

October 18, 2010

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

FROM: Susan H. Kuhbach  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

CASE: Magnesium Metal from the People's Republic of China

SUBJECT: Issues and Decision Memorandum for the Final Results of the  
2008-2009 Administrative Review

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**SUMMARY:**

On April 21, 2010, the Department published its Preliminary Results in the antidumping duty administrative review of magnesium metal from the People's Republic of China. On April 30, 2010, Petitioner requested a hearing for issues raised in the case and rebuttal briefs.

On May 14, 2010, all parties (Petitioner and TMI) submitted publicly available surrogate value data to value TMI's factors of production. On May 24, parties submitted rebuttal comments on the May 14, 2010, submissions. On July 14, 2010, The Department re-opened the record to place additional wage rate information on the record for consideration in the final results, and requested parties to provide comments on that data in their case and rebuttal briefs.

We received the case briefs from US Magnesium LLC ("Petitioner") and TMI on July 22, 2010, and rebuttal briefs on July 27, 2010. In addition, on August 26, 2010, TMI provided comments on the Department's July 14, 2010, wage rate information. On August 30, 2010, Petitioner provided rebuttal comments to TMI's wage rate comment.

On August 18, 2010, the Department extended the deadline for the final results of review to October 18, 2010. The Department held a public hearing on September 1, 2010, which included the wage rate information submitted by the parties subsequent to the case and rebuttal briefs. Below is the complete list of the issues for which we received comments from interested parties. Following our discussion of the issues are short cite tables, respectively, for: (1) acronyms and abbreviations; (2) litigation; (3) *Federal Register* notices; and, (4) unpublished letters, submissions and memorandum. All short cites are alphabetized by short cite in their respective lists.

**Comment 1:** The Selection of Surrogate Financial Statements

**Comment 2:** Information Contained in Petitioner's Case Brief Which is Not on the Record of This Review

**Comment 3:** Whether the Department Should Calculate the Surrogate Value for Labor Using Multiple Surrogate Countries or a Single Country, India

**Comment 4:** Whether the Department Should Expand the List Of Economically Comparable Countries

**Comment 5:** Whether To Use ILO Wage Data Contemporaneous With the POR Rather Than Using Pre-POR Data and Adjusting for Inflation

**Comment 6:** Whether the Department Should Exclude Indian Data from the Wage Rate Calculation

**Comment 7:** The Source of the Surrogate Value for Foreign Inland Freight

**Comment 8:** The Surrogate Value for Brokerage and Handling

**Comment 9:** Valuation of Flux

**Comment 10:** The Accuracy of TMI's Reported Flux Consumption

**Comment 11:** The Appropriate HTS Classification for Magnesium Waste and Scrap

## **DISCUSSION OF THE ISSUES**

### **Comment 1: Selection of Surrogate Financial Statements**

- Before the *Preliminary Results*, parties placed the financial statements of seven companies on the record: MALCO, Hindalco, Century, Bhoruka, NALCO, Hindustan Zinc, and Sudal. In the *Preliminary Results*, we rejected all but the financial statements for Sudal and found that the financial statements of Sudal constitute the best available information to calculate financial ratios.
- Subsequent to the *Preliminary Results*, Petitioner placed an additional three financial statements on the record, including: (1) the 2006-2007 financial statements for MALCO, whose 2008-2009 financial statements the Department rejected in the preliminary results, as well as (2) the 2007-2008 and (3) the 2008-2009 financial statements for Hindustan Copper. In addition, TMI placed on the record the 2008-2009 financial statements for four additional aluminum products companies, including: (1) Sacheta; (2) Manaksia; (3) Amco; and (4) Gujarat.
- In its case and rebuttal briefs, Petitioner argues that the production of primary aluminum is the most comparable to that of the subject merchandise and that the Department should use NALCO's financial statements for the determination of the surrogate financial ratios, despite the presence of countervailable subsidies.

- As the next best alternative, Petitioner argues that the Department should use in turn, MALCO's 2006-2007 financial statements, Hindustan Copper's 2008-2009 financial statements which are contemporaneous but do not reflect a profit, and Hindustan Copper's 2007-2008 financial statements which are not contemporaneous but reflect a profit.
- Petitioner argues specifically, that the Department should reject HINDALCO because a significant portion of its operations does not refer to comparable merchandise, not because it received subsidies which the Department previously determined to be countervailable.
- Petitioner contends that production of extruded aluminum products is not comparable to the production of magnesium metal and urges the Department to reverse its preliminary results, which relied on the financial statement of Sudal (an aluminum extruder) to calculate surrogate financial ratios.
- TMI argued that Sudal's production process was similar to that of the subject merchandise, although Sudal performed additional processing steps that were not used in magnesium metal production.
- TMI also argued that the Department should not consider NALCO's 2008-2009 and MALCO's 2006-2007 financial statements because these companies received countervailable subsidies, or Hindustan Copper's financial statements because it is a government owned company.
- TMI suggests that the Department can use the statements of Sacheta, Manaksia, Amco and Gujarat "to confirm the efficacy of the Sudal information even if it does not use" them for the determination of surrogate financial ratios in the final results.<sup>1</sup>

**Department's Position:** In selecting financial statements for purposes of calculating financial ratios, the Department's policy is to use data from market-economy surrogate companies based on the "specificity, contemporaneity, and quality of the data."<sup>2</sup> In accordance with section 351.408(c)(4) of the Department's regulations, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country to value manufacturing overhead, general expenses, and profit.<sup>3</sup> Although the regulation does not define what constitutes "comparable merchandise," it is the Department's practice to, where appropriate, apply a three-prong test that considers the: (1) physical characteristics; (2) end uses; and (3) production process.<sup>4</sup> For purposes of selecting surrogate producers, the Department examines how similar a proposed surrogate producer's production experience is to the NME producer's.<sup>5</sup> The Department, however, is not required to "duplicate the exact production experience of" a NME producer, nor must it undertake "an item-by-item analysis in calculating factory overhead."<sup>6</sup> In light of parties' arguments, after examining the 14 financial

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<sup>1</sup> TMI's July 27, 2010 Rebuttal Brief at 9.

<sup>2</sup> See *Lined Paper/PRC* (September 8, 2006) IDM at Comment 1.

<sup>3</sup> See *Shrimp/PRC* (September 12, 2007) IDM at Comment 2.

<sup>4</sup> See *Woven Electronic Blankets/PRC* (July 2, 2010) IDM at Comment 2; *Pencils/PRC* (July 25, 2002) IDM at Comment 5.

<sup>5</sup> See *OCTG/PRC* (April 19, 2010) IDM at Comment 13.

<sup>6</sup> See, *id.* at Comment 13, citing *Nation Ford* (1999) at 1377 and *Magnesium Corp.* (1999) at 1372.

statements that are on the record to determine the best available information to value TMI's overhead, SG&A expenses, and profit for purposes of these final results, the Department finds 12 statements to be inappropriate for use. Accordingly, the Department finds two statements, those of Sudal and Gujarat, to be the best information for calculating surrogate financial ratios for the following reasons.

First, we are not using the 2008-2009 financial statements of MALCO, Hindustan Zinc, AMCO, and Manaksia because the production experience of each of these companies does not predominantly reflect production of comparable merchandise. As stated in the *Preliminary Results*, MALCO's 2008-2009 financial statements show that the company suspended production of aluminum and alumina in November 2008 and produced aluminum for only seven months of its fiscal year, producing and selling electricity alone for the remainder of the year. With respect to Hindustan Zinc, we rejected use of its financial statements for the preliminary results because it has captive mines. Upon further review of the financial statements, we also find that 56 percent of its actual production during the POR is of sulphuric acid,<sup>7</sup> which the Department does not consider to be merchandise comparable to magnesium. AMCO's financial statements show that only 52 percent of its production is of aluminum products, and that the remainder is of PVC and non-woven fabrics,<sup>8</sup> neither of which the Department considers to be comparable to magnesium. As to Manaksia, less than 40% of its production is of aluminum products, and the remaining production covers a wide array of products (*e.g.*, packaging products, mosquito coils, steel products, *etc.*),<sup>9</sup> none of which could be considered comparable to magnesium metal. In addition, Manaksia's financial statements are consolidated statements representing 10 companies that operate in multiple countries (*e.g.*, one is a paper producer in Nigeria, another is a chemical producer in India, *etc.*).<sup>10</sup> Moreover, there is no separate, unconsolidated financial statement for a Manaksia producer of comparable merchandise in India.

Second, we are not relying on the 2008-2009 financial statements of NALCO, HINDALCO, Century, and Sacheta because the Department has a well established practice of disregarding financial statements where there is evidence that the company received subsidies that the Department has previously found to be countervailable, and where there are other sufficient reliable and representative data on the record for purposes of calculating the surrogate financial ratios.<sup>11</sup> NALCO's 2008-2009 financial statements show that NALCO received benefits under the DEPB Premium and obtained EPCG licenses,<sup>12</sup> both of which the Department has determined to be countervailable.<sup>13</sup> HINDALCO's 2008-2009 financial statements also indicate that HINDALCO received benefits under the EPCGS.<sup>14</sup> Similarly, Century's financial

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<sup>7</sup> See Petitioner's November 12, 2009 Initial Comments, Exhibit 6, at 91.

<sup>8</sup> See TMI's May 14, 2020 Additional Surrogate Value Information, Exhibit ASV-3, at 35.

<sup>9</sup> See TMI's May 14, 2010 Additional Surrogate Value Information, Exhibit ASV-2, at 03 & 57.

<sup>10</sup> See, *id.* at 58.

<sup>11</sup> See, *e.g.*, *Nails/PRC*, (June 17, 2010) IDM at Comment 4; *Tires/PRC* (July 15, 2008) IDM at Comment 17.A.

<sup>12</sup> See Petitioner's November 12, 2009 Initial Comments, Exhibit 5, at 71 & 72.

<sup>13</sup> For DEPB Premium, see, *e.g.*, *Iron Castings/India* (November 12, 1999) (unchanged in final results, *Iron Castings/India* (May 18, 2000) IDM Comment I.G.). For EPCG licenses, see, *e.g.*, *Hot-Rolled Carbon Steel/PRC* (July 26, 2010) IDM at Comment II.2.

<sup>14</sup> See TMI's November 12, 2009's Surrogate Value Comments, Exhibit SV-11E, at 91.

statements demonstrated that the company received benefits under the EPCGS.<sup>15</sup> Sacheta's 2008-2009 financial statements show that it received benefits under the DEPB which,<sup>16</sup> as mentioned above, the Department has determined to be countervailable. Because these companies received subsidies that the Department has previously determined to be countervailable during the POR, the Department finds it inappropriate to rely on their financial statements when there are other sufficient reliable data available for purposes of calculating financial ratios.

Third, we are not relying on the 2008-2009 financial statements of Bhoruka and Hindustan Copper because the Department has a practice of disregarding financial statements of companies which show either no profit or a loss.<sup>17</sup> Bhoruka's 2008-2009 financial statements indicate that the company showed a loss.<sup>18</sup> Similarly, Hindustan Copper did not report a profit during the fiscal year of 2008-2009.<sup>19</sup> Because using financial ratios from a financial statement with no profit renders them unrepresentative of a normal surrogate producer, the Department rejects the 2008-2009 financial statements of both Bhoruka and Hindustan Copper.

Fourth, the Department generally excludes non-contemporaneous financial statements where suitable contemporaneous financial data are available.<sup>20</sup> Thus, the Department is not using MALCO's 2006-2007 financial statements and Hindustan Copper's 2007-2008 financial statements because two contemporaneous, viable financial statements of companies which make comparable merchandise to magnesium products remain on the record.

The Department disagrees with Petitioner's contention that aluminum extrusions are not comparable to subject merchandise. We acknowledge the differences in physical characteristics, part of the production process and end use between magnesium metal and aluminum extrusions, as outlined at length by Petitioner. However, we have historically found aluminum products to be comparable to magnesium products,<sup>21</sup> and continue to find that to be the case in the instant review. Regarding physical characteristics, although there are differences between the end products, we continue to find that they are similar in certain physical characteristics in that, for example, they are both formed from "light metals in terms of molecular weight."<sup>22</sup> Thus, the Department finds that it is reasonable to infer that these aluminum products are comparable to magnesium products for purposes of selecting surrogate financial statements.

Furthermore, although there are differences in production process, the Department does not find that, in this instance, these differences prohibit a reasonable inference that the two products are

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<sup>15</sup> See, *id.*, Exhibit SV-11B, at 35 & 41

<sup>16</sup> See TMI's May 14, 2010 Additional Surrogate Value Information, Exhibit ASV-1, at 22.

<sup>17</sup> See, e.g., *Shrimp/Vietnam (Sept. 12, 2007)* IDM at Comment 6; *Shrimp/PRC (September 12, 2007)* IDM at Comment 2.

<sup>18</sup> See TMI's November 12, 2009 Surrogate Value Comments, Exhibit SV-11C, at 31.

<sup>19</sup> See Petitioner May 14, 2010 Post-Preliminary Results Comments, Exhibit 6B, at 37 (note that the profit (before tax) that derived from economic activities for the fiscal year is negative 59, 363 Rs.'000).

<sup>20</sup> See, e.g., *Line Pipe/PRC (March 31, 2009)*, IDM at Comment 13.

<sup>21</sup> See, e.g., *Pure Magnesium/PRC (December 16, 2008)*; *Magnesium Metal/PRC (October 4, 2004)* (affirmed in final determination); *Granular Magnesium/PRC (September 27, 2001)* IDM at Comment 3; *Pure Magnesium/PRC (January 21, 1998)*; *Pure Magnesium/PRC (October 23, 1997)*.

<sup>22</sup> See *Magnesium Metal/PRC (October 4, 2004)* (affirmed in final determination).

comparable. As noted above, the Department is not required to duplicate the exact production experience of the respondent. Here, the record indicates, and the Department has verified,<sup>23</sup> that TMI utilizes a secondary production process to produce magnesium metal (*i.e.*, melting magnesium scrap and alloys in a smelter and then solidifying the mixture in molds to make magnesium metal ingots).<sup>24</sup> The record also indicates that the aluminum extrusion process begins with melting raw materials to produce aluminum billets.<sup>25</sup> Sudal's raw materials include aluminum ingots and scrap,<sup>26</sup> and Petitioner acknowledges that Sudal utilizes a casting process to melt feedstock to produce aluminum billets, which are then extruded to make Sudal's final aluminum products. Further, while we agree with Petitioner that extrusion production involves additional steps not present in the magnesium metal production undergone by TMI's supplier.<sup>27</sup> We nevertheless find the production processes sufficiently similar that the differences do not render the products incomparable.

Finally, while Petitioner points to numerous examples of differences in end use of the two products, we note that there are some similarities in end use as well. For example, both products are commonly used in die casting.<sup>28</sup> Further, the Department's practice does not require that each of the comparability criteria, outlined above, be perfectly matched in order to find products comparable. For example, in the antidumping order on garlic from the PRC, the Department relies on the financial experience of tea producers.<sup>29</sup> Accordingly, we do not find that the criterion of "end use" would render the financial statements of aluminum extruders unfit to use in the instant review.

Additionally, though no party has argued against the use of the Gujarat financial statements for the final results, for reasons similar to those discussed with respect to Sudal, we also find that the financial statements of Gujarat represent production of comparable merchandise and otherwise meet the Department's criteria for use in calculating surrogate financial ratios.

While the Department agrees with TMI that the financial statements of Hindustan Copper do not constitute the best information for purposes of calculating TMI's financial ratios, we disagree with TMI's assertion that the Indian government's ownership of Hindustan Copper is a relevant factor. The Department has previously rejected a similarly proposed argument that it must exclude companies that were owned and controlled by a government.<sup>30</sup> However, we are excluding Hindustan Copper from the determination of the surrogate financial ratios in these final results for the reasons set forth above.

Moreover, because we have rejected both the financial statements of copper producers for the reasons discussed above, we do not address Petitioner's arguments concerning whether copper is comparable to magnesium metal. Also, we disagree with Petitioner's argument that we should use the financial statements of NALCO or MALCO 2006-2007, despite the deficiencies in these

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<sup>23</sup> See Verification Report, page 11.

<sup>24</sup> See TMI's Response to Sections C&D, at D-2 and Exhibit D-1.

<sup>25</sup> See TMI's November 12, 2009 Surrogate Value Comments at Exhibit SV-11H.

<sup>26</sup> See TMI's November 12, 2009 Surrogate Value Comments at Exhibit SV-11A, at 33

<sup>27</sup> See Petitioner's July 22, 2010 Case Brief at 13.

<sup>28</sup> See *Magnesium Metal/PRC* (October 4, 2004) (affirmed in final determination).

<sup>29</sup> See *Garlic Decision Memorandum*, at Comment 5.

<sup>30</sup> See, *e.g.*, *Ball Bearings/PRC* (March 3, 2003) at Comment 1.

statements (*i.e.*, the presence of subsidies found to be countervailable by the Department and non-contemporaneity, respectively). As discussed above, the Department has a longstanding practice of rejecting financial statements due to these factors when there are other usable financial statements on the record.

### **Comment 2: Information Contained in Petitioner’s Case Brief Which is Not on the Record of This Review.**

TMI notes that it filed under separate cover, an objection to certain information concerning the wage rates contained in the petitioner’s case brief as being irrelevant and not on the record of this review. TMI requests the Department to remove this information from the record of this review and not consider it for the final results.

**Department’s Position:** We reviewed the allegations contained in TMI’s July 27, 2010 letter that Petitioner included new factual information in its case brief.<sup>31</sup> On August 23, 2010, we issued a memorandum explaining why we did not regard the information at issue in Petitioner’s case brief to be new factual information within the meaning of 19 CFR 351.301(C)(3).<sup>32</sup> As a result, we did not reject any of the information contained in Petitioner’s case brief, and we have considered all of the information in Petitioner’s case briefs for the final results of this review.

In addition, TMI’s July 27, 2010 letter revealed that TMI failed to understand that the Department’s Wage Rate Memorandum of July 14, 2010, reopened the record of this review, and offered parties an opportunity to comment and to provide in their case briefs rebuttal factual information to the information contained in the Wage Rate Memorandum. Therefore, we reopened the record for TMI, and afforded it an additional opportunity to comment and provide rebuttal factual information to the Department’s Wage Rate Memorandum of July 14, 2010.

As a result, we believe that all parties have had a sufficient opportunity to comment and provide rebuttal factual information to the information included in the Department’s Wage Rate Memorandum of July 14, 2010. Therefore, we will not further address TMI’s allegations of new factual information in Petitioner’s case brief for these final results.

### **Comment 3: Whether the Department Should Calculate the Surrogate Value for Labor Using Multiple Surrogate Countries or a Single Country, India**

In our Wage Data Memo (July 14, 2010), we submitted additional wage data to the record and provided parties an opportunity to comment on this data in their case and rebuttal briefs.<sup>33</sup>

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<sup>31</sup> See TMI’s letter, “Magnesium Metal People’s Republic of China; A-570-896; Request to Reject New Factual Information in Petitioner’s Case Brief,” dated July 27, 2010.

<sup>32</sup> See Memorandum to the File, “Magnesium Metal from the People’s Republic of China: Treatment of Alleged New Information in U.S. Magnesium’s Case and Rebuttal Briefs,” dated August 23, 2010.

<sup>33</sup> See also Memorandum regarding: Treatment of Alleged New Information in U.S. Magnesium’s Case and Rebuttal briefs, dated August 23, 2010; Memorandum regarding: Memorandum to the File, “Magnesium Metal from the Peoples’ Republic of China: Treatment of Alleged New Information in U.S. Magnesium’s Case Brief”, dated August 23, 2010; and Memorandum regarding: Telephone Conversation Concerning Deadlines for the Submission of New Factual Information, dated August 24, 2010.

Petitioners included new factual information in their case brief in response to our July 14, 2010 memorandum. We then granted TMI an opportunity to submit rebuttal and new information (“TMI’s Supplemental Rebuttal” on August 26, 2010), in response to Petitioner’s new factual information. We then provided Petitioner an opportunity to rebut (“Petitioner’s Supplemental Rebuttal” on August 30, 2010) TMI’s Supplemental Rebuttal.<sup>34</sup>

- Petitioner argues that the Department should use as many surrogate countries as possible to value labor as the Department has done in its post-*Dorbest* final decisions. Specifically, Petitioner contends that the Department’s recent use of multiple surrogate countries, rather than a single country to value labor in *Pencils/PRC* (July 7, 2010) IDM at Comment 1, *Woven Electric Blankets/PRC* (July 2, 2010) IDM at Comment 13, and *Woven Ribbons/PRC* (July 19, 2010) IDM at Comment 8, was proper. Petitioners note that the CAFC decision in *Dorbest* (CAFC 2010) indicated that the Department could use data from multiple countries to calculate the wage rate. Alternatively, Petitioner submitted wage data for non-ferrous production in India if the Department determines to use a single country in the valuation of labor.
- TMI argues that the Department’s regulations state that, except for labor, the Department will normally value all FOPs from a single surrogate country. According to TMI, *Dorbest* (CAFC 2010) has invalidated the exception for valuing labor from a single surrogate country. As a result, TMI argues that *Dorbest* (CAFC 2010) requires the Department to use a single surrogate country when valuing labor. Moreover, TMI argues that the Department should use India, the primary surrogate country in this review, in determining the surrogate value for labor. TMI contends that it is the Department’s preference to derive all surrogate values from the primary surrogate country if there is usable data from that country.<sup>35</sup>
- TMI argues that the surrogate country information on the record does not indicate that these countries produce the subject merchandise and/or that the countries are not at the same level of development as India. However, TMI adds that it does not object to the use of the corrected labor wage for Honduras in conjunction with India’s.
- As an alternative to using India exclusively for valuing labor, TMI argues that only countries determined to be at the same level of development as the PRC should be used.
- Petitioner rebuts TMI’s conclusion that *Dorbest* (CAFC 2010) requires the Department to use a single country, let alone India, in valuing labor. Petitioner argues that *Dorbest* (CAFC 2010) in fact reserved the Department’s authority to calculate the surrogate value for labor based on multiple surrogate countries provided that those surrogate countries are economically comparable and contain manufacturers of comparable subject merchandise. Petitioner reiterates that the Department has continued to use multiple surrogate countries in valuing labor, in reviews completed after the *Dorbest* (CAFC 2010) decision. Finally, Petitioner argues that even if the Department determined to use a single surrogate country to value labor, India cannot be used for the reasons discussed in Comment 6 below.

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<sup>34</sup> *See, id.*

<sup>35</sup> TMI cites *Silicon Metal/Russia* (February 11, 2003) IDM at Comment 7 and *Citric Acid/PRC* (April 13, 2000) IDM at Comment 5A in support.

**Department’s Position:** In *Dorbest* (CAFC 2010), the CAFC invalidated the Department’s regulation, 19 CFR 351.408(c)(3), which directs the Department to value labor using a regression-based method. As a consequence of the CAFC’s decision, the Department is no longer relying on the regression-based wage rate. The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. For the final results of this review, we have calculated an hourly wage rate in valuing TMI’s reported labor input by averaging earnings and/or wages in countries that are economically comparable to the PRC. The Department has determined that the best available information for calculating a wage rate is based on multiple surrogate countries rather than an individual surrogate country.

While information from a single surrogate country can reliably be used to value other FOPs, wage data from a single surrogate country does not constitute the best available information for purposes of valuing the labor input due to the variability that exists across wages from countries with similar GNI. While there is a strong worldwide relationship between wage rates and GNI, too much variation exists among the wage rates of comparable MEs. As a result, we find reliance on wage data from a single country to be unreliable and arbitrary. For example, when examining the most recent wage data, even for countries that are relatively comparable in terms of GNI for purposes of factor valuation (*e.g.*, countries with GNIs between USD 950 and USD 4,100), the hourly wage rate spans from USD 0.41 to USD 2.08.<sup>36</sup> Additionally, although both India and Guatemala have GNIs below USD 2,500, and both could be considered economically comparable to the PRC, India’s observed wage rate is USD 0.47, as compared to Guatemala’s observed wage rate of USD 1.14 – over double that of India.<sup>37</sup> The large variance in these wage rates illustrates the arbitrariness of relying on a wage rate from a single country. There are many socio-economic, political and institutional factors, such as labor laws and policies unrelated to the size or strength of an economy, that cause significant variances in wage levels between countries. For these reasons, and because labor is not traded internationally, the variability in labor rates that exists among otherwise economically comparable countries is a characteristic unique to the labor input. Accordingly, the Department maintains its long-standing position that, even when not employing a regression methodology, data from multiple surrogate countries are better than data from a single surrogate country for purposes of valuing labor. For the reasons set forth above, we find that the Indian wage rate does not constitute the best information on the record of this review. For these final results, the Department has employed a methodology that relies on a larger number of comparable countries in order to minimize the effects of the variability that exists between wage data of individual comparable countries.

We disagree with TMI that the *Dorbest* (CAFC 2010) decision requires the Department to use a single surrogate country when valuing labor. Whether the “{e}xcept for labor” clause contained in 19 CFR 351.408(c)(2) was invalidated as part and parcel of the labor regulation is immaterial. Even excluding the “except for labor” clause, section 351.408(c)(2) does not prohibit the Department from sourcing factor data from multiple countries. Rather, both the statute and our

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<sup>36</sup> See “Expected Wages of Selected NME Countries,” revised in December 2009, available at <http://ia.ita.doc.gov/wages/index.html>.

<sup>37</sup> See, *id.*

regulations recognize the need to source factor data from more than one country.<sup>38</sup> Although Section 351.408(c)(2) of the Department’s regulations provides that the Department will *normally* source the factors of production from a single surrogate country, the use of the word “normally” means that this is not an absolute mandate. As we explained in detail above, the unique nature of the labor input warrants a departure from our normal preference of sourcing all factor inputs from a single surrogate country. Moreover, there is nothing in the Federal Circuit’s opinion in *Dorbest* (CAFC 2010), to suggest the court’s intent was to prohibit the use of multiple surrogate countries when valuing labor. On the contrary, *Dorbest* (CAFC 2010) states, in relevant part:

Although we need not resolve which of those countries, or which *additional countries*, could properly be considered economically comparable to China, some subset of these *countries* must surely fit the bill.<sup>39</sup>

Accordingly, we find that our reliance on wage data from several countries to value labor is fully consistent with the statute and our regulations, and disagree that it contravenes the directives set forth in *Dorbest* (CAFC 2010).

Because we have determined to continue our practice of using multiple surrogate countries to value labor, we find it unnecessary to address Petitioner’s submitted wage data for non-ferrous production in India. We additionally find it unnecessary to address TMI’s argument that India should be used as the sole surrogate country in valuing labor.

#### **Comment 4: Whether the Department Should Expand the List Of Economically Comparable Countries.**

- With respect to the Department’s list of economically comparable countries used for valuing labor, Petitioner argues that the Department should expand this non-exclusive list and set the high- and low-income countries, or “bookends,” by using relative GNI ranges (*i.e.*, GNIs relative to that of China) as opposed to the absolute GNI ranges (*i.e.*, actual income dollars) the Department has proposed. According to Petitioner, the current list has a low-end bookmark GNI that is 2.54 times lower than China’s, but a high-end bookmark with a GNI of only 1.69 times greater than China’s. Thus, the Petitioner contends that the Department should broaden the range of comparable countries to include countries with GNI up to 2.54 greater than China’s. TMI did not comment on this issue.
- Petitioner contends that the Department should also correct errors in the data that were attached to the Department’s Wage Data Memo (July 14, 2010).

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<sup>38</sup> See Section 773(c)(1) of the Act (“the valuation of the factors of production shall be based on the best available information . . . in a market economy *country or countries* considered to be appropriate. . . .” (emphasis added)); see also Section 773(c)(4) of the Act (“in valuing factors of production {the Department} . . . shall utilize . . . the prices or costs of factors of production in *one or more* market economy countries . . . .” (emphasis added)).

<sup>39</sup> See *Dorbest*, 604 F. 3d at 1372 (emphasis added).

**Department’s Position:** We continue to determine that the selection of the range of economically comparable countries based on absolute GNIs is reasonable and consistent with the statute.

As in *Pencils/PRC* (July 7, 2010) IDM at Comment 1, *Woven Electric Blankets/PRC* (July 2, 2010) IDM at Comment 13, and *Woven Ribbons/PRC* (July 19, 2010) IDM at Comment 8, in order to determine the economically comparable surrogate countries from which to calculate a surrogate labor rate, the Department looked to the *Preliminary Results*. The Department selected six countries for consideration as the primary surrogate countries for this review.<sup>40</sup> To determine which countries were at comparable levels of economic development to the PRC, the Department placed primary emphasis on GNI.<sup>41</sup> The Department relies on GNI to generate its initial list of countries considered to be economically comparable to the PRC. In the instant review, the list of potential surrogate countries found to be economically comparable to the PRC includes India, the Philippines, Indonesia, Colombia, Thailand, and Peru.<sup>42</sup> From this list, the Department used the countries with the lowest GNI (India) and the highest GNI (Peru), as “bookends,” and then identified all countries with per capita incomes that fell in between the high and low “bookend” countries. To conduct this exercise, the Department relied on data contained in the World Bank’s World Development Report for 2007. This resulted in 52 countries, ranging from India and Yemen with USD 950 GNI to Colombia and Namibia with USD 4,100 GNI.<sup>43</sup>

The Department finds that the selection of the range of economically comparable countries based on absolute GNIs is reasonable and consistent with the Act. The Department has a long-standing and predictable practice of selecting economically comparable countries on the basis of absolute GNI. Petitioner has provided no legal basis to revisit this practice. Moreover, Petitioner has failed to provide sufficient reasoning to demonstrate why the Department should use relative GNI as a basis for defining economic comparability in its labor methodology, while continuing to rely on absolute GNI when determining economically comparable countries when valuing all other factors of production.

We are also not persuaded by Petitioner’s hypothetical example because it is not grounded in the facts of this record.<sup>44</sup> It compares an extreme GNI range from Burundi (USD 120) to Luxemburg (USD 81,600), a difference of over USD 80,000. This hypothetical example is not instructive to this record because it does not address the range that the Department actually selected. In this proceeding, the Department selected a range that extends from India (USD 950) to Colombia (USD 4,100). The differences between the lowest “bookend,” India (USD 950) and the PRC (USD 2,360) (*i.e.*, USD 1,401) and the highest “bookend,” Colombia (USD 4,100) and the PRC (USD 2,360) (*i.e.*, USD 1,740), are not substantial considering the broad range of worldwide GNIs available, and are far less than the USD 80,000 in Petitioner’s hypothetical.

Further, the Department is not persuaded by Petitioner’s argument that the range of economically comparable countries must somehow be “centered” on the basis of relative GNI. The selected range of countries is not intended to represent a hard numerical threshold that defines economic

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<sup>40</sup> See Surrogate Country Memorandum (October 13, 2009).

<sup>41</sup> See 19 CFR 351.408(b).

<sup>42</sup> See Surrogate Country Memorandum (October 13, 2009).

<sup>43</sup> See Wage Data Memo (July 14, 2010).

<sup>44</sup> See page 38 of the Petitioner’s Case Brief.

comparability. It is further unreasonable to expect that the Department can or should always ensure that the upper range and lower range are equivalent since the underlying data, not to mention data availability constraints, do not always allow for such mathematical precision. Therefore, the Department's selection of this narrow range using absolute GNIs is reasonable and consistent with the requirements of section 773(c)(4)(A) of the Act that the Department use MEs that are "at a level of economic development comparable to that of the NME country."

**Comment 5: Whether To Use ILO Wage Data Contemporaneous With the POR Rather Than Using Pre-POR Data and Adjusting for Inflation.**

- Petitioner contends that the Department did not include the most contemporaneous data available in its Wage Rate Memorandum of July 14, 2010. Rather, Petitioner notes that the Wage Rate Memorandum included data only from 2007, or earlier, and made adjustments for inflation even though labor data for 2008 were available from the ILO with respect to certain countries. Petitioner argues that the Department should use 2008 ILO labor rates that it put on the record rather than pre-2008, inflation-adjusted rates.
- TMI did not comment on this issue.

**Department's Position:** None of the data in our Wage Data Memo (July 14, 2010) was from 2008. Since the release of that memorandum, ILO data has been updated for three of the countries identified as significant producers: Guatemala, Indonesia, and the Ukraine. Accordingly, we updated our wage rate calculation to include this data.

**Comment 6: Whether the Department Should Exclude Indian Data from the Wage Rate Calculation**

- Petitioner argues that the Indian wage rate data is incomplete and should be excluded from the simple-average wage rate calculation for valuing labor. According to the Petitioner, the source of the ILO data in chapter 5B for India is an Indian wage survey only of workers working in factories registered under the *Factories Act, 1948*, and earning less than 1,600 Rs per month (6,500 rupees after 2005). Petitioner contends that this information is corroborated by the Indian government. Petitioner adds that the increase in India's wages, as reported by the ILO after 2005, occurred because the survey's scope was expanded from workers earning less than 1,600 Rs per month to less than 6,500 Rs per month. According to the Petitioner, the survey nonetheless continues to exclude all workers earning more than 6,500 Rs per month and is thus unrepresentative of all workers in India. To support their claim that the India ILO data is incomplete and aberrational, Petitioner provided: (1) the description of the Indian survey from the ILO website; (2) an email from Le Ahn Hua of the ILO Department of Statistics that confirms that the Indian wage survey is the source of the Indian data reported at table 5B; and (3) a description of the scope of the Indian wage survey from the Government of India's Labor Bureau website.

**Department's Position:** We disagree with this assessment of the record. As in *WBF/PRC* (August 18, 2010) IDM at Comment 34, we continue to determine that there is not sufficient evidence on the record to undermine the validity of the Indian wage rate. According to the notes to the ILO survey methodology, the ILO survey is conducted pursuant to the Payment of Wages

Act of 1936, as amended in 1982, which restricts the survey to encompass only employees making 1,600 Rs per month or less. In 2005, the Payment of Wages Act of 1936 was amended, raising the restriction to those making 6,500 Rs per month or less (about USD 162). Petitioner argues that this restriction acts as a ceiling and therefore the resulting wage rate reflects only the “lowest paid” of Indian workers.

As a preliminary matter, we find no basis for Petitioner’s assertion that the alleged ceiling covers only the “lowest paid” of Indian workers. There is no evidence on the record to suggest that this guideline would exclude a significant portion of workers in India’s manufacturing sector. For example, the Petitioner failed to present any information demonstrating the relationship between workers paid less than 6,500 Rs per month and the rest of the workforce in India. In addition, the record evidence does not support Petitioner’s argument that the alleged ceiling is binding on the Indian wage data provided to the ILO. The record shows that for at least four different years, India reported a national average wage rate or industry-specific wage rate to the ILO that surpassed this alleged ceiling. For example, in 2004, India reported a national wage of 1,732 Rs per month when the ceiling was 1,600, and in 2006 India reported an industry specific wage of 6,678 Rs per month at the time the ceiling was 6,500 Rs per month. This would mean that, for those years, either for the country as a whole or for specific industries, there were employees collecting wages over that amount and that the ceiling was not considered binding for the survey coverage. Furthermore, because the reported wage rate is an average, clearly the survey included workers with wages even higher than the average rate and the ceiling. The record evidence indicates, therefore, that the 6,500 Rs amount does not represent an absolute ceiling for the 2006 wage rate.

We therefore find no basis in the record on which to conclude that the ILO wage data point for India is distorted. Accordingly, we will continue to use the Indian wage rate in our calculations for the final results of review.

#### **Comment 7: The Source of the Surrogate Value for Foreign Inland Freight**

- Petitioner argues that the Department should not use *Infobanc* data to value foreign inland freight because it exhibits “tapering,” such that the per-unit freight rates decline as the transport distances increase. In addition, Petitioner contends that the *Infobanc* data represent freight costs for distances in excess of the “Sigma cap.” Instead, Petitioner claims that the data from the World Bank *Doing Business 2009 – India* are more appropriate for the purposes of valuing foreign inland freight because such data represent the cost to move a container across distances that more closely represent the respondent’s experience.
- Petitioner contends that if the Department continues to use *Infobanc* data to value foreign inland freight, it should only use rates for distances less than the Sigma cap.
- Petitioner claims that if the Department uses data from *Doing Business 2009 – India* to value domestic inland freight in this review, it should convert the per-container charges to weight-based charges by dividing the estimated total cost per container by *Doing Business 2009 – India*’s estimated weight of one container.
- TMI argues that the Department should not revise the method it used for calculating the

surrogate values for truck freight in the preliminary results because any such change in the calculations would lead to an insignificant adjustment. TMI contends that 19 CFR 351.413 grants the Department the authority to disregard insignificant adjustments.

**Department's Position:** We disagree with Petitioner's contention that the *Infobanc* data used to create the weighted-average freight rate in the preliminary results exhibit "tapering," *i.e.*, an inverse relationship between the per-unit price and distance shipped.<sup>45</sup> Rather, the *Infobanc* data show that a wide variation in per-unit prices exist at each data point along the distance spectrum. In addition, the per-unit prices rise for shipping merchandise at distances which exceed 2,000 kms.<sup>46</sup> As a result, it is not accurate to say that the per-unit freight rates decline as the transport distances increase in the *Infobanc* database.

Further, we disagree with Petitioner's contention that the *Doing Business 2009 – India* data more closely represent the respondent's experience. Petitioner maintains that the *Doing Business 2009 – India* represent the freight rates in India for a producer located in the "most populous city" to move merchandise to "the closest or main port from the most populous city." Rather, the freight expenses recorded in *Doing Business 2009 – India* represent only inland transportation and handling.<sup>47</sup> In addition, *Doing Business 2009 – India* does not identify the distance to which it applies the associated inland transportation cost. As a result, there is no information on the record to support Petitioner's contention that the inland transportation costs in *Doing Business 2009 – India* represent only the cost of shipping merchandise from locations within the city of Mumbai to the port of Mumbai. Because the *Doing Business 2009 – India* did not report the distances involved in the inland transportation portion of their export costs, it is not possible to determine whether the *Doing Business 2009 – India* data more closely represents TMI's experience.

In contrast to the *Doing Business 2009 – India* data, the *Infobanc* data represents average per-unit cost to transport merchandise by truck within India. The *Infobanc* data measures the per-unit shipping costs for one hundred pairs of cities on a monthly basis and covers eight months of the POR. Thus, the prices are representative of the nation-wide prices in India during the POR. Accordingly, we disagree that we should limit the calculation of per-unit truck freight to those *Infobanc* data points that are equal to or less than TMI's Sigma distance because such rates would no longer be representative of the average shipping rates in India. As a result, we will make no changes in our final results with respect to the calculation methodology for foreign inland freight.

We also disagree with TMI's claim that the Department should not revise its methodology for calculating the surrogate value for truck freight because any such revision would lead to an insignificant adjustment. It is the Department's practice, when selecting the best available information for valuing FOPs and in accordance with section 773(c)(1) of the Act, to select, to the extent practicable, surrogate values which are product-specific, representative of a broad market average, publicly available, and contemporaneous with the POR.<sup>48</sup> The Department does not determine surrogate values based on their impact on the adjustment to U.S. price or normal

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<sup>45</sup> See Final Factor Valuation Memorandum at 3 and Attachment 8.

<sup>46</sup> *Id.*

<sup>47</sup> See Petitioner's SV Submission, at Exhibit 4.

<sup>48</sup> See *Lock Washers/PRC* (May 27, 2010) IDM at Comment 5, citing *Activated Carbon/PRC* (November 10, 2009) IDM at Comment 3d.

value. As a result, we have not considered the significance of any adjustments in determining U.S. price or normal value in the determination of our surrogate value for foreign inland freight.

**Comment 8: The Surrogate Value for Brokerage and Handling**

- Petitioner contends that the Department should value TMI’s reported brokerage and handling expenses using data from the World Bank’s publication *Doing Business 2009 - India* rather than using data from the publicly available financial statements of Navneet, Essar, and Himalya, which were placed on the record of administrative reviews on Indian lined paper, hot-rolled carbon steel flat products and preserved mushrooms (the “Navneet/Essar/Himalya data”).
- Petitioner claims that *Lock Washers/PRC* (May 27, 2010) indicates that the Department considers *Doing Business 2009 – India* to be a better source of surrogate values because it more specifically identifies specific types of brokerage and handling costs, is more credible, representative, contemporaneous, and bears the imprimatur of the World Bank.
- In contrast, Petitioner notes that only one of the financial statements in the Navneet/Essar/Himalya data is contemporaneous with the POR.
- Petitioner asserts that if the Department bases the surrogate value for brokerage and handling on the information provided in *Doing Business 2009 – India*, it should calculate the per-unit surrogate value for brokerage and handling by dividing the total reported brokerage and handling expense of \$645 per-container by 10MT, the estimated weight of one container used in *Doing Business 2009 – India*, to arrive at a surrogate value of US\$64.50/MT, or US\$0.0645/kg.
- TMI argues that the Department should not revise the method it used for calculating the surrogate values for brokerage and handling expenses in the preliminary results because any such change in the calculations would lead to an insignificant adjustment. TMI contends that 19 CFR 351.413 grants the Department the authority to disregard insignificant adjustments.

**Department’s Position:** We agree with Petitioner that *Doing Business 2009 – India* is the best available information on the record for valuing respondent’s brokerage and handling costs. The data from *Doing Business 2009 - India* are publicly available, contemporaneous, are specific to the costs in question, and represent a broad market average.

As we determined in *Lock Washers/PRC* (May 27, 2010), the *Doing Business 2009 – India* data are more specific in identifying the types of brokerage and handling costs they cover than the Navneet/Essar/Himalya data used in the *Preliminary Results*. The page entitled “Trading Across Borders in India Details” from the *Doing Business 2009 – India* website provides specific cost breakdowns for document preparation, customs clearance, and ports and terminal handling.<sup>49</sup> There is no information on the record indicating whether the Navneet/Essar/Himalya data included all of these costs in the lump sum they report for brokerage and handling, and, thus

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<sup>49</sup> See Petitioner’s SV Submission at Exhibit 4.

the *Doing Business 2009 – India* data has the advantage of explicitly breaking out these relevant costs.

We recognize that there is no evidence to link cost data from *Doing Business 2009 – India* specifically to the export of subject merchandise. We note, however, that this link cannot be established with the Navneet/Essar/Himalya data either, because there is no record information indicating that any of these companies export subject merchandise. Accordingly, we determine that for brokerage and handling costs, *Doing Business 2009 - India* is a more broad-based survey of costs in the Indian market and, thus, constitutes a more credible and representative source than the data we used in the *Preliminary Results*, which is limited to the experiences of three specific Indian companies. We confirmed the broad-based and representative nature of the statistics in *Doing Business 2009 - India* with a review of the website (<http://www.doingbusiness.org>) referenced in Petitioner's submission.<sup>50</sup> We found that the *Doing Business 2009 – India* survey for India includes information from 17 different locations in India. The website also indicates that the World Bank Group obtained its data on India with the help of 280 private sector contributors and 230 public sector officials. Additionally, we note that the cost data have an official nature, in that they represent statistical analysis by the World Bank, an international organization. In past cases, we have found international organization publications to be reliable and credible sources of information.

We disagree that we should calculate the per-unit value of brokerage and handling as Petitioner proposed, because an examination of the record reveals that the estimated weight per-container of 10 MT recorded in *Doing Business 2009 – India* does not match TMI's experience.<sup>51</sup> Therefore, we have used the publicly available value for the average maximum cargo load per container of 21,727 kgs., which more closely approximates TMI's experience, as recorded on the website <http://www.foreign-trade.com/reference/ocean.cfm>.<sup>52</sup> As a result, for the final results, we have calculated the SV value for brokerage and handling by dividing a brokerage and handling rate of US\$645 per container by 21,727 kgs. per container for a per-unit value of US\$0.029687 per kg.

We disagree with TMI's claim that the Department should not revise its methodology for calculating the surrogate value for brokerage and handling because any such revision would lead to an insignificant adjustment. It is the Department's practice, when selecting the best available information for valuing FOPs and in accordance with section 773(c)(1) of the Act, to select, to the extent practicable, surrogate values which are product-specific, representative of a broad market average, publicly available, and contemporaneous with the POR.<sup>53</sup> The Department does not determine surrogate values based on their impact on the adjustment to U.S. price or normal value. As a result, we have not considered the significance of any adjustments in determining U.S. price or normal value in the determination of our surrogate value for brokerage and handling.

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<sup>50</sup> *Id.*

<sup>51</sup> See TMI Final Analysis Memorandum.

<sup>52</sup> See Final Factor Valuation Memorandum, TMI's Final Analysis Memorandum and TMI's 1<sup>st</sup> SQR at Exhibits 15 through 18.

<sup>53</sup> See *Lock Washers/PRC* (May 27, 2010) IDM at Comment 5, citing *Activated Carbon/PRC* (November 10, 2009) IDM at Comment 3d.

## Comment 9: Valuation of Flux

- Petitioner argues that the Department should not use data from *Chemical Weekly* to value the three components (magnesium chloride, potassium chloride, and sodium chloride) of flux because those data do not represent actual prices.
- Specifically, Petitioner claims that, according to email correspondence from a representative of *Chemical Weekly*, the published pricing data for flux components reported by *Chemical Weekly* are not based on actual prices, and do not reflect actual sales transactions. Rather, citing the following cases, Petitioner claims that it is the Department's practice to reject proposed surrogate values that do not reflect actual prices: *CVP-23/PRC* (June 28, 2010), *Shrimp/Vietnam* (September 15, 2009), and *Thermal Paper/PRC* (October 2, 2008).
- Accordingly, Petitioner argues that the Department should use the Indian import statistics submitted by US Magnesium to value the components of flux. Petitioner asserts that these values are more reliable sources as they are based on country- and period-wide sales transactions.
- TMI contends that the Department correctly chose *Chemical Weekly* as the best information of record to determine the surrogate value of flux.
- TMI contends that the Department has consistently used *Chemical Weekly* for flux valuation citing: *Pure Magnesium/PRC* (December 16, 2008), *Pure Magnesium/PRC* (December 14, 2009), and *Magnesium Metal/PRC* (July 14, 2008).
- TMI maintains that data from *Chemical Weekly* is corroborated by information from *Chemical Business of India* and thus represents the best available information for magnesium chloride, the major flux input, because it is both publicly available price information that is contemporaneous with the POR, specific to TMI's input, and representative of prices throughout India.
- Additionally, TMI argues that *Chemical Weekly* data appropriately values all three salts reported in TMI's input for flux because all the salts are components into a single input, and it is preferable that the surrogate values originate from the same source. TMI asserts that the source recommended by Petitioner, *World Trade Atlas*, lists only a few metric tons of imports into India, and as such, TMI claims that the "very small sample" militates against its use.
- TMI also contends that Petitioner provided uncorroborated correspondence with persons stated to be officials of *Chemical Weekly*. TMI questions the credibility and accuracy of the correspondence, and maintains that information given was not publicly available.

**Department's Position:** We agree with TMI that *Chemical Weekly* is the best information of record to determine the surrogate value of flux.

The Department's practice when selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, is to select, to the extent practicable, surrogate values which are product-specific, representative of a broad market average, publicly available and contemporaneous with the POR.<sup>54</sup> The Department undertakes its analysis of valuing the FOPs on a case-by-case basis, carefully considering the available evidence in light of the particular facts of each industry.<sup>55</sup> There is no hierarchy for applying the above-stated principles.<sup>56</sup> Thus, the Department must weigh available information with respect to each input value and make a product-specific and case-specific decision as to what the "best" surrogate value is for each input.<sup>57</sup> In applying the Department's surrogate value selection criteria, the Department has found in numerous NME cases that import data from WTA have represented the best information available for valuation purposes because the WTA data are publicly-available, contemporaneous with the POR, tax-exclusive, product-specific, and broad market averages.<sup>58</sup> Likewise, the Department has determined in numerous cases that price data from the Indian publication *Chemical Weekly* constituted the best available information to value certain inputs in various NME cases because these data represent multiple prices over time, are representative of prices during the POR in India, are product-specific, and can be made tax-exclusive.<sup>59</sup> Thus, the Department considers both WTA and *Chemical Weekly* to be acceptable sources of surrogate value data.<sup>60</sup>

Further, we agree with TMI that the *Chemical Weekly* data is appropriate to value the three salts that comprise flux using the same source because all of these salts are components of a single input, *i.e.*, flux. As a result, we have determined to use prices from *Chemical Weekly* to value the three salts comprising flux because *Chemical Weekly* data are specific to the inputs, reliable, and contemporaneous with the POR.

Therefore, following the precedents set in past magnesium cases,<sup>61</sup> we examined the price information for magnesium chloride from *Chemical Weekly*, a reliable source of information on the record of this review which the Department has used in many past cases. We have reviewed the *Chemical Weekly* data for magnesium chloride,<sup>62</sup> and find that the data are the best available information on the record because they are publicly available prices that are contemporaneous with the POR and because they are specific to TMI's input and representative of prices throughout India. In light of this finding, we also reviewed *Chemical Weekly* data for use in valuing the other two salts, sodium chloride and potassium chloride, and similarly find that the *Chemical Weekly* data for these two inputs are the best available information on the record because they are publicly available prices, contemporaneous with the POR, and are specific to TMI's inputs.

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<sup>54</sup> See *Garlic/PRC* (June 17, 2008) IDM at Comment 2.

<sup>55</sup> See *Glycine/PRC* (August 12, 2005) IDM at Comment 1.

<sup>56</sup> See *Activated Carbon/PRC* (November 10, 2009) IDM at Comment 3c, 3d, 3e, 3f, 3g.

<sup>57</sup> See *Crawfish/PRC* (April 22, 2002) IDM at Comment 2.

<sup>58</sup> See, *e.g.*, *TRBs/PRC* (January 6, 2010) IDM at Comment 2; *Isos/PRC* (December 14, 2009) IDM at Comments 1 and 4; and *Activated Carbon/PRC* (November 10, 2009) IDM at Comments 3c and 3f.

<sup>59</sup> See, *e.g.*, *Activated Carbon/PRC* (November 10, 2009) IDM at Comment 3d; *Glycine/PRC* (August 14, 2009) IDM at Comment 3; and *Isos/PRC* (June 8, 2009), unchanged in the final results, *Isos/PRC* (December 14, 2009).

<sup>60</sup> See *Activated Carbon/PRC* (November 10, 2009) IDM at Comment 3d.

<sup>61</sup> See *Pure Magnesium/PRC* (December 16, 2008) and *Magnesium Metal/PRC* (July 14, 2008).

<sup>62</sup> See TMI's SV submission at SV-5A.

We agree with Petitioner that the Department's strong preference is not to rely on price quotes for factor valuation purposes because price quotes do not represent actual prices, nor do they encompass broad ranges of data. As we have stated in previous cases, the Department does not normally know the conditions under which price quotes were solicited and whether or not they were self-selected from a broader range of quotes.<sup>63</sup> However, we disagree with Petitioner that the price quotes in *Chemical Weekly* are similar to the types of price quotes that the Department rejected in the cases cited by Petitioner. In each of the cases cited by Petitioner, the Department rejected price quotes that parties obtained from private, non-published sources. On the other hand, the prices in *Chemical Weekly* represent a broad range of prices from a number of locations. For example, there are 108 separate price quotes for magnesium chloride from two different locations. The potassium chloride price includes price quotes from two locations and the sodium chloride price includes more than 54 price quotes from one location. As in past cases, we have determined that price observations published in *Chemical Weekly* are more likely to be representative of the market than the WTA import statistics. Moreover, in *Magnesium Metal* (July 14, 2008) IDM at Comment 4, citing *Lock Washers* (January 24, 2008) IDM at Comment 4, we stated:

We have specifically found it appropriate to use *Chemical Weekly* data in multiple cases. The Department found that these data are domestic price quotes which are publicly available.<sup>64</sup> The Department rejected other price quotes in favor of *Chemical Weekly* price quotes since *Chemical Weekly* price quotes are country-wide.<sup>65</sup> Thus, the Department continues to find *Chemical Weekly* to be a reliable source for obtaining surrogate values.

Thus, the *Chemical Weekly* price quotes are publicly available prices that are contemporaneous with the POR, are industry-specific, and provide a range of prices in different markets throughout India. For the above reasons, we disagree with Petitioner that the correspondence it placed on the record between itself and a representative of *Chemical Weekly*<sup>66</sup> indicates that the data are unsuitable for the determination of the SV for flux in the context of this review. Specifically, the information presented in the email represents a string of private correspondence between Petitioner and an employee of *Chemical Weekly*.<sup>67</sup> Given the private nature of the email correspondence, it is not possible to ascertain the level of authority of the employee and/or whether the correspondence reflects the official policy of *Chemical Weekly*. Moreover, it is not possible to determine whether such private correspondence is complete or has been edited or redacted by the parties. Thus, for the final results, we will continue to use the data from *Chemical Weekly* to value all three components of flux for TMI.

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<sup>63</sup> See, e.g., *CVP-23/PRC* (June 28, 2010) IDM at Comment 5; *Thermal Paper* (October 2, 2008) IDM at Comment 10; see also *CVP-23/PRC* (November 17, 2004) IDM at Comment 6, in which we stated, "we prefer not to rely on price quotes, as they represent the experience of one or two transactions and are not necessarily representative of commercial prices in India;" and *Shrimp/Vietnam* (September 15, 2009) IDM at Comment 7.

<sup>64</sup> See *Sebacic Acid /PRC* (March 30, 2005) IDM at Comment 6.

<sup>65</sup> See *Polyvinyl Alcohol/PRC* (August 11, 2003) IDM at Comment 1 ("the Department has a clear preference for using country-wide prices such as those published in *Chemical Weekly*, as opposed to specific price quotes...").

<sup>66</sup> See Petitioner's SV Submission at Exhibit 3.

<sup>67</sup> See *Id.*

### **Comment 10: The Accuracy of TMI's Reported Flux Consumption**

- Petitioner asserts that TMI's flux consumption is understated in the FOP file of the DQR. According to Petitioner, TMI's FOP value is inexplicably lower than the standards generally used by the company and is therefore not credible. Petitioner argues that the Department should assign a specific value to flux consumption based on verification findings for this CONNUM.
- TMI argues that Petitioner's claim regarding TMI's flux usage is without substance. TMI contends that the verified value for flux consumption, which was based on its producer's accounting records, must be used for the final results to calculate flux usage.

**Department's Position:** We agree with TMI. We verified TMI's flux consumption and found no discrepancies with the information reported in the questionnaire response. Therefore, for the final results, we will continue to base TMI's surrogate value for flux on its reported and verified consumption value for flux.

### **Comment 11: The Appropriate HTS Classification for Magnesium Waste and Scrap Input**

- TMI contends that the Department should value its input of magnesium waste and scrap ("MGWST") using HTS category 8104.20 (magnesium and articles thereof, including waste and scrap: Unwrought magnesium: waste and scrap) rather than HTS category 8104.11 (magnesium and articles thereof, including waste and scrap: Unwrought magnesium: Containing at least 99.8 percent by weight of magnesium), which is the HTS category used for pure magnesium.
- TMI asserts that the HTS 8104.11 includes only ingots and other primary forms of magnesium that are unworked. Thus, TMI claims that the pure magnesium scrap created by processing pure magnesium cannot not be classified using the same HTS number that is used to classify the product in its primary form. TMI supports its argument with its Sections C & D questionnaire responses, supplemental questionnaire responses (including photographs of sample scrap showing that all of the scrap TMI used was of wrought metal), the *Oxford English Dictionary*, and Section XV, Notes (1) of Harmonized Commodity Description and Coding System.
- As a result, TMI contends that MGWST must be classified using HTS 8104.20.
- Petitioner argues that the Department properly used HTS category 8104.11 to value magnesium waste. It contends that TMI's magnesium waste is comprised of ingot remnants, which are "butt ends" of ingots that are used in processing. Petitioner contends that these butt-ends are not themselves processed, and thus remain unwrought material.

**Department's Position:** We agree with Petitioner that TMI's magnesium waste and scrap input should be valued using HTS 8104.11. In its original questionnaire response, TMI reported having two magnesium waste inputs: MGWST and magnesium metal waste or alloy scrap ("MGMWST").<sup>68</sup> In that submission, TMI reported that the MGWST included waste and scrap

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<sup>68</sup> See DQR at D-9.

from the processing of pure magnesium...” and “waste and scrap magnesium metal from die-casting that may have included certain alloy elements such as aluminum and zinc.”<sup>69</sup> In its 1st SQR, TMI described its two magnesium scrap inputs as (1) “Mg scrap = scrap from the process of pure magnesium products;” and, (2) “alloy scrap = scrap from processing of alloyed magnesium products.”<sup>70</sup> Further, TMI provided inspection reports for magnesium scrap and magnesium metal scrap, showing that the purity level of magnesium scrap was in accord with HTS 8104.11<sup>71</sup> and that the purity level of magnesium metal scrap was in accord with HTS 8104.20.<sup>72</sup> Finally, TMI provided sample copies of magnesium scrap purchases prior to the POR,<sup>73</sup> and of all magnesium metal (alloy) scrap inputs purchased during the POR.<sup>74</sup> Thus, in its questionnaire responses, TMI consistently identified two-separate inputs for magnesium scrap and magnesium metal scrap, and it has consistently defined them based on the purity of the magnesium content.

TMI explained that its production processes did not change from the previous reviews.<sup>75</sup> As a result, in our preliminary results, we valued MGWST using HTS 8104.11, and MGMWST using HTS 8104.20 consistent with the valuation of these inputs in the final results of the 06-07 review,<sup>76</sup> which is the most recently completed review of magnesium metal from the PRC. In addition, Petitioner put information on the record of this review showing that in the 06-07 review, TMI argued that the Department should value MGWST using HTS 8104.11.<sup>77</sup> Therefore, because there have been no changes to TMI’s production process or inputs since the 06-07 review, we shall continue to value MGWST with HTS 8104.11, pure magnesium, and MGMWST with HTS 8104.20, as we did in the 06-07 review.

TMI’s argument that its magnesium scrap should be classified as HTS 8104.20, because the scrap has been wrought, is not persuasive. The HTS number for pure magnesium, HTS 8104.11, includes waste and scrap, such as chippings, butt-ends, shavings, and other such ingot remnants from the production of pure magnesium, as well as pure magnesium ingots. These types of scrap items have not been rolled, forged, drawn, extruded, cast or sintered, and therefore, qualify as unwrought. Accordingly, we agree with Petitioner’s claim that the language in Section XV, Additional U.S. Note 1 to the HTSUS, is not applicable to TMI’s magnesium waste input, because, as we found in the 06-07 review of magnesium metal, butt-ends or stubs of pure magnesium generated from grinding pure magnesium ingots should not be classified as HTS 8104.20.<sup>78</sup> TMI explained in its questionnaire responses that its waste products include the butt ends of ingots used in the production process of pure magnesium.<sup>79</sup> TMI does not dispute that it uses butt-ends or stubs of pure magnesium in the production of magnesium metal; rather, it disputes that these butt-ends and stubs of pure magnesium should be classified as pure magnesium under HTS 8104.11. Thus, we agree with Petitioner that TMI has failed to

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<sup>69</sup> *Id.*

<sup>70</sup> See 1st SQR at 43.

<sup>71</sup> See 1st SQR at Exhibit 26A.

<sup>72</sup> See 1st SQR at Exhibit 26B.

<sup>73</sup> See 1st SQR at Exhibit S-26E.

<sup>74</sup> See 1st SQR at Exhibit S-26D.

<sup>75</sup> See 1st SQR at 37.

<sup>76</sup> See *Magnesium Metal/PRC* (July 14, 2008) IDM at Comment 2. See also Factor Valuation Memorandum for the 2006-2007 Review at 2 and Attachment 1.

<sup>77</sup> See Petitioner’s Rebuttal SV Submission, at Exhibit 2.

<sup>78</sup> See *Magnesium Metal/PRC* (July 14, 2008) IDM at Comment 2.

<sup>79</sup> See 1st SQR at 38.

distinguish the output of its processing operations with the ingot remnant that is leftover from the same operation.

Moreover, TMI explains that in the production of its magnesium metal, it also uses magnesium metal scrap, MGMWST, which we valued using HTS 8104.20. TMI explained that the scrap generated from the proprietary processing of one of its magnesium metal products was reintroduced into the production process, and as a result, the consumption factor for that type of magnesium metal scrap was reported on a net basis.<sup>80</sup> Because we valued MGMWST using HTS 8104.20, we have already taken into account any of TMI's magnesium metal waste or scrap that has been wrought or processed.<sup>81</sup>

We further disagree that the seventeen photos of "some sample pictures for the two types of scrap," which TMI provided in its 1<sup>st</sup> SQR,<sup>82</sup> can be used to identify the types of scrap (*i.e.*, either magnesium scrap or magnesium metal scrap) that TMI used in the production of magnesium metal during the POR. All of the photos in this exhibit are electronically dated more than two years prior to the POR. None of the photographs included a description of the product(s) or material(s) in the specific photograph. Further, the location of where these photos were taken cannot be ascertained. As a result, these photographs cannot be relied upon to identify the types of magnesium waste and scrap or the magnesium metal waste and scrap used as inputs into the production process by TMI's supplier.

We verified TMI's reported FOPs. Because there was no production of magnesium metal at the time of verification, the verifiers were not able to observe either the production process or the types of inputs that TMI used for production of the subject merchandise. However, in its verified production records, TMI clearly distinguishes between magnesium scrap and magnesium metal (alloy) scrap<sup>83</sup> as inputs into the production process. Moreover, TMI provided copies of the invoices for all of the magnesium metal (alloy) scrap inputs purchased during the POR,<sup>84</sup> which accounts for all of the production during the POR. Thus, the Department's valuation of TMI's two types of magnesium scrap inputs by valuing magnesium waste and scrap using HTS 8104.11 and magnesium metal waste and scrap using HTS 8104.20 is consistent with TMI's identification of two types of magnesium scrap inputs in its questionnaire responses and underlying documentation.

As we did in the 06-07 review, we agree that Customs Ruling HQ 961439, provided by Petitioner, supports a finding that the small raised portions at the top of a pure magnesium ingot, magnesium "stubs," which TMI may introduce into its production process, are properly classified under subheading 8104.11 rather than the waste and scrap of HTS subheading 8104.20."<sup>85</sup> Furthermore, we agree with Petitioner's claims that the magnesium stubs at issue do not qualify as waste and scrap of subheading 8104.2000 HTS because they are primary manufactured forms similar to ingots and, therefore, are unwrought for tariff purposes.

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<sup>80</sup> See DQR at D-10.

<sup>81</sup> See TMI's proprietary producer's Verification Exhibit 2, at page 14, which shows such material returned to the raw material warehouse, and page 17, which shows the calculation of net consumption of the alloy scrap which was valued using HTS 8104.20.

<sup>82</sup> See 1<sup>st</sup> SQR at 42 and Exhibit S-26C.

<sup>83</sup> See, *e.g.*, TMI's proprietary producer's Verification Exhibit 2, at pages 9-10, 15-16.

<sup>84</sup> See 1<sup>st</sup> SQR at Exhibit S-26D.

<sup>85</sup> See *Magnesium Metal/PRC* (July 14, 2008) IDM at Comment 2.

Therefore, for these final results of review, we will make no changes to our calculation for the surrogate value of MGWST.

**Recommendation**

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

Agree \_\_\_\_\_ Disagree \_\_\_\_\_

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Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

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Date

## Short Cite Tables

<i>List Of Abbreviations And Acronyms Used In This Memorandum</i> <i>All cites in this table are listed alphabetically by short cite</i>	
<b>Acronym/Abbreviation</b>	<b>Full Name</b>
Act	Act
Amco	Amco
AQR	AQR
Boruka	Boruka
CAFC	CAFC
Century	Century
CFR	CFR
<i>Chemical Weekly</i>	<i>Chemical Weekly</i>
CIT	CIT
CONNUM	CONNUM
CQR	CQR
Department	Department
DEPB	DEPB
<i>Doing Business 2009 - India</i>	<i>Doing Business 2009 - India</i>
DQR	DQR
EPCGS	EPCGS
Essar	Essar
FOP(s)	FOP(s)
GNI	GNI
Gujarat Foils	Gujarat Foils
Himalya	Himalya
HINDALCO	HINDALCO
Hindustan Copper	Hindustan Copper
Hindustan Zinc	Hindustan Zinc
HTS	HTS
IDM	IDM
ILO	ILO

<i>List Of Abbreviations And Acronyms Used In This Memorandum</i>	
<i>All cites in this table are listed alphabetically by short cite</i>	
<b>Acronym/Abbreviation</b>	<b>Full Name</b>
Infobanc	Infobanc
Kg.	Kg.
LTFV	LTFV
MALCO	MALCO
Manaksia	Manaksia
ME	ME
MT	MT
NALCO	NALCO
Navneet	Navneet
NME	NME
Petitioner	Petitioner
POR	POR
PRC	PRC
PVC	PVC
Rs	Rs
Sacheta	Sacheta
SG&A	SG&A
Sudal	Sudal
SV	SV

<i>Short Cite Table For Litigation</i>	
<i>All cites in this table are listed alphabetically by short cite</i>	
<b>Short-Cite</b>	<b>Full Cite</b>
<i>Dorbest</i> (CAFC 2010)	<i>Dorbest Ltd. v. United States</i> , 604 F. 3d 1363 (CAFC 2010)
<i>Dorbest</i> (CIT 2006)	<i>Dorbest Ltd. v. United States</i> , 462 F. Supp. 2d 1262 (CIT 2006)
<i>Hebei</i> (CIT 2005)	<i>Hebei Metals &amp; Minerals Imp. &amp; Exp. Corp. v. United States</i> , 366 F. Supp. 2d 1264 (CIT 2005)
<i>Magnesium Corp</i> (CFRC 1999)	<i>Magnesium Corp. of Am. v. United States</i> , 166 F.3d 1364 (Fed. Cir. 1999)

<b>Short Cite Table For Litigation</b>	
<i>All cites in this table are listed alphabetically by short cite</i>	
<b>Short-Cite</b>	<b>Full Cite</b>
<i>Nation Ford</i> (CIT 1997)	<i>Nation Ford Chem. Co. v. United States</i> , 21 CIT 1371, 1375, 985 F.Supp. 133, 137 (CIT 1997)
<i>NSK</i> (CIT 2010)	<i>NSK Corp. v. United States</i> , No. 06-00334, 2010 CIT Trade LEXIS 38 (CIT 2010)
<i>Rhone Poulenc</i> (CAFC 1990)	<i>Rhone Poulenc, Inc. v. United States</i> , 899 F.2d 1185, 1191 (CAFC 1990)
<i>Sigma</i> (CAFC 1997)	<i>Sigma Corp. v. United States</i> , 117 F. 3d 1401 (CAFC 1997)
<i>Sigma</i> (CIT 2000)	<i>Sigma Corp. v. United States</i> , 86 F. Supp. 2d 1344 (CIT 2000)

<b>Antidumping/Countervailing Duty Proceeding Federal Register Cite Table</b>	
<i>All cites in this table are listed alphabetically by short cite</i>	
<b>Short Cite</b>	<b>Full Cite</b>
<i>Activated Carbon/PRC</i> (March 2, 2007)	<i>Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China</i> , 72 FR 9508 (March 2, 2007), and accompanying Issues and Decision Memorandum.
<i>Activated Carbon/PRC</i> (May 13, 2010)	<i>Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Second Antidumping Duty Administrative Review</i> , and Preliminary Rescission in Part, 75 FR 26927 (May 13, 2010).
<i>Activated Carbon/PRC</i> (November 10, 2009)	<i>First Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 74 FR 57995 (November 10, 2009).
<i>Ball Bearings/PRC</i> (March 6, 2003)	<i>Notice of Final Determination of Sales at Less Than Fair Value: Certain Ball Bearings and Parts Thereof From the People's Republic of China</i> , 68 FR 10685 (March 6, 2003), and accompanying Issues and Decision Memorandum.
<i>Beryllium/Kazakhstan</i> (January 17, 1997)	<i>Notice of Final Determination of Sales at Less Than Fair Value: Beryllium Metal and High Beryllium Alloys From the Republic of Kazakhstan</i> , 62 FR 2648 (January 17, 1997), and accompanying Issues and Decision Memorandum.
<i>CIPF/PRC</i> (February 18, 2003)	<i>Notice of Final Determination of Sales at Less Than Fair Value: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China</i> , 68 FR 7765 (February 18, 2003), and accompanying Issues and Decision Memorandum.

***Antidumping/Countervailing Duty Proceeding Federal Register Cite Table***

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<b>Short Cite</b>	<b>Full Cite</b>
<i>Citric Acid/PRC</i> (April 13, 2000)	<i>Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value</i> , 74 FR 16838 (April 13, 2000), and accompanying Issues and Decision Memorandum.
<i>Crawfish/PRC</i> (April 22, 2002)	<i>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</i> , 67 FR 19546 (April 22, 2002), and accompanying Issues and Decision Memorandum.
<i>CVP-23/PRC</i> (June 28, 2010)	<i>Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 75 FR 36630 (June 28, 2010), and accompanying Issues and Decision Memorandum.
<i>CVP-23/PRC</i> (November 17, 2004)	<i>Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 from the People's Republic of China</i> , 69 FR 67304 (November 17, 2004), and accompanying Issues and Decision Memorandum.
<i>EMD/PRC</i> (August 18, 2008)	<i>Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value</i> , 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum.
<i>Fish Fillets/PRC</i> (March 21, 2006)	<i>Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the First Administrative Review</i> , 71 FR 14170 (March 21, 2006), and accompanying Issues and Decision Memorandum.
<i>FMTCs/PRC</i> (December 28, 2009)	<i>Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 74 FR 68568 (December 28, 2009), and accompanying Issues and Decision Memorandum.
<i>FMTCs/PRC</i> (July 14, 2010)	<i>Folding Metal Tables and Chairs From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review</i> , 75 FR 40788 (July 14, 2010).
<i>Garlic/PRC</i> (June 17, 2008)	<i>Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 12th Administrative Review</i> , 73 FR 34251 (June 17, 2008), and accompanying Issues and Decision Memorandum.

***Antidumping/Countervailing Duty Proceeding Federal Register Cite Table***

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<b>Short Cite</b>	<b>Full Cite</b>
<i>Garlic/PRC</i> (June 22, 2007)	<i>Republic of China: Final Results and Partial Rescission of the Eleventh Administrative Review and New Shipper Reviews</i> , 72 FR 34438 (June 22, 2007), and accompanying Issues and Decision Memorandum.
<i>Garlic/PRC</i> (June 13, 2005)	<i>Fresh Garlic from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 70 FR 34082 (June 13, 2005), and accompanying Issues and Decision Memorandum.
<i>Glycine/PRC</i> (August 12, 2005)	<i>Glycine from the People’s Republic of China: Notice of Final Results of Antidumping Duty Administrative Review</i> , 70 FR 47176 (August 12, 2005), and accompanying Issues and Decision Memorandum.
<i>Glycine/PRC</i> (August 14, 2009)	<i>Glycine From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 74 FR 41121 (August 14, 2009), and accompanying Issues and Decision Memorandum.
<i>Glycine/PRC</i> (January 31, 2001)	<i>Glycine from the People’s Republic of China: Final Results of New Shipper Administrative Review</i> , 66 FR 8383 (January 31, 2001), and accompanying Issues and Decision Memorandum.
<i>Hand Trucks/PRC</i> (May 25, 2010)	<i>Hand Trucks and Parts Thereof from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 75 FR 29314 (May 25, 2010), and accompanying Issues and Decision Memorandum.
<i>Hangars/PRC</i> (August 14, 2008)	<i>Steel Wire Garment Hangers from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value</i> , 73 FR 47587 (Aug. 14, 2008), and accompanying Issues and Decision Memorandum.
<i>Ironing Tables/PRC</i> (March 21, 2007)	<i>Floor–Standing, Metal–Top Ironing Tables and Certain Parts Thereof from the People’s Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review</i> , 72 FR 13239 (March 21, 2007), and accompanying Issues and Decision Memorandum.
<i>Isos/PRC</i> (December 14, 2009)	<i>Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 74 FR 66087 (December 14, 2009), and accompanying Issues and Decision Memorandum.
<i>Isos/PRC</i> (January 2, 2008)	<i>Chlorinated Isocyanurates From the People’s Republic of China</i> , 73 FR 159 (January 2, 2008), and accompanying Issues and Decision Memorandum.

***Antidumping/Countervailing Duty Proceeding Federal Register Cite Table***

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<b>Short Cite</b>	<b>Full Cite</b>
<i>Isos/PRC</i> (June 8, 2009)	<i>Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review</i> , 74 FR 27104, 27107 (June 8, 2009).
<i>Isos/PRC</i> (May 10, 2005)	<i>Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China</i> , 70 FR 24502 (May 10, 2005), and accompanying Issues and Decision Memorandum.
<i>Line Pipe/PRC</i> (November 8, 2008)	<i>Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination</i> , 73 FR 66012 (November 8, 2008).
<i>Lined Paper/PRC</i> (September 8, 2006)	<i>Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China</i> , 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum.
<i>Lock Washers/PRC</i> (January 24, 2008)	<i>Helical Spring Lock Washers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 73 FR 4175, (January 24, 2008), and accompanying Issues and Decision Memorandum.
<i>Lock Washers/PRC</i> (May 27, 2010)	<i>Certain Helical Spring Lock Washers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 75 FR 29720 (May 27, 2010), and accompanying Issues and Decision Memorandum.
<i>Magnesium Metal/PRC</i> (April 21, 2010)	<i>Magnesium Metal from the People's Republic of China: Preliminary Results of the 2008–2009 Antidumping Duty Administrative Review</i> , 75 FR 20817 (April 21, 2010).
<i>Magnesium Metal/PRC</i> (February 25, 2005)	<i>Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal From the People's Republic of China</i> , 70 FR 9037 (February 25, 2005), and accompanying Issues and Decision Memorandum.
<i>Magnesium Metal/PRC</i> (July 14, 2008)	<i>Magnesium Metal from the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 73 FR 40293 (July 14, 2008), and accompanying Issues and Decision Memorandum.
<i>Magnesium Metal/PRC</i> (March 13, 1998)	<i>Manganese Metal From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review</i> , 63 FR 12440 (March 13, 1998), and accompanying Issues and Decision Memorandum.

***Antidumping/Countervailing Duty Proceeding Federal Register Cite Table***

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<b>Short Cite</b>	<b>Full Cite</b>
<i>Magnesium Metal/PRC</i> (October 4, 2004)	<i>Preliminary Determination of Sales at Less Than Fair Value and Postponement of the Final Determination: Magnesium Metal From the People's Republic of China</i> , 69 FR 59187 (October 4, 2004).
<i>Nails/PRC</i> (June 17, 2010)	<i>Certain Steel Nails from the People's Republic of China: Final Results of the First New Shipper Review</i> , 75 FR 34424 (June 17, 2010), and accompanying Issues and Decision Memorandum.
<i>OCTG/PRC</i> (April 19, 2010)	<i>Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping</i> , 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum.
<i>OTR Tires/PRC</i> (July 15, 2008)	<i>Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances</i> , 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum.
<i>Pencils/PRC</i> (July 25, 2002)	<i>Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review</i> , 67 FR 48612 (July 25, 2002), and accompanying Issues and Decision Memorandum.
<i>Pencils/PRC</i> (July 7, 2010)	<i>Certain Cased Pencils From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review</i> , 75 FR 38980 (July 7, 2010), and accompanying Issues and Decision Memorandum.
<i>Persulfates/PRC</i> (December 5, 2003)	<i>Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 68 FR 68030 (December 5, 2003)
<i>PET Film/India</i> (August 7, 2008)	<i>Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results of Countervailing Duty Administrative Review</i> , 73 FR 45956 (August 7, 2008).
<i>PET Film/India</i> (December 12, 2008)	<i>Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review</i> , 73 FR 75672 December 12, 2008), and accompanying Issues and Decision Memorandum.
<i>PET Film/India</i> (December 14, 2009)	<i>Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review</i> , 75 FR 6634 (December 14, 2009), and accompanying Issues and Decision Memorandum.

***Antidumping/Countervailing Duty Proceeding Federal Register Cite Table***

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<b>Short Cite</b>	<b>Full Cite</b>
<i>Pipe and Tube/PRC</i> (May 14, 2010)	<i>Light-Walled Rectangular Pipe and Tube From the People's Republic of China: Preliminary Results of the 2008–2009 Antidumping Duty Administrative Review</i> , 75 FR 27308 (May 14, 2010).
<i>Polyvinyl Alcohol/PRC</i> (August 11, 2003)	<i>Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China</i> , 68 FR 47538 (August 11, 2003), and accompanying issues and decision memorandum.
<i>Prestressed Concrete SWR/PRC</i> (May 21, 2010)	<i>Prestressed Concrete Steel Wire Strand From the People's Republic of China: Final Determination of Sales at Less Than Fair Value</i> , 75 FR 28560 (May 21, 2010)
<i>PST/PRC</i> (July 14, 2010)	<i>Certain Polyester Staple Fiber From the People's Republic of China: Notice of Preliminary Results and Preliminary Rescission, in Part, of the Antidumping Duty Administrative Review</i> , 75 FR 40777 (July 14, 2010).
<i>Pure Magnesium/PRC</i> (December 14, 2009)	<i>Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 74 FR 66089 (December 14, 2009), and accompanying Issues and Decision Memorandum.
<i>Pure Magnesium/PRC</i> (January 21, 1998)	<i>Pure Magnesium From the People's Republic of China: Final Results of Antidumping Duty New Shipper Administrative Review</i> , 63 FR 3085, 3088 (January 21, 1998)
<i>Pure Magnesium/PRC</i> (December 16, 2008)	<i>Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 73 FR 76336 (December 16, 2008) 2
<i>Pure Magnesium/PRC</i> (June 18, 2010)	<i>Pure Magnesium From the People's Republic of China: Preliminary Results of the 2008–2009 Antidumping Duty Administrative Review</i> , 75 FR 34689 (June 18, 2010).
<i>Pure Magnesium/PRC</i> (September 27, 2001)	<i>Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China</i> , 66 FR 49345 (September 27, 2001)
<i>Pure Magnesium/Russia</i> (September 27, 2001)	<i>Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation</i> , 66 FR 49347 (September 27, 2001)

***Antidumping/Countervailing Duty Proceeding Federal Register Cite Table***

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<b>Short Cite</b>	<b>Full Cite</b>
<i>Racks/PRC</i> (March 5, 2009)	<i>Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination</i> , 74 FR 9591 (March 5, 2009).
<i>Sacks/PRC</i> (June 24, 2008)	<i>Laminated Woven Sacks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances</i> , 73 FR 35646 (June 24, 2008), and accompanying Issues and Decision Memorandum.
<i>Seamless Pipe/PRC</i> (April 28, 2010)	<i>Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination</i> , 75 FR 22372 (April 28, 2010).
<i>Sebacic Acid /PRC</i> (March 30, 2005)	<i>Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement of the Antidumping Duty Order</i> , 70 FR 16218 (March 30, 2005).
<i>Shrimp/PRC</i> (September 12, 2007)	<i>Certain Frozen Warmwater Shrimp From the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews</i> , 72 FR 52049 (September 12, 2007), and accompanying Issues and Decision Memorandum.
<i>Shrimp/Vietnam</i> (September 12, 2007)	<i>Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review</i> (72 FR 52052) (September 12, 2007)
<i>Shrimp/Vietnam</i> (September 15, 2009)	<i>Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review</i> , 74 FR 47191 (September 15, 2009), and accompanying Issues and Decision Memorandum.
<i>Silicon Metal/PRC</i> (July 15, 2010)	<i>Silicon Metal from the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review</i> , 75 FR 41143 (July 15, 2010).
<i>Silicon Metal/Russia</i> (February 11, 2003)	<i>Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation</i> , 68 FR 6885 (February 11, 2003), and accompanying Issues and Decision Memorandum.

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<b>Short Cite</b>	<b>Full Cite</b>
<i>Silicon Metal/Russia</i> (February 11, 2003)	<i>Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal from the Russian Federation</i> , 68 FR 6885 (February 11, 2003), and accompanying Issues and Decision Memorandum.
<i>Synthetic Indigo/PRC</i> (May 3, 2000)	<i>Synthetic Indigo From the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value</i> , 65 FR 25706 (May 3, 2000), and accompanying Issues and Decision Memorandum.
<i>Thermal Paper</i> (October 2, 2008)	<i>Lightweight Thermal Paper From the People's Republic of China: Final Determination of Sales at Less Than Fair Value</i> , 73 FR 57329 (October 2, 2008), and accompanying Issues and Decision Memorandum.
<i>Thermal Paper/PRC</i> (October 2, 2008)	<i>Lightweight Thermal Paper from Germany: Notice of Final Determination of Sales at Less Than Fair Value</i> , 73 FR 57329 (Oct. 2, 2008), and accompanying Issues and Decision Memorandum.
<i>TRBs/PRC</i> (January 6, 2010)	<i>Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2007-2008 Administrative Review of the Antidumping Duty Order</i> , 75 FR 844 (January 6, 2010), and accompanying Issues and Decision Memorandum.
<i>TRBs/PRC</i> (July 15, 2010)	<i>Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of the 2008–2009 Administrative Review of the Antidumping Duty Order</i> , 75 FR 41148 (July 15, 2010).
<i>WBF/PRC</i> (August 18, 2010)	<i>Wooden Bedroom Furniture From the People's Republic of China: Final Results and Final Rescission in Part</i> , 75 FR 50992 (August 18, 2010), and accompanying Issues and Decision Memorandum
<i>Wire Decking/PRC</i> (June 1, 2010)	<i>Wire Decking from the People's Republic of China: Final Determination of Sales at Less Than Fair Value</i> , 75 FR 32905 (June 10, 2010), and accompanying Issues and Decision Memorandum.
<i>Woven Electric Blankets/PRC</i> (July 2, 2010)	<i>Certain Woven Electric Blankets From the People's Republic of China: Final Determination of Sales at Less Than Fair Value</i> , 75 FR 38459 (July 2, 2010), and accompanying Issues and Decision Memorandum.

<b><i>Antidumping/Countervailing Duty Proceeding Federal Register Cite Table</i></b> <b><i>All cites in this table are listed alphabetically by short cite</i></b>	
<b>Short Cite</b>	<b>Full Cite</b>
<i>Woven Ribbons/PRC</i> (July 19, 2010)	<i>Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 41808 (July 19, 2010), and accompanying Issues and Decision Memorandum.</i>

<b><i>Unpublished Letters And Memoranda</i></b> <b><i>All cites in this table are listed alphabetically by short cite</i></b>	
<b>Acronym/Abbreviation</b>	<b>Full Name</b>
Factor Valuation Memorandum for the 2006-2007 Review	Memorandum to the File, "Final Results of the 2006-2007 Administrative Review of Magnesium Metal from the People's Republic of China: Factor Valuation Memorandum for Final Results," dated July 7, 2008
Final Factor Valuation Memorandum	Memorandum to the File, "Antidumping Duty Administrative Review of Magnesium Metal from the People's Republic of China: Factor Valuation for the Final Results of Review," dated October 18, 2010
Petitioner's Case Brief	Letter from US Magnesium, "Magnesium Metal from the People's Republic of China; Case Brief of US Magnesium," dated July 22, 2010.
Petitioner's Rebuttal Brief	Letter from Petitioner, "Magnesium Metal from the People's Republic of China; Petitioner's Rebuttal Brief," dated July 27, 2010.
Petitioner's Rebuttal SV Submission	Petitioner's Submission, "Magnesium Metal from the People's Republic of China: Submission of Information to Rebut, Clarify or Correct TMI's November 12, 2009 Submission Concerning Valuation of the Factors of Production," dated November 25, 2009
Petitioner's SV Submission	Petitioner's Submission, "Magnesium Metal from the People's Republic of China: US Magnesium's Initial Comments Concerning Valuation of the Factors of Production," dated November 12, 2009
Surrogate Country Memorandum	Memorandum entitled, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Magnesium Metal ("Magnesium Metal") from the People's Republic of China ("PRC")," dated October 13, 2009
TMI Final Analysis	Analysis Memorandum for the Final Results of the 2008-2009

<i>Unpublished Letters And Memoranda</i>	
<i>All cites in this table are listed alphabetically by short cite</i>	
<b>Acronym/Abbreviation</b>	<b>Full Name</b>
Memorandum	Administrative Review of Magnesium Metal from the People's Republic of China: Tianjin Magnesium International Co., Ltd. ("TMI"), dated October 18, 2010
TMI's Case Brief	Letter from TMI, "Magnesium Metal from the People's Republic of China; Case Brief of Tianjin Magnesium International, Co., Ltd.," dated July 22, 2010.
TMI's Rebuttal Brief	Letter from TMI, "Magnesium Metal from the People's Republic of China; A-570-896; Rebuttal Brief of Tianjin Magnesium International, Co., Ltd.," dated July 27, 2010.
Wage Data Memo	Memorandum to the File, "Magnesium Metal from the People's Republic of China: Wage Data," dated July 14, 2010