weighted-average dumping margin under either methodology.

The difference between "zeroing" and "offsetting" reflects the ambiguity the Federal Circuit has found in the word "exceeds" as used in section 771(35)(A).[106] The courts repeatedly have held that the statute does not speak directly to the issue of zeroing versus offsetting.[107] For decades

[106] See Timken at 1341-45.

[107] See PAM at 1371 ("{The} gap or ambiguity in the statute requires the application of the Chevron step-two analysis and compels this court to inquire whether Commerce's methodology of zeroing in calculating dumping margins is a reasonable interpretation of the statute.");Bowe Passat ("The statute is silent on the question of zeroing negative margins."); Serampore, 675 F. Supp. 1354, 1360 ("A plain reading of the statute discloses no provision for Commerce to offset sales made at {less than fair value} with sales made at fair value. . . . Commerce may treat sales to the United States market made at or above prices charged in the exporter's home market as having a zero percent dumping margin.").

the Department interpreted the statue to apply zeroing in the calculation of the weighted-average dumping margin, regardless of the comparison method used. In view of the statutory ambiguity, on multiple occasions, both the Federal Circuit and other courts squarely addressed the reasonableness of the Department's zeroing methodology and unequivocally held that the Department reasonably interpreted the relevant statutory provision as permitting zeroing.[108] In so doing, the courts relied upon the rationale offered by the Department for the continued use of zeroing, i.e., to address the potential for foreign companies to undermine the antidumping laws by masking dumped sales with higher priced sales: "Commerce has interpreted the statute in such a way as to prevent a foreign producer from masking its dumping with more profitable sales. Commerce's interpretation is reasonable and is in accordance with law."[109] The Federal Circuit explained in Timken that denial of offsets is a "reasonable statutory interpretation given that it legitimately combats the problem of masked dumping, wherein certain profitable sales serve to mask sales at less than fair value."[110] As reflected in that opinion, the issue of so-called masked dumping was part of the policy reason for interpreting the statute in the manner applied by the Department. No U.S. court has required the Department to demonstrate "masked dumping" before it is entitled to invoke this interpretation of the statute and deny offsets to dumped sales.[111]

In 2005, a panel of the World Trade Organization (WTO) Dispute Settlement Body found that the United States did not act consistently with its obligations under Article 2.4.2 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 when it employed the zeroing methodology in average-to-average comparisons in certain challenged antidumping duty investigations.[112] The initial WTO Dispute Settlement Body Panel Report was limited to the Department's use of zeroing in average-to-average comparisons in antidumping duty investigations.[113] The Executive Branch determined to implement this report pursuant to the authority provided in Section 123 of the Uruguay Round Agreements Act (URAA) (19 U.S.C. § 3533(f), (g)) (Section 123)[114]. Notably, with respect to the use of zeroing, the Panel found that the United States acted inconsistently with its WTO obligations only in the context of average-to-average comparisons in antidumping duty investigations. The Panel did not find fault with the use of zeroing by the United States in any other context. In fact, the Panel rejected the European Communities' arguments that the use of zeroing in administrative reviews did not comport with the WTO Agreements.[115]

Without an affirmative inconsistency finding by the Panel, the Department did not propose to alter its zeroing practice in other contexts, such as administrative reviews. As the Federal Circuit

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[108] See Koyo Seiko; NSK at 1379-80; Corus II; Corus II at 1347; Timken at 1341-45; PAM at 1370 ("Commerce's zeroing methodology in its calculation of dumping margins is grounded in long-standing practice."); Bowe Passat at 1149-50; Serampore at 1360-61.

[109] Serampore at 1361 (citing Certain Welded Carbon Steel Standard Pipe and Tube From India; Final Determination of Sales at Less Than Fair Value, 51 FR 9089, 9092 (Mar. 17, 1986)); Timken, at 1343; PAM at 1371.

[110] See Timken at 1343

[111] See Timken at 1343; Corus I at 1343; Corus II at 1370, 1375; NSK at 1375.

[112] See EC-Zeroing Panel, WT/DS294/R.

[113] See Id.

[114] See Final Modification for Antidumping Investigations (June 26, 2007).

[115] See, EC-Zeroing Panel at 7.284, 7.291.

recently held, the Department reasonably may decline, when implementing an adverse WTO report, to take any action beyond that necessary for compliance.[116] Moreover, in *Corus I*, the Federal Circuit acknowledged the difference between antidumping duty investigations and administrative reviews, and held that section 771(35) of the Act was just as ambiguous with respect to both proceedings, such that the Department was permitted, but not required, to use zeroing in antidumping duty investigations.[117] In light of the adverse WTO Dispute Settlement Body finding and the ambiguity that the Federal Circuit found inherent in the statutory text, the Department abandoned its prior litigation position – that no difference between antidumping duty investigations and administrative reviews exists for purposes of using zeroing in antidumping proceedings – and departed from its longstanding and consistent practice by ceasing the use of zeroing. The Department began to apply offsetting in the limited context of average-to-average comparisons in antidumping duty investigations.[118] With this modification, the Department's interpretation of the statute with respect to non-dumped comparisons was changed within the limited context of investigations using average-to-average comparisons. Adoption of the modification pursuant to the procedure set forth in section 123(g) of the URAA was specifically limited to address adverse WTO findings made in the context of antidumping investigations using average-to-average comparisons. The Department did not, at that time, change its practice of zeroing in other types of comparisons, including average-to-transaction comparisons in administrative reviews.[119]

The Federal Circuit subsequently upheld the Department's decision to cease zeroing in average-to-average comparisons in antidumping duty investigations while recognizing that the Department limited its change in practice to certain investigations and continued to use zeroing when making average-to-transaction comparisons in administrative reviews.[120] In upholding the Department's decision to cease zeroing in average-to-average comparisons in antidumping duty investigations, the Federal Circuit accepted that the Department likely would have different zeroing practices between average-to-average and other types of comparisons in antidumping duty investigations.[121] The Federal Circuit's reasoning in upholding the Department's decision relied, in part, on differences between various types of comparisons in antidumping duty investigations and the Department's limited decision to cease zeroing only with respect to one comparison type.[122] The Federal Circuit acknowledged that section 777A(d) of the Act permits different types of comparisons in antidumping duty investigations, allowing the Department to

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[116] See Thyssenkrupp, at 928, 934.
[117] See Corus I at 1347.
[118] See Final Modification for Antidumping Investigations (June 26, 2007), 71 FR at 77722.
[119] On February 14, 2012, in response to several WTO dispute settlement reports, the Department adopted a revised methodology which allows for offsets when making average-to-average comparisons in reviews. Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) ("Final Modification for Reviews"). The Final Modification for Reviews makes clear that the revised methodology will apply to antidumping duty administrative reviews where the preliminary results are issued after April 16, 2012. Because the preliminary results in this administrative review were completed prior to April 16, 2012, any change in practice with respect to the treatment of non-dumped sales pursuant to the Final Modification for Reviews does not apply here. See also Modification for Antidumping Investigations (June 26, 2007), 71 FR at 77724.
[120] See U.S. Steel at 1362-63.
[121] Id., at 1363 (stating that the Department indicated an intention to use zeroing in average-to-transaction comparisons in investigations to address concerns about masked dumping).
[122] Id., at 1361-63.

make average-to-transaction comparisons where certain patterns of significant price differences exist.[123] The Federal Circuit also expressly recognized that the Department intended to continue to address targeted or masked dumping through continuing its use of average-to-transaction comparisons and zeroing.[124] In summing up its understanding of the relationship between zeroing and the various comparison methodologies that the Department may use in antidumping duty investigations, the Federal Circuit acceded to the possibility of disparate, yet equally reasonable interpretations of section 771(35) of the Act, stating that "{b}y enacting legislation that specifically addresses such situations, Congress may just as likely have been signaling to Commerce that it need not continue its zeroing methodology in situations where such significant price differences among the EPs do *not* exist."[125]

We disagree with the respondent(s) that the Federal Circuit's decisions in Dongbu Steel and JTEKT, require the Department to change its methodology in this administrative review. These holdings were limited to finding that the Department had not adequately explained the different interpretations of section 771(35) of the Act in the context of investigations versus administrative reviews, but the Federal Circuit did not hold that these differing interpretations were contrary to law. Importantly, the panels in Dongbu Steel and JTEKT did not overturn prior Federal Circuit decisions affirming zeroing in administrative reviews, including SKF, in which the Court affirmed zeroing in administrative reviews notwithstanding the Department's determination to no longer use zeroing in certain investigations.[126] Unlike the determinations examined in Dongbu Steel and JTEKT, the Department, in these final results, provides additional explanation for its changed interpretation of the statute subsequent to the Final Modification for Investigations – whereby we interpret section 771(35) of the Act differently for certain investigations (when using average-to-average comparisons) and administrative reviews. For all these reasons, we find that our determination is consistent with the holdings in Dongbu, JTEKT, U.S. Steel, and SKF.

The Department's interpretation of section 771(35) of the Act reasonably resolves the ambiguity inherent in the statutory text for multiple reasons. First, outside of the context of average-to-average comparisons,[127] the Department has maintained a long-standing, judicially-affirmed interpretation of section 771(35) of the Act in which the Department does not consider a sale to the United States as dumped if NV does not exceed EP. Pursuant to this interpretation, the Department treats such a sale as having a dumping margin of zero, which reflects that no dumping has occurred, when calculating the aggregate weighted-average dumping margin. Second, adoption of an offsetting methodology in connection with average-to-average comparisons was not an arbitrary departure from established practice because the Executive Branch adopted and implemented the approach in response to a specific international obligation pursuant to the procedures established by the Uruguay Round Agreements Act for such changes in practice with full notice, comment, consultations with the Legislative Branch, and explanation. Third, the Department's interpretation reasonably resolves the ambiguity in section 771(35) of

[123] Id., at 1362 (quoting sections 777A(d)(1)(A) and (B) of the Act, which enumerate various comparison methodologies that the Department may use in investigations); see also section 777A(d)(1)(B) of the Act.
[124] See U.S. Steel Corp at 1363.
[125] Id. emphasis added.
[126] See SKF II.
[127] The Final Modification for Reviews adopts this comparison method with offsetting as the default method for administrative reviews, however, as explained in note 4 this modification is not applicable to these final results.

the Act in a way that accounts for the inherent differences between the result of an average-to-average comparison and the result of an average-to-transaction comparison.

The Department's Final Modification for Investigations to implement the WTO Panel's limited finding does not disturb the reasoning offered by the Department and affirmed by the Federal Circuit in several prior, precedential opinions upholding the use of zeroing in average-to-transaction comparisons in administrative reviews as a reasonable interpretation of section 771(35) of the Act.[128] In the Final Modification for Investigations, the Department adopted a possible construction of an ambiguous statutory provision, consistent with the Charming Betsy doctrine, to comply with certain adverse WTO dispute settlement findings.[129] Even where the Department maintains a separate interpretation of the statute to permit the use of zeroing in certain dumping margin calculations, the Charming Betsy doctrine bolsters the ability of the Department to apply an alternative interpretation of the statute in the context of average-to-average comparisons so that the Executive Branch may determine whether and how to comply with international obligations of the United States. Neither section 123 nor the Charming Betsy doctrine require the Department to modify its interpretation of section 771(35) of the Act for all scenarios when a more limited modification will address the adverse WTO finding that the Executive Branch has determined to implement. Furthermore, the wisdom of Commerce's legitimate policy choices in this case – i.e., to abandon zeroing only with respect to average-to-average comparisons – is not subject to judicial review.[130] These reasons alone sufficiently justify and explain why the Department reasonably interprets section 771(35) of the Act differently in average-to-average comparisons relative to all other contexts.

Moreover, the Department's interpretation reasonably accounts for inherent differences between the results of distinct comparison methodologies. The Department interprets section 771(35) of the Act depending upon the type of comparison methodology applied in the particular proceeding. This interpretation reasonably accounts for the inherent differences between the result of an average-to-average comparison and the result of an average-to-transaction comparison.

The Department may reasonably interpret section 771(35) of the Act differently in the context of the average-to-average comparisons to permit negative comparison results to offset or reduce positive comparison results when calculating "aggregate dumping margins" within the meaning of section 771(35)(B) of the Act. When using an average-to-average comparison methodology, *see, e.g.*, section 777A(d)(1)(A)(i) of the Act, the Department usually divides the export transactions into groups, by model and level of trade (averaging groups), and compares an average EP or CEP of transactions within one averaging group to an average NV for the comparable merchandise of the foreign like product. In calculating the average EP or CEP, the

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[128] See SKF I; NSK at 1379-1380; Corus II at 1372-1375; Timken at 1343.

[129] According to Charming Betsy, "an act of Congress ought never to be construed to violate the law of nations if any other possible construction remains, and consequently can never be construed to violate neutral rights, or to affect neutral commerce, further than is warranted by the law of nations as understood in this country." The principle emanating from the quoted passage, known as the Charming Betsy doctrine, supports the reasonableness of the Department's interpretation of the statute in the limited context of average-to-average comparisons in antidumping duty investigations because the Department's interpretation of the domestic law accords with international obligations as understood in this country.

[130] See Suramerica.

Department averages all prices, both high and low, for each averaging group. The Department then compares the average EP or CEP for the averaging group with the average NV for the comparable merchandise. This comparison yields an average result for the particular averaging group because the high and low prices within the group have been averaged prior to the comparison. Importantly, under this comparison methodology, the Department does not calculate the extent to which an exporter or producer dumped a particular sale into the United States because the Department does not examine dumping on the basis of individual U.S. prices, but rather performs its analysis "on average" for the averaging group within which higher prices and lower prices offset each other. The Department then aggregates the comparison results from each of the averaging groups to determine the aggregate weighted-average dumping margin for a specific producer or exporter. At this aggregation stage, negative, averaging-group comparison results offset positive, averaging-group comparison results. This approach maintains consistency with the Department's average-to-average comparison methodology, which permits EPs above NV to offset EPs below NV within each individual averaging group. Thus, by permitting offsets in the aggregation stage, the Department determines an "on average" aggregate amount of dumping for the numerator of the weighted-average dumping margin ratio consistent with the manner in which the Department determined the comparison results being aggregated.

In contrast, when applying an average-to-transaction comparison methodology, see, e.g., section 777A(d)(2) of the Act, as the Department does in this administrative review, the Department determines dumping on the basis of individual U.S. sales prices. Under the average-to-transaction comparison methodology, the Department compares the EP or CEP for a particular U.S. transaction with the average NV for the comparable merchandise of the foreign like product. This comparison methodology yields results specific to the selected individual export transactions. The result of such a comparison evinces the amount, if any, by which the exporter or producer sold the merchandise at an EP or CEP less than its NV. The Department then aggregates the results of these comparisons – i.e., the amount of dumping found for each individual sale – to calculate the weighted-average dumping margin for the period of review. To the extent the average NV does not exceed the individual EP or CEP of a particular U.S. sale, the Department does not calculate a dumping margin for that sale or include an amount of dumping for that sale in its aggregation of transaction-specific dumping margins.[131] Thus, when the Department focuses on transaction-specific comparisons, as it did in this administrative review, the Department reasonably interprets the word "exceeds" in section 771(35)(A) of the Act as including only those comparisons that yield positive comparison results. Consequently, in transaction-specific comparisons, the Department reasonably does not permit negative comparison results to offset or reduce other positive comparison results when determining the "aggregate dumping margin" within the meaning of section 771(35)(B) of the Act.

Put simply, the Department interprets the application of average-to-average comparisons to contemplate a dumping analysis that examines the pricing behavior, on average, of an exporter or producer with respect to the subject merchandise, whereas under the average-to-transaction comparison methodology the Department continues to undertake a dumping analysis that

[131] As discussed previously, the Department does account, however, for the sale in its weighted-average dumping margin calculation. The value of any non-dumped sale is included in the denominator of the weighted-average dumping margin while no dumping amount for non-dumped transactions is included in the numerator. Therefore, any non-dumped transactions results in a lower weighted-average dumping margin.

examines the pricing behavior of an exporter or producer with respect to individual export transactions. The offsetting approach described in the average-to-average comparison methodology allows for a reasonable examination of pricing behavior, on average. The average-to-average comparison method inherently permits non-dumped prices to offset dumped prices before the comparison is made. This offsetting can reasonably be extended to the next stage of the calculation where average-to-average comparison results are aggregated, such that offsets are (1) implicitly granted when calculating average EPs and (2) explicitly granted when aggregating averaging-group comparison results. This rationale for granting offsets when using average-to-average comparisons does not extend to situations where the Department is using average-to-transaction comparisons because no offsetting is inherent in the average-to-transaction comparison methodology.

In sum, on the issue of how to treat negative comparison results in the calculation of the weighted-average dumping margin pursuant to section 771(35)(B) of the Act, for the reasons explained, the Department reasonably may accord dissimilar treatment to negative comparison results depending on whether the result in question flows from an average-to-average comparison or an average-to-transaction comparison. We note that neither the CIT nor the Federal Circuit has rejected the above reasons. In fact, the CIT recently sustained the Department's explanation for using zeroing in administrative reviews while not using zeroing in certain types of investigations.[132] Accordingly, the Department's interpretations of section 771(35) of the Act to permit zeroing in average-to-transaction comparisons, as in the underlying administrative review, and to permit offsetting in average-to-average comparisons reasonably accounts for the differences inherent in distinct comparison methodologies.

Regarding other WTO reports cited by the respondent(s) finding the denial of offsets by the United States to be inconsistent with the Antidumping Agreement, the Federal Circuit has held that WTO reports are without effect under U.S. law, "unless and until such a {report} has been adopted pursuant to the specified statutory scheme" established in the URAA.[133] As is clear from the discretionary nature of this scheme, Congress did not intend for WTO reports to trump automatically the exercise of the Department's discretion in applying the statute.[134] Moreover, as part of the URAA process, Congress has provided a procedure through which the Department may change a regulation or practice in response to WTO reports.[135]

Accordingly, and consistent with the Department's interpretation of the Act described above, in the event that any of the U.S. sales transactions examined in this review are found to exceed NV, the amount by which the price exceeds NV will not offset the dumping found in respect of other transactions.

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[132] See Union Steel

[133] See Corus I at 1347-49; accord Corus II at 1375; NSK.

[134] See 19 USC 3538(b)(4) (implementation of WTO reports is discretionary).

[135] See 19 U.S.C. 3533(g).

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results in the Federal Register.

Agree ✓ Disagree _____

Ronald K Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

March 2, 2012

Date

List Of Abbreviations And Acronyms Used In This Memorandum ***All cites in this table are listed alphabetically by short cite***	
Acronym/Abbreviation	**Full Name**
AD	Antidumping
AFA	Adverse Facts Available
AR	Administrative Review
AUV	Average Unit Value
Bemis	Bemis Company, Inc.
CAFC	Court of Appeals for the Federal Circuit
CBP	U.S. Customs and Border Protection
CEP	Constructed Export Price
CIT	Court of International Trade
DEPB scheme	Duty Entitlement Passbook Scheme
Dongfang	Sichuan Dongfang Insulating Material Co., Ltd.
DuPont Group	DuPont Teijin Films
EP	Export Price
Ester	Ester Industries Ltd.
FOP	factors of production
Fuwei Films	Fuwei Films (Shandong) Co.,Ltd.
Garware	Garware Polyester Ltd.
GNI	Gross National Income
GTA	Global Trade Atlas
HTS	Harmonized Tariff Schedule
ISO	International Standards Organization
IV	Intrinsic Viscosity
JBF	JBF Industries Ltd.
Jindal	Jindal Poly Films Ltd.
KG	Kilogram
NME	Non-market Economy
NV	Normal Value
PET film	Polyethylene Terephthalate Film, Sheet, and Strip
Petitioners	DuPont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc.
Polyplex India	Polyplex Public Company Ltd.
Polyplex Thailand	Polyplex (Thailand) Public Company Ltd.
POR	Period of Review
PRC	People's Republic of China
SAA	Statement of Administrative Action, H.R. Doc. No. 103-316 at 833 (1994)
SV	Surrogate Value
the Act	Tariff Act of 1930, as amended
URAA	Uruguay Round Agreements Act, Pub.L. 103-465, 108 Stat. 4809 (1994)
Wanhua	Tianjin Wanhua Co., Ltd.
Wanhua et. al.	Tianjin Wanhua Co., Ltd., Fuwei Films (Shandong) Co., Ltd.,

List Of Abbreviations And Acronyms Used In This Memorandum ***All cites in this table are listed alphabetically by short cite***	
Acronym/Abbreviation	**Full Name**
	and Shaoxing Xiangyu Green Packing Co., Ltd.
WTO	World Trade Organization

Short Cite Table For Litigation ***All cites in this table are listed alphabetically by short cite***	
Short-Cite	**Full Cite**
AK Steel Corp	AK Steel Corp. v. United States, 192 F.3d 1367, 1371 (Fed. Cir. 1999)
Bowe Passat	Bowe Passat Reinigungs-Und Waschereitechnik GmbH v. United States, 926 F. Supp. 1138, 1150 (CIT 1996)
Carpenter Tech	Carpenter Tech Corp. v. United States, 662 F.Supp. 2d 1337 (Ct. Int'l Trade 2009)
Charming Betsy	Murray v. Schooner Charming Betsy, 6 U.S. 64, 118 (1804)
Chevron U.S.A.	Chevron U.S.A. v. Natural Res. Def. Council, Inc., 467 U.S. 837 (1984)
Corus I	Corus Staal BV v. Department of Commerce, 395 F.3d 1343 (Fed. Cir. 2005)
Corus II	Corus Staal BV v. United States, 502 F.3d 1370, 1375 (Fed. Cir. 2007)
Dongbu Steel	Dongbu Steel Co. v. United States, 635 F.3d 1363 (Fed. Cir. 2011)
Dorbest	Dorbest Ltd. v. United States, 30 C.I.T. 1671, 1710 (CIT 2006)
EC-Zeroing Panel	Panel Report, United States – Laws, Regulations and Methodology for Calculating Dumping Margins (Zeroing), WT/DS294/R (Oct. 31, 2005)
Empresa Nacional	Empresa Nacional Siderurgica, S.A. v. United States, 880 F. Supp. 876, 879 (Ct. Int'l Trade 1995)
FMC Corp	FMC Corp. v. United States, 27 C.I.T. 240 (Ct. Int'l Trade 2003); affirmed FMC Corp. v. United States, 87 Fed. Appx. 753 (Fed. Cir. 2004)
Fujian Mach.	Fujian Mach. & Equip. Imp. & Exp. Corp. v. United States, 27 C.I.T. 1059 (Ct. Int'l Trade 2003).
JTEKT	JTEKT Corp. v. United States, 642 F.3d 1378, 1384 (Fed. Cir. 2011); JTEKT Corp. v. United States, 780 F. Supp. 2d 1357, 1359 (CIT 2011)
Koyo Seiko	Koyo Seiko Co. v. United States, 551 F.3d 1286, 1290-91 (Fed. Cir. 2008)
Longkuo Haimeng	Longkou Haimeng Mach. Co. et. al.. v. United States, 581 F. Supp. 2d 1344, 1351-52 (Ct. Int'l Trade 2008).
Martino	F.Lii de Cecco di Filippo Fara S. Martino S.p.A. v. United States, 216 F.3d 1027 (Fed. Cir. 2000)

Short Cite Table For Litigation ***All cites in this table are listed alphabetically by short cite***	
Short-Cite	**Full Cite**
NSK	NSK Ltd. v. United States, 510 F.3d 1375 (Fed. Cir. 2007)
PAM	PAM, S.p.A. v. United States, 265 F. Supp. 2d 1362 (CIT 2003)
Serampore	Serampore Indus. Pvt. Ltd. v. U.S. Dep't of Commerce, 675 F. Supp. 1354, 1360 (CIT 1987)
SKF I	SKF USA, Inc. v. United States, 537 F. 3d 1373, 1382 (Fed. Cir. 2008)
SKF II	SKF USA Inc. v. United States, 630 F.3d 1365 (Fed. Cir. 2011)
Suramerica	Suramerica de Aleaciones Laminadas, C.A. *v. United States*, 966 F. 2d 660, 665 (Fed. Cir. 1992)
Taian Ziyang Food	Taian Ziyang Food Co., Ltd. v. United States, 637 F. Supp. 2d 1093, 1108 (Ct. Int'l Trade 2009).
Thyssenkrupp	Thyssenkrupp Acciai Speciali Terni S.p.A. v. United States, 603 F. 3d 928, 934 (Fed. Cir. 2010)
Timken	Timken Co. v. United States, 354 F.3d 1334 (Fed. Cir. 2004)
U.S. Steel	U.S. Steel Corp. v. United States, 621 F.3d 1351 (Fed. Cir. 2010)
Union Steel	Union Steel v. United States, Consol. Court No. 11-00083, slip op. 12-24 (CIT Feb. 27, 2012).
Zhejiang Native Products	Zhejiang Native Products v. United States, 637 F.Supp 2d 1260 (Ct. Int'l Trade 2009)

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table ***All cites in this table are listed alphabetically by short cite***	
Short Cite	***Long Cite***
Activated Carbon/PRC (November 10, 2009)	First Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 57995 (November 10, 2009) and accompanying Issues and Decision Memorandum
AD/CVD Final Rule (May 19, 1997)	Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27332 (May 19, 1997).
Antidumping Proceedings (December 28, 2010)	Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings, 75 FR 81533, 81535 (December 28, 2010)
Bedroom Furniture/PRC (August 20, 2008)	Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table ***All cites in this table are listed alphabetically by short cite***	
Short Cite	***Long Cite***
	Review and Partial Rescission of Administrative Review, 73 FR 8273 (February 13, 2008) and Wooden Bedroom Furniture From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 73 FR 49162 (August 20, 2008) and the accompanying Issues and Decision Memorandum
Bedroom Furniture/PRC (August 17, 2009)	Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, 74 FR 41374 (August 17, 2009) and accompanying Issues and Decision Memorandum
Certification of Factual Info Interim Final Rule (February 10, 2011)	Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule, 76 FR 7491 (February 10, 2011)
Citric Acid/PRC (December 14, 2011	Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of the First Administrative Review of the Antidumping Duty Order, 76 FR 77772 (December 14, 2011).
Coated Free Sheet Paper/PRC (October 25, 2007)	Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China, 72 FR 60632 (October 25, 2007), and accompanying Issues and Decision Memorandum
Crawfish/PRC (April 17, 2007)	Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews, 72 FR 19174 (April 17, 2007)
Final Modification for Antidumping Investigations (December 27, 2006)	Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation, 71 FR 77722 (December 27, 2006)
Final Modification for Antidumping Investigations (June 26, 2007)	Antidumping Proceedings: Calculation of the Weighted – Average Dumping Margin During an Antidumping Investigation; Change in Effective Date of Final Modification, 72 FR 3783 (Jun. 26, 2007)
Final Modification for Certain Antidumping Proceedings (December 28, 2010)	Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings, 75 FR 81533, 81535 (December 28, 2010)
Final Modification for Certain Antidumping Proceedings (February 14, 2012)	Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012).

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table ***All cites in this table are listed alphabetically by short cite***	
Short Cite	***Long Cite***
Glycine/PRC (October 17, 2007)	Glycine from the People's Republic of China: Final Results of the of the Antidumping Duty Administrative Review and Final Rescission in Part, 72 FR 58809 (October 9, 2007) and accompanying Issues and Decisions Memorandum
Hand Tools/PRC (September 19, 2005)	Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews, 70 FR 54897 (September 19, 2005) and the accompanying Issues and Decision Memorandum
Hangers /PRC (October 28, 2011)	Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the Second Antidumping Duty Administrative Review, 76 FR 66903 (October 28, 2011)
Hangers/PRC (May13, 2011)	First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 27994 (May 13, 2011) and the accompanying Issues and Decisions Memorandum
Initiation Notice (April 27, 2009)	Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 74 FR 19042 (April 27, 2009)
Initiation Notice (August 26, 2008)	Initiation of Antidumping and Countervailing Duty Administrative Reviews, 73 FR 50308 (August 26, 2008)
Initiation Notice (December 24, 2008)	Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 73 FR 79055 (December 24, 2008)
Initiation Notice (December 28, 2010)	Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 75 FR 81565 (December 28, 2010)
Initiation Notice (February 2, 2009)	Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 74 FR 5821 (February 2, 2009)
Initiation Notice (July 1, 2008)	Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 73 FR 37409 (July 1, 2008)

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Short Cite	***Long Cite***
Initiation Notice (March 24, 2009)	Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 74 FR 12310 (March 24, 2009)
Initiation Notice (May 29, 2009)	Initiation of Antidumping and Countervailing Duty Administrative Reviews, 74 FR 25711 (May 29, 2009)
Initiation Notice (November 24, 2008)	Initiation of Antidumping and Countervailing Duty Administrative Reviews, 73 FR 70964 (November 24, 2008)
Initiation Notice (October 29, 2008)	Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review, 73 FR 64305 (October 29, 2008)
Initiation Notice (September 30, 2008)	Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 73 FR 56794 (September 30, 2008)
Isocyanurates/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) and accompanying Issues and Decision Memorandum
Kitchen Racks/PRC (October 11, 2011)	Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results, 76 FR 62765 (October 11, 2011)
Lined Paper Products/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) and accompanying Issues and Decision Memorandum
Nails/PRC (September 12, 2011)	Certain Steel Nails From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the Antidumping Duty Administrative Review and Preliminary Intent To Rescind New Shipper Review, 76 FR 56147 (September 12, 2011).
OCTG/PRC (April 19, 2010)	Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping, 75 FR 20335 (April 19, 2010) and accompanying Issues and Decision Memorandum

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table ***All cites in this table are listed alphabetically by short cite***	
Short Cite	***Long Cite***
PET Film/PRC (September 24, 2008)	Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (September 24, 2008) and accompanying Issues and Decision Memorandum
PET Film/PRC (February 22, 2011)	Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review, 76 FR 9753 (February 22, 2011) and accompanying Issues and Decisions Memorandum
PET Film/India (May 27, 2011)	Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Countervailing Duty New Shipper Review, 76 FR 30910 (May 27, 2011) and the accompanying Issues and Decision Memorandum
Pigment 23/India CVD (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), and accompanying Issues and Decision Memorandum
Pipe Fittings/PRC (June 29, 2006)	Malleable Iron Pipe Fittings From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 37051 (June 29, 2006) and the accompanying Issues and Decision Memorandum
Potassium Phosphate/PRC (March 16, 2010)	Certain Potassium Phosphate Salts From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 75 FR 12508, 12510-12511 (March 16, 2010), unchanged in Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry, 75 FR 30377 (June 1, 2010).
Preliminary Results	Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Preliminary Results of the 2009-2010 Antidumping Duty Administrative Review, 76 FR 68140 (November 3, 2011)
Pure Magnesium/PRC (September 27, 2001)	Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China, 66 FR 49345 (September 27, 2001), and accompanying Issues and Decision Memorandum
Sawblades/PRC (December 6, 2011)	Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part, 76 FR 76135 (December 6, 2011) and accompanying Issues and Decision Memorandum

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Short Cite	***Long Cite***
Service Valves/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) and the accompanying Issues and Decision Memorandum
Steel Pipe and Tube/India (March 17, 1986)	Certain Welded Carbon Steel Standard Pipe and Tube From India; Final Determination of Sales at Less Than Fair Value, 51 FR 9089, 9092 (Mar. 17, 1986)
Steel Threaded Rod/PRC (November 4, 2011)	Certain Steel Threaded Rod From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 68400 (November 4, 2011) and the accompanying Issues and Decision Memorandum
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) and accompanying Issues and Decision Memorandum
Tires/PRC (October 7, 2011)	Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Results of the 2009-2010 Antidumping Duty Administrative Review and Intent To Rescind, in Part,76 FR 62356 (October 7, 2011)
Tissue Paper/PRC (April 4, 2008)	Certain Tissue Paper Products from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 73 FR 18497, 18500 (April 4, 2008), unchanged in Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review, 73 FR 58113 (October 6, 2008).
Warmwater 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 Review and New Shipper Reviews, 72 FR 52049 (September 12, 2007) and accompanying Issues and Decision Memorandum
Wood Flooring/PRC (May 26, 2011)	Multilayered Wood Flooring From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 76 FR 30656 (May 26, 2011)
Wood Flooring/PRC (October 18, 2011)	Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less than Fair Value, 76 FR 64318 (October 18, 2011) and accompanying Issues and Decision Memorandum

Unpublished Letters And Memoranda ***All cites in this table are listed alphabetically by short cite***	
Acronym/Abbreviation	**Full Name**
Antidumping Questionnaire (Dongfang)	Letter from Robert Bolling to Sichuan Dongfang Insulating Material Co. Ltd., "Second Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated January 20, 2011
Dongfang Report	Memorandum from Thomas Martin, Jonathan Hill and Whitney Rolig to the File, "Verification of the Sales and Factors Response of Sichuan Dongfang Insulating Material Co., Ltd., in the Second Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated September 12, 2011
Final Analysis Memo (Dongfang)	Memorandum from Thomas Martin, Senior International Trade Compliance Analyst, AD/CVD Operations, Office 4 to the File, "Analysis Memorandum for the Final Results of the Second Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Sichuan Dongfang Insulating Material Co., Ltd. ("Dongfang")," dated March 2, 2012.
Final Analysis Memo (Wanhua)	Memorandum from Jonathan Hill, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results Analysis Memorandum for Tianjin Wanhua Co., Ltd.," dated March 2, 2012.
Final Surrogate Value Memorandum	Memorandum to the File through Robert Bolling, Program Manager, AD/CVD Operations, Office 4, from Thomas Martin, International Trade Compliance Analyst, "Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Selection of Factor Values for the Final Results of Review," dated March 2, 2012
New Fact Rejection Letter	Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to Petitioners (December 12, 2011)
Petitioners SV Submission	Letter from Petitioners to Secretary of Commerce, "Polyethylene Terephthalate Film, Sheet, and Strip from China; Submission of Publicly Available Information to Value Factors of Production," dated May 3, 2010
Prelim Analysis Memo (Dongfang)	Memorandum from Thomas Martin, Senior International Trade Compliance Analyst, AD/CVD Operations, Office 4to the File, "Analysis Memorandum for the Preliminary Results of the Second Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China:

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	Sichuan Dongfang Insulating Material Co., Ltd. ("Dongfang")," dated October 27, 2011.
Prelim Analysis Memo (Wanhua)	Memorandum from Jonathan Hill, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Analysis Memorandum for Tianjin Wanhua Co., Ltd.," dated October 27, 2011.
Policy Bulletin No. 04/1	Policy Bulletin No. 04/1: Non-Market Economy Surrogate Country Selection Process, dated March 1, 2004
Respondent Selection Memo	Memorandum to Abdelali Elouaradia, Director, AD/CVD Operations, Office 4, from Thomas Martin, International Trade Compliance Analyst, AD/CVD Operations, Office 4, "Respondent Selection in the Second Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated January 20, 2011
Respondents SV Submission	Memorandum from Respondents to John E. Bryson, "Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Submission of Surrogate Value and Other Factual Information for Preliminary Determination," dated November 28, 2011
Surrogate Country Memo	Memorandum to Abdelali Elouaradia, Director, AD/CVD Operations, Office 4, from Jonathan Hill, International Trade Compliance Analyst, "Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Selection of a Surrogate Country," dated October 27, 2011
Surrogate Country Request Memo	Memorandum from Carole Showers, Director, Office of Policy, to Robert Bolling, Program Manager, Office 4, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China" (April 7, 2011).
Surrogate Value Memo	Memorandum to the File through Robert Bolling, Program Manager, AD/CVD Operations, Office 4, from Thomas Martin, International Trade Compliance Analyst, "Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Surrogate Value Memorandum," dated October 27, 2011
Third Wanhua Section D Supplemental	Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to Wanhua, "Third Section D Supplemental Questionnaire" (June 13, 2011)
Voluntary Response	Memorandum from Jonathan Hill, International Trade

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Deadline Memo	Compliance Analyst, AD/CVD Operations, Office 4, to the File, dated February 4, 2011.
Wanhua Extension Request	Letter from Robert Bolling to Tianjin Wanhua Ltd., "Request for Extension of Time to Submit the Response to Sections C and D of the Antidumping Questionnaire in the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated June 16, 2011.
Wanhua Prelim Analysis Memo	Memorandum from Jonathan Hill, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Analysis Memorandum for Tianjin Wanhua Co., Ltd." (October 27, 2011)
Wanhua et. al. Respondent Selection Comments	Letter from Fuwei Films (Shandong) Co., Ltd. and Tianjin Wanhua Co., Ltd. to Secretary of Commerce," Polyethylene Terephthalalate (PET) Film from the People's Republic of China; A-570-924; Comments of Respondent Selection," dated January 6, 2011.
Wanhua's Final SV Submission	Submission of Tianjin Wanhua Co., Ltd. and Fuwei Films (Shandong) Co., Ltd. dated November 28, 2011 submission, "Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Submission of Surrogate Value and Other Factual Information for the Preliminary Results"
Wanhua's Prelim SV Submission	Tianjin Wanhua's Co., Ltd's May 6, 2011 submission, "Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Submission of Surrogate Value and Other Factual Information for the Preliminary Results"
Wanhua Report	Memorandum from Thomas Martin, Jonathan Hill and Whitney Rolig to the File, "Verification of the Sales and Factors Response of Tianjin Wanhua Co., Ltd. in the Antidumping Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated September 12, 2011
Wood Flooring Revised Respondent Selection Memo	Letter from Wendy J. Frankel to Christian Marsh, "Antidumping Duty Investigation of Multilayered Wood Flooring from the People's Republic of China: Revised Respondent Selection Memorandum," dated February 8, 2011.