

FINAL RESULTS OF DETERMINATION PURSUANT TO COURT REMAND

Wuhan Bee Healthy Co., Ltd. and Presstek Inc. v. United States
Court No. 05-00438 Slip Op. 07-113 (CIT July 20, 2007)

A. SUMMARY

The Department of Commerce (“the Department”) has prepared these final results of determination pursuant to the remand order of the U.S. Court of International Trade (“CIT” or the “Court”) in *Wuhan Bee Healthy Co., Ltd. and Presstek Inc. v. United States*, Court No. 05-00438; Slip Op. 07-113 (CIT July 20, 2007) (“*Wuhan Bee v. United States*”). The Court’s opinion and remand Order have been issued with regard to *Honey from the People’s Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 70 FR 38873 (July 6, 2005) (“*Final Results*”) and accompanying Issues and Decision Memorandum.

The Court remanded the following issues to the Department for further administrative proceedings consistent with the Court’s opinion and Order: 1) calculation of the labor wage rate; and 2) methodology for calculating antidumping duty assessment and cash deposit rates. *See Wuhan Bee v. United States*, Slip Op. 07-113 at 55-56.

In accordance with the Court’s instructions on July 20, 2007, we opened the record for interested parties to comment on the Department’s change in methodology on assessment and cash deposit rates, and analyzed the new information and information on the record of the underlying investigation with respect to the remanded issues. Specifically, in issuing these final remand results, and in accordance with the Court’s remand order, we have: 1) recalculated the

labor rate and explained our methodology; 2) explained our change in methodology with respect to duty assessment and cash deposit rates; and 3) pursuant to the voluntary remand, examined our calculation of the People's Republic of China ("PRC") wage rate.

Consistent with the Court's remand Order, in the Department's Draft Results of Redetermination Pursuant to Court Remand (September 7, 2007) ("Draft Remand Results"), the Department revised, as appropriate, the remanded components of plaintiff Wuhan Bee Healthy Co., Ltd.'s ("Wuhan Bee") margin calculation, using the best available information on the record. See Draft Remand Results. As a result of the Department's draft remand redetermination, the Department recalculated Wuhan Bee's margin, yielding a margin of 101.48%. On September 7, 2007, the Department released its Draft Remand Results to interested parties for comment. On September 17, 2007, the American Honey Producers Association and the Sioux Honey Association (petitioners) submitted comments on the Department's Draft Remand Results. In its submission, petitioners state that the Department has provided a detailed set of reasons why its methodology was both lawful and rational in this case, and are in agreement with the Department's Draft Remand Results. Wuhan Bee provided no comments on the Department's Draft Remand Results. Therefore, for these final results of remand, we have made no changes.

1. Department's Wage Rate Calculation

During the administrative review, the Department calculated a surrogate wage rate for the People's Republic of China (the "PRC") in accordance with its regression-based methodology set forth in 19 C.F.R. § 351.408(c)(3). The plaintiffs challenged several aspects of this calculation before this Court. The Court remanded the wage rate calculation and instructed the Department to "explain its decisions: (1) to exclude the twenty-two low-wage countries with

respect to which plaintiffs placed information on the record; and (2) to include data from high wage countries, such as Switzerland, the United Kingdom and the United States...{I}n addition, Commerce must explain its decision to rely on a methodology that results in the disparity observed between the hourly wage rate in, *e.g.*, India (\$0.15/hour), a market economy country found to be economically comparable to the PRC, and the hourly wage rate calculated for the PRC (\$0.93/hour).”

(1) Selection of Data for the Regression Model

With respect to the data set used to calculate the wage rate applied in this case, the Court instructed the Department to “explain its decisions: (1) to exclude the twenty-two low-wage countries with respect to which plaintiffs placed information on the record; and (2) to include data from high wage countries, such as Switzerland, the United Kingdom and the United States.” *See Wuhan Bee v. United States*, Slip Op. 07-113 at 40. Pursuant to the Court’s instructions, the Department has reconsidered the data set used in this case, and as more fully described below, has determined to include all data that meet the Department’s suitability requirements and that were available at the time the 2004 wage rate (*i.e.*, expected NME wages for 2002) was calculated.¹ In addition, in reviewing the twenty-two countries placed on the record by the plaintiff in the review (*see* Letter from Bruce M. Mitchell to the Department, dated January 18, 2005 (“Plaintiff’s Wage Rate Comments”), at Exhibit 5, Attachment 1, Pub. Doc. 257), the Department finds that certain of these countries’ wage rate data are unsuitable for purposes of inclusion in the Department’s wage rate calculation.

¹ All of the data relied upon in the Department’s recalculated 2004 wage rate for the PRC for purposes of this remand were downloaded on or around December 13, 2004, *i.e.*, wage rate data from the International Labor Organization, Gross National Income per capita (“GNI”) from the World Bank, and exchange rate and CPI data from International Financial Statistics.

With respect to whether to expand its data set to include the twenty-two countries, the Department acknowledged in the *Final Results* that while it was reviewing its regression-based wage rate calculation, the Department required more time than was available in the context of the review to examine additional data, and determine an accurate construction based on public comment. *See* Issues and Decision Memorandum, at Comment 6. As a result, the Department relied only on data that it had the opportunity to examine at the time it made its determination.

Since the Department's determination, the Department has had the opportunity to reexamine its methodology, including how data are selected in the calculation of the wage rate. On June 30, 2005, the Department published a detailed description of its methodology for the calculation of expected NME wage rates and a request for comment. *See Expected Non-Market Economy Wages: Request for Comment on Calculation Methodology*, 70 FR 37761 (June 30, 2005) ("*Wage Rate FR*"). The Department carefully considered the comments received in response to the Wage Rate FR, many of which echoed concerns raised in the course of this litigation. The Department subsequently published a notice on October 19, 2006, that detailed its revised methodology for calculating expected NME wage rates in antidumping proceedings involving NME countries. *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006), ("*Antidumping Methodologies Notice*").

Although the revised methodology is being applied on a prospective basis, in other cases, it directly addresses the Court's concern that during the instant review the Department may have excluded data that otherwise meet the Department's selection criteria. Unlike at the time the Department was conducting the review however, the Department has since improved the process by which it examines all available data to determine which data should be included in its

regression analysis. Therefore, the Department determines that applying the new methodology when calculating the wage rate in our remand results will address the Court's concern that data from the twenty-two countries included in the Plaintiff's Wage Rate Comments were not considered during the review.

In examining the data available, and in examining its wage rate methodology in accordance with the Court's instructions, the Department agrees that the re-examination of its labor rate calculation to include low and high-wage countries is appropriate. Accordingly, the Department has expanded the basket of countries upon which the regression is based to include all countries for which data are available, rather than limiting these data to the fifty-six countries utilized in the *Final Results*. A broader data set represents the "best available information" for purposes of calculating the regression, as it better ensures accuracy and fairness. *See Antidumping Methodologies Notice*, 71 FR at 61721. The revised data set, used in this remand determination, will therefore include all data that meet the Department's suitability requirements, as described in Annex I attached, which includes the availability and contemporaneity of the data, and that earnings data cover both men and women and all reporting industries in the country.

In addition, the Department noted in the *Antidumping Methodologies Notice* that the International Labor Organization ("ILO") defines "earnings" under Chapter 5 of its Yearbook of Labour Statistics as being inclusive of "wages," and as including both bonuses and gratuities. The Department determined that, in order to ensure that its calculation of expected NME wage rates accurately reflects the remuneration received by workers, it should rely on "earnings," not "wages," as the "best available information." *See Antidumping Methodologies Notice*, 71 FR at 61721-22. For these remand results, the Department has thus relied on "earnings" from Chapter

5b of the ILO's Yearbook of Labour Statistics. See Annex I and Annex II for a complete description of this methodology.

Finally, in the Department's previous methodology, the Department included data from Chapter 5 of the ILO Yearbook of Labour Statistics that had been reported within five years of the Base Year, thereby considering a total of six years of data. (The "Base Year" is the year upon which the regression data are based and is two years prior to the year in which the Department conducts its regression analysis.) During the course of reviewing its methodology, the Department concluded that the inflation of data up to five years could reduce the accuracy of the calculation; wage rate data that are potentially six years old may not represent the wage dynamics in labor markets today. Moreover, given the significant availability of more contemporaneous data, inflating old data is no longer necessary to achieve an acceptably large basket of countries.² Therefore, following the revised methodology, in this remand determination, the Department has relied only on ILO wage rate data that have been reported within one year prior to the Base Year (in the present calculation for the purposes of this remand, the base year is 2002), thereby considering a total of two years of data, (*i.e.*, 2001 and 2002).

With respect to the countries included in Plaintiff's Wage Rate Comments at Exhibit 5, Attachment 1, Pub. Doc. 257, after a careful analysis of the data, the Department continues to find twenty-one of these countries do not meet the Department's suitability requirements.

a. Exclusion of countries with no ILO data:

As noted above and in the *Antidumping Methodologies Notice*, the Department has revised its methodology to include those countries in its analysis reporting wage rate data in the Base Year or one year prior to the base year. In the instant review, the Base Year was 2002.

² For example, over 61 economies reported suitable data within one year of 2002 for the Department's revised 2004 wage rate attached.

Based on the data downloaded on or around December 13, 2004, relied upon in this review, of the countries placed on the record by Plaintiff, only Cambodia, Indonesia, the Netherlands, Peru, Serbia and Montenegro, Thailand, and Zimbabwe had available data for either 2001 or 2002. We note that this is consistent with the data placed on the record by Plaintiff in Plaintiff's Wage Rate Comments at Exhibit 5, Attachment 1, Pub. Doc. 257 for every country except the Netherlands. However, as evidenced by the data included in Annex III, the Netherlands did include one data series during the years 2001 and 2002, and was therefore included in the Department's analysis. *See* Annex IIIa.³ Therefore, fourteen of the countries that Plaintiff requested the Department include in its wage rate analysis do not have contemporaneous data and cannot be included.⁴

b. Exclusion of countries with no earnings data:

With respect to Cambodia, Indonesia, the Netherlands, Thailand, and Peru, while ILO data were available, the data did not include earnings data. As noted above, "earnings" under Chapter 5 of the *Yearbook of Labour Statistics* is defined as being inclusive of "wages," and as including both bonuses and gratuities, and therefore as the best available information, the Department is considering only those countries that have reported earnings data. As a result, the Department has analyzed the information placed on the record by Plaintiffs in context of the data downloaded on or around December 13, 2004, and determined that data for Cambodia, Indonesia, the Netherlands, Thailand, and Peru do not accurately reflect the remuneration received by workers and, therefore, has not included these data. *See* Annex IIIa.

³ Annex IIIa contains a subset of the complete extract of ILO's Chapter 5 of its Yearbook of Labour Statistics, filtered by 1) "Sex:" including only "Men and Women;" and 2) "Sub-Classification:" including only all reported industries, i.e., "Total," as described in Annex I. The complete extract of ILO data, are voluminous and contain more than 90 pages of data, therefore, the complete printout has not been attached here.

⁴ These fourteen countries are: Algeria, Bangladesh, Belgium, Bolivia, Gambia, Greece, Kenya, Kuwait, the Philippines, Portugal, Rwanda, Saudi Arabia, Swaziland, and Venezuela. *See* Plaintiff's Wage Rate Comments at Exhibit 5, Attachment 1, Pub. Doc. 257.

c. Exclusion of countries with no exchange rate:

The Department has also excluded Serbia and Montenegro from the regression data on the basis that no exchange rate data were available in the IMF's *International Financial Statistics*. Although Plaintiff placed on the record of this review exchange rate data from The World Fact Book (*see* Plaintiff's Wage Rate Comments at Exhibit 5, Attachment 1, Pub. Doc. 257), which contains an exchange rate for Serbia and Montenegro, the Department's standard practice is to utilize the IMF's *International Financial Statistics*. *See Antidumping Methodologies Notice* 71 FR at 61722. As a general matter, the Department does not consider it appropriate or equitable to deviate from its standard data sources for its regression analysis, which would only encourage "cherry-picking" data to drive the wage regression, leading to debates regarding rationale for including or excluding certain data points, such as consumer price index ("CPI"), gross national income ("GNI"), and exchange rates. Instead, the Department has chosen sources that it believes are consistently reliable, and has no information indicating that these data are unreliable for purposes of this remand. Therefore, as no exchange rate data are available with which to convert the Serbia and Montenegro data from New Dinars to U.S. Dollars, the Department has excluded this country from its wage rate regression calculation.

d. Exclusion of countries with no GNI data:

The Department has also excluded Zimbabwe from the regression data because no GNI data, as reported by the World Bank, were available for Zimbabwe in 2002. The Department notes that based on its prioritization criteria described in Annex I, only Zimbabwe's 2002 wage rate data met the Department's criteria to be included in the regression analysis. The Department notes that Plaintiff's Wage Rate Comments at Exhibit 3, Attachment I, do not indicate that any 2002 GNI data are available for Zimbabwe. We note that Plaintiff has utilized the 2001

Zimbabwe wage rates in its analysis, rather than the contemporaneous Base Year 2002 data. As demonstrated by the GNI data included in Annex III, no GNI data exist for Zimbabwe in 2002. *See* Annex IIIb. Therefore, as no GNI data are available for Zimbabwe for the Base Year wage rates, the Department has excluded this country from its wage rate regression calculation.

The Department believes that the revised methodology, arrived at after a period of public notice and comment, fully addresses the Court's concern with regard to inclusion of all data that meet the Department's selection criteria, including a thorough examination of the twenty-two countries specifically mentioned in the Plaintiff's Wage Rate Comments. Therefore, the Department has revised the 2002 expected wage rate for the PRC using this revised version of the methodology for the purposes of this remand, relying on all suitable data that were available in 2004.

(2) The Wage Rate Methodology

In addition to concerns regarding the Department's exclusion of twenty-two additional countries' wage rates in its regression analysis, the Court further raised concerns with respect to whether the Department's regression methodology produces an accurate result. In its opinion, the Court states that the Department's reliance on a regression model "results in a disparity" between the wage rate selected and the wage rate in a "market economy found to be economically comparable to the PRC." *See Wuhan Bee v. United States*, Slip Op. 07-113 at 40-41. Specifically, the Court points to India as an example, stating that India's wage rate is US \$0.15, but that the hourly wage of the PRC is US \$0.93. *Id.* As discussed above, the Department has revised its wage rate methodology, resulting in new wage rates. Accordingly, the Department has addressed the Court's concerns with respect to these revised figures (*i.e.*, US \$0.21/hour for India, and US \$0.77/hour for the PRC). *See* Annex II. As explained below, the

Department cannot purport to produce perfect wage rates with its regression methodology, as no estimate ever can claim such precision, but the use of a single wage rate from a single economically comparable country as a surrogate for PRC wages would produce less accurate results and be contrary to the statute and the Department's regulations. We address each of the Court's concerns, in turn, below.

a. The Regression Model Is Consistent with the Department's Regulations

The Department's regulations generally describe the methodology by which the Department calculates expected NME wage rates:

For labor, the Secretary will use regression-based wage rates reflective of the observed relationship between wages and national income in market economy countries. The Secretary will calculate the wage rate to be applied in nonmarket economy proceedings each year. The calculation will be based on current data, and will be made available to the public.

See 19 C.F.R. § 351.408(c)(3).

In accordance with 19 C.F.R. § 351.408(c)(3), the Department annually calculates expected NME wage rates in two steps. First, the Department uses regression analysis to estimate a linear relationship between per-capita GNI and hourly wage rates in market economy ("ME") countries. Second, the Department uses the results of the regression and NME GNI data to estimate hourly wage rates for NME countries. This methodology, as recently modified, is described in detail above.

The Department continues to find that the methodology employed is reasonable and in accordance with both the statute and the regulations. Section 773(c)(1) of the Tariff Act of 1930, as amended ("the Act"), provides the general methodology for the Department to determine

normal value for NME countries on the basis of the factors of production using the best available information from either a single market economy country or “countries considered to be appropriate by the administrative authority.” The Department’s regulations expressly state that “except for labor” all factors of production shall be calculated using valuations from a single country. *See* 19 C.F.R. § 351.408(c)(2). This exception is consistent with section 773(c)(4) of the Act, which qualifies that the Department will use, to the extent possible, prices from “one or more market economies.” During the rule-making process, the Department explained how the regulation’s language is consistent with the statute, and how the use of an average wage rate contributes to both the fairness and the predictability of NME proceedings. This is because using multiple data points leads to more accurate results, and because the valuation of labor will not vary from case to case depending on which country the Department selects. *See Antidumping Duties; Countervailing Duties Proposed Rule*, 61 FR 7308, 7345 (February 27, 1996) (“*Proposed Rule*”); *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27367 (May 19, 1997) (“*Final Rule*”).

Also during the Department’s rule-making process, parties had an opportunity to comment on the Department’s methodology for valuing labor. Indeed the Department addressed the arguments made by the Plaintiff with respect to the utilization of a single surrogate country wage rate in the Department’s *Final Rule*. The Department explained that the regression-based wage rate, which combines data from more than one country, significantly enhances the accuracy, fairness, and predictability of the antidumping calculation. *See Final Rule*, 62 FR at 27367. The Department further explained the advantage of its methodology is that the valuation of the wage rate will not vary depending on which country the Department selects as the economically comparable surrogate country and the results of the regression are available to all

parties, thus enhancing the predictability of the labor value in all NME cases. *Id.* Given these attributes of the regression-based wage rate, the Department concluded that 19 C.F.R. § 408(c)(3) is fully consistent with the statute. *Id.*

Notwithstanding the technical and procedural errors made during the initial 2004 calculation of expected 2002 NME wages, the methodology employed in the Department's recalculation pursuant to the Department's voluntary remand (*see* issue 3, below) is a long-established methodology for the wage rate calculation, is in accordance with the statute and the Department's regulations, and reflects the best available information. Further, the Department's current methodology carries all the aforementioned advantages of accuracy, fairness and predictability, and was subject to public comment at the time of the Department's *Final Rule* and the *Wage Rate FR*.

b. Commerce's Wage Rate Methodology Provides the Most Accurate Wage Rate In Light of Information Available

On remand, the Court further instructed the Department to "explain its decision to rely on a methodology that results in the disparity observed between the hourly wage rate in, *e.g.*, India (\$0.15/hour), a market economy country found to be economically comparable to the PRC, and the hourly wage rate calculated for the PRC (\$0.93/hour)." *See Wuhan Bee v. United States*, Slip Op. 07-113 at 40-41. In considering the comments received in response to the *Wage Rate FR*, as well the concerns raised in the context of this litigation, the Department has considered whether the Department's methodology for arriving at expected wage rates for NMEs using a regression-based calculation, which results in differences between the calculated rate and the wage rate of the economically comparable market economy, is reasonable. While the utilization of a single surrogate country wage rate may appear to be less complex and therein have intuitive appeal, the Department found, as explained herein, that this alternative does not reduce the potential for

distortion or increase either fairness or predictability. Rather, the regression methodology is preferable because it allows the Department to rely on the broadest data set possible to arrive at a wage rate that is directly tied to each NME's GNI.

For example, when it was examining the Department's wage rate methodology, the Court instructed the Department to explain its decision to rely on the regression-based calculation, rather than the use of a single surrogate value, given the disparity between these two values. *See also Antidumping Methodologies Notice*, 71 FR at 61720-21. However, in addition to being inconsistent with its regulations (*see* 19 C.F.R. § 351.408(c)(3)), this proposal would lead to highly variable results, which would undermine the accuracy, fairness and predictability of the Department's calculations.

As the Department noted in the *Proposed Rule*, while there is a strong positive correlation between wage rates and GNI (the r-square for the Department's revised 2004 calculation attached was .86, indicating an extremely strong relationship between GNI and wage rates), there is also variation in the individual wage rates of comparable market economies. *See Proposed Rule* 61 FR at 7345; *Final Rule* 62 FR at 27367. The Department's revised 2004 regression attached hereto illustrates this variability. For example, the observed hourly wage rates for market economy countries with national incomes below US \$1,000 ranged from US \$0.21 to US \$0.94; the observed hourly wage rate for market economies with GNIs approximately \$600 higher and lower than the PRC (with a GNI of US \$960) range from US \$0.21 to US \$1.43. *See* revised 2004 calculation attached. Therefore, if the Department adopted this suggestion in a proceeding involving the PRC, values for labor might range from US \$0.21 to US \$1.43, depending on which economically comparable country is selected as the surrogate.

This inevitable variability in the underlying ILO data is especially true in the case of the less developed countries where wage rates can be so low that even a difference of a few cents can appear to be enormous if represented in percentage terms. The Department is able to avoid this variability through the regression-based methodology for estimating wage rates due to the availability of reliable wage rate data and the consistent relationship between wage rates and GNI over time. The Department relies upon what is, in essence, an average wage rate of all market economies, indexed to each NME's level of economic development via its GNI. Under the Department's regression methodology, the value for labor will be the same in every proceeding involving a given NME. This enhances the fairness and predictability of the Department's calculations.

Finally, and most importantly, the Department also considered the potential effects of the year-on-year inclusion or exclusion of any one data point. The Department screens the available data every year to ensure that they meet a number of important data suitability criteria. Further, countries do not necessarily report to the ILO every year. India, for example, did not report a suitable 1999 and 2000 wage rate to the ILO, as evidenced by the Department's need to inflate 1998 data for the September 2003 calculation of expected NME wages based on 2001 data. See <http://ia.ita.doc.gov/wages/01wages/01wages.html>. Therefore, were the Department to utilize a single economically comparable country (in the instant case, India), it could be required to inflate the single wage rate used to a value that is inconsistent with the experience of the surrogate country. We note that the wage rate in any given country, including India, can be a highly variable figure that may increase or decrease year-to-year. This is demonstrated by the below chart which shows that India's labor rate has, since 1998, varied by a range of -17.29% to +47.81%.

TABLE 1
Indian Wages from ILO⁵

Country	Currency	1998	1999	98-99 % Change	2000	99-00 % Change	2001	00-01 % Change
India	Rupees	1211	1549	27.86%	1281	-17.29%	1893	47.81%

Therefore, as shown below, a larger basket of data and the more-stable regression-based methodology best weathers the inevitable year-to-year changes in the data set and individual country's wage rates, and minimizes the potential for dramatic year-to-year variability in the estimated wage rates.

Hypothetically, for instance, if India's wage rate were not available in 2002, the wage rates arrived at through the regression methodology in Annex II do not change significantly over the wage rates derived including India.⁶ Table 2 presents the difference in wage rates arrived at using a data set with India, versus wage rates based on the same data set without India. While the wage rates based on the Department's regression-based methodology remain relatively stable without India (*viz.*, the estimated wage rate for each NME based on the Department's regression methodology rise about US \$0.01). Because the Department's regression line is based on a very broad data set, and therefore not highly dependent on each and every data point, it is not as susceptible to the inevitable variability in the data. This leads to more predictable and fairer calculations.

⁵ From Chapter 5B of the ILO *Yearbook of Labour Statistics*, Indian "earnings" for "men and women" with sub-classification "total," consistent with the Department's methodology described in Annex I.

⁶ See Annex IV for the calculation excluding India. The calculation excluding India is only for the purposes of this remand and is identical to that presented in Annex II, except that India's data have been excluded. Therefore, following the data compilation and regression methodology described in the *Antidumping Methodologies* notice and Annex II herein, with the single exception of excluding data from India, and using GNI and wage data for Base Year 2002, the regression results are: Wage = GNI*.000475+.324516.

TABLE 2
Estimates of NME wages with and without India

Country	2002 GNI	Expected NME Wage Rate	NME Wage Rate Excluding India	Difference	% Difference
Tajikistan	170	\$0.40	\$0.41	\$0.01	2.50%
Kyrgyz Republic	290	\$0.45	\$0.46	\$0.01	2.22%
Vietnam	430	\$0.52	\$0.53	\$0.01	1.92%
Uzbekistan	460	\$0.53	\$0.54	\$0.01	1.89%
Moldova	470	\$0.54	\$0.55	\$0.01	1.85%
Azerbaijan	720	\$0.66	\$0.67	\$0.01	1.52%
Georgia	720	\$0.66	\$0.67	\$0.01	1.52%
Ukraine	780	\$0.69	\$0.70	\$0.01	1.45%
Armenia	810	\$0.70	\$0.71	\$0.01	1.43%
Turkmenistan	870	\$0.73	\$0.74	\$0.01	1.37%
China	960	\$0.77	\$0.78	\$0.01	1.30%
Belarus	1,380	\$0.97	\$0.98	\$0.01	1.03%

Expected NME Wage Rate = $GNI * .000478 + .314174$. See Annex II. Expected NME Wage Rate Excluding India = $GNI * .000478 + .324516$. See Annex IV.

A similar problem arises with limiting the regression to data from economies at comparable levels of development to each NME. See *Antidumping Methodology Notice*, 71 FR 67120-21.

The Department found that restricting the basket of countries to include only countries that are economically comparable to each NME is not feasible and would undermine the consistency and predictability of the Department’s regression analysis. A basket of “economically comparable” countries could be extremely small. For example, there are only five countries with GNI less than US\$1,000 in the Department’s revised 2004 expected NME wage rate calculation attached and many NME countries’ GNI are around this range. Like the use of only a single surrogate country’s wage rate described above, a regression based on an extremely small basket of countries would be highly dependent on each and every data point.

Relative basket size would not be such a critical factor if there were a perfect correlation between GNI and wage rates. If this were the case, a precise regression line could be derived from suitable data from only two countries. However, as the Department has noted repeatedly, while there is a strong world-wide relationship between wage rates and GNI, there is nevertheless variability in the data. For example, in the data relied upon for the Department's revised 2004 calculation for purposes of this remand, observed wage rates did not increase in lockstep with increases in GNI in the five countries with GNI less than US \$1,000: Nicaragua, with a GNI of US \$720, had reported a wage rate of US \$0.94 per hour, while Sri Lanka, with a GNI of US \$850, had reported a wage rate of US \$0.33 per hour. *See* Annex II.

As stated above, a larger basket minimizes the effects of any single data point and, thereby, better captures the global relationship between wage rates and GNI. More data are, therefore, better than less data for the purposes of the Department's regression analysis, provided they are suitable and reliable. *See Proposed Rule*, 71 FR at 7345; *Final Rule*, 62 FR at 27367.

(3) Conclusion

For these reasons, consistent with the regulation, the statute and with this Court's order, the Department's revised wage rate calculation applied to this case considered the data available for a large basket of countries, including the countries placed on the record by the Plaintiff in Plaintiff's Wage Rate Comments at Exhibit 5, Attachment 1, Pub. Doc. 257. Where the Department did not include these countries in its revised wage rate calculation it has addressed each country separately with specific evidence. Further, a larger basket of countries maximizes the accuracy of the regression results, minimizes the effects of the potential year-to-year variability in the basket or in relation to individual countries (*e.g.*, India), and provides predictability and fairness. Importantly, the Department notes that economic comparability is

established in the regression calculation through the GNI of the NME in question, which ensures that the result represents a wage rate for a country economically comparable to the NME. Using the revised data set, the recalculated wage rate for the PRC in this review is US \$0.77. *See* Annex II for details on the calculations.

2. Calculation of Duty Assessment and Cash Deposit Rates

In the *Final Results*, the Department determined to change its methodology with respect to the calculation of duty assessment and cash deposit rates, because the Department found that there was a substantial difference between the U.S. sales price for honey and the average entered value reported to U.S. Customs and Border Protection (“CBP”), preventing the Department from calculating *ad valorem* cash deposit rates that will ensure the collection of the total antidumping duties due. *See Final Results* and accompanying Issues and Decision Memorandum at Comment 7. Plaintiff challenged the Department’s change in methodology in this case, arguing that the Department denied Plaintiff an adequate time to review and comment on the issue. The Court remanded the Department’s change in methodology, to allow it to open the record with respect to this issue, allowing “plaintiffs more time to respond to Commerce’s proposed change in methodology after having used the *ad valorem* methodology in this and prior reviews... {and} to place evidence on the record with respect to how an *ad valorem* methodology furthers, or does not further, the collection of total duties owed.” *See Wuhan Bee v. United States*, Slip Op. 07-113 at 54-56. In accordance with the Court’s remand instructions, we opened the administrative record on this issue, and requested comments. The Department provided parties with ten days to submit comments on the change in methodology pursued in the *Final Results*. The Department received comments from defendant-intervenors, the American Honey Producers Association of

America and the Sioux Honey Association (“Petitioners”). Plaintiff did not submit any comments on this issue, nor did it request extension to the comment period.

Petitioners argue that the Department’s decision to rely on a specific rate of duty was supported by substantial evidence and in accordance with the law. Petitioners further argue that the Department correctly found that the statute and regulations permit the use of specific rates of duty, and requires duties to be assessed in an amount “equal to the amount by which the normal value of the merchandise exceeds the export price (or the constructed export price).” *See* section 736(a)(1) of the Act. Petitioners also allege that the Court of Appeals for the Federal Circuit has found that there is no specifically required methodology to calculate assessment rates and thus the Department has discretion to choose a reasonable methodology. *See, e.g., Koyo Seiko Co., Ltd. v. United States*, 258 F.3d 1340, 1346-47 (Fed. Cir. 2001); *Micron Tech., Inc. v. United States*, 117 F.3d 1386, 1394 (Fed. Cir. 1994). Petitioners contend that the Department explained in its *Final Results* and accompanying Issues and Decision Memorandum at Comment 7 that, although the *ad valorem* methodology is preferred, it is not required. Petitioners also argue that the Department’s decision to rely on a specific rate of duty does not constitute a change in policy or a deviation from the Department’s regulations, citing numerous cases in which the Department has utilized a quantity-based duty rate. *See* Petitioner’s Remand Comments: Wuhan Bee Healthy Co., Ltd. v. United States (Slip Op. 07-113), dated August 13, 2007 (“Petitioners Remand Comments”), at 4-5. Petitioners allege that the Department’s use of quantity-based rates was well-established at the time of the *Final Results*, and provide substantial precedent that the Department may utilize a specific rate of duty, when warranted by the facts of the case.

Petitioners argue that the differences between the entered value and the U.S. sales price in this case provide substantial evidence that the under-collection of duties may occur, supporting

the application of a specific rate of duty. Citing the *Final Results* and accompanying Issues and Decision Memorandum at 30-31, Petitioners assert that the Department cited to compelling record evidence establishing that the entered value of constructed export price sales was being systematically undervalued, which, Petitioners argue, leads to duty avoidance. Petitioners allege that one respondent in this case affirmed that entered values were artificially lowered to compensate for antidumping duties, indicating that Wuhan Bee can also engage in this behavior. See Petitioner's Remand Comments (citing the Verification Report of Shanghai Eswell Pub. Doc. 289) at 7. Petitioners argue that because a lower transfer price is reported to CBP, the *ad valorem* dumping margin percentage is applied to that lower entered value, reducing the total dumping duties collected on these sales. Petitioners assert that this allows importers to avoid the full application of antidumping duties.

Moreover, Petitioners argue that this practice is widespread, and cite to the *Final Results* and accompanying Issues and Decision Memorandum at 31, in which the Department notes that there is a large difference in the total duties collected on the same transaction with a significantly lowered entered value between the *ad valorem* and per-kilogram assessments. Petitioners further argue that because Wuhan Bee has an affiliated importer, it also has the opportunity to undervalue its entries. Petitioners allege that the quantity-based assessment ensures accurate deposits and assessments, and the application of this methodology to all respondents ensures accurate assessments of duties in this and all future reviews.

Petitioners also argue that Wuhan Bee has not established the importance of this issue, nor argued that it was prejudiced in any manner, noting that the Department explained that this change in methodology is neutral to any party not understating its entered values, and therefore does not prejudice Wuhan Bee. Petitioners allege that the revised methodology employed by the

Department is reasonable and the most accurate methodology to collect correct deposits.

Petitioners also argue that total duties collected on a per-kilogram basis cannot exceed total duties collected on an *ad valorem* basis, and therefore cannot prejudice an importer. Further, Petitioners argue that because antidumping duty deposit rates are estimated amounts, any higher deposits made by an importer will be ultimately refunded with interest, regardless of the methodology used. Petitioners assert that as long as the calculation of duty rates is based on a respondent's own data, the collection of deposits on a per-unit basis is fair. Petitioners contend that in applying the specific duty rate to all respondents, the Department has addressed the need to collect adequate deposits and provided a rational reason for this decision. Accordingly, Petitioners argue, the Department should continue to utilize this methodology on remand.

Department's Position:

The Department agrees with Petitioners that the use of a per-kilogram assessment rate is in accordance with the Department's regulations and past practice, and based on the evidence on the record and findings in the *Final Results*, we find that it continues to be appropriate to assess antidumping duties on a per-kilogram basis in this case.

In accordance with the Court's order, parties were given ten days in which to submit comments.⁷ Plaintiff was provided the opportunity to place evidence on the record with respect to how an *ad valorem* methodology furthers, or does not further, the collection of total duties owed. However, although the Plaintiff argued before the Court it was denied an opportunity to fully review and comment on the revision in methodology for the *Final Results*, upon remand, Plaintiff failed to exhaust its opportunity to comment on this issue, as it provided no comments. Therefore, the Department has addressed the Court's concern that Plaintiff was prejudiced by the inadequate time provided in the administrative review for consideration of comments.

⁷ See Letter to Messrs. Lewin and Coursey from Scot T. Fullerton, dated August 3, 2007.

The Department notes that its decision in this case to revise its methodology with respect to the assessment of antidumping duties is in accordance with the law. Section 736(a)(1) of the Act states that the Department shall direct “customs officers to assess an antidumping duty equal to the amount by which the normal value of the merchandise exceeds the export price (or the constructed export price) of the merchandise,” and 19 C.F.R. § 351.212(b)(1) of the Department’s regulations provides that the Department “normally will calculate the assessment rate by dividing the dumping margin found on the subject merchandise examined by the entered value of such merchandise for normal customs duty purposes.” The Department calculated the per-kilogram cash deposit rate applied in this case by dividing the total potentially uncollected dumping duties (“PUDD”) by the total quantity sold. Therefore, the per-kilogram deposit rate is in accordance with section 736(a)(1) of the Act. Further, although the Department normally calculates antidumping margins by dividing the PUDD by the total entered value, the Court has upheld the Department’s discretion to choose a reasonable methodology. *See Koyo Seiko Co., Ltd. v. United States*, 258 F.3d 1340, 1347 (Fed. Cir. 2001) quoting *Torrington Co., v. United States*, 44 F.3d 1572, 1578 (Fed. Cir. 1995). Because the Department calculates PUDD based on the comparison of U.S. prices to normal value in accordance with section 773(a) of the Act, in cases where the entered value is regularly substantially lower than the U.S. price reported, the Department agrees with Petitioners that the collection of antidumping duties based on the quantity is a reasonable method for insuring that the proper duties are collected. Indeed, the Department has a long-established practice to revise its assessment and cash deposit methodology when the facts of the case warrant such treatment. *See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative*

Review, 67 FR 19546, 19549 (April 22, 2002); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Revocation of Orders in Part*, 66 FR 36551 (July 12, 2001); *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 34082, 34085 (June 13, 2005).

In this case, as discussed in the *Final Results* and accompanying Issues and Decision Memorandum at Comment 7, the Department found that respondents were reporting an entered value (\$1.05 - \$1.50 per kg) which was nearly half of the U.S. price (\$2.20 - \$2.30 per kg),⁸ resulting in a potential for under-collecting duties by more than 50% (*i.e.*, the difference between \$0.55 and \$0.26 in duties when comparing collected duties based on *ad valorem* versus per-kilogram). *See Final Results* and accompanying Issues and Decision Memorandum at Comment 7. As noted in the *Final Results*, the revised methodology “cannot result in an assessment rate higher than would be calculated at an *ad valorem* rate for sales during a period of review...{as}...the total duties due will not change; they will only be allocated over quantity instead of over entered value.” *Id.* In addition, we note that the revised methodology cannot result in higher duties paid, as liquidation of all entries is not conducted until after an administrative review, and CBP refunds, with interest, any duties collected in excess of duties due. Thus, the application of the revised methodology will result in the more accurate collection of duties in this case.

We also note that although Petitioners commented extensively on the issue of whether this methodology unduly prejudices the Plaintiff, the Court did not instruct the Department to consider this issue. We do note, however, that as the methodology was applied to all parties in

⁸ *See, e.g.*, Shanghai Eswell Enterprise Co., Ltd.’s 2nd Supplemental Questionnaire Response (Public Version), dated November 1, 2004, Pub. Doc. 204; Zhejiang Native Produce and Animal By-Products Import & Export Group Corp.’s 3rd Supplemental Questionnaire Response (Public Version), dated November 12, 2004, Pub. Doc. 213.

the proceeding, and has been applied in all subsequent segments of this antidumping duty order,⁹ we do not find any evidence that Plaintiff was unduly prejudiced in this matter.

Accordingly, the Department continues to find that the methodological change applied in the *Final Results* is reasonable, in accordance with the law, and consistent with the Department's past practice.

3. Voluntary Remand Issues

The Department requested a voluntary remand with respect to the calculation of the wage rate because “it mistakenly relied upon income data from two different years (*i.e.*, 2001 and 2002) in its calculation of the surrogate wage rate.” The Department requested a voluntary remand, asking that the Court sustain its wage rate calculation methodology and remand for the limited purpose of recalculating the labor wage rate using the correct GNI data. *See Wuhan Bee v. United States*, Slip Op. 07-113 at 36. A remand to the agency is appropriate where the agency “believes that its original decision is incorrect on the merits and wishes to change the result.” *See SKF USA Inc, et al. v. United States*, 254 F.3d 1022, 1029-30 (Fed. Cir. May 25, 2001). The Court instructed the Department to “recalculate the wage rate using the correct, most current GNI data.” *See Wuhan Bee v. United States*, Slip Op. 07-113 at 41. Pursuant to the Department's request for a voluntary remand and the Court's remand order, the Department has amended the record of the review and provided an explanation with respect to the omitted data, and revised the 2004 calculation of expected NME wage rates for 2002, in accordance with the Court's remand on this issue *supra*.

(1) Background

⁹ *See, e.g., Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 71 FR 34893, 34895 (June 16, 2006); *Honey from the People's Republic of China: Rescission and Final Results of Antidumping Duty New Shipper Reviews*, 71 FR 58579, 58581 (October 4, 2006); *Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 72 FR 37715, 37717 (July 11, 2007).

The Department's regulations provide that expected NME wage rates are calculated using regression analysis on an annual basis. *See* 19 C.F.R. § 351.408(c)(3). The regression analysis is an analytical tool that is applied in the wage rate calculation to estimate the relationship between wage rates and national incomes (GNI per capita) in market economy countries. In the autumn of each year, the Department conducts this regression analysis, and then uses the results of the regression and NME national income data to estimate expected NME wage rates.

On July 30, 2004, the Undersecretary of Commerce for International Trade issued a Department Organizational Order that resulted in the creation of the Office of China/NME Compliance. *See* Department Organizational Order 40-1, available at <http://www.ita.doc.gov/ooms/OFOOrders.htm>. The creation of the Office of China/NME Compliance was effected in accordance with H.R. 108-22 (2004). All antidumping operations concerning the PRC and other NMEs were consolidated within this office, which became operational August 9, 2004. This resulted in significant changes in personnel and responsibilities. One of the items that was transferred to the Office of China/NME Compliance was responsibility for the annual calculation of expected NME wage rates.

As demonstrated in Annex I and Annex II, the calculation of the NME expected wage rate is extremely complex. Prior to the shift in responsibilities, the annual calculation of expected NME wage rates was completed by a number of Department employees who were not transferred to the new Office of China/NME Compliance. The Department made every effort to make a seamless transition; however, after review of the labor wage rate issue, the Department now realizes that the data and results of the Department's annual calculation of expected NME wage rates in the autumn of 2004 was not consistent with the Department's normal methodology and contained a number of errors. In October 2004, the Department posted an updated wage rate

dataset but did not rely upon this dataset when calculating expected NME wage rates for 2004. Instead, the Department erred in October 2004 by relying on the regression analysis from the prior year's (2003) calculation of expected NME wage rates.

The October 2004 wage rate dataset and expected NME wage rates posted in November 2004 was an attempt to correct the Department's error. However the Department now recognizes that the November 2004 wage rate calculation was in error because the Department did not rely on the most recent data available.

In this remand, the Department has provided a full explanation of its revised methodology for calculating expected NME wage rates in Annex I, consistent with the Court's instructions as discussed above. Therefore, the Department here describes the errors that occurred in its calculation of expected wage rates in 2004, and has, as discussed above and consistent with the Department's revised practice, recalculated expected NME wage rates based on the data that was available as of December 2004.

(2) 2004 Labor Wage Rate Calculation

When the Department posts its calculation of expected NME wage rates to the Import Administration ("IA") website, it includes four major elements: (1) the wage rate dataset, which includes wage rate data from the ILO, adjusted to the Base Year U.S. dollar figures;¹⁰ (2) the GNI dataset, which includes the corresponding GNI data for the same basket of countries as the wage rate data from ILO; (3) the results of the regression analysis; and (4) a schedule of expected NME wage rates. Regrettably, the Department's 2004 calculation of expected NME wage rates, as posted to the IA website in October 2004, and again in November 2004, both contained errors.

¹⁰ During the conduct of the instant review, the Department's wage rate dataset included wage rate data for 56 countries, a practice that has been revised as discussed above to include additional countries.

a) Data Posted in October 2004

In calculating the expected NME wage rates for the October 2004 posting, the Department first erred by using the regression results from the 2003 calculation of the expected NME wage rates rather than conducting a new regression analysis. (Note: the 2003 regression results were based on 2001 data). This error occurred because the Department inadvertently used computer spreadsheet files from the 2003 calculation, and did not rely on data available in 2004. Thus, for the October 2004 calculation, the Department mistakenly did not rely on the most current data for its regression analysis, but rather used data from the previous year. While the relationship between wage rates and per-capita GNI estimated by the Department's regression analysis is relatively stable over time, the Department's reliance on a non-current regression analysis was an unintended departure from past practice.

In addition, in the same October 2004 posting, the Department included an updated wage rate dataset that would have otherwise formed the basis for a new regression analysis if the Department had not committed the error discussed above. Normally, the Department will post the dataset that it actually relied upon to calculate the wage rate. However, in the instant case, while the Department intended to rely on the data available in 2004, it actually relied on a dataset from 2003, but posted a dataset from 2004 to its website. Thus the data posted in October 2004 did not accurately reflect the data the Department relied on to arrive at its calculation of expected NME wage rates.

When the Department realized that the wage rate dataset that had been posted to the IA website was not the dataset it relied upon to arrive at its calculation, it promptly removed the dataset from its website, and posted, in November 2004, the dataset corresponding to the 2003 regression analysis. This was not addressed or explained on the Department's website or on the

administrative record of the 2002-2003 honey second administrative review. A hard copy printout of the dataset posted in October 2004 was also inadvertently not placed on the administrative record of the review.

b) Data Posted in November 2004

In an effort to promptly correct its error, the Department replaced the October 2004 wage rate dataset with the wage rate dataset from 2003, which had actually formed the basis of its 2004 calculation of expected NME wages for the instant review. The Department did not, however, conduct a new regression analysis based on the most current data available, as it would normally do in its annual calculation of the expected wage rate. Instead, the Department continued to rely upon the 2003 regression analysis. In sum, in November 2004, the Department corrected the website posting by providing the data actually relied on to reach its calculation, but the calculation remained flawed because the Department did not conduct a new regression analysis with updated data.

(3) Re-Examination and Recalculation

Pursuant to the Court's decision that the Department's practice of relying on data from fifty-six countries should be rejected (*see Wuhan Bee v. United States*, Slip Op. 07-113 at 39-40), the Department has re-examined its methodology and the data included in its wage rate calculation. As discussed above, and consistent with the Court's instructions, the Department has not utilized the data posted in October 2004. The Department has also not utilized the data posted in November 2004 in its recalculation of expected NME wage rates. Rather, the Department has utilized the data available in December 2004, the only data available at the time of the instant review, and recalculated its expected NME wage rates consistent with the methodology articulated in the *Antidumping Methodologies Notice*. Accordingly, the

recalculated expected NME wage rate for 2002 of \$0.77 per hour has been placed on the record and applied to Wuhan Bee's margin calculation, which is the correct, most current data to the POR available during the course of the review. *See Wuhan Bee v. United States*, Slip Op. 07-113 at 41, and Annex II.

CONCLUSION

In accordance with the Court's order, the Department has: 1) recalculated the labor rate and explained our methodology; 2) explained our change in methodology with respect to duty assessment and cash deposit rates; and 3) pursuant to the voluntary remand, examined our calculation of the PRC wage rate.

David M. Spooner
Assistant Secretary
for Import Administration

Date

ANNEX I

The Expected NME Wage Rate Methodology

The Department's regulations generally describe the methodology by which the Department calculates expected NME wages:

“For labor, the Secretary will use regression-based wage rates reflective of the observed relationship between wages and national income in market economy countries. The Secretary will calculate the wage rate to be applied in non-market economy proceedings each year. The calculation will be based on current data, and will be made available to the public.” *See* 19 C.F.R. § 351.408 (c)(3).

In accordance with 19 C.F.R. § 351.408(c)(3), the Department annually calculates expected NME wages in two steps. First, the Department uses an ordinary least squares regression analysis to estimate a linear relationship between per-capita GNI and hourly wages in market economy ("ME") countries. Second, the Department uses the results of the regression and NME GNI data to estimate hourly wage rates for NME countries.

There is usually a two-year interval between the current year and the most recent reporting year of the data required for this methodology due to the practices of the respective data sources. The Department bases its regression analysis on this most recent reporting year, which the Department refers to as the "Base Year." For example, the Department relied upon data from 2001 to calculate expected NME wages in 2003, *i.e.*, the "Base Year" for the 2003 calculation was 2001. In practice, the "Base Year," *i.e.*, the year upon which the regression data are based, is two years prior to the year in which the Department conducts its regression analysis.

1. Regression Analysis

The Department's regression analysis, which describes generally the relationship between wages and GNI, relies upon four distinct data series: (A) country-specific wage rate (earnings) data from Chapter 5B of the International Labor Organization's ("ILO") *Yearbook of Labour Statistics*; (B) country-specific consumer price index ("CPI") data from the International Financial Statistics of the International Monetary Fund ("IMF"); (C) exchange rate data from the IMF's *International Financial Statistics*; and (D) country-specific GNI data from the *World Development Indicators* of the World Bank ("WB").

The wage rate data described above are converted to hourly wage rates and adjusted using CPI data to be representative of the current Base Year. The data are then converted to U.S. dollars using the appropriate exchange rate data. A regression analysis is ultimately run on these adjusted wage rate data and GNI. The following sections describe each data series and how it is used.

(A) Wage Data

For every country for which data are available and suitable (as described below), the Department chooses a single wage rate that represents a broad measure of wages for that country. The Department will choose data that are either contemporaneous with the Base Year or one year prior. Thus, the Department limits its selection of data to a two year period.

The ILO Chapter 5B database categorizes data under a number of parameters.¹¹ The Department prioritizes these parameters in order to arrive at a single wage rate for each country

¹¹ For example, "Type of Data," *i.e.*, whether the data reported is "earnings" or "wages," "Sex," *i.e.*, male/female coverage; "Sub-Classification," *i.e.*, coverage of different types of industry; "Worker Coverage," *i.e.*, coverage of different types of workers, such as wage earners or salaried employees; "Type of Data," *i.e.*, the unit of time for which the wage is reported, such as per hour or per month; and, "Source ID," *i.e.*, a code for the source of the data; "Source," *i.e.*, the original survey source of the data and "Classification," *i.e.*, the industrial classification.

representing the broadest possible measure of wages. As such, there are three criteria that all data must meet in order to be considered suitable for the Department's regression analysis.

First, under the category "Type of Data," the Department will only use data that are reported in "earnings."

Second, under the category "Sex," the Department will only use data that cover both men and women.¹²

Third, under the category "Sub-Classification," the Department will only use data that represent all reported industries. This is indicated in the database by a value of "Total" for the "Sub-Classification" parameter.

If there is more than one record in the ILO database that meet these three requirements, the Department will choose the data point from the Base Year over data from the prior year.

At times, there is more than one data record in the ILO database that is both (1) reported in the same, most contemporaneous year and (2) meet the three required criteria above. In such cases, the Department chooses a single data point by prioritizing the following three parameters, described in greater detail below: (1) "Worker Coverage," *i.e.*, coverage of different types of workers; (2) "Type of Data," *i.e.*, the unit of time for which the wage is reported; and, (3) "Source ID," *i.e.*, a code for the source of the data.

For example, for the parameter "Worker Coverage," the Department considers "wage earners" to be the best measurement for calculating expected NME wages and prioritizes such data over "employees," "salaried employees" and "total employment," in that order.

When the values for all parameters listed above are equal, the Department prioritizes data reported on an hourly basis over that reported on a daily, weekly and monthly basis, in that order,

¹² The Department does not consider values of "Indices, Men and Women" for this parameter.

for the parameter "Type of Data." Through this choice, the Department minimizes potential error due to converting daily, weekly or monthly wages to hourly wages.

When the values for all parameters listed above are equal, the Department prioritizes data classified under the International Standard Industrial Classification (ISIC) Revision 3 (ISIC Rev.3-D) over ISIC Revision 2 (ISIC Rev. 2-3). ISIC Rev. 3-D was revised in 1989 and is a more recent classification standard than the 1968 ISIC Rev. 2-3. *See* <http://unstats.un.org/unsd/cr/family2.asp?Cl=2> and <http://laborsta.ilo.org/applv8/data/isic2e.html>.

Finally, when the values for all parameters listed above are equal, the Department prioritizes data with a "Source ID" value of "no value" over "1," "2" and "3," in that order.

The ILO data that are not reported on an hourly basis are converted to an hourly basis based on the premise that there are 8 working hours per day, 5.5 working days a week and 24 working days per month.

(B) CPI Data

Once hourly figures have been calculated based on the wage rate data discussed above, the wages are adjusted to the Base Year on the basis of the Consumer Price Index for each country, as reported by the IMF's *International Financial Statistics*. This adjustment is made for any wage rate data not reported for the Base Year.

(C) Exchange Rate Data

These inflation-adjusted wage data, which are denominated in each country's national currency, are then converted to U.S. dollars using Base Year period-average exchange rates reported by the IMF's *International Financial Statistics*.

Thus, using (A) wage data, (B) CPI data and (C) exchange rate data, discussed above, the Department arrives at hourly wages, denominated in U.S. dollars and adjusted for inflation for each country for which all the above data are available.

Finally, once the data have been converted to U.S. dollars per hour and adjusted for inflation, it is the Department's practice to eliminate values that could not possibly be reflective of actual wage levels or values that vary in either direction in the extreme from year to year (and which probably reflect errors in the original source data). For example, if a country is found to have average wage levels of US\$0.01 per hour, the Department would eliminate that value as erroneous.

(D) GNI Data

The Department uses Base Year GNI data for each of the countries in the Department's analysis, as reported by the WB. GNI data are denominated in U.S. dollars current for the Base Year. The WB defines GNI per capita as equivalent to gross national product ("GNP") per capita, which is "the dollar value of a country's final output of goods and services in a year divided by its population."

The Department conducts its linear, ordinary least squares regression analysis using the Base Year wages per hour in U.S. dollars discussed above and Base Year GNI per capita in U.S. dollars to arrive at the following equation: $Wage[i] = Y\text{-intercept} + X\text{-coefficient} * GNI$. The X-coefficient describes the slope of the line estimated by the regression analysis, while the Y-intercept is the point on the Y-axis where the regression line intercepts the Y-axis. The results of this regression analysis describe generally the relationship between hourly wages and GNI.

2. Application of Regression Results to NME GNI Data

The Department applies the NME Base Year GNI to the equation presented above to arrive at an estimated wage rate for the NME. This is done for each NME.

Annex II

Calculation of China's Expected Wages Rate based on 2002 GNI

Following the criteria and methodology described in the both the Antidumping Methodologies notice and Annex I herein, and using the data available to the Department as of December 2004, the Department has calculated China's expected NME wages.

2001 and 2002 data in Chapter 5B of the ILO International Labour Statistics were available for 94 economies: Albania, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Botswana, Brazil, Bulgaria, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Georgia, Germany, Gibraltar, Guatemala, Hong Kong, Hungary, Iceland, India, Indonesia, Iran, Ireland, Isle of Man, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Macau, China, Macedonia, Malaysia, Malta, Mauritius, Mexico, Moldova, Mongolia, Myanmar, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Poland, Puerto Rico, Qatar, Romania, Saint Helena, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Serbia and Montenegro, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Thailand, Trinidad and Tobago, Turkey, Ukraine, United Kingdom, United States, Uruguay, West bank and Gaza strip, and Zimbabwe.

Within this data set, for 2001 and 2002, there were no "earnings" data for the following 9 economies: Cambodia, Hong Kong, China, Indonesia, Italy, Myanmar, Netherlands, Saint Vincent and the Grenadines, Thailand, and Peru. Similarly, there were no "men and women" data for Saint Lucia. 2001 and 2002 data representing all industries ("Total") were available for the remaining 84 entities. There were two entries for Poland and the United Kingdom which met

all of the Department's criteria for choosing a single wage rate. These entries were averaged to arrive at a single wage rate for each economy.

Of these 84 entities, a consumer price index was unavailable for the following 7 economies: Cuba, Gibraltar, Puerto Rico, Saint Helena, San Marino, Serbia and Montenegro, and Taiwan. Of the remaining economies, there was no exchange rate available for Macau. Additionally, there was no GNI data for Cyprus, Isle of Man, Qatar, West Bank and Gaza Strip, Zimbabwe.

Of the remaining 71 entities, the following are currently or were NMEs designated by the Department in 2001 or 2002: Armenia, Azerbaijan, China, Estonia, Georgia, Kyrgyzstan, Lithuania, Moldova, Romania, Ukraine. Accordingly, the Department ran its preliminary 2006 expected NME wage regression on the following 61 countries: Albania, Argentina, Australia, Austria, Bahrain, Botswana, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Finland, France, Germany, Guatemala, Hungary, Iceland, India, Iran, Islamic Rep. of, Ireland, Israel, Japan, Jordan, Kazakhstan, Korea, Republic of, Latvia, Luxembourg, Macedonia, The former Yugoslav Rep. of, Malaysia, Malta, Mauritius, Mexico, Mongolia, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Poland, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Trinidad and Tobago, Turkey, United Kingdom, United States, Uruguay.

As noted in the ILO database, the wage rates for Korea, Mongolia and Turkey are denominated in units of 1,000 of their respective national currency, and have been converted accordingly.

Following the data compilation and regression methodology described in the *Antidumping Methodologies Notice* and Annex II herein, and using GNI and wage data for Base Year 2002, the regression results are: $Wage = GNI * .000478 + .314174$.

Country	2002 GNI (USD per Annum)	Expected NME Wage Rate (USD per Hour)
China	960	0.77

Annex IV

Calculation of Expected NME Wages Rate based on 2002 GNI

This calculation is only for the purposes of this remand and is identical to that presented in Annex II, except that India's data has been excluded. Therefore, following the data compilation and regression methodology described in the *Antidumping Methodologies Notice* and Annex II herein, with the single exception of excluding data from India, and using GNI and wage data for Base Year 2002, the regression results are: $\text{Wage} = \text{GNI} * .000478 + .324516$.