

October 18, 2011

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

FROM: Gary Taverman
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the 2009-2010 New Shipper
Review of the Antidumping Duty Order on Folding Metal Tables
and Chairs from the People's Republic of China

SUMMARY

We have analyzed the case and rebuttal briefs of interested parties in the new shipper review of the antidumping duty order on folding metal tables and chairs from the People's Republic of China ("PRC"). The period of review ("POR") covers June 1, 2009, through May 31, 2010. As a result of our analysis, we have made changes to the margin calculation in the *Preliminary Results*.¹ We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues for which we received comments and rebuttal comments by parties:

- Comment 1: Surrogate Value for Cold Rolled Steel Coil
- Comment 2: Calculation of Labor Costs
- Comment 3: Treatment of Overhead Surrogate Financial Ratio

BACKGROUND

On June 20, 2011, the Department of Commerce ("Department") published the *Preliminary Results* in the 2009-2010 new shipper review of the antidumping duty order on folding metal tables and chairs from the PRC, covering the POR.² On June 21, 2011, the Department announced a change in the methodology used to value the cost of labor in non-market economy cases. Specifically, the Department explained that it would rely on a single surrogate country to

¹ See *Folding Metal Tables and Chairs From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review, and Intent to Revoke in Part*, 76 FR 35832 (June 20, 2011) ("*Preliminary Results*")

² The new shipper review is aligned with the administrative review. See *Folding Metal Tables and Chairs From the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the 2009-2010 Antidumping Duty Administrative and New Shipper Reviews*, 76 FR 12024 (March 4, 2011).

value labor, and would use labor data from ILO Yearbook Chapter 6A as its primary data source.³ Following this announcement, on June 28, 2011, the Department placed Chapter 6A Indian labor cost data and a new surrogate wage rate on this record.⁴ On July 20, 2011, the Department received a case brief from Xinjiamei Furniture (Zhangzhou) Co., Ltd. (“Xinjiamei Furniture”). Meco Corporation (“Meco”), a domestic producer of the like product and the petitioner in the original investigation, did not submit a case brief. On July 25, 2011, the Department received a rebuttal brief from Meco. Neither party requested a public hearing. On July 29, 2011, the Department rejected Meco’s rebuttal brief because it contained references to new arguments not contained in Xinjiamei Furniture’s July 20, 2011, case brief. On August 2, 2011, Meco timely resubmitted its revised rebuttal brief.

DISCUSSION OF THE ISSUES

Comment 1: Surrogate Value for Cold Rolled Steel Coil

- Xinjiamei Furniture contends that the Department should rely upon the monthly average of the JSW Steel Limited prices for the final results to value cold rolled steel coils instead of the Indian import data used by the Department in the *Preliminary Results* because the Indian import data under Harmonized Tariff Schedule (“HTS”) 7211.2990 is: (1) aberrational compared to cold rolled steel coil prices in Brazil, Northern Europe, and world export market “benchmark” prices during the POR; and (2) not representative of the price of cold rolled steel coil in India during the POR.
- Meco argues that the Department should use Indonesian import data of HTS 7211.2990. However, if the Department continues to select India as the primary surrogate country, the Department should use Indian import data of HTS 7211.2990 because Xinjiamei Furniture has not demonstrated that the Indian import data of HTS 7211.2990 are aberrational and that the JSW Steel Limited monthly average price is specific to, or even includes, the type of cold rolled steel used to produce folding metal tables and chairs.

Department Position:

To value cold rolled steel coil, the Department has available on the record: (1) Global Trade Atlas (“GTA”) Indian import data of HTS 7211.2990; (2) GTA Indonesian import data of HTS 720915; (3) JSW Steel Limited data; (4) JSW Steel Limited’s 2009-2010 Annual Report data; and (5) cold rolled steel coil export prices from Brazil, Northern Europe, and world export market “benchmark” prices. Indonesian import data under HTS 7211.2990, proposed by Meco, is not on the record of this review.

Section 773(c)(1) of the Tariff Act of 1930, as amended (“Act”) states that when selecting surrogate values with which to value the factors of production (“FOPs”) used to produce subject

³ See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (“*Labor Methodologies*”).

⁴ See Memorandum entitled “2009-2010 New Shipper Review of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People’s Republic of China: Industry-Specific Surrogate Wage Rate and Surrogate Financial Ratio Adjustments” (June 28, 2011) (“NSR Memorandum: Industry-Specific Surrogate Wage Rate”).

merchandise, the Department is directed to use the “best available information” on the record.⁵ The Department’s preference is to use, where possible, a range of publicly-available, non-export, tax-exclusive, and product-specific prices for the POR, with each of these factors applied non-hierarchically to the particular case-specific facts and with preference for data from a single surrogate country.⁶ As established in the *Preliminary Results*, we continue to find that the GTA Indian import data under HTS subheading 7211.2990 “Othr Flt-Rld Prdcts Of Iron/Non Aloy Stl Nt Frthr Wrkd Thn Cold-Rld (Excl 7211.23)” is the “best available information” on the record to value cold rolled steel because the Department has selected India as the primary surrogate country and the Indian import data under HTS subheading 7211.2990 are publicly available, broad market averages, contemporaneous with the POR, tax-exclusive, and the most specific HTS category to the type of cold rolled steel used by Xinjiamei Furniture to produce folding metal tables and chairs.

Corroborative Data: Export Prices

Xinjiamei Furniture contends that information on the record establishes that the surrogate price based on GTA Indian import data of HTS 7211.2990 (*i.e.*, \$1942.80/MT) is not representative of the price of cold rolled steel coil in India during the POR. According to Xinjiamei Furniture, JSW Steel Limited, a large steel producer in India, produced 1,500,150 metric tons of cold rolled coils/sheets during the April 1, 2009-March 31, 2010 fiscal year. Thus, Xinjiamei Furniture avers that the import statistics’ 716.882 metric tons of cold rolled steel coil imports is “infinitesimal” as compared to the consumption of cold rolled steel coil in India since the import statistics represent 0.047 percent of JSW Steel Limited’s production of cold rolled steel coils and sheet. Xinjiamei Furniture cites to *Shanghai Foreign Trade Enterprises Co., Ltd.*⁷ for the proposition that the Department can rely upon Indian import statistics as the basis for a surrogate value only “after concluding that they {the import statistics} are based on commercially and statistically significant quantities.”

We disagree. While the Department has in the past considered high average unit values (“AUVs”) based on relatively small aggregate quantities to be potentially aberrational data, it does not automatically reject import data based on a low aggregate value if a comparison with other market data indicates that the per-unit values of those imports fall within a reasonable range.⁸ In this instance, we find that Xinjiamei Furniture has not provided us with appropriate corroborative information to demonstrate that the per-unit value under this GTA Indian HTS

⁵ Section 773(c)(1) of the Act.

⁶ See *Tapered Roller Bearings and Parts Thereof from the People’s Republic of China, Finished and Unfinished, From the People’s Republic of China: Final Results of 2008-2009 Antidumping Duty Administrative Review*, 76 FR 3086 (January 19, 2011), and accompanying Issues and Decision Memorandum (“IDM”) at Comment 14B; see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Extension of Time Limit for the Final Results of the 2007-2008 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 74 FR 52948 (December 28, 2009), IDM at Comment 2; see also *Silicon Metal from the People’s Republic of China: Notice of Final Results of 2005/2006 New Shipper Reviews*, 72 FR 58641 (October 16, 2007); see also *Notice of Final Results of Antidumping Duty Administrative Review and Final Partial Rescission: Certain Cut-to-Length Carbon Steel Plate from Romania*, 72 FR 6522 (February 12, 2007) IDM at Comment 3.

⁷ *Shanghai Foreign Trade Enterprises Co., Ltd. v. United States*, 318 F. Supp. 2d 1339 (2004).

⁸ See *Silicon Metal from the Russian Federation: Notice of Final Determination of Sales at Less Than Fair Value*, 68 FR 6885 (February 11, 2003), IDM at Comment 5.

category is aberrational. For instance, in Xinjiamei Furniture's July 11, 2011, submission, Xinjiamei Furniture pointed to three export prices to establish that the per-unit value used in the preliminary results is aberrational: (1) the reported monthly average export price of Brazilian cold rolled steel coil for the period of June 2009-February 2010; (2) the reported weekly average export price of Northern European cold rolled steel coil for the period February 23, 2009-April 27, 2009; and (3) monthly pricing data for world export market "benchmark" prices for cold rolled steel coil for July 2010-December 2010.⁹ However, none of these price points covers the entire POR in order for us to make an appropriate comparison. In fact, the reported average export price of Northern European cold rolled steel coil and the monthly pricing data for the world export market benchmark prices falls outside of the POR and, therefore, are not contemporaneous with the POR. Accordingly, we find that these prices are not appropriate corroborative tools.

Additionally, we find that these export price points are inappropriate corroborative information because the Department does not generally find export prices from non-potential surrogate countries to be appropriate benchmarks. In *6/14/05 Flat Products from Romania*, IDM at Comment 2, the Department explained that we do not use export values to test the reliability of surrogate value information.¹⁰ According to that case,

the purpose of the surrogate values is to calculate the cost to producers in the NME country by applying the price for factor inputs from the designated surrogate country to the FOP to produce the product. Export prices from the surrogate country are not relevant to the prices paid by producers of similar merchandise in that surrogate country.

Similarly, Xinjiamei Furniture provided export prices of cold rolled steel coil to test the reliability of the surrogate value information of cold rolled steel coil. Consistent with *6/14/05 Flat Products from Romania*, we find that these export prices are not relevant to the prices paid by producers of folding metal tables and chairs in India because these prices do not reflect the domestic or import prices paid by producers of folding metal tables and chairs from India. As such, consistent with *6/14/05 Flat Products from Romania*, we find that Xinjiamei Furniture's export prices do not demonstrate that the GTA Indian import data are aberrational since they are not relevant to the prices paid by producers of similar merchandise in India, or to producers of similar merchandise in countries that are economically comparable to India.

Alternative Data: Company-Specific

Xinjiamei Furniture also contends that information on the record establishes that \$681.54 MT, the average of monthly POR cold rolled steel prices published by JSW Steel Limited on its website for its steel retail operations throughout India, is more reflective of cold rolled steel prices in India. Xinjiamei Furniture refers to JSW Steel Limited's 2009-2010 Annual Report to corroborate the average of monthly POR cold rolled steel prices published by JSW Steel

⁹ See Xinjiamei Furniture's Case Brief for 2009-2010 New Shipper Review, dated July 20, 2011, at 8.

¹⁰ *Certain Hot-Rolled Carbon Steel Flat Products From Romania: Final Results of Antidumping Duty Administrative Review*, 70 FR 34448 (June 14, 2005), IDM at Comment 2 ("*6/14/05 Flat Products from Romania*").

Limited.

We disagree with Xinjiamei Furniture that the existence of lower AUV prices of a single company constitutes sufficient evidence to compel the Department to question the use of the country-wide data used in the *Preliminary Results*. Likewise, in *5/21/09 PC Strand*, the Department had to select between country-wide import statistics and single-firm data to value wire rod.¹¹ In that case, even though a single company consumed more wire rod than the usable import data, the Department continued to use import data because it was more specific to the respondent's wire rod and because the Department prefers to use surrogate values that are country wide data reflecting broad industry averages. Additionally, the Department did not use a company's financial statements to value wire rod in *5/21/09 PC Strand* because there was no information on the record regarding the diameter of the wire rod purchased.

Similar to *5/21/09 PC Strand*, in the instant case, Xinjiamei Furniture provided the average of monthly POR cold rolled steel prices published by JSW Steel Limited on its website for its steel retail operations throughout India. We note, however, that JSW Steel Limited's prices include a disclaimer that expressly states that "the prices are for general information only and should not be construed as a Sales Offer." There is no evidence that any sales were made at the listed prices. Consequently, we find that JSW Steel Limited's general price information is not reliable as evidence of actual prices for cold-rolled steel products. Moreover, even if the record contained evidence of actual sales by JSW Steel Limited, the JSW Steel Limited prices would not be the best available information because they would not represent broad industry averages throughout the POR, unlike GTA Indian import data. The Department prefers to value factors using prices that are broad market averages because "a single input price reported by a surrogate producer may be less representative of the cost of that input in the surrogate country."¹² Rather, the Department prefers to use a publicly available price that reflects numerous transactions between many buyers and sellers, because the experience of a single producer is less representative of the cost of an input in the surrogate country.¹³

Comment 2: Calculation of Labor Costs

- Xinjiamei Furniture contends that in the *Preliminary Results*, in valuing Xinjiamei Furniture's direct and indirect labor and packing labor costs, the Department incorrectly used only the surrogate value for labor, rather than multiplying the surrogate value for labor by labor FOPs for direct and indirect labor and packing labor.
- Mecor did not comment on this issue.

Department's Position: In the *Preliminary Results*, the Department used the labor surrogate value, instead of the calculated direct labor, indirect labor, and packing labor input variables to determine total labor and total packing costs. For the final results, the Department corrected the

¹¹ *Prestressed Concrete Steel Wire Strand From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 28560 (May 21, 2010), IDM at Comment 2 ("5/21/09 PC Strand").

¹² See *Honey from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Order Administrative Review*, 71 FR 34893 (June 16, 2006).

¹³ *Id.*

program so that the calculated labor costs properly reflect the result of the reported direct labor, indirect labor, and packing labor FOPs multiplied by the labor surrogate value.

Comment 3: Treatment of Overhead Ratio

- Xinjiamei Furniture argues that the Department’s final results should also incorporate the revised surrogate overhead ratio of 4.92 percent.
- Mecos did not comment on this issue.

Department’s Position: We agree. For the final results, the Department revised the labor surrogate value and overhead financial ratio as set forth in *Labor Methodologies*, the NSR Memorandum: Industry-Specific Surrogate Wage Rate, and the Memorandum entitled “2009-2010 New Shipper Review of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People’s Republic of China: Labor Cost Conversion” (July 15, 2011).

RECOMMENDATION

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

Agree

Disagree

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

Date