

**Final Results of Redetermination Pursuant to Court Remand
Certain Preserved Mushrooms from the People's Republic of China
Blue Field (Sichuan) Food Indus. Co., Ltd. v. United States
Court No. 12-00320; Slip Op. 13-142 (CIT November 14, 2013)**

I. Summary

The Department of Commerce (the Department) prepared this final redetermination pursuant to the remand order of the U.S. Court of International Trade (CIT or the Court) in *Blue Field (Sichuan) Food. Indus. Co., Ltd. v. United States*, Court No. 12-00320, Slip Op. 13-142 (November 14, 2013) (*Blue Field*). This final redetermination concerns the February 1, 2010 through January 31, 2011, administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC).¹ The CIT remanded two aspects of the *Final Results*: (1) the surrogate value for Blue Field (Sichuan) Food. Indus. Co., Ltd.'s (Blue Field) rice straw and (2) the surrogate value for Blue Field's cow manure.²

As set forth below, pursuant to the CIT's order in *Blue Field*, the Department, under protest,³ (1) used data from the 2009-2010 financial statements of Flex Foods Limited (Flex Foods), an Indian company, to value rice straw and (2) used data from the 2004-2005 financial statements of Agro Dutch Industries Limited (Agro Dutch), also an Indian company, to value cow manure. Consequently, the Department revised these components of the margin calculations.

¹ See *Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 55808 (September 11, 2012) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

² See *Blue Field* at 32-34.

³ See *Viraj Grp., Ltd. v. United States*, 343 F.3d 1371, 1376 (Fed. Cir. 2003) ("*Viraj*").

II. Background

In the *Final Results*, the Department based its calculation of cow manure and rice straw upon Global Trade Atlas (GTA) values from Colombia, the primary surrogate country.⁴ For rice straw, the Department selected Colombian GTA data from HTS Category 1213.00 “Cereal straw and husks, unprepared, whether or not chopped, ground pressed or in the Form of Pellets.”⁵ For cow manure, the Department selected Colombian GTA data from HTS Category 3101.00 “Animal or vegetable fertilizers, whether or not mixed together or chemically treated; fertilizers produced by the mixing or chemical treatment of animal product.”⁶

Consistent with its practice, for both rice straw and cow manure, the Department compared Colombian GTA data to GTA data from other countries at the same level of economic development as the PRC to determine whether the Colombian GTA data contained aberrational values.⁷ As an initial matter, the Department rejected Blue Field’s argument that the GTA data from the other countries was untimely, explaining that Petitioner Monterrey Mushrooms, Inc. (Petitioner) submitted it as timely rebuttal surrogate value information.⁸ Turning to the data, the Department found that the Colombian GTA data for rice straw fell in the midpoint of the range of GTA data for five other surrogate countries the Department considered to be at a level of economic development comparable to the PRC.⁹ Similarly, the Department found that the Colombian GTA value used to value cow manure fell in the midpoint of the range of GTA data for four other surrogate countries the Department considered to be at a level of economic

⁴ See IDM at Comments 3 and 4.

⁵ *Id.* at Comment 3.

⁶ *Id.* at Comment 4.

⁷ *Id.* at Comments 3 and 4.

⁸ *Id.* at Comment 3 & n.56

⁹ *Id.* at Comment 3. The observed value for Colombia of \$1.28 per kilogram falls between a low of \$0.89 per kilogram (Thailand) and a high of \$1.56 per kilogram (Philippines). *Id.*

development comparable to the PRC.¹⁰ Based upon these comparisons, the Department determined in its *Final Results* that Colombian GTA data for both rice straw and cow manure are non-aberrational.

In litigation, Blue Field challenged the Department's selection of the Colombian GTA data to value rice straw and cow manure. The Government argued that Blue Field had not exhausted several of its arguments. The Court disagreed with the Government in part, finding that Blue Field exhausted its administrative remedies as to some of these arguments.¹¹

The Court also agreed with many of Blue Field's substantive arguments and remanded the Department's selection of surrogate values for both rice straw and cow manure. Regarding rice straw, the Court held that the use of GTA data under Colombian HTS 1213.00 as the surrogate value was unsupported by substantial evidence for three reasons: (1) the Department failed to address benchmarks and potential aberrations in the GTA data;¹² (2) the Department did not adequately address the specificity of the GTA data;¹³ and (3) the Department erred in rejecting alternative surrogate data from India because these data were not contemporaneous and not from the "lead surrogate country" or a country "on Commerce's list of approved surrogate countries."¹⁴

In reaching these conclusions, the Court made several observations about the record data on rice straw. First, the Court found that data provided by Blue Field "should have alerted

¹⁰ *Id.* at Comment 4. The observed value for Colombia of \$1.28 per kilogram falls between a low of \$0.30 per kilogram (Thailand) and a high of \$2.11 per kilogram (South Africa). *Id.*

¹¹ See *Blue Field* at 11-18. For the reasons provided in the Government's opposition to Blue Field's motion for summary judgment, the Department respectfully disagrees with this aspect of the Court's opinion and notes its protest on the same.

¹² See *Blue Field* at 19-22. The Department notes that in the *Final Results* it addressed Blue Field's argument that the GTA data from the other countries were untimely, explaining that Petitioner submitted them as timely rebuttal surrogate value information. See *Final Results*, 77 FR 55808, and accompanying IDM at Comment 3 & n.56.

¹³ *Id.* at 22-24.

¹⁴ *Id.* at 25-27.

Commerce to potential aberrations in the rice straw surrogate (1S).”¹⁵ The Court also found that “Blue Field offered abundant evidence that Commerce’s surrogate was aberrational, . . . and these aberrations may stem from specificity problems in the Colombian surrogate.”¹⁶ The Court also found that “{i}n light of possible aberrations in the Colombian surrogate, Commerce should not have ignored useful data from countries not found in the agency’s surrogate country list.”¹⁷ Further, the Court found that the Department “erred to say Blue Field provided no record evidence regarding whether India is a significant producer of preserved mushrooms,” noting Blue Field’s citations to “record data regarding India’s economic situation and role as a surrogate country in prior administrative reviews”¹⁸ As a consequence, the Court identified data from 2006-2007 Indian financial statements,¹⁹ as well as data from 2009-2010 Indian financial statements,²⁰ as potential sources of surrogate values for rice straw and as “benchmarks.”²¹ Additionally, the Court identified four additional “benchmarks” that it instructed the Department to consider in this redetermination if the Department continued to rely upon the Colombian GTA data: (1) a United States Department of Agriculture National Hay, Feed & Seed Summary Report (USDA Hay Report); (2) a U.S. internet offer for rice straw; (3) Colombian wholesale rice price data; and (4) Colombian retail price data.²² Finally, the Court ordered the Department

¹⁵ *Id.* at 21. In this redetermination, when discussing the “benchmarks” referenced in *Blue Field*, we utilized the numbering system adopted by the Court. For example, the Court assigned the identifier “1S” to the Colombian GTA value for HTS item 1213.00. We, similarly, reference this value as “1S” herein. See *Blue Field* at 9.

¹⁶ *Id.* at 24 (internal citations omitted).

¹⁷ *Id.* at 26.

¹⁸ *Id.* at 26-27.

¹⁹ The 2006-2007 Indian financial statement data on the record are from Flex Foods.

²⁰ The 2009-2010 Indian financial statement data on the record are from Flex Foods, Agro Dutch, and Himalya International Limited (Himalya).

²¹ *Blue Field* at 9, 25-28.

²² *Id.* at 9, 19-22.

to consider whether the purported small import volumes in the GTA data from the other countries on the Department's surrogate country list render that data unreliable.²³

The Court reached similar conclusions on the Department's selection of Colombian GTA data to value cow manure. The Court held that the Department's use of GTA import data under Colombian HTS 3101.00 was unsupported by substantial evidence for three reasons: (1) the Department failed to explain potential aberrations in the data;²⁴ (2) the Department did not adequately address the specificity of the GTA data;²⁵ and (3) the Department erred in rejecting alternative surrogate data from India because India was not among the Department's listed surrogate countries and because of contemporaneity problems.²⁶

In reaching these conclusions, the Court made several observations about the record data on cow manure. First, the Court found that as with rice straw, "Blue Field's benchmarks revealed possible aberrations in Commerce's cow manure surrogate."²⁷ In addition, the Court stated that "{t}hese aberrations may have resulted from specificity problems in the Colombian data (1M)."²⁸ Finally, the Court found that the Department erred in not considering Indian data observing that "Commerce valued a number of products from places other than Colombia" and "Blue Field also provided data showing India is economically comparable to China and a significant mushroom producer."²⁹ The Court identified 2004-2005³⁰ and 2009-2010³¹ Indian financial statement data as potential sources of surrogate values for cow manure and as

²³ *Id.* at 27-28.

²⁴ *Id.* at 28-30.

²⁵ *Id.* at 30-31.

²⁶ *Id.* at 31-32.

²⁷ *Id.* at 28.

²⁸ *Id.* at 31. As previously indicated, when discussing the "benchmarks" referenced in *Blue Field*, we utilized the numbering system adopted by the Court. The Court assigned the identifier "1M" to the Colombian GTA value for HTS item 3101.00. We, thus, reference this value as "1M" herein. See *Blue Field* at 10.

²⁹ *Id.* at 32.

³⁰ The 2004-2005 financial statement data on the record are from Agro Dutch.

³¹ The 2009-2010 financial statement data on the record are from Agro Dutch, Flex Foods, and Himalya.

“benchmarks.”³² Additionally, the Court identified two additional “benchmarks” that it instructed the Department to consider in this redetermination if the Department continued to rely upon the Colombian GTA data: (1) a 2004 United Nations report concerning chicken and swine manure sales in the Philippines (Philippine Chicken and Swine Report); and (2) retail hamburger prices in Colombia.³³ Finally, the Court ordered the Department to consider whether the GTA data from the other countries on the surrogate country list are reliable corroborants for cow manure prices.³⁴

On February 11, 2014, the Court granted an extension until March 18, 2014 for the filing of this final redetermination. On February 24, 2014, the Department released to all parties a draft of its redetermination pursuant to Court remand (Draft Redetermination). We gave interested parties until March 4, 2014 to comment. We received no comments. Therefore, the results of this final redetermination are unchanged from those presented in the Draft Redetermination.

In this final redetermination, we changed our surrogate value choices for rice straw and cow manure from the *Final Results*, consistent with the Court’s opinion and order, as explained below.

III. Analysis

A. Applicable Legal Framework for the Selection of Surrogate Values

Pursuant to section 773(c)(1) of the Tariff Act of 1930, as amended (the Act), the Department values a respondent’s factors of production based on “the values of such factors in a market economy country or countries considered to be appropriate.” Section 773(c)(4) of the Act defines an “appropriate” market economy country as one that is (1) at a level of economic

³² *Blue Field* at 10, 31-32.

³³ *Id.* at 10, 31-32.

³⁴ *Id.* at 32.

development comparable to the non-market economy (NME) country whose merchandise is under review, and (2) a significant producer of comparable merchandise. 19 C.F.R. § 351.408(c)(2) of the Department's regulations stipulates that, except for labor, the Department normally will value all surrogate value factors from a single surrogate country. Because the Department's procedures for selecting surrogate values are codified by regulation, courts have shown deference to the Department's practice of deriving surrogate values from a single country that is at a level of economic development comparable to the NME country.³⁵

In recent years, the Gross National Incomes (GNIs) of the PRC and India have proceeded on different courses. Based upon World Bank data contemporaneous with the period of review, the Department determined that Colombia (as well as Indonesia, the Philippines, South Africa, Thailand, and Ukraine), rather than India, were at a level of economic development comparable to the PRC.³⁶ When selecting a primary surrogate country, the Court has consistently recognized the relevance of whether a country is at a level of economic development comparable to the subject NME.³⁷

In assessing alternative data sources, section 773(c)(1) of the Act directs the Department to determine which evidence represents the "best available information." The Act "does not

³⁵ See, e.g., *Clearon Corp. v. United States*, No. 08-00364, 2013 WL 646390, at *6 (CIT Feb. 20, 2013) ("the court must treat seriously the Department's preference for the use of a single surrogate country"); see also *Royal Thai Gov't v. United States*, 436 F.3d 1330, 1340 (Fed. Cir. 2006) (deferring to the Department's interpretation of its own regulation); *Cathedral Candle Co. v. U.S. Int'l Trade Comm'n*, 400 F.3d 1352, 1363 (Fed. Cir. 2005) ("It is well settled that an agency's interpretation of its own regulations is entitled to broad deference from the courts.").

³⁶ See Memorandum from Carole Showers, Office of Policy to Richard Weible, Office Director, Office 7, AD/CVD Operations RE: Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Certain Preserved Mushrooms (Mushrooms) from the People's Republic of China (China) dated October 12, 2011 (Surrogate Country List). The Surrogate Country List identified Colombia, Indonesia, the Philippines, South Africa, Thailand, and Ukraine as comparable in economic development to the PRC. *Id.*

³⁷ See, e.g., *Jiaxing Bro. Fastener Co., Ltd. v. United States*, No. 12-00384, Slip. Op. 14-12 at *8-12 (CIT Feb. 6, 2014) (upholding the Department's decision not to select India as primary surrogate country based on World Bank per capita GNI data, the same data used by the Department in the *Final Results*); *Clearon Corp.*, 2013 WL 646390, at * 6.

mandate that {the Department} use any particular data source” in reaching its determination.³⁸ This gap in the Act leaves the Department with considerable discretion to determine what constitutes the best available information.³⁹ In filling this gap, the Department considers several criteria as part of its analysis, including whether the data are product-specific, representative of a broad market average, publicly available, contemporaneous with the period of review, and free of taxes and duties.⁴⁰ The Department’s preference is to satisfy the breadth of the aforementioned selection criteria.⁴¹ In implementing this practice, the Department undertakes its analysis on a case-by-case basis and weighs available information for each input value on such a product- and case-specific basis.⁴² This practice has been upheld by the Court on several occasions.⁴³

When the Department uses surrogate values derived from import data, such as the GTA, interested parties may contend that the values are “aberrational.” In considering whether values are aberrational, the Department’s normal practice is to compare the value from the primary surrogate country to the values under the same HTS categories from other countries that are considered by the Department to be at a level of economic development comparable to the NME country.⁴⁴ If such other values are unavailable or do not yield a meaningful comparison, the

³⁸ *Guangdong Chems. Imp. & Exp. Corp. v. United States*, 460 F. Supp. 2d 1365, 1368-69 (CIT 2006).

³⁹ *See Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1999) (“While 19 U.S.C. § 1677b(c) provides guidelines to assist Commerce in this process, this section also accords Commerce wide discretion in the valuation of factors of production in the application of those guidelines.”).

⁴⁰ *See, e.g., Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Administrative Review and New Shipper Reviews; 2010-2011*, 78 FR 17350 (March 21, 2013), and accompanying IDM at Comment I.C; *see also First Administrative Review of Certain Polyester Stable Fiber From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010).

⁴¹ *See, e.g., Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Administrative Review and New Shipper Reviews; 2010-2011*, 78 FR 17,350 (March 21, 2013), and accompanying IDM at Comment I.C.

⁴² *See Polyethylene Terephthalate Film Sheet and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value* 73 FR 55039 (September 24, 2008) and accompanying IDM at Comment 2.

⁴³ *See, e.g., Clearon Corp.*, 2013 WL 646390 at * 3-8.

⁴⁴ *See, e.g., Certain Hot Rolled Carbon Steel Flat Products From Romania: Final Results of Antidumping Duty Administrative Review*, 70 FR 34448 (June 14, 2005), and accompanying IDM at Comment 2; *Notice of Final*

Department may consider alternatives, such as domestic prices in the primary surrogate country, for comparison purposes if such alternatives meet the Department's established criteria for surrogate valuation.

In the *Final Results*, the Department applied these well-established practices in selecting the surrogate values for rice straw and cow manure.⁴⁵ The Court rejected the Department's application of these practices in *Blue Field*.⁴⁶

B. Blue Field's Surrogate Value For Rice Straw

The Department has, under protest, selected Indian data to calculate Blue Field's surrogate value for rice straw.⁴⁷ The Court held that the Department "must reevaluate its surrogate choice in light of Blue Field's proposed surrogates and benchmarks (2S-3S, 6S-9S)."⁴⁸ The data referenced as 2S and 3S represent Indian financial statement data the Court identified as potential surrogate value sources for the rice straw.⁴⁹ As explained above, the Court has expressed concerns over the specificity of the Colombian GTA data used by the Department in the *Final Results*. In particular, the Court expressed concern that the Department did not select the most specific source on the record for the input.⁵⁰

Having analyzed the available surrogate value sources identified by the Court, we have determined that the 2009-2010 Indian financial data of Flex Foods represent both the most-

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) (*Lined Paper*), and accompanying IDM at Comment 5.

⁴⁵ See *Final Results*, 77 FR 55808, and accompanying IDM at Comments 3-4.

⁴⁶ See *Blue Field* at 19-32.

⁴⁷ The Department protests two aspects of the Court's decision on the surrogate value for this input. First, the Department disagrees with the Court's requirement that it consider the Indian surrogate data because it undermines the Department's regulatory preference in 19 C.F.R. § 351.408(c)(2) and well-established practice for selecting surrogate values from a single primary surrogate country determined to be at a level of economic development comparable to the PRC. Second, the Court's opinion rejects the Department's normal practice for determining whether GTA values are aberrational.

⁴⁸ *Blue Field*. at 27; see also *id.* at 33.

⁴⁹ *Id.* at 9, 24-27.

⁵⁰ See *Blue Field* at 22-24.

specific and most contemporaneous data point for valuing rice straw. As noted at page 31 of the Flex Foods 2009-2010 financial statements, the line item for this production input is listed as “straw.”⁵¹ Among all of the potential surrogate value sources identified in *Blue Field*,⁵² we find this Flex Foods line item to be more specific to the “rice straw” reported by Blue Field.⁵³ While the 2006-2007 financial data of Flex Foods also contained a line item for “straw,”⁵⁴ which renders that data equally specific as the 2009-2010 Flex Foods data, we have factored in contemporaneity as a tie-breaker, consistent with the Court’s opinion in *Blue Field*.⁵⁵ Therefore, the Department used the 2009-2010 “straw” financial data of Flex Foods to value Blue Field’s rice straw.

The Department finds the other data on the record not as specific to the input reported by Blue Field. The Colombian GTA data under HTS 1213.00, “Cereal straw and husks, unprepared, whether or not chopped, ground pressed or in the Form of Pellets,” that Commerce used in the *Final Results* could contain other products not similar to rice straw, such as various cereal products and chopped and pelletized husks.⁵⁶ Further, line items in the 2004-2005 Indian financial statements for Agro Dutch,⁵⁷ as well as the 2009-2010 Indian financial statements for

⁵¹ See Blue Field’s February 24, 2012 surrogate value submission at Exhibit 1. At page 31 of its 2009-2010 financial statements, Flex Foods lists a line item for “straw.” *Id.*

⁵² See *Blue Field* at 9.

⁵³ See Blue Field July 6, 2011 Section D Response at D-4.

⁵⁴ The Flex Foods 2006-2007 financial statements were placed on the record of this remand by Blue Field. See January 23, 2014 letter from Blue Field to Secretary of Commerce at Exhibit 1. Notably, this financial statement was not on the record of the review before the remand; instead, Blue Field had submitted only copies of the Department’s final surrogate value memorandum from the immediately-preceding review, which contained a value derived from the Flex Food 2006-2007 financial statements. See Blue Field’s January 17, 2012 surrogate value submission at Exhibit 1.

⁵⁵ See *Blue Field* at 27 (explaining that Commerce may consider contemporaneity as a “tie breaking factor when choosing between equally reliable datasets”).

⁵⁶ See Petitioner’s January 6, 2012 surrogate value submission at Exhibit 5.

⁵⁷ See January 23, 2014 letter from Kutak Rock LLP to Secretary of Commerce at Attachment 2. At page 28 of its 2004-2005 financial statements, Agro Dutch lists a line item for “wheat straw.” *Id.*

Himalya and Agro Dutch, pertain to “wheat straw” rather than to rice straw.⁵⁸ Because Blue Field reported that it used “rice straw” in its production process, we find the line items in these statements not as specific to the input being valued as the “straw” line item in the 2009-2010 Flex Foods financial statements.

With respect to the remaining surrogate value criteria, the Department determines that similar to all of the financial statements and GTA data on the record, the 2009-2010 Flex Foods statements are publicly available. However, the Flex Foods data reflect a single company’s experience in the Indian market and, thus, are not as representative of broad market averages as the Colombian GTA data. Moreover, unlike the GTA data, the record contains no evidence on whether the value derived from the Flex Foods statements is free of taxes and duties.

Nevertheless, in light of the Court’s opinion, in particular with regard to specificity problems with the Colombian GTA data and possible aberrations in the data, the Department finds the 2009-2010 Flex Foods data to be the best available to value Blue Field’s input because it is the most specific to Blue Field’s input, is publicly available and the period covered by these financial statements (October 1, 2009-November 30, 2010) overlaps eight months of the period of review.

Finally, the Court ordered the Department to consider the Colombian GTA data relative to certain benchmarks and to determine whether the Department is precluded from using the GTA data from the other countries at a level of economic development comparable to the PRC because of the purported small import volumes in that data.⁵⁹ Because the Department is no longer using the Colombian GTA data to value Blue Field’s rice straw, further consideration of

⁵⁸ See Blue Field’s February 24, 2012 Surrogate Value Submission at Exhibit 1. At page 36 of its 2009-2010 financial statements, Himalya lists a line item for “wheat straw.” *Id.* Similarly, at page 30 of its 2009-2010 financial statements, Agro Dutch lists a line item for “wheat straw.” *Id.*

⁵⁹ See *Blue Field* at 19-22, 27-28, and 33.

the alternative data points as benchmarks against which to evaluate the Colombian GTA data is not necessary.⁶⁰

C. Blue Field's Surrogate Value for Cow Manure

The Department has, under protest, selected Indian data to calculate Blue Field's surrogate value for cow manure.⁶¹ The Court held that the Department "must reevaluate its surrogate choice in light of Blue Field's manure surrogates and benchmarks (2M-3M, 7M-8M)."⁶² The data referenced as 2M and 3M represent Indian financial statement data the Court identified as potential surrogate value sources for cow manure.⁶³ As explained above, the Court expressed concern that the Department did not select the most specific source on the record for the input.⁶⁴ We have determined that the 2004-2005 financial statements of Agro Dutch represent the most specific data on the record, consistent with the specificity concerns expressed by the Court regarding cow manure. The production input in question is listed as "cow dung" in the Agro Dutch statements.⁶⁵ Among all of the potential surrogate value sources identified by the Court in *Blue Field*,⁶⁶ we find this data point to be the most specific to the "cow manure" input reported by Blue Field.⁶⁷ Notably, this is the same data source used by the Department in

⁶⁰ See, e.g., *Roses, Inc. et al. v. United States*, 774 F. Supp. 1376, 1381-82 (CIT 1991) (upholding the Department's decision not to address issue on remand after finding it moot as a result of other decisions made during remand redetermination).

⁶¹ The Department protests two aspects of the Court's decision on the surrogate value for this input. First, the Department disagrees with the Court's requirement that it consider the Indian surrogate data because it undermines the Department's regulatory preference in 19 C.F.R. § 351.408(c)(2) and well-established practice for selecting surrogate values from a single primary surrogate country determined to be at a level of economic development comparable to the PRC. Second, the Court's opinion rejects the Department's normal practice for determining whether GTA values are aberrational.

⁶² *Id.* at 32; see also *id.* at 33.

⁶³ *Id.* at 9, 30-32.

⁶⁴ *Id.* at 30-31.

⁶⁵ See January 23, 2014 letter from Blue Field to Secretary of Commerce at Attachment 2. At page 28 of its 2004-2005 financial statements, Agro Dutch lists a line item for "cow dung." *Id.* Notably, this financial statement was also not on the record of the review before the remand; instead, Blue Field had submitted only copies of the final surrogate value memorandum from the immediately-preceding review, which contained a value derived from these statements. See Blue Field's January 17, 2012 surrogate value submission at Exhibit 5.

⁶⁶ See *Blue Field* at 10.

⁶⁷ See Blue Field July 6, 2011 Section D Response at D-4.

the immediately preceding review to value cow manure.⁶⁸ Therefore, the Department will use this source to value Blue Field's cow manure.

The Department finds the other data on the record not as specific to the input reported by Blue Field. The Colombian GTA data under HTS 3101.00, "Animal or vegetable fertilizers, whether or not mixed together or chemically treated; fertilizers produced by the mixing or chemical treatment of animal product," that Commerce used in the *Final Results* could contain other products not similar to cow manure, such as chemical fertilizer.⁶⁹ Similarly, the 2009-2010 financial statements for Agro Dutch contain a line item for a group of raw materials that includes "cow dung"; however, because this line item also contains other raw materials, such as lacquer, spawn, and copper wire, we also find it overly broad.⁷⁰ Further, line items in the 2004-2005 Indian financial statements for Agro Dutch,⁷¹ the 2006-2007 Indian financial statements for Flex Foods,⁷² and the 2009-2010 Indian financial statements of Agro Dutch, Himalya, and Flex Foods pertain to "chicken manure," rather than to cow manure.⁷³ Because Blue Field reported using "cow manure" in its production process, we find that the line items in these statements are not as specific to the input being valued as the "cow dung" line item in the 2004-2005 Agro Dutch financial statements.

With respect to the remaining surrogate value criteria, similar to all of the financial statements and GTA data on the record, the 2004-2005 Agro Dutch statements are publicly

⁶⁸ See Blue Field's January 17, 2012 surrogate value submission at Exhibit 5.

⁶⁹ See Petitioner's January 6, 2012 surrogate value submission at Exhibit 3.

⁷⁰ See Blue Field February 24, 2012 Surrogate Value Submission at Exhibit 1. At page 30 of its 2009-2010 financial statements, Agro Dutch lists a line item for "Others (Lacquer, Spawn, Copper wire, Cow dung etc)." *Id.*

⁷¹ See January 23, 2014 letter from Blue Field to Secretary of Commerce at Attachment 2. At page 28 of its 2004-2005 financial statements, Agro Dutch lists a line item for "chicken manure." *Id.*

⁷² See January 23, 2014 letter from Blue Field to Secretary of Commerce at Attachment 1. At page 30 of its 2006-2007 financial statements, Flex Foods lists a line item for "chicken manure." *Id.*

⁷³ See Blue Field February 24, 2012 Surrogate Value Submission at Exhibit 1. At page 31 of its 2009-2010 financial statements, Flex Foods lists a line item for "chicken manure." *Id.* Similarly, at page 30 of its 2009-2010 financial statements, Agro Dutch lists a line item for "chicken manure." *Id.* Finally, at page 36 of its 2009-2010 financial statement, Himalya also lists a line item for "chicken manure." *Id.*

available. However, the Agro Dutch data reflect a single company's experience in the Indian market and, thus, are not as representative of broad market averages as the Colombian GTA data. Moreover, unlike the GTA data, the record contains no evidence on whether the value derived from the Agro Dutch statements is free of taxes and duties. Finally, the 2004-2005 Agro Dutch data are not contemporaneous. Nevertheless, in light of the Court's opinion, in particular with regard to the specificity problems with the Colombian GTA data and possible aberrations in the data, the Department finds the 2004-2005 Agro Dutch data to be the best available to value Blue Field's input because it is the most-specific to Blue Field's input.

Finally, the Court ordered the Department to consider the Colombian GTA data relative to certain benchmarks and to determine whether the GTA data from the other countries at a level of economic development comparable to the PRC are reliable corroborants.⁷⁴ Because the Department is no longer using the Colombian GTA data to value Blue Field's cow manure, further consideration of the alternative data points relative to the Colombian GTA data is not necessary.⁷⁵

V. Final Results of Redetermination

We implemented all changes discussed above. As a result of our final results of redetermination, Blue Field's margin changed from 308.33 percent to 82.04 percent. The analysis employed in this final redetermination is fully described in the Draft Redetermination Analysis Memorandum, which is adopted and hereby incorporated into this final redetermination.⁷⁶

⁷⁴ See *Blue Field* at 28-30, 31-32.

⁷⁵ See, e.g., *Roses, Inc. et al.*, 774 F. Supp. at 1381-82 (upholding the Department's decision not to address issue on remand after finding it moot as a result of other decisions made during remand redetermination).

⁷⁶ See Memorandum from Michael J. Heaney to the File RE: Certain Preserved Draft Results of Redetermination at 1, dated February 24, 2014 (Draft Redetermination Analysis Memorandum).

Upon a final and conclusive decision in this case, the Department will instruct U.S. Customs and Border Protection to liquidate Blue Field's entries for this period of review consistent with our final results of redetermination.



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

18 MARCH 2014

Date