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August 11, 2008

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

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

SUBJECT: Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review and New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China

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SUMMARY

We have analyzed the case and rebuttal briefs of interested parties in the antidumping investigation WBF from the PRC. The POR covers January 1, 2006, through December 31, 2006. As a result of our analysis, we have made changes to the margin calculations, including corrections of inadvertent programming and ministerial errors. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Please refer to the attached Appendix I for the full names, abbreviations and acronyms; Appendix II for *Federal Register* notices and Issues and Decision Memoranda; Attachment III for litigation; and Attachment IV for other memoranda referred to throughout this Memorandum.

Below is the complete list of the issues for which we received comments and rebuttal comments by parties:

I. CROSS-CUTTING ISSUES

II. SURROGATE VALUES

Comment 5: Wrong Standard for Accepting Respondents Proposed HTS Classifications
Comment 6: Indian Surrogate Values Information Has Been Provided for Teamway and the Dare Group
Comment 7: Brokerage And Handling, Diesel Fuel, Water, Electricity, and Freight
Comment 8: Accurate Conversion Factors for Lumber and Board
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Comment 11: Treatment of Certain Expense Items in the Financial Ratios

III. DARE GROUP

Comment 12: Whether to Apply Partial AFA to the Dare Group's Purchases of Semi-Finished Furniture from Unaffiliated Suppliers
Comment 13: Incorrect Allocation for Indirect Materials, Labor, Energy, Water, and Scrap
Comment 14: Use of Disaggregated Factors of Production and Correct Market Economy Purchase Prices
Comment 15: Exclude Certain Piece Types
Comment 16: Adjust Direct Materials for Unreported Consumption
Comment 17: Modify Assessment Rate Calculation
Comment 18: Conversion Rate for Semi-Finished Furniture Inputs
Comment 19: Raw Material Converters for Plywood
Comment 20: Woodscrap By-Product
Comment 21: Clerical Errors
Comment 22: Corruption of Certain WTA Philippines Import Data
Comment 23: Eliminate Aberrational Values
Comment 24: Change Certain Philippine HTS Categories in Valuing The Dare Group's Inputs
Comment 25: Use Most Updated Datasets

IV. TEAMWAY

Comment 26: Whether to Apply Total AFA to Teamway
Comment 27: Whether and How to Combine the FOP Datasets from May 5, 2008 and May 16, 2008
Comment 28: Whether to Apply an Adverse Inference to Value Merchandise Sold, but not Produced, During the POR
Comment 29: Valuation of Certain Subcontracted Factors
Comment 30: Bun Feet Variance
Comment 31: Packing Labor
Comment 32: Use Market Economy Purchases for Certain Inputs

V. STARCORP

Comment 33: Assign Total AFA

DISCUSSION OF THE ISSUES

We did not separately address Klaussner's comments because it requested only that we calculate our margins in accordance with the Act and the Department's regulations and did not identify any aspect of our preliminary results that was incorrect or contrary to the Act or the Department's regulations. However, Klaussner also incorporated ASI's case brief with respect to surrogate country, surrogate values, and issues relating to the calculation of the antidumping margins and issues of general application. In addition, Klaussner incorporated Teamway's case brief with respect to surrogate values, issues relating to the calculation of the antidumping margins and issues of general application. We will address those issues in response to the relevant issues with respect to ASI and Teamway.

In a July 17, 2008 submission made by the Dare Group, the Dare Group stated that " . . . we hereby submit this letter in lieu of a Case Brief." "The Dare Group hereby incorporates by reference and adopts as it own the Case Brief . . . . . filed by American Signature, Inc., dated July 17, 2008, in its entirety, and affirms to the Department that it considers all of the arguments presented in American Signature, Inc.'s Case Brief to continue to be relevant to the final results."

III. CROSS-CUTTING ISSUES

Comment 1: Surrogate Country

Petitioners argue that the Department erred in selecting the Philippines as the surrogate country in the Preliminary Results and should choose India for the final results because it has more reliable financial statements and superior data with which to value FOPs. ASI and Teamway contend that the Philippines remains the best choice for surrogate country because it is more economically comparable, it has financial statements which are more contemporaneous with the POR, and the Philippine import data and financial statements are superior to the Indian information.

A. Economic Comparability

Petitioners had no comment on economic comparability, but instead noted that, in its Preliminary Results, the Department found both India and the Philippines to be economically comparable to the PRC.

ASI and Teamway contend that the Department's surrogate-country selection standard would not support changing to India because India is so far from China in terms of economic comparability. Both ASI and Teamway cite section 773(c)(4) of the Act, which requires the Department to value FOPs using, "to the extent possible, the prices or costs of factors of production in one or more market economy countries that are (A) at a level of economic development comparable to that of the non-market economy country; and (B) significant producers of comparable

merchandise." While ASI acknowledges that the second requirement is met by both India and the Philippines because they are significant producers, ASI argues that India does not meet the first criterion of economic comparability.

ASI argues that in evaluating the first requirement, economic comparability, pursuant to 19 CFR 351.408(b), the Department places primary emphasis on per-capita GNI. ASI states that the Department's March 1, 2004, Policy Bulletin 04.1 concludes that, if there is more than one significant producer from the list of countries provided, "the country with the best factors data is selected as the primary surrogate country." ASI comments that Policy Bulletin 04.1 states further that when analyzing which country's factor data are "the best," the Department's objective is to use (1) "period-wide price averages," (2) "prices that are net of taxes and import duties," (3) "prices that are contemporaneous with the period of investigation or review," (4) "publicly available data," and (5) "prices specific to the input in question."

With respect to the Department's analysis of economic comparability, ASI argues that the precedent on which the Department and Petitioners have relied for the proposition that the statute does not require the Department to select the most comparable surrogate country, Tehnoimportexport, does not apply in the instant case. ASI points out that, in Tehnoimportexport, the CIT stated that the Department was not required to use a specific country as the surrogate merely because its figures are slightly closer to those of the host country. ASI contends, however, that while the difference in the GDP of the two proposed surrogate countries in the Tehnoimportexport case was only five percent and therefore slight, the difference in the GNI between India and the Philippines in the instant case is 80 percent; thus, it asserts, the choice here is not between two countries that themselves are economically comparable.

ASI argues that the Department's inclusion of India on the list of countries economically comparable to the PRC is arbitrary because in selecting India the Department skips 16 countries that are more economically comparable to the PRC based on their respective GNIs. ASI comments that India's GNI was only $720, less than half of the Chinese GNI of $1740 in 2005. According to ASI, India is so far removed from the PRC in GNI that it is not defensible for the Department to claim that the two countries are economically comparable. ASI argues further that India cannot be characterized as equally comparable as the countries that the Department ignored are much closer to the PRC in terms of GNI and suggests that India should not be on the Department's list of comparable countries at all.

Furthermore, ASI argues, leaving countries off the list that are more economically comparable is particularly egregious (except where none of those countries are significant producers of comparable merchandise) because the Department only considers countries that are on its list. Therefore, ASI argues, this list is effectively a filter of potential surrogate countries and is inconsistent with the Department's regulations.

ASI argues further that, in the past, the Department has selected between two potential surrogate countries based on their relative proximity to the NME in terms of per-capita GNI, allowing the Department to make a similar finding in the instant case. ASI cites the following cases in

support of its argument: Tehnoimportexport – 766 F. Supp. 1169, Dorbest – 462 F. Supp. 2d 1262, and Silicomanganese – Kazakhstan 04/02/02 IDM at Comment 5.

Department's Position: The Department's regulations at 19 CFR 351.408 indicate that the Department will consider per-capita income when determining economic comparability. However, neither the statute nor the Department's regulations define the term "economic comparability." As such, the Department does not have a set range within which a country's per-capita GNI could be considered economically comparable.

As described in Policy Bulletin 04.1, the Department's policy is not to rank-order countries' comparability according to how close their per-capita GNI is to that of the NME country in question. 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, 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. Policy Bulletin 04.1 at note 5 states:

> IA'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.

In this case, the Department has determined that both the Philippines and India are economically comparable to the PRC.[1] Thus, consistent with the policy described above, the Department continues to find that these countries are equally economically comparable to the PRC for purposes of surrogate value calculations.

B. Significant Producer

Petitioners argue that the Department has found India to be a significant producer of WBF in previous segments of this proceeding and nothing on the record of this review compels a different conclusion. Petitioners cite the following case in support of their argument: WBF - PRC 11/17/2004

Teamway contends that India is not a significant producer of WBF, as evidenced by PIERS import statistics showing insignificant U.S. imports of WBF from India.

ASI had no comment on this issue.

Department's Position: In our Preliminary Results, we found that both India and the Philippines were significant producers of WBF. Both countries had exports of subject merchandise during the POR and the record reflected at least one financial statement of a producer of WBF within each country. Neither party argues that this determination was incorrect as to the Philippines. With respect to Teamway's argument as to India, we find it unpersuasive because PIERS import data are not the only indicator of significant production, and Teamway has failed to provide

[1] See Office of Policy Memo: Request for a List of Surrogate Countries

record evidence showing that India is not a producer of WBF. Therefore, for the final results, we continue to find both countries significant producers of WBF.

C. Financial Statements

Specific Arguments

Petitioners contend that the Department erred when it found two of the three financial statements submitted prior to the Preliminary Results usable. First, financial statements from Calfurn's are unusable according to Petitioners. Calfurn's financial statements do not provide a sufficient level of detail to disaggregate the amount of sales and production costs resulting from the production of wood and non-wood furniture, respectively, or to determine the relative percentages of its production of wooden furniture and non-wooden furniture, Petitioners state. Accordingly, Petitioners contend, the financial statements lack the level of detail necessary for the Department to confirm that any financial ratios calculated from Calfurn's statements represent production of comparable merchandise, as required by 19 CFR 351.408(c)(4). Furthermore, Petitioners argue, Note 1 of Calfurn's financial statements indicates that a portion of Calfurn's sales is derived from "dealing in furniture," but the statements do not break out the portion of its cost associated with these trading activities. Petitioners contend that the Department typically excludes the portion of a company's costs associated with purchasing finished goods for resale when calculating the factory overhead ratio. Thus, because Calfurn's financial statements fail to break out the portion of its costs associated with purchasing finished furniture for resale, Petitioners argue, any overhead ratio based on Calfurn's financial statements would be inaccurate.

Second, Petitioners state that the Department was correct to exclude financial statements from Cebu for the Preliminary Results and should continue to do so for the final results. Third, Petitioners argue that financial statements from Insular Rattan are inadequate and do not contain all the information required by Philippine accounting standards. Petitioners contend that the financial statements that ASI filed for Insular Rattan are missing the cash flow statement, the statement of changes in equity, a summary of significant accounting and financial reporting policies, and notes.

Furthermore, Petitioners comment, unlike the other six Philippine financial statements on the record, there is no "Statement of Management's Responsibility for Financial Statements." Insular Rattan's statements are also missing key information that is available in most Indian financial statements, such as a Director's Statement and a depreciation schedule, Petitioners argue. Moreover, Petitioners contend that the company's name and the pictures on the first page of the company's website indicate that Insular Rattan makes more than wooden furniture - it makes rattan furniture. Insular Rattan's financial statements, Petitioners argue, do not provide a sufficient level of detail to disaggregate the amount of sales and production costs resulting from the production of wood and non-wood furniture, respectively, or to determine the relative percentages of its production of wood furniture and non-wood furniture. Petitioners contend that without such information, it is impossible to determine whether Insular Rattan's production of non-wood furniture is significant. Accordingly, Petitioners state, Insular Rattan's financial

statements lack the level of detail necessary for the Department to assure itself that any financial ratios calculated from its financial statements reflect the production of comparable merchandise.

Next, Petitioners contend that the four Philippine statements submitted after the Preliminary Results are unusable. Petitioners argue that the ASI submissions from Antonio Bryan Development ("Antonio Bryan") include no independent evidence that Antonio Bryan produced comparable merchandise. Instead, Petitioners state, ASI relied solely on paragraph 1 of the Notes to the financial statements, which states that the company's "primary current business operation is engaged in manufacturing and exporting of furniture and home accessories." Petitioners contend that Antonio Bryan's production activities, however, do not appear to involve identical or comparable merchandise. Accordingly, Petitioners contend that this company's financial statements do not establish that it produces identical or comparable merchandise. Petitioners argue that record evidence demonstrates Antonio Bryan produces fossilized stone and shell furniture, furniture components, and accessories. Noting that ASI submitted information which described the company as a furniture manufacturer that specializes in wood and veneered products, Petitioners argue that ASI failed to explain why the widely disseminated information about this company (i.e., that it produces wrought iron and stone furniture) does not mention wooden furniture. Thus, Petitioners contend, multiple information sources show that Antonio Bryan produces stone/fossil and iron furniture and the record is devoid of information published directly by Antonio Bryan that would support a conclusion that it produces wooden furniture. Moreover, Petitioners comment, the brevity and lack of detail in the company's financial statements prevent the Department from reaching such a conclusion. Therefore, Petitioners contend, the Department should reject this financial statement, because the record does not support the conclusion that Antonio Bryan produces comparable merchandise and does not provide the Department with any basis to disaggregate the production of non-comparable products.

Second, Petitioners state that financial statements from Raphael Legacy Designs, Inc. ("Raphael Legacy") are unusable because Raphael Legacy is not a producer of identical or comparable merchandise. Petitioners argue that its products include lamps, lighting, votives, houseware and decorative jars and vases, in addition to furniture and furniture components. With regard to its furniture production, Petitioners contend, the company's website only refers to its history as a producer of rattan furniture, and the website explains that it now produces furniture and accessories of stone and iron. Petitioners argue that Raphael Legacy's website clarifies that the company specializes in the production of mosaic furniture, as also evidenced by the domain name selected by the company, www.raphaelmosaic.com. Thus, Petitioners state, the Department cannot use Raphael Legacy's financial statements.

Third, Petitioners argue that financials from Berben Wood Industries, Inc. ("Berben") suffer from the same lack of disaggregation as Calfurn's financial statements. Petitioners argue that the information provided by ASI indicates Berben produces furniture using wood, wrought iron, leather, stone, cast resin, and other indigenous materials. Berben's financial statements, Petitioners contend, do not provide a sufficient level of detail to disaggregate the amount of sales and production costs resulting from the production of wood and non-wood furniture, respectively, or to determine the relative percentages of its production of wooden furniture and

non-wooden furniture. Without such information, Petitioners argue it is impossible to determine whether Berben's production of non-wooden furniture is significant.

Fourth, Petitioners comment that Arkane International Corporation ("Arkane") is a diversified company that, in addition to producing rattan and wood furniture, is engaged in small-scale mining. According to Petitioners, the financial statements, however, do not provide a sufficient level of detail to disaggregate the amount of sales and production costs resulting from the mining and production of stone from the production of furniture or to determine the relative percentages of the company's production that are accounted for by its mining activities, production of wooden furniture, production of non-wooden furniture, and any of the company's other activities. Without such information, Petitioners contend it is impossible to determine whether Arkane's financial results represent the costs associated with wooden furniture production. Accordingly, Petitioners argue, Arkane's financial statements lack the level of detail necessary for the Department to assure itself that any financial ratios calculated from those statements are for comparable merchandise.

ASI argues that the Department erred when it excluded financial statements from Cebu. The information that the Department cited as a missing schedule appears on the third page of Cebu's financial statement, ASI argues. Another missing schedule is not missing either, ASI comments, but appears on the bottom of the second page of Cebu's financial statement. According to ASI, since the two missing schedules are actually included within the submitted financial statement, the Department is not missing any information at all. The Department's conclusion, ASI contends, therefore is unsupported and the Department should include Cebu in the final results. ASI further argues that the Department should adopt its proposed calculation of Cebu's labor expenses for the final results. Next, ASI contends that the Department should accept financial statements from Berben, citing information it argues establishes Berben as a producer of identical or comparable merchandise. Similarly, ASI contends that Antonio Bryan, Arkane, and Raphael Legacy are all producers of identical or comparable merchandise and should be included in the Department's calculations of surrogate financial ratios. Further, ASI argues the Department should use the calculations it proposes for these companies. ASI cites the following case in support of its argument: Shrimp – PRC 09/12/07 IDM at 14.

In response to ASI's arguments, Petitioners argue that the Department properly excluded Cebu from its financial ratio calculations for the Preliminary Results. Petitioners contend that ASI incorrectly argues that these financial reports were included in Cebu's financial statement. While the first pages of Cebu's Balance Sheet and the "Statement Of Income And Deficit" are on the record, Petitioners contend, the financial statements are missing the entire "Statement Of Changes In Stockholders' Equity" and the "Statement of Cash Flows." Moreover, Petitioners argue, Cebu's financial statements do not have any explanatory notes concerning Cebu's accounting policies and are missing the "statement of management responsibility." According to Petitioners, they only include one schedule, the "Schedule of Cost Of Goods Sold." Petitioners state that because Cebu's financial statements are incomplete, they are not usable by the Department. Moreover, Petitioners argue, the Department's established practice is to disregard incomplete financial statements as a basis for calculating surrogate financial ratios where financial statements are missing key sections. Cebu's balance sheet and income statement, Petitioners contend, are incomplete without the accompanying schedules and notes.

Accordingly, Petitioners argue the Department properly excluded Cebu's financial statements from the financial ratio calculations. Petitioners further argue that none of the Philippine financial statements are usable by the Department. Petitioners cite the following cases in support of their argument: Silicomanganese – Kazakhstan 04/02/02 IDM at Comment 3, and Steel Bars – Belarus 06/22/01 IDM at Comment 2

In ASI's response to Petitioners' arguments, it contends that none of the Indian financial statements are usable by the Department. First, ASI argues that the Department was correct to reject Akriti's statements in the Preliminary Results because it was missing key information. Further, according to ASI, Akriti suffered a loss after excluding for "job work," a category ASI argues is not related to the production of furniture. Moreover, ASI contends, Akriti must be excluded because it participated in a countervailable subsidy program. Finally, Akriti financial statements are unusable, ASI argues, because Akriti's financial reporting year is not coterminous with the POR. D.S. Doors, ASI argues, is not a producer of identical or comparable merchandise and thus the Department cannot use its financial statement. ASI contends the evidence on the record suggests that the production of wooden furniture is a minor and incidental part of D.S. Door's door and window production activities. Thus, ASI argues the Department should avoid using a company as a surrogate where its production is only distantly related to the production of comparable merchandise. ASI further argues that the production of doors is not comparable to the production of wooden furniture. Moreover, ASI argues that D.S. Doors operated at a loss and therefore must be excluded. Delhi Furniture must also be excluded, ASI argues. ASI argues that the company lacks any internal recordkeeping for inventory, and the Department should have serious reservations about relying on a company's financial data where those data are not based on normal recordkeeping. Delite Furniture's financial statement must also be excluded according to ASI because it is incomplete. Also, ASI argues, it produces non-furniture products. Dinesh Rajen must be excluded because it did not show an operating profit, ASI contends. ASI argues that M/S Hi-Life Enterprises must be excluded because it is not a producer of anything, as evidenced by the fact that it reports no raw material costs in its COGS. ASI argues that M/S Image Furnishers must be excluded because it would have shown an operating loss if not for foreign exchange rate difference earnings. Further, the company does not breakdown the COGS or report raw materials costs.

IN Trading Pvt. Ltd. must be excluded, ASI contends, because key sections of the financial statements are either missing or obscured. A schedule for fixed assets was not submitted, ASI contends. Further, the schedule for manufacturing expenses is obscured at the bottom of the page, according to ASI, making surrogate value calculations impossible. ASI notes, moreover, that the company's production expands beyond wood furniture to wrought iron furniture. Jayabharatham's financial statements should continue to be disqualified, ASI contends. Record evidence, ASI argues, indicates that the company produces appliances and its financial statement does not disaggregate between furniture and appliances. Further, ASI argues that the Department should not use an affidavit submitted by Petitioners on this issue because it is not publically available information. Nikhil Decore should be rejected because the company suffered a loss on operations, ASI contends. Further, ASI states that the company's manufacturing operations appear to be secondary to its primary focus as a subcontractor. ASI contends that Nizamuddin must be disqualified because the company comments in its financial

statements that it was not involved in any manufacturing activity. The lack of manufacturing is further evidenced by the lack of an ending balance of finished goods, ASI argues.

ASI contends that Swaran should be excluded because its fiscal year covers only part of the POR. Turya Lifestyle Furniture and Dream Homes must be excluded, according to ASI, because its manufacturing activities cannot be isolated from its non-manufacturing activities. Askrtiti Furnishers Pvt. Limited, ASI argues, has no manufacturing activity and should therefore be excluded. Further, ASI contends, record evidence indicates that the company was established after the POR. Highland House financial statements, ASI argues, are incomplete, as they are missing a referenced schedule. Further, its records are skewed by what ASI contends are indications of irregular loan payments. ASI argues that the Department was right to reject James Andrew Newton's financial statements because its fiscal year was not contemporaneous with the POR. Further, ASI claims that the company produces non-furniture items and participated in a countervailing subsidy program.

The Department should reject the 2005-2006 financial statements from Jayabharatham for the same reasons it rejected the 2006-2007 statements for the Preliminary Results, ASI argues. Jodhpur Crafts Private Limited must be excluded because it received what ASI describes as countervailable subsidies as well. ASI argues that Nizamuddin must be excluded because its financial statements are not fully contemporaneous with the POR. Finally, ASI contends that financial statements from Sujako Interiors Private Limited must be rejected as well because the company did not earn a profit on operations. Further, ASI contends, the company earned much of its income from activities other than manufacturing.

Next, ASI argues that each of the Philippine financial statements is acceptable under the Department's standards. With respect to Calfurn, ASI argues, contrary to Petitioners' contentions, Calfurn is a producer of comparable merchandise. Further, ASI contends that, while Calfurn does not break down its production data into wood versus non-wood furniture, such a practice is uncommon and represents a standard that none of the Indian companies meet. Moreover, ASI argues that the fact that Calfurn's business license permits it to "deal" in furniture does not affect the reliability or accuracy of its financial data. A company's business license scope, ASI comments, is commonly broader than its actual activity. Additionally, ASI argues, Calfurn's auditor made no mention of the cost basis for purchased traded goods, suggesting that the company had no significant trading operations. Cebu should be acceptable to the Department, ASI argues, because the missing schedules cited by Petitioners are not missing, but are actually included within the submitted financial statements. Insular Rattan is also acceptable, ASI contends, despite Petitioners' arguments to the contrary. ASI argues that the statements from Insular Rattan are complete, as evidenced by the statement of the company's CPA attesting to the validity of the financial statements. ASI further argues that the Department has rejected arguments to disqualify a potential surrogate company solely on the basis of a missing Director's Report, and should do the same here. Further, ASI acknowledges that the company did not file a separate depreciation schedule but, ASI argues, the Department has the necessary information to include depreciation expenses in the financial ratio calculations. Moreover, ASI argues that the fact that Insular Rattan makes other products beyond wooden furniture should not disqualify it. ASI contends that the Department focuses its test of producer of comparable merchandise on the

finished product, not the raw materials. Wood furniture and rattan furniture, ASI argues, meet that standard for comparable finished products.

The financial statements for Antonio Bryan are acceptable as well, ASI argues. ASI contends the information submitted by Petitioners suggesting that Antonio Bryan produced furniture of other raw materials does not negate the company's status as a producer of comparable merchandise, as the finished product is comparable. Raphael Legacy, ASI argues, is acceptable because, although the company introduction provided by Petitioners describes the company's developing focus on stone/metal furniture, nowhere does the company suggest that it discontinued manufacturing rattan furniture. As mentioned previously, however, ASI argues the raw materials used by Raphael Legacy to manufacturer furniture are irrelevant to the Department's analysis of whether it is a producer of comparable merchandise. Berben remains acceptable, ASI comments, despite Petitioners' contention that it did not produce comparable merchandise. ASI argues the fact that a company mentions raw materials other than wood does not mean that it is unsuitable for use as a surrogate company as it is common for furniture manufacturers to incorporate non-wood raw materials into the product.

Finally, ASI argues that Arkane remains acceptable to the Department because the small scale mining activity cannot be taken to suggest that the company is a mining company and not a furniture producer. After all, ASI contends, the company's audit report states that the company's principal activity is the manufacture of rattan and wood furniture. Further, ASI argues that the fact that the company utilizes rattan in addition to wood in the production of furniture should not disqualify the company from use as a surrogate. As ASI argued previously, it contends the Department's focus is on the finished product, not the raw materials used to manufacture the finished product. ASI cites the following cases in support of its argument: Steel Flat Products – India 7/7/08 IDM at Comment 42, FMTCs – PRC 01/18/06 IDM at Comment 1, Shrimp - PRC 12/08/04 IDM at Comment 13, Bags - PRC 06/18/04 IDM at Comment 2, and Crawfish – PRC 09/01/97.

Teamway also responded to Petitioners' arguments on financial statements, arguing that the Philippine statements are usable by the Department for the final results, whereas the Indian statements are not. Specifically, Teamway argues that In Trading Private Ltd., Akriti, M/S Hi-Life Furnishers Private Ltd., and Jodhpur Crafts Private Ltd. must be disqualified because they each received countervailable subsidies. Askriti Furnishers, Delite Furniture Systems, Dinesh Rajen, D.S. Doors, Jayabharatham, Nizamuddin Furniture, Image Furnishers Private Ltd. and Turya are unacceptable because none of the companies produced comparable merchandise, Teamway contends. Teamway argues that Delhi Furniture Company Private Ltd. is unacceptable because of serious credibility questions. Further, Nikhil Decore Industries and Swaran should be disqualified according to Teamway because they did not book operating profits. Further, Teamway contends that the Philippine statements are acceptable. Calfurn must not be excluded, Teamway argues, due to mention of unspecified "dealings" about which the Department can only speculate. Further, Cebu's financial statements are complete, Teamway argues, contrary to Petitioners' claims.

General Arguments

Petitioners argue that the Department's stated reason for choosing the Philippines over India in the Preliminary Results was the fact that two usable Philippine financial statements existed on the record where only one was available from India. Petitioners challenge this conclusion, arguing that at least two Indian financial statements were available from India for the Department's Preliminary Results. In any case, Petitioners contend, the record has changed since that time, and the Department now has twenty Indian financial statements available to it for use in the final results. Petitioners urge the Department to use a simple average of financial ratios from these statements for the final results. Accordingly, Petitioners argue, because the Department cited no other basis for using the Philippines and there is no valid basis, the Department should use India as the surrogate country in the final results. Additionally, Petitioners comment that several of the Indian financial statements on the record of this review have been accepted by the Department in a recent new shipper review of WBF.

Further, Petitioners contend, each of the financial statements from the Philippines is incomplete or otherwise unreliable. Of the seven Philippine statements on the record, Petitioners state, two are incomplete and the remaining are either from companies that do not produce identical or comparable merchandise or the record does not allow the Department to disaggregate WBF production from total production. As a consequence, Petitioners argue, there are no usable financial statements on the record from the Philippines.

With respect to the contemporaneity of the Indian financial statements, Petitioners contend that it is the Department's practice to prefer more contemporaneous financial statements only when all else is equal, which is not true for the instant case. Petitioners argue further that the Department prefers a group of statements that overlap for some portion of the POR to one or two statements that coincide directly with the POR, especially when the more contemporaneous statement is of questionable reliability. Petitioners argue the reliability problems in the Philippine financial statements outweigh the detriment of less contemporaneous Indian statements in this case. Petitioners cite the following cases in support of their argument: Silicomanganese – Kazakhstan 04/02/02 IDM at Comment 3, Glycine – PRC 01/31/01 IDM at Comment 1, TRBs – PRC 07/11/05, Barium Carbonate – PRC 08/06/03 IDM at Comments 6 and 32, CFS Paper – PRC 10/25/07 IDM at Comment 3, Fish Fillets – Vietnam 06/23/03 IDM at Comment 14, and Pure Magnesium – PRC 09/27/01 IDM at Comment 1.

Both ASI and Teamway contend that the Philippine financial statements are superior because they are perfectly contemporaneous with the POR while the Indian financial statements cover only a portion of the POR and include many months outside the POR. It is the Department's practice, ASI and Teamway argue, to prefer financial statements that overlap the most months of the appropriate POR. Additionally, because Indian statements include months outside the POR, their use would inject a large percentage of non-POR cost and price data into the Department's calculations, according to ASI and Teamway. They argue further that Petitioners' characterization of the Department's practice with respect to contemporaneity is incorrect. The cases cited by Petitioners, ASI and Teamway argue, present different factual situations than the instant case and do not support a decision by the Department to choose less contemporaneous financial statements when all else is equal. With respect to Indian statements that were accepted

by the Department for a recent new shipper review, ASI and Teamway argue that the record in that case is wholly different and the POR does not overlap with the POR for the instant case, making comparisons between the two inappropriate.

Further, ASI and Teamway argue, most of the Indian financial statements suffer from one or more fatal flaws. Of the 22 Indian financial statements on the record, ASI and Teamway argue that six showed no profit on operations, three received subsidies, ten did not produce WBF during the POR or did not disaggregate that production from total production, two suffered from significant accounting problems, and three were incomplete. ASI and Teamway claim that this analysis leaves only two Indian financial statements that the Department could use to calculate financial ratios. ASI and Teamway cite the following cases in support of their argument: Barium Carbonate – PRC 08/06/03, CFS Paper – PRC 10/25/07 IDM at Comment 3, Fish Fillets – Vietnam 06/23/03 IDM at Comment 14, Pure Magnesium – PRC 09/27/01 IDM at Comment 1, Shrimp – Vietnam 9/5/07 IDM at Comment 2, Mushrooms – PRC 4/23/08 IDM at Comment 1, and Garlic – PRC 6/17/08 IDM at Comment 2.

Department's Position: In our Preliminary Results, we determined that the surrogate financial data from Philippine companies better reflect the overall experience of producers of comparable merchandise in a surrogate country. Specifically, we stated that after examining the financial statements submitted for both countries, we concluded that we have two useable financial statements from the Philippines, but only one from India.[2] Accordingly, the Department relied on Philippine financial data to calculate financial ratios for the period January 1, 2007, through December 31, 2007, because it is the Department's practice to use data from the primary surrogate country whenever such data are available and meet the relevant criteria for surrogate financial ratios. Since the Preliminary Results, parties placed additional Indian[3] and Philippine financial statements on the record. We now have on the record of this administrative review publicly available financial statements from seven Philippine companies[4] and 20 Indian companies.[5] After reviewing the financial statements from both countries, and taking into account the Department's criteria for excluding financial statements (e.g., no profit, subsidies, etc.), we find that the record now reflects four usable financial statements from both India and the Philippines.

We have thoroughly reviewed the financial statement information submitted by interested parties with respect to the financial ratio calculations. Based on our review of this information, we have

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[2] See Preliminary Results

[3] Parties placed on the record seven Indian financial statements for the 2005 - 2006 period and 15 Indian financial statements for the 2006 - 2007 period for a total of 22 Indian financial statements (two companies had statements in both periods).

[4] The seven Philippine financial statements are from the following companies: 1) Calfurn, 2) Insular Rattan, 3) Cebu, 4) Berbenwood, 5) Antonio Bryan, 6) Arkane, and 7) Legacy.

[5] The 20 Indian companies are: 1) Akriti, 2) IFP, 3) James Andrew Newton, 4) Jayabharatham, 5) Nikhil, 6) Nizamuddin, 7) Delhi, 8) Dinesh Rajen, 9) Turya, 10) Swaran, 11) D.S. Doors, 12) Hi-Life, 13) Image Furnishers, 14) IN Trading, 15) Delite, 16) Imperial, 17) Jodhpur, 18) Highland House, 19) Askriti, and 20) Sujako.

determined that we have only four useable financial statements from India (i.e., Dehli, Dinesh Rajen, Nikhil, and Turya) that passes the Department's financial statement criteria.

We have determined that the following Indian and Philippine financial statements are not useable.

1. Indian Financial Statements from the 2006 through 2007 Period:

    a. Did Not Show a Profit: We determined that Imperial's and IFP's financial statements were not suitable for use in deriving the surrogate financial ratios because these companies' financial statements showed a loss before tax and it is the Department's practice to use only financial statements from surrogate companies that have a profit before tax.[6]

    b. Evidence of Subsidies: We determined that Akriti's financial statements, as well as IFP's, were not suitable for use in deriving the surrogate financial ratios because these companies received subsidies in the form of an export subsidy scheme[7] (i.e., the "Export Promotion Capital Goods Scheme" ("EPCG")), a program the Department has previously found to be countervailable.[8]

    c. Financial Statements are Incomplete: We determined that Jayabharatham's, IN Trading's, and Delite's financial statements were not suitable for use in deriving the surrogate financial ratios because each company's financial statements were missing either an audited statement or a schedule to the statements that were clearly identified in each company's Auditor's Report or financial statements. Jayabharatham's statements are missing the depreciation schedule (i.e., schedule 5); IN Trading's statements are missing the schedule that breaks out manufacturing expense (i.e., Schedule XI); and Delite's statements are missing the contents of "Note 11," which is the breakout of its manufacturing expense.

    d. Non-producers: We determined that Swaran's, Nizamiddin's, D.S. Doors's, Hi-Life, and Image Furnishers' financial statements were not suitable for use in deriving the surrogate financial ratios because each company's financial statements indicate that these companies are not producers of identical or comparable merchandise. Guidance regarding surrogate values for manufacturing

[6] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibits 15 and 17 "Profit and Loss account for the year ending 31st March 2007." Where Exhibit 15 clearly identifies Imperial's manufacturing costs (i.e., 6,721,131.32 exceeds its revenue (i.e., 6,688,649.05) by (32,482.27); and Exhibit 17 clearly identifies IFP's "(Loss) for the year before taxation" as (10,395,924) Rupees.

[7] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibits 1 and 17, in the "schedules annexed to and forming . . . part of the . . . profit & loss account." Where Exhibit 1 in "Schedule XX" clearly lists Akriti's "EPCG License;" and Exhibit 17 in "Schedule 16, note 2 contingent liability" IFP's auditor's reference imports made under the EPCG scheme.

[8] See, e.g., Metal Castings - India 11/12/99 (unchanged in final results).

overhead, general expenses, and profit is provided by 19 CFR 351.408(c)(4), which states that these values will normally be based on public information from companies that are in the surrogate country and that produce merchandise that is identical or comparable to the subject merchandise.[9] While the statute does not define "comparable merchandise," it is the Department's practice to apply a three-prong test that considers 1) physical characteristics, 2) end uses, and 3) production processes.[10] We have evaluated the production of D.S. Doors, Hi-Life, Image Furnishers, Swaran, and Nizamiddin based on this three-prong test to determine if their production is of merchandise comparable to wooden bedroom furniture.

D.S. Doors: Information on the record[11] indicates that D.S. Doors' product range consists of wooden furniture and 17 other types of products, which include ten varying types of doors, stairs, kitchen shutters, flooring, windows, chowkhat sections, modular kitchens, and almirahs. With regard to physical characteristics and end uses, we find that while the major material input (i.e., wood) in all of D.S. Doors' production may be similar to those used by wooden bedroom furniture, the majority of D.S. Doors' production appears to be doors, which are not physically similar nor do they have the same end use as that of wooden bedroom furniture. Additionally, there is no information in D.S. Doors' financial statement describing the production processes employed to produce the non-furniture items that would enable the Department to disaggregate the non-furniture production from the furniture production.[12] Thus, we have determined that D.S. Doors' total production is not of merchandise comparable to that of wooden bedroom furniture producers.

Hi-Life and Image Furnishers: Information on the record[13] indicates that Hi-Life and Image Furnishers are not producers of wooden furniture. Rather, both of these companies are resellers of "Traded Goods."[14] Further, an examination of each company's financial statements shows that neither company's income statement lists manufacturing expense, nor does the depreciation schedule list assets relating to production.[15] Thus, we have determined that Hi-Life and Image Furnishers are not producers of merchandise comparable to that of wooden bedroom furniture producers.

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[9] See, e.g., CLPP – PRC 09/08/06 IDM at Comment 1.

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

[11] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibits 10.

[12] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibits 9.

[13] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibits 11 and 13.

[14] See id.

[15] See id.

Nizamuddin: Information on the record[16] indicates that Nizamuddin is not a producer. Specifically, Nizamuddin's director's report states that the "company's operations do not involve any manufacturing or processing activity. . ."[17] Thus, we have determined that Nizamuddin is not a producer of merchandise comparable to that of wooden bedroom furniture producers.

Swaran: Information on the record indicates that Swaran's principle activity is manufacturing and "job work" of furniture, interior decoration, and allied activities.[18] With regard to physical characteristics and end uses, we find that while Swaran's production experience of furniture may be similar to that of wooden bedroom furniture producers, its non-furniture activities (i.e., interior decoration and allied activities) are not physically similar nor do they have the same end use as that of furniture. Additionally, there is no information in Swaran's financial statement describing the interior decoration and allied activities that would enable the Department to distinguish Swaran's furniture production from its non-production activities.[19]

2. Indian Financial Statements from the 2005 - 2006 Period:

Although the Indian financial statements from the 2005 - 2006 period are contemporaneous with three months of the POR, we determined that these Indian companies (i.e., James Andrew Newton, Jodhpur, Highland House, Askriti Furnishers, Jayabharatham, Nizamuddin, Sujako) statements were not suitable for use in deriving the surrogate financial ratios because the 2006 - 2007 financial statements cover nine months of the POR and, as such, are more contemporaneous than the 2005 - 2006 statements. Thus, we did not review these statements to determine whether they were from identical or comparable producers, were complete, were profitable, or whether they contained subsidies because there were numerous financial statements on the record that better matched the POR. Further, when all other factors are equal, the Department prefers financial statements that cover the most months of the POR and in this case for the Indian companies it is the financial statements that cover the 2006 - 2007 period.[20]

Teamway argues that the financial statements from Delhi are unacceptable because of serious credibility questions and a lack of machinery depreciation and ASI argues that Delhi's lack of internal recordkeeping for inventory should give the Department serious

[16] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibits 10.

[17] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibit 25.

[18] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibit 27, schedule 20 – Notes on Accounts."

[19] See id.

[20] See, e.g., Shrimp – PRC 09/12/07 IDM at Comment 2; and Mushrooms PRC 08/05/98 IDM at Comment 1.

reservations about relying on a company's financial data where those data are not based on normal recordkeeping. As for Teamway's argument, we find that the depreciation chart lists tools, thus evidencing that the term tools could be equivalent to machinery. Additionally, other information on the record indicates that Delhi is a manufacturer of wooden furniture.[21] As to ASI's argument, we do not find that Delhi's bookkeeping is unreliable. ASI cites to Note 16 as evidence that the inventory records are unreliable. We disagree. The auditors note that the "stock registers" are not kept, but that they have relied upon Delhi's physical verification of stocks. The auditors do not state that this stock count is unreliable or otherwise diminish its use. Moreover, the auditors also state at note 3.b. that Delhi kept proper accounting books as required by law and that the Balance Sheet and Profit Loss Account are in agreement with the books of account. Therefore, we find Delhi's financial statements to be reliable. Further, while the statements are not fully contemporaneous with the POR, they cover at least nine months of the POR. Consistent with past cases and contrary to Teamway and ASI's arguments, the Department can employ financial statements that overlap with a considerable portion of the POR. Additionally, Teamway argues that Delhi has only been in business for three years which, it claims, raises serious credibility questions. We have determined that the length of time this company has been in business does not raise credibility questions because Delhi was producing comparable merchandise during the POR with a profit.

As to Dinesh, Teamway argues that the company does not manufacture WBF. ASI argues that the company operated at a loss. According to our examination of the record, Dinesh is a manufacturer of "high quality wooden furniture and accessories for five star deluxe hotels."[22] As for ASI's argument, according to Dinesh's profit and loss statement, the company had a profit for the year. Excluding certain items from a company's income or profit and loss statements is not the Department's practice. Rather, we determine whether or not the company was profitable for the period under examination.[23] Further, while the statements are not fully contemporaneous with the POR, they cover at least nine months of the POR. In the past the Department has used financial statements that are not fully contemporaneous with the POR.[24] Teamway also argues that there is no financial disaggregation between the manufacturing and the services portions of the company. After examining Dinesh's financial statement, we found that a significant portion of its revenue comes from manufacturing based on Dinesh's cost of goods sold, thus there is no need for disaggregation.

With respect to Nikhil, Teamway argues that Nikhil was not profitable as to sales of any products and ASI argues that the company did not post a profit. ASI further contends that the company's primary focus is not manufacturing, but rather subcontracting. As to

[21] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibits 3 and 4.

[22] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibit 8.

[23] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibit 7.

[24] See WBF – PRC 08/22/07.

profit, we disagree with Teamway and ASI and note that the company was profitable during the POR.[25] Further, when the Department is examining a company's profit, we do not distinguish a company's profitability by product line, instead we examine whether the company had an overall profit. As to the issue of the company's subcontracting, the Department disagrees that the "job charges" listed on its Profit & Loss Schedule amount to subcontracting income necessarily and we see no evidence that these charges are not related to furniture production. Further, while the statements are not fully contemporaneous with the POR, they cover at least nine months of the POR. In the past the Department has used financial statements that are not fully contemporaneous with the POR.[26]

As to Turya, ASI and Teamway argue that the Department cannot disaggregate the production of wooden furniture from other, non-related income and expenses. After examining Turya's financial statement, we have found no evidence that the company was involved in any business other than the manufacturing of furniture. Additonally, Turya's website indicates that it provides peripheral services, which leads the Department to believe the main focus of its business is the manufacture of furniture, as evidence by its significant purchases. We did not find that the fact the company offers a platform to various artisans to be evidence of significant income or expenses not related to furniture production. As for Teamway's argument that Turya is a not a furniture manufacturer, we disagree. Record evidence indicates that Turya was "primarily formulated with the aim of producing quality furniture."[27]

With respect to Petitioners' argument that we used 13 of the 22 financial statements currently on the record of this review in the fourth new shipper review, we have reexamined these statements submitted for this instant review and have determined that certain statements do not meet the relevant criteria (e.g., no profit, subsidies, etc.) for calculating surrogate financial ratios. As the fourth new shipper review relied upon by Petitioners is only preliminary results, we cannot rely on it for purposes of these final results. In addition, we expect to reexamine the Indian statements on the record for the fourth new shipper review and determine whether these statements meet the Department's relevant criteria for surrogate financial ratios for the final results of that review.

Based on our examination of record evidence, we have determined that the record contains four financial statements from Indian companies (i.e., Delhi, Dinesh Rajen, Nikhil, and Turya) for the 2006 - 2007 period that the Department could have used in the final results. Although the Indian financial statements are contemporaneous with many

[25] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibit 23.

[26] See WBF – PRC 08/22/07.

[27] See Petitioners' Post-Preliminary Indian Financial Statements PAI at Exhibit 307.

months of the POR, the Philippine financial statements cover the entire POR almost exactly and are therefore more contemporaneous.[28]

3. Philippine Financial Statements

   a. Financial Statements are Incomplete: We determined that Cebu's financial statements were not suitable for use in deriving the surrogate financial ratios because Cebu's financial statements were missing audited statements (i.e., "Changes in the Stockholders' Equity" and "Cash Flows" statements) that were clearly identified in Cebu's Auditor's Report.

   b. Non-producers: We determined that Arkane's and Legacy's financial statements were not suitable for use in deriving the surrogate financial ratios because the financial statements indicated that these companies were not producers of identical or comparable merchandise.

Based on our examination of record evidence, the Department has determined that the financial statements on the record of this review for Calfurn, Insular, Berbenwood, and Antonio Bryan are the best available information from which to derive surrogate financial ratios because these Philippine companies are producers of identical and/or comparable merchandise that have complete and publicly available financial statements, which are contemporaneous with the POR.[29]

D. Data Considerations

Petitioners argue that the Indian import data are more specific than Philippine import data. To support their argument, Petitioners submit a comparison of the number of 8-digit HTS categories available under the broader 4-digit HTS categories used in this review. Petitioners contend that Indian HTS categories are divided into many more 8-digit categories, making the data more specific. This specificity gap, Petitioners argue, is also demonstrated by comparing the number of 8-digit HTS categories used by the Department in the last review of the Order, when India was selected as the surrogate country, to the number used for the same factors for the Preliminary Results. Because the Department valued many of these common factors previously at the 8-digit level using Indian data but was only able to value them at the 6-digit specificity using Philippine data for the Preliminary Results in this review, Petitioners contend that significantly more detailed value information would be available if the Department used Indian import data for the final results. As further evidence of this difference in specificity, Petitioners state that the Department was forced to use 2007 data for 11 Philippine 8-digit HTS categories because 2006 Philippine data did not exist for these categories.

[28] Antonio Bryan's twelve month financial statements cover eleven of the twelve months in the POR while the other Philippine statements cover the entire POR.

[29] See Final FOP memo and Comment 10.

Further, Petitioners claim, Philippine import data are less reliable than the Indian data. In general, Petitioners argue, the reliability of Philippine import data is tainted by corruption at the Philippine BOC and by the deliberate misclassification and undervaluation of imports (so-called technical smuggling). In support of their argument, Petitioners point to reports published by several U.S, government agencies, public news articles, and the affidavit of a Philippine trade lawyer who describes the alleged problems with Philippine import statistics. Also, Petitioners argue, a comparison of WTA import data from the Philippines to export data from its trading partners as compiled by the USITC Interactive Tariff and Trade DataWeb demonstrates a large discrepancy which points to the inaccuracy of the Philippine data. Petitioners also cite a qualitative assessment study by UNCTAD which they claim as evidence that the Indian HTS headings relevant to this case are more reliable than the corresponding Philippine headings. Additionally, a statistical comparison of world AUVs to Philippine AUVs, Petitioners claim, shows the Philippine import data to be less consistent and statistically less robust than the data from India.

Petitioners also claim that the Philippine factor values used by the Department for valuing electricity are unreliable because there is no indication of how they were compiled and they are not nationwide but rather appear to cover only a few areas of the country. These weaknesses, Petitioners argue, caused the Department to reject the data for use in the previous review of the Order, and they argue that the same conclusion must be reached in the instant case.

Finally, Petitioners contend that the reliability of Indian data cannot be questioned based on Infodrive India data. Infodrive India data are inappropriate to use for comparisons, Petitioners argue, because they are incomplete and represent a wholly different dataset than the official Indian import statistics. The Infodrive data also do not account for amendments and corrections as do the official statistics, Petitioners state. Further, Petitioners argue, it is the Department's normal practice only to use Infodrive to look behind the MSFTI data in very unique situations where direct and complete evidence exists on a country-specific basis. Petitioners contend that the data submitted by ASI do not satisfy this standard. Even if the standard were met, Petitioners claim that correcting for the alleged discrepancies demonstrates that they have only a minimally distortive impact on the AUVs. Nevertheless, Petitioners argue, such recalculations would be simpler than rejecting the entire Indian HTS item. Petitioners cite the following cases in support of their arguments: WBF - PRC 11/17/04 IDM at Comments 1 and 10, Silicon Metal – PRC 10/16/07 IDM at Comment 7, Shrimp – PRC 09/12/07 IDM at Comment 1, Diamond Sawblades – PRC 05/22/06 IDM at Comment 11, HFHTs – PRC 09/15/04 IDM at Comment 5, Wire Rope – PRC 02/28/01 IDM at Comment 1, and Mushrooms PRC 08/9/07 IDM at Comment 2.

ASI argues that the Indian import data only appear to be more specific but are, in fact, a "house of cards" because over 80 percent of the Indian imports appear misclassified when compared to Infodrive India data. This misclassification, ASI claims, renders the number of specific 8-digit categories irrelevant. ASI contends further that Infodrive import data are appropriate to use for comparisons in this case because ASI's analysis focuses only on instances where Infodrive data and MSFTI data match exactly or very closely. ASI acknowledges that the Department has rejected this argument in the past while citing the lack of strong correlation between Infodrive and MSFTI. But in the instant case, ASI argues, more inputs appear misclassified and the correlation is stronger which should allow the Department to make meaningful data

comparisons. Additionally, ASI argues, Indian import data are also tainted by corruption and improper accounting practices. ASI urges the Department to disregard the affidavit Petitioners' cite, as it fails to meet the Department's standard for publicly available information.

Further, ASI contends, Petitioners' analyses of Philippine data are flawed and the Philippine import data are reliable. Comparisons of world export figures to import figures for any country, not just the Philippines, would show inconsistencies, ASI claims. As an example, ASI argues that the United States shows a $124 billion discrepancy using the same comparison. The differences, ASI argues, are explained by the inaccuracies of trading partners, not inaccuracies in the importing country. Additionally, the statistical analysis on world AUVs performed by Petitioners is biased against smaller economies, ASI argues, because these countries tend to have fewer trading partners and would necessarily have fewer sources for each import.

With respect to electricity values, ASI argues that the Philippine electricity values on the record have been improved since the previous review and are now more reliable as they are based on a broad average of data points from multiple sources both within and outside the POR. ASI cites the following cases in support of its position: Shrimp – PRC 12/08/04 IDM at 13, CTRs – PRC 04/16/04 IDM at Comment 9, Sichuan Changhong Elec. – 460 F. Supp. 2d 1338, and WBF – PRC 08/08/07 IDM at Comment 35.

Department's Position: For the Preliminary Results, we selected the Philippines as the primary surrogate country because of the availability of factor data. We continue to find that the Philippines is an appropriate surrogate country from which we can obtain reliable, accurate information. Moreover, as explained above, the Philippine financial statements are more contemporaneous with the POR than are the Indian financial statements.

We disagree with the Petitioners that the Indian import data are materially more specific than the Philippine data. In its analysis of this issue, the Department focused on what it identified as principal inputs (i.e., lumber and veneer). Of the approximately 30 such inputs we considered, we were only able to identify three examples of meaningful increases in specificity in the Indian import data despite many more instances of 8-digit HTS categories in the Indian import data. These categories were HTS 4407.10.10, 4407.10.20, and 4407.92.10. In the vast majority of instances, both the 8-digit Indian categories and the 6-digit Philippine categories were "other" categories. For example, for toon wood, the specificity remains at the level of "other non-coniferous wood" for both India and the Philippines. "Other" categories are by definition less determinate. That is, it is uncertain what products are captured in these categories. The Department does not find that the indeterminate specificity gained when moving from a 6-digit to an 8-digit "other" category is a sufficient basis on which to choose India as the surrogate country rather than the Philippines. Moreover and as discussed above, the Department finds that the contemporaneity gained in using the Philippine data outweighs the specificity gained in using the Indian data, i.e., the specificity gained for the three principal inputs noted above.

While we are employing Philippine data for most surrogate values, we have determined that more specific data for three lumber categories can be obtained by using Indian import data. As noted above, these categories are HTS 4407.10.10 ("douglas fir"), 4407.10.20 ("pine"), and 4407.92.10 ("birch"). Because lumber is a principal input in the production of WBF, for

purposes of the final results, we have relied on India as a secondary surrogate for those specific values. While the import data on the record from India are not for the Department's primary surrogate country, the data are from one of the potential surrogate countries on the Office of Policy's list of potential surrogate countries. Although the Department's preference is to value all FOPs using import data from the same surrogate country, in past cases the Department has valued principle inputs using a secondary surrogate country in the interest of achieving greater specificity.[30] The Indian import data for these types of lumber are more specific to the inputs in question because Philippine HTS 4407.10 and HTS 4407.99 are only specific to broad categories of lumber (i.e., coniferous and non-coniferous), unlike the Indian import data which are specific to fir, pine, and birch. The Department has also applied the same methodology for purposes of valuing semi-finished furniture.[31] The Indian category for birch, 4407.92.10, contains no data for the POR. As a result, we have used HTS 4407.99.00 from the Philippine import data to value birch wood. Therefore, for the final results, the Department has valued fir and pine using Indian import data from the POR.[32] Thus, we find that in continuing to rely on the Philippines as the primary surrogate and using India as a secondary surrogate for purposes of valuing fir, pine, and semi-finished furniture at a greater specificity, we are using the best available information on the record of this review to value all FOPs and to calculate surrogate-value ratios.

With respect to data reliability, we find the Philippine data reliable. First, we agree with ASI that the exercise of comparing UN exports from reporting countries to Philippine figures for imports from those countries has limited value. Because UN export data come from different sources and are governed by differing reporting methods and standards, discrepancies with official import statistics are to be expected. As a consequence, meaningful conclusions on data reliability cannot be drawn from discrepancies between import statistics and the so-called "mirror statistics." Similarly, we find that Petitioners' comparison of USITC Dataweb export data from the United States and WTA import data for the Philippines is not sufficient because there is nothing to support which of the two numbers, if either, is accurate as they are from differing sources. In such a vacuum, argument could be made in either direction as to which figures are valid. However, we cannot assume either number is inaccurate because there are instances where we do not expect them to match. While both sets of data are from 2006, we would expect timing differences to impact these figures as well (i.e., exports from December of 2006 may not have entered the Philippines until 2007). Thus, we do not find Petitioners' comparison appropriate. Further, we disagree with Petitioners that the number of reporting countries for a particular import and the higher variances of the Philippine AUVs generally point to poor reliability. Higher variations in price demonstrate that the exporting countries are selling at different prices, not necessarily that the data themselves are inaccurate. Further, in order to account for the normal variation among source countries, the Department already employs a weighted-average method to calculate AUVs for each input. We find that Petitioners also have not demonstrated a direct relationship between the number of countries included in an AUV and the actual reliability of that value. Moreover, we find the UNCTAD qualitative assessment study

[30] See Fish Fillets – Vietnam 06/20/08 IDM at Comment 3.

[31] See Comment 12

[32] See FOP Memo.

submitted by Petitioners inconclusive as a comparison of reliability between Indian and Philippine HTS categories. In each of the comparisons submitted from the study, UNCTAD notes no difference in reliability for over one quarter of the HTS categories and in three of the comparisons, identical reliability was cited in over one third of the categories. Consequently, any conclusions drawn from this study must include the important caveat that a significant portion of HTS categories were deemed identically reliable.

With respect to electricity, truck, and water values, we agree with Petitioners that we should not use the data from the "Province of Misamis Oriental Cost of Doing Business" schedule in Exhibit 57 of ASI Comments on Factor Values. It is not clear what the source of data from this schedule is or who published it and, as such, we cannot determine the reliability of these data. Therefore, we have removed Cepalco, Moresco I, and Moresco Ii, from the electricity rates from our final electricity surrogate value calculation.[33] Consistent with this decision, we have also excluded the Philippine truck and water rates from the "Province of Misamis Oriental Cost of Doing Business" schedule in Exhibit 57 of ASI Comments on Factor Values. Therefore, we removed the Misamis Oriental Province truck rates form our final truck surrogate value calculation.[34] We have removed the "Misamis Oriental Province, Cagayan de Oro Water District" water rates from our final water surrogate value calculation.[35]

With regard to Doing Business in the Philippines and the "Cost of Doing Business" in Camarines Sur, we find that these publications are reliable sources for valuing electricity for these final results. Doing Business in the Philippines is published by SG&V Co. SG&V Co is a member of Ernst & Young Global, which is a major multinational company. This is a widely disseminated report published for the purpose of giving the international community information, including the costs, of doing business in the Philippines.[36] As is made clear in this document, the "Cost of Doing Business" in Camarines Sur is available on the Camarines Sur provincial government's website.[37] This is a publicly available and easily accessible document, published for the purpose of giving the international community information, including the costs, of doing business in the province of Camarines Sur, Philippines. There is no indication nor any reason to believe that either of these publications have manipulated data contain therein for dumping purposes. As such, we find that Doing Business in the Philippines and the "Cost of Doing Business" in Camarines Sur provide reliable data on business costs in the Philippines, including electricity, water, and truck rates. We have continued to use electricity rates, truck, water rates from Doing Business in the Philippines as well as from and the "Cost of Doing Business" in Camarines Sur. However, for these final results, we have not inflated these electricity, truck, and water rates because there is no indication that the any of these rates are not still in effect.[38] We have

[33] See Final FOP Memo.

[34] See Final FOP Memo.

[35] See Final FOP Memo.

[36] See ASI Comments on Factor Values Exhibit 56 at 2-4.

[37] See http://www.camarinessur.gov.ph/?page=4&pid=2.

however, removed the Manila electricity rate published in the Doing Business in the Philippines from our electricity surrogate value calculation. Unlike the other rates we have used, this Manila rate was an estimated rate as indicated by the word "around" prior to the rate.

With respect to using Infodrive India as a basis for comparison with MSFTI data for purposes of rejecting the WTA statistics, we agree with Petitioners. Due to reliability and completeness concerns, the Department normally considers Infodrive as confirmation of alleged misclassifications when 1) there is direct and complete evidence from Infodrive showing that imports from a particular country do not contain the product in question, 2) a significant portion of the overall imports under the relevant HTS category is represented by the Infodrive India data, and 3) distortions of the AUV in question can be demonstrated.[39] While we found certain of these conditions were met for several of the HTS categories ASI submitted, the standard did not appear to be met to an appropriately broad degree to justify making conclusions on the general reliability of the Indian import statistics. However, the Department did not conduct a full analysis under this standard because we chose the Philippines as the primary surrogate for the final results for reasons other than reliability concerns with the Indian import data, as discussed above.

With respect to the assertion of corruption at the BOC, we find that the evidence presented by Petitioners does not constitute the kind of direct substantiation that would indicate that the import values for inputs specific to WBF are being skewed by improper customs procedures. While the Department recognizes that corruption of varying degrees may exist within any customs agency, such allegations cannot be relied upon for purposes of margin calculations unless they are specific to the industry itself (e.g., if furniture manufacturers were demonstrated to have improper dealings with local customs officials). We did not find the affidavit persuasive because it was based on the statements of one individual and because there is no evidence that these statements were subject to public scrutiny.

We find Petitioners' arguments on technical smuggling in the Philippines similarly unpersuasive. Absent specific evidence of undervaluation of the inputs in this review, we see no reason to reject these import data as a basis to calculate surrogate values for WBF. Moreover, the WTA import data we analyze are taken from government statistics and, as such, represent the most reliable publicly available information with which to value FOPs.

The Department has analyzed arguments relating to the Philippine financial statements in another section of this memorandum.[40]

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[38] See Final FOP Memo.

[39] See Dorbest 547 F. Supp. 2d 1321.

[40] See Comment 10.

Comment 2: Combination Rates

Petitioners contend that the Department should assign combination rates to foreign exporters and their identified producers/suppliers in this review because large producers with dumping margins that exceed the rates applicable to separate-rate respondents have the ability to export subject merchandise though a different company at a lower rate. In addition, Petitioners claim that the facts of this review warrant the application of combination rates, specifically with respect to the Dare Group who is exporting merchandise produced by unaffiliated producers, whom it names in Attachment 33 of their case brief.

Petitioners claim 19 CFR 351.107(b)(1) gives the Department the authority to establish "combination" cash deposit rates for each combination of exporters and their supplying producer(s) when subject merchandise is exported to the United States by a company that is not the producer of the merchandise. Petitioners note that the preamble to the Final Rule explains that combination rates are required to avoid the situation where a producer with a relatively high deposit rate could avoid the application of its own rate by selling to the United States through an exporter with a low rate. Thus, Petitioners argue that 19 CFR 351.107(b)(1) is designed to prevent the evasion of AD cash deposit rates and to prevent foreign producers from manipulating the rate.

Petitioners contend that Policy Bulletin 05.1 established the practice of automatically applying combination rates to producers and exporters in NME investigations stating that combination rates are required to prevent the avoidance of payment of antidumping duties by firms shifting exports through exporters with the lowest assigned cash-deposit rates. Thus, Petitioners contend that the Department automatically applies combination rates to exporters and their supplying producers in all investigations involving NME countries.

Petitioners claim that the Department has acknowledged its authority to apply combination rates in administrative reviews of imports from NME countries because at the time that it issued Policy Bulletin 05.1, the Department explained that it was evaluating the extension of these changes in practice to administrative reviews. Petitioners note that the Department has not done anything on this issue and has not applied a combination rate in any administrative review of imports from China or any other NME country in the two years since it issued Policy Bulletin 05.1. Nevertheless, Petitioners argue that the wide disparities in existing margins, the number of participants in this review, and the vast number of producers of subject merchandise[41] in the PRC, provide the incentives and opportunities for foreign producers to avoid high cash deposit rates by shipping subject merchandise through an exporter with a lower cash deposit rate. Thus, Petitioners argue that the Department should treat this review no differently from investigations with regard to the application of combination rates. Moreover, Petitioners contend that proprietary record evidence demonstrates that the Dare Group is exporting subject merchandise produced by unaffiliated companies, which they identified in Attachment 33 of their case brief.

[41] Petitioners cite the following documents to support this statement: David Robb and Bin Xie, A Survey of Manufacturing Strategy and Technology in the Chinese Furniture Industry, European Management Journal (Aug. 2003); China Has Become The Second Biggest Furniture Exporter In The World, China International Furniture Network; Wooden Bedroom Furniture From China, Inv. No. 731-TA-1058 (Preliminary), USITC Pub. 3667, at VII-4 (January 2004).

Petitioners further claim that the Department has already applied combination rates in antidumping duty administrative reviews, e.g., the Final Results of Redetermination Pursuant to Court Remand, Tung Mung - 25 CIT 752 and Pistachios - Iran 2/14/05. Thus, Petitioners argue that the application of combination rates in this review is consistent with the intent of the Department's regulations and the Department's practice. Nevertheless, Petitioners point out that the Department has failed to apply combination rates in two separate proceedings, Crawfish - PRC 02/10/06 at Comment 2, and WBF - PRC 08/22/07, claiming in each instance it could not assign a combination rate in an administrative review involving China without going through formal notice and comment procedures.

ASI contends that the Department should reject the application of "combination rates" to the Dare Group, as it did in the first administrative review. ASI disagrees that combination rates are justified in order to prevent circumvention of the order. ASI contends that Petitioners' allegation presupposes that the semi-finished furniture input the Dare Group purchased was subject merchandise, which ASI disputes. Therefore, ASI argues that circumvention did not occur. ASI contends that the Dare Group did not act merely as a conduit for subject merchandise produced by other factories, but rather, took physical possession of the semi-finished furniture, performed substantial subsequent operations on it, and exported it to the United States to its own customers.

ASI further disagrees that subject merchandise that incorporates the semi-finished furniture input escapes the appropriate proper assessment of dumping duties. ASI claims that imports of all such merchandise are currently suspended and liquidation will occur according to the final results of this review based on the actual production and sales of the Dare Group, rather than some average.

ASI maintains that the Department's decision to assign combination rates in new investigations was the subject of a lengthy comment and rulemaking process, during which the Department specifically rejected application of combination rates in administrative reviews. Thus, ASI argues, it would be inappropriate for the Department to diverge from its current practice with respect to administrative reviews without engaging in the same public comment process that occurred with respect to assigning combination rates in investigations, especially since, in ASI's view, Petitioners have not provided a good reason for the Department to reverse its stated policy.

ASI maintains that the application of combination rates to the Dare Group would not change the rate applicable to the Dare Group because the Dare Group consists of a group of affiliated producers/exporters that the Department collapsed for purposes of assigning a dumping margin. Thus, ASI argues that Dare's margin would be the same since Policy Bulletin 05.1 states that the "the Department will not assign combination rates to an exporter and individual producers, but rather to an exporter and its producers as a group."

ASI also contends that Petitioners' legal argument is based entirely on an interpretation of 19 CFR 351.107(b)(1). ASI contends that CFR 351.107(b)(1) applies only to non-producing exporters in investigations and does not provide support for the application of combination rates in reviews, since it claims that a non-producing exporter who shifts sourcing patterns would be subject to review in a subsequent proceeding, including an examination of any new suppliers' factors of production. Thus, ASI contends that there is no possibility of evasion of dumping

duties when non-producing exporters shift sourcing patterns among producers in reviews. ASI argues that Petitioners concede that there is no regulatory requirement that the Department impose combination rates in AD administrative reviews, citing Tung Mung, 219 F. Supp. 2d at 1333, affirmed in Tung Mung, 354 F.3d at 1371.

ASI disagrees with Petitioners' proposed exporter-producer combinations in Exhibit 33 of their case brief. ASI claims that Petitioners fail to "collapse" the Dare Group companies. ASI points out that Petitioners have made no claim that the three Dare Group companies should be separated or that the Department should reverse its decision in the preliminary results to collapse the three affiliates. Thus, ASI argues, in the event that the Department determines to assign combination rates in this review, it should construct the combinations for the Dare Group so that all three Dare Group factories can export product from each other, consistent with the Department's determination to collapse the three companies.

Finally, ASI disputes that Petitioners' concern about evasion of the AD order by firms with high dumping rates through exporters with low rates is realistic. ASI points out that Petitioners asked for reviews of 180 companies but decided to withdraw almost all of those review requests, leaving only 30 companies in this review. ASI contends that the 150 companies for which Petitioners withdrew their review request had margins of less than 7 percent, making Petitioners' concern about massive circumvention by the remaining 30 companies ring hollow.

Department's Position**:** We agree with ASI. For the final results, we have not exercised our discretion to apply a combination rate to the parties to this proceeding. The preamble to the Department's regulations states that "if sales to the United States are made through an NME trading company, we assign a non-combination rate to the trading company. . . ."[42] As set forth in 19 CFR 351 107(b)(1), "[i]n the case of subject merchandise that is exported to the United States by a company that is not the producer of the merchandise, the Secretary may establish a combination cash deposit rate for each combination of the exporter and its supplying producers." In Pistachios - Iran 2/14/05, the Department exercised its discretion and assigned a combination rate to the exporter and its supplier of the subject merchandise based on (1) the similarity of the exporter's U.S. sale subject to the administrative review and the exporter's U.S. sale in the previous new shipper review in which a combination rate was applied; (2) the exporter's normal business practice of selling pistachios only to the U.S. market; (3) the exporter's ability to source the pistachios it sells from a large pool of suppliers; and (4) high cash deposit rates for other producers subject to the order and a high all-others rate.

Despite our general practice[43] of not issuing combination rates in administrative reviews, on a case-specific basis, the Department has considered whether to apply a combination rate in an NME AD administrative review based on the factors examined in Pistachios - Iran 2/14/05.[44]

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[42] See Final Rule at 27303.

[43] Policy Bulletin 03.2 covers combination rates in new shipper reviews, not administrative reviews, while Policy Bulletin 05.1 applies only to investigations.

[44] See, e.g., WBF - PRC 01/04/05 and IDM at Comment 5; Crawfish - PRC 02/10/06 and IDM at Comment 2.

We have examined the facts in the instant review and found that the unique blend of facts that led the Department to apply a combination rate in Pistachios - Iran 2/14/05 does not exist here. Specifically, with respect to the Dare Group, we find that, unlike the exporter in Pistachios - Iran 2/14/05, the Dare Group produces and exports the subject merchandise, so that any change in policy with respect to combination rates would have no impact on its margin. Moreover, any practice based on 19 CFR 351.107(b)(1) would not apply to the Dare Group, since the Dare Group is not a non-producing exporter, as was the respondent in Pistachios - Iran 2/14/05. In Pistachios - Iran 2/14/05, the Department considered the fact that the exporter's normal business practice was to sell only to the U.S. market, with the implication that the exporter's normal value would likely be based upon constructed value, rather than comparison market sales prices. In NME cases, unlike market economy cases, it is irrelevant whether the exporter made PRC or third-country sales because normal value is based on the producer's factors of production. Further, while there is a significant difference between the Dare Groups' final dumping margin in the instant review and the PRC-wide entity rate applicable in this proceeding, the Department did not rely solely on such a difference to establish combination rates in Pistachios - Iran 2/14/05.[45] Therefore, for these reasons, we find that the instant circumstances do not warrant assigning the Dare Group a combination rate.

With respect to the other producers and exporters in this review, there is no record evidence that any specific producers are shifting their exports from high-margin to low-margin exporters, or that producers are otherwise manipulating or evading the AD rates. Petitioners have made no specific allegation and have provided no record evidence that such shifting is occurring. Petitioners' allegation is limited solely to the possibility that such shifting might occur in the future.

For the foregoing reasons, we have not made any changes to our practice with respect to combination rates for the final results.

Comment 3: New NME Wage Rate

A. Effective Date

Petitioners argue that the Department should apply the new 2007 NME wage rate of USD$1.04/hour for the final results in this review, instead of the USD$ 0.83/hour wage rate based on 2005 data used in the Preliminary Results.[46]

ASI argues that the 2007 NME wage rate should not be used in the final results. ASI states that the Department did not allow it the opportunity to comment on the 2005 NME wage rate in this specific review proceeding. Similarly, ASI contends that the Department refused to consider previously submitted methodological comments on the Department's 2007 NME wage rate calculation. ASI states that the Department's reversal in stating that the new wage rates would apply to all proceedings for which the final decision is after the date of finalization of the wages,

[45] See WBF - PRC 01/04/05 and IDM at Comment 5.

[46] See 2007 NME Wage Rate.

prejudices ASI and all other interested parties in the WBF POR 2 proceeding, because the Department expressly stated that any new wage rates would not apply to this period.

Petitioners respond that ASI's assertion that it has not had the opportunity to comment on the Department's wage rate calculation is without merit. Petitioners assert that ASI has been given the opportunity to submit methodological comments in its case brief, of which ASI took advantage and submitted arguments. Therefore, its claim that it has been prejudiced by the Department's application of the new wage rate in this review is unfounded.

ASI responds that data were not put forth for public comment in a manner that provided proper notice to the Chinese respondents that the new wage rates were under consideration for application in this segment of the proceeding. ASI maintains that it would be unfair for the Department to act directly contrary to the terms of its solicitation for comment as posted on its website with the draft data and proper notice as it is an integral part of a fair administrative hearing. Therefore, ASI argues that Petitioners' argument should be rejected.

Teamway responds that it opposes Petitioners' argument that the Department should use the 2007 NME wage rate in the final determination. Teamway states that it incorporates the arguments made by ASI in relation to this issue.

Department's Position: The Department annually adjusts its NME-wage-rate calculations in a separate proceeding in which it solicits comments from the public in order to establish the new wage-rate calculations for all subsequent NME antidumping proceedings. In April of 2008, the Department issued its preliminary wage-rate calculations for public comment.[47] ASI had the opportunity to comment, and, in fact, has admitted that it did comment in that proceeding. Moreover, ASI did comment in this proceeding on the wage-rate data in its administrative case briefs which the Department has addressed below. Because ASI commented in both the wage-rate proceeding and this administrative review, the change in the effective date of the new wage rate calculations did not deprive ASI of the opportunity to protect its interests under the AD law. Because the new wage-rate data were finalized before the final results were issued in this proceeding, it is consistent with the Department's practice to use the most contemporaneous, finalized-wage-rate data in order to help the Department calculate margins as accurately as possible. With regard to ASI's comment that the Department did not consider its comments in the wage-rate proceeding, the Department considers all comments submitted in its proceedings. The fact that the Department did not adopt a party's suggestions does not indicate that they were not considered by the Department in making its determination.

B. India and South Korea

ASI argues that the Department's wage rate calculation is distorted because of the inclusion of earnings figures from India and South Korea, countries routinely excluded from use in calculating NV because of the presence of potentially distortive export subsidies. Therefore, ASI requests that the Department remove Indian and South Korean data from the calculation of expected wages. ASI contends that the World Bank has found a relationship between export

[47] See 2007 Preliminary Calculation (http://www.ia.ita.doc.gov).

prices and wages in a country and therefore, ASI argues if export prices are distorted by subsidies then domestic wages are also distorted. ASI believes that exclusion of India and South Korea would ensure a more accurate calculation when the labor rate is applied to respondent's materials costs.

Petitioners respond that the Department should not exclude the wage data for India and South Korea because the World Bank's findings constitute untimely new factual information. Petitioners state that it is well established that a party cannot submit new factual information in its case brief.[48] Petitioners further argue that because ASI failed to submit the World Bank's findings before the deadline for the submission of factual information, the Department should not consider the information contained in the study and should strike the study from the record.

Teamway states that it incorporates the arguments made by ASI in relation to this issue.

Department's Position: We disagree with ASI, and have determined to continue to include India and South Korea in our regression analysis for calculating expected NME wages. We found that there is no evidence that the relationship found in the World Bank paper cited by ASI is relevant to generally available export subsidies in India or South Korea. The World Bank paper examines one country, Argentina, using the specific circumstances of its labor market and finds a relationship between wages and export prices for products from Argentina resulting from increased export demand that results from opening of markets for these products in developed countries. That is not the same as an expansion of exports (a supply-side change) induced by generally available government export subsidies. Further, we are not considering ASI arguments because it provided wage rate information for the purposes of the final results after the record closed. Therefore, we find ASI's arguments unpersuasive, and will continue to include India and South Korea in the wage rate calculation.

C. Inherent Error in Calculation

ASI states that the output of the Department's wage rate calculation indicates that the wage rates from the regression results are statistically unreliable. According to ASI, the reason behind the unreliability of the statistical results is that the Department is applying ordinary least squares ("OLS") to a cross-sectional dataset (wages and per capita GNI) that is heteroskedastic. ASI concludes that the Department can easily correct for this inaccuracy by applying generalized least squares ("GLS"), which is available to the Department utilizing SAS programming. ASI found that the results of both White's Test and the Breusch-Pagan Test, standard tests for heteroskedasticity, are below 0.05 which confirms the presence of heteroskedasticity when OLS is used.[49] On the other hand, ASI found that when a GLS regression is used, both White's Test and the Breusch-Pagan Test yield results significantly higher than 0.05.[50] Furthermore, since

[48] See PSF - PRC 04/19/07 (rejecting a case brief because it contained new factual information); see also CFS Paper – Indonesia 10/25/07 (rejecting submission of new factual information and requiring resubmission of a redacted version of the brief), see also Hand Trucks – PRC 05/15/07.

[49] See ASI's July 17, 2008 Case Brief at Exhibit 4.

[50] See ASI's July 17, 2008 Case Brief at Exhibit 5.

GLS is a regression-based methodology, it is also compatible with the regulations' requirement that the Department apply a "regression-based methodology" (19 CFR 351.408(c)(3)).

Petitioners dismiss the arguments raised by ASI regarding the use of GLS regression. Petitioners state that this subject has already been considered and rejected by the Department and its methodology of using OLS has been affirmed by the CIT.[51] In response to ASI's statement that the Department would be acting unfairly in using the new wage rate, Petitioners' state that this assertion is unfounded.

Teamway states that it incorporates the arguments made by ASI in relation to this issue.

Department's Position: For the final results, we have determined to continue to use OLS regression analysis in calculating expected NME wages. As noted in Dorbest - 462 F. Supp. 2d 1262, OLS regression analysis is a commonly used tool that is a basic component of any statistical analysis package and is easily replicated in Excel, which enhances the transparency of the Department's regression analysis. Also, as noted in Dorbest - 462 F. Supp. 2d 1262, the OLS estimators remain unbiased in the face of heteroskedasticity. The Department's regression analysis is not an exercise in econometrics and is not the classic regression exercise involving model building and hypothesis testing. This remains essentially an exercise in computing a variable, income-dependent wage using data from all market economy countries that meet the Department's data requirements as opposed to testing a hypothesis based on a pool of sample data. The only relevant aspect of the analysis is the regression line itself, which represents the variable average of the entire universe of data. Detection of heteroskedasticity is not easy, but even if it were present in the Department's analysis, it is not relevant to the calculation of expected NME wages. Given the many forms that heteroskedasticity can take, and therefore the inherent difficulty in detecting and addressing it, it is not clear that the GLS method would produce better results. In both a statistical and overall sense, we have concluded that OLS, which minimizes the sum of errors, is the best averaging tool for the Department's calculation of expected NME wage rates.

Comment 4: Zeroing

ASI and Teamway argue that the Department zeroed non-dumped transactions in the Preliminary Results in a manner that created an unfair comparison of the Dare Group's U.S. prices and NV. ASI claims that this practice artificially inflated the dumping margins for the Dare Group in an unlawful manner. ASI states that the CAFC affirmed that the statue does not require the Department to consider dumping margins with a positive value.[52] ASI argues that, furthermore, there is not a viable policy basis for continuing to zero non-dumped margins which has been acknowledged by the United States in statements made to the WTO.[53] ASI asserts that the

[51] See Dorbest - 547 F. Supp. 2d 1321 ("Commerce considered Dorbest's arguments as to the merits of using GLS rather than OLS regression methodology, and reasonably rejected GLS methodology, and the data it produced, as it did all the alternatives proposed to its chosen approach. Accordingly, the court will affirm its choice.")

[52] See Timken - 354 F.3d 1334.

[53] See WTO- DS – Zeroing (2005).

Department is directed by the provisions of section 751(a)(2)(A) of the Act to analyze the NV and EP of each entry. Thus, if the Department ignores the EP for non-dumped sales, it cannot comply with the statutory mandate.

Further, ASI asserts that the decision of the CAFC in Timken - 354 F.3d 1334 and Corus Staal - 395 F.3d 1343 must be reversed or clarified as the cases cited by the Timken - 354 F.3d 1334 court are pre-URAA cases.[54] ASI and Teamway argue that the provisions of section 777(d)(1)(B) of the Act are rendered superfluous as long as the Department is permitted to zero out non-dumped sales in the manner it does because it contains a specific statutory provision to combat masked or "targeted" dumping.

ASI also argues that the Department's practice of zeroing violates Articles 2 and 9 of the WTO Antidumping Agreement because zeroing distorts dumping margins and values. Likewise, WTO disputes have determined that the Department's use of zeroing in antidumping proceedings violates the United States' obligations under the WTO Antidumping Agreement. In addition, ASI maintains that the Department has been inconsistent in its statutory interpretation of section 773(35)(b) of the Act. ASI states that, in view of the Department's change of administrative practice with respect to investigations, it can only defend the continued use of zeroing in administrative reviews on a statutory interpretation that the meaning of "weighted average dumping margin" in section 773(35)(b) of the Act differs between investigations and administrative reviews. It argues, however, that the CAFC expressly rejected such a distinction in Corus Staal - 395 F.3d 1343, a case decided after Timken - 354 F.3d 1334, in which the CAFC found no basis for applying a different statutory analysis in investigations than reviews.[55] ASI concludes that while both the CIT and the CAFC have previously held that, given the ambiguous language of section 773(35)(b) of the Act, the Department was permitted to interpret the term "weighted average dumping margin" in a manner that zeroes negative dumping margins, no court has ever held that the Department may interpret that term in a manner that results in zeroing in administrative reviews but not in investigations, and the decision of the CAFC in Corus Staal - 395 F.3d 1343 appears to expressly foreclose such an interpretation.

Petitioners respond that the Department's zeroing practice is a longstanding methodology that has been upheld by the CAFC, which has also held that rulings from the WTO dispute settlement body are not binding in U.S. courts. Petitioners state that because the Department has not changed its policy, it should continue its practice of zeroing in the final results of this administrative review.

Department's Position: We disagree with ASI and Teamway and have not revised our calculation of the weighted-average dumping margins for the final results of this review with respect to "zeroing."

Section 771(35)(A) of the Act defines "dumping margin" as the "amount by which the normal value exceeds the EP or CEP of the subject merchandise." Outside the context of antidumping

[54] See Corus Staal - 395 F.3d 1343.

[55] See Corus Staal - 395 F.3d 1343, at 1343, 1347.

investigations involving average-to-average comparisons, the Department interprets this statutory definition to mean that a dumping margin exists only when NV is greater than EP or CEP. As no dumping margins exist with respect to sales where NV is equal to or less than EP or CEP, the Department will not permit these non-dumped sales to offset the amount of dumping found with respect to other sales. The CAFC has held that this is a reasonable interpretation of the statute.[56]

While the Department has modified its calculation of weighted-average dumping margins when using average-to-average comparisons in antidumping investigations, the Department has not adopted any other modifications concerning any other methodology or type of proceeding, such as administrative reviews.[57]

ASI has cited to a WTO report finding the denial of offsets by the United States to be inconsistent with the WTO Antidumping Agreement. As an initial matter, the CAFC 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.[58] Congress has adopted an explicit statutory scheme in the URAA for addressing the implementation of WTO reports.[59] As is clear from the discretionary nature of this scheme, Congress did not intend for WTO reports to automatically trump the exercise of the Department's discretion in applying the statute.[60] 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.[61] With regard to the denial of offsets in administrative reviews, the United States has not employed this statutory procedure. With regard to the WTO zeroing litigation, it is the position of the United States that appropriate steps have been taken in response to that report and those steps do not involve a change to the Department's approach of calculating weighted-average dumping margins in the instant administrative review.

For all these reasons, the various WTO reports regarding "zeroing" do not establish whether the Department's denial of offsets in this administrative review is consistent with U.S. law. Accordingly, and consistent with the Department's interpretation of the Act described above, the Department has continued to deny offsets to dumping based on export transactions that exceed NV in this review.

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56 See e.g., Timken - 354 F.3d 1334, at 1342; Corus Staal - 395 F.3d 1343, at 1347-49.

57 See Zeroing Notice 77724.

58 See Corus Staal - 395 F.3d 1343, at 1347-49; accord Corus Staal - 502 F.3d. 1370 NSK - 510 F.3d 1375.

59 See, e.g., 19 U.S.C. 3538.

60 See 19 U.S.C. 3538(b)(4) (implementation of WTO reports is discretionary).

61 See 19 U.S.C. 3533(g); see, e.g., Zeroing Notice, at 77722.

We disagree with ASI's argument that the Department cannot interpret the Act differently in investigations and administrative reviews. The CAFC has found the language of section 771(35) of the Act to be ambiguous.[62] Furthermore, antidumping investigations and administrative reviews are different proceedings with different purposes. Specifically, in antidumping investigations, the Act specifies particular types of comparisons that may be used to calculate dumping margins and the conditions under which those types of comparisons may be used.[63] The Act discusses the types of comparisons used in administrative reviews.[64] The Department's regulations further clarify the types of comparisons that will be used in each type of proceeding.[65] In antidumping investigations, the Department generally uses average-to-average comparisons, whereas in administrative reviews the Department generally uses average-to-transaction comparisons.[66] The purpose of the dumping margin calculation also varies significantly between antidumping investigations and reviews. In antidumping investigations, the primary function of the dumping margin is to determine whether an antidumping duty order will be imposed on the subject imports.[67] In administrative reviews, in contrast, the dumping margin is the basis for the assessment of antidumping duties on entries of merchandise subject to the antidumping duty order.[68] Because of these distinctions, the Department may interpret section 771(35) of the Act differently in the context of antidumping investigations involving average-to-average comparisons than in the context of administrative reviews.

Also, ASI's reliance on Corus Staal - 395 F.3d 1343 is misplaced. The CAFC in Corus Staal - 395 F.3d 1343 did not hold, as respondents allege, that section 771(35) of the Act could not be interpreted differently in antidumping investigations and administrative reviews. Rather, after acknowledging that antidumping investigations and administrative reviews were different proceedings, the court held that the Department's zeroing methodology was equally permissible in either context.[69] Moreover, we note that the CAFC recently affirmed the Department's denial of offsets in the context of administrative reviews.[70] Specifically, the CAFC found that the Zeroing Notice had no effect on the Department's ability to deny offsets in administrative

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[62] See Timken - 354 F.3d 1334, at 1342.

[63] See section 777A(d)(1) of the Act.

[64] See section 777A(d)(2) of the Act.

[65] See 19 CFR 351.414.

[66] See 19 CFR 351.414(c).

[67] See sections 735(a), (c), and 736(a) of the Act.

[68] See section 751(a) of the Act.

[69] See Corus Staal - 395 F.3d 1343, at 1347.

[70] See Corus Staal - 502 F.3d. 1370 at 1375.

reviews, and, as such, the judicial precedent upholding the Department's zeroing methodology in administrative reviews remains binding.[71]

For the foregoing reasons, we have not changed the methodology employed in calculating the respondents' weighted-average dumping margins for these final results.

IV. SURROGATE VALUES

Comment 5: Wrong Standard for Accepting Respondents Proposed HTS Classifications

Petitioners argue that for numerous FOPs the Department accepted and used inadequate descriptions from the respondents in the Preliminary Results. Further, Petitioners contend that the Department failed to require respondents to carry their established burden to provide sufficient factor descriptions to demonstrate the accuracy and appropriateness of their asserted classifications and applied the incorrect standard. Petitioners cited the following cases in support of its argument: Zenith v. United States and Mannesmannrohren-Werke v. United States. Petitioners assert that by accepting these classifications for which respondents failed to provide sufficient support on the record, the Department failed to ensure that the most accurate surrogate valuations are used to calculate the dumping margins. Petitioners currently propose that the Department base the surrogate value on the most accurate HTS description based on available record evidence. Petitioners state an example that when a respondent proposed using an 8-digit HTS item, but only supplied evidence that allows classification at the 4-digit HTS heading level, the Department should use the 4-digit heading.[72] Petitioners specifically point to Teamway's submitted factor descriptions. Petitioners explained in its Pre-Preliminary Results Comments on January 15, 2008 that the supplemental factor descriptions provided by Teamway in its November 8, 2007 submission are deficient because they lack detailed descriptions of the raw materials that support the daily operations of its factory. Petitioners asserted that detailed descriptions are critical for accurate surrogate value calculations and Teamway bears the burden of providing sufficient descriptions to allow the accurate classifications of its FOPs. Petitioners also provided examples of factors that it claimed were misclassified by Teamway. Additionally, in their case brief, Petitioners state that Teamway has not provided any additional factor description information. Therefore, Petitioners argue, many of Teamway's factors should be classified using adverse inferences and/or using 4-digit HTS headings.

ASI responds that while Petitioners raise a general claim regarding respondents' alleged lack of proper raw material descriptions to justify the proposed HTS classifications, they raise no specific claims alleging that the Dare Group's raw material descriptions or its proposed HTS classifications are faulty. Therefore, ASI contends that Petitioners' allegations should be ignored.

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[71] See id.; see also SNR Roulements - 521 F. Supp. 2d 1395 at 1398 (finding that, regardless of the Zeroing Notice, no changed circumstances have occurred with respect to zeroing in administrative reviews).

[72] See, e.g., WBF - PRC 08/22/07 and IDM at Comment 8 ("Where the input description was too vague, the Department valued that input broadly, using classifications suggested by Petitioners, or determined the proper classification based on the best available information.").

Department's Position: The Department disagrees with Petitioners. Largely, Petitioners' arguments allege non-specific errors which cannot be addressed. With regard to using 4- versus 8-digit HTS categories, the Department has only employed 8-digit categories where FOP descriptions correspond to the HTS category descriptions. With regard to Teamway, the Department finds the further description provided in its second supplemental questionnaire submission adequate. As for Petitioners' reference to Mannesmannrohren-Werke v. United States and Zenith v. United States, these cases merely state that the burden to respond to the questionnaires and to develop the record is on the respondents. In Petitioners' Pre-Preliminary Results Comments, they argue that Teamway failed to provide additional adequate factor description information. However, Petitioners' Pre-Preliminary Results Comments only address Teamway's classification descriptions from its first supplemental response. We identified the deficiencies from Teamway's November 8, 2007 Submission in the Department's third supplemental questionnaire dated November 13, 2007. We determined that Teamway's November 26, 2007 Submission contained additional factor description information and that Teamway provided satisfactory responses to the third supplemental questionnaire. We examined its submission and were able to find the surrogate values in the WTA that fit its descriptions. Thus, we disagree with Petitioners and determine that Teamway met its burden to respond to the Department's request for information. With respect to particular inputs that Petitioners address elsewhere, the Department has utilized the best available information on the record of the proceeding to value each input, and has addressed specific arguments with respect to valuation, as appropriate, throughout this memorandum. Therefore, for the final results, we have determined that it is generally appropriate to continue to use the HTS classifications from our preliminary results with the exceptions noted within this Issues and Decision memorandum.

Comment 6: Indian Surrogate Value Information Has Been Provided for the Dare Group and Teamway

Petitioners state that for the purposes of the final results, they have provided Indian surrogate value information for all of the Dare Group's and Teamway's FOPs.[73] Petitioners argue that the Department should use the factor information provided in Attachment 40 for the Dare Group. Petitioners contend that the Dare Group did not submit MEP information for certain disaggregated factors and recommend that the Department apply either facts available or partial AFA to value these disaggregated MEP factors. Further, Petitioners state that the Department should also value certain factors of the Dare Group's sold-but-not-produced merchandise using Indian FOPs for the final results. Finally, Petitioners also provided Indian HTS surrogate value recommendations for Teamway's FOPs. Additionally, Petitioners state that if the Department uses SAS language similar to that used in the Preliminary Results, it should change the variable names for the certain POR1 factors in order to be consistent with the factor names reported in Exhibit C36 of the Dare Group's March 31, 2008 Questionnaire Response.

ASI responds that the Department should reject Petitioners' arguments regarding Indian surrogate values to apply to the Dare Group's "sold-but-not-produced" sales. ASI claims that Petitioners' raise no methodological issue with the manner in which the Department based NV for the sold-but-not-produced CONNUMs on the prior year's data. ASI contends that

[73] See Petitioners' July 17, 2008 Case Brief at Attachments 32, 40-43.

Petitioners' aim is to switch the Philippines surrogate values to Indian surrogate values and have the Department penalize the Dare Group for failure to describe and group its inputs according to Petitioners' liking.

Department's Position: As stated in our position of surrogate country, the Department has determined that it will continue to use the Philippines as the primary surrogate country for the final results.[74,75] Further, we continue to find that the Department has determined not to apply AFA or partial AFA with respect to the Dare Group's disaggregated purchases because the Dare Group cooperated to the best of its ability.[76] In applying facts otherwise available, we have determined to use the AUV for Indian HTS 9403.50 which has two sub-categories at the eight-digit level: HTS 9403.50.10 - "Other Furniture and Parts Thereof; Wooden furniture of a kind used in the bed room, Bed Stead" and Indian HTS 9403.50.90 - "Other Furniture and Parts Thereof; Wooden furniture of a kind specific to the input in question, (i.e., semi-finished furniture).[77] With regard to the Dare Group's certain disaggregated FOPs for MEPs, the Department has determined to use the FOPs reported in the grouping used in POR1 because they are more specific than the POR2 grouping initially used by the Dare Group in this review. For further discussion of this issue, see Comment 14. With regard to Petitioners' statement that the Department should change the variable names for certain POR 1 factors in order to be consistent with the factor names reported by the Dare Group's March 31, 2008 Questionnaire Response, see Petitioners' Case Brief at 160, fn 505. The Department agrees with Petitioners and has changed the variable names to reflect the names reported by the Dare Group in order to maintain consistency in its reporting.

Comment 7: Brokerage And Handling, Diesel Fuel, Water, Electricity, and Freight

Petitioners stated that they provided source documentation and calculation worksheets for brokerage and handling expenses and diesel fuel in India during the POR in Petitioners' Post-Preliminary Indian Financial Statements PAI to value FOPs. Petitioners also state that Indian SVs for water, electricity, truck freight, and rail freight were provided in Petitioners' SV Submission.

Respondents did not provide a comment on this issue.

Department's Position: In their case brief, Petitioners stated they provided Indian information for calculating SVs for brokerage and handling expenses, diesel fuel, water, electricity, and freight that they previously submitted to the Department.[78] In the Preliminary Results, we

[74] Except for certain inputs as described in the position of surrogate country.

[75] See Comment 1.

[76] See Comment 14 for a detailed explanation.

[77] See Comment 12.

[78] See Petitioners' SV Submission and Petitioners' Post-Preliminary Indian Financial Statements PAI.

determined that the surrogate financial data from the Philippine companies better reflect the overall experience of producers of comparable merchandise in a surrogate country.[79] The Department continues to find that the Philippines is an appropriate surrogate country from which we can obtain reliable, accurate information.[80] It is the Department's practice to use data from the primary surrogate country whenever such data are available and meet the relevant criteria for valuing FOP information.[81] Moreover, unlike the inputs for which we are using Indian values (e.g., fir wood), these are not principle inputs.[82] Thus, for these final results, we are continuing to use the Philippine data to value brokerage and handling expenses, diesel fuel, water, electricity, and freight.

Comment 8: Accurate Conversion Factors for Lumber and Board

Petitioners claim that the "average wood" conversion factor submitted by Teamway and used by the Department in the Preliminary Results was not supported by any documentation and contrary to the Department's methodology in the first administrative review. Petitioners state that there can be a significant difference in the density between lumber and board which is not evident in the "average wood" conversion factor. Petitioners argue that there are more specific conversion factors available on the record, and that the Department has used these in prior segments of this proceeding. Therefore, for the final results, Petitioners argue that the Department should use the more specific conversion factors for lumber and board.

ASI responds that it agrees in principle with Petitioners' statement that the Department should use more specific conversion factors for the final results and notes that the same justification supports ASI arguments regarding several FOPs (i.e., conversion rate for semi-finished furniture, plywood, and woodscrap).

Department's Position:

We have examined the record evidence and determined that there are specific kilogram/M^3 conversion factors for lumber and board on the record of this review which are more specific than the conversion factors we employed in the Preliminary Results.[83] Therefore, for the final results, we have used the more specific conversion factors in our calculations. For specific conversions, see Final FOP Memo. With regard to ASI's arguments pertaining to conversion factors for semi-finished furniture, plywood and woodscrap, see Comment 12, Comment 19 and Comment 20.

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[79] See Comment 1, "Surrogate Country."

[80] Id.

[81] See 19 CFR 351.308(c)(2), see also, Preliminary Results.

[82] See Comment 1, "Surrogate Country."

[83] See Petitioners' Submission of Factual Information at Tab 234 (August 31, 2007).

Comment 9: Accurate Average Unit Values

Petitioners argue that in the Preliminary Results, the Department made erroneous AUV calculations for Philippine HTS codes, citing to their March 28, 2008, submission in support. Petitioners also state that the Department must ensure that, for the AUVs used in the final results, calculations are made using data that accurately correspond to the identified HTS numbers. Further, Petitioners state that factors valued using Philippine classifications should use the HTS classification (harmonized at the four- and six-digit levels) identified in Petitioners' tables of recommended surrogate values.

Respondents did not provide comments on this issue.

Department's Position: The Department is unable to evaluate Petitioners' argument because it is not sufficiently specific to allow the Department to understand which values were incorrectly calculated. Largely, Petitioners' arguments are non-specific and cannot be addressed. For example, Petitioners state that the Department should use Petitioners' recommended surrogate values and cite generally to their table of recommended surrogate values. Similarly, Petitioners' argument contained in its March 28, 2008, submission failed to specify what errors were made in the HTS calculations used in the Preliminary Results. To the extent the purported calculation error relates to corrupted import data, see Corruption of Certain WTA Philippines Import Data Comment 22.

Comment 10: Philippine Financial Statements

ASI argues that the Department should include in its average surrogate financial ratio calculations for the final results, the financial statement for the four Philippine companies (i.e., Berbenwood, Arkane, Legacy, and Antonio Bryan) it placed on the record after the Preliminary Results. ASI contends, while citing the Philippine financial statements and other record evidence, that each of these companies is a producer of wooden furniture. ASI also argues that the Department should adopt ASI's proposed financial ratio calculations for each of these companies. Additionally, ASI argues that for the final results, the Department should include Cebu's financial statements in the financial ratios calculations because the information the Department identified as "missing" in the Preliminary Results is included within Cebu's financial statements.

Petitioners argue that the Department should not use the Philippine financial statements because they are not usable. Petitioners further argue that many more of the Indian financial statements than the Philippine financial statements are usable.

In its rebuttal, ASI argues that the Department should not use the financial statements from the Indian companies because these companies are not limited to the production of furniture.[84] ASI also agrees with petitioners that surrogate companies do not need to be producers of WBF in

[84] ASI refers to the information on the record for the following Indian producers: D.S. Doors Pvt. Ltd., Jayabharatham Furniture and Appliances Private Ltd. and Turya Lifestyle Furniture and Dream Homes Private Limited.

order to be comparable to Chinese WBF manufacturers. ASI maintains that the Department previously determined that comparable merchandise for the purposes of this WBF administrative review is furniture, including wooden furniture. ASI contends that many, if not most, of the surrogate companies that the Department used in this and other NME cases manufacture a wider product line than those strictly covered by the antidumping investigations and or reviews.[85] ASI argues that the Department should use the financial statements from the Philippine furniture companies because they are significant producers of furniture, are profitable, and there is no evidence they are subsidized.

In its rebuttal, petitioners argue that the Department properly rejected Cebu's financial statements in the Preliminary Results because those statements are incomplete (i.e., they are missing the explanatory notes concerning the company's accounting policies, the statement of management responsibility, the statement of changes in stockholders' equity, and the statement of cash flows). Petitioners assert that the Department's established practice is to disregard incomplete financial statements as a basis for calculating surrogate financial ratios where financial statements are missing key sections.[86] Petitioners cite to Silicomanganese - Kazakhstan 04/02/02 where the Department determined that a financial statement was incomplete because it lacked an auditor's statement and the accounting notes to the financial statements.[87]
Department's Position: Because the Department has determined to continue using the Philippines as the surrogate country in this proceeding, for the final results, we are calculating the surrogate financial ratios using financial statements from Philippine companies. See The Department's position for surrogate country in Comment 1 above. While the Petitioners argue against the use of Philippine financial statements due to the lack of specificity as compared to the financial statements from India and concerns over "widespread questionable accounting activities" in the Philippines, the Department finds these arguments unpersuasive. As mentioned in Comment 1 above, we did not choose the Philippines as the surrogate country based simply on the quality and specificity of the surrogate financial statements. We have multiple surrogate financial statements from both India and the Philippines on the record of this review. A lack of Director's statement does not demonstrate that the Philippine financial statements are less reliable than statements with a Director's statement. Although Petitioners point to allegations as to the accounting practices in the Philippines, they have not demonstrated specific problems or misdeeds with regard to the individual Philippine companies' accounting practices on the record of this review. All the financial statements relied upon by the Department are audited. The Department cannot make a determination that a particular company's financial statements are unreliable based on unsound accounting practices without specific evidence regarding that company's activities.

Petitioners additionally contend that the Philippine financial statements are unsuitable because they do not always break out labor costs between manufacturing and overhead labor, however, all of the financial statements selected for use by the Department contain such a break-out.

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[85] See, e.g., OTR Tires - PRC - AD - 07/15/08 IDM at Comment 17.B.

[86] Citing Rebar - Belarus 06/22/01 IDM at Comment. 2.

[87] Citing Silicomanganese - Kazakhstan 04/02/02 IDM at Comment. 3.

Additionally, Petitioners argue that the cost of purchased finished goods for resale are included in the same category as the companies' raw material costs, however, this is only the case for one financial statement (i.e., Calfurn). As further discussed below, this does not make the financial data from Calfurn or our financial ratios distorted because both the revenues and expenses associated with the sale of identical or comparable merchandise are included and, therefore, the financial ratio calculations are on the same basis.

During the course of this administrative review, parties placed seven publicly available Philippine financial statements[88] on the record of this proceeding. In the Preliminary Results, the Department used two surrogate financial statements from Philippine companies to calculate the surrogate financial ratios: Calfurn and Insular and determined that the Cebu's financial statements were not suitable for use in deriving the surrogate financial ratios. Specifically, consistent with the Department's practice not to use incomplete financial statements when calculating surrogate financial ratios, [89] we determined that Cebu's financial statements were not suitable for use because they did not contain several of Cebu's audited statements (i.e., "Changes in the Stockholders' Equity" and "Cash Flows" statements) identified in Cebu's Auditor's Report.

In light of the parties' arguments, we have reviewed Cebu's financial statements, to determine their appropriateness for use in calculating surrogate financial ratios for the final results. Regarding ASI's argument that Cebu's "missing" information is included within their financial statements, ASI maintains that Cebu's statement of changes in stockholders' equity and statement of cash flows can be found in Cebu's balance sheet (i.e., in the "Liabilities and Stockholders' Equity" section of the balance sheet). However, we find that Cebu's auditor's report specifically states that they "audited the accompanying Balance Sheet of . . . Cebu, . . . and the related Statements of Income, changes in Stockholder Equity and Cash Flows."[90] Additionally, auditor's reports on the record for other Philippine companies using the exact same language contained separate statements for the balance sheet and the related statements of income, changes in stockholder equity and cash flows.[91] Cebu's auditor's report, unlike Insular Rattan's auditor's report, specifically references additional reports that were not placed on the record.[92] Petitioners argue that based on the statements in Legacy's financial statements, it is clear that Insular Rattan's financial statements are incomplete. We disagree. Legacy's financial

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[88] The seven Philippine financial statements are from the following companies: 1) Calfurn, 2) Insular Rattan, 3) Cebu, 4) Berbenwood, 5) Antonio Bryan, 6) Arkane, and 7) Legacy.

[89] See, e.g., Ironing Tables – 03/18/2008 IDM at Comment 1 and Rebar-Belarus 06/22/01 IDM Comment 2 (Department chose not to use a financial statement because "financial statement on the record appears incomplete").

[90] See ASI Pre-Preliminary Comments that includes Cebu's auditor's report and financial statements at "Independent Auditor's Report" first paragraph.

[91] See e.g., ASI Pre-Preliminary Comments at Calfurn's auditor's report and financial statements; and see, also, ASI Post -Preliminary Comments at Antonio Bryan and Berbenwood's auditor's report and financial statements (where each auditor's report uses the exact language as Cebu's and included the "Changes in the Stockholders' Equity" and "Cash Flows" statements.

[92] See ASI Pre-Preliminary Comments at Insular Rattan's "Independent Auditor's Report" first paragraph.

statements list only the Philippine Financial Reporting Standards (e.g., "PAS" 1, "PAS" 2, and "PAS" 21) relevant to Legacy.[93] It is clear from the number of the "PAS" used by Legacy that it did not use every "PAS" in the "Philippine Financial Reporting Standards."[94] Thus, contrary to Petitioners' argument it is unclear that the reporting descriptions in Legacy's financial statements are mandatory. Most importantly, Insular Rattan's auditors clearly state Insular Rattan was in accordance with the Philippine Financial Reporting Standards.[95] Moreover, there are no notes or reports referenced but not included in the financial statements or clearly missing pages, to make us believe or suspect that pages or notes are missing from Insular Rattan's financial statements. For these reasons, we find that Insular Rattan's financial statements are complete and we are utilizing them in these final results. While we agree that year end balances contained within the balance sheet may be included in the statement of changes in stockholders' equity and statement of cash flows, we disagree that these balance sheet amounts act as replacements for the "missing" statements because these statements contain much more than just an ending balance.[96] Thus, consistent with the Department's practice to only use financial statements that are complete for calculating financial ratios,[97] for the final results, we continue to find Cebu's financial statements not suitable for use because they do not contain two of Cebu's audited statements (i.e., "Changes in the Stockholders' Equity" and "Cash Flows" statements). Likewise, we find that it is appropriate to use Insular Rattan's financial statements because they include all of the statements referenced in the auditor's report. Regarding petitioners argument that Cebu's financial statements are missing a "statement of explanatory notes concerning the company's accounting policies" and a "statement of management responsibility," we were unable to find a reference to either of these statements in Cebu's auditor's report. Thus, we determined that these statements are not relevant to Cebu's financial statements and the only statements we continue to find missing in Cebu's financial statements are the "Changes in the Stockholders' Equity" and "Cash Flows" statements.

Regarding ASI argument that the Department should include Berbenwood's, Arkane's, Legacy's, and Antonio Bryan's financial statements that ASI placed on the record after the Preliminary Results in the Department's average surrogate financial ratio calculations for the final results, we agree in part. Guidance regarding surrogate values for manufacturing overhead, general expenses, and profit is provided by 19 CFR 351.408(c)(4), which states that these values will normally be based on public information from companies that are in the surrogate country

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[93] See ASI Post-Preliminary Comments at Legacy's "Financial Statements ASI Pre-Preliminary Comments at Insular Rattan's "Independent Auditor's Report" first paragraph.

[93] See ASI Post-Preliminary Comments at Legacy's "Financial Statements and Auditor's Report" at Notes pages 2 - 5.

[94] See ASI Post-Preliminary Comments at Legacy's "Financial Statements and Auditor's Report"

[95] See ASI Pre-Preliminary Comments at Insular Rattan's "Independent Auditor's Report" paragraph six.

[96] See e.g., ASI Pre-Preliminary Comments at Calfurn's financial statements and see also, Post-Preliminary Comments at Antonio Bryan's and Berbenwood's financial statements.

[97] See, e.g., Ironing Tables – 03/18/2008 IDM at Comment 1 and Rebar-Belarus 06/22/01 IDM Comment 2 (Department chose not to use a financial statement because "financial statement on the record appears incomplete").

and that produce merchandise that is identical or comparable to the subject merchandise.[98] While the statute does not define "comparable merchandise," it is the Department's practice to apply a three-prong test that considers physical characteristics, end uses, and production processes.[99] In order to address the concerns of ASI and the Petitioners, we have evaluated the production of Calfurn, Insular Rattan, Berbenwood, Arkane, Legacy, and Antonio Bryan based on this three-prong test to determine if their production is of merchandise comparable to wooden bedroom furniture. With regard to physical characteristics and end uses, we find that Calfurn's,[100] Insular Rattan's,[101] Berbenwood's,[102] and Antonio Bryan's[103] financial statements clearly indicate that these companies produce identical and/or comparable merchandise because they all produce furniture. It is clear from the record that Calfurn, Insular Rattan, and Berbenwood all produce wooden furniture. While it is not clear from the record whether or not Antonio Bryan produces wooden furniture it clearly produces furniture. We disagree with Petitioners' contentions that the appropriate surrogate financial statements must be for companies that either solely produce WBF or disaggregate its production of furniture based on the type of material used. Because furniture of different types of materials can be considered comparable based on the statutory requirements, we find that Calfurn's, Insular Rattan's, and Berbenwood's financial statements lack of disaggregation between furniture made of wood and other materials do not prevent these companies' financial statements from representing quality data for companies that produce both identical or comparable merchandise. As all of these companies sell furniture, the Department also finds that these companies' products have end uses similar to WBF. Finally, there is no record evidence to suggest that any of these companies have production processes different from WBF manufacturers (e.g., all these companies engaged in the manufacturing of furniture). For all these reasons, the Department determines that Calfurn, Insular Rattan, Berbenwood, and Antonio Bryan are producers of merchandise that is comparable to WBF.

We have also evaluated the production of Arkane and Legacy based on this three-prong test to determine if its production is of merchandise comparable to wooden bedroom furniture. With regard to physical characteristics and end uses, we find that both Arkane and Legacy produce furniture. However, Arkane is also engaged in small scale mining operations of limestone.[104]

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[98] See, e.g., CLPP – PRC 09/08/06, IDM at Comment 1.

[99] See Cased Pencils – PRC 7/25/02, IDM at Comment 5.

[100] See ASI Pre-Preliminary Comments at Calfurn's "Independent Auditor's Report" at Note 1 (". . . the business of manufacturing, selling, and dealing in furniture. . .") and at print outs of Calfurn's webpage (" . . . making the best quality furniture products out of rattan, wood . . ." and showing wooden bedroom furniture).

[101] See ASI Pre-Preliminary Comments at print outs of Insular Rattan's webpage (stating "manufacturer of fine quality furniture" and showing wooden bedroom furniture).

[102] See ASI Post-Preliminary Comments at a print out of Berbenwood's webpage ("leading manufacturers of quality furniture crafted from wood . . .").

[103] See ASI Post-Preliminary Comments at Antonio Bryan's "Financial Statements and Auditor's Report" at Note 1 (". . . engaged in the manufacturing and exporting of furniture and home accessories").

[104] See ASI Post-Preliminary Comments that includes Arkane's financial statements at "Notes to the Financial Statements" in "Note 2- Summary of Significant Accounting Policies."

Further, Arkane's statements do not indicate to what extent the company devotes to production of limestone, which is not physically similar nor does it have the same end use as that of wooden bedroom furniture. Therefore, we have determined that even though Arkane produces furniture the fact that their statements do not indicate to what extent it produces limestone, other than "small scale," limestone does not have similar physical characteristics or end uses to that of wooden furniture. Additionally, there is no information in Arkane's financial statement describing the mining processes employed to produce limestone that would enable the Department to disaggregate the mining operations from the furniture production. Thus, we have determined that Arkane's total production is not of merchandise comparable to wooden bedroom furniture producers. For Legacy, we examined their financial statements and found that Legacy also engages in the production of a wide range of accessories and non-furniture items (e.g., "fixtures and other furnishings and accessories, including their component parts and materials of every nature and design and description and other kinds of merchandise articles or items as may be necessary").[105] With regard to physical characteristics and end uses, we find that while Legacy's production experience of furniture may be similar to those used by wooden bedroom furniture producers, its non-furniture production is not physically similar nor does it have the same end use as that of furniture. Additionally, there is no information in Legacy's financial statement describing the production processes employed to produce the non-furniture items that would enable the Department to disaggregate the non-furniture production from the furniture production. Thus, we have determined that Legacy's total production is not of merchandise comparable to wooden bedroom furniture producers.

Regarding Petitioners' concerns with Calfurn's trading activities; these trading activities are related to identical or comparable merchandise. As such, these trading activities do not warrant a determination that the financial ratios are distorted or unusable for purposes of WBF surrogate financial ratios. Petitioners are correct that Calfurn's financial statements do not break out the portion of costs associated with trading activities. While it may be the case that the Department breaks out costs associated with trading activities when possible, nothing precludes us from using financial statements that do not break out the portion of costs associated with trading activities. Given the absence of record evidence indicating the trading activities account for a major component of Calfurn's costs, we find it appropriate to use Calfurn's financial statements to calculate financial ratios.

Where financial statements of producers of identical merchandise are available and not distorted or otherwise unreliable, it is the Department's practice in NME proceedings to use, whenever possible, surrogate-country producers of identical merchandise for surrogate-value data.[106] In this case, we have available for use, financial statements of producers of comparable merchandise that are not distorted or otherwise unreliable that can be used for surrogate-value data. Based on these criteria, we find the financial statements of Calfurn, Insular, Berbenwood, and Antonio Bryan to be the most appropriate to value the overhead, SG&A, and profit for the respondent companies in the final results of review because they are producers of identical and/or comparable merchandise, contemporaneous, publicly available, and comparable to the

[105] See ASI Post-Preliminary Comments that includes Legacy's financial statements at "Notes to Financial Statements" in "Note 1- Corporate Information."
[106] See, e.g., Shrimp – PRC 12/8/04, IDM at Comment 9F.

respondents' experience.[107] Further because the Department has determined to continue using the Philippines as the surrogate country in this review, selecting the Philippine companies' financial statements to calculate the financial ratios in the final results renders arguments put forth by the petitioner to use Indian financial statements to calculate the financial ratios in this final result moot.

Comment 11: Treatment of Certain Expense Items in the Financial Ratios

ASI and Teamway argue that, in accordance with the Department's normal practice and to avoid a mismatch between the surrogate financial ratios and the Dare Group's reported FOP, which separately identified fuel costs, the Department should classify Calfurn's and Insular Rattan's fuel expenses as "energy" and not as manufacturing OH or as SG&A. ASI also argues that when the Department calculates Cebu's financial ratios, it should classify the line item "13 month pay" as labor since this expense relates to labor time "not worked," which is accounted for in the ILO Chapter 5 wage rates.[108] In the financial ratio calculations that ASI put on the record after the Preliminary Results, ASI argues that the Department should adopt ASI's proposed financial ratio calculations for Antonio Bryan that treat "Employee Benefits & 13th Month" as ML&E (i.e., labor). ASI claims that the "Employee Benefits & 13th Month" SG&A expense includes within it pay for work "not done." ASI contends that this expense is accounted for in the ILO Chapter 5 wage rate as remuneration for work "not done," [109] such as annual vacation, other paid leave or holidays.

In their rebuttal, Petitioners argue that the Department should make several adjustments to the calculation of ASI's proposed surrogate financial ratios. First, consistent with the Department's normal practice to report factory-related energy costs in ML&E and to report energy costs related to SG&A items as part of SG&A, Petitioners argue that the Department should apply the separate line-items to the financial ratio calculations accordingly and not treat all energy costs as ML&E as ASI proposes. Petitioners contend that the Dare Group failed to evidence that its reported diesel fuel FOP includes total consumption of diesel. Further, Petitioners argue that just because the Dare Group reports its diesel cost as an energy FOP does not justify treating all energy costs in the surrogate financial calculations as part of ML&E. Second, consistent with the Department's practice to treat outside services (e.g., third party services, conversion charges, subcontractor charges, etc.) as factory overhead if energy and direct labor costs are identified separately in the financial statements,[110] Petitioners argue that the Department should treat Berbenwood's third-party services as factory OH, not as "material" as suggested by ASI. Third, consistent with the Department's practice to treat "taxes and licenses" or "taxes, fees and licenses" as SG&A, Petitioners argue that the Department should treat Legacy, Berbenwood, and Cebu "taxes and licenses" or "taxes, fees and licenses" expenses as SG&A and not exclude them

[107] See, e.g., Garlic - PRC 12/04/02 IDM at Comment 5. See also Final FOP Memo.

[108] Citing Shrimp - PRC 09/12/07 IDM at Comment 14.

[109] Citing to Shrimp - PRC 09/12/07 IDM at Comment 14.

[110] Citing OTR Tires - PRC - AD - 07/15/08 IDM at Comment 18F.

as ASI suggests. Fourth, consistent with the Department's practice to treat commission expense as SG&A, Petitioners argue that the Department should treat Antonio Bryan's commission expense as SG&A and not exclude the expense as suggested by ASI.[111] Finally, Petitioners argue that there is no record support for ASI's assumption to treat "13th month" expenses as labor expenses in the proposed calculations for Antonio Bryan and Cebu. Petitioners assert that to the extent such expenses can be assigned to a financial ratio category, the Department should allocate the "13th month" expenses to direct labor and to SG&A labor because these expenses apply to all employees, not just factory employees. Petitioners suggest that this could be done based on the ratio of reported direct labor and all other labor, as a function of total labor costs.

Department's Position: We have made several adjustments to the calculation of Calfurn's and Insular Rattan's surrogate financial ratios for the final results. Concerning ASI and Teamway's argument that Calfurn's and Insular Rattan's fuel costs should be treated as ML&E expense (i.e., "energy" expense) and not included as manufacturing OH, we agree. In deriving appropriate surrogate values for overhead, SG&A, and profit, the Department typically examines the financial statements on the record of the proceeding and categorizes expenses as they relate to ML&E, manufacturing OH, SG&A and profit, and excludes certain expenses (e.g., certain movement expenses and excise duty) consistent with the Department's practice of accounting for these expenses elsewhere.[112] In so doing, it is the Department's longstanding practice to avoid double-counting costs where the requisite data are available to do so.[113] In this proceeding, we reviewed Calfurn's and Insular Rattan's financial statements and determined that Calfurn's manufacturing OH "gas and oil" expense and Insular Rattan's manufacturing OH "fuel used" expense should be treated as ML&E (i.e., energy) related to respondent's reported FOPs because the respondent reported diesel oil as an energy FOP and these manufacturing OH fuel expenses relate to manufacturing.[114] Regarding Petitioners' argument that the Department should not treat Calfurn's and Insular Rattan's fuel cost as ML&E because the Dare Group failed to evidence that its diesel fuel FOP includes total consumption of diesel, we disagree. This argument is incorrectly premised on the assumption that the Department's surrogate value methodology closely matches the surrogate financial calculation to respondents' financial accounting. The surrogate value calculation is instead premised on the general behavior of the surrogate company and that of the respondents. Thus, the fact that the Dare Group reported a diesel FOP provides a reasonable basis to include Calfurn's and Insular Rattan's fuel cost in ML&E and to exclude it from manufacturing OH. Consequently, we have determined that to treat fuel costs in Calfurn's and Insular Rattan's financial statements as manufacturing OH would result in double counting of energy in this proceeding. Thus, for the final results, we have treated Calfurn's "gas and oil" and Insular Rattan's "fuel used" as ML&E related to the respondent reported FOPs.

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[111] Citing to OTR Tires - PRC - AD - 07/15/08 IDM at Comment 18.C.

[112] See Crawfish-PRC 04/17/07 IDM at Comment 1.

[113] See HSLW-PRC 01/24/08 IDM at Comment 6; Tissue Paper-PRC 10/16/07 IDM at Comment 2; and CVP-PRC 05/10/07 IDM at Comment 2, where in each case the Department clearly articulated its practice to avoid double-counting costs in calculating dumping margins.

[114] See Dare Preliminary Analysis Calculation Memo.

Regarding energy costs related to SG&A, we agree with Petitioners that the energy costs related to SG&A should be treated as SG&A and not as ML&E (i.e., energy). As stated above, in deriving appropriate surrogate values for overhead, SG&A, and profit, the Department typically examines the financial statements on the record of the proceeding and categorizes expenses as they relate to ML&E, manufacturing OH, SG&A and profit, and excludes certain expenses (e.g., certain movement expenses and excise duty) consistent with the Department's practice of accounting for these expenses elsewhere.[115] We reviewed Calfurn's and Insular Rattan's financial statements and determined that these companies included in their statements separate energy expenses for their manufacturing operations and for their SG&A activities. The Department has found no information on the record to evidence that Calfurn's and Insular Rattan's SG&A energy expense is directly attributable to manufacturing. This contrasts with the fuel expenses discussed above, which clearly relate to manufacturing. Thus, we find that it would be inappropriate to treat the SG&A energy as a manufacturing expense in ML&E when calculating the surrogate financial ratios. Accordingly, for the final results, we have treated Calfurn's and Insular Rattan's energy related to SG&A expense as SG&A.

In Berbenwood's financial ratio calculations that ASI put on the record, ASI treated "third party service" as material. After considering parties' comments, we agree with Petitioners that Berbenwood's outside services (i.e., third party services) should be treated as manufacturing OH when calculating Berbenwood's surrogate financial ratios and not as material. Thus, we have included "third party service" in the numerator of Berbenwood's manufacturing OH ratio calculation and in the denominator for its SG&A and profit calculation.[116] In deriving appropriate surrogate values for overhead, SG&A, and profit, the Department typically examines the financial statements on the record of the proceeding and categorizes expenses as they relate to ML&E, manufacturing OH, SG&A and profit, and excludes certain expenses (e.g., certain movement expenses and excise duty) consistent with the Department's practice of accounting for these expenses elsewhere.[117] In so doing, it is the Department's longstanding practice to avoid double-counting costs where the requisite data are available to do so.[118] In this proceeding, we reviewed Berbenwood's financial statements and determined that "note 4: Cost" clearly accounts for direct labor and energy as separate line items (i.e., "light and water," "personnel expenses," and "gasoline &oil"). Petitioners correctly note that it is the Department's practice to treat outside services as manufacturing OH if energy and labor costs are identified separately in financial statements.[119] Consequently, we have determined that ASI's proposed treatment of third party services as material would result in double counting in this proceeding because

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[115] See Crawfish-PRC 04/17/07 IDM at Comment 1.

[116] See Final FOP Memo.

[117] See Crawfish-PRC 04/17/07 IDM at Comment 1.

[118] See HSLW-PRC 01/24/08 IDM at Comment 6; Tissue Paper-PRC 10/16/07 IDM at Comment 2; and CVP-PRC 05/10/07 IDM at Comment 2, where in each case the Department has clearly articulated its practice to avoid double-counting costs in calculating dumping margins.

[119] See Crawfish-PRC 04/17/07 IDM at Comment 1.

Berbenwood's financial statements already account for direct labor and energy as separate line items. Thus, we have treated this item as a manufacturing OH cost for purposes of these final results. This is similar to our findings in Crawfish-PRC 04/17/07 IDM at Comment 1, where we stated that because direct labor and energy had been accounted for in separate line items in the surrogate producer's financial statement, the processing and freezing charges were properly allocated to the manufacturing OH portion of the calculation.[120]

Regarding Petitioners' argument that we should treat "taxes and licenses" or "taxes, fees and licenses" as manufacturing OH in Cebu's, Legacy's, and Berbenwood's surrogate financial ratios, we agree. However, because we have determined that Cebu's and Legacy's financial statements are not usable in the final results due to the incompleteness of Cebu's financial statements and Legacy is not a producer (i.e., Legacy's auditor's report indicates that it is not a manufacturer), the issue of whether to treat their "taxes and licenses" or "taxes, fees and licenses" as SG&A is no longer relevant in this review. We agree with Petitioners that Berbenwood's "taxes and license" line item should be treated as SG&A in its financial ratio calculations. As we stated above, the Department typically examines the financial statements and categorizes expenses as they relate to material, labor, energy, factory overhead, SG&A and profit, and then excludes certain other expenses (e.g., certain movement expenses, excise duty, sales tax, etc.). In determining the appropriateness of this items' inclusion or exclusion from Berbenwood's financial ratio calculations, we reviewed Berbenwood's surrogate financial information to determine the nature of the activity generating the taxes and/or license. For this item, we found no information on Berbenwood's financial statements to evidence that the taxes and license are excludable expenses (e.g., excise duty or sales tax, etc.). Because the Department has no information on the record that these expenses are excludable, we find that it would be inappropriate to exclude Berbenwood's "taxes and license" line item from SG&A when calculating the surrogate financial ratios. Accordingly, for the final results, we have treated Berbenwood's "taxes and license" line item as SG&A in its financial ratio calculations.

Regarding Petitioners' argument that we should treat "commission expense" as SG&A in Antonio Bryan's financial ratio calculations, we agree. In prior cases,[121] the Department has determined that the total selling expenses of the surrogate producer represent the total expenses incurred for selling the product, including commissions.[122] Also, as stated previously, it is the Department's longstanding practice to avoid double-counting costs where the requisite data are available to do so.[123] In this case, there is no evidence that the commission expense is valued in the Department's NV calculations. Thus, classifying commission expense as SG&A will not double count any of the respondents' reported FOPs. Accordingly, we have treated Antonio Bryan's "commission expense" as SG&A for the purpose of determining the surrogate financial ratios for these final results.

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[120] See also, TRBs-PRC 01/17/06 IDM at Comment 11, Garlic-PRC 06/16/04 IDM at Comment 6 (where we treated conversion costs as SG&A expenses).

[121] See e.g., Tissue Paper-PRC 02/14/05 IDM at Comment 2 and Crawfish - PRC 05/24/99 IDM at Comment 8.

[122] See e.g., OTR Tires - PRC - AD - 07/15/08 IDM at Comment 18.C.

[123] See HSLW-PRC 01/24/08; Tissue Paper-PRC 10/16/07 IDM at Comment 2; and CVP-PRC 05/10/07 IDM at Comment 2.

Regarding the treatment of Cebu's and Antonio Bryan's "13 month pay" expense, we disagree that this expense should be treated as ML&E in whole or in part. It is the Department's practice to avoid adjusting individual line items in surrogate financial statements because such adjustments may introduce unintended distortions into the data under the guise of increasing accuracy.[124] Because we have determined that we are not using Cebu's financial statements in the final results, the issue of whether to treat their "13 month pay" as ML&E is no longer relevant to this review. With regard to Antonio Bryan, an examination of its financial information indicates that Antonio Bryan treats "Employee Benefits & 13th Month" as SG&A. The Department has no information on the record to demonstrate otherwise. In order for this expense to be treated as ML&E, it would have to relate to expenses associated with production (e.g., factory worker's labor). However, ASI's only purported basis for treating this expense as ML&E is that Antonio Bryan separately lists welfare benefits and pays no retirement benefits. Even assuming these statements are correct, they do not evidence that the "Employee Benefits & 13th Month" expense relates to production. Thus, we find that it would be inappropriate to include Antonio Bryan's "Employee Benefits & 13th Month" expense in ML&E when calculating the surrogate financial ratios. Accordingly, consistent with the Department's practice to treat SG&A expenses as SG&A,[125] for the final results, we have treated Antonio Bryan's "Employee Benefits & 13th Month" expense as SG&A in its financial ratio calculation.

III. DARE GROUP

Comment 12: Whether to Apply Partial AFA to the Dare Group's Purchases of Semi-Finished Furniture from Unaffiliated Suppliers

Petitioners disagree with the Department's decision in its Preliminary Results to value the Dare Group's semi-finished furniture factor using a surrogate value and contend that the use of partial AFA is appropriate when calculating the Dare Group's margin in the final results.

Petitioners contend that the Dare Group has failed to cooperate to the best of its ability and has willfully impeded the conduct of this administrative review by hiding and obscuring information concerning its purchases of semi-finished furniture from unaffiliated Chinese producers, despite the fact that the purchased merchandise clearly falls within the scope of the antidumping order on wooden bedroom furniture. Petitioners also contend that the Dare Group's failure to report FOP databases for all of its unaffiliated producers of semi-finished furniture is grounds for the application of AFA, pursuant to section 776 of the Act.[126]

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[124] See Shrimp – PRC 12/08/04 IDM at Comment 2 ("Because the Department cannot adjust the line items of the financial statements of any given surrogate company, we must accept the information from the financial statement on an "as-is" basis in calculating the financial ratios").

[125] See e.g., WBF - PRC 12/06/06 at Comment 6.

[126] See e.g., Crawfish-PRC 10/11/00 and Crawfish-PRC 04/24/01, and Issues and Decision Memorandum, at Comments 13b and 13c.

Petitioners contend that the Dare Group's lack of disclosure and inadequate reporting with respect to its purchases of semi-finished furniture began with its very first submissions and continued throughout the course of this proceeding. Petitioners provide a chronology of events, which it contends, demonstrates the Dare Group's failure to cooperate to the best its ability. For example, Petitioners argue that the Dare Group:

- Represented that it did not export subject merchandise from unaffiliated producers;[127]
- Failed to forward "immediately" the Section D questionnaire to the unaffiliated Chinese producers of subject merchandise;[128]
- Did not identify semi-finished furniture in its initial August 20, 2007, Section D questionnaire response;[129]
- Inserted data without narrative discussion regarding its purchases of semi-finished furniture from unaffiliated Chinese producers in its December 17, 2007, supplemental questionnaire response and did not provide any explanation about these purchases until its January 24, 2008, Pre-Preliminary Comments;[130]
- Changed its allocation methodology for calculating indirect materials, direct labor, indirect labor, electricity, diesel, water, and scrap in its March 31, 2008, second supplemental questionnaire response.[131]

Further, Petitioners contend that the Dare Group intentionally withheld the factor-specific information that is required of suppliers of merchandise exported by a respondent.[132] Moreover, Petitioners argue that the Dare Group submitted no proof, other than mere assertions and form letters it claims to have sent to its unaffiliated producers in early November 2007, five months after the initial questionnaires were issued on June 21, 2007, and five months before it notified the Department on April 23, 2008, about its unsuccessful attempt to collect upstream factor data from its suppliers of semi-finished furniture.[133] Petitioners also assert that the Dare Group never sought assistance or guidance from the Department on how to obtain or present factor information for each of the unaffiliated suppliers of semi-finished furniture. Petitioners thus contend that the Dare Group's representation that it could not obtain this information is

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[127] See Petitioners' Case Brief at 77-78.

[128] See Petitioners' Case Brief at 78.

[129] See Petitioners' Case Brief at 79.

[130] See Petitioners' Case Brief at 79-82.

[131] See Petitioners' Case Brief at 83-84.

[132] See section 782(c)(1) of the Act and instructions contained in the Department's questionnaire.

[133] See Petitioners' Case Brief at 86-88.

insufficient in these circumstances and is another example of the Dare Group failing to cooperate and willfully impeding the conduct of this administrative review.[134] Finally, Petitioners contend that the Department's verification findings confirm that the Dare Group's purchases of semi-finished furniture are not an FOP in its production of subject merchandise.[135]

Petitioners assert that the Department considers FOP information from suppliers in an NME case "fundamental" to the calculation of an accurate dumping margin.[136] Petitioners argue that the Department also considers suppliers of respondent exporters to be interested parties, and that "their failure to provide factors information prevents the Department from calculating accurate dumping margins."[137] These scenarios, Petitioners contend, are consistent with the activities of the Dare Group (and its suppliers) in this review. Further, Petitioners contend that the Dare Group's ever-shifting assertions relating to its purchases of semi-finished furniture raise serious concerns about the accuracy and completeness of the record of this review.[138] Petitioners therefore contend that because the missing FOP information from the Dare Group's suppliers of semi-finished furniture is important, and because a significant volume of that information is missing from the record of this review, an adverse inference is warranted. Petitioners also argue that in numerous instances where respondents have engaged in similar practices, the Department

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[134] Id.

[135] See Petitioners' Case Brief at 89.

[136] See Foundry Coke-PRC 10/02/03 at 57872 (Respondent who failed to provide convincing evidence that its suppliers could not supply requested FOPs information necessary for calculating antidumping margin assigned AFA using highest margin from the investigation for all its sales).

[137] See Creatine Monohydrate-PRC 12/20/99 at 71109 (Respondents who failed to provide cost data from their suppliers were assigned AFA rate based on petition information, despite respondents' claim that the missing information affected a small percentage of sales).

[138] See Crawfish-PRC 04/21/03, and Issues and Decision Memorandum at 23 (Comment 7) ("To determine whether a respondent "cooperated" by "acting to the best of its ability" under section 776(b) of the Act, the Department also considers the accuracy and completeness of submitted information, and whether the respondent has hindered the calculation of accurate dumping margins.")

has imposed AFA.[139] Therefore, Petitioners contend, the use of partial AFA to value the Dare Group's purchases of semi-finished furniture from unaffiliated suppliers is appropriate when calculating the Dare Group's margin in the final results.[140]

In applying partial AFA, Petitioners contend that the Department should apply the highest non-aberrational margin to CONNUMS with semi-finished furniture.[141] Specifically, Petitioners contend that any CONNUM in which the factor for semi-finished furniture is greater than zero involves subject merchandise produced by unaffiliated Chinese producers for which the Dare Group should have provided Section D responses from those producers or, at a minimum, these producers' FOPs (as instructed by the Department in its April 11, 2008 questionnaire at Question 3). Therefore, Petitioners assert, for all sales where the CONNUM contains a number greater than zero for SEMI_FINISHED_FURNITURE, the Department should apply a dumping margin equal to the highest non-aberrational dumping margin based on the set of the Dare Group's U.S. sales for which the reported SEMI_FINISHED_FURNITURE equals zero.[142] Alternatively**,** Petitioners argue that the Department should apply a margin of 216.01 percent (the highest rate calculated in any prior segment of this proceeding and the rate that is applicable to the PRC-wide entity**)** to all U.S. sales where the CONNUM contains semi-finished furniture.[143, 144]

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[139] See e.g. Nails-PRC 06/16/08, 33977, 33985 (where the respondent failed to report three materials as inputs, despite numerous opportunities to do so, the Department imposed as partial AFA the highest single monthly usage rate for each material input, by CONNUM, and applied these rates to all months of the POI); Activated Carbon-PRC 03/02/07, and Issues and Decision Memorandum at Comment 20 (the Department applied partial AFA based on failure of suppliers to provide FOP data); Artist Canvas-PRC 03/30/06, and Issues and Decision Memorandum at Comments 8, 9, and 11 (the Department applied total AFA for the respondent's unreported FOPs relating to withheld information on factors comprising a significant element of artist canvas (i.e., essential components of the priming materials)); HFHTs-PRC 09/15/04, and Issues and Decision Memorandum at Comment 7 (respondent SMC did not report an FOP for finish coating for its axes/adzes and bars/wedges; Department applied total AFA to SMC's sales of axes/adzes because the supplier of axes/adzes refused to participate.); Crawfish-PRC 04/21/03, and Issues and Decision Memorandum at Comment 7 (respondent failed to provide accurate figures for total production and eight of 11 FOPs and, in consideration of the ease with which the failure likely could have been detected, the Department assigned AFA, using highest previous rate); Garlic-PRC 06/19/03, at 36768 (applying AFA when a supplier stated that it was unwilling to provide details on its production process or its FOP and the respondent did not provide an explanation as to why it or its supplier could not provide the FOP information); Cased Pencils-PRC 07/25/02, and Issues and Decision Memorandum at Comment 10 (finding that because there was no acceptable explanation on the record for the supplier's failure to provide FOP information, an adverse inference in applying facts available was warranted due to the supplier's failure to act to the best of its ability); and TRBs-PRC 11/15/99, 35590, 35599 (respondent did not provide requested input information in the proper format; the Department applied partial facts available using market price information to adjust respondent's reported total COM for each transaction in the COP and CV databases and the variable COM in the home market and United States sales databases).

[140] See Kawasaki Steel-110 F. Supp. 2d 1029, 1041. See also Ferro Union-74 F. Supp. 2d 1289, 1297.

[141] See Petitioners' Case Brief at 97-99.

[142] See Petitioners' Case Brief at 99.

[143] See e.g., Cold-Rolled Carbon Steel Flat Products-PRC 10/03/02 (applying the preliminary margin rate for respondent Pangang's failure to report a large percentage of U.S. sales).

[144] See Petitioners' Case Brief at 100.

Petitioners further argue that by submitting a list of the product codes for which the Dare Group used the "semi-finished furniture" as an "input" (which was not requested by the Department), it attempted to limit the application of partial AFA to the product codes that it has identified, rather than to the CONNUMs within which these product codes are found.[145] Petitioners contend that partial AFA cannot be applied at the product code level because the Dare Group has systematically understated its consumption for each direct material within each of these CONNUMs and has not provided the information necessary to correct its flawed CONNUM-specific factor reporting.[146] Therefore, Petitioners contend, the Department has no choice but to apply partial AFA to all CONNUMs that are tainted by the inclusion of subject merchandise produced by unaffiliated Chinese producers (i.e., for all CONNUMS where the SEMI_FINISHED_FURNITURE Field has a value greater than zero).[147]

Finally, Petitioners contend that if the Department determines that the Dare Group's semi-finished furniture FOP is an input into the production of subject merchandise, then the Department must assign this factor a surrogate value based on the Indian AUV for HTS subheading 9403.50 – "Other Furniture and Parts Thereof; Wooden furniture of a kind used in the bed room," rather than using the Philippines AUV for HTS 9403.50-"Other Furniture and Parts Thereof, Wooden, Bedroom," because, Petitioners argue, the Philippines AUV for 9403.50 is aberrational and understated.[148] Further, Petitioners contend that the problems with using an AUV that is based on Philippine HTS 9403.50 are not present when using an AUV that is based on Indian HTS 9403.50.[149]

ASI and the Dare Group[150] contend that the Department erred in concluding in the Preliminary Results that its semi-finished furniture inputs constituted scope merchandise. Further, they contend that the Dare Group has cooperated to the best of its ability and that the application of facts available, and in particular, AFA (even if partial) is unsupported by evidence on the record. Moreover, they contend that the Department should reject Petitioners' argument that the Dare Group was required to report purchases of its semi-finished furniture FOP as subject merchandise that was supplied by unaffiliated suppliers. They also argue that Petitioners misunderstand certain information on the record and provide corrections to these deemed misunderstandings, which relate to the Dare Group's finished product codes, the prices its semi-finished furniture suppliers charge the Dare Group for the semi-finished furniture input, and its finishing line for all products. In addition, they assert that the Department's valuation of the

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[145] See Petitioners' Case Brief at 100-104.

[146] Id.

[147] See Petitioners' Case Brief at 104.

[148] See Petitioners' Case Brief at 104-107.

[149] See Petitioners' Case Brief at 106-107.

[150] The Dare Group incorporates by reference and adopts as its own the Case Brief and Rebuttal Brief filed on July 17, 2008, and July 23, 2008, respectively, of ASI, and ASI supports and incorporates the Dare Group's Rebuttal Brief.

Dare Group's semi-finished furniture input results in punitive double-counting of raw materials, labor, energy and packing separately reported by the Dare Group. Finally, they contend that the Department's decision to convert Philippine finished furniture (i.e., HTS 9403.50-"Other Furniture and Parts Thereof, Wooden, Bedroom,") using a converter specific to solid wood in the Preliminary Results created a mismatch between the surrogate value and the converter as applied to the Dare Group's specific input.

ASI and the Dare Group argue that the semi-finished input is not subject merchandise as a legal matter because the scope of the order's reference to "whether or not assembled, completed, or finished" does not mean that the semi-finished furniture inputs consumed by the Dare Group are scope merchandise or that the Dare Group was not the manufacturer of the completed furniture exported to the United States.[151] In addition, they contend that the semi-finished furniture does not constitute subject merchandise as a factual matter because it undergoes significant production operations in the Dare Group's factories.[152] These operations, they argue, are significant, involving more than 20 production operations and final packing by the Dare Group. They assert that this was not unassembled furniture, e.g., "ready to assemble." Neither, they contend, is it merely "unfinished" furniture in the Petitioners' meaning of the word, since the final production operations involve more than merely painting the incoming semi-finished product.[153]

ASI and the Dare Group contend that the Dare Group properly reported to the Department that semi-finished furniture is an FOP in its manufacture of subject merchandise. Specifically, they argue that as the verified record shows, semi-finished furniture is an actual input used by the Dare Group to produce subject merchandise and that it reported information on semi-finished furniture as it is recorded under its normal accounting system.[154] Further, they contend that the verified record also reflects that the semi-finished furniture was put through further processing and that it was entered into the raw material inventory account prior to further processing, rather than directly into the finished goods inventory (as is done with non-subject purchased finished product).[155] Therefore, they contend that the Dare Group's treatment of purchased semi-finished furniture as a separate FOP in its responses to the Department accurately reflects "the actual inputs used by your company during the POR as recorded under your normal accounting system," as instructed in the Department's questionnaire, and best shows the Dare Group's actual production operations. Thus, they conclude, the record, now verified, fully supports the Dare Group's treatment of its semi-finished furniture FOP as a material input into the production of subject merchandise.
ASI and the Dare Group contend that the Dare Group has cooperated fully in this case and that the application of partial AFA is not warranted. First, they contend that the facts of this case do

[151] See ASI Rebuttal Brief at 121-124 and Dare Group's Rebuttal Brief at 3-4.

[152] See ASI Rebuttal Brief at 124-126 and Dare Group's Rebuttal Brief at 3-4.

[153] See ASI Rebuttal Brief at 126.

[154] See the Dare Group Verification Report at 9.

[155] See the Dare Group Verification Report at 9, and Exhibit 6 at 4.

not justify adverse inferences.[156] Specifically, they argue that Petitioners' chronology of events leading up to their call for partial AFA is based on hindsight and the conclusion that the input the Dare Group consumed, semi-finished furniture, required wholly different reporting of "upstream" FOPs from the unrelated producers.[157] They then rebut Petitioners' chronology contending that, for example:

- The purchase the semi-finished furniture input was a new activity in POR 2 and it is therefore not unsurprising or in any way an indication that the Dare Group was "hiding" something when individuals preparing its first FOP submissions in August 2007 overlooked this raw material in its original Section D response;[158]

- Petitioners point to the standard questionnaire's requirement that, where the respondent is not the producer of the "merchandise under consideration," the respondent should forward the questionnaire "to the company that produces the merchandise."[159] The Dare Group, however, was the producer of the merchandise under consideration, i.e., the merchandise exported to the United States;[160]

- There is no validity to Petitioners' criticisms regarding the Dare Group's efforts to get FOP information from the suppliers of the semi-finished input. The Dare Group's April 23, 2008, response explained that it attempted to obtain the FOP data several times and that the outside suppliers did not provide the information.[161] Further, the Dare Group's explanation[162] of why it could not obtain this information is reasonable and the fact that it used a single format for sending the letters says nothing about the quality of its efforts;[163]

- Petitioners fail to explain how the Dare Group failed to cooperate by not contacting the Department to discuss reporting requirements within three days of receipt of the April 11, 2008 supplemental questionnaire. Based on the information outlined in its April 23, 2008 response, the Dare Group already knew that it could not get the FOP data from its outside suppliers. Informing the Department of this fact within three days of receipt of the questionnaire would not change the end result that, despite its maximum efforts, it could not get the FOP data from its outside suppliers. And further, although the Dare Group

[156] See ASI Rebuttal Brief at 128.

[157] See ASI Rebuttal Brief at 126-131 and the Dare Group's Rebuttal Brief at 1-7.

[158] See ASI Rebuttal Brief at 129.

[159] See Petitioners' Case Brief at 78.

[160] See ASI Rebuttal Brief at 129.

[161] See the Dare Group's April 23, 2008 Submission at 7.

[162] Id. the Dare Group's April 23, 2008 Submission at 7.

[163] See ASI Rebuttal Brief at 130.

disagreed with the Department's request for its unaffiliated suppliers FOP information, it still made attempts to obtain these data.[164, 165]

ASI and the Dare Group further contend that the resulting FOP provided by the Dare Group reported data for the consumption of the semi-finished furniture input and was ultimately verified by the Department as accurate and that, rather than provide estimates or other rough figures of the consumption for those outsourced inputs, the Dare Group provided accurate information based on what it tracked in its own records as any other raw material, the consumption of the semi-finished furniture input.[166] Thus, they conclude, Petitioners have failed to show that the necessary information is not available on the record, or that the Dare Group has withheld or failed to provide information to the Department, or that the Dare Group has significantly impeded this proceeding. Further, they argue that the Department has verified the information provided by the Dare Group and therefore there is no evidence that the Dare Group provided information that could not be verified.[167]
ASI and the Dare Group also contend that Petitioners have overstated the significance of the semi-finished input in the Dare Group's overall database and argue that any analysis based at the CONNUM level will necessarily overstate the possible impact of the semi-finished input on its overall sales. In fact, they argue, sales that incorporated semi-finished furniture were extremely small.[168] Thus, they argue, the Department cannot apply partial AFA on a CONNUM level, as proposed by Petitioners.[169] Further, they contend that the Dare Group's calculation methodology for direct materials for CONNUMS incorporating the semi-finished furniture input is not distortive and that the "underreporting" of materials within CONNUMs incorporating the semi-finished furniture input alleged by Petitioners "is not the result of any misallocation by the Dare Group but rather the normal operation of every weighted-average calculation that properly reflects the total overall costs for the CONNUM.[170]

In addition, ASI and the Dare Group contend that the Department should reject Petitioners' suggestions for alternative valuations of the semi-finished furniture. Specifically, they argue that Petitioners point to no inaccuracy in the calculation of the AUV for Philippines HTS 9403.50, nor do Petitioners dispute that semi-finished furniture of the type consumed by the Dare Group should be classified under HTS 9403.50.[171] Further, they assert that Petitioners' proposed

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[164] See Dare Group's April 23, 2008 Comments at 6-7.

[165] See ASI Rebuttal Brief at 130.

[166] See ASI Rebuttal Brief at 132.

[167] See the Dare Group's Rebuttal Brief, at 1-2.

[168] Id.

[169] See ASI Rebuttal Brief at 140-141.

[170] See ASI Rebuttal Brief at 137-140.

[171] See ASI Rebuttal Brief at 142-144.

application of a per-piece value based on Indian HTS 9403.50[172] would not increase accuracy in any way, as the Dare Group reported consumption of the semi-finished furniture input in M^3 and the Indian value proposed by Petitioners is in pieces.[173] They also object to Petitioners' conversion rate calculation in Exhibit 29 to their Case Brief.[174, 175]

ASI and the Dare Group contend that when valuing the Dare Group's semi-finished furniture input in the Preliminary Results, the Department engaged in double-counting of raw materials, labor, energy and packing costs included in both the Philippine surrogate value representing finished and packed wooden bedroom furniture (i.e., HTS 9403.50-"Other Furniture and Parts Thereof, Wooden, Bedroom) and in the Dare Group's separate FOP fields reporting additional consumption for significant subsequent operations performed on the input by the Dare Group.[176] Therefore, they argue, the Department should eliminate the double-counting in the final results by offsetting the surrogate value for finished furniture by the cost of the raw materials, etc., that the Dare Group separately reported in order to avoid double-counting.[177]

Petitioners rebut ASI and the Dare Group's argument that the semi-finished furniture that the Dare Group purchased from unaffiliated suppliers is not subject merchandise. Specifically, Petitioners contend that the scope of the antidumping order includes wooden bedroom furniture "whether or not assembled, completed, or finished," and the Department's model-matching criteria include the element FINISHU (Field 3.2), wherein respondents report merchandise as either "finished" (code "A") or "unfinished" (code "B").[178] Thus, Petitioners argue, the Department and Petitioners clearly have intended to capture "unfinished furniture" (i.e., semi-finished furniture) in the scope of the order and ASI and the Dare Group's attempt to create a huge exclusion to the scope of the order must be rejected.[179]
In their rebuttal brief Petitioners also contend that there is no merit to ASI and the Dare Group's argument for offsetting any value derived from import data because the record does not support their assumption that use of import data would result in some sort of double-counting.[180]

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[172] See Petitioners' Case Brief at 106.

[173] See ASI Rebuttal Brief at 144.

[174] Id.

[175] See Comment 18 for a discussion of ASI and the Dare Group's and Petitioners' comments regarding conversion rates.

[176] See ASI Brief at 18.

[177] See ASI Brief at 19.

[178] See Petitioners' Rebuttal Brief at 23-27.

[179] Id.

[180] See Petitioners' Rebuttal Brief at 27-29.

Department's Position: First, we continue to find, as we did in the Preliminary Results, that semi-finished furniture purchased by the Dare Group from unaffiliated Chinese producers is wooden bedroom furniture covered by the scope of the antidumping order.[181] Second, we disagree with Petitioners that we should apply partial AFA to value the Dare Group's purchases of semi-finished furniture. Finally, while we are continuing to rely on the Philippines as the primary surrogate in this review, we have determined to use the AUV for Indian HTS 9403.50, "Other Furniture and Parts Thereof; Wooden furniture of a kind used in the bed room," as a secondary surrogate for purposes of valuing semi-finished furniture, due to its greater specificity and because it is the best information on the record of this review to value this FOP and to calculate surrogate value ratios.

Section 776(a)(2) of the Act provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination. Furthermore, section 776(b) of the Act states that if the Department "finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available."[182]

We disagree with ASI and the Dare Group that the semi-finished furniture purchased by the Dare Group from unaffiliated producers is not subject merchandise. Section 773 (c)(1) of the Act states that "if the subject merchandise is exported from a nonmarket economy country ... the administering authority shall determine the normal value of the subject merchandise on the basis of the value of the factors of production utilized in producing the merchandise ... ." Section 771(25) of the Act defines subject merchandise as "the class or kind of merchandise that is within the scope of an investigation, a review, a suspension agreement, an order ... ." In this case, the scope of the order includes "Wooden bedroom furniture…whether or not assembled, completed, or finished." The Department disagrees with ASI and the Dare Group that the use of the terms "whether or not... finished" in the scope language was intended to cover only a narrow range of unfinished furniture. As ASI acknowledges in its case brief, the plain meaning of finish includes painting, staining, etc.[183] Thus, the scope includes furniture, whether or not painted, stained, etc., including the furniture the Dare Group purchased from its unaffiliated supplier.

Thus, pursuant to section 773(c)(1) of the Act, it is appropriate to value this merchandise using the Dare Group's suppliers' semi-finished furniture FOPs. The fact that the Dare Group

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[181] See Preliminary Results at 8286.

[182] See SAA, at 870.

[183] See ASI Brief at 16.

performed minor finishing operations (i.e., sanding, painting, packing) or that it entered the semi-finished furniture into its raw material inventory account prior to further processing, does not change the fact that semi-finished furniture is subject merchandise when it arrives at the Dare Group's facilities. Moreover, even assuming arguendo that ASI and the Dare Group are correct that a relatively small number of sales are related to this semi-finished furniture, the fact that sales that incorporated semi-finished furniture were small does not change the fact that necessary FOP information is missing from the record. Thus, we find that regardless of the Dare Group's treatment of semi-finished furniture in its books and records or the significance of the semi-finished input in its overall database, as subject merchandise, it should have reported the FOPs utilized by its suppliers in producing semi-finished furniture, pursuant to the Department's requests and section 773 (c)(1) of the Act. Therefore, for the final results we find that the application of facts otherwise available is warranted under sections 776(a)(2)(A) and (B) of the Act because the Dare Group was unable to provide FOP information for its unaffiliated producers of subject merchandise (i.e., semi-finished furniture).

Petitioners contend that the Dare Group has failed to cooperate to the best of its ability and has willfully impeded the conduct of this administrative review by hiding and obscuring information concerning its purchases of semi-finished furniture from unaffiliated Chinese producers and by failing to report FOP information for its semi-finished furniture suppliers. We find that while the Dare Group was unable to provide the requested FOP information for its suppliers of semi-finished furniture, it cooperated to the best of its ability during the course of this proceeding to provide FOP information for its production of subject merchandise, albeit, based on the incorrect belief that one of its reported factors (i.e., semi-finished furniture) constituted an input and not subject merchandise. As early as December 17, 2007, the Dare Group reported a "semi finished" FOP in its database.[184] Thus, the Dare Group did not obscure the nature of these data. The Department did not specifically request that the Dare Group provide FOPs for all of its suppliers of semi-finished furniture until April 11, 2008.[185] The Dare Group responded to our April 11, 2008, request, and explained that it was unsuccessful in obtaining its suppliers' FOPs for semi-finished furniture and provided letters that it stated it sent to its suppliers requesting such information. Given the time constraints we were not able to consider whether to take any further action regarding the Dare Group's suppliers. For all these reasons, the Department determines that the Dare Group cooperated to the best of its ability and rejects Petitioners' argument to apply facts available with an adverse inference under section 776(b) of the Act.

In applying facts otherwise available under sections 776(a)(2)(A) and (B) of the Act, we have determined to use the AUV for Indian HTS 9403.50.10-"Other Furniture and Parts Thereof; Wooden furniture of a kind used in the bed room, Bed Stead," and Indian HTS 9403.50.90-"Other Furniture and Parts Thereof; Wooden furniture of a kind used in the bed room, Other Wooden Furniture Used in Bedroom." As articulated in Comment 1, we are continuing to rely on the Philippines as the primary surrogate in this review, and using India as a secondary surrogate for purposes of valuing inputs which are principal components of wooden bedroom furniture, and where the Indian HTS category is more specific. As discussed above, we continue

[184] See the Dare Group's December 17, 2007 questionnaire response at Exhibit D-25.1.

[185] See April 11, 2008 Third Supplemental Section D Questionnaire at question 3.

to find that semi-finished furniture is subject merchandise covered by the order. As such, semi-finished furniture constitutes a principal component of wooden bedroom furniture.

In the Preliminary Results we valued the Dare Group's semi-finished furniture using the Philippines AUV for HTS 9403.50-"Other Furniture and Parts Thereof, Wooden, Bedroom." For these final results, however, we have determined that the 8-digit Indian HTS 9403.50.10-"Other Furniture and Parts Thereof; Wooden furniture of a kind used in the bed room, Bed Stead," and Indian HTS 9403.50.90-"Other Furniture and Parts Thereof; Wooden furniture of a kind used in the bed room, Other Wooden Furniture Used in Bedroom" are more specific because the Indian HTS categories allow us to value "bed steads" separately from other wooden bedroom furniture. Therefore, because the input in question (i.e., semi-finished furniture) is a principal component of wooden bedroom furniture, and because the Indian HTS categories are more specific than the Philippine HTS category, we have calculated the surrogate value of semi-finished product using the Indian HTS 9403.50.10 and HTS 9403.50.90.

Finally, we disagree with ASI and the Dare Group that the use of import data would result in double-counting, regardless of whether we used Philippine or Indian import data. First, Indian HTS 9403.50.10 and HTS 9403.50.90 by their generic headings contain both finished, unfinished, parts and unassembled. As such, these HTS values will, on average, be representative of the value of semi-finished furniture. The Dare Group has presented no evidence on the record to indicate that there is a systematic distortion in using these HTS categories. Without the actual FOPs from the suppliers of this semi-finished furniture, the record only allows for an approximation of the value of this semi-finished furniture. Because the Dare Group was not able to obtain the information on these FOPs, the Department must resort to the facts available on the record under section 776(a) of the Act. We disagree with the adjustment proposed by the Dare Group for the purpose of reducing the HTS value by the factors incurred by the Dare Group after receiving the semi-finished furniture from its suppliers. Such an adjustment assumes that, for every piece of semi-finished furniture received by the Dare Group, the HTS over-estimates its value by the value added by the Dare Group. This over-estimation is an assumption without evidentiary support. Therefore, we have not made any adjustment for these final results.

Comment 13: Incorrect Allocation for Indirect Materials, Labor, Energy, Water, and Scrap

The Dare Group's indirect materials, direct labor, indirect labor, electricity, diesel, water, and scrap were allocated generally on the basis of the wood and board consumed in the production of those models in proportion to the Dare Group's total consumption of solid wood and board. These items could not be specifically allocated to specific models because their consumption was not recorded by job order. In allocating these items, the Dare Group included, in the denominator, the total wood and board consumed in the production of semi-finished furniture.

Petitioners argue that the Dare Group's inclusion of semi-finished furniture in its allocation basis for these factors distorts the allocation of these indirect materials among the CONNUMs. Petitioners contend that the semi-finished furniture items the Dare Group acquired from unrelated producers merely underwent "painting, sanding and minor hardware repairs, before

they were packed for sale."[186] Therefore, Petitioners assert that the Dare Group should not have allocated the indirect materials from the prior production stages to the production runs that began with semi-finished furniture. Furthermore, Petitioners argued that the Dare Group never explained this change in a narrative response but instead hid it from the Department. For these reasons, Petitioners argue that the Department should apply partial AFA to the Dare Group's reported consumption of indirect materials, direct labor, indirect labor, electricity, diesel, water, and scrap.

The Dare Group asserts that this allocation methodology was clearly delineated in its second supplemental questionnaire response. The Dare Group argues that the allocation methodology it employed is the most reasonable and accurate methodology that could be used. The Dare Group explains that the allocation ratio for indirect inputs could be distorted if the numerator and the denominator do not simultaneously include semi-finished furniture and wood components, and it is not possible to distinguish between the portion of the indirect inputs consumed in manufacture job orders with semi-finished furniture or subcontracted wood components and the portion consumed to manufacture job orders started in-house. The Dare Group contends that it could not allocate factors only to the self-produced semi-finished furniture as all products pass through that separate line. Finally, the Dare Group argues that there is nothing distortive about this allocation methodology, and it was fully verified by Department officials.

Department's Position: The Department recognizes that the inclusion of semi-finished furniture in the allocation methodology makes the allocation of these indirect materials among CONNUMs less precise. Allocating indirect materials across all furniture without regard to whether the furniture is semi-finished may over- or under- allocate indirect materials for any given CONNUM because finishing semi-finished furniture consumes fewer indirect materials than producing furniture from raw materials. Thus, for example, in a CONNUM produced from little to no semi-finished furniture, indirect materials would be under-allocated. Likewise, in a CONNUM produced from more semi-finished furniture, indirect materials would be over-allocated. The data on the record, however, do not allow us to allocate more precisely indirect materials by separately allocating indirect materials to semi-finished furniture. The finishing lines at the Dare Group's production facilities are not exclusively devoted to finishing semi-finished furniture.[187] Instead, both semi-finished furniture and the Dare Group's other furniture is finished on these lines.[188] Thus, the indirect materials consumed in this line do not relate solely to semi-finished furniture. Moreover, the Dare Group has explained that it does not separately track the indirect materials consumed in finishing semi-finished furniture.[189] This claim was substantiated during verification.[190]

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[186] Dare Group Verification Report at 4 (July 10, 2008).

[187] Dare Group Verification Report at 5

[188] Dare Group's Rebuttal Brief at 11

[189] Dare Group's March 31, 2008, Questionnaire Response at Exhibit 89.

[190] Dare Group Verification Report at 5

The Department finds that Petitioners' suggested methodology, to increase the allocation of the factors for semi-finished furniture by a certain percentage,[191] is unsupported by the record because there is no basis to conclude that the Dare Group underreported any of these factors. Additionally, the proposed methodology does not address the imprecision identified by Petitioners because it does not result in a different allocation of these factors. Rather, it simply results in an overall increase in these factors. Thus, the Department has not adopted Petitioners' suggested methodology.

The Department disagrees with Petitioners' argument that the Department should apply AFA to the Dare Group because the Dare Group refused to provide the required information to complete the allocation. As outlined above, the Department found that the required information was unavailable. The Department also disagrees with Petitioners' argument that the Dare Group hid from the Department its change of methodology whereby it allocated indirect materials across all furniture products. The Dare Group specifically provided the definition of "wood and board" in the Dare Groups' March 31, 2008, Questionnaire Response at Exhibit 89, which clearly shows that semi-finished product was included in this definition. Thus, the Department is not applying AFA to the Dare Group on this issue.

The Department determines that it is reasonable to allocate indirect material in the manner provided by the Dare Group (i.e., across all of the Dare Group's furniture, irrespective of whether the furniture was produced from semi-finished furniture). Such an allocation is reasonable because, as explained above, a more precise allocation is not possible based on the available data.

Comment 14: Use of Disaggregated Factors of Production and Correct Market Economy Purchase Prices

In this instant review, Dare Group initially reported their FOPs on a level that is more aggregated than the one it used in POR1. As a result, the number of FOPs in this review was significantly lower compared to POR1. In the Preliminary Results, the Department found:

> The Dare Group reported certain of its inputs under common FOP categories which may not reflect an appropriate level of dis-aggregation based on its prior reporting methodology.[192]

After the Preliminary Results, the Department asked the Dare Group to disaggregate these FOPs and resubmit its FOP database reporting per-unit consumption of the individual FOPs as they were reported in POR1.[193] The Dare Group regrouped its FOPs according to the more specific levels that were it used in POR1. However, for the FOPs that the Dare Group claimed use of a price based on market-economy purchases, no breakdown of the purchases by the more specific POR1 grouping was provided.

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191 See Petitioners Case Brief at 110-111 (the actual percentage is business proprietary), and Attachment 30.

192 See Preliminary Results, 73 Fed. Reg. at 8285.

193 See Dare Group's 2d Supp. A, C, & D Resp. at 17.

In its March 31, 2008 Response at 18, the Dare Group explained that, because products produced and materials employed constantly change, regrouping of material codes is necessary and applying the POR1 grouping for materials consumed in POR2 would not lead to an accurate result. The Dare Group claimed that some material inputs used in POR1 were not used in POR2. For this review, the Dare Group aggregated a large number of similar materials into a single FOP. Given the large number of materials used by the Dare Group and the limited time to report them to the Department, the aggregate groupings used in the instant review represent an accurate and reasonable methodology. Also, the Dare Group claimed that two different levels of grouping may have resulted from the change in the Dare Group's counsel and personnel involved in the POR1. As for the breakdown of the market economy purchases, ASI, on behalf of the Dare Group, argues that the Department should not need the market-economy purchases broken down according to a past reviews' grouping under these facts because the Department should not consider reverting to the POR1 grouping in the first place.

Petitioners contend that the Department should not permit the Dare Group to benefit from this results-oriented exercise because the Dare Group's aggregated database distorts the Dare Group's material costs and, if used, would result in an inaccurate dumping margin. For the final results of this review, Petitioners urged the Department to use the disaggregated database that is available on the record. Furthermore, Petitioners argued that the Dare Group's lack of cooperation and its failure to respond to the Department's request to provide disaggregated market-economy purchases warrants the use of an adverse inference to value all disaggregated factors for which the Dare Group has reported an aggregated market-economy purchase.

ASI argues that Petitioners did not provide a valid claim of distortion in the Dare Group's POR2groupings based on the values in the primary surrogate country being used in this case. ASI contends that the distortion Petitioners pointed to was based the assumption of using India as a primary surrogate country.

Department Position: The Department requested the Dare Group to report its FOPs according to the level of specificity used in POR1 to improve the accuracy of the margin analysis. [194] In matching the FOPs reported by responding parties with available values from either surrogate values or market-economy purchases, the Department first identifies the FOPs that were used during the POR at a level as specific as the accounting system of the responding parties can support. Given the reduction in the number of the FOPs initially reported by the Dare Group for the instant review compared to the previous review, the Department requested that the FOPs be reported in the more specific grouping from POR1. Once the Department is convinced that the FOPs reported are the most specific ones that were actually used in the production of the covered merchandise, the Department then searches for values that match the FOPs. In the selection of the values to be used, if market-economy input purchases are 33 percent or more of the total volume of an input, the Department considers market-economy input purchase prices to

[194] See Department's March 7, 2008 Supplemental at Item 12

represent the "best available information" to value the entire input.[195] However, if FOPs are not based on the most specific information that a responding party is able to provide, the calculation of the margin would be subjected to inaccuracies and manipulations.

In the instant review, for the final results, the Department will use the FOPs reported in the grouping used in POR1because it is more specific than the one initially used by the Dare Group in this review. The reasons provided by the Dare Group and ASI to use the POR2 grouping do not point to any inaccuracies resulting from using the more specific grouping used in POR1. At best, ASI simply argues that the POR2 grouping provides a level of accuracy as good as the one provided by the POR1 grouping. We disagree with this assessment. Only an insignificant level of the reductions in the number of FOP between the POR1 and POR2 groupings are accounted for by materials not produced in POR2 and change in material codes. For example, in 23 categories, such as paint, plastic and catches, reported in POR2 grouping, there were factors that could be been broken out in the POR1 grouping.[196] The POR1 grouping clearly provides a more detailed grouping of the exact inputs used by the Dare Group. For this review period, the number of the FOPs reported by the Dare Group using the POR1 grouping is significantly larger than the number of the FOPs using the POR2 grouping.[197]

As for the market-economy purchases, no purchase information was reported on the level required by the POR1 grouping. Specifically, the Dare Group did not breakdown the market-economy purchases of paint into purchases of the paint components. The Department believes the Dare Group could have provided such information because it was able to provide the FOPs at the paint components level. Furthermore, the Dare Group did not claim that such a breakdown is not possible. The only reason provided for not reporting the purchases on the component level is that the Dare Group believes that the Department should not "consider reverting to the POR 1 groupings in the first place."[198]

We disagree with the Dare Group that we should use the market-economy purchase prices at the aggregated level. Where a portion of the input is purchased from a market-economy supplier and the remainder from a non-market economy supplier, the Department will normally use the price paid for the inputs sourced from market-economy suppliers to value all of the input, provided the volume of the market-economy inputs as a share of total purchases from all sources is meaningful.[199]

The use of market-economy purchase information at the POR2 level will be also inconsistent with our practice of using the most specific information that is available on the record.

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[195] See Market Economy Inputs Practice.

[196] See Exhibit D-23.1 in *Dare Group's Supp. D Resp*.

[197] See Exhibits D-55, D-56, D-57 and D-58 in the Dare Group's March 31, 2008 Supplemental Response.

[198] See ASI's rebuttal brief, July 23, 2006, at 148.

[199] See 19 CFR 351.408(c)(1).

Abandoning this practice would introduce an element of manipulation in defining the meaningfulness of a market economy purchase. The Department's current practice is to interpret the term "meaningful" as being 33 percent or more of the total volume of the input used in the production of the subject merchandise, unless there are case-specific reasons to conclude otherwise.[200] The Dare Group failed to provide the Department the necessary information to establish the threshold for six of the 23 categories that had more specific FOPs at the POR1 grouping. For these categories, the Dare Group did not breakdown the market economy purchases by the POR1 grouping. As a result, the Department cannot establish which of the factors based on the POR1 grouping pass the threshold test. Because necessary information is missing from the record, the Department must apply facts otherwise available under Section 776(a) of the A

As discussed above, the Department finds that this information is missing because the Dare Group failed to cooperate to the best of its ability. After receiving the Department's request for this information, the Dare Group did not claim that such a breakdown was not possible. The Dare Group clearly posses the information since they were able to provide FOP information in these categories (e.g., Paint and Plastic). Instead of providing the information, the Dare Group argued that the Department should not use the POR1 groupings. Because the Dare Group failed to cooperate to the best of its ability, the Department is employing an adverse inference under Section 776(b) of the Act in selecting among the facts otherwise available. As AFA the Department is assuming that none of the FOPs in Paint, Light, Catches, Poplar, and Plastic passes the 33% test. As a result, the Department will use surrogate values based on the Philippine import data for these FOPs.

Comment 15: Exclude Certain Piece Types

Petitioners state that in the first administrative review, the Department excluded certain of the Dare Group's piece types (i.e., vanity stool, bench, refrig. cabinet, uba tuba top (granite), hotel desk, and marble top) from its calculations because these piece types were not within the scope of the Order. Petitioners argue that for the final results, the Department should exclude those piece types from the sales listing for the final results, as it did in the first administrative review.

Respondents did not comment on this issue.

Department's Position: The Department agrees with Petitioners. Upon review of the record, we have determined that the above-mentioned piece types are not within the scope of the antidumping duty order on WBF from the PRC.[201] Additionally, in the final results of the previous segment of this proceeding, the Department excluded the above piece types from the Dare Group's margin calculation.[202] Accordingly, for the final results, the Department will

[200] See Market Economy Inputs Practice.

[201] See WBF - PRC 01/04/05.

[202] See the Dare Group's Preliminary Analysis Memorandum – AR1 (unchanged in the Final Results); see also WBF - PRC 08/22/07 and accompanying Issues and Decision Memo at Comment 37.

exclude the following piece types: vanity stool, bench, refrig. cabinet, uba tuba top (granite), hotel desk, and marble top, from the Dare Group's margin calculation.[203]

Comment 16: Adjust Direct Materials for Unreported Consumption

Petitioners contend that at the verification of Lianfu, the Department discovered that some withdrawals of direct materials from the material warehouse for consumption during the POR were not reported to the Department by the Dare Group. They further contend that these withdrawals did not have a job number on their respective withdrawal slips and thus could not be tied to production of specific products during the POR.[204] Nevertheless, they claim that the record evidence suggests that these withdrawals represent unreported consumption of certain direct materials during the POR. Finally, they claim the Department verifiers found similar unreported withdrawals of several other direct materials, although to a much lesser degree.

Petitioners urge the Department to correct the reported consumption for each of the factors that the Department examined at verification. Specifically, arguing that there appears to be a pervasive problem in the Dare Group's reported direct material factors, Petitioners suggest that the Department adjust upward the Dare Group's other direct material factors by the average of the under-reported direct materials.

The Dare Group argues that these materials were withdrawn for tasks that clearly related to factory overhead, because these inputs were consumed in processes ancillary to the actual manufacture of subject merchandise. Consequently, the Dare Group argues that they should be considered as factory overhead, correctly captured during the Department's application of surrogate financial ratios to the costs of materials, labor and energy.

Department's Position: The Department concurs with Petitioners' contention that it found unreported consumption of certain direct materials at the Dare Group verification and disagrees with the Dare Group that the unreported materials found at verification should be classified as factory overhead. In particular, the Department examined the material "Plywood Veneer Others" used in constructing a mold to hold down the boards during cutting. This item was recorded in the board inventory withdrawal ledger with a slip number containing the wording "material make ID."[205] Thus, this mold was required for the cutting segment of the production process of wooden bedroom furniture. Furthermore, the material name for this item indicates that it is related to beds. The Chinese character under the column "material code" means "bed." The Dare Group does not argue that this material is unrelated to the production of wooden beds. Taken as a whole, the information indicates that the mold was used to make cuts to components used in the construction of wooden beds. It is the Department's practice to consider materials that are consumed for a particular segment of the production process as a direct material.[206]

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[203] See the Dare Group Final Analysis Calculation Memo.

[204] Id.

[205] See Dare Verification Report Exhibit 11 at 8.

[206] See Sawblades – PRC 05/22/06 IDM at Comment 2.

Furthermore, upon examining the December ledger, the Department noted 16 withdrawals of this same item for this use during December 2006. In the same comment, the Department also notes that the usage life of a material also is a factor considered in classifying the material to factory overhead or direct material. Direct materials are used up in the production process and require more frequent withdraws from the material warehouse. In the instance case, the frequent withdrawal of the wood used for the cutting molds suggests that this item is a direct material. The frequency of the withdrawals also indicates that the use of the mold is more than incidental.[207] Consequently, we determine that the wood used for these molds is a direct material in the production process of subject merchandise.

Nevertheless, we disagree with the adjustment proposed by Petitioners for the Dare Group's remaining material inputs[208], because the only material where the Department noted a significant under-reporting was Plywood with Veneer – Other. The amounts of the four other materials not reported were less than one percent of the materials used. They were insignificant compared to the amount under-reported on Plywood with Veneer - Other. Accordingly, we do not find that there is a systemic underreporting in the Dare Group's reported FOPs.

Therefore, for the above reasons, the Dare Group's direct material of Plywood with Veneer – Other did not verify. The usage rate of this factor was significantly under-reported. Thus, the Department must employ facts otherwise available under section 776(a)(2)(D) of the Act. Further, the Department finds that in under-reporting this material, the Dare Group failed to act to the best of its ability within the meaning of section 776(b) of the Act. The Department's original questionnaire instructed the Dare Group to report factor inputs that "reflect the factors of production used to produce one unit of the merchandise under consideration."[209] Thus, the Dare Group should have reported the amount of this material when used as a mold but did not do so. Consistent with section 776(b) of the Act, the Department has employed adverse inferences in selecting the facts available. As adverse facts available, the Department is assuming the amount under-reported for the month of December 2006 as the amount of under-reported for the entire period. The usage rate of this FOP has been adjusted to reflect the amount that should have been reported.

Comment 17: Modify Assessment Rate Calculation

ASI claims that the Department stated in the Dare Group Preliminary Analysis Calculation Memo, that for the Preliminary Results it intended to calculate an importer-specific duty assessment rate. ASI contends further that the assessment section of the margin calculation program used for the preliminary results calculates assessment rates using the customer code variable name "CUSCODU." ASI argues that for the final results the Department should use the variable name "IMPORTER" where importer is reported.

No other interested party commented on this issue.

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[207] See CFS Paper IDM at Comment 9.

[208] See Petitioners' Case Brief at 119

[209] See the Dare Group Questionnaire at D-1 at I.A.

Department Position: The Department agrees with ASI. 19 CFR 351.212(b)(1) states that "the Secretary normally will calculate an assessment rate for each importer of subject merchandise covered by the review." Therefore, based on the Department's regulations, it is our preference to calculate assessment rates for individual importers, if the importer of the respondents' reported sales are known and subsequently reported to the Department. Consequently, where the Dare Group reported an importer, we should calculate an importer-specific assessment rate using the "IMPORTER" variable and will do so for the final results.[210] In cases where the respondent is unable to identify and report the importer associated with its reported sales, it is the Department's practice to use the customer's information to calculate a customer-specific assessment rate instead.[211] Consequently, for those sales transactions where the Dare Group did not report the importer, the Department will continue to calculate a customer-specific assessment rate using the "CUSCODU" variable.[212]

Comment 18: Conversion Rate For Semi-Finished Furniture Inputs

In the Preliminary Results, the Department applied a flat conversion rate of 597.5 kg/M3 for the Dare Group's semi-finished furniture. ASI and the Dare Group contend, however, that this converter comes from the converter for solid wood, not completed and packed finished furniture, meaning that the Department is valuing a cubic meter (M3) of solid wood, rather than a cubic meter of finished furniture. ASI and the Dare Group argue that there is a mismatch between the converter and the surrogate value because the Department used the Philippine HTS 9403.50 "Wooden furniture of a kind used in the bed room" which represents finished furniture to value Dare's purchases of semi-finished goods. Thus, they argue, in the final results the Department should apply a KG/M3 converter for semi-finished furniture based on record information specific to Dare Group's finished furniture so that no mismatch between the converter and surrogate occurs.

Petitioners argue that ASI's assertion that the Dare Group reported the per-unit consumption of semi-finished furniture in M3 based on the assembled volume of the semi-finished furniture is conjecture. Petitioners claim that the Dare Group never explained its reported conversion factor for semi-finished furniture.

Department Position: The Department agrees with Petitioners. The Dare Group reported the consumption of semi-finished furniture in M3 without defining what the measurement represents. There is no explanation on the record as to whether the reported per-unit M3 consumption is based on the dimensions of the packed furniture or the total volume of the wood components. We note that all the other wood related inputs reported by the Dare Group were based on the bill of materials and expressed in terms of the volume of wood used. Finally, the Dare Group's assertion that it reported M3 based on packed and finished furniture was made for the first time in its case brief and is not supported by record evidence. Therefore, we determine

[210] See Dare Group Final Analysis Calculation Memo.

[211] See e.g., Mushrooms-PRC 08/05/08.

[212] See Dare Group Final Analysis Calculation Memo.

that it is reasonable for the Department to conclude that the Dare Group reported the M3 of the wood components comprising semi-finished furniture and that there is no mismatch between the converter and surrogate used to value semi-finished furniture.

For the final results, the Department is using the 8-digit Indian HTS category 94035010 (Bed stead) to value Dare's purchases of semi-finished beds and 94035090 (Others) to value Dare's purchases of other semi-finished furniture. We are no longer relying on the Philippine HTS category 940350 used in the Preliminary Results because use of the Indian import data allows us to distinguish between semi-finished beds and other types of semi-finished furniture. However, in making this change, we need to convert the semi-finished furniture purchases reported by the Dare Group in M3 to pieces as expressed in the Indian HTS categories. The Philippine HTS category used in the preliminary results was expressed in kilograms. We used the conversion rate proposed by the Petitioners because it is derived directly from the information provided by the Dare Group on conversion between pieces and kilogram.[213] This conversion was based on the conversion from pieces to kilogram reported by the Dare Group in their questionnaire response.[214] .However, where there is more than one CONNUM for a given unit type (PIECEU), we used the average instead of the highest conversion rate in the unit type. For CONNUMs that did not have a conversion rate, we used the average conversion rate for the unit type. If the unit type is unknown, we used the average conversion rate across all unit types.

Comment 19: Raw Material Converters for Plywood

ASI states that in the Preliminary Results, the Department used the conversion figure of 597.30 kg/M^3 submitted by Teamway for plywood. ASI argues that this converter is not correct. ASI contends that the converter proposed in its November 8, 2007 submission of 560 kg/M^3 is specific to plywood and represents the best available information to value the Dare Group's input of plywood. Therefore, ASI argues, the Department should use its submitted conversion figure in the Dare Group's calculation for the final results.

Petitioners agree, however they argue more accurate conversion factors should be used for all the lumber and board factors consistent with the Department's methodology in WBF - PRC 08/22/07.

Department's Position: We agree with ASI and Petitioners that the raw material converters for plywood should be more specific than the conversion figure used in the Preliminary Results. Therefore, for the final results, the Department has used the plywood converter submitted by ASI. See Final FOP Memo. With regard to ASI's arguments pertaining to conversion factors for semi-finished furniture and woodscrap, see Comment 18 and Comment 20, respectively.

Comment 20: Woodscrap By-Product

[213] See Petitioner's Case Brief at 106.

[214] See Dare Group's 3rd Supplemental Secion D Response at Exhibit D-92 and Exhibit D-93 (April 23, 2008).

The Dare Group identified both woodchip and woodscrap as by-products in the FOP databases submitted in response to the original and supplemental Section D questionnaires. However, the Dare Group failed to mention woodscrap as a by-product in its narrative. In the Preliminary Results, the Department included woodscrap in the direct materials buildup for the Dare Group's NV.

ASI contends that for the final results, the Department should remove woodscrap from the direct materials buildup and treat it as a by-product and an offset to material costs. Furthermore, ASI contends that the Department should use Philippine HTS 4401.30.00, "sawdust and other wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms," to calculate the surrogate value for woodscrap. ASI states that HTS 4401.30.00 includes scrap wood of the type reported by the Dare Group as woodscrap, and therefore, the Department should use this HTS category to value the Dare Group's woodscrap for the final results.

Petitioners did not comment on this issue.

Department's Position: The Department agrees with ASI that woodscrap should be treated as a by-product just as the Department treated woodchip in the Preliminary Results. The Department also agrees that Philippine HTS 4401.30.00 is the appropriate HTS category to use to value woodscrap for the final results because the category specifically covers "wood waste and scrap." It is the Department's policy to offset the respondent's cost of production by the value of a reported by-product where the respondent's questionnaire responses indicate that it was sold, or where the record evidence demonstrates that the by-product was re-entered into the production process.[215] After examining the Dare Group's March 31, 2008 supplemental questionnaire at page 27, we have determined that woodscrap was a by-product and that it was sold during the POR. Section 351.401(b) of the Department's regulations states that the interested party that is in possession of the relevant information has the burden of establishing the amount and nature of a particular adjustment to NV. It is the Department's practice that a respondent must first provide and substantiate the quantity of by-product it produced from subject merchandise during the POR.[216] Thus, in order to grant a by-product offset**,** it is the Department's practice to require respondents to provide sufficient documentation of the actual amount of by-product produced.[217] The reason for this practice is that the Department must determine whether the respondent's production process for subject merchandise actually generated the amount of scrap claimed as a by-product offset.[218] In this case, the Dare Group identified woodscrap as a by-product in the FOP databases submitted in response to the original and supplemental Section D questionnaires. Furthermore, all exhibits in connection with this FOP field have listed its name and production quantities. The Dare Group has further clarified that woodscrap is also a by-product resulting from the production of subject merchandise and sold by the Dare Group to unaffiliated customers

[215] See HFHTs - PRC 09/19/05 IDM at Comment 8-E.

[216] See Malleable Pipe Fittings from the PRC IDM at Comment 4.

[217] See Malleable Pipe Fittings - PRC 06/29/06 IDM at Comment 4.

[218] See Malleable Pipe Fittings - PRC 06/29/06 IDM at Comment 4.

during the POR.[219] Thus, the Dare Group has met the burden of establishing the amount and nature of the adjustment to NV. Therefore, for the final results, we have removed woodscrap from the direct materials buildup and subtracted it from the total cost of manufacturing.[220]

Comment 21: Clerical Errors

First, Petitioners claim that the Department erred in its manipulation of "DINLFTPU_IN" in the preliminary results margin program.[221] ASI and the Dare Group did not comment on this issue. Second, with respect to lumber and board material inputs, Petitioners claim that the Department erred in its calculation of the surrogate value of truck freight for delivery of lumber and board from the Dare Group's suppliers to the Dare Group's production facilities. Specifically, Petitioners argue that the Department failed to convert the surrogate truck freight rate to be consistent with the reported unit of consumption. ASI and the Dare Group did not comment on this issue.

Third, ASI argues that the Department used the wrong unit conversion factor in its margin calculations for "CHICATALPAVENEER," which was reported in units of square meters. ASI claims the Department used the conversion rate of 597.5 kg per M^3. ASI contends that 0.3572 kg per M^3 is the correct conversion factor. Petitioners and the Dare Group did not comment on this issue.

Fourth, ASI claims that the Department made certain notational errors in the source unit, currency, and final unit columns of the surrogate value summary sheet created for the preliminary results. Petitioners and the Dare Group did not comment on this issue.

Department's Position: We agree with Petitioners and ASI with respect to the ministerial errors described above and have revised the calculations for the final results as requested.[222]

Comment 22: Corruption of Certain WTA Philippines Import Data

ASI argues that the database resulting from the SAS manipulation of import statistics extracted from the WTA data to calculate surrogate values for FOPs included corrupted data. ASI claims that this data was then used in the SAS program to calculate inaccurate AUVs for the following HTS categories: 4407.99.00, 7318.12.00, 8302.10.00, and 6310.90.00. ASI contends that the corruption is evidenced, for example, by occurrences of positive import values with corresponding zero quantities.

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[219] See the Dare Group's March 31, 2008 Submission at 27.

[220] See The Dare Group's Final Analysis Memo.

[221] See the Dare Group Final Analysis Calculation Memo for further discussion involving BPI.

[222] See the Dare Group Final Analysis Calculation Memo and the Final FOP Memo.

Teamway also argues that inaccurate AUVs were calculated for the following HTS categories: 4407.99.00, 7318.12.00, 8302.10.00, and 6310.90.00.

Petitioners agree, pointing out that the corrupted data resulted in the calculation of inaccurate AUVs for the following HTS categories as well: 4408.10.90, 4408.90.90, 4409.10.00, 6802.21.00, 6802.93.00, 7005.10.90, and 7318.22.00.

Department's Position: We agree with ASI, Teamway, and Petitioners. We have reviewed the database resulting from the SAS manipulation of the extracted WTA data and have determined that manual errors made during the extraction process resulted in corrupt data being used to calculate AUVs for the above-mentioned HTS categories. Specifically, certain quantities and/or values were not extracted or were extracted more than once. We have re-calculated the AUVs of the above-mentioned 11 HTS categories for the final results using corrected data.[223]

Comment 23: Eliminate Aberrational Values

For purposes of the Preliminary Results, we valued the respondents' factors of production using, among other sources, import data taken from WTA. ASI asserts that, in calculating the average values from the WTA, the Department deviated from its long-standing practice of omitting those import values that were reported at aberrational prices. Specifically, ASI argues that the Department should have excluded imports of leatheroid from Singapore, granite from Japan and hinges from the United Kingdom and Japan. According to ASI, the AUVs for the imports from these countries are aberrational because they are much higher than the AUVs for imports from all other countries. ASI cites to the following cases in support of its argument: Hebei Metals – 2004 Ct. Intl Trade LEXIS 89; WBF - AR1.

Petitioners argue that the values identified by ASI do not represent isolated aberrations, but rather are evidence of the general unreliability of the Philippine import data. The Philippine import data, Petitioners state, are aberrational on a much broader scale than the values identified by ASI within three HTS categories, demonstrating distorted and unreliable import AUVs for all inputs.

Department's Position: We have reviewed the identified import statistics and find that two of the data points referenced by ASI do not reflect representative values of the respective inputs and the other two data points do reflect representative values. As a general practice, we do not find the prices to be non-representative (i.e., aberrationally high or low) based solely on the value.[224] If a low or high price occurs, for example, over sales that are made in large quantities, we cannot reasonably conclude that these prices are non-representative.[225] Therefore, in order to demonstrate that statistics from a particular country are not representative, the totality of the circumstances surrounding the statistics, including information on both the quantities and values, must clearly demonstrate that the information is aberrational.

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[223] See the Final FOP Memo. See also, Comment 9 "Accurate Average Unit Values."

[224] See Bags – PRC 06/18/04 IDM at Comment 6.

[225] See Id.

ASI claims that entries from both Japan and the United Kingdom under HTS category 8302.10.00 (i.e., hinges) are aberrational because these two countries have AUVs that are substantially higher ($14.80 per KG (1298 percent) and $16.15 per KG (1417 percent), respectively) than the AUVs for this same input from all other Philippine sources for imports covering this same HTS category and the inclusion of these data points results in an inflated AUV (by nearly 60 percent) for the HTS category as a whole. However, ASI's analysis ignores lower-priced imports, while only focusing on the higher valued data it would like excluded. An examination of the data on the record demonstrates that imports from Denmark are $0.20 per KG (980 percent) lower than the AUVs of all other import sources into HTS category 8302.10.00 and roughly 615 percent lower than the AUVs of all other import sources if Japan and the United Kingdom are also excluded.[226] Imports in the hinges category represent a range of prices including $0.20 per KG, $0.80 per KG, $1.02 per KG, $2.72 per KG, and $4.05 per KG. The existence of import values which represent a wide range of values (both higher and lower) shows that higher values are not necessarily statistically invalid and represent the higher end of reasonable market values.

Moreover, in addition to having a range of values, the quantity of imports from Japan (24,739 KG) and the United Kingdom (407 KG) are within the range of imports from the other countries listed in the statistics (79 KG to 183,842 KG). Additionally, ASI's analysis does not demonstrate that these values are out of line with other imports of hinges from these countries. Specifically, ASI has not provided information demonstrating that the values of imported hinges from Japan and the United Kingdom into the Philippines are typically much lower (or higher) than the values for the POR. Nor has ASI demonstrated that these sales are made in quantities that significantly differ from the statistical information for these countries on the record of this review. Consequently, we find that imports of hinges from Japan and the United Kingdom into the Philippines are not aberrational.

We find that the import statistics for granite from Japan and leatheroid from Singapore are not representative of average imports in their respective HTS categories. The quantities of granite imported from Japan and leatheroid imported from Singapore are sufficiently small, less than one percent of total imports, and one of the smallest import quantities by country in the respective HTS categories. Additionally, the AUVs are significantly different from any other AUV in their respective HTS categories. That is, imports of granite from Japan are almost $30.00 per KG while the next highest value is less than $0.50 per KG and imports of leatheroid from Singapore are $1,847.73 per KG while the next highest value is less than $90.00 per KG. Furthermore, the remaining values within the HTS categories for granite (ranging from $0.08 to $0.42 per KG) and leatheroid (ranging from $0.59 to $89.50 per KG) do not contain price variances similar to the variance of the import value for Japanese granite and leatheroid imports from Singapore. Consequently, the Department determines that there must be some anomaly within the underlying data for imports of Japanese granite and leatheroid from Singapore. Therefore, based on the quantity and value information on the record, we find that imports of granite from Japan and imports of leatheroid from Singapore are not representative of average imports of these items

[226] See Final FOP Memo.

into the Philippines and we have, therefore, excluded these values from the respective surrogate value calculations.[227]

ASI relies on Hebei Metals wherein the Department was ordered to exclude aberrational data in instances where only one country's data has varied to an extreme degree. This is consistent with our decision in this case to exclude the Japanese imports of granite and the leatheroid imports from Singapore. For the reasons described above, based on the information on the record of the current review, we find that ASI has failed to demonstrate that the hinge imports from Japan and the United Kingdom are aberrational, while the facts surrounding the imports of Japanese granite and leatheroid from Singapore are sufficient to determine that the prices are not representative of typical imports of these materials.

Comment 24: Change Certain Philippine HTS Categories in Valuing The Dare Group's Inputs

ASI argues that the Department valued the Dare Group's veneers using an incorrect HTS category, i.e. 4408.90.90. to value ash veneer, basswood veneer , birch veneer, black walnut veneer, cerejiera veneer, chicatalpa veneer, door panel veneer, hickory veneer, mahogany veneer, walnut veneer, white ash burl veneer, and white figured veneer. Further, ASI contends, while the veneers that the Dare Group uses in production of WBF are face veneers the Department valued the Dare Group's input using an HTS category that is specifically defined not to include face veneers. Accordingly, ASI submits that the Department should use HTS category 4408.901.0 for the final results because it more accurately describes the Dare Group's input of veneers. Moreover, ASI argues that the HTS category the Department used to value various wood parts for the Dare Group is not specific enough to the inputs in question. Therefore, ASI contends, the Department should value wood components, wood plug, wood tenon, and dowel pin using its proposed HTS category because it is more specific to the nature of the inputs, i.e., parts of furniture, than the basket category applicable to miscellaneous wood articles.

Petitioners argue that the burden of providing adequate descriptions to support proposed HTS classifications rests with the Dare Group, a respondent, not ASI, an importer. Petitioners contend that ASI has no authority to speak for the Dare Group. Accordingly, Petitioners argue, since the Department's choices of HTS categories are consistent with the input descriptions placed on the record by the Dare Group, the Department has no basis for changing HTS categories for veneer and various wood parts.

Department's Position: As the first item in our supplemental questionnaire issued to the Dare Group on November 9, 2007, the Department informed the Dare Group that its section D questionnaire response ". . . does not include adequate descriptions of The Dare Group's reported factors of production . . ." Furthermore we stated: "Provide in column 2 of the Factors Description Chart, accurate, detailed, descriptions of the reported FOPs, adequate to the extent that the Department can rely on them to determine the most appropriate HTS categories to use in the calculation of surrogate values for the reported FOPs. Moreover, we instructed the Dare Group to provide 1) "In-house" specifications, including dimensions, and weights; 2) U.S.

[227] See Final FOP Memo.

customer specifications; 3) Chemical and physical specifications; 4) Technical data relating to purity, hardness, grade, moisture content, etc. We specifically asked Dare to state whether the grades are internal grades or industry standard grades. In addition, provide a chart showing all possible grades and specifications for each grade. Indicate whether the chart reflects internal or industry standard grades and cite the source of the information included in the chart); and 5) Whether the input is received in finished/unfinished form. In its supplemental questionnaire response dated December 17, 2007, at Exhibit One, "Factors Description Chart" the Dare Group provided the following description of the various veneers mentioned above: "Sheets for veneering (Including those obtained by slicing laminated wood), for plywood or for other similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed . . . " Moreover, the Dare Group suggested that the Department use HTS category 4408.90.90 to value the veneers mentioned above. The Dare Group continued to provide this description and HTS category for the veneers mentioned above in its March 31, 2008 supplemental questionnaire response at Exhibits D-43 and D-44.

We reviewed the Dare Group's questionnaire and supplemental questionnaire responses and found no description specifying that the veneers mentioned above were "face veneers." Moreover, for six of the ten veneers described above, for which the Dare Group provided HTS suggestions, it suggested HTS 4408.90.90, the category the Department used in the preliminary results. See Exhibit one to the December 17, 2007 supplemental questionnaire response and Exhibits D-43 and D-44 to the March 31, 2008 supplemental questionnaire response. Thus, we have determined that the evidence on the record of this segment of the proceeding does not indicate that the veneer used by the Dare Group to produce subject merchandise was face veneer. Therefore for the final results, we are continuing to use HTS 4408.90.90 to value ash veneer, basswood veneer , birch veneer, black walnut veneer, cerejiera veneer, chicatalpa veneer, door panel veneer, hickory veneer, mahogany veneer, walnut veneer, white ash burl veneer, and white figured veneer.

With respect to the surrogate values for wood components, wood plugs, wood tenons, and dowel pins, we have reviewed the descriptions of these FOPs in the Dare Groups'questionnaire and supplemental questionnaire responses and have determined that although these items may be used to produce furniture, they are generic in nature and may be used in applications other than furniture making. Since they are not exclusively used as components of furniture we find it is inappropriate to classify them as parts of furniture. Therefore, for the final results we will continue to value these FOPs using 4421.90.90.

Comment 25: Use Most Updated Datasets

ASI argues that the Department should use the most recently submitted databases provided by the Dare Group which were examined at verification by the Department. ASI argues that the Department accepted and verified minor corrections presented at the beginning of verification and that the Department should incorporate these corrections into its final calculations for the final results. In addition, ASI argues that the Department should not apply a separate surrogate value for brokerage charges covered by the brokerage and handling variable "DBROKU2" because these charges are subsumed in the surrogate value for "DBROKU" which is applied to every sales transaction reported by the Dare Group.

Petitioners do not disagree with ASI. However, Petitioners argue that certain corrections must be made to the Dare Group's databases. Petitioners contend that the Department should: 1) use the Dare Group's disaggregated FOP database after correcting for the incorrect inclusion of unfinished furniture purchased from unaffiliated suppliers; 2) correct the Dare Group's allocation of direct materials; and 3) correct the allocation of indirect materials, direct labor, indirect labor, electricity, diesel, water, and scrap.

Department's Position: We agree with ASI that the Department should use the most current databases submitted with the Dare Group's March 31, 2008 supplemental questionnaire response. These data were requested in the Department's March 7, 2008 supplemental questionnaire and were verified by the Department. In addition, we agree with ASI that the Department accepted and verified the Dare Group's minor corrections presented at verification, and thus, they should be incorporated into the Dare Group's databases. The Department stated in the Dare Group Verification Report that "The Department accepted these corrections, finding them to be minor and inadvertent in nature."[228] We disagree with ASI with respect to "DBROKU2." The Dare Group states at page 26 of its March 31, 2008 supplemental questionnaire response that upon further examination of source documents, the Dare Group determined that it purchased brokerage services from a U.S. based broker through a Chinese forwarding company to enter the subject merchandise into the United States. Information on the record does not support ASI's argument that this expense is subsumed in DBROKU. DBROKU normally covers brokerage and handling expenses incurred up to delivery along-side the vessel at the port of export to the United States. The Dare Group stated that the expenses reported as DBROKU2 were incurred to enter the subject merchandise into the United States and the Dare Group initially reported DBROKU2 as ME brokerage and handling expenses (DMEBROKU). Furthermore, the Dare Group did not provide copies of the source documents on which it based its reclassification of these expenses, nor did it identify the Chinese forwarding company or the U.S. broker. Moreover, the Dare Group did not adequately describe the nature of the expenses or the brokerage services provided by the U.S. based broker. In addition, the Dare Group did not state whether it made payment directly to the U.S. based broker or to the Chinese forwarder. Thus, there is not adequate information on the record to support a reclassification of DBROKU2 from ME brokerage and handling expenses to an NME expense. Respondent bears the burden of demonstrating its entitlement to an adjustment.[229] Thus, for the final results we have continued to include DBROKU2 (formerly DMEBROKU) separately in international movement expenses. With respect to Petitioners' comments, we have addressed them elsewhere in this memorandum.[230]

IV. TEAMWAY

Comment 26: Whether to Apply Total AFA to Teamway

[228] See the Dare Group Verification Report at page 1. See also the Dare Group Analysis Memorandum.

[229] See Tianjin Machinery 806 F. Supp. 1008. See also Raoping Xingyu - 28 CIT 1438

[230] See Comments 13 and 14.

Petitioners argue that Teamway has not cooperated to the best of its ability and that it actions have impeded this review. Therefore, Petitioners contend, the application of total AFA is warranted pursuant to section 776(a)(2) of the Act.[231]

First, Petitioners, chronicling Teamway's responses and the problems and deficiencies it argues are contained therein,[232] contend that Teamway has failed to provide information in the form and manner requested. Petitioners argue that Teamway repeatedly disregarded the Department's requests for information, providing instead the information that it deemed appropriate, only to revise that information without being requested to do so. Additionally, Petitioners contend that instead of using its best efforts to provide the Department with timely and accurate data, Teamway stalled by requesting extensions for every questionnaire response and, thus, prevented the Department from following up on open data questions. Petitioners also argue that any holes that remain in the record are the fault of Teamway and that these holes should be filled using adverse inferences.

Next, Petitioners assert that the data related to all of Teamway's tolling and veneering subcontractors are unreliable because they are not based on the actual production experience of each and every subcontractor (instead data were provided for two out of 16 "sample" subcontractors). Further, Petitioners assert that the tolling and veneering subcontractors' data do not cover the entire POR and that Teamway did not demonstrate that the reported data are representative, as it claimed. In addition, Petitioners argue that Teamway's allocation methodology is not supported by any source documentation.[233] Petitioners also contend that the Teamway Verification Report makes it clear that Teamway's upstream subcontractors' data were not substantiated at verification.[234] Petitioners argue that, considering Teamway's statements prior to verification averring that Teamway reported the contractors' "own" data,[235] it is unacceptable that it failed to provide complete POR data for any of its subcontractors (and failed to substantiate those data with documentation at verification).

Petitioners also contend that during verification Teamway officials explained to Department officials that they "assumed" that Teamway's subcontractor data were incorrect,[236] and as a result, the Department officials established that Teamway made unsubstantiated revisions to these data. Petitioners argue that such assumptions (e.g., that its subcontractor data was incorrect), call into question Teamway's reporting practices and undermine the reliability of all of Teamway's subcontractor data, including those of its mirror subcontractors, which were not reviewed at verification. Petitioners further contend that Teamway's actions reflect its

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[231] See sections 776(a)(2) and 776(b) of the Act; see also Nippon Steel - 337 F.3d 1373 ("the statutory mandate that a respondent act to 'the best of its ability' requires the respondent to do the maximum it is able to do").

[232] See Petitioners' Case Brief at 129-132.

[233] See Teamway Verification Report at 7-8.

[234] See Teamway Verification Report at 6-10.

[235] See Teamway Minor Corrections to Present on First Day of Verification at 2 (May 16, 2008).

[236] See Teamway Verification Report at 2-3.

willingness to alter the subcontractor data based on assumptions, which Petitioners argue, calls into question all of Teamway's data.

In conclusion, Petitioners argue that Teamway has not cooperated to the best of its ability and that its actions have impeded this proceeding. Therefore, Petitioners contend that if the Department determines that it cannot cobble together a reliable FOP database, total AFA would be appropriate. Alternatively, Petitioners argue that if total AFA is not applied, then the Department should apply partial AFA to value veneered boards from subcontractors. Petitioners claim that Teamway refused to provide intermediate veneered board factor data, as it should have, and reported unreliable and unusable data for the inputs its subcontractors used to prepare that factor. Petitioners suggest a specific partial AFA solution for Teamway's veneering factors.[237] Petitioners also assert that if the Department does not apply total AFA, the Department's practice dictates that the upstream inputs for bun feet, bent wood, furniture parts, and mirrors should be rejected and that surrogate values should be applied to those four factors.[238]

Teamway argues that the Department should consider its subcontractor information to be substantiated at verification. Teamway contends that, as it explained in its submissions, its subcontractors function as its "satellite factories,"[239] and further, are small and have unsophisticated "management skills or accounting system." Teamway contends that these subcontractors acted to the best of their abilities to provide the requested documentation for "numerous months" out of the POR. Teamway also argues that the Department determined that Teamway "accurately and completely" reported costs for the selected months for which the subcontractors provided data.[240] Teamway urges the Department to accept the verified payment receipts and use the subcontractors' information, as provided in Teamway's submissions.[241]

In rebutting Petitioners' comments, Teamway argues that it does not control its subcontractors and that it has acted to the best of its ability to cooperate fully with the Department's requests for information and as a result the Department has verifiable, usable information with which to calculate Teamway's dumping margin for the final results, just as it did in the Preliminary Results. Teamway also contends that it had no ability to induce cooperation from the subcontractors, despite its best effort.

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[237] See Petitioners' Case Brief at 139 and Exhibit 39.

[238] See Comment 29 for further summary of Petitioners' comments and the Department response on this issue; see also Comment 28 for our discussion on whether adverse inferences should be used to value merchandise sold but not produced during the POR.

[239] See Teamway's April 23 Supp. Response.

[240] See Teamway Verification Report at 7-10.

[241] See Live Swine – Canada 03/11/2005 IDM at Comment 50.

In addition, Teamway contends that an adverse inference is inappropriate because, as Petitioners stated, instead of using the subcontractors' FOPs, the Department can just use Teamway's FOPs for the inputs the subcontractors provided to Teamway. Additionally, Teamway argues that, in its questionnaire responses, it put forth as a reason for reporting FOPs of its "suppliers" of veneering services that there can be no surrogate value for veneered board given the nature of its production.[242] Further, Teamway asserts that it, and not its subcontractors, purchased the principal part of the veneered board (the board on which the veneer was glued).[243] Teamway contends that Petitioners did not previously argue against this reporting approach and did not submit any surrogate values for veneer board or suggest that such might exist.

Teamway argues that Petitioners are incorrect in claiming that Teamway used tolling subcontractors to produce "bent wood" with wood provided by Teamway. Teamway asserts that it purchased all of the "bent wood" it used during the POR from four suppliers (i.e., the suppliers procured the materials to make the "bent wood" themselves and then used those materials to produce the "bent wood" that they then supplied to Teamway) and that it reported the "bent wood" as such in its FOP database.

Teamway asserts that it did not refuse to provide intermediate veneered board factor data. Rather, Teamway maintains it made it clear that it did not feel such data were appropriate because surrogate values did not exist for the intermediate products. Teamway also claims that the consumption quantities for its veneer inputs were verified and determined to be accurate by Department officials.[244] Finally, Teamway argues that, rather than apply AFA, if the Department determines that subcontractor-supplied bun feet, bentwood, and mirrors are usable, then the Department should, as Petitioners suggest, use the surrogate values to value its subcontracted inputs.[245]

Department Position: We agree with Petitioners that the application of AFA is warranted, in part, with respect to Teamway. Section 776(a)(2) of the Act provides that the Department shall apply "facts otherwise available" if, inter alia, an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

The Department's Teamway Questionnaire instructed Teamway to report factor inputs that "reflect the factors of production used to produce one unit of the merchandise under

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[242] See Teamway's April 23 Supp. Response at 5S-5.

[243] See Teamway's Rebuttal Brief at 31.

[244] See Teamway Verification Report at Exhibit VE-16.

[245] See Comment 29 for further summary of Teamway's comments and the Department response on this issue; see also Comment 28 for our discussion on whether adverse inferences should be used to value merchandise sold but not produced during the POR.

consideration."[246] In the questionnaire, the Department also made it clear that it expected the reported FOPs to reflect the entire POR. Further, the questionnaire instructed Teamway to contact the Department immediately if it felt that any of the FOPs should not be reported based on the entire POR.[247] Teamway reported that it had six veneering subcontractors, four "bent wood" subcontractors, and eight bun feet subcontractors.[248] The Department did not instruct Teamway to restrict its reporting of FOPs to any subset of subcontractors, or to otherwise limit its reporting to only specific subcontractors or specific months of the POR.[249] In its supplemental questionnaires, the Department continued to ask questions pertaining to all of Teamway's subcontractors.[250] At no point in these supplemental questionnaires did the Department instruct Teamway to restrict its reporting of FOPs to certain subcontractors or certain periods of time. Furthermore, the Department's questionnaire made it very clear that if Teamway had any questions regarding how to compute its FOPs it should contact the Department.[251]

In examining Teamway's submissions and questionnaire responses, the only reasonable interpretation is that Teamway's reported subcontractor FOPs (i.e., for veneering, bun feet, bentwood inputs) were based on the usage/experience of each of its subcontractors. For example:

- As Petitioners point out, in its Sec. D Response Teamway stated that "Exhibit D-10 sets forth, on a per SKU and CONNUM basis, the actual input quantity of each applicable

[246] See Teamway Questionnaire at D-1 at I.A.

[247] See Teamway Questionnaire at D-1 at I.B. ("Normally, you should calculate the per-unit factor amounts based on the actual inputs used by your company during the POR as recorded under your normal accounting system. If you believe that using POR factors is inappropriate . . . or if you have any questions regarding the appropriate calculation period, **you must** contact the official in charge before preparing your response to this section of the questionnaire." (Emphasis in the original).

[248] See Teamway's Dec. 4 Supp. Response at Exhibit SE-33.a; Teamway also reported subcontractor data for mirrors. However, the Department did not verify mirrors and so did not determine that the mirror FOPs failed verification. Therefore, we are not applying AFA to the mirror FOP inputs, for the reasons discussed in Comment 29.

[249] See Teamway Questionnaire at Section D.

[250] See Department's supplemental questionnaires issued on November 1, 2007, and March 3, 2008.

[251] See Teamway Questionnaire at D-1 ("If you have any questions regarding how to compute the factors of the merchandise under consideration, please contact the official in charge before preparing your response to this section of the questionnaire.") (Emphasis in the original).

factor, actual labor hours and energy incurred in producing such semi-finished parts by the parts suppliers."[252]

- Teamway explained how it calculated labor for the main veneer subcontractor as well as how it calculated labor "for the other subcontractors."[253]

- As Petitioners point out, Teamway stated that "For the rest of the inputs provided by subcontractors besides . . . Teamway reports the actual consumption quantity provided by the subcontractors."[254]

- On April 23, 2008, Teamway also stated that it "reported the FOP files for all semi-finished parts that Teamway actually received from its subcontractors."[255]

- On April 23, 2008, Teamway also stated that "In Exhibit SE-57 Teamway reported all the inputs that the subcontractors provided themselves (the veneer itself, glue, and parquet tape), as well as the labor hours and energy used . . ."[256] Exhibit SE-57 refers to the March 25, 2008, FOP database entitled "FOP for Semi-Finished Goods Produced by Subcontractors for Which Teamway Did Not Provide Raw Materials."[257] This database was then combined with two other FOP databases to create the integrated FOP database to be used in Teamway's intended margin calculation. With the above statements, Teamway was clearly telling the Department that its FOP database contained FOPs based on the usage of all subcontractors.

- Teamway entitled one of its FOP databases "FOP for Semi-Finished Parts Produced by **Subcontractors** for Which Teamway Provided {sic} Raw Materials Used" (Emphasis added).[258]

- Teamway entitled another of its FOP databases "FOP for Semi-Finished Goods Produced by **Subcontractors** for Which Teamway Did Not Provide Raw Materials"[259] before

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[252] See Teamway's Sec. D Response at D-15; Teamway used the term "suppliers" and "subcontractors" interchangeably in referring to its producers of bun feet, bent wood, and veneering. However, since Teamway predominately used the term "subcontractors" when referring to these companies, we have utilized the term subcontractor in this memorandum.

[253] See Teamway's Dec. 4 Supp. Response at SE-15 and SE-16.

[254] See Teamway's Dec. 4 Supp. Response at SE-15.

[255] See Teamway's April 23 Supp. Response at 5S-4.

[256] See Teamway's April 23 Supp. Response at 5S-5.

[257] See Teamway's Mar. 25 Supp. Response at Exhibit SE-57.

[258] See e.g., Teamway's Mar. 25 Supp. Response at Exhibit SE-59 and Teamway's May 5 Submission at Exhibit 74-2.

[259] See e.g., Teamway's Mar. 25 Supp. Response at Exhibit SE-57.

changing the title of this FOP database to "FOP for Semi-Finished Parts Produced by **Subcontractors**." (Emphases added).[260]

Nowhere in Teamway's responses and other relevant submissions regarding its FOP databases did it state that it reported FOPs for just one veneering subcontractor and for just one bun feet/"bent wood" subcontractor.[261] Nevertheless, at verification, Teamway informed the Department that it had reported veneering, parquet, glue, fuel, water, and electricity, based on the experiences of just one veneering subcontractor.[262] Additionally, Teamway stated that it had provided veneering FOP information for only a few selected months of the POR, five in total, claiming that the veneering subcontractor felt that these months were "representative" of its costs.[263] However, as stated in the Teamway Verification Report, "Teamway did not provide any documentation to substantiate that claim."[264] In essence, Teamway provided sampled data for this subcontractor rather than complete data. In addition, at verification, Teamway failed to substantiate the water and electricity allocation methodology of the veneering subcontractor it used to report veneering FOPs.[265] Teamway employed a similar sampling methodology for its bun feet FOPs. Teamway stated at verification that it had nine subcontractors "to produce bun feet," but that it had reported FOPs based on the experiences of only one subcontractor for only seven months of the 12-month POR.[266] Again, Teamway claimed that its bun feet subcontractor felt that these seven months were "representative" of its costs; however, "Teamway did not provide any documentation to substantiate that claim."[267]

Therefore, despite Teamway's claims to the contrary, we find that Teamway withheld requested information (i.e., FOPs for all subcontractors and all months of the POR) and thus failed to provide information within the deadlines established, or in the form and manner requested by the Department. Moreover, Teamway's reported subcontractor information (i.e., subcontractors' input, utility, and labor FOPs), proved to be unverifiable. In this regard, we find that by withholding this information, Teamway has significantly impeded this proceeding. As stated in Comment 29, it is critical that the Department obtain accurate information regarding the products and services provided by Teamway's bun feet and veneered board subcontractors. Unlike

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[260] See e.g., Teamway's May 5 Submission at Exhibit 74-3.

[261] See Teamway's Sec. D Response, Teamway's Dec. 4 Supp. Response, Teamway's Mar. 25 Supp. Response, Teamway's April 23 Supp. Response, Teamway's May 5 Submission, and Teamway's May 16 Submission.

[262] See Teamway Verification Report at 7 (Teamway had seven (not six as originally reported) veneering subcontractors during the POR).

[263] See Teamway Verification Report at 7.

[264] Id.

[265] Id.

[266] Id.

[267] Id..

Teamway's other subcontractors, e.g., for bent wood, Teamway provided the bun feet and veneering subcontractors with lumber and board. The Department requires these subcontractors' FOPs in order to accurately value the cutting and veneering services that they provided. Thus, because Teamway failed to provide verifiable information from these subcontractors, the Department must rely on facts otherwise available to value veneering and bun feet.[268]

Teamway did not warn the Department of its difficulties in obtaining the necessary information from its bun feet and veneering contractors. Instead, without notification to the Department, Teamway decided that the submission of partial information was adequate. Teamway's argument that the Department should excuse its behavior because of the difficulties it had in securing the information from its subcontractors is without merit. Accepting Teamway's position that difficulties existed, does not excuse Teamway from dealing with the Department in the manner prescribed in the Questionnaire.[269] If Teamway had notified the Department, we could have worked with Teamway to resolve these problems, including exploring the possibility of alternative reporting methodologies. However, Teamway chose not to disclose these difficulties or its sampling methodology, until verification. As such, the Department determines that Teamway failed to cooperate to the best of its ability within the meaning of section 776(b) of the Act.[270] Thus, in selecting the facts available, the Department has employed an adverse inference.[271]

Teamway's reliance on Fish Fillets - Vietnam 03/21/2007 is inapposite. In Fish Fillets - Vietnam 03/21/2007, there were some concerns with certain FOP information provided by Choi Moi. However many all of the concerns were resolved because the Department received all the appropriate data and was able to tie them to the appropriate books and records. For Choi Moi's FOP information that did not tie in its totality to the appropriate books and records[272] the Department chose to apply AFA. In this regard, Fish Fillets from Vietnam supports the Department's application of partial AFA to Teamway. Similarly, Teamway's reliance on Live Swine – Canada 03/11/2005, to argue that the Department should use its "verified" payment receipts and the subcontractors' information, is misplaced. Live Swine – Canada 03/11/2005 is unrelated to the facts in this case in that neither the respondent nor its suppliers chose a sampling methodology in order to report only a subset of its suppliers' information.

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[268] See section 776(a) of the Act.

[269] Given that Teamway claimed to control its subcontractors, it is unclear why Teamway had difficulty securing the subcontractors' information. See Teamway's Dec. 4 Supp. Response Se-14-Se-15.

[270] We also find this in accordance with Nippon Steel, which confirms the statutory mandate that 'the best of its ability' means that the respondent does the maximum it is able to do. By not notifying the Department of its difficulties, the Department finds that Teamway did not do the maximum that it could and, therefore, has not met its statutory responsibilities.

[271] Id.

[272] See Fish Fillets - Vietnam 03/21/2007 at Comment 3.

Contrary to Teamway's arguments, the Department disagrees that it should employ Teamway's sampling methodology as facts available. As an initial matter and as noted above, Teamway's subcontractor information did not verify. The Department will not utilize information that fails verification.[273] Moreover, the fact that the "sampled" information from the bun feet and veneering subcontractors was found to be consistent with what Teamway submitted does not indicate that the Department substantiated the sampling methodology in order to employ it in Teamway's margin calculation. The verification established several important facts: 1) this "sample" of information that Teamway provided is small, 2) there is no backup documentation to demonstrate that the sample is representative of the information that the Department required of Teamway's contractors, and 3) there is no evidence that any form of methodological consideration was undertaken to ensure that the partial information was representative.

As our application of AFA to Teamway's veneering FOP inputs (i.e., all veneers, glue, parquet, labor, electricity, water and fuel) for each respective veneering input, we have taken the highest reported usage rate for any CONNUM and applied it to all CONNUMs which use the inputs in question. Petitioners suggest altering each veneering input by applying a certain factor. However, Petitioners' proposal is more complex and not demonstrably more accurate than the AFA methodology we have utilized. Second, for bun feet FOP inputs (i.e., steel screws, nut steel, steel bar, glue, direct labor, electricity, water, and fuel) we have applied the same AFA methodology applied to Teamway's veneering FOP inputs. That is, for each bun foot FOP input,[274] respectively, we have taken the highest reported usage rate for any CONNUM and applied that usage rate to all CONNUMs which used the inputs in question. We have not applied AFA to the wood inputs for these bun feet because Teamway supplied this wood to the subcontractors in question. Thus, the wood usage rates are based on Teamway's in-house records, for which no application of AFA is warranted.

Last, we disagree with Petitioners, in part, with regards to Teamway's mirror subcontractor data. The Department did not verify mirrors and so did not determine that the mirror FOPs failed verification. Therefore, we have not applied AFA to the mirror FOP inputs and, for the reasons discussed in Comment 29, the Department has valued the mirrors Teamway obtained from mirror subcontractors with a surrogate value for these final results.

Comment 27: Whether and How to Combine the FOP Datasets from May 5, 2008 and May 16, 2008

Petitioners assert that there is no single FOP database on the record with complete FOP information. According to Petitioners, in order for the Department to calculate a margin, it must identify which portions of the FOP datasets submitted on May 5 and May 16, 2008,[275] are even

[273] See section 782(e) of the Act.

[274] We are applying AFA for bun feet provided by subcontractors to whom Teamway provided materials. Teamway also purchased bun feet without providing the suppliers lumber for the bun feet. These bun feet are valued as a direct FOP into the production of the subject merchandise and therefore the valuation of these bun feet was not affected by the subcontractor's information.

[275] We have referred to these submissions as they were dated by Teamway.

reliable. Petitioners make specific suggestions on which fields from these databases should be accepted or rejected.[276]

Teamway generally argues that the Department has a complete FOP database on the record even if it determines not to accept subcontractor FOPs.

Department Position: While we agree with Petitioners that there is no database on the record that is usable in its current state, we disagree that it is appropriate to merge portions of the FOP databases submitted on May 5 and May 16, 2008, for these final results.

On May 16, 2008, Teamway submitted four database changes for consideration, which the Department examined at verification,[277] as well as the following revised FOP databases: 1) FOP database for subcontractors for whom Teamway provided materials; 2) FOP database for subcontractors for whom Teamway did not provide materials; 3) integrated FOP database (which consists of the two above-mentioned subcontractor databases plus a Teamway in-house database that was not revised on May 16, 2008), and; 4) pre-POR CONNUM FOP database (i.e., the FOP database Teamway created for CONNUMs it sold, but did not produce, during the POR). The pre-POR CONNUM database is based on the integrated FOP database.

One[278] of the four changes submitted by Teamway in the May 16, 2008 FOP databases applies to both types of subcontractors. Another change[279] affected the May 16, 2008 FOP database for subcontractors for whom Teamway did not provide materials.[280] Thus, because Teamway submitted changes to the subcontractors databases, Teamway's changes also affected the May 16, 2008 integrated FOP database and pre-POR CONNUM database. At verification, the Department accepted the change (i.e., 3.b) that affected only the FOP database for subcontractors for whom Teamway did not provide materials.[281] However, at verification, the Department rejected the change (i.e., 3.a) that affected both subcontractor databases, finding that the change was neither minor nor inadvertent, and that it extensively affected the FOP databases.[282] Thus, all four FOP databases submitted on May 16, 2008, are unusable for the final results because they all incorporate changes which we have not accepted.

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[276] See Petitioner Case Brief at 128.

[277] See Teamway May 16 Submission at Exhibit SE-65-4 and Teamway Verification report at 2 and 3.

[278] See Teamway Verification Report at 2 (i.e., I. Minor Corrections 3.a).

[279] See Teamway Verification Report at 2 (i.e., I. Minor Corrections 3.b).

[280] The other two changes pertain to the U.S. sales database and the pre-POR CONNUM database, respectively. See Teamway Verification Report at 2 (i.e., I. Minor Corrections 1 and 2).

[281] See Teamway Verification Report at 2.

[282] See Teamway Verification Report at 2 and 3.

For the final margin calculation, as stated above at Comment 27, we have created a new integrated FOP database based upon the FOP databases submitted on May 5, 2008.[283] This final integrated FOP database incorporates the following: 1) the May 5, 2008, Teamway in-house FOP database;[284] 2) the May 5, 2008, FOP database for subcontractors for whom Teamway provided materials,[285] as adjusted for the application of partial AFA discussed in Comment 26 above, and; 3) the May 5, 2008, FOP database for subcontractors for whom Teamway did not provide materials,[286] as adjusted for: A) the minor correction, which we accepted, to the ratios reported for water and electricity usage rates;[287] and B) the application of partial AFA discussed in Comment 26, above. For an additional explanation of these changes, see the Teamway Final Calculation Memo. For information on our treatment of the pre-POR CONNUM FOP database, please see Comment 28 below.

Comment 28: Whether to Apply an Adverse Inference to Value Merchandise Sold, but not Produced, During the POR

Petitioners argue that Teamway neglected to revise its data for merchandise that was sold, but not produced, during the POR after Teamway's March 24, 2008 submission.[288] As a result, Petitioners assert that these data cannot be independently incorporated into the appropriate FOP database. According to Petitioners, because Teamway has impeded this review by providing incomplete data, the Department should apply an adverse inference and apply the PRC-wide rate to Teamway's sales of merchandise sold, but not produced, during the POR.

Teamway argues that the Department should use the information on the record that Teamway provided for CONNUMs sold, but not produced, during the POR. Teamway claims that the Department's verification report accepted Teamway's revised and integrated FOP database for the pre-POR CONNUMs as submitted in Teamway's May 16 Submission at Exhibit SE-76.

Department's Position: We disagree with both Teamway and Petitioners. First, we did not accept Teamway's revised and integrated May 16, 2008, FOP database at verification. We specifically stated in the Teamway verification report that one[289] of Teamway's changes "was not inadvertent in that Teamway examined the worksheet provided by the sub-contractors and made determinations on each worksheet as to the accuracy of its contents and the changes resulting

[283] See Teamway Final Calculation Memo for further detail.

[284] See Teamway's May 5 Submission at Exhibit SA-74-3.

[285] See Teamway's May 5 Submission at Exhibit SA-74-2.

[286] See Teamway's May 5 Submission at Exhibit SA-74-1.

[287] See Teamway Verification Report at 2 (i.e., I. Minor Corrections 3.b).

[288] Teamway's database for these data is the pre-POR CONNUM FOP database.

[289] See Teamway Verification Report at 2 (i.e., I. Minor Corrections 3.a).

from this item were extensive across the {FOP} database."[290] As discussed in Comment 27, above, by rejecting this change to the database we found the four FOP databases submitted on May 16, 2008, to be unusable for these final results.

Second, contrary to Petitioners' claims, Teamway submitted revisions to the pre-POR CONNUM FOP database for merchandise that was sold, but not produced, during the POR, after March 24, 2008. Specifically, Teamway revised the pre-POR CONNUM FOP database in its April 23 Supp. Response and in its May 16 Supp. Response. Therefore, since Teamway continued to update its pre-POR CONNUM FOP database, we find that it acted to the best of its ability to provide the requested information and therefore conclude the application of an adverse inference is unwarranted for purposes of valuing merchandise sold, but not produced, during the POR.

However, section 776(a)(1) of the Act permits the application of facts otherwise available if necessary information is not on the record. In this case, Teamway did not submit usable FOP data for merchandise that was sold, but not produced, during the POR. Specifically, Teamway created pre-POR CONNUM FOP databases to value merchandise that was sold, but not produced, during the POR using the FOPs from the closest CONNUM produced during the POR reported in its integrated FOP databases. However, for the reasons discussed in detail above, in Comments 26 and 27, the integrated FOP databases submitted by Teamway are unusable and we have created a new integrated FOP database for these final results. Specifically, for these final results, we have applied the following changes to two of the databases that are incorporated into the final integrated FOP database: 1) we have applied AFA to the certain FOP inputs (i.e., steel screws, nut steel, steel bar, glue, direct labor, electricity, water, and fuel) in the May 5, 2008, FOP database for subcontractors for whom Teamway provided materials, and; 2) we have applied AFA to the certain FOP inputs (i.e., all veneers, glue, parquet, direct labor, electricity, water, and fuel) and have incorporated a minor correction[291] which we accepted at verification to correct the ratios reported for water and electricity usage rates in the May 5, 2008, FOP database for subcontractors for whom Teamway did not provide materials. As such, the necessary pre-POR CONNUM FOP database is not on the record and the application of facts otherwise available is necessary. Therefore, as facts available, for these final results for the merchandise that was sold, but not produced, during the POR, we used the FOPs from the final integrated FOP database for the most similar control matching number (i.e., CONNUM) produced during the POR (as determined by the Department).[292]

Comment 29: Valuation of Certain Subcontracted Factors

Petitioners argue that the upstream inputs provided by Teamway's subcontractors cannot be used because Teamway does not control its subcontractors. Further, Teamway has no agreement or

[290] See Teamway Verification Report at 2.

[291] See Teamway Verification Report at 2 (i.e., I. Minor Corrections 3.b).

[292] See Teamway Final Calculation Memo for further detail.

contract signed with the subcontractors.[293] Teamway had nothing more than a routine relationship between an unaffiliated purchaser and supplier. Moreover, Teamway's inability to obtain and present the factor information for each of its subcontractors at verification provides further evidence that it retains no control over these entities. As a result, Petitioners argue that using the subcontractors' factor data would lead to an inaccurate result, and recommend using Indian HTS for Bun Feet, Semi-Finished Parts, Bent Wood and 3mm Mirror.

Teamway urges the Department to use the Philippine HTS for these subcontracted factors.

Department's Position: Petitioners correctly state that, where a producer of subject merchandise obtains its factor(s) from a separate supplier entity, the Department's longstanding practice has been to value the actual FOPs consumed by the producer of subject merchandise, without looking to the supplier's upstream inputs.[294] However, the Department disagrees with Petitioners' claim that the issue of control is the only factor that dictates the intermediate input methodology. In Honey from the People's Republic of China: Final Results and Rescission, In Part, of Antidumping Duty New Shipper Reviews, 72 FR 37713 (July 11, 2007), the Department clarified that we apply a surrogate value to an intermediate input:

> 1) when the intermediate input accounts for an insignificant share of total output, and the potential increase in accuracy to the overall calculation that results from valuing each of the FOPs is outweighed by the resources, time, and burden such an analysis would place on all of the parties to the proceeding; or 2) when valuing the factors used in a production process yielding an intermediate product may lead to an inaccurate result because a significant element of cost would not be adequately accounted for in the overall factors buildup.

In the instant review, the above conditions are reversed from the situation in Honey from the People's Republic of China: Final Results and Rescission, In Part, of Antidumping Duty New Shipper Reviews. Teamway uses nine and seven subcontractors for these intermediate inputs, respectively.[295] Bun feet and veneered boards are not an insignificant portion of wooden bedroom furniture. Moreover, if we did not use a FOPs build up for the veneering service and for valuing bun feet from subcontractors to whom Teamway provided wood, it would lead to an inaccurate result. Valuing these intermediate inputs with the SV proposed by the parties (such as Articles of Wood, Others and Plywood, Veneered Panels and Similar Laminated Wood: Other) will lead to an inaccurate result. This is because the bun feet subcontractors to whom Teamway provided wood mainly provided cutting services, (but not bun feet) and while the veneering subcontractors provided the veneering service (but not veneered panels).
When applying SVs to FOPs consumed by the producer of the subject merchandise does not

[293] See Teamway's Dec. 4 Supp. Response, at SE-14.

[294] See Final Results of Determination Pursuant to Court Remand, Sinopec Sichuan Vinylon Works v. United States, Court No. 03-00791, Slip Op. (CIT May 25, 2006) at 8, citing Fish Fillets From Vietnam and accompanying Issues and Decision Memo, at Comment 6.

[295] See Teamway Verification Report, at 9.

accurately reflect the value of the product or service provided by the supplier, the Department uses the upstream inputs to the FOP consumed or the intermediate inputs consumed. See, e.g., 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), Issues and Decision Memorandum, at 123-126 (Comment 43.A: Rejection of Armour Rubber's Upstream Inputs). The inaccuracy from using an SV on the intermediate inputs is particularly significant for tolling operations where the producer of the subject merchandise provides materials to the tolling subcontractor for producing the intermediate input. The tolling subcontractors are in essence providing services which usually consist of labor and energy. Normally, such services are difficult to value with an SV. An example is Certain Helical Spring Lock Washers from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review, 67 FR 45702 (July 10, 2002), where the Department valued the upstream inputs of companies who provided services on respondent's lock washers, such as plating service. This valuation method led to a more accurate result where there were no SVs that accurately reflect the value contributed by the supplier. Once the Department was provided with a plating service value on the record in a later review, the Department began to value this intermediate input instead.[296] See also Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 33977 (June 16, 2008) (the Department used the FOPS of the respondent's subcontractor for tolling wire rod).

In the instant review, the Department considers both the subcontractors for bun feet and the subcontractors providing the veneering services as tolling subcontractors. The subcontractors of bun feet received lumber from Teamway and cut and sand the lumber into bun feet. The subcontractors of the veneering service received boards from Teamway and attached veneers to the board, then returned the veneered boards to Teamway. Therefore, the Department is using the actual FOPs for the bun feet and the veneered board provided by these tolling subcontractors. However, because Teamway failed to substantiate the FOP information for these tolling subcontractors, the Department is applying FA, with an adverse inference, for these intermediate inputs. See Comment 26. Finally, for any purchased intermediate inputs (such as bentwood, mirror, and certain bun feet) the Department is applying SVs. For these intermediate inputs Teamway did not provide the subcontractors with lumber and board. Rather, Teamway purchased the entire intermediate input. As such, the Department can value the intermediate input based on their surrogate values. See Teamway Final Calculation Memo.

Comment 30: Bun Feet Variance

Teamway states that, pursuant to the Department's instruction, it converted the lumber usage volume (i.e., cubic meter or square foot) of bun feet to a kilogram unit weight and used a reduction ratio of 78.54 percent in doing so. Teamway argues that this reduction ratio was necessary in the conversion calculation to reflect the reduction in size from solid wood to the bun

[296] See Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Order in Part, 69 FR 12119 (March 15, 2004).

feet that were actually used to produce the subject WBF. Teamway claims that this reduction ratio is a conservative estimate because some pillars or legs are not completely of the same circular shape throughout the body from top to bottom of the pillars or legs and that it could have, but did not, use a lower reduction ratio. Additionally, Teamway argues that the Department should not use the surrogate value of wooden parts as it did in the Preliminary Results to calculate the constructed value for the purchase of bun feet, which are a finished shape. Thus, Teamway contends that the Department should apply this reduction ratio (i.e., 78.54 percent) to transform the cubic measure of lumber to the weight of bun feet, and that no variance adjustment is necessary or should be used.

Petitioners disagree and argue that the Department should not make a variance adjustment for the final results. Petitioners assert that Teamway does not base this reduction ratio on its actual production, and instead uses a theoretical calculation[297] to lower the actual value of bun feet. Petitioners argue that the Department should reject Teamway's unjustified bun feet variance and inflate the bun feet factor by 1.273 to get to the actual amount Teamway should have reported.

Department's Position: In the preliminary results, finished "bun feet" as an independent input was not part of the FOP database and, as such, the bun feet reduction factor was not a consideration. Consistent with Teamway's post-preliminary submissions, we are treating the bun feet for which Teamway did not provide materials as an input and including finished "bun feet" in our calculation of direct material. For the reasons discussed below, the Department has accepted Teamway's adjustment to bun feet.

We find Teamway's calculation of its reduction ratio to be reasonable because this reduction ratio more accurately converts the FOPs in lumber into FOPs in wooden parts in order to match the surrogate value for wooden parts. We find the mathematical assumptions made by Teamway in its calculation of its reduction ratio, as explained in Teamway's fifth supplemental response,[298] to be reasonable. The reduction ratio is necessary in the conversion calculation to reflect the reduction in size from solid rectangular wood to the bun feet used in WBF, which are circular in shape. Thus, it would be unreasonable to reverse Teamway's application of its reduction ratio to bun feet because then the bun feet usage rate would be based on usage of a rectangular block of wood rather than the circular piece of wood actually used. Contrary to Petitioners' argument, the fact that this adjustment is based on theoretical assumptions rather than actual production does not signify that this adjustment is unreasonable. For the reasons described above, we find Teamway's theoretical assumptions to be reasonable. Thus, we will not inflate the bun feet factor by 1.273 to remove the application of the reduction ratio from the FOP database, but instead will accept Teamway's reported finished bun feet usage rate, which incorporates the bun feet reduction ratio.[299]

Comment 31: Packing Labor

[297] See Teamway's April 23 Supp. Response at Exhibit SE-65-4 at 2R-8 - 2R-9.

[298] Id.

[299] See Teamway Final Analysis Calculation Memo.

Teamway maintains that when calculating the total COM, the Department erroneously included packing labor in the COM when, according to the Department's normal value methodology as described in the Preliminary Calculation Memo for Teamway, packing labor should be included as part of the packing cost, not in COM. Teamway argues that for the final results, the Department should remove packing labor from COM and only include packing labor in the packing cost.

Petitioners did not comment on this issue.

Department's Position: We agree with Teamway. We inadvertently included packing labor in the calculation of COM, rather than in packing costs, and thus overstated the value of COM to which the surrogate financial ratios were applied. In Teamway's preliminary margin program, we added total direct material, freight, energy, and labor (including packing labor) to calculate COM. However, it is the Department's normal practice not to include packing labor in COM but instead to include packing labor in "packing" in the normal value sum.[300] Specifically, as stated in Teamway Preliminary Calculation Memo, "normal value equals the sum of TOTCOM, SG&A, profit, and packing, minus the total value of by-products." Therefore, for the final results, we removed packing labor from the labor component of COM, and included it only in the packing costs which we used to calculate normal value.[301]

Comment 32: Use Market Economy Purchases for Certain Inputs

Teamway contends that the Department should use its MEPs of certain inputs to value those factors of production.[302] Teamway contends there is no specific information on the record that indicates or proves that the specific input providers from Thailand involved in this review received subsidies during the POR. Thus, Teamway argues, the Department lacks adequate reason to believe or suspect that the market economy industries producing the inputs at issue are subsidized.[303]

Teamway asserts that it buys a certain input produced in Thailand from trading companies located outside of Thailand and that under Department precedent, any possible subsidies from a Thai producer are presumed not to be passed through by the trading company in its pricing.[304]

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[300] FMTCs – PRC 12/17/07, IDM at Comment 9.

[301] See Teamway Final Calculation Memo.

[302] See section 773(c)(1); 19 CFR. 351.408(c)(1) and Lasko - 43 F.3d 1442 at 1446.

[303] Teamway relies upon Fuyao - 29 CIT 109, 114 (CIT 2005), which sets forth a test that requires the Department to "demonstrate by specific and objective evidence that (1) subsidies of the industry in question existed in the supplier countries during the POI; (2) the supplier in question is a member of the subsidized industry or otherwise could have taken advantage of any available subsidies; and (3) it would have been unnatural for a supplier to not have taken advantage of such subsidies."

[304] See e.g., CTRs-PRC 04/16/04, and IDM at Comment 8.

Thus, Teamway argues that its purchases of the certain input produced in Thailand can be used for surrogate value purposes. Further, Teamway asserts that the price it paid to the trading company for the certain input produced in Thailand, when compared to the price it paid for the same certain input made in another country in which Teamway asserts there is no suspicion of subsidies, confirms that the certain input produced in Thailand is not subsidized and thus may be used for surrogate value purposes.[305] [306]

Finally, Teamway contends that even if the Department determines that the certain input produced in Thailand was subsidized and thus should be disregarded as an MEP, the Department should, pursuant to its practice, revise its calculation of the average input price of this certain input in the final results by weight-averaging Teamway's MEPs of this certain input from other countries (namely, one particular market economy country where Teamway alleges there is no suspicion of subsidies) with its NME purchases of the same input (valued using the surrogate value methodology).[307]

Petitioners contend that Teamway has provided no reason for the Department to deviate from its normal practice of disregarding MEPs of inputs from countries that the Department has determined provide general export subsidies. Thus, Petitioners contend, the Department should disregard Teamway's MEPs of certain inputs and continue to assign surrogate values to these factors in the final results.

Petitioners contend that Teamway incorrectly states that the Department must find evidence of industry-specific subsidies to disregard MEP prices. Rather, Petitioners assert, once the Department determines that a respondent purchased inputs that originated in Korea, Indonesia, Thailand, or India, the analysis stops there and the purchase price is disregarded.[308] Petitioners also contend that Teamway incorrectly relies on CTRs-PRC 04/16/04, which was subsequently rejected in Helical Spring Lock Washers from China,[309] to support its argument that the Department should use its MEP prices because Teamway buys the Thai product from trading companies located outside of Thailand. Further, Petitioners contend that other record evidence, which is proprietary, pertaining to Teamway's purchases of these certain inputs provide additional support for disregarding the MEP prices.[310]

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[305] See Teamway Br. at 5-6 and Teamway's Section D response (August 23, 2007), at Exhibit D-5.

[306] See Zhejiang Machinery-CIT 1365, 1377 (CIT 2007).

[307] See Teamway Br. at 5-6 and Teamway's January 11, 2008 submission.

[308] See FMTCs-PRC 01/18/06, and IDM at Comment 110 (citations omitted).

[309] See Lockwashers-PRC 05/17/05, and IDM at Comment 1 ("While the Department determined in Color Televisions to use prices of an input purchased through a Hong Kong trading company despite evidence that the input may have been subsidized by the country of origin, the decision in that case does not represent our practice and should not be followed because it did not take proper account of the directive in the legislative history for the Department to avoid using any prices which it has reason to believe or suspect may be dumped or subsidized prices.").

[310] See Petitioners' Br. at 34 and FN 111.

Department's Position: We disagree with Teamway that we should use its MEPs to value certain of its inputs produced in Thailand. We agree with Teamway, however, that we should revise our calculation of the average input price for a certain input. Specifically, in the final results we have determined to weight-average Teamway's MEP of a certain input from one country, with its NME purchases of the same input, valued using the surrogate value methodology.[311]

Pursuant to 19 CFR 351.408(c)(1), when a mandatory respondent sources inputs from a market-economy supplier in meaningful quantities (i.e., not insignificant quantities), we use the actual price paid by respondents for those inputs, except when prices may have been distorted by findings of dumping by the PRC and/or subsidies.[312] We continue to find, as we did in the Preliminary Results, that Teamway's reported information demonstrates that certain raw materials are purchased from countries the Department has determined may subsidize exports (e.g., Indonesia, South Korea and Thailand). Through other proceedings, the Department has learned that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, find it reasonable to infer that all exports to all markets from these countries may be subsidized.[313] The legislative history provides that in making its determination as to whether input values may be subsidized, the Department is not required to conduct a formal investigation, rather, Congress directed the Department to base its decision on information that is available to it at the time it makes its determination.[314] Therefore, for these final results, we have continued to value certain Teamway inputs using surrogate values.[315] The Department finds Teamway's reliance on Fuyao - 29 CIT 109, 114 (CIT 2005) to be misplaced. The Fuyao - 29 CIT 109, 114 (CIT 2005) decision is distinguishable because, in its original float glass determination, the Department inadvertently stated that it had "reason to believe or suspect" that prices "are" subsidized.[316] The Court found that because the Department stated that prices "are" subsidized, it held itself to a higher standard than that required by legislative history, and was therefore required to demonstrate with record evidence that prices "were" in fact subsidized.[317] In the instant case, by contrast, we made clear in our Preliminary Results, and again in these final results that in determining whether to disregard prices, we look to whether we have reason to believe or suspect such prices may be subsidized. Because the information before the Department demonstrates that Korea, Indonesia, and Thailand maintain broadly available export

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[311] See Teamway Final Calculation Memo.

[312] See Final Rule - 62 FR 27296 - 05/19/97.

[313] See, e.g., Brake Rotors - 72 FR 42386, and IDM at Comment 1.

[314] See H.R. Rep. 100-576 at 590 (1988).

[315] See Teamway Final Calculation Memo.

[316] See ARG - 67 FR 6482 and IDM at Comment 1.

[317] See Fuyao - 29 CIT 109, 114 (CIT 2005).

subsidies, and because the parties have not identified in their arguments any information to demonstrate otherwise, we continue to have reason to believe or suspect that prices from these countries may be subsidized. Therefore, in our final results we have continued to disregard prices from those countries.

The Department has instituted a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the POR exceeds 33 percent of the total volume of the input purchased from all sources during the same period.[318] In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted-average MEP price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy suppliers during the period is equal to or below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight average the weighted-average MEP price with an appropriate surrogate value according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.[319] When a firm has made market economy input purchases that may have been dumped or subsidized, are not bona fide, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid MEPs meet the 33-percent threshold.[320] Also, where the quantity of the input purchased from market-economy suppliers is insignificant, the Department will not rely on the price paid by an NME producer to a market-economy supplier because it cannot have confidence that a company could fulfill all its needs at that price.[321]

In this instance, we reexamined a certain input[322] purchased by Teamway from a market economy country and determined that the purchases did not appear to be dumped or subsidized, not bona fide, or otherwise not acceptable for use in a dumping calculation. We also determined that the volume of this certain input from the market economy country was below 33 percent of the company's total volume of purchases of the input during the POR. Therefore, consistent with our practice, we weight-averaged the MEP price Teamway paid for this certain input, according to its respective shares of the total volume of purchases, with its NME purchases of the same input using surrogate value methodology, as appropriate.[323]

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[318] See Antidumping Methodologies Notice.

[319] Id.

[320] Id.

[321] Id.

[322] See Teamway Br. at 6.

[323] See Teamway Final Calculation Memo.

V. STARCORP

Comment 33: Assign Total AFA

Petitioners argue that for the final results, the Department should apply total adverse facts available to Starcorp because Starcorp did not withdraw its request for review but merely stated in its August 20, 2008, submission that it would no longer participate in this review and requested the destruction of all of its submissions that included all of its business proprietary information. Petitioners also point out that Starcorp never responded to Sections C and D of the Department's questionnaire. Petitioners contend that the Department should assign Starcorp the PRC-wide rate as total adverse facts available because Starcorp refused to cooperate in the Department's review. Petitioners state that the Department should explicitly identify in the final results that the Starcorp entities have a margin of 216.01 percent because if this point is not made clear there could be confusion at the time of liquidation and certain Starcorp entries might be liquidated at a rate other than the PRC-wide rate.

Department's Position: We agree with Petitioners in part. As we stated in the Preliminary Results, because the record does not contain reliable information demonstrating that Starcorp operates free from government control, for purposes of this review, it is considered part of the PRC-wide entity.[324] Both Petitioners and Starcorp requested the 2006 administrative review of Starcorp. While Starcorp submitted a separate-rate certification, and a response to Section A of the Department's June 21, 2008, questionnaire, Starcorp did not respond to Sections C and D of the Department's questionnaire. Moreover, on August 20, 2007, Starcorp: 1) withdrew its request for the Department to conduct the second administrative review; 2) stated it would no longer participate in this review; 3) requested that the Department and all parties destroy or return Starcorp's submissions containing business proprietary information; and 4) requested removal from both the APO and public service lists. Thus, no information remains on the record of this review with respect to Starcorp. As Petitioners did not withdraw their request for review, Starcorp remains subject to this review. Further, because Starcorp did not demonstrate its eligibility for separate-rate status, as it ceased to participate in this proceeding, it remains subject to this review as part of the PRC-wide entity.

[324] See 73 FR at 8282.

In the Preliminary Results, we stated that certain companies along with Starcorp are part of the PRC-wide entity and, thus, the PRC-wide entity is under review.[325] We further stated that pursuant to section 776(a) of the Act, because the PRC-wide entity failed to respond to the Department's questionnaires, withheld or failed to provide information in a timely manner or in the form or manner requested by the Department, submitted information that could not be verified, or otherwise impeded the proceeding, it was appropriate to apply a dumping margin for the PRC-wide entity using the facts otherwise available on the record.[326] Additionally, because the PRC-wide entity failed to respond to our requests for information, we found an adverse inference is appropriate pursuant to section 776(b) of the Act for the PRC-wide entity. Starcorp is part of the PRC-wide entity and, as AFA, we continue to assign to Starcorp, as part of the PRC-wide entity a rate of 216.01 percent. Thus, all of Starcorp entries for this review period are subject to this rate. However, consistent with our standard practice, because Starcorp failed to demonstrate its eligibility for a separate rate, and thus is part of the PRC-wide entity, we will not assign a separate rate to Starcorp for purposes of these final results of review.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this investigation and the final weighted-average dumping margins in the *Federal Register*.

_____ _____

Agree Disagree

David M. Spooner
Assistant Secretary
for Import Administration

_____

Date

[325] See 73 FR at 8282.

[326] Id.

Attachment I

ACRONYM AND ABBREVIATION TABLE *All cites in this table are listed alphabetically by acronym/abbreviation*	
Acronym/Abbreviation	**Full Name**
Aakriti Furnishers	Aakriti Furnidhers Pvt. Ltd.
Act	Tariff Act of 1930, as amended
AFA	Adverse Facts Available
Agro Dutch	Agro Dutch Industries Limited's
Ahuja	Ahuja Furnishers Pvt. Ltd.
Akriti	Akriti Perfections India Pvt. Ltd.
AMS	Automated Manifest System
Antonio Bryan	Antonio Bryan Development Corporation
Aosen	Shanghai Aosen Furniture Co., Ltd.
APO	Administrative Protective Order
AQR	Response to Section A of the Antidumping Questionnaire
Arkane	Arkane International Corporation
ASI	America Signature Inc.
ASOI	Annual Survey of Industries, 2003-04, Vol. I: Statistics on Employment and Labour Cost
AUV	Average Unit Value
Baigou Crafts	Baigou Crafts Factory of Fengkai
Berbenwood	Berbenwood Industries, Inc.
BILLADJ1U	Billing Adjustment 1
BILLADJU	Billing Adjustments
BLS	Bureau of Labor Statistics
BOC	Bureau of Customs
BOM	Bill of Materials
BPI	Business-Proprietary Information
CAFC	Court of Appeals for the Federal Circuit

ACRONYM AND ABBREVIATION TABLE ***All cites in this table are listed alphabetically by acronym/abbreviation***	
Calfurn	Calfurn Manufacturing Philippines, Inc.
CBP	U.S. Customs and Border Protection
CEA	Central Electricity Authority of India
Cebu	Crafters of Cebu, Inc.
CEP	Constructed Export Price
CFR	Code of Federal Regulations
CIL	Coal India Limited
CIT	Court of International Trade
CMA	China Manufacturers Alliance LLC
COGS	Cost of Goods Sold
COM	Cost of Manufacture
Conghua	Conghua J.L. George Timber and Co., Ltd.
CONNUM	Control Number
COP	Cost of Production
CQR	Response to Section C of the Antidumping Questionnaire
CVD	Countervailing Duty
D.S. Doors	D.S. Doors Pvt. Ltd.
Dare Group	Collectively, Fujian Lianfu Forstry Co., Fujian Wonder Pacific Inc., Fuzhou Huan Mei Furniture Co., Ltd., Jiangsu Dare Furniture Co., Ltd.
Decca	Decca Hospitality Furnishings, LLC
Dehli Furniture	Delhi Furniture Company PVT. Ltd.
Delite	Delite Furniture Systems Private Limited
Department	Department of Commerce
DEPB	Duty Entitlement Passbook Scheme
Dinesh Rajen	Dinesh Rajen Interiors Pvt. Ltd.
DQR	Response to Section D of the Antidumping Questionnaire
EDI	Electronic Data Interface

ACRONYM AND ABBREVIATION TABLE *All cites in this table are listed alphabetically by acronym/abbreviation*	
Emerald	Emerald Home Furnishings, Inc.
ENTVALUE	Entered Value
EP	Export Price
EQR	Response to Section E of the Antidumping Questionnaire
Evergreen	Evergreen International Ltd.
FA	Facts Available
Fengkai	Fengkai Hengsheng Furniture Co., Ltd.
Fine Furniture	Fine Furniture (Shanghai) Limited
First Wood	Tianjin First Wood Co., Ltd.
FOP(s)	Factor(s) of production
Four Seas HK	Four Seas Furniture Manufacturing Ltd.
Fusion	Fusion Designs Private Ltd.
GAAP	Generally Accepted Accounting Principles
GDP	Gross Domestic Product
GNI	Gross National Income
GOI	Government of India
GSB IP Group	Collectively, Emerald Home Furnishings; Dongguan Mingsheng Furniture Co., Ltd.; Dongguan Sunpower Enterprise Co., Ltd; Hung Fai Wood Products Factory Ltd.; Hwang Ho International Holdings Limited; King Wood Furniture Co., Ltd.; Qingdao Shengchang Wooden Co., Ltd.; Shenzhen Shen Long Hang Industry Co., Ltd.; Transworld (Zhengzhou) Furniture Co., Ltd.; Wan Bao Cheng Group Hong Kong Co., Ltd.; Zhongshan Gainwell Furniture Co., Ltd.
Guanqui	Foshan Guanqui Furniture Co., Ltd.
Highland House	High Land House Private Limited
Hi-Life	M/S Hi-Life Furnishers Private Limited
HTS	Harmonized Tariff Schedule
Huzaifa	Huzaifa Furniture Industries Pvt. Ltd.

ACRONYM AND ABBREVIATION TABLE ***All cites in this table are listed alphabetically by acronym/abbreviation***	
ICC	Inventory Carrying Costs
ICE	Immigration and Customs Enforcement
IEA	International Energy Agency, Key World Energy Statistics (2003 edition)
IFP	Indian Furniture Products Ltd.
ILO	International Labor Organization
Image Furnishers	Image Furnishers Private Limited
Imperial	Imperial Furniture Company Private Limited
IN Trading	In Trading Private Limited
INLFWCU	Inland Freight from the Warehouse to the Customer
Insular Rattan	Insular Rattan & Native Products, Corporation
INTNFRU	International Freight
ISE(s)	Indirect Selling Expense(s)
James Andrew Newton	James Andrew Newton Art Exports Pvt. Ltd.
Jayabharatham	Jayabharatham Furniture & Appliances Pvt. Ltd.
Jodhpur	Jodhpur Crafts Private Limited
JV	Joint Venture
Kemp	Kemp Enterprises, Inc.
KGS	Kilograms
King Kei	King Kei Furniture Factory
Kunwa	Kunwa Enterprise Company
KWH	Kilowatt Hours
Legacy	Raphael Legacy Designs, Inc.
LTFV	Less Than Fair Value
M3	Meters cubed
Maria Yee	Collectively, Guangzhou Maria Yee Furnishings Ltd. And Pyla HK Limited
MDF	Medium Density Fiber Board

ACRONYM AND ABBREVIATION TABLE *All cites in this table are listed alphabetically by acronym/abbreviation*	
ME	Market economy
MEPs	Market economy purchases
ML&E	Materials, labor and energy
MOE	Market Oriented Enterprise
MSFTI	Monthly Statistics of the Foreign Trade of India
Nanaholy	Zhejiang Niannian Hong Industrial Co., Ltd.
New Four Seas	Guangdong New Four Seas Furniture Manufacturing Ltd.
NIC	Indian National Industrial Classification
Nikhil	Nikhil Decore Industries Pvt. Ltd.
Nizamuddin	Nizamuddin Furnitures Pvt. Ltd.
NME	Non market economy
NSR	New Shipper Review
NV	Normal value
OH	Overhead
OLS	Ordinary Least Squares
OP	Office of Policy
Orin	Orin Furniture (Shanghai) Co., Ltd.
P&L	Profit and Loss
Petitioners	American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc.
Pidilite	Pidilite Industries Ltd.
POI	Period of Investigation
POR	Period of Review
PRC	People’s Republic of China
Q&V	Quantity and Value
Raghbir	M/s Raghbir Interiors Pvt. Ltd.
RTO	Regression through the Origin

ACRONYM AND ABBREVIATION TABLE *All cites in this table are listed alphabetically by acronym/abbreviation*	
SAA	Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, 838 (1994)
SASAC	State-owned Assets Supervision and Administration Commission
SEC	U.S. Security and Exchange Commission
SF	Squared Feet
SG&A	Selling, general and administrative expenses
Shanghai Starcorp	Shanghai Starcorp Furniture Co., Ltd.
SQR	Supplemental Questionnaire Response
SRA	Separate rate application
SRC	Separate rate certification
Star	Shanghai Star Furniture Co., Ltd.
Starcorp	Collectively, Shanghai Starcorp Furniture Co., Ltd., Starcorp Furniture (Shanghai) Co., Ltd. Orin Furniture (Shanghai) Co., Ltd., Shanghai Star Furniture Co., Ltd., and Shanghai Xing Ding Furniture Industrial Co., Ltd.
Statute	Tariff Act of 1930, as amended
Sujako	Sujako Interiors Private Limited
SV	Surrogate Value
Swaran	Swaran Furnitures Private Limited
TERI Data	Tata Energy Institute's Energy Data Directory and Yearbook (2003/2004 edition)
Top Art/Ngai Kun	Top Art Furniture/Ngai Kun Trading
Triple J	Collectively, Triple J Enterprises Co., Ltd. and Mandarin Furniture (Shenzen) Co., Ltd.
Turya	Turya Lifestyle Furniture & Dream Homes
UAE	United Arab Emirates
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
USBROKU	U.S. Brokerage Expense

ACRONYM AND ABBREVIATION TABLE ***All cites in this table are listed alphabetically by acronym/abbreviation***	
USD	U.S. Dollars
USDUTY	U.S. Duty
Usha Shriram	Usha Shriram Enterprises Pvt. Ltd.
USTR Study	2006 National Trade Estimate Report on Foreign Trade Barriers
WBF	Wooden Bedroom Furniture
Winny	collectively, Zhongshan Winny Furniture, Ltd. and Winny Overseas, Ltd.
WPI	Wholesale Price Index
WTA	World Trade Atlas® Online (Indian and Philippine import statistics)
WTO	World Trade Organization
WUS	WUS Furniture Co., Ltd.
YLS	Yearbook of Labour Statistics published by the International Labor Organization
ZY Wooden/MY Trading	Zhongshen Youcheng Wooden Arts & Crafts Co., Ltd./Macau Youcheng Trading Co.

Attachment II

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table	
Short Cite	**Administrative Case Determinations**
• Cases are listed alphabetically by product (with the exception that if the product name begins with "Certain" we have left off the word for purposes of alphabetizing the cases. • Where references in the body of the document include the accompanying Issues and Decision Memorandum, the cite will contain the phrase "IDM at Comment X" to identify the reference.	
Activated Carbon - PRC	
Activated Carbon - PRC 03/02/07	Final Determination of Sales at Less Than Fair Value: Activated Carbon from the People's Republic of China, 72 FR 9508 (March 2, 2007)
Antifriction Bearings - PRC	
AFBs - 07/01/99	Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 64 FR 35590 (July 1, 1999)
Artist Canvas - PRC	
Artist Canvas - PRC 03/30/06	Final Determination of Sales at Less Than Fair Value: Artist Canvas from the People's Republic of China,71 FR 16116 (March 30, 2006)
Automotive Replacement Glass Winshields	
ARG - 67 FR 6482	Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China, 67 FR 6482 (February 12, 2002),
Barium Carbonate - PRC	
Barium Carbonate - PRC 08/06/03	Notice of Final Determination of Sales at Less Than Fair Value: Barium Carbonate From the People's Republic of China, 68 FR 46577 (August 6, 2003)
Brake Rotors	
Brake Rotors - 72 FR 42386	Brake Rotors From the People's Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of the 2005-2006 Administrative Review, 72 FR 42386 (August 2, 2007)

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table	
Short Cite	**Administrative Case Determinations**
Carbozole Violet Pigment 23 - PRC	
CVP - PRC 05/10/07	Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 72 FR 26589 (May 10, 2007)
Cased Pencils - PRC	
Cased Pencils - PRC 7/25/02	Certain Cased Pencils from China; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 48612 (July 25, 2002)
Coated Free Sheet Paper - Indonesia	
CFS Paper – Indonesia 10/25/07	Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia, 72 FR 60636 (October 25, 2007)
Coated Free Sheet Paper - PRC	
CFS Paper – PRC 10/25/07	Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China, 72 FR 60632 (October 25, 2007)
Color Television Receivers - PRC	
CTRs – PRC 04/16/04	Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China, 69 FR 20594 (April 16, 2004)
Creatine Monohydrate - PRC	
Creatine-PRC 11/06/03	Creatine Monohydrate from the People's Republic of China Preliminary Results of Antidumping Administrative Review, 68 FR 62767 (November 6, 2003) (prelim. results admin. review)
Creatine-PRC 01/13/04	Creatine Monohydrate from the People's Republic of China Preliminary Results of Antidumping Administrative Review, 68 FR 62767 (November 6, 2003) (prelim. results admin. review)
Diamond Sawblades	
Sawblades – PRC 05/22/06	Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China, 71 FR 29303 (May 22, 2006)
Folding Metal Tables and Chairs - PRC	

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table	
Short Cite	**Administrative Case Determinations**
FMTCs – PRC 01/18/06	Folding Metal Tables and Chairs from the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 71 FR 2905 (January 18, 2006)
FMTCs – PRC 12/17/07	See Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 72 FR 71355 (December 17, 2007), IDM at Comment 9.
Fresh Garlic - PRC	
Garlic - PRC 12/04/2002	Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review Garlic - PRC 12/04/2002
Garlic - PRC 06/19/03	Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review, 68. FR 36767 (June 19, 2003)
Garlic - PRC 06/16/04	Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, 69 FR 33626, (June 16, 2004)
Garlic - PRC 06/17/08	Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 12th Administrative Review, 73 FR 34251 (June 17, 2008)
Freshwater Crawfish Tailmeat - PRC	
Crawfish - PRC 08/01/97	Notice of Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat From the People's Republic of China, 62 FR 41347 (August 1, 1997)
Crawfish - PRC 05/24/99	Freshwater Crawfish Tail Meat from the People's Republic of China; Final Results of New Shipper Review, 64 FR 27961 (May 24, 1999)
Crawfish - PRC 10/11/00	Notice of Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews, Partial Rescission of the Antidumping Duty Administrative Review, and Rescission of a New Shipper Review: Freshwater Crawfish Tailmeat from the People's Republic of China, 65 FR 60399 (October 11, 2000)
Crawfish - PRC 04/24/01	Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, and Final Partial Rescission of Antidumping Duty Administrative Review, 66 FR 20634 (April 24,

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table	
Short Cite	**Administrative Case Determinations**
	2001)
Crawfish - PRC 04/21/03	Freshwater Crawfish Tailmeat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, 68 FR 19504 (April 11, 2003)
Crawfish - PRC 02/10/06	Freshwater Crawfish Tailmeat from the People's Republic of China: Notice of Court Decision Not In Harmony with Final Results of Administrative Review, 71 FR 7013 (February 10, 2006)
Crawfish - PRC 04/17/07	Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews, 72 FR 19174, (April 17, 2007)
Frozen and Canned Warmwater Shrimp - PRC	
Shrimp - PRC 12/08/04	Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China, 69 FR 70997 (December 8, 2004)
Shrimp - PRC 09/12/07	Certain Frozen Warmwater Shrimp From the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews, 72 FR 52049 (September 12, 2007)
Frozen and Canned Warmwater Shrimp - Vietnam	
Shrimp - Vietnam 09/12/07	Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review, 72 FR 52052 (September 12, 2007)
Frozen Fish Fillets - Vietnam	
Fish Fillets - Vietnam 06/23/03	Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Frozen Fish Fillets From the Socialist Republic of Vietnam, 68 FR 37116 (June 23, 2003)
Glycine - PRC	

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table	
Short Cite	**Administrative Case Determinations**
Glyccine - PRC 01/31/01	Glycine from the People's Republic of China, 66 FR 8383 (January 31, 2001)
Hand Trucks - PRC	
Hand Trucks – PRC 05/15/07	Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Administrative Review and Final Results of New Shipper Review, 72 FR 27287 (May 15, 2007)
Heavy Forged Hand Tools - PRC	
HFHTs - PRC 09/12/02	Heavy Forged Hand Tools from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not To Revoke in Part, 67 FR 57789 (September 12, 2002)
HFHTs - PRC 09/15/04	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, Final Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not To Revoke in Part, 69 FR 55581 (September 15, 2004)
HFHTs - PRC 09/19/05	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 of Antidumping Duty Administrative Reviews, 70 FR 55899 (September 19, 2005)
Helical Spring Lock Washers - PRC	
Lockwashers – PRC 05/17/05	Certain Helical Spring Lock Washers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 70 FR 28274 (May 17, 2005)
HSLW – PRC 01/24/08	Helical Spring Lock Washers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 4175 (January 24, 2008)
Hot-Rolled Carbon Steel Flat Products – India	

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table	
Short Cite	**Administrative Case Determinations**
HR CS Flat Products - 07/14/07	Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review, 73 FR 40295 (July 14, 2008)
In - Shell Raw Pistachios – Iran	
Pistachios - Iran 2/14/05	Final Results of Antidumping Duty Administrative Review: In - Shell Raw Pistachios From Iran, FR 7470 (February 14, 2005)
Ironing Tables - PRC	
Ironing Tables – 03/18/2008	Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 14437 (March 18, 2008)
Laminated Woven Sacks - PRC	
Woven Sacks - PRC 01/31/08	Laminated Woven Sacks from the People's Republic of China : Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Determination of Critical Circumstances, and Postponement of Final Determination, 73 FR 5801 (January 31, 2008)
Woven Sacks - PRC 06/24/08	Laminated Woven Sacks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 35639 (June 24, 2008)
Lined Paper Products - PRC	
CLPP - PRC 09/08/06	Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079, (September 8, 2006)
Live Swine - Canada	
Live Swine – Canada 03/11/05	Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada, 70 FR 12181 (March 11, 2005)
Malleable Iron Pipe Fittings – PRC	

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table	
Short Cite	**Administrative Case Determinations**
Malleable Pipe Fittings - PRC 06/29/06	Malleable Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 37,051 (June 29, 2006)
New Pneumatic Off - the - Road Tires - PRC	
OTR Tires - PRC - CVD 07/15/08	Certain New Pneumatic Off - the - Road Tires from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008)
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Dare Group Final Calculation Memo	Memorandum to the File, "Analysis Memorandum for the Final Results of Review: Fujian Lianfu Forestry Co., Ltd., Fuzhou Huan Mei Furniture Co. Ltd., and Jiangsu Dare Furniture Co., Ltd." (August 11, 2008)

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Teamway Final Calculation Memo	Antidumping Duty Administrative Review and New Shipper Review: Wooden Bedroom Furniture from the People's Republic of China: Analysis of the Final Results Margin Calculation for Teamway Furniture (Dong Guan) Ltd. and Brittomart Incorporated (collectively, "Teamway") (August 11, 2008)
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Memo	Second Administrative Review of Wooden Bedroom Furniture from the People's Republic of China: Teamway Furniture (Dong Guan) Ltd. and Brittomart Incorporated (Collectively, "Teamway") (January 31, 2008)
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Teamway's April 23 Supp. Response	Teamway's response, "Second Administrative Review of Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China: Fifth Supplemental Questionnaire Response," (April 23, 2008)
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