

December 15, 2010

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

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

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

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

SUMMARY:

On June 18, 2010, the Department published its *Preliminary Results* of the antidumping duty administrative review of pure magnesium from the PRC.¹

On July 8, 2010, U.S. Magnesium LLC ("Petitioner") and TMI submitted publicly available surrogate value data to value TMI's factors of production. On July 19, 2010, both Petitioner and TMI submitted rebuttal comments concerning valuation of factors of production.

On July 14, 2010, the Department released additional data related to its reconsideration of its valuation of the labor wage rate in this review in light of a decision in *Dorbest Ltd. v. United States*, 604 F.3d 1363 (Fed. Cir. 2010), and afforded interested parties an opportunity to comment on the narrow issue of the new labor wage data.² In addition, when it appeared that TMI did not understand that it had the opportunity to provide rebuttal information concerning the new wage data, the Department granted TMI another opportunity to comment and provide rebuttal factual comments.³ On July 15, 2010, the Department noted an error in the currency-conversion calculation of the hourly wage-rate data for El Salvador and released corrected data to the parties.⁴

¹ *Id.*

² See Memorandum to the File, "Wage Data," dated of July 14, 2010.

³ See Memorandum to the File, "Treatment of Alleged New Information in U.S. Magnesium's Case Brief," dated of August 23, 2010.

⁴ See Memorandum to the File, "Wage Rate Calculation – Error in Currency Conversion of the Hourly Wage Rate for El Salvador," dated of July 15, 2010.

We received case briefs from Petitioner and TMI on July 29, 2010, and Petitioner's rebuttal briefs on August 3, 2010. We rejected TMI's rebuttal brief because the brief was untimely filed.⁵ On August 9, 2010, TMI alleged that Petitioner's case brief contained new factual information and requested the Department to reject it. On August 23, 2010, the Department declined to reject the information because it determined that the information at issue did not constitute new factual information within the meaning of 19 CFR 351.301(c)(3).⁶ Following the time period for case and rebuttal briefs, the Department noted that it inadvertently omitted the underlying data used in making its preliminary determination of the surrogate value for truck freight, and it afforded parties opportunities to comment on and rebut the data concerning truck freight.⁷

On August 5, 2010, the Department requested all interested parties to provide comments on the Department's recent determination in the 2008-2009 administrative review of the antidumping duty order on frozen warmwater shrimp from the Socialist Republic of Vietnam that the wage rate reported by the International Labor Organization for Honduras was inaccurate.⁸ In response, Petitioner filed its comments on August 16, 2010, and TMI provided comments on August 26, 2010. On August 30, 2010, Petitioner submitted rebuttal comments concerning wage rate.

The Department held a hearing on September 1, 2010.⁹ On October 7, 2010, the Department extended the deadline for the final results of review to December 15, 2010.¹⁰

On November 10, 2010, the Department re-opened the record to place additional industry-specific wage-rate information on the record for consideration in the final results, afforded parties an opportunity to provide rebuttal factual information, and requested parties to comment on the industry-specific wage-rate data placed on the record by the Department. On November 15, 2010, TMI submitted factual information on wage rate. On November 19, 2010, TMI submitted comments on the Department's industry-specific wage-rate data. Petitioner filed rebuttal comments to TMI's November 19, 2010 wage rate comments on November 24, 2010.

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. We are addressing the following issues in this memorandum.

⁵ See Memorandum to the File, "Administrative Review of Pure Magnesium from the People's Republic of China ("PRC"): Return of Untimely Submission of TMI's August 5, 2010 Rebuttal Brief," dated of August 23, 2010.

⁶ See Memorandum to the File, "Treatment of Alleged New Information in U.S. Magnesium's Case Brief," dated August 23, 2010.

⁷ *Id.* at 3; see Memorandum to the File, "Telephone Conversation Concerning Deadlines for the Submission of New Factual Information," dated of August 24, 2010.

⁸ See Memorandum to the File, "Honduras Data on Labor Wage Rate," dated August 5, 2010.

⁹ Petitioner and TMI requested a hearing for issues raised in the case and rebuttal briefs on June 18, 2010, and July 14, 2010, respectively.

¹⁰ See *Pure Magnesium from the People's Republic of China; Extension of Time for the Final Results of the Antidumping Duty Administrative Review*, 75 FR 63440 (October 15, 2010).

Comment 1: Whether the Department Should Apply Total AFA to TMI

Comment 2: Selection of Surrogate Financial Statements

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 the Department's Wage Data Memorandum Contained Data Errors.

Comment 6: Whether To Use ILO Wage Data Contemporaneous With the POR Rather Than Using Pre-POR Data and Adjusting for Inflation as reported in the Wage Rate Memorandum.

Comment 7: Whether the Department Should Exclude Indian Data from the Wage Rate Calculation

Comment 8: Whether the Countries Used to Determine the Wage Rate in this Case Are "Significant Producers of Comparable Merchandise"

Comment 9: Valuation of Dolomite

Comment 10: Valuation of Flux

Comment 11: The Source of the Surrogate Value for Foreign Inland Freight

Comment 12: The Surrogate Value for Brokerage and Handling

Comment 13: The Appropriate HTS Classification for Magnesium Waste/Scrap ("MGS") and Magnesium Metal Waste/Scrap ("ALLOYS")

Comment 14: The Per-Unit Basis for Plastic Bags, Steel Bands, and Plastic Bands

DISCUSSION OF THE ISSUES

Comment 1: Whether the Department Should Apply Total AFA to TMI

- Petitioner argues that the Department should apply total AFA to TMI as the Department did in the 2007/2008 review of this antidumping duty order. Petitioner claims that TMI has presented false documentation in the instant and two most recent reviews in support of its claimed by-product offset. According to Petitioner, the Department granted TMI a by-product offset in the 2006/2007 review but did not verify TMI's information. However, Petitioner adds that during the verification of the 2007/2008 review the Department:

- discovered that TMI's supplier fabricated the by-product voucher books which TMI provided in support its offset for the last month of the 2006/2007 review, the entire 2007/2008 POR, and the first month of the 2008/2009 review;
 - was informed by a company official that there were no by-product sales during the 2006/2007 POR; and
 - was prevented by TMI's supplier from verifying the claimed by-product offset by, for example, being locked out of the accounting office.
- Petitioner contends that, during the verification of the current review, TMI presented one of the same fabricated voucher books that the Department reviewed during the 2007/2008 verification. Petitioner adds that although TMI did not otherwise impede the Department during the 2008/2009 verification (*e.g.*, Department verifiers were not locked out of the accounting office), the verification's outcome was nonetheless more egregious than the 2007/2008 verification as TMI attempted to deceive the Department with the same fabricated by-product voucher books.
 - Accordingly, Petitioner argues that adverse inferences are appropriate because TMI did not act to the best of its ability when it resubmitted the same false documents to the Department. Petitioner notes that TMI knew of the false documentation and thus TMI should have ensured the authenticity of the submitted documentation in the instant review. In support of its position, Petitioner cites, *Nippon Steel* (CAFC 2003), *Shanghai Taoeni* (CIT 2005), *Hand Trucks/PRC* (July 28, 2008) IDM at Comment 1, *Qingdao Taifa* (CIT 2009), *Bags/Thailand* (January 17, 2007) IDM at Comment 10, *Universal Polybag* (CIT 2008), and *Porcelain-on-Steel Cooking Ware/PRC* (April 26, 2006) IDM at Comment 2.
 - Petitioner adds that total AFA is warranted in this review because TMI's actions during the past three administrative reviews bring into question the accuracy of any and all information that TMI provided during the current review. Specifically, Petitioner notes the following in support of total AFA:
 - TMI knowingly provided false information from its supplier a couple months after the 2007/2008 verification, using the same reporting methodologies, and not demonstrating that the 2008/2009 information is more reliable than the information presented in the 2007/2008 review;
 - TMI failed to ensure the accuracy of submitted information by certifying the 2008/2009 submissions where TMI is responsible for the accuracy and completeness of its supplier's data.
 - As a result, Petitioner argues that it is immaterial that the Department did not find any significant discrepancies with respect to issues other than the by-product offset. Consequently, Petitioner maintains that TMI lacks credibility, even in relation to information that the Department verified. Petitioner cites the following cases in support of its position: *Shanghai Taoeni* (CIT 2005), *Shandong Huaron* (CIT 2006), *Universal Polybag* (CIT 2008), *Pacific Giant* (CIT 2002), *NSK* (CIT 2004), *Mannesmannrohren-Werke* (CIT 2000), *Tianjin Machinery* (CIT 2007), *OCTG/PRC* (April 19, 2010) IDM at Comment 9, *Certain Steel Grating/PRC* (June 8, 2010) IDM at Comment 3, *Reiner*

Branch (CIT 2002), *Certain Steel Grating/PRC* (June 8, 2010) IDM at Comment 3, *Line Pipe Prelim/PRC* (April 24, 2008), *Borden* (CIT 1998), and *Shandong Huaron* (CIT 2007). Petitioner distinguishes the instant review from *SKF* (CIT 2009) where the CIT held that the Department may not apply adverse inference to a respondent due to the uncooperative behavior of the respondent's supplier. According to Petitioner, in the instant review, it was TMI—and not its supplier—that was responsible for the submitted information.

- Petitioner concludes that by denying TMI a by-product offset as we did in the *Preliminary Results*, and not applying total AFA, TMI will be no worse off than it would be had TMI cooperated to its fullest. According to the Petitioner, the Department's failure to address TMI's repeated attempts to provide false documentation by way of not applying an adverse inference, will compromise the integrity of the Department's administrative process. In support, Petitioner cites the Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316 (1994) at 868, 870 noting that adverse inference is a tool, at the Department's disposal, to ensure that parties fully cooperate. Petitioner also cites *Todyo Kikai* (CAFC 2008), *Olympic Adhesives* (CAFC 1990), and *Rhone Poulenc* (CAFC 1990) noting that the courts have upheld the Department's authority to protect against fraud.
- Lastly, Petitioner argues that the Department should select an AFA rate of 111.73 percent, the highest rate in the instant proceeding. According to Petitioner, the rate is appropriate because: (a) it is TMI's current AFA rate; (b) the rate corresponds to the same "uncooperative behavior"; and (c) it is the only trustworthy evidence of dumping on the record. In support, Petitioner cites *Rhone Poulenc* (CAFC 1990), *NSK* (CIT 2004), *Shanghai Taoeni* (CIT 2005), *F.lli De Cecco* (CAFC 2000), *Mittal Steel* (CIT 2007), *Line Pipe Prelim/PRC* (April 24, 2008), *Pure Magnesium/PRC* (December 16, 2008), *KYD* (CAFC 2010), *Universal Polybag* (CIT 2008), and *Gallant Ocean* (CAFC 2010).

Department's Position: We disagree with Petitioner that we should apply total AFA to TMI in this review. However, the Department is not granting TMI a by-product offset because TMI has not provided sufficient information to warrant one. First, we note that TMI attempted to support its by-product offset with the same voucher book we found to be unreliable in the 2007/2008 verification. However, the record nonetheless demonstrates that TMI otherwise cooperated to the best of its ability, *i.e.*, there is no evidence that TMI withheld any requested information. Petitioner's citations in support of its claim that TMI did not act to the best of its ability, *Nippon Steel* (CAFC 2003), *Shanghai Taoeni* (CIT 2005), *Hand Trucks/PRC* (July 28, 2008) IDM at Comment 1, *Qingdao Taifa* (CIT 2009), *Bags/Thailand* (January 17, 2007) IDM at Comment 10, *Universal Polybag* (CIT 2008), and *Porcelain-on-Steel Cooking Ware/PRC* (April 26, 2006) IDM at Comment 2 are not applicable to this proceeding. In each of the cited proceedings, the Department applied adverse inferences to the respondents because: (a) the respondents failed to provide the Department with data that the Department requested, and (b) this requested data was necessary to construct a dumping margin. Here, with the exception of its claim for a by-product offset, TMI provided complete answers to the Department's questions and we thus have the necessary information on the record to construct an accurate and reliable margin for TMI. Thus, it is the Department's determination that TMI did cooperate to the best of its ability.

Accordingly, the Department disagrees with Petitioner's claim that all of TMI's submitted information is now unreliable because of a finding by the Department in a previous proceeding or a failure of the respondent to adequately demonstrate its eligibility for an adjustment to normal value in the instant proceeding. In calculating an accurate dumping margin, the Department looks to the material, energy, and labor inputs, *i.e.*, the factors of production. As a result of TMI's verification in the instant review, the Department determines that the integrity of TMI's reported FOPs have not been compromised due to the presentation of the by-product voucher book in question. During the instant review's verification, we examined TMI's suppliers' manufacturing facilities and verified TMI's suppliers reported FOPs.¹¹ We observed production lines, finished goods inventory, and interviewed TMI's and the suppliers' employees.¹² We additionally audited various raw material inventory reports, production orders, worksheets, and financial statements.¹³ Accordingly, we find that TMI's verified FOP and sales data submitted on the record of this administrative proceeding is reasonable, reliable, reflects data kept in its normal course of business, and does not prevent the Department from calculating an accurate dumping margin.

Further, we disagree with Petitioner that the Department's determination in the 2007/2008 administrative review is controlling in this subsequent proceeding. At verification of the prior review, TMI's suppliers withheld requested information regarding FOP data and impeded the proceeding by not allowing Department verifiers to examine relevant documentation at verification.¹⁴

In contrast, none of these facts are present in the instant review. The Department verified TMI and its reported suppliers in the current review's verification. With the exception of the voucher book, which was previously found unreliable, being presented to the Department in support of TMI's claim for a by-product offset, the verification report does not suggest that TMI and its suppliers were uncooperative. Moreover, each administrative review of the order represents a separate administrative segment of a proceeding and stands on its own.¹⁵

The Department determines that the precedent cited by Petitioner, *Shanghai Taoeni* (CIT 2005), *Shandong Huarong* (CIT 2006), *Universal Polybag* (CIT 2008), *Pacific Giant* (CIT 2002), *NSK* (CIT 2004), *Mannesmannrohren-Werke* (CIT 2000), *Tianjin Machinery* (CIT 2007), *OCTG/PRC* (April 19, 2010) IDM at Comment 9, *Certain Steel Grating/PRC* (June 8, 2010) IDM at Comment 3, *Reiner Branch* (CIT 2002), *Certain Steel Grating/PRC* (June 8, 2010) IDM at Comment 3, *Line Pipe Prelim/PRC* (April 24, 2008), and *Borden* (CIT 1998), is distinguishable as it addresses the application of adverse facts to respondents based upon those respondents providing misleading or unverifiable information in that segment of the proceeding. Thus, notwithstanding the developments in the previous two reviews, the Department is not persuaded

¹¹ See TMI's Verification Report at 13-15 and 25-33.

¹² See *id* at 13-15.

¹³ See *id* at 8-10 and 22-25.

¹⁴ See *Pure Magnesium/PRC* (December 16, 2009) IDM at Comment 1.

¹⁵ See *Stainless Steel/Taiwan* (February 13, 2006) ("each administrative review of the order represents a separate administrative proceeding and stands on its own."); see also *Garlic/PRC* (March 13, 2002) ("what transpired in previous reviews is not binding precedent in later reviews."); Commerce's interpretation of the statute was affirmed by the CIT in *Shandong Huarong* (CIT 2005) ("As Commerce points out 'each administrative review is a separate segment of proceedings with its own unique facts.'").

that all of TMI's submitted information is now unreliable. Because we are not applying adverse facts to TMI, we do not address Petitioner's comments regarding *SKF* (CIT 2009).

Lastly, we disagree with Petitioner's argument that by merely denying TMI its claimed offset and not applying total AFA, TMI will be no worse off than it would be had TMI cooperated to the best of its ability. We also disagree that by not addressing TMI's alleged repeated behavior with the use of adverse inference, the integrity of the Department's administrative process will be compromised. Petitioner's first claim presumes that TMI did not cooperate during this review. However, with the exception of establishing its eligibility for a by-product offset, TMI answered each of the Department's questionnaires and participated fully in verification. Second, the Department does not believe that its proceedings lack integrity. The Department applied its statutory authority in the prior segment of this proceeding to encourage a party to cooperate to the best of its ability. In the current segment, there is no evidence to indicate that TMI failed to meet its burden. Accordingly, we are satisfied that, as to TMI's FOP data, we are relying on accurate information to calculate a dumping margin for TMI. At the same time, because TMI failed to provide sufficient and reliable information to warrant granting its requested by-product offset, we have not made that adjustment to TMI's normal value. Thus, contrary to Petitioner's argument, it is not the case that the integrity of the Department's administrative process has been compromised.

Comment 2: Selection of Surrogate Financial Statements

- Petitioner urges the Department to reverse its preliminary results, which rely on the financial statement of Sudal, a producer of extruded aluminum products, to calculate surrogate financial ratios for the following reasons:
 - production of extruded aluminum products (*e.g.*, level of production, proportion of comparable operations, complexity of the production process, and the skill level required in production and marketing) is not comparable to production of pure magnesium;
 - the economics (*e.g.*, the investment requirement and type of machinery/equipment used) are not comparable between the two types of products;
 - the physical characteristics of aluminum extrusions are not comparable to those of pure magnesium; and
 - the end uses of aluminum extrusions are not comparable to pure magnesium. Specifically, Petitioner claims that 90 percent of pure magnesium is used in aluminum alloys, casting, and iron/steel desulfurization while aluminum extrusions are of wide variation in end-use application (*e.g.*, Sudal's end-uses include "lifts and elevators, automobiles").
- Petitioner claims that the Department has a long-established practice of determining whether merchandise is identical or comparable to the subject merchandise by examining three criteria: (1) production process; (2) physical characteristics; and (3) end uses. Citing *NSK* (CIT 2010), Petitioner asserts the Department must provide sufficient justification for its ultimate selection of surrogate financial statements.
- Petitioner claims that the Department previously rejected the respondent's position that the production of aluminum extrusions was comparable to production of pure magnesium. For support, Petitioner cites the Department's statements in *Pure Magnesium/PRC*

(December 16, 2008) that, “the record of this review does not contain any evidence to support the premise that production of . . . extruded products are comparable to the production of pure magnesium in the PRC.”¹⁶ Petitioner argues that the Department must exclude the financial statements of Century, Sudal, and Bhoruka on this basis.

- Citing *OCTG/PRC* (April 19, 2010), Petitioner argues, the Department should rely on Hindustan Zinc and NALCO’s financial statements as the best available information to calculate surrogate financial ratios in this case because they both produce comparable products. Please see TMI’s Final Analysis Memorandum for a proprietary discussion of TMI’s productions process and level of integration compared to the surrogate financial producers.
- With regard to Hindustan Zinc, in comparing the products, Petitioner claims that TMI’s finished product is magnesium ingot, *i.e.*, it is not further processed once the molten metal is cast into final product, and that similarly 69 percent of Hindustan Zinc’s production is of unwrought zinc metal, a product the Department has previously found to be comparable to the merchandise at issue in this review. Please *see* TMI’s Final Analysis Memorandum for a proprietary discussion of TMI’s productions process and level of integration compared to the surrogate financial producers.
- With regard to NALCO, please see TMI’s Final Analysis Memorandum for a proprietary discussion of TMI’s productions process *and* level of integration compared to the surrogate financial producers. Accordingly, Petitioner argues that use of NALCO’s complete, contemporaneous financial statements along with Hindustan Zinc’s, represents the best available information for calculating financial ratios.
- According to Petitioner, despite evidence that it received subsidies which the Department has previously determined to be countervailable, NALCO is more comparable to TMI’s supplier than any aluminum extruder because a large majority of NALCO’s operations relate to the production of comparable metal. Petitioner argues that NALCO’s receipt of subsidies does not change the fact that use of its financial statements, along with Hindustan Zinc’s, represent the best available information for calculating the surrogate financial ratios, citing *OCTG/PRC* (April 19, 2010), where the Department calculated the financial ratios using the audited financial statements of three producers, two of which received subsidies.
- Moreover, Petitioner disagrees with TMI’s characterization that Hindustan Zinc received countervailing subsidies during the POR because its parent company, Sterlite, received subsidies previously determined by the Department to be countervailable. Petitioner contends that any information regarding the subsidies that Sterlite received is irrelevant to suitability of using Hindustan Zinc’s audited financial statements for the purposes of determining surrogate financial ratios. Moreover, Petitioner argues the Hindustan Zinc’s 2008/09 audited financial statements do not contain any evidence that Hindustan Zinc received subsidies that the Department has previously determined to be countervailable during the POR.

¹⁶ *See* Petitioner’s Case Brief.

- Petitioner argues that use of Hindustan Zinc's 2008/09 financial statements and MALCO's 2006/07 financial statements are the next best alternative to use of NALCO and Hindustan Zinc because MALCO's 2006/07 financial statements meet the Department's prerequisites for use in calculating surrogate financial ratios and 98 percent of MALCO's sales, like TMI's, were of unwrought products, such as ingots and billets.
- Finally, as a last alternative Petitioner suggests use of Hindustan Zinc's 2008/09 and Hindustan Copper's 2007/08 financial statements as the next best alternative after Hindustan Zinc's 2008/09 and MALCO's 2006/07 financial statements.
- According to Petitioner, copper is comparable to pure magnesium because copper manufacturing is similar to the Pidgeon process that TMI's producer used to produce pure magnesium. Petitioner also argues that the physical characteristics of copper are comparable to pure magnesium because copper's atomic weight is closer to magnesium than zinc.
- Finally, Petitioner argues that the end uses of copper are comparable to the end uses of pure magnesium because copper, like magnesium, is used as an alloying agent.
- Petitioner argues that Indian government's ownership interest in Hindustan Copper is irrelevant.
- Petitioner argues that the Department should reject the use of HINDALCO's audited financial statements because a significant portion of its operations does not relate to production of comparable merchandise, not because it received countervailable subsidies during the POR.
- TMI did not provide any arguments concerning financial statements in its case briefs. Because the Department rejected TMI's untimely filed rebuttal brief, there are no rebuttal arguments from TMI on the record for the final results.

Department's Position: When selecting financial statements for purposes of calculating financial ratios, the Department's policy is to use data from ME surrogate companies based on the "specificity, contemporaneity, and quality of the data."¹⁷ 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.¹⁸ 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.¹⁹ Additionally, for purposes of selecting surrogate producers, the Department examines how similar a proposed surrogate producer's production experience is to the NME producer's production experience.²⁰ In light of

¹⁷ See *Lined Paper/PRC* (September 8, 2006) IDM at Comment 1.

¹⁸ See *Shrimp/PRC* (September 12, 2007) IDM at Comment 2.

¹⁹ See *Woven Electronic Blankets/PRC* (July 2, 2010) IDM at Comment 2; *Pencils/PRC* (July 25, 2002) IDM at Comment 5.

²⁰ See *OCTG/PRC* (April 19, 2010) IDM at Comment 13.

Petitioner's arguments and, after examining the 14 financial statements on the record, the Department is reversing its preliminary decision to rely on Sudal's financial statements to determine TMI's overhead, SG&A expenses, and profit. For purposes of the final results, the Department finds the 2006-2007 audited financial statements for MALCO to be the best information available for calculating surrogate financial ratios. We discuss each financial statement below and explain why the remaining financial statements are inappropriate for calculating the surrogate financial ratios.

First, the Department finds that the 2008-2009 financial statements for Sudal do not represent the best information available for determining TMI's financial ratios for the final results of this review. Information on the record shows that the production process of aluminum extrusions by Sudal is not similar to that of pure magnesium by TMI's producer. TMI refined the raw material by using a Pidgeon process; first, the dolomite is calcined in a kiln; second, the calcined dolomite is mixed with ferrosilicon and fluorite powder and pressed into balls; third, the balls are placed into a reduction furnace to produce magnesium crowns; fourth, the magnesium crown is refined to remove impurities to obtain primary unalloyed magnesium. TMI's finished product, pure magnesium, is unwrought metal. However, Sudal's finished products are aluminum extrusions which are wrought metal products. Due to the business proprietary nature of this discussion, please see TMI's Final Analysis Memorandum for a proprietary discussion of TMI's production process and level of integration compared to the surrogate financial producers. Because Sudal's production experience does not reflect TMI's, we find that Sudal's financial statements do not represent the best information available.

Second, the Department similarly is not relying on the 2008-2009 financial statements for the six producers of downstream aluminum products (*i.e.*, Century, Bhoruka, Sacheta, Manaksia, Amco, and Gujarat) because the production experience of these companies is not comparable to that of TMI's producer. All begin their respective production process by processing aluminum ingots, scrap, sheets or coils, all of which are downstream products of mining proceeds (*i.e.*, bauxite) or even further processed materials. Thus, these companies do not have a comparable production process to TMI's producer. Due to the business proprietary nature of this discussion, please see TMI's Final Analysis Memorandum for a proprietary discussion of TMI's productions process and level of integration compared to the surrogate financial producers. In addition, Century and Sacheta received subsidies that the Department has previously determined to be countervailable, and Bhoruka did not earn a profit during the 2008-2009 fiscal year.

Third, the Department finds that the 2008-2009 financial statements for MALCO, Hindustan Zinc, and HINDALCO do not constitute the best information available for determining financial ratios because the production experience of each of these companies does not reflect that of TMI's producer and significant portions of each company's production reflects products that are not comparable to the subject merchandise. In particular, MALCO suspended production of aluminum and alumina products during the last five months of the POR. In addition, MALCO switched the use of its power generation from captive consumption to external sales.²¹ During the POR, 56 percent of Hindustan Zinc's production was of sulfuric acid,²² which the Department does not consider to be comparable merchandise to pure magnesium because sulfuric acid is a gas or liquid, not a metal product. Further, about 59 percent of HINDALCO's

²¹ See TMI's Rebuttal Surrogate Value Submission, Exhibit SV-13D, at 4.

²² See Petitioner's Surrogate Value Submission, Exhibit 6, at 91.

production relate to the production of non-comparable merchandise such as copper products and raw metals.²³ In addition, HINDALCO received benefits under the EPCGS,²⁴ which the Department has determined to be countervailable.²⁵

Fourth, the Department rejects the use of the financial statements of Hindustan Copper for both of the two proposed fiscal years (*i.e.*, 2008-2009 and 2007-2008) for the following reasons. Information on the record is insufficient to demonstrate that the physical characteristics of copper are comparable to that of pure magnesium. When the Department first determined that aluminum was comparable to pure magnesium in *Pure Magnesium and Alloy Magnesium/PRC* (November 7, 1994), we explained that both aluminum and magnesium are light metals in terms of molecular (or atomic) weight.²⁶ The Periodic Table submitted by Petitioner in this review indicates that the molecular weights for magnesium, aluminum, and copper are approximately 24, 27, and 64, respectively.²⁷ Notwithstanding Petitioner's comparison of the molecular weights of copper and zinc, we note that in *Pure Magnesium/Russia* (September 27, 2001) which the Petitioner cited, the record is silent with regard to the molecular weight of zinc. Thus, unlike the determination where we found aluminum to be comparable to magnesium in *Pure Magnesium and Alloy Magnesium/PRC* (November 7, 1994), it appears that we did not make a similar molecular weight comparison when assessing the comparability of zinc in *Pure Magnesium/Russian Federation* (September 27, 2001).²⁸ Conversely, in this case, we have clear evidence of a wide discrepancy in the molecular weights between magnesium (24) and copper (64). Accordingly, we find that in this case the record demonstrates that copper is not a light metal, comparable to the pure magnesium at issue in this administrative review.

Further, information submitted by the parties is insufficient for the Department to conclude that the production process for copper is comparable to the production experience for pure magnesium. See TMI's Final Analysis Memorandum for a proprietary discussion of TMI's productions and level of integration compared to the surrogate financial producers. TMI's producer incurred sequential steps to produce pure magnesium. In particular, after mixing and crushing calcined dolomite, ferrosilicon and fluorite power and pressing the mixture into balls through a ball mill and ball press, TMI's producer placed the balls into a high temperature furnace to produce raw magnesium crown, which will be further refined to produce pure magnesium. See TMI's Final Analysis Memorandum for a proprietary discussion of TMI's production process.²⁹ In short, the production of pure magnesium by TMI's producer was largely through smelting by heat and the physical forms of the mixed compound which contains magnesium during varied stages of the production process (*e.g.*, calcined dolomite, balls, or raw magnesium crown) remains solid.

In comparison, information submitted by Petitioner shows that ores that contain copper will be ground into powder, which will then be turned into pure copper cathode in two different ways,

²³ See TMI's Rebuttal Surrogate Value Submission, Exhibit SV-13E, at 84.

²⁴ *Id.* at 91.

²⁵ See *Hot-rolled Carbon Steel/PRC* (July 26, 2010).

²⁶ See *Pure Magnesium and Alloy Magnesium From the PRC* (November 7, 1994).

²⁷ See Petitioner's July 8, 2010 Post-Preliminary Results Comments Concerning Valuation of the Facto of Production, Exhibit 15.

²⁸ See *Pure Magnesium/Russian Confederation* (September 27, 2001).

²⁹ See TMI's DQR, at D-3.

through: (1) leaching & electrowinning; or (2) smelting and electrolytic refining.³⁰ Under the leaching & electrowinning method, oxide ore that contains copper oxide will be leached by a weak, acid solution and become a weak copper sulfate solution, which will then be further treated or transferred for an electrolytic process where pure copper ions from the sulfate solution migrate to form copper cathodes. Under the smelting method, the copper content will be immersed in an acid bath, where pure copper ions migrate electrolytically to form copper cathodes.³¹ Using either method, producing copper cathodes is an electrolytic process where pure copper ions electrolytically migrate from an acid solution to deposit and build up a cathode. Hence, the production process of copper is substantially different from that of pure magnesium. Since Petitioner placed information regarding the production process of copper and financial statements for Hindustan Copper on the record for the Department to consider, it is reasonable for the Department to infer that Hindustan Copper used one of the above two means to produce copper.³² Thus, the Department finds that the production process of copper is not comparable to that of pure magnesium. Accordingly, the Department determines that information on the record is insufficient to support that copper is comparable to pure magnesium. While we agree with Petitioner that the Indian government's ownership interest in Hindustan Copper is irrelevant for purposes of financial ratios because the Department has previously rejected a similarly proposed argument that it must exclude companies that were owned and controlled by a government,³³ we are excluding Hindustan Copper from the determination of the surrogate financial ratios in these final results for the reasons set forth above related to comparable product and comparable production process.

Fifth, the Department declines to use the financial statements for NALCO the 2008-2009 fiscal year 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.³⁴ NALCO's 2008-2009 financial statements indicate that NALCO received benefits under the DEPB Premium and obtained EPCG licenses, both of which the Department has determined to be countervailable.³⁵ Finally, the Department finds that the 2006-2007 financial statements for MALCO represent the best information available for purposes of determining financial ratios in this review. MALCO is a producer of aluminum, which we previously determined to be a comparable product to pure magnesium. MALCO's audited financial statements demonstrated a profit.³⁶ In addition, no record evidence indicates that MALCO received subsidies found to be countervailable by the Department. Notwithstanding that the 2006-2007 financial statements for MALCO covered a nine-month period, we find that they are complete and reliable for the following reasons. First, the financial statements were audited by an independent auditing firm and the auditor provided a clean opinion on the statements. Second, Indian GAAP permits a company to change its reporting period as MALCO did between this 2006-2007 year and the following year. Third, we

³⁰ See Petitioner's Post-Preliminary Surrogate Value Submission, Exhibit 14.

³¹ *Id.*

³² *Id.* Exhibit 12B, at 7.

³³ See *Ball Bearings/PRC* (March 6, 2003) at Comment 1.

³⁴ See *Nails/PRC*, (June 17, 2010) IDM at Comment 4; *Tires/PRC* (July 15, 2008) IDM at Comment

17.A.

³⁵ See Petitioner's November 12, 2009, Exhibit 5, at 71 & 72.

³⁶ See Petitioner's July 8, 2010 Post-Preliminary Results Comments Concerning Valuation Of The Factors of Production, Exhibit 10, at 65.

find three probable reasons for the fiscal year change: (1) MALCO sought to align its reporting period with the corporate tax year in India which is April to March; (2) the Vendata group of companies, to which MALCO currently belongs, reports its financial data on the April to March fiscal year period; and (3) MALCO states that its shares were delisted from the Madras Stock Exchange and relisted on the National Stock Exchange Limited on April 12, 2007.³⁷ Fourth, we find that the expenses between the shortened fiscal year and other fiscal years are comparable through a comparison of the percentage of individual expenses to revenues and per-unit production costs. Fifth, no evidence on the record shows that an increase in the production of aluminum ingots over the previous year was aberrational during the nine months. Instead, the annual report discusses the company's efforts to increase production, *i.e.*, implement strategies to improve efficiency and profitability. MALCO's CEO states that the company's profitability improved significantly due to higher production volume and higher sales realization, as well as from an improvement in operating efficiencies.³⁸ Sixth, there is no indication that there was a disruption in production operations which would have correspondingly affected profits. Lastly, MALCO's annual report states that the per-unit costs at MALCO remained stable during the course of the changed fiscal year despite increasing coal and freight charges, in part resulting from the payoff of short-term loans.³⁹ Finally, where they otherwise constitute the best available information, the Department uses non-contemporaneous financial statements to determine financial ratios.⁴⁰ As explained above, there is no evidence to indicate that the financial ratios in MALCO's financial statements are distorted based solely on their lack of contemporaneity with the POR. Thus, we find the 2006-2007 statements for MALCO to constitute the best information available for purposes of calculating the surrogate financial ratios for these final results of review.

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

- Petitioner argues that the Department should use as many surrogate countries as possible to value labor as the Department has with other post-*Dorbest* (CAFC 2010) 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

³⁷ See Petitioner's July 8, 2010, Exhibit 10, at 33.

³⁸ *Id.* at 8.

³⁹ *Id.* at 11.

⁴⁰ See *Color TV Receiver/PRC* (April 16, 2004); *Hand Trucks/PRC* (May 25, 2010).

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.⁴¹

- TMI argues that the Department has preliminarily determined that, out of the six countries listed in the Surrogate Country Memorandum used for the *Preliminary Results* only India is economically comparable to the PRC and is a significant producer of comparable merchandise. In TMI's Post-Briefing Wage Rate Submission, TMI reiterates its argument for the exclusive use of India in valuing labor. TMI adds, however, that it does not object to the use of the corrected Honduran wage rate as well.
- 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 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 where it determined that these additional countries were economically comparable to the PRC and were significant producers of comparable merchandise. Petitioner adds that the Department has made the same determination in the instant review.

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 industry-specific earnings and/or wages in countries that are economically comparable to the PRC.

Section 773(c)(4) of the Act requires the Department "to the extent possible" to use "prices or costs of factors of production in one or more ME countries that are (A) at a level of economic development comparable to that of the NME country, and (B) significant producers of comparable merchandise." Accordingly, to calculate a wage rate, the Department first looked to the Surrogate Country Memorandum issued in this proceeding to determine countries that were economically comparable to the PRC.

Consistent with 19 CFR 351.408, the Department places primary emphasis on GNI in determining economically comparable surrogate countries.⁴² The Department selected six

⁴¹ 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.

countries for consideration as the primary surrogate country for this review based on the Surrogate Country Memorandum.⁴³ From the list of countries contained in the Surrogate Country Memorandum, the Department used the country with the highest GNI, *i.e.*, Colombia, and the lowest GNI, *i.e.*, India, as “bookends” for economic comparability.⁴⁴ The Department then identified all countries in the World Bank’s *World Development Report* with per capita GNIs for 2007 that fell between the “bookends.” This resulted in 52 countries, ranging from Columbia (with USD 4100 GNI) to India (with USD 950 GNI), that the Department considers economically comparable to the PRC.⁴⁵

Here, we disagree with TMI that the record, by way of the Surrogate Country Memorandum, indicates that only India is an economically comparable country to the PRC and is a significant producer of comparable merchandise. As stated in Comment 4 below and in the Industry-Specific Wage Data Memorandum, the Department looked to the Surrogate Country Memorandum to determine the economically comparable surrogate countries from which to calculate a surrogate wage rate. However, these countries do not constitute an exhaustive list. Rather, from this list of countries, the Department identified the countries with the highest and lowest GNI’s and identified them as “bookends” for economic comparability. The Department then identified all countries with per capita incomes that fell between these bookends, identifying 52 countries that we have determined are both economically comparable to the PRC and are significant producers of comparable merchandise.

Next, regarding the “significant producer” prong of the statute, the Department identified all countries which have exports of comparable merchandise (defined as exports under HTS 8104.11, 8104.19, 8104.20, 8104.30, 8104.90, 3824.90, 9817.00, the six-digit HTS codes identified in the scope of this order)⁴⁶ between 2007 and 2009.⁴⁷ In this case, we have defined a “significant producer” as a country that has exported comparable merchandise between 2007 through 2009. After screening for countries that had exports of comparable merchandise, we determine that 32 of the 52 countries designated as economically comparable to the PRC are also significant producers. Accordingly, for purposes of valuing wages for the final results/determination, the Department determines the following 32 countries out of 52 countries designated as economically comparable to the PRC are also significant producers of comparable merchandise: Albania, Algeria, Bolivia, Bosnia and Herzegovina, Cape Verde, Colombia, Dominican Republic, Ecuador, Egypt, El Salvador, Fiji, Guatemala, Guyana, Honduras, India,

⁴² The Department notes that 19 CFR 408(b) specifies that the “Department places primary emphasis on per capita GDP.” However, it is Departmental practice to use “per capita GNI, rather than per capita GDP, because while the two measures are very similar, per capita GNI is reported across almost all countries by an authoritative source (the World Bank), and because the Department believes that the per capita GNI represents the single best measure of a country’s level of total income and thus level of economic development.” See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, Fn. 2 (October 19, 2006) (“*Antidumping Methodologies*”).

⁴³ The Department notes that these six countries are part of a non-exhaustive list of countries that are at a level of economic development comparable to the PRC. See Surrogate Country Memorandum.

⁴⁴ As stated, after the release of the Industry-Specific Wage Data Memorandum, we detected a clerical error in the industry-specific wage calculations. Specifically, in identifying the GNI band, we inadvertently selected the GNI for India and Peru as the lower and higher bookends, respectively. However, the updated GNI list for 2007 upwardly revised Columbia’s GNI, thus becoming the new higher bookend.

⁴⁵ See Industry-Specific Wage Data Memorandum.

⁴⁶ See *Preliminary Results*.

⁴⁷ The export data is obtained from Global Trade Atlas (“GTA”).

Indonesia, Jordan, Macedonia, Morocco, Namibia, Nicaragua, Nigeria, Paraguay, Peru, Philippines, Sri Lanka, Swaziland, Syria, Thailand, Tunisia, Ukraine, and Yemen.⁴⁸

The Department then identified which of these 32 countries also reported the necessary wage data. In doing so, the Department has continued to rely upon ILO Chapter 5B “earnings,” if available and “wages” if not.⁴⁹ We used the most recent data available (2008) and went back five years, resulting in wage data from 2003-2008. We then adjusted the wage data for countries where it was available to the POR using the relevant CPI.⁵⁰ Of the 32 countries that the Department has determined are both economically comparable and significant producers, 22 countries, *i.e.*, Albania, Algeria, Bolivia, Cape Verde, Colombia, Dominican Republic, El Salvador, Fiji, Guatemala, Guyana, Honduras, India, Morocco, Namibia, Nicaragua, Nigeria, Paraguay, Sri Lanka, Swaziland, Syria, Tunisia, and Yemen were omitted from the wage rate valuation because there were no earnings or wage data available. The remaining countries reported either earnings or wage rate data to the ILO within the prescribed six-year period.⁵¹

With respect to whether the Department should calculate the surrogate value for labor using multiple surrogate countries or a single 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. Using the high- and low-income countries identified in the Surrogate Country Memorandum as bookends provides more data point which the Department prefers as more preferable. While there is a strong worldwide relationship between wage rates and GNI, too much variation exists among the wage rates of comparable MEs.⁵² As a result, we find reliance on wage data from a single country is not preferable where data from multiple countries are available for the Department to use.

⁴⁸ *See id.*

⁴⁹ The Department maintains its current preference for “earnings” over “wages” data under Chapter 5B. However, under the previous practice, the Department was typically able to obtain data from somewhere between 50-60+ countries. Given that the current basket now includes fewer countries, the Department found that our long-standing preference for a robust basket outweighs our exclusive preference for “earnings” data. Thus, if earnings data is unavailable from the base year (2008) or the previous five years (2003-2007) for certain countries that are economically comparable and significant producers of comparable merchandise, the Department will use “wage” data, if available, from the base year or previous five years. The hierarchy for data suitability described in the 2006 *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, (October 19, 2006) (“*Antidumping Methodologies*”) still applies for selecting among multiple data points within the “earnings” or “wage” data. This allows the Department to maintain consistency as much as possible across the basket.

⁵⁰ Under the Department’s regression analysis, the Department limited the years of data it would analyze to a two-year period. *See Antidumping Methodologies*, 71 FR at 61720. However, because the overall number of countries being considered in the regression methodology was much larger than the list of countries now being considered in the Department’s calculations, the pool of wage rates from which we could draw from two years-worth of data was still significantly larger than the pool from which we may now draw using five years worth of data (in addition to the base year). The Department believes it is acceptable to review ILO data up to five years prior to the base year as necessary (as we have previously), albeit adjusted using the CPI. *See Expected Non-Market Economy Wages: Request for Comment on Calculation Methodology*, 70 FR 37761, 37762 (June 30, 2005). In this manner, the Department will be able to capture the maximum amount of countries that are significant producers of comparable merchandise, including those countries that choose not to report their data on an annual basis. *See also* Industry-Specific Wage Data Memorandum.

⁵¹ *See* International Labor Organization’s Yearbook of Labor Statistics.

⁵² *See, e.g.*, International Labor Organization, *Global Wage Report: 2009 Update*, (2009) at 5, 7, 10. http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_116500.pdf.

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 2.08.⁵³ 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.⁵⁴ 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 this reason, and because labor is not traded internationally, it is common to find variability in labor rates among otherwise economically comparable countries. Moreover, the large variance in these wage rates illustrates why it is preferable to rely on data from multiple countries for purposes of valuing labor. The Department thus finds that reliance on wage data from a single country is not preferable where data from several countries are available. For these reasons, the Department maintains its long-standing position that, even when not employing a regression methodology, more data are still better than less data for purposes of valuing labor. Accordingly, in order to minimize the effects of the variability that exists between wage data of comparable countries, the Department has employed a methodology that relies on as large a number of countries as possible that also meet the statutory requirement that a surrogate be derived from a country that is economically comparable and also a significant producer. Indeed, for this reason, although the Department is no longer using a regression-based methodology to value labor, the Department has determined that reliance on labor data from multiple countries, as opposed to labor data from a single country constitutes the best available information for valuing the labor input.⁵⁵

We disagree with TMI that the *Dorbest* (CAFC 2010) decision requires the Department to use a single surrogate country when valuing labor. Whether the “except 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 regulations recognize the need to source factor data from more than one country.⁵⁶ 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

⁵³ See Industry-Specific Wage Data Memorandum.

⁵⁴ See *id.*

⁵⁵ Both the statute and our regulations recognize the need to source factor data from more than one country. Although 19 CFR 351.408(c)(2) of the Department’s regulations provides that the Department will *normally* source the FOPs from a single surrogate country, the language in the regulation provides sufficient discretion for the Department to address situations in which sourcing an FOP from a single source is not preferable. Use of the word “normally” means that this is not an absolute mandate. As we explained, the unique nature of the labor input warrants a departure from our normal preference of sourcing all factor inputs from a single surrogate country.

⁵⁶ 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)).

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.⁵⁷

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.

The Department has determined it is most appropriate to rely on industry-specific wage data reported by ILO for the final results. Determinations as to whether industry-specific ILO datasets constitute the best available information must necessarily be made on a case-by-case basis. In making these determinations, the Department considers a number of factors such as the appropriateness of the ILO industry-specific data in light of the subject merchandise and the availability of industry specific data.

Because an industry-specific dataset relevant to this proceeding exists within the Department's preferred ILO source, and because absent evidence to the contrary, the industry-specific data would be *at least* more specific to the subject merchandise than the national manufacturing data, the Department used industry-specific data to calculate a surrogate wage rate for the final results, in accordance with section 773(c)(1) of the Act. Thus, the Department determines to calculate the wage rate using a simple average of the data provided to the ILO under Sub-Classification 27 of the ISIC-Revision 3 standard by countries determined to be both economically comparable to the PRC and significant producers of comparable merchandise. We have determined that this is the best available information from which to derive the surrogate wage rate based on the analysis set forth below.

The ISIC code is maintained by the United Nations Statistical Division and is updated periodically. The ILO, an organization under the auspices of the United Nation, utilizes this classification for reporting purposes. Currently, wage and earnings data are available from the ILO under the following revisions: ISIC-Rev.2, ISIC-Rev.3, and ISIC-Rev.4. The ISIC code establishes a two-digit breakout for each manufacturing category, and also often provides a three- or four-digit sub-category for each two-digit category. Depending on the country, data may be reported at either the two-, three- or four-digit subcategory. Due to concerns that the industry definitions may lack consistency between different ISIC revisions, the Department finds that averaging wage rates within the same ISIC revision (*i.e.*, not mixing revisions) constitutes the best available information for the final results/determination.

⁵⁷ See *Dorbest* (CAFC 2010) at 1372 (emphasis added).

It is the Department's preference to use data reported under the most recent revision, however, in this case we found that none of the countries found to be economically comparable and significant producers reported data pursuant to ISIC-Rev.4. Accordingly, in this case, we turned to the industry definitions contained in ISIC-Rev.3 to find the appropriate classification for pure magnesium. Under the ISIC-Revision 3 standard, the Department identified the two-digit series most specific to Pure Magnesium as Sub-Classification 27, which is described as "Manufacture of basic metals." Within Classification 27, there is a subcategory, 272, entitled "Manufacture of basic precious and non-ferrous metals" which we determine appropriately defines Pure Magnesium.

From the 32 countries that the Department determined were both economically comparable to the PRC and significant producers of comparable merchandise, the Department identified those with the necessary wage data. Of these 32 countries, the following 10 reported industry-specific data under the ISIC-Revision 3, under Classification 27, "Manufacture of chemicals and chemical products:" 1) Ecuador, 2) Egypt, 3) Indonesia, 4) Jordan, 5) Peru, 6) Philippines, 7) Thailand, 8) Ukraine, 9) Bosnia and Herzegovina, and 10) Macedonia. The following twenty-two, however, did not report wage data on an industry-specific basis: 1) Albania, 2) Algeria, 3) Bolivia, 4) Cape Verde, 5) Colombia, 6) Dominican Republic, 7) El Salvador, 8) Fiji, 9) Guatemala, 10) Guyana, 11) Honduras, 12) India, 13) Morocco, 14) Nicaragua, 15) Namibia, 16) Nigeria, 17) Paraguay, 18) Sri Lanka, 19) Swaziland, 20) Syria, 21) Tunisia, and 22) Yemen. Accordingly, these sixteen countries are not included in our wage rate calculation.

While the Department prefers to use the most specific wage data available within the selective ISIC revision, because no country that was considered economically comparable and a significant producer reported earnings or wage data below the two-digit level, the Department has relied on the two-digit sub-classification in our industry-specific wage rate calculation. Therefore, based on the above, the Department relied on data reported under ISIC-Rev.3. Sub Classification 27 "Manufacture of chemicals and chemical products" from the following countries to arrive at the industry-specific wage rate calculated for this review/investigation: 1) Ecuador, 2) Egypt, 3) Indonesia, 4) Jordan, 5) Peru, 6) Philippines, 7) Thailand, 8) Ukraine, 9) Bosnia and Herzegovina, and 10) Macedonia.

Accordingly, for this administrative review, the Department intends to calculate the wage rate using a simple average of the data provided to the ILO under Sub-Classification 27 of the ISIC-Rev.3 standard, by countries determined to be economically-comparable to the PRC and significant producers of comparable merchandise. Additionally, when selecting data available from the countries reporting under ISIC-Rev.3, Sub-Classification 27, we used the most specific wage data available within this revision, as described below.

Based on the foregoing methodology, the revised wage rate to be applied in the final results/determination is 2.08 USD/Hour. This wage rate is derived from comparable economies that are also significant producers of the comparable merchandise, consistent with the CAFC's ruling in *Dorbest* and the statutory requirements of section 773(c) of the Act.

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.

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.⁵⁸ To determine which countries were at comparable levels of economic development to the PRC, the Department placed primary emphasis on GNI.⁵⁹ 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.⁶⁰ 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.⁶¹

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.

⁵⁸ See Surrogate Country Memorandum.

⁵⁹ See 19 CFR 351.408(b).

⁶⁰ See Surrogate Country Memorandum.

⁶¹ See Wage Data Memorandum.

We are also not persuaded by Petitioner’s hypothetical example because it is not grounded in the facts of this record.⁶² 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 comparability. It is further unreasonable to expect that the Department 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 the Department’s Wage Data Memorandum Contained Data Errors

- Petitioner contends that the Department should correct certain data errors in the Department’s Wage Data Memorandum.

Department’s Position: Because the Department has determined to rely on industry-specific wage data, issues regarding alleged data errors in the Department’s July 14, 2010, Wage Data Memorandum, which reflected national, not industry-specific wage data, are moot and we have not addressed them here.

Comment 6: Whether To Use ILO Wage Data Contemporaneous With the POR Rather Than Using Pre-POR Data and Adjusting for Inflation as reported in the Wage Rate Memorandum

- Petitioner contends that the Department did not include the most contemporaneous data available in its Wage Rate Memorandum. 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: Because the Department has determined to rely on industry-specific wage data, issues regarding the Wage Data Memorandum, which reflected national, not industry-specific wage data, are moot. With regard to the industry-specific data, we are using the most recent data reported by the ILO as of the release of the Industry-Specific Wage Memorandum,

⁶² See page 90 of the Petitioner’s Case Brief.

which includes some 2008 data. Where contemporaneous data was not available, however, we inflated the industry-specific data using the appropriate CPI inflation rates.

Comment 7: 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 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. Petitioner reiterates its argument in its rebuttal brief.

Department’s Position: Because this issue reflects national and not industry-specific wage data, and because India did not report industry-specific wage data, this issue is now moot and we have not addressed it here.

Comment 8: Whether the Countries Used to Determine the Wage Rate in this Case Are “Significant Producers of Comparable Merchandise”

In TMI’s Industry-Specific Wage Submission, TMI submitted the U.S. Geological Survey (“USGS”) Minerals Yearbooks, 2006 through 2008, and Mineral Industry Surveys from the second quarter of 2009 through the second quarter of 2010.

- In TMI’s Industry-Specific Comments, TMI argues that the USGS publications demonstrate that 1) the following countries selected in the Industry-Specific Wage Memorandum, *i.e.*, Ecuador, Egypt, Indonesia, Jordan, Peru, the Philippines, and Thailand are not pure magnesium producers and 2) Ukraine produced less than 0.3% of the world’s magnesium output. According to TMI, this is a *de minimis* level.
- TMI argues that the HTS categories used to determine significant producers of comparable merchandise, are overbroad and inclusive of products outside the scope of the Order. According to TMI, this explains why export figures under these HTS categories conflict with production as reflected in the USGS publications.
- TMI concludes that *Dorbest* (CAFC 2010) requires that the countries selected to value labor must be “significant producers” of comparable merchandise, but that the Department’s use of exports to determine “significant producers” is an abuse of its

discretion because export levels do not necessarily take into account whether there was production in that country. In support of its argument, TMI cites *Menashe* (US 1955), *Shandong Huarong* (CIT 2001), *Shakeproof* (CAFC 2001), and *Hebei Metals* (CIT 2004). Accordingly, TMI holds, the Department cannot use the selected countries to calculate a wage rate.

- TMI concludes that India should be used as the exclusive country to value wages because: (a) India is the surrogate country for valuing all other surrogate values in the instant proceeding; (b) there is a lack of quality surrogate wage-rate data to value labor on the record; and (c) the Department found India to be a significant producer of aluminum and aluminum products in *Magnesium Metal/PRC* (October 25, 2010). Alternatively, TMI argues that the Department should use the available Indian wage rate within the basket of wage rates used if it determines not to rely on India exclusively.
- In USM’s Industry-Specific Comments, Petitioner argues that the Department’s calculation in the Industry-Specific Wage Memorandum is consistent with the Department’s current practice of identifying “significant producers” as countries that export comparable merchandise. In support, Petitioner cites *Sodium Hexametaphosphate/PRC* (October 20, 2010), *Tissue Paper Products/PRC* (October 18, 2010), *Seamless Refined Copper/PRC* (October 1, 2010), and *Certain Coated Paper/PRC* (September 27, 2010).
- Petitioner asserts that, if in the alternative, the Department relies on the USGS data to define significant producers, Ukraine data should be used in the calculation of the wage rate. According to Petitioner, TMI has not provided sufficient grounds or legal support for rejecting the Ukraine data.
- Lastly, Petitioner argues that the Indian wage rate proposed by TMI reflects a national wage rate, not industry-specific data and therefore should not be relied on in the Department’s industry-specific wage rate calculation for the final results of this review.

Department’s Position: We disagree with TMI that the USGS publications demonstrate that the countries in the Industry-Specific Wage Memorandum are not “significant producers” of comparable merchandise for the purposes of valuing labor in the instant proceeding. First, the statute and regulations are silent in defining a “significant producer,” and the statute grants the Department discretion to look at various data sources for determining the best available information. *See* section 773(c) of the Act. Thus, in administering this provision, the Department has the discretion to consider all reasonable data on the administrative record in determining if a country is a “significant producer” of comparable merchandise, including information as to the countries that have sufficient production to permit export of that merchandise to other countries.⁶³

⁶³ The legislative history of the Act provides that the term ‘significant producer’ may include ‘any country that is a significant net exporter,’ but by no means does it prevent consideration of other relevant information as well. *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Conf. Rep. No. 576, 590, 100th Cong. 2nd Sess. (1988), reprinted in 134 Cong. Rec. H2031 (daily ed. April 20, 1988).

TMI's argument and use of the USGS data is based on the premise that "significant producer" must be interpreted very narrowly. The Department disagrees. In this case, we have defined "significant producers" as countries with exports of comparable merchandise, *i.e.*, countries that have exports under the HTS categories identified in the scope of the Order. Given the latitude provided by the Act and legislative history, we have done so in the instant proceeding as well as numerous other proceedings such as *Sodium Hexametaphosphate/PRC* (October 20, 2010), *Tissue Paper Products/PRC* (October 18, 2010), *Seamless Refined Copper/PRC* (October 1, 2010), and *Certain Coated Paper/PRC* (September 27, 2010).

The USGS publications on the record of this proceeding contain charts addressing "World Annual Primary Magnesium Production Capacity" and "Magnesium: Estimated Primary World Production by Country." However, we note that the USGS charts report certain countries as having production that exceed their respective stated capacities, thus it is unclear what these figures actually represent.⁶⁴ Moreover, we do not have any information regarding how this data was collected and compiled with regard to world wide data. Accordingly, we do not find either the production or capacity tables in that source sufficient to warrant reversing our reliance on the GTA export data. Therefore, we have determined not to rely on the USGS Minerals Yearbook for the purposes of determining significant producers of comparable merchandise in the context of this proceeding.

Finally, we do not agree with TMI's conclusion that the HTSs used in identifying "significant producers of comparable merchandise" are over broad, and thus an inappropriate measure. The HTS numbers identified in the scope of the Order are the best available information in identifying comparable merchandise to that covered by the scope of the pure magnesium order. TMI has not provided any evidence demonstrating that the exports in question under the respective HTS categories do not reflect comparable merchandise. Accordingly, we have continued to rely on the corrected (as discussed above) industry-specific wage rate analysis for purposes of the final results of review in this case.

Comment 9: Valuation of Dolomite

- Petitioner contends that the Department erroneously based its valuation of dolomite in the *Preliminary Results* on the average of the value recorded in the audited financial statements of TSIL and Madras Cements. TSIL recorded the value of dolomite consumed, whereas Madras Cements recorded the value of dolomite sold.
- Moreover, Petitioner disagrees with the Department's determination in the *Preliminary Results* that the WTA data represent prices for high-value dolomite whereas the dolomite used to produce subject merchandise is high-bulk low-value commodity dolomite, which is not normally transported over long distances.
- Petitioner contends that the information that TMI placed on the record shows that in India, Great Britain and South Africa, consumers of dolomite for industrial purposes are willing to import dolomite or transport it over long distances in order to meet their needs. Petitioner cited the following documents: "A Review of the Dolomite and Limestone

⁶⁴ See, e.g., TMI's Industry-Specific New Information, USGS 2006 Minerals Yearbook, Magnesium Excerpt, Tables 5 and 6.

Industry in South Africa, Report R43/2003,” included in Exhibit SV-2D of the TMI Surrogate Value Submission; “Dolomite and Limestone in South Africa: Supply and Demand, 2005, Report R49/2005,” in Exhibit SV-2E, p. 56, of the TMI Surrogate Value Submission; UN Comtrade in Petitioner’s Post-Prelim Surrogate Value Submission at Exhibits 5.A-5.E.

- As a result, Petitioner maintains that the Department should value dolomite using the Indian import statistics as reported by the GTA under HTS 2518.10, the category for non-calcined dolomite. Petitioner maintains that this HTS category refers only to the specific type of dolomite consumed by TMI’s supplier. Petitioner argues that the data include a substantial quantity of shipments entering India from five countries, not including the PRC. Moreover, Petitioner claims that these values are net of taxes and import duties, contemporaneous with the POR, and publicly available, fulfilling the Department’s surrogate value criteria.
- According to Petitioner, the Department has a general preference for using WTA data rather than information derived from the financial statements of surrogate companies. Petitioner cites for support *Mushrooms* (August 9, 2007) IDM at Comment 2 and the underlying determination in *China Processed Food* (CIT 2009) where Petitioners claim that the Department explained that “where product-specificity is not a critical factor in the Department’s surrogate value determination, the Department has shown a general preference for WTA data over company financial statements because WTA data are contemporaneous, publicly available, and representative of a broad market average.”⁶⁵
- More specifically, in this case, Petitioner contends that the financial statements on the record of this review do not consistently identify: (1) the physical form or chemical composition of the dolomite; (2) whether the dolomite is calcined or uncalcined; (3) whether the dolomite was bought (or sold) domestically or was imported; or whether the reported costs are inclusive or exclusive of taxes.
- Petitioner maintains that if the Department does not use the Indian WTA data, it should use TSIL’s reported consumption data to value the dolomite factor of production, because: (1) the Department relied on data reported in the TSIL financial statements to value the dolomite surrogate value in the 2004/05 and 2006/07 reviews, (2) TMI submitted no new evidence that disqualifies reliance on that data in this review, (3) the data are contemporaneous with the POR, and (4) TSIL’s 2008/2009 financial statements are audited and complete. Petitioner also argues that if the Department uses data from financial statements to value dolomite it should use the financial statements of Bhushan, an Indian producer of steel, which it placed on the record.

⁶⁵ Petitioner also cites: *Granular Magnesium/PRC* (September 27, 2001) IDM at Comment 6, wherein the Department declined to use such data because an annual report did not provide “any specific details about whether the inputs were bought domestically or imported, from which countries the inputs may have been imported, whether the reported costs are inclusive or exclusive of taxes, or any specifications about the inputs in question;” *Shrimp/PRC* (September 12, 2007) at Comment 1 (using WTA import data because it satisfied all criteria while the domestic prices from Indian shrimp feed producers were not country-wide, contemporaneous, or tax-exclusive); *China Processed Food*, (CIT 2009) at 1345-46 (where the CIT affirmed the Department’s determination to calculate a surrogate value based on WTA data, stating that the Department justifiably resorted to its general preference for using WTA data over company financial information).”

- Citing Minerals Zone, a world mineral exchange marketplace, which it placed on the record, and the British Geological Survey, which TMI placed on the record,⁶⁶ Petitioner maintains that high-bulk, low-value commodity dolomite refers to the dolomite used for construction, rather than the dolomite used for industrial purposes, such as the production of the subject merchandise, where chemistry and magnesium content is important.
- For this reason, Petitioner argues that the Department should not rely on sales data reported by Madras Cements because of the difference between dolomite used for industrial purposes, such as the production of magnesium or steel, and dolomite used for construction purposes, where the chemical composition is unimportant and the dolomite would not be comparable to the dolomite used in magnesium production. Furthermore, Petitioner contends that Madras Cements reports consuming “dolomite/flyash” dry mortar mix and, as a result, the dolomite sold by Madras may be related to this product rather than the type of dolomite used by TMI.
- Additionally, according to Petitioner, the Sagar Cements data reflect prices for low-value commodity dolomite used for construction purposes which is only 19 percent of the value of TSIL’s industrial grade dolomite used by the Department in the preliminary results. Thus, Petitioner argues, the discussion with respect to Madras Cements applies equally to Sagar Cements.
- Petitioner further claims that the auditor’s report for Nova states that the company is a sick industrial company. Citing *Threaded Rod/PRC* (February 27, 2009) at Comment 1 and *Aspirin/PRC* (May 25, 2000) at Comment 4, Petitioner claims that it is the Department’s established practice to exclude such companies from its surrogate value calculations.
- Finally, Petitioner contends that Monnet Ispat reports receiving benefits under the EPCGS, a program the Department has previously determined to be countervailable. Thus, Petitioner argues, Monnet Ispat’s financial statements are not useable for the valuation of dolomite in an antidumping duty proceeding.
- TMI contends that the Department should value dolomite using the IBM data which it placed on the record prior to the *Preliminary Results* because it represents country-wide prices from many sources. TMI argues that in *Silicon Metal/PRC* (July 15, 2010), the Department determined that the IBM data is reliable and may be used for factor valuation purposes.
- TMI contends that if the Department does not use the IBM data on the record, it should instead value dolomite using the information in the annual reports that it placed on the record after the *Preliminary Results* for three Indian producers, Sagar, Nova, and Monnet Ispat, in addition to the companies it used in the *Preliminary Results*, Madras and TSIL.

Department’s Position: As an initial matter, we agree with Petitioner that the Department, in selecting the best information available to determine surrogate values: (1) considers several factors when choosing the most appropriate publicly available information, including quality,

⁶⁶ See Petitioner’s Post-Prelim Surrogate Value Submission at 4 and Exhibit 4.

specificity, and contemporaneity of the information; (2) looks for surrogate values that are “representative of a range of prices in effect during the” POR and information that includes numerous transactions; (3) generally prefers country-wide information; (4) has a preference to use industry-wide values, rather than values of a single producer, whenever possible, because industry-wide values are more representative of prices and costs of all producers in the surrogate country; and (5) does not use price data that has inadequate supporting documentation and prefers to use tax-exclusive sources.⁶⁷

For the *Preliminary Results*, we determined not to use the WTA data because we concluded that, consistent with previous segments of the proceeding, evidence on the record this administrative review, suggests that dolomite traded internationally is likely to be a high-end product while the dolomite used by respondent to produce subject merchandise is a high-bulk, low-value commodity product.⁶⁸ Record evidence indicates that, in general, low-value dolomite is not shipped internationally. Specifically, documents published by *British Geological Survey* (2004 and 2006) and *A Review of the Dolomite and Limestone Industry in South Africa Report R43/2003* indicate that dolomite is a high-bulk commodity, which does not normally lend itself to long transport or international trade, except in the high-end value-added product range.⁶⁹

While Petitioner disagrees with this conclusion, Petitioner has not tied its contentions with respect to industrial practices in India, the U.K. and South Africa to the specific facts and usage of dolomite in TMI’s production experience and reported consumption factors. Petitioner has not demonstrated, based on facts on the record, that the dolomite that TMI consumes is in fact, “high-quality” dolomite, which is the kind shipped internationally and would be reflected in the WTA dataset.

Thus, while Petitioner makes the argument that industrial users in India, South Africa, the UK, and the United States are willing to import dolomite, it does not provide a factual basis to conclude that the dolomite imported into these countries is the same as that used by TMI in this proceeding, or alternatively that TMI would engage in the same purchase patterns as industrial users in India, South Africa, the U.K. and the United States.

Importantly, the WTA statistics do not provide specific information concerning the type or chemical specifications of imported dolomite – even within the category of calcined dolomite. As a result, we cannot conclude that WTA data are representative of the type of dolomite that TMI uses. Therefore, we have determined not to use the WTA data for dolomite for the final results.

Although we agree that the Department has, at times, rejected the use of factor values derived from financial statements of individual companies in the surrogate country, we disagree that the cases cited by Petitioner are applicable to the valuation of the dolomite in this proceeding. Specifically, in *Granular Magnesium/PRC* (September 27, 2001) IDM at Comment 6, the Department rejected information contained in online financial statements of an Indian producer in favor of price quotes that were more product-specific or otherwise more representative of the

⁶⁷ See *Pencils/PRC* (July 7, 2010) IDM at Comment 2.

⁶⁸ See *Preliminary Results*, at 34694.

⁶⁹ See *British Geological Survey* (2006), an updated version and *A Review of the Dolomite and Limestone Industry in South Africa Report R43/2003* in TMI’s Surrogate Value Submission at Exhibits SV-2C and SV-2D, respectively.

input being valued than the aggregate price data. In *Shrimp/PRC* (September 12, 2007) IDM at Comment 1, the Department rejected the use of financial statements in determining the SV for inputs because it was not clear that the information provided in the online financial statements was contemporaneous with the POR, applicable only to the input at issue or tax exclusive. In addition, the Department had contemporaneous and viable WTA statistics on the record of that proceeding. Finally, in *China Processed Foods* (CIT 2009), the Court determined that the Department reasonably declined to employ the vague and inconclusive information in the annual report at issue. Moreover, the time period covered by the annual report did not correspond to the POR in that proceeding. In certain circumstances where the Department is satisfied the financial statements represent the best available information to value a particular input, the Department will utilize those financial statements.

Finally, we disagree with TMI that we should value dolomite using the IBM data. As we stated in the Preliminary Factor Valuation Memorandum, we did not use the IBM data because we were concerned that prices of dolomite from captive mines would not reflect market values, but rather only the cost of production.⁷⁰ TMI's citation to the Department's use of IBM data in the preliminary results of *Silicon Metal/PRC* (July 15, 2010) is not instructive. First, the determination in *Silicon Metal/PRC* (July 15, 2010) has not yet been affirmed in the final results of review, so the Department's determination in that notice is not final and may change. Second, the discussion in *Silicon Metal/PRC* (July 15, 2010) does not address captive mines. Third, TMI did not otherwise address the impact of captive mines on the valuation of dolomite in the IBM data. Therefore, for the final results we have determined not to use the IBM data as a source of the surrogate value for dolomite.

Based on all of the above reasons, for these final results, we have determined to average the purchase prices for dolomite reflected in the April 1, 2008-March 31, 2009 financial statements of Madras Cements, Tata Sponge Iron, Sagar Cements, and Bhushan as the best information on the record for valuing dolomite used in the production of pure magnesium.⁷¹ These financial statements are contemporaneous, complete and legible, demonstrated a profit and did not evidence receipt of countervailable subsidies. We did not use the audited financial statements of Bisra Stone Lime because it did not earn a profit.⁷² We did not use the audited financial statements of Nova Iron and Steel because it is a sick industrial company.⁷³ We did not use the audited financial statements of SAIL and Monnet Ispat because they received subsidies which the Department previously determined to be countervailable.⁷⁴

Comment 10: Valuation of Flux

⁷⁰ See Preliminary Factor Valuation Memorandum at 5.

⁷¹ See Final Surrogate Value Memorandum at Attachment 3.

⁷² See TMI's Surrogate Value Submission, Exhibit SV-2H at 32. See also *Shrimp/Vietnam* (September 12, 2007) IDM at Comment 6; *Shrimp/PRC* (September 12, 2007) IDM at Comment 2.

⁷³ See TMI's Post-Preliminary Surrogate Value Submission, Exhibit PSV-2 at 13. See also *Magnesium Metal/PRC* (July 14, 2008) at Comment 3; and *OTR Tires/PRC* (July 15, 2008) IDM at Comment 17A.

⁷⁴ See TMI's Surrogate Value Submission, Exhibit SV-2I at 50 and 103 for SAIL; see TMI's Post-Preliminary Surrogate Value Submission, Exhibit PSV-3 at 53. See, e.g., *Carbon Steel Flat Products/India* (July 14, 2008).

- Petitioner argues that, consistent with Department practice, the Department should not use data from *Chemical Weekly* to value the three components of flux (magnesium chloride, potassium chloride, and sodium chloride) because those data do not represent actual prices.⁷⁵
- 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.
- Petitioner disagrees with statements in TMI's Surrogate Value Submission that the correspondence between Petitioner and *Chemical Weekly* is not publicly available. Petitioner claims that the correspondence is publicly available because it placed the correspondence on the public record of this review.
- Moreover, Petitioner disagrees with statements in TMI's Surrogate Value Submission that the data provided in *Chemical Weekly* is corroborated by information published in *Chemical Business of India*. Petitioner contends the information in *Chemical Business of India* is not based on actual prices, and therefore, cannot corroborate *Chemical Weekly*'s non-price data. Petitioner further contends that each price sheet contained in *Chemical Business of India* includes a disclaimer that the recorded prices are only indicative of prices and cannot be guaranteed. Thus, Petitioner argues that in accord with *Pencils/PRC* (July 7, 2010), IDM at Comment 2, the Department cannot base surrogate values on enquiries that only give an idea of the market conditions, when product-specific, contemporaneous import statistics are on the record.
- 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.

Department's Position: We have determined 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.⁷⁶ There is no hierarchy for applying the above-stated principles.⁷⁷ 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.⁷⁸ 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.⁷⁹ In applying the Department's surrogate value

⁷⁵ See *CVP-23/PRC* (June 28, 2010) IDM at Comment 5; *Shrimp/Vietnam* (September 15, 2009); IDM at Comment 7b; and *Thermal Paper/PRC* (October 2, 2008) IDM at Comment 4.

⁷⁶ See *Garlic/PRC* (June 17, 2008) IDM at Comment 2.

⁷⁷ See *Activated Carbon/PRC* (November 10, 2009) IDM at Comment 3c, 3d, 3e, 3f, 3g.

⁷⁸ See *Glycine/PRC* (August 12, 2005) IDM at Comment 1.

⁷⁹ See *Crawfish/PRC* (April 22, 2002) IDM at Comment 2.

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.⁸⁰ 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 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.⁸¹ Thus, the Department considers both WTA and *Chemical Weekly* to be acceptable sources of surrogate value data.⁸²

Further, we agree with TMI that it 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. Therefore, following the precedents set in past magnesium cases,⁸³ 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,⁸⁴ 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.

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.⁸⁵ 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* are publicly available,⁸⁶ country-wide⁸⁷ and represent 108 separate price quotes for magnesium chloride from two different locations. The potassium

⁸⁰ 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.

⁸¹ 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).

⁸² See *Activated Carbon/PRC* (November 10, 2009) IDM at Comment 3d.

⁸³ See *Pure Magnesium/PRC* (December 16, 2008) and *Magnesium Metal/PRC* (July 14, 2008).

⁸⁴ See TMI's SV submission at SV-3A.

⁸⁵ 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.

⁸⁶ See *Sebacic Acid /PRC* (March 30, 2005) IDM at Comment 6.

⁸⁷ 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...").

chloride price includes price quotes from two locations and the sodium chloride price includes more than 54 price quotes from one location. Thus, we continue to find *Chemical Weekly* to be a reliable source for obtaining surrogate values.⁸⁸

Moreover, we disagree with Petitioner that the correspondence it placed on the record between itself and a representative of *Chemical Weekly*⁸⁹ 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*.⁹⁰ 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*. Thus, we continue to find that the *Chemical Weekly* price quotes are publicly available prices that are contemporaneous with the POR, are industry-specific, and provide a range of reliable prices throughout India. Thus, for the final results, we will continue to use the data from *Chemical Weekly* to value all three components of flux for TMI.

Comment 11: 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 2010 – 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 2010 – 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 2010 – India*’s estimated weight of one container.

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.⁹¹ Rather, the *Infobanc* data show that a wide variation in per-unit prices exist at each data point along the distance spectrum.⁹² 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 as Petitioner contends.

⁸⁸ See *Magnesium Metal/PRC* (October 25, 2010) IDM at Comment 9; *Magnesium Metal/PRC* (July 14, 2008) IDM at Comment 4 citing *Lock Washers/PRC* (January 24, 2008) IDM at Comment 4.

⁸⁹ See Petitioner’s SV Submission at Exhibit 3.

⁹⁰ See *id.*

⁹¹ See Final Factor Valuation Memorandum at Attachment 8b.

⁹² See *id.*

Further, we disagree with Petitioner's contention that the *Doing Business 2010 – India* data more closely represent the respondent's experience. Petitioner maintains that the *Doing Business 2010 – 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 2010 – India* represent only inland transportation and handling.⁹³ In addition, *Doing Business 2010 – 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 2010 – India* represent only the cost of shipping merchandise from locations within the city of Mumbai to the port of Mumbai. In addition, because the *Doing Business 2010 – 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 2010 – India* data more closely represents TMI's experience.

In contrast to the *Doing Business 2010 – India* data, the *Infobanc* data represents an 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 nine months of the POR. Thus, the prices are representative of the nation-wide prices in India during the POR. Further, 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 there may be factors other than distance, such as terrain, influencing the establishment of freight rates at every given distance. As a result, we will make no changes in our final results with respect to the calculation methodology for foreign inland freight.

Because we are not using *Doing Business 2010 – India* as the source of our SV for truck freight, the conversion issue raised by Petitioner is moot and we do not address it here.

Comment 12: The Surrogate Value for Brokerage and Handling

- Petitioner asserts that although the Department valued TMI's reported brokerage and handling expenses using data from the World Bank's publication *Doing Business 2010 – India*, it did not apply the per-unit brokerage and handling expenses recorded in *Doing Business 2010 – India* to the standard container weight recorded therein. Therefore, to be more accurate, Petitioner contends that the Department should divide the total reported brokerage and handling expense of \$645 per-container by 10MT, the estimated weight of one container used in *Doing Business 2010 – India*, to arrive at a per-unit surrogate value of US\$64.50/MT, or US\$0.0645/kg.

Department's Position: We disagree with Petitioner that we should calculate the per-unit value of brokerage and handling by dividing the brokerage and handling costs reported in *Doing Business 2010 – India* by the standard container weight of 10 MT recorded in *Doing Business 2010 – India*. An examination of the record reveals that the estimated weight per-container of 10 MT recorded in *Doing Business 2010 – India* does not match TMI's experience.⁹⁴ In our *Preliminary Results*, we divided the estimated brokerage and handling expense recorded in

⁹³ See Petitioner's SV Submission, at Exhibit 4.

⁹⁴ See TMI Final Analysis Memorandum at Attachment II. In addition, see TMI Verification Exhibits 4a, 4b, 9a, 9b and 9c.

Doing Business 2010 – India by TMI’s actual proprietary container weight. However, because we prefer to rely upon publicly available data for surrogate values, we have used the publicly available value for the average maximum cargo load per container of 21,727 kgs., as recorded on the website <http://www.foreign-trade.com/reference/ocean.cfm>.⁹⁵ which more closely approximates TMI’s experience. As a result, for the final results, we have re-calculated the SV value for brokerage and handling by dividing the brokerage and handling rate of US\$645 per container recorded in *Doing Business 2010 – India* by 21,727 kgs. per container recorded on <http://www.foreign-trade.com/reference/ocean.cfm> to derive a per-unit value of US\$0.029687 per kg.

Comment 13: The Appropriate HTS Classification for Magnesium Waste/Scrap (“MGS”) and Magnesium Metal Waste/Scrap (“ALLOYS”)

- TMI contends that the Department should value its input of magnesium metal waste/scrap (“ALLOYS”) 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 contends that: 1) HTS category 8104.11 includes only ingots and other primary forms of magnesium that are unworked; 2) its input magnesium metal waste, “ALLOYS,” does not meet the purity requirement of HTS 8104.11; and therefore, 3) this input should not be valued as pure magnesium under this HTS category.
- Petitioner contends that TMI reported consuming two waste products as raw material inputs at one of its plants: (1) ALLOYS, *i.e.*, scrap from magnesium metal alloy die casting; (2) MGS *i.e.*, scrap from the processing of pure magnesium. Petitioner also notes that TMI provided the chemical composition of each waste product in its questionnaire responses.
- Citing to *Magnesium Metal/PRC* (July 14, 2008) IDM at Comment 2, Petitioner contends that the Department valued TMI’s magnesium metal waste input using HTS 8104.20 and magnesium waste input using subheading 8104.11. Moreover, Petitioner claims that no interested party has disputed those surrogate value selections since the final results of the 2006/07 review of magnesium metal.
- Accordingly, Petitioner argues that to the extent that TMI’s ALLOYS raw material input does not meet the criteria for classification as pure magnesium, that input should be valued using HTS 8104.20. Petitioner also argues that to the extent that the MGS raw material input meets the chemical purity standards of pure magnesium, that input should be valued using subheading 8104.11.

Department’s Position: We agree with Petitioner that to the extent TMI’s ALLOYS raw material input does not meet the criteria for classification as pure magnesium, that input should

⁹⁵ See Final Factor Valuation Memorandum at Attachment 9 and TMI’s Final Analysis Memorandum at Attachment I.

be valued using HTS 8104.20; and that to the extent that the MGSaw material input meets the chemical purity standards of pure magnesium, that input should be valued using subheading 8104.11.

In its original questionnaire response, TMI reported having two magnesium waste inputs: MGS and ALLOYS.⁹⁶ In that submission, TMI reported that the MGS included waste and scrap 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.”⁹⁷ In its TMI’S 1st SQR, TMI described its two magnesium scrap inputs as: (1) “Mg scrap from the further processing of pure magnesium;” and, (2) “magnesium metal waste and scrap from processing of alloyed magnesium products.”⁹⁸ 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 8104.11⁹⁹ and that the purity level of magnesium metal scrap was in accord with HTS 8104.20.¹⁰⁰ Finally, TMI provided sample copies of magnesium scrap purchases prior to the POR,¹⁰¹ and of all magnesium metal (alloy) scrap inputs purchased during the POR.¹⁰² Thus, in its questionnaire responses, TMI consistently identified two-separate inputs for magnesium scrap and magnesium metal scrap, and it has consistently defined them, respectively, based on the purity of the magnesium content.

TMI stated that its production processes did not change in ways that required a change in input from the previous reviews.¹⁰³

We verified TMI’s reported FOPs. Because there was no production of pure magnesium 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, the production records that we reviewed at verification clearly distinguish between magnesium scrap and magnesium metal (alloy) scrap¹⁰⁴ as inputs into the production process, and account for all of the production during the POR. As a result, we valued TMI’s two types of magnesium scrap inputs by using Indian import values under HTS 8104.11 for magnesium waste/scrap (“MGS”) and by using Indian import values under HTS 8104.20 for magnesium metal waste/scrap (“ALLOYS”).¹⁰⁵

Comment 14: The Per-Unit Basis for Plastic Bags, Steel Bands, and Plastic Bands

- TMI contends that the Department erroneously calculated the factors of production of packing materials by using metric tons as the unit for plastic bags, steel bands, and plastic bands.

⁹⁶ See TMI’s DQR at D-10.

⁹⁷ *Id.*

⁹⁸ See TMI’s 1st SQR at 74 and 75.

⁹⁹ See TMI’s 1st SQR at Exhibit SD-9A.

¹⁰⁰ See TMI’s 1st SQR at Exhibit SD-9B.

¹⁰¹ See TMI’s 1st SQR at Exhibit SD-9E.

¹⁰² See TMI’s 1st SQR at Exhibit SD-9D.

¹⁰³ See TMI’s 1st SQR at 62.

¹⁰⁴ See, e.g., TMI’s proprietary producer’s Verification Exhibit 2, at pages 9-10, 15-16.

¹⁰⁵ See Final Factor Valuation Memorandum at Attachment 3; see also TMI’s Preliminary Analysis Memorandum at Attachments I, II and III; TMI’s Final Analysis Memorandum at Attachments I, III and IV.

- TMI claims that it reported the units for these three materials as kilograms. Therefore, TMI contends that the Department should correct this error for the final results.

Department's Position: We agree with TMI that we inadvertently calculated normal value basing the SVs for plastic bags, steel bands, and plastic bands on prices per metric tons. TMI reported the unit basis for its consumption values for plastic bags, steel bands, and plastic bands in kilograms.¹⁰⁶ TMI proposed that the Department remedy its error by dividing the surrogate value of plastic bags, steel bands, and plastic bands by 1,000 to convert the per-unit price in metric tons to a per-unit price in kilograms. We disagree that this is the most appropriate remedy. Rather, we have changed the "Reported Units" from MT to KG in the surrogate value chart and removed the erroneous conversion of the WTA per-unit price from kilograms to metric tons. This has the same mathematical impact as TMI's proposed remedy.¹⁰⁷

Recommendation

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

Agree _____ Disagree _____

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

Date

¹⁰⁶ See TMI's DQR at Exhibits D-13 and D-15; see also TMI's 1st SQR at Exhibit SD-10.

¹⁰⁷ See TMI's Preliminary Analysis Memorandum at Attachments I, II and III; see also TMI's Final Analysis Memorandum at Attachments I and III and IV.

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>	
Acronym/Abbreviation	Full Name
Act	Tariff Act of 1930, as amended
AFA	Adverse Facts Available
AQR	Response to Section A of the Antidumping Questionnaire
AR	Administrative Review
Bisra Stone Lime	The Bisra Stone Lime Company Ltd.
Bhushan	Bhushan Steel Limited
BLS	Bureau of Labor Statistics
Boruka	Bhoruka Aluminum
CAFC	Court of Appeals for the Federal Circuit
CBP	U.S. Customs and Border Protection
Century	Century Extrusions, Ltd.
CFR	Code of Federal Regulations
<i>Chemical Weekly</i>	<i>Chemical Weekly</i>
CIT	Court of International Trade
COM	Cost of Manufacture
CONNUM	Control Number
COP	Cost of Production
CPI	Consumer Price Index
CQR	Response to Section C of the Antidumping Questionnaire
CVD	Countervailing Duty
Department	Department of Commerce
<i>Doing Business 2010 - India</i>	<i>Doing Business 2010: India</i> , published by the World Bank
DQR	Response to Section D of the Antidumping Questionnaire
EP	Export Price
EPCGS	Export Promotion Capital Goods Scheme
Essar	Essar Steel Limited
FOP(s)	Factor(s) of production

<i>List Of Abbreviations And Acronyms Used In This Memorandum</i>	
<i>All cites in this table are listed alphabetically by short cite</i>	
Acronym/Abbreviation	Full Name
GAAP	Generally Acceptable Accounting Principles
GDP	Gross Domestic Product
GNI	Gross National Income
GTA	Global Trade Atlas
HINDALCO	Hindalco Industries, Ltd.
Hindustan Copper	Hindustan Copper Limited
Hindustan Zinc	Hindustan Zinc Limited
HTS	Harmonized Tariff System
IBM	India Bureau of Mines
IDM	Issues and Decision Memorandum
IISC	Indian Iron and Steel Company, Ltd
ILO	International Labor Organization
Infobanc	http://www.infobanc.com/logistics/logtruck.htm
INTNFRU	International Freight
ITC	U.S. International Trade Commission
Kg.	Kilogram
LTFV	Less than fair value
Madras Cements	Madras Cements Ltd.
MALCO	Madras Aluminum Company Limited
Manaksia	Manaksia Ltd.
ME	Market economy
Monnet Ispat	Monnet Ispat and Energy Ltd.
MT	Metric ton
NALCO	National Aluminum Company Limited
NME	Non-market economy
Nova	Nova Iron and Steel Limited
NSR	New Shipper Review
NV	Normal value
Petitioner	U.S. Magnesium

<i>List Of Abbreviations And Acronyms Used In This Memorandum</i>	
<i>All cites in this table are listed alphabetically by short cite</i>	
Acronym/Abbreviation	Full Name
POR	Period of Review
PRC	People's Republic of China
respondent	Tianjin Magnesium International Co., Ltd. ("TMI")
SAA	Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. no. 103-316, Vol. 1 (1994), at 838
Sacheta	Sacheta Metals Limited
SADC	Southern African Development Community
Sagar Cements	Sagar Cements Limited
SG&A	Selling, General And Administrative Expenses
Statute	Tariff Act of 1930, as amended
Sterlite	Sterlite Industries (India) Ltd.
Sudal	Sudal Industries, Ltd.
SV	Surrogate Value
TMI	Tianjin Magnesium International Co., Ltd.
TSIL	Tata Sponge Iron Ltd.
UN Comtrade	United Nations Commodity Trade Database
WPI	Wholesale Price Index
WTA	World Trade Atlas® Online (Indian import statistics) <i>Monthly Statistics of the Foreign Trade of India</i> , as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India in the World Trade Atlas, available at http://www.gtis.com/wta.htm .
WTO	World Trade Organization
YLS	Yearbook of Labour Statistics published by the International Labor Organization

<i>Short Cite Table For Litigation</i>	
<i>All cites in this table are listed alphabetically by short cite</i>	
Short-Cite	Full Cite
<i>China Processed Foods</i> (CIT 2009)	<i>China Processed Foods v. United States</i> , 614 F. Supp. 2d 1337 (CIT 2009).

Short Cite Table For Litigation	
<i>All cites in this table are listed alphabetically by short cite</i>	
Short-Cite	Full Cite
<i>Borden</i> (CIT 1998)	<i>Borden, Inc. v. United States</i> , 22 C.I.T. 233 (CIT 1998).
<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>F.lli De Cecco</i> (CAFC 2000)	<i>F.lli De Cecco di Filippo Fara S. Martin S.p.A v. United States</i> , 216 F. 3d 1027 (Fed. Cir. 2000).
<i>Gallant Ocean</i> (CAFC 2010)	<i>Gallant Ocean (Thailand) Co., Ltd v. United States</i> , 602 F.3d 1319 (CAFC 2010).
<i>Hebei Metals</i> (CIT 2004)	<i>Hebei Metals & Minerals Imp. & Exp. Corp. v. United States</i> , 28 C.I.T. 1185 (CIT 2004).
<i>Hebei</i> (CIT 2005)	<i>Hebei Metals & Minerals Imp. & Exp. Corp. v. United States</i> , 366 F. Supp. 2d 1264 (CIT 2005).
<i>KYD</i> (CAFC 2010)	<i>KYD, Inc. v. United States</i> , 697 F.3d 760 (CAFC 2010).
<i>Mannesmannrohren-Werke</i> (CIT 2000)	<i>Mannesmannrohren-Werke AG v. United States</i> , 120 F. Supp. 2d 1075 (CIT 2000).
<i>Magnesium Corp</i> (CFTC 1999)	<i>Magnesium Corp. of Am. v. United States</i> , 166 F.3d 1364 (Fed. Cir. 1999).
<i>Menashe</i> (US 1955)	<i>United States v. Menashe</i> , 348 U.S. 528 (1955).
<i>Mittal Steel</i> (CIT 2007)	<i>Mittal Steel Galati S.A. v. United States</i> , 491 F. Supp. 2d 1273 (CIT 2007).
<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>Nippon Steel</i> (CAFC 2003)	<i>Nippon Steel Corporation v. United States</i> , 337 F.3d 1373 (CAFC 2003).
<i>NSK</i> (CIT 2004)	<i>NSK Ltd. v. United States</i> , 346 F. Supp. 2d 1312 (CIT 2004).
<i>NSK</i> (CIT 2010)	<i>NSK Corp. v. United States</i> , No. 06-00334, 2010 CIT Trade LEXIS 38 (CIT 2010).
<i>Olympic Adhesives</i> (CAFC 1990)	<i>Olympic Adhesives, Inc. v. United States</i> , 899 F. 2d 1565 (CAFC 1990).
<i>Pacific Giant</i> (CIT 2002)	<i>Pacific Giant , Inc. v. United States</i> , 26 CIT 1331 (2002).
<i>Peer Bearing</i> (CIT 2008)	<i>Peer Bearing Co. v. United States</i> , 587 F. Supp. 2d 1319 (CIT 2008).
<i>Qingdao Taifa</i> (CIT 2009)	<i>Qingdao Taifa Group Co. v. United States</i> , 637 F. Supp. 2d 1231 (CIT 2009).
<i>Reiner Branch</i> (CIT 2002)	<i>Reiner Branch GmbH & Co KG v. United States</i> , 206 F. Supp.

Short Cite Table For Litigation	
<i>All cites in this table are listed alphabetically by short cite</i>	
Short-Cite	Full Cite
	2d 1323, 1337 (CIT 2002).
<i>Rhone Poulenc</i> (CAFC 1990)	<i>Rhone Poulenc, Inc. v. United States</i> , 899 F.2d 1185, 1191 (CAFC 1990).
<i>Shakeproof</i> (CAFC 2001)	<i>Shakeproof Assembly Components Div. of Ill. Tool Works v. United States</i> , 268 F.3d 1376 (CAFC 2001).
<i>Shandong Huarong</i> (CIT 2001)	<i>Shandong Huarong Gen. Corp. v. United States</i> , 159 F. Supp. 2d 714 (CIT 2001).
<i>Shanghai Taoeni</i> (CIT 2005)	<i>Shanghai Taoen International Trading Co., Ltd., v. United States</i> , 360 F. Supp. 2d 1339 (CIT 2005).
<i>Shandong Huaron</i> (CIT 2005)	<i>Shandong Huarong Mach. Co. V. United States</i> , 29 CIT 484, 491 (CIT 2005).
<i>Shandong Huaron</i> (CIT 2006)	<i>Shandong Huaron Machinery Co., Ltd. v. United States</i> , 435 F. Supp. 2d 1261 (CIT 2006).
<i>Shandong Huaron</i> (CIT 2007)	<i>Shandong Huaron Machinery Co., Ltd. v. United States</i> , 31 C.I.T. 1815 (CIT 2007).
<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).
<i>Tianjin Machinery</i> (CIT 2007)	<i>Tianjin Machinery Import & Export Corp. v. United States</i> , 31 C.I.T. 1416 (CIT 2007).
<i>SKF</i> (CIT 2009)	<i>SKF USA Inc. vs. United States</i> , 675 F.Supp. 2 nd 1264 (CIT 2009)
<i>Todyo Kikai</i> (CAFC 2008)	<i>Todyo Kikai Seisakusho, Ltd. v. United States</i> , 529 F.3d 1353 (Fed. Cir. 2008).
<i>Universal Polybag</i> (CIT 2008)	<i>Universal Polybag Co. v. United States</i> , 577 F. Supp. 2d 1284 (CIT 2008).

Antidumping/Countervailing Duty Proceeding Federal Register Cite Table	
<i>All cites in this table are listed alphabetically by short cite</i>	
Short Cite	Full Cite
<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>Antidumping/Countervailing Duty Proceeding Federal Register Cite Table</i> <i>All cites in this table are listed alphabetically by short cite</i>	
Short Cite	Full Cite
<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, and Preliminary Rescission in Part, 75 FR 26927 (May 13, 2010).</i>
<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, 74 FR 57995 (November 10, 2009).</i>
<i>Aspirin/PRC</i> (May 25, 2000)	<i>Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China, 65 FR 33805 (May 25, 2000)</i>
<i>Bags/Thailand</i> (January 17, 2007)	<i>Polyethylene Retail Carrier Bags from Thailand, 72 FR 1982 (January 17, 2007).</i>
<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, 68 FR 10685 (March 6, 2003), and accompanying Issues and Decision Memorandum.</i>
<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 Kazakstan, 62 FR 2648 (January 17, 1997), and accompanying Issues and Decision Memorandum.</i>
<i>Carbon Steel Flat Products/India</i> (July 14, 2008)	<i>Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review, 73 FR 40295 (July 14, 2008), and accompanying Issues and Decision Memorandum.</i>
<i>Certain Coated Paper/PRC</i> (September 27, 2010)	<i>Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 59217 (September 27, 2010).</i>
<i>Certain Steel Grating/PRC</i> (June 8, 2010)	<i>Certain Steel Grating from the People's Republic of China, 75 FR 32366 (June 8, 2010).</i>
<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, 68 FR 7765 (February 18, 2003), and accompanying Issues and Decision Memorandum.</i>

<i>Antidumping/Countervailing Duty Proceeding Federal Register Cite Table</i> <i>All cites in this table are listed alphabetically by short cite</i>	
Short Cite	Full Cite
<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>Color TV Receivers/PRC</i> (April 16, 2004)	<i>Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China</i> , 69 FR 20594 (April 16, 2004).
<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>Antidumping/Countervailing Duty Proceeding Federal Register Cite Table</i> <i>All cites in this table are listed alphabetically by short cite</i>	
Short Cite	Full Cite
<i>Garlic/PRC</i> (March 13, 2002)	<i>Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review</i> , 67 FR 11283 (March 13, 2002).
<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.
<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>Granular 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>Hand Trucks/PRC</i> (July 28, 2008)	<i>Hand Trucks and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 73 FR 43684 (July 28, 2008).
<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>Antidumping/Countervailing Duty Proceeding Federal Register Cite Table</i> <i>All cites in this table are listed alphabetically by short cite</i>	
Short Cite	Full Cite
<i>Hot-Rolled Carbon Steel/India</i> (July 26, 2010)	<i>Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review</i> , 75 FR 43488 (July 26, 2010).
<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.
<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>Line Pipe Prelim/PRC</i> (April 24, 2008)	<i>Certain Circular Welded Carbon Quality Steel Line Pipe from the People’s Republic of China</i> , 73 FR 22130, 22132 (April 24, 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.

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<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.
<i>Magnesium Metal/PRC</i> (October 25, 2010)	<i>Magnesium Metal From the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order</i> , 5 FR 65450 (October 25, 2010).
<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>Mushrooms</i> (August 9, 2007)	<i>Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review</i> , 72 FR 44827 (August 9, 2007), and accompanying Issues and Decision Memorandum.
<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.

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<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.
<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).

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<i>Porcelain-on-Steel Cooking Ware/PRC</i> (April 26, 2006)	<i>Porcelain-on-Steel Cooking Ware from the People's Republic of China</i> , 71 FR 24641 (April 26, 2006), and accompanying Issues and Decision Memorandum.
<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>Preliminary Results</i>	<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>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> (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).
<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> (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/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).
<i>Pure Magnesium and Alloy Magnesium/PRC</i> (November 7, 1994)	<i>Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Pure Magnesium and Alloy Magnesium From the People's Republic of China</i> , 59 FR 55424 (November 7, 1994).

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<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>Seamless Refined Copper/PRC</i> (October 1, 2010)	<i>Seamless Refined Copper Pipe and Tube From the People's Republic of China: Final Determination of Sales at Less Than Fair Value</i> , 75 FR 60725 (October 1, 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).

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<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>Sodium Hexametaphosphate/PRC</i> (October 20, 2010)	<i>First Administrative Review of Sodium Hexametaphosphate From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review</i> , 75 FR 64695 (October 20, 2010).
<i>Stainless Steel/Taiwan</i> (February 13, 2006)	<i>Stainless Steel Sheet and Strip in Coils from Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review</i> , 71 FR 7519 (February 13, 2006).
<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>Threaded Rod/PRC</i> (February 27, 2009)	<i>Certain Steel Threaded Rod from the People's Republic of China: Final Determination of Sales at Less Than Fair Value</i> , 74 FR 8907 (February 27, 2009).
<i>Tissue Paper Products/PRC</i> (October 18, 2010)	<i>Certain Tissue Paper Products From the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review</i> , 75 FR 63806 (October 18, 2010).
<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> (March 3, 2010)	<i>Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review</i> , 75 FR 9581, 9584 (March 3, 2010).

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<i>WBF/PRC</i> (July 29, 2010)	<i>Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review</i> , 75 FR 44764 (July 29, 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.
<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</i> , 75 FR 41808 (July 19, 2010), and accompanying Issues and Decision Memorandum.

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El Salvador Memorandum	Memorandum to the File, "Wage Rate Calculation—Error in Currency Conversion of the Hourly Wage Rate for El Salvador", dated July 15, 2010.
Final Factor Valuation Memorandum	Memorandum to the File, "Antidumping Duty Administrative Review of Pure Magnesium from the People's Republic of China: Factor Valuation for the Final Results of Review," dated December 15, 2010.
Honduras Memorandum	Memorandum to the File, "Administrative Review of Pure Magnesium from the People's Republic of China; Honduras Data on Labor Wage Rate," dated August 5, 2010.

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<i>All cites in this table are listed alphabetically by short cite</i>	
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Industry-Specific Wage Data Memorandum	Memorandum to the File entitle, “2008-2009 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People’s Republic of China: Industry-Specific Wage Rate Selection”, dated November 10, 2010.
Petitioner’s Case Brief	Letter from US Magnesium, “Pure Magnesium from the People’s Republic of China; Petitioner’s Case Brief,” dated July 29, 2010.
Petitioner’s Honduras Comments	Letter from Petitioner, “US Magnesium’s Response to the Department’s August 4, 2010 Memorandum Regarding the Rejection of the Honduran Wage Rate Data Reported By the ILO”, dated August 16, 2010.
Petitioner’s Post-Briefing Wage Rate Submission	Letter from Petitioner, “Pure Magnesium from the People’s Republic of China: Petitioner’s Rebuttal to TMI’s August 26, 2010 Supplemental Brief,” dated August 30, 2010.
Petitioner’s Post-Preliminary Surrogate Value Submission	Letter from Petitioner, “Pure Magnesium from the People’s Republic of China: US Magnesium’s Post-Preliminary Results Comments Concerning Valuation of the Factors of Production,” dated July 8, 2010 (2 volumes).
Petitioner’s Rebuttal Brief	Letter from Petitioner, “Pure Magnesium from the People’s Republic of China; Petitioner’s Rebuttal Brief,” August 3, 2010.
Petitioner’s Supplemental Rebuttal	Letter from Petitioner, “Pure Magnesium from the People’s Republic of China: Petitioner’s Rebuttal to TMI’s August 26, 2010 Supplemental Brief,” dated August 30, 2010.
Petitioner’s Rebuttal Surrogate Value Submission	Letter from Petitioner, “Pure Magnesium 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 Surrogate Value Submission	Letter from Petitioner, “Pure Magnesium from the People’s Republic of China: US Magnesium’s Initial Comments Concerning Valuation of the Factors of Production,” dated November 12, 2009.
Preliminary Factor Valuation Memorandum	Memorandum to the File, “2008-2009 Administrative Review of the Antidumping Duty Order on Pure Magnesium from the People’s Republic of China: Factor Valuation Memorandum for the Preliminary Results,” dated June 7, 2010.

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Surrogate Country Memorandum	Memorandum entitled, “Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Pure Magnesium (“Pure Magnesium”) from the People’s Republic of China (“PRC”),” dated October 13, 2009.
TMI’s 1st SQR	Letter from TMI, “Pure Magnesium from the People’s Republic of China; A-570-832; Response to First Supplemental Questionnaire by Tianjin Magnesium International, Co., Ltd.,” dated February 9, 2010.
TMI’s 2 nd Rebuttal Surrogate Value Submission	Letter from TMI, “Pure Magnesium from the People’s Republic of China (A-570-832); Reply by Tianjin Magnesium International Co., Ltd. to Rebut, Clarify and Correct Information Supplied by U.S. Magnesium LLC in a November 25, 2009 Letter,” dated December 7, 2009.
TMI’s 2 nd SQR	Letter from TMI, “Pure Magnesium from the People’s Republic of China; A-570-832; Response to Second Supplemental Questionnaire by Tianjin Magnesium International, Co., Ltd.,” dated April 12, 2010.
TMI’s AQR	Letter from TMI, “Pure Magnesium from the People’s Republic of China; A-570-832; Response to Section A by Tianjin Magnesium International, Co., Ltd.,” dated September 1, 2009.
TMI’s Case Brief	Letter from TMI, “Pure Magnesium from the People’s Republic of China; Case Brief of Tianjin Magnesium International, Co., Ltd.,” dated July 29, 2010.
TMI’s CQR	Letter from TMI, “Pure Magnesium from the People’s Republic of China; A-570-832; Response to Section C by Tianjin Magnesium International, Co., Ltd.,” dated September 15, 2009.
TMI’s DQR	Letter from TMI, “Pure Magnesium from the People’s Republic of China; A-570-832; Response to Section D and Computer Data by Tianjin Magnesium International, Co., Ltd.,” dated September 29, 2009.
TMI’s Final Analysis Memorandum	Analysis Memorandum for the Final Results of the 2008-2009 Administrative Review of Pure Magnesium from the People’s Republic of China: Tianjin Magnesium International Co., Ltd. (“TMI”), dated December 15, 2010.
TMI’s Industry-Specific New Information	<i>See</i> letter from TMI titled, Pure Magnesium from the People’s Republic of China; A-570-832; Factual Information Regarding the Department’s Memorandum for the Calculation of Labor Surrogate Value, dated November 15, 2010.

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TMI's Industry-Specific Addenda	See letter from TMI titled, Pure Magnesium from the People's Republic of China; A-570-832; Comments on the Department's Memorandum Regarding the proposed Industry-Specific Wage Rate Selection, dated November 19, 2010.
TMI's Post-Briefing Wage Rate Submission	Letter from TMI, "Pure Magnesium from the People's Republic of China; Supplemental Brief of Tianjin Magnesium International Co., Ltd.," dated August 26, 2010.
TMI's Post-Prelim Rebuttal Surrogate Value Submission	Letter from TMI, "Pure Magnesium from the People's Republic of China (A-570-832); Reply by Tianjin Magnesium International Co., Ltd. to Rebut, Clarify and Correct Information Supplied by U.S. Magnesium LLC in a Submission dated July 8, 2010," dated July 19, 2010.
TMI's Post-Prelim Surrogate Value Submission	Letter from TMI, "Pure Magnesium from the People's Republic of China (A-570-832); Post-Preliminary Surrogate Value Information by Tianjin Magnesium International Co., Ltd.," dated July 8, 2010.
TMI's Preliminary Analysis Memorandum	Memorandum to the File, "Analysis Memorandum for the Preliminary Results of the 2008-2009 Administrative Review of Pure Magnesium from the People's Republic of China: Tianjin Magnesium International Co., Ltd. ("TMI")," dated June 7, 2010.
TMI's Rebuttal Surrogate Value Submission	Letter from TMI, "Pure Magnesium from the People's Republic of China (A-570-832); Reply by Tianjin Magnesium International Co., Ltd. to Rebut, Clarify and Correct Information Supplied by U.S. Magnesium LLC in a November 12, 2009 Letter," dated November 27, 2009.
TMI's Request to Reconsider the Rejected Brief	Letter from TMI, "Pure Magnesium from the People's Republic of China; Clarification of Points by the Department in a Memorandum Dated August 11, 2010, and Letter Dated August 23, 2010, and Request for Reconsideration of Rejection of Rebuttal Brief," dated August 30, 2010.
TMI's Surrogate Value Submission	Letter from TMI, "Pure Magnesium from the People's Republic of China (A-570-832); Surrogate Value Information," dated November 12, 2009.
TMI Verification Report	Memorandum to the File, "Verification of the Sales and Factors of Production ("FOP") of Tianjin Magnesium Industries ("TMI")," dated June 7, 2010.

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<i>All cites in this table are listed alphabetically by short cite</i>	
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USM's Industry-Specific Rebuttal	Letter from Petitioner titled, Pure Magnesium From the People's Republic of China: Petitioner's Rebuttal To TMI's Comments On The Department's Memorandum Regarding Industry-Specific Wage Rate Selection, dated November 24, 2010.
Wage Data Memorandum	Memorandum to the File, "Pure Magnesium from the People's Republic of China: Wage Data," dated July 14, 2010.