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**PUBLIC DOCUMENT**
AD/CVD Operations, Office 7/ MJH

MEMORANDUM TO: Kim Glas
Acting Deputy Assistant Secretary
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Final Results in the Administrative Review of Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China

SUMMARY:

We have analyzed the comments and rebuttal comments of interested parties in the final results of the 2008 – 2009 administrative review of the antidumping duty order covering floor-standing, metal-top ironing tables and certain parts thereof from the People's Republic of China (PRC). As a result of our analysis, we have made certain changes from the preliminary results. We recommend that you approve the positions described in the "Discussion of the Issues" section of this Issues and Decision Memorandum.

Below is the complete list of the issues in this administrative review for which we received comments by parties:

Comment 1: Financial Statements Used to Determine General Expenses and Profit Ratios

Comment 2: Appropriate Wage Rate Calculation

Comment 3: Brokerage and Handling

Comment 4: Zeroing

Comment 5: Whether Certain Expenses are Appropriately Classified as Packaging or Material Costs

Comment 6: Surrogate Value of Cotton

Comment 7: Surrogate Value of Water

Comment 8: Whether Foshan Shunde's Yield Losses are Reasonable and Necessitate Use of Facts Available; Whether Discrepancies in Since Hardware's Calculation of Yield Losses Necessitate Use of Adverse Facts Available

Comment 9: Foshan Shunde Packing Calculation

BACKGROUND:

On September 14, 2010, the Department published the preliminary results of this administrative review. *See Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 55754 (September 14, 2010) (*AR5 Preliminary Results*). The merchandise covered by the order is floor-standing, metal-top ironing tables and certain parts thereof from the PRC, as described in the "Scope of the Order" section of the *Federal Register* notice. The period of review (POR) is August 1, 2008, through July 31, 2009. This administrative review covers Foshan Shunde Yongjian Housewares & Hardwares Co., Ltd. (Foshan Shunde) and Since Hardware (Gunagzhou) Co., Ltd. (Since Hardware).

In the *AR 5 Preliminary Results*, we invited parties to comment. Additionally, on October 22, 2010, we issued to interested parties a memorandum detailing the industry specific wage rates that the Department has used in these Final Results. *See* October 22, 2010, Memorandum from Michael J. Heaney to the File: "Re: 08/01/2008/07/31/2009 Review of the Antidumping Duty Order on Floor Standing Metal Top Ironing Tables from the People's Republic of China: Industry Specific Wage Rate Selection" (Industry Specific Wage Rate Memorandum). We invited Interested Parties to comment on the Department's calculation of industry specific wage rates that are outlined in our October 22, 2010, Industry Specific wage Rate Memorandum. On November 15, 2010, the Department received timely case briefs from Foshan Shunde and from Home Products International (the Petitioner in this case).[1] Petitioner, Foshan Shunde , and Since Hardware submitted rebuttal briefs on November 22, 2010. On December 27, 2010, the Department extended the time frame for the final results of review by an additional 60 days. *See Floor-Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic*

[1] On November 16, 2010, Since Hardware attempted to submit a case brief. On November 22, 2010, the Department issued a letter to Since Hardware which rejected Since Hardware's November 16, 2010, case brief as untimely filed. *See* November 22, 2010, letter from Robert M James to Since Hardware. Accordingly, the Department has not considered Since Hardware's November 16, 2010, submission in these Final Results.

*of China: Extension of Time Limit for the Final Results of Administrative Review*, 75 FR 81212 (December 27, 2010).

DISCUSSION OF THE ISSUES

**Comment 1: Financial Statements Used to Determine General Expenses and Profit Ratios**

Foshan Shunde notes that in the *AR 5 Preliminary Results* the Department used the 2006-2007 financial statements of Infiniti Modules Private Limited (Infiniti Modules) to calculate the general expense and profit ratios. Foshan Shunde further notes that Petitioner submitted both the 2006-2007 financial statements of Infiniti Modules and the 2008-2009 financial statements of Airtech Private Limited (Airtech) in surrogate value submissions of August 24, 2010 (Infiniti Modules) and October 18, 2010 (Airtech). Foshan Shunde asserts that the 2008-2009 financial statements of Omax Autos Limited (Omax) constitute the "best available information" for calculating the general expense and profit ratios in this review. Foshan Shunde contends that neither the financial statements of Infiniti Modules nor Airtech serve as an appropriate basis for calculating general expense and profit ratios.

Foshan Shunde cites to *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* 74 FR 20335, 20336 (April 19, 2010), and accompanying Issues and Decision Memorandum at Comment 13 (*OCTG from China*) as evidence of the Department's practice to base general expense and profit ratios upon financial statements that are both "publicly available" and "non-proprietary." *See* Foshan Shunde November 15, 2010, brief at page 6. Foshan Shunde contends that it attempted to obtain copies of Infiniti Modules financial statements directly from the company, and that Infiniti Modules declined that request. Foshan Shunde further asserts that both Infiniti Modules and Airtech are "Private Limited" companies "whose statements are defined by law as non proprietary." *Id.* Foshan Shunde further contends that Infiniti Modules has never filed its financial statements with the Indian Ministry of Corporate Affairs (MCA) and that Infiniti Modules financial statements are not recognized on any stock exchange. *Id* at 6-7. Foshan Shunde asserts that Airtech, like Infiniti Modules, is a private company.

Foshan Shunde asserts that the absence of publicly available financial statements (including annual reports) puts it at a disadvantage in commenting on the validity and relevance of the data set forth therein. Foshan Shunde cites to *Certain Activated Carbon from the People's Republic of China: Final Results of the First Administrative Review*, 74 FR 57995 (November 10, 2009), and accompanying Issues and Decision Memorandum at Comment 2b, (*Activated Carbon*) and to *Chlorinated Isocyanurates from the People's Republic of China: Notice of Final Determination* 70 FR 24052 (May 10, 2005), and accompanying Issues and Decision Memorandum at Comment 3 (*Isocyanurates*) to contend that in both *Activated Carbon* and *Isocyanurates* the Department indicated that completeness, publicly availability, representativeness of the industry, and contemporanity with the POR are criteria for selecting among the financial statements of companies used to represent surrogate values. Additionally,

Foshan Shunde notes that in *Activated Carbon* the Department found with respect to "limited" companies that only financial statements available from the Register or accessible from the MCA website in their entirety qualify as "public." *See* Foshan Shunde November 15, 2010, brief at page 8. Foshan Shunde asserts that Petitioner has failed to establish that it obtained the financial statements of Infiniti Modules or Airtech from the MCA website. Foshan Shunde thus asserts the Department should reject both the financial statements of Infiniti Modules and Airtech for purposes of determining financial ratios. *Id* at 9.

Foshan Shunde asserts the 2008-2009 financial statements of Omax constitute the "best available information" for the surrogate financial ratios in this administrative review. *Id*. Foshan Shunde cites to *Dorbest Ltd. v. United States*, 462 F. Supp. 2d 1262 (2006) (*Dorbest I*) which establishes that the statute requires the Department "to select from the information before it the best data for calculating an accurate dumping margin." *Id*. Foshan Shunde also cites to *OCTG from China* wherein the Department noted that its policy in choosing financial ratios is to consider "specificity, contemporaneity, and quality of the data." *See OCTG from China*. Additionally, Foshan Shunde cites to *Activated Carbon* wherein the Department noted that it also considers whether the surrogates are "representative of the industry." *See Activated Carbon.* Foshan Shunde also notes that pursuant to 19 CFR §351.408 the Department applies a three prong test to determine "comparable merchandise" which considers 1) physical characteristics, 2) end uses, and 3) the production process. Foshan Shunde contends that Omax is a producer of identical merchandise to the subject merchandise of this review: ironing tables. Moreover, Foshan Shunde asserts that *Allied Pacific Food et al. v United States*, Slip. Op. 2010-83 (*Allied Pacific III*) establishes that "specificity is paramount among the Department's factors in selecting surrogate values." *See* Foshan Shunde November 15, 2010, brief at 10. Foshan Shunde asserts the financial statements of Omax are both specific and are contemporaneous to this review.

Foshan Shunde disputes the conclusion reached by the Department in its *AR 5 Preliminary Results* that the financial statements of Omax should be rejected because Omax received a subsidy. Foshan Shunde asserts that the record of this proceeding "does not contain substantial evidence that Omax benefited from a subsidy enough for the Department to have concluded that it was countervailable." *See* Foshan Shunde November 15, 2010, brief at page 11. Foshan Shunde asserts the only record evidence that Omax received a subsidy is shown at Schedule 11 to Omax's 2008-2009 financial statement which notes that Omax "received a form of 'other income' called "export incentive." *Id.* Foshan Shunde notes that notwithstanding receipt of a subsidy, the Department has used the financial statements of a company to determine financial ratios. Foshan Shunde cites to *Certain Circular Welded Carbon Quality Steel Line Pipe from China: Final Affirmative Antidumping Duty Determination*, 74 FR 14514 (March 31, 2009), and accompanying Issues and Decision Memorandum at Comment 13 as such precedent. Additionally, Foshan Shunde notes that *OCTG from China* the Department rejected a *per se* rule of excluding companies that received subsidies in the calculation of financial ratios. *See* Foshan Shunde November 15, 2010, brief at page 12. Foshan Shunde asserts that the "small" subsidy that Omax received fails to render Omax's financial statements ineligible for use in the calculation of surrogate financial ratios. *Id*. Foshan Shunde asserts that the small subsidy received by Omax would "normally offset against SG&A" and should result in a lower G&A

amount than if the company received no subsidy. *Id* at 13. In this case, however, Foshan Shunde notes the G&A amounts of Omax are lower than the amount incurred by Infiniti Modules. *Id*. Foshan Shunde argues that

> …the Department's preliminary results are nonsensical in that they reject the ratios of a company {Omax} in the *identical* industry that should have been *lower* than proposed due to a subsidy that allegedly distorted them in favor of statements from *another* industry (Infiniti) that contain ratios that were *much higher* than the unadjusted Omax ratios with the subsidy.

*Id* at 14. (Foshan Shunde's emphasis)

Foshan Shunde argues that Airtech is also an inappropriate source of surrogate financial data. Foshan Shunde contends that Airtech 'is even more subsidized" than Omax. Foshan Shunde asserts that Airtech received an export subsidy which is shown under the heading "other income." *Id* at 15. Additionally, Foshan Shunde asserts that Schedule 3 to Airtech's financial statements establishes that Airtech received "packing credits." *Id*. Moreover, Foshan Shunde maintains that Airtech is not a producer of the subject merchandise. *Id* at 16. Additionally, Foshan Shunde asserts that Airtech does not utilize a production process that is comparable to Foshan Shunde's. *Id* at 18-19.

Finally, Foshan Shunde asserts that if the Department continues to reject the financial statements of Omax for purposes of determining surrogate financial ratios, the 2008-2009 financial statements of Maximaa constitute the next best source of surrogate data. Foshan Shunde asserts that Maximaa is a consumer of cold rolled steel and a manufacturer of steel furniture and storage units. Foshan Shunde asserts that steel furniture and storage units are comparable merchandise to ironing tables. *Id*. Additionally, Foshan Shunde notes that the Department used the financial statements of Maximaa to derive surrogate financial ratios in a completed review that involved folding metal tables and chairs. *See Folding Metal Tables & Chair Final Results, 2007-2008 Annual Review*, 74 FR 68568 (December 28, 2009), and accompanying Issues and Decision Memorandum at Comment 1 (*Folding Metal Tables and Chairs).*

Foshan Shunde suggests that there the financial statements of Maximaa available for use in this review are more contemporaneous than the financial statements of Infiniti Modules. *See* Foshan Shunde November 15, 2010, brief at 17. Additionally, Foshan Shunde notes that the Department opted to use the financial statements of Maximaa over those of Infiniti Modules in *Folding Tables and Chairs. Id.* Foshan Shunde asserts there is no factual distinction between the facts in the instant case and those in *Folding Tables and Chairs* which would permit the Department to select the financial statements of Maximaa over Infiniti Modules in this review. Foshan Shunde asserts that, like Foshan Shunde, Maximma is an integrated furniture producer of ironing tables. *Id.* at 18.

In its rebuttal brief, Since Hardware agrees with Foshan Shunde that the Department should reject the financial statements of both Infiniti Modules and Airtech and should instead use the

financial statements of Omax. Since Hardware also agrees with Foshan Shunde's assertion that the Infiniti Modules financial statements are not publicly available. Like Foshan Shunde, Since Hardware further asserts that Omax is a producer of identical merchandise. Since Hardware asserts that any subsidy incurred by Omax is so small as to render that subsidy irrelevant. *See* Since Hardware November 22, 2010, rebuttal brief at 31. Finally, Since Hardware agrees with Foshan Shunde that the financial statements of Maximaa represent the next best alternative source of surrogate financial ratios to those of Omax owing to Maximaa's financial statements being publicly available and Maximaa producing comparable merchandise to ironing tables.

Petitioner argues that the Department should continue to use the 2006-2007 financial statements of Infiniti Modules to derive surrogate financial ratios in this review. Petitioners note that with the exception of reviews in which the Department has completely relied on adverse facts available (AFA), the Department has utilized the financial statements of Infiniti Modules in every other administrative review of this proceeding. In the first administrative review (which covered the period February 3, 2004 through July 31, 2005) the Department utilized the 2004-2005 financial statements of Infiniti Modules. *See Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China*, 72 FR 13229, 13241 (March 21, 2007), and accompanying Issues and Decision Memorandum at Comment 1 (*AR1 Final Results*). Petitioners note that in the second administrative review covering the period August 1, 2005 through July 31, 2006, the Department also used the 2004-2005 financial statements of Infiniti Modules. *See Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China*, 73 FR 14437 (March 18, 2008) and accompanying Issues and Decision Memorandum at Comment 1 (*AR2 Final Results*). Petitioners further note that in the third administrative review covering the period August 1, 2006 through July 31, 2007, the Department utilized the 2005-2006 financial statements of Infiniti Modules. *See Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Preliminary Results of Review* 73 FR 52277, 51281 (September 9, 2008) (unchanged in *Final Results* 74 FR 11085, (March 16, 2009).

Petitioner notes the Department determined in the *AR1 Final Results* that the financial statements of Infiniti Modules were complete and that the products produced by Infiniti Modules (metal furniture along with other products) were the most comparable to the subject merchandise. *See* Petitioner November 22, 2010, Rebuttal brief at pages 4-5. Additionally, Petitioner notes that in upholding the Department's selection of Infiniti Modules financial statements, the Court of International Trade found those financial statements to be "wholly publicly available." *See Home Products International Inc. v United States,* Slip Op. 08-39 at 7-9 (CIT 2008) (*Home Products*). Petitioner also notes that in the second administrative review, the Department selected the 2004-2005 financial statements of Infiniti Modules notwithstanding the fact that those financial statements did not contain a profit and loss statement. *See* Petitioner November 22, 2010, Rebuttal brief at 6. Petitioner further notes that in the third administrative review it obtained and placed a complete set of Infiniti Modules 2006-2007 financial statements upon the record of that proceeding. Finally, Petitioner notes the Department used those financial statements to calculate surrogate financial ratios in the third administrative review. *Id*.

Petitioner observes that in the fourth administrative review, covering the period August 1, 2007 through July 31, 2008, the Department used AFA to calculate Foshan Shunde's margin. *See Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China*, 75 FR 3201, 3202 (January 20, 2010) (*AR4 Final Results*). Petitioner notes, however, that in its February 26, 2009 surrogate value submission, Foshan Shunde recommended that the Department use the 2004-2005 Infiniti Modules financial statements to derive surrogate values.

Petitioner asserts that neither the 2008-2009 financial statements of Omax nor the 2008-2009 financial statements of Maximaa are preferable sources of surrogate financial ratios to the 2006-2007 financial statements of Infiniti Modules. While Petitioner acknowledges that Omax's financial statements are contemporaneous to the period of review, Petitioner asserts that other difficulties discussed *infra* preclude the Department from selecting those financial statements for purposes deriving financial ratios. Petitioner asserts that review of Omax's financial statements establishes that during the period covered by Omax's 2008-2009 financial statements the company was primarily a manufacturer of automobile parts. Petitioner further asserts that record evidence indicates that Omax's production of furniture was "still in its infancy" and that any furniture that Omax supplied was in fact "miniscule." *See* Petitioner November 22, 2010, Rebuttal brief at page 11. Petitioner further notes that the single greatest expense item listed among Omax's financial statements is "Bought Out Goods." *Id.* at 12. Petitioner further asserts that the 2008-2009 sales of home furnishings constituted less than 2.5% of Omax's "Gross Sales & other Income" and less than 3% of Omax Net sales and other income during Omax's 2008-2009 fiscal year. *Id* at 13. Moreover, Petitioner points out that Omax, itself, considers itself to be primarily a producer of automobile components. *Id*. Petitioner notes that Omax's 2008-2009 financial statements discuss at length the condition of the Indian automobile industry. *Id* at 16-17. Petitioner asserts that arguments that the "operations" of Omax are related to ironing board producers are based upon imports of ironing tables that occurred in 2010. *Id* at 15.

Additionally, Petitioner asserts that Omax received countervailable subsidies thereby further undercutting the reliability of Omax's financial statements. Petitioner cites to *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances, in part* 75 FR 57449 (September 21, 2010) and accompanying Issues and Decision Memo at Comments 6 and 35 (*Carbon and Alloy Pipe*). Petitioner notes that in *Carbon and Alloy Pipe*, the Department stated:

> Consistent with Department practice, the Department does not rely upon financial statements where there is evidence that the company received countervailable subsidies and there are other sufficient reliable and representative data on the record…for purposes of calculating the surrogate financial ratios.

Petitioner asserts that Omax Autos' export incentive is well known under India's Duty Entitlement Pass Book (DEPB) program. *See* Petitioner November 22, 2010, rebuttal brief at page 18. Moreover, Petitioner asserts that while comparisons of the export incentive subsidy to total revenue may make the incentive seem small, the Omax subsidy is large (15.6 percent) in

relation to Omax's overall profit. *See* Petitioner November 22, 2010, rebuttal brief at page 19. Moreover, petitioner asserts that as a percent of company profit, the 15.6 percent amount experienced by Omax is considerably larger than the 6.8 percent amount experienced by Airtech. *Id*.

Petitioner also asserts that Foshan Shunde's reliance upon *Allied Pacific* and upon *OCTG from China* is misplaced. Petitioner contends that Allied Pacific does not establish specificity and a preference for identical versus comparable merchandise. Rather Petitioner asserts that in *Allied Pacific* the Court was supporting the Department's concern that surrogate values be supported by the most precise identification of the surrogate value input available. *Id* at 20. Additionally, Petitioner notes that in *OCTG from China*, the Department combined producers of identical and comparable merchandise to determine surrogate value financial ratios. *Id.* Moreover, Petitioner cites to *Jiaxing Brother Fastener Co., Ltd v United States* CIT Slip. Op. 10-128 (November 16, 2010) (*Jiaxing Brother Fastener)* wherein the Court acknowledged the Department's rejection of financials where it had reason to believe or suspect that the company was in receipt of actionable subsidies and where there were other useable subsidies. *See* Petitioner November 22, 2010, rebuttal brief at page 21. Moreover, Petitioner notes that in *Jiaxing Brother Fastener*, the Court found no support for preferring identical merchandise to comparable merchandise. *Id.*

Concerning contemporanity, Petitioner notes the financial statements of Infinti Modules are approximately 1½ years removed from the POR. Petitioner notes, however that in *Hand Trucks and Certain Parts Thereof from the People's Republic of China*, 75 FR 29314 (May 25, 2010), and accompanying Issues and Decision Memorandum at Comment 4, the Department selected financial statements that were 2½ years removed from the POR to derive surrogate financial ratios rather than more contemporaneous financial statements of another producer. Moreover, Petitioner notes that in *QVD Food Co v. Ltd v United States*. CIT Slip Op. 1-101 (2010), (*QVD Food*) the Court sanctioned the use of financial statements that were 6½ removed from the period of review over the use of other financial statements that overlapped the period of review. *See* Petitioner November 22, 2010, rebuttal brief at page 25.

Petitioner disputes Foshan Shunde's assertion that the financial statements of Infiniti Modules are not publicly available. Petitioner asserts that Foshan Shunde has misstated the position that the Department took in *Activated Carbon.* In *Activated Carbon*, petitioners assert the Department established no prerequisite that "only" financial statements from the Indian MCA qualify as publicly available. Rather in *Activated Carbon*, Petitioner insists the Department stated that it found financial statements filed with the MCA to be in the public domain. Petitioner further notes that the 2006-2007 financial statements of Infiniti Modules can be found in the Department's public case files. Moreover, Petitioner contends that when Infiniti Modules did release its profit and loss statement (subsequent to Infiniti Modules' release of its other financial data) that profit and loss statement did become public data.

Petitioner also asserts that Maximaa is an unsuitable source of surrogate financial data. Petitioner notes that in *Folding Tables and Chairs* the Department viewed web pages from Maximaa's web site and from that web site determined that Maximaa engaged in the production

of furniture while Infiniti Modules was primarily an assembler of furniture. *See Folding Tables and Chairs at* Comment 1. Petitioner argues that in *Folding Tables and Chairs* the Department did not address whether the web pages that the Department viewed were contemporaneous with the POR in that case. *See* Petitioner November 22, 2010, rebuttal brief at page 25.

Petitioner further asserts that the restructuring that Maximaa underwent render Maximaa unsuitable as a source of surrogate financial data. Petitioner argues that notes to Maximaa's 2009-2010 financial statements establish that Maximaa has moved from a producer to a reseller of furniture. *Id.* at 30. Petitioner notes that Maximaa's 2009-2010 financial statement establishes that Maximaa's cost of traded goods exceeded Maximaa's cost of materials. *Id.* Petitioner further argues that Maximaa's 2009-2010 financial statements establish that Maximaa increasingly shifted its business focus from furniture to providing information technology services. Petitioner notes that in Maximaa's 2009-2010 financial statements information technology services constituted 18.3 percent of Maximaa's total inventory assets. *Id.* at 31.

Petitioner also notes that Maximaa experienced a significant downturn in profitability from Maximaa's 2008-2009 fiscal year to its 2009-2010 fiscal year. Petitioner asserts that in its 2009-2010 financial statements Maximaa made significant downward revisions to its 2008-2009 reported income. Petitioner notes that these revisions affected Maximaa's "Capital Work in Process," "Investments," "Current Assets," "Finished Goods," "Inventories," "Loans and Advances," and "Net Current Asset" accounts. *Id.* at 32. Petitioner asserts that these revaluations were "on-going" for Maximaa over several fiscal years, thus impugning the reliability of any surrogate financial data to be derived from Maximaa's 2008-2009 financial statements. *Id.* at 33.

Petitioner further asserts that the Department's standard methodology is to exclude traded goods from the overhead ratio and include those expenses in the SG&A ratio. However, Petitioner argues that in this instance, the Department's standard trading company methodology does not eliminate the distortions caused by Maximaa's heavy concentration on trading activities. Petitioner asserts that the absence of salary and wage breakdowns in Maximma's 2008-2009 and 2009-2010 financial statements would consider all of Maximaa's production as labor cost and thereby understate all of the financial ratios to be derived from Maximaa's financial data. *Id.* at 35-36.

Petitioner asserts that the facts in the instant case are similar to those that were addressed by the Court in *QVD Food.* Petitioner asserts that in *QVD Food*, the Department had used a financial report in a previous review to value a production input. However, in *QVD Food*, Petitioner asserts the Department discovered a "director's report" that "cast a pall on the overall reliability" of the underlying financial statements. *See* Petitioner November 22, 2010 rebuttal brief at page 37. Petitioner asserts that a situation analogous to *QVD Food* exists in this review. Petitioner concludes that record evidence establishes that notwithstanding their use in a past review of *Folding Tables and Chairs*, the Department cannot continue to rely upon Maximaa's 2008-2009 financial statements in this review.

Department's Position:

We continue to maintain that the 2006-2007 financial statements of Infiniti Modules constitute "the best available information" for valuing surrogate financial ratios. Accordingly, in these *Final Results*, we have continued to use the financial ratios of Infiniti Modules to value overhead, SG&A, and profit. As explained *infra*, in these Final Results we have based our analysis on the merit of the financial statements on record and our determination that the 2006-2007 financial statements of Infiniti Modules constitute the "best available information" within the meaning of the Statute. In conducting this analysis, we have not considered whether any of the financial statements incurred subsidies.

In valuing FOPs, section 773(c) (1) of the Tariff Act of 1930, as amended (the Act), instructs the Department to use "the best available information" from the appropriate market economy country. In choosing surrogate financial ratios, the Department's policy is to use data from the market-economy surrogate companies based on the "specificity, contemporaneity, and quality of the data." *See, e.g.*, *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 34082 (June 13, 2005), and accompanying Issues and Decision Memorandum at Comment 5. Moreover, in valuing factory overhead, SG&A, and profit, the Department uses non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. *See* 19 CFR 351.408(c)(4) and section 773(c)(4) of the Act. Moreover, we note the Court has recognized the Department's discretion in selecting surrogate values. *See FMC Corporation v. United States*, 27 C.I.T. 240, 251 (2003) (citing *Technoimportexport, UCF America Inc. v. United States*, 783 F. Supp. 1401, 1406 (CIT 1992) *aff'd* 2004 U.S. App Lexis 3096 (Fed Cir. 2004). Similarly, in *Crawfish Processors Alliance v. United States*, 343 F. Supp 2d 1242, 1251 (CIT 2004) the Court held "{i}f Commerce's determination of what constitutes the best available information is reasonable, then the Court must defer to Commerce." The 2006-2007 financial statements of Infiniti Modules are taken from a manufacturer of merchandise (furniture) that is similar to the subject merchandise. Moreover, as Petitioner has noted, the 2006-2007 financial statements of Infiniti Modules are publicly available, have been placed on the public record of multiple antidumping proceedings, and thus continue to qualify as publicly available information within the meaning of the statute. Moreover, we disagree with Foshan Shunde's assertion that financial statements must be available from directly from the company or a registar of companies in order to qualify as "publicly available." The 2006-2007 financial statements of Infiniti Modules are "publicly available" because Petitioner obtained them from a public source (in this case the Indian MCA) which could be verified. Finally, while the financial statements of Omax and Maximaa are contemporaneous to the POR, as discussed *infra*, there are company specific factors with respect to both sets of financial statements that render these data to be a less reliable than the 2006-2007 financial statements of Infiniti Modules.

We disagree with Foshan Shunde's assertion that Omax and Maximma constitute preferable sources of surrogate financial data than does Infiniti Modules. First, while Foshan Shunde has characterized Omax as a furniture producer, review of Omax's 2008 and 2009 financial statements establish that the focus of Omax's business throughout the POR continued to be

automobile products. At pages 11-13 of its 2009 financial statement, Omax listed 29 customers. Of the 29 listed customers, all but one (IKEA) are suppliers of automotive components and parts. *See* Omax 2009 financial statements at page 10, and 11-13.

We also dispute Foshan Shunde's assertion that the 2008 financial statements of Maximaa constitute a more reliable source of financial data than do the 2006-2007 financial statements of Infiniti Modules. As Petitioner has noted, review of Maximaa's 2009-2010 financial statements evinces that Maximaa had increasingly transitioned from a manufacturer of furniture to a reseller of furniture while the respondents in the instant review are both primarily manufacturers. In this proceeding, therefore, and consistent with the position taken in *OCTG from China* in selecting the source of surrogate financial ratios we have considered product mix and degree of vertical integration. *See OCTG from China* at Comment 13. Based upon the large amount of revenue that Maximma realized from the sale of products that were manufactured by other producers, we have concluded that Infiniti Modules constitutes a preferable source of financial data. As primarily a reseller of the merchandise rather than a manufacturer, Maximaa's mix of selling expenses relative to production costs differ from the experience of Since Hardware and Foshan Shunde who both manufacture the subject merchandise internally.

Finally, while we acknowledge that the financial statements of Maximaa are more contemporaneous to the period of review than are the financial statements of Infiniti Modules, we conclude that the company-specific factors discussed above render these statements less reliable for purposes of calculating surrogate financial ratios. In this regard, we note that in *QVD Food*, the Department disregarded financial statements that were contemporaneous with the period of review and instead relied upon data that was far less contemporaneous (over six years) to the period of review. The Department selected the less contemporaneous financial statements because it came upon evidence that "cast a pall on the overall reliability" of the contemporaneous financial statement. *See QVD Food*, Slip. Op. 10-101 at 8. Company-specific factors call into question the suitability of both the Maximma and Omax financial statements. These factors include the product mix of the companies in question, the degree to which the companies in question were manufacturers or resellers of the merchandise, and the financial strength of the companies' operations. Accordingly, we have continued to rely on the 2006-2007 financial statements of Infiniti Modules to derive surrogate financial ratios in this review.

**Comment 2: Appropriate Wage Rate Calculation**

Foshan Shunde contends that the Department should use wage rates specific to India to value labor factors of production. Foshan Shunde notes that the Department used India as the source of all of the other surrogate values used in its calculation of factors of production. Foshan Shunde contends that India is a substantial producer of the subject merchandise. Foshan Shunde asserts that there is no evidence that the broader index of countries used by the Department in its industry specific wage rate calculation more accurately represents the surrogate value of labor factors of production than do Indian labor rates.

Foshan Shunde further asserts that the tariff headings used by the Department are "overly

broad." *See* Foshan Shunde November 15, 2010, brief at page 21. These tariff headings are HTS 9403.20 (other metal furniture) and 9403.90 (generally parts). Foshan Shunde asserts that by using these six digit classifications the Department has derived a labor rate calculation that is less specific to the subject merchandise, thus thwarting the intent of *Dorbes I*. Additionally, Foshan Shunde asserts that the Department's methodology of equating exports to the legally operative term "significant producer" fails to "meet the legal standard for identifying such producers." *See* Foshan Shunde November 15, 2010, brief at page 21. Moreover, Foshan Shunde asserts that to meet the legal standard of significant producer, the Department should exclude wage rate data earlier than 2007 from its calculation of significant producer. *Id.* at 24. Also, Foshan Shunde objects to the Department's use of "earnings" over "wages." Foshan Shunde asserts that "earnings" include bonuses and other forms of compensation which are typically reflected in SG&A and the surrogate financial ratios. *Id.* at 22.

Foshan Shunde also disputes the Department's use of Revision 3 ILO data over Revision 2 data. Foshan Shunde asserts that Revision 2 data were specific to the three-digit level (rather than the two- digit level of Revision 3). Foshan Shunde asserts that Revision 2 data best comport with *Dorbest I* because unlike Revision 3, Revision 2 data capture the "manufacture rather of metal products, including metal furniture, specifically." *Id*. Moreover, Foshan Shunde asserts that because it sews ironing board covers in house from bolts of fabric, the Department should include in its average a wage that is specific to the Indian cotton spinning industry. *Id*.

Finally, Foshan Shunde asserts that the Department incorrectly used the U.N. Category 28 (metal fabricated products) rather than the U.N. Category 36 (metal furniture) in its calculation of industry specific wage rates. Foshan Shunde asserts that U.N. Category 28 excludes "manufacture of metal furniture" while U.N. category 36 includes that category of merchandise. *Id*.

Since Hardware asserts that India is a producer of ironing tables and asserts that Indian wage rates should be utilized in the calculation of industry specific wage rates. Since Hardware also notes that with the exception of wage rates, the Department derived all of the surrogate values used in the *Preliminary Results* from India. Since Hardware, like Foshan Shunde, objects to the Department defining "significant producer" as anyone who exported merchandise in HTS categories 9403.20 or 9403.20. Since Hardware asserts that these categories are "overly broad." *See* Since Hardware November 22, 2010 rebuttal brief at 38. Finally, Since Hardware also agrees with Foshan Shunde that U.N. category 28 represents a preferable source of wage specific data than does U.N. category 36.

Petitioner argues that the Department should employ the methodology outlined in the Industry Specific Wage Rate Memorandum to value wage rates. Petitioner asserts that the Department should reject the calculation used in the *AR 5 Preliminary Results* because that calculation was incorrectly limited to six countries rather than to all of the countries that were comparable to China. Petitioner contends that the methodology outlined in the Industry Specific Wage Rate Memorandum is a reasonable "refinement" to *Dorbest* and asserts that the Department should continue to employ that industry-specific methodology in its final results. *See* Petitioner

November 22, 2010 rebuttal brief at 3.

Petitioner contends that in addition to *Activated Carbon*, the instant calculation of industry specific wage rates is supported by other recent Department determinations, *e.g.*, *Isocyanurates* 70212, 70213 and accompanying Issues and Decision Memorandum at Comment 2. Petitioner notes that in *Isocyanurates* the Department expressed a preference for averaging the labor rates within the same revision of the ISIC to averages derived from data from multiple ISIC revisions. Petitioner further notes that in *Isocyanurates*, the Department expressed a preference for using more current ISIC data over less current data when such current data is available. *See* Petitioner's November 22, 2010, rebuttal brief at page 40. Concerning the proper U.N. category used to derive the wage rate, Petitioner argues that the while Customs and Border Protection (CBP) classifies some ironing tables as furniture for Tariff Schedule classification purposes, the rest of the world (including the ILO) does not follow the same classification protocol. For example, Petitioner notes, the European commission identified ironing tables as "articles of plastics, articles of wood, articles of iron or steel, and electrothermic appliances and parts thereof." *Id.* at 41. Most importantly, Petitioner asserts that the ISIC along with the North American Industry Classification System (NAICS) have classified ironing tables within the 332999 classification-- "All Other Miscellaneous Fabricated Metal Product Manufacturing." *Id.* at 42. Petitioner asserts that within the concordance between the 332999 NAICS classification and Revision 3 of the ISIC, there are seven mentioned categories of merchandise (1) "2424" (Manufacture of soap and detergents, cleaning and polishing preparations, perfumes and toilet preparations), (2) "2720" (Manufacture of basic precious and non-ferrous metals), (3) "2893" (Manufacture of cutlery, hand tools and general hardware), (4) "2899" (Manufacture of other fabricated metal products), (5) "2915" (Manufacture of lifting and handling equipment), (6) "3190" (Manufacture of other electrical equipment n.e.c.) and "3699" (Other Manufacturing). Petitioner asserts that categories "2424", 2720", 2893", 2915", and "3190" are clearly inappropriate matches to ironing tables. Of the remaining two possibilities, Petitioner asserts that "2899" is more specific to ironing tables than is "3699" because category "2899" covers "miscellaneous fabricated ironing tables" whereas category "3699" includes non-metal manufacturing. *Id* at 43-44.

Department's Position:

Consistent with our current practice, we continue to find the industry specific data from multiple countries to be the best source for determining the surrogate value of labor in this case. Moreover, as explained *infra*, we continue to maintain that sub-classification 28 data represent the most comparable source of industry specific data to the subject merchandise.

In *Dorbest*, the Federal Circuit invalidated the Department's regulation 19 CFR 351.408(c)(3) and the use of a regression-based method to determine wage rates. *See Dorbest Ltd. v United States*, 604 F 3d 1363, 1372 (CAFC 2010). As a consequence of the Federal Circuit's decision, the Department no longer relies upon regression based wage rates and is continuing to evaluate options for determining labor values in light of this. On October 22, 2010, the Department released to interested parties an industry-specific calculation of wage rates that is consistent with

*Dorbest*. *See* Industry Specific Wage Rates Memorandum. For the final results of this review, we have continued to use the industry-specific calculation of wage rates outlined in our Industry Specific Wage Rates Memorandum.

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 countries that are (A) at a level of economic development comparable to that of the non-market economy country, and (B) significant producers of comparable merchandise. Accordingly, to calculate a wage rate, the Department first looked to the July 13, 2010 Surrogate Country Memorandum issued in this proceeding to determine countries that were economically comparable to the PRC.

As noted in the Industry Specific Wage Rate Memorandum, and consistent with Policy Bulletin 4.1, in analyzing economic comparability, the Department places primary emphasis on Gross National Income (GNI). *See* Policy Bulletin 4.1, available at http://ia.ita.doc.gov/policy/bull04-1.html. Consistent with our recent practice, from the list of countries contained in the Surrogate Country Memorandum, the Department used the countries with the highest GNI (*i.e*. Columbia) and the lowest GNI (*i.e*., India) as "bookends" for economic comparability. The Department then identified all countries in the World Bank's *World Development Report* per capita GNIs for 2008 that fall between the "bookends." This resulted in 43 countries ranging from India with USD 1,040 GNI to Peru with GNI of USD of 3,990.

In this proceeding, and consistent with the methodology employed by the Department in response to *Dorbest I*, the Department has defined exports of comparable merchandise according to the first six digits under which the merchandise is classified under the HTS. *See* Industry Specific Wage Rates Memorandum at 2. Also, we have defined a "significant producer" as a country that has exported comparable merchandise between 2007 through 2009. This is consistent with the methodology the Department has adapted in response to *Dorbest*. *See, e.g*., *Silicon Metal From the People's Republic of China: Final Results and Partial Rescission of the 2008-2009 Administrative Review of the Antidumping Duty Order*, 76 FR 3084 (January 19, 2011) and accompanying Issues and Decision Memorandum at 8 (*Silicon Metal*). We continue to find that the eight countries identified in our Industry Specific Wage Rates Memorandum (Ecuador, Egypt, Indonesia, Jordan, Philippines, Peru, Thailand, and Ukraine) under ISIC Revision 3, classification 28 constitute the most appropriate basis for determining industry specific wage rates.

We find unpersuasive Foshan Shunde's argument that the Department should base wage rate data exclusively from India. As noted in *Silicon Metal*, there exists high variability across wages from countries with similar GNI. By using the high- and low income countries identified in the Surrogate Country Memorandum as bookends, the Department has obtained more data points which we find preferable to basing wage rates on a single source.

With regard to respondents' argument that the Department should use only the wage rate for the primary surrogate country (India), while information from a single surrogate country can reliably be used to value other factors of production (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 provide more data points, which the Department prefers. While there is a strong worldwide relationship between wage rates and GNI, too much variation exists among the wage rates of comparable ME's. *See e.g.*, ILO, *Global Wage Report:* 2009 Update, (2009) at 5, 7, 10. http://www.ilo.org/wcmsp5/groups/public---dgreports/---dcomm/documents/publication/wcms_116500.pdf. 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.

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 rates spans from USD 0.77 to USD 3.45. *See* Industry Specific Wage Rates Memorandum Data. Additionally, although both the Philippines and Indonesia have GNIs below USD 2,000, and both could be considered economically comparable to the PRC, Indonesia's observed wage rate is USD 0.77, as compared to the Philippines observed wage rate of USD 3.45- over four times that of Indonesia. *Id*. There are many socio-economic, political, and institutional factors, such as labor laws and policies unrelated to size or strength of economy, that cause significant variances in wage rates between countries. For this reason, and because labor is not traded internationally, the variability in labor rates that exists among otherwise economically comparable countries is a characteristic unique to the labor input. Moreover, the large variance in these wage rates illustrates why it is preferable to rely upon data from multiple countries for purposes of valuing labor. The Department finds that reliance on wage rate 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 a large a number of countries as possible and also meets 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 data from multiple countries, as opposed to labor data from a single country, constitutes the best available information for valuing the labor input. Finally, we note that 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 the FOPs 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.

We also disagree with Foshan Shunde's assertion that the Department should look to earnings

data over wage data. As noted in *Activated Carbon*, the Department's practice is to select wage data over earnings data when both wage and earnings data are available. *See Activated Carbon*, and accompanying Issues and Decision Memorandum at Comment 5. Moreover, we continue to maintain that ISIC-Rev. 3 data are the most recent data available to the Department. As noted in the Industry Specific Wage Rate Memorandum, the Department's preference is to use ISIC-Rev 4 data when such data are available. *See* Industry Specific Wage Rate Memorandum at 3. However, in this case none of the countries found economically comparable which were determined to be significant producers of the subject merchandise reported data pursuant to ISIC-Rev 4. Accordingly, ISIC-Rev. 3 data constitute the most recent data available in this case. Also, we view ISIC-Rev. 3 data as preferable to the less contemporaneous ISIC-Rev. 2 data advocated by Foshan Shunde. We also continue to maintain that industry classification 28 constitutes the closest match to the subject merchandise. As Petitioner has noted, the ILO does not follow the same industry classification protocol as CBP. We further agree with Petitioner that category 2899 is the classification into which ironing tables fall because category 2899 covers "miscellaneous fabricated ironing tables" which is a more proximate category to the subject merchandise than is category 3699 which includes the manufacturing of non-metal products. Based on the foregoing, in these final results we have continued to use the industry specific wage rates set forth in our Industry Specific Wage Rates Memorandum.

**Comment 3: Brokerage and Handling**

Foshan Shunde notes that in the *AR5 Preliminary Results*, the Department derived a surrogate value for brokerage and handling derived from the World Bank's *Doing Business 2010: India* study. Foshan Shunde contends this study constitutes a less accurate basis for calculating brokerage and handling expenses than the brokerage and handling information that Foshan Shunde has placed upon the record of this proceeding. Foshan Shunde asserts that the "actual" brokerage and handling expenses which Indian companies incur is about "one tenth of the surrogate value for B&H that the Department found in the preliminary results of this case. *See* Foshan Shunde November 15, 2010, brief at page 36. Further, Foshan Shunde asserts that the actual price schedules and price quotes that it has obtained from large freight forwarders in India are about one fourth of those shown in the World Bank's *Doing Business 2010: India*. *Id.* at 36-37.

Foshan Shunde asserts the data which the Department derived from the World Bank is overly broad and is not specific to ironing tables. Moreover, Foshan Shunde asserts that the World Bank surrogate value includes costs and expenses (most notably letters of credit) which were not incurred by Foshan Shunde. Further, Foshan Shunde asserts that *Dorbest* does not permit the Department to use a broad range of data when data specific to the inputs used by Foshan Shunde are available. *Id*. at 27. Foshan Shunde contends that the hypothetical company used in the World Bank study is small and situated "well inland from any major seaport." *Id.* at 28. Further, Foshan Shunde asserts that contrary to the hypothetical company used in the World Bank study, Foshan Shunde does not use an export letter of credit to secure payment on export sales. Foshan Shunde asserts that such letter of credit costs greatly inflate the document preparation costs relative to the actual costs incurred by Foshan Shunde. *Id.* at 31.

Foshan Shunde further asserts that there is no evidence on the record to indicate that the World Bank's *Doing Business 2010: India* study is based upon actual contact with customers. *Id.* at 34. Further, Foshan Shunde asserts that the World Bank data are "skewed by considerations of the time companies must spend to accomplish certain tasks, which necessarily includes their own labor and overhead costs." *Id.* at 35. Foshan Shunde asserts that such labor and overhead costs are included separately in the Department's calculation of labor and overhead and asserts that use of the World Bank surrogate value thus results in double counting of labor and overhead expenses. *Id*.

Foshan Shunde also argues that the brokerage and handling data that it has placed on the record are more contemporaneous to the period of review than the data derived from the World Bank study. Foshan Shunde further asserts that it has put information on the record necessary to adjust its calculation of brokerage and handling for container size which is summarized *infra*. Regarding its calculation of brokerage and handling expenses, Foshan Shunde cites to *Isocyanurates* at Comment 1 and to *Shakeproof Assembly Components Div of Ill Tool Works, Inc. v. United States*, 30 CIT 1173, 1178-1179 (CIT 2006) as precedent where the Department opted to use the most contemporaneous data available to derive surrogate values. Foshan Shunde asserts that all of the surrogate values relating to brokerage and handling that it submitted are contemporaneous to the August 1, 2008 through July 31, 2009 review period. On the other hand, Foshan Shunde asserts that the World Bank Study is based upon 2010 data that occurred seven months after the close of the review period. *See* Foshan Shunde November 15, 2010, brief at page 41.

Finally, Foshan Shunde contends that only 4 of the 17 regions used to determine brokerage and handling in the World Bank study are, like Foshan Shunde, located close to ports. *Id.* at 39. Foshan Shunde asserts that such a hypothetical company far removed from ports bears no relation to Foshan Shunde. *Id.* at 28. Foshan Shunde asserts that if the Department continues to use World Bank data to derive brokerage and handling expenses, it must confine itself to a simple average of the four regions that are located closest to Indian seaports. *Id.* at 39. Furthermore, Foshan Shunde contends that if the Department continues to use the World Bank study to value brokerage and handling, it must deduct the value of freight because the Department derived the surrogate value of freight from a separate source. *Id.* at 41.

Petitioner asserts that the World Bank's *Doing Business 2010: India* study is "contemporaneous, based on a wide range of data from a credible source, tax free, publically available, and reliable." *See* Petitioner's November 22, 2010, rebuttal brief at page 45. Regarding contemporanity, Petitioner notes that the World Bank study has a 2009 copyright date. Petitioner asserts that examination of the World Bank data reveals that these data are from 2009. *Id.* at 46. Petitioner also asserts that World Bank data are a preferred source because they provide amounts for each of the components of brokerage and handling expenses rather than lump sum amounts. Petitioner further asserts that the data provided by Foshan Shunde relate to imports rather than exports. Petitioner insists, however, that the costs associated with imports differ from those relating to exports. Additionally, Petitioner asserts that the World Bank data are culled from "a

wide variety of private and public sector sources in India." *Id.* at 47. As such, Petitioner concludes the World Bank data constitute a more reliable source of brokerage and handling surrogate values than the information provided by Foshan Shunde. Finally, Petitioner asserts that record evidence fails to support Foshan Shunde's assertion that the World Bank costs are inflated through letter of credit costs. Petitioner asserts that the questionnaire used to compile the *Doing Business 2010: India* reveal that the documentation preparation costs in question reflect the costs of export documents rather than of export letters of credit. *Id*. at 49.

Petitioner asserts that while the World Bank's *Doing Business 2010: India* study is the appropriate basis for valuing brokerage and handling expenses, the Department incorrectly applied the brokerage and handling values that resulted from the World Bank's study. Petitioner asserts that the brokerage and handling values in question are per kilogram amounts while the Department applied these surrogate values on a per piece basis. *See* Petitioner November 15, 2010, brief at page 16. Moreover, Petitioner asserts the Department should adjust its brokerage and handling calculation to account for the smaller container sizes that Since Hardware and Foshan Shunde utilized. *Id.* at 18.

In rebuttal, Since Hardware asserts the "shipped weight" of the merchandise encompasses both the weight of the container and the weight of the merchandise. Since Hardware asserts that while the Department should use the full shipped weight encompassed by both the container and the weight of the merchandise to calculate brokerage and handling expenses, Petitioner has pointed to nothing either to suggest the exact shipped weight of the merchandise or the Department's calculations are incorrect.

Department's Position:

Consistent with the position that we have taken in *Wooden Bedroom Furniture From the People's Republic of China: Final Results of Antidumping Duty Administrative Review* 76 FR 9747 (February 22, 2011) and accompanying Issues and Decision memorandum at Comment 3 (*Bedroom Furniture*), in valuing brokerage and handling costs, we have continued to use the World's Bank *Doing Business 2010: India* to value brokerage and handling costs. Moreover, because *Doing Business 2010: India* indicate the brokerage and handling charges in the report do not include costs related to ocean transportation, we disagree with Foshan Shunde's assertion that the Department has overstated the surrogate value for brokerage and handling charges incurred by Foshan Shunde. *See Doing Business 2010: India* at 84.

In valuing factors of production (FOPs), section 773(c)(1) of the Act instructs the Department to use "the best available information" from the appropriate market economy (ME) country. The Department's surrogate value (SV) information is normally based on the use of publicly available information, and the Department considers several factors, including the quality, specificity, and contemporaneity when choosing the most appropriate data. *See, e.g., 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,* 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum at Comment 3.

Additionally, as noted in *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1, the Department's practice is to consider FOPs on case-by case basis wherein the Department makes a product and case specific decision as to what constitutes the "best" available surrogate value for each input.

We continue to find that *Doing Business 2010: India*, published by the World Bank, is the best available source for valuing Foshan Shunde's brokerage and handling expenses. As we noted in *Certain Polyester Staple Fiber From the People's Republic of China: Final Results and Partial Rescission of the Antidumping Duty Review*, 76 FR 2886 (January 18, 2011) and accompanying Issues and Decision Memorandum at Comment 2, (*Staple Fiber*) the data from the World Bank are publicly available, specific to the costs in question, represents a broad market average, and are contemporaneous to the POR. *See Stable Fiber* at Comment 2.

Moreover, in comparison to the data provided by Foshan Shunde, the *Doing Business 2010: India* data are more specific in identifying types of brokerage and handling costs, providing specific cost breakdowns for document preparation, customs clearance, and port and terminal handling charges. *Id*. Based on the foregoing, we determine that the World Bank study constitutes a more broad based survey of costs in the Indian market and thus a more credible and representative source than the data provided by Foshan Shunde that are limited to select Indian companies and ports. Also, as noted in *Stable Fiber*, the cost data set forth in the World Bank is official in nature, and represents a statistical analysis from an international organization. *Id*.

Finally, we agree with Petitioner that we should apply brokerage and handling charges on a per piece size and according to the weight and container sizes reported by Foshan Shunde and Since Hardware. We have adjusted our final calculations accordingly, and have based our calculation of brokerage and handling expenses upon the respective container sizes reported by Foshan Shunde and Since Hardware. *See* March 14, 2010 Foshan Shunde Final analysis Memorandum at page 2; *see also* March 14, 2010 Since Hardware Final analysis Memorandum at page 2.

**Comment 4: Zeroing**

Foshan Shunde contends that the Department should not apply its standard practice of zeroing in this review. Foshan Shunde asserts that the Department's zeroing practice is contrary to U.S. obligations under General Agreement on Trade and Tariffs (GATT) 1994 and the World Trade Organization (WTO) Agreement. Foshan Shunde notes that on April 18, 2006, the WTO Appellate Body determined that the Department's standard margin calculation methodology violated US trade obligations under the Anti-Dumping Agreement and GATT 1994. Foshan Shunde further asserts that the WTO has determined in all subsequent determinations that the Department's practice of zeroing in administrative reviews is contrary to U.S. trade obligations.

Petitioner argues that the Department has resolved the zeroing issue and that the Department correctly applied its zeroing methodology in this case.

Department's Position:

Section 771(35)(A) of the Act defines "dumping margin" as the "amount by which the normal value (NV) exceeds the export price or constructed export price of the subject merchandise." Outside the context of AD investigations involving average-to-average comparisons, the Department interprets this statutory definition to mean that a dumping margin exists only when NV is greater than export price (EP) or constructed export price (CEP). As no dumping margins exist with respect to sales where NV is equal to or less than EP or CEP, the Department will not permit these non-dumped sales to offset the amount of dumping found with respect to other sales. The Federal Circuit has held that this is a reasonable interpretation of the statute. *See, e.g., Timken Co. v U.S.*, 354 F. 3d 1334, 1342 (Fed. Cir. 2004) (*Timken*); *Corus Staal BV v Department of Commerce*, 395 F. 3d 1343, 1347-49 (Fed. Cir. 2005), cert denied 126 S. Ct. 1023, 163 L. Ed. 2d 853 (Jan 9, 2006) (*Corus I*).

Section 771(35)(B) of the Act defines weighted-average dumping margin as "the percentage determined by dividing the aggregate dumping margins determined for a specific exporter or producer by the aggregate export prices and constructed export prices of such exporter or producer." The Department applies these sections by aggregating all individual dumping margins, each of which is determined by which NV exceeds EP or CEP, and dividing this amount by the value of all sales.

The use of the term aggregate dumping margins in section 771(35)(B) of the Act is consistent with the Department's interpretation of the singular dumping margin in section 771(35)(A) of the Act as applied on a comparison-specific level and not on an aggregate basis. At no stage of the process is the amount by which EP or CEP exceeds the NV permitted to offset or cancel out the dumping margin found on other sales.

This does not mean that non-dumped sales are disregarded in calculating the weighted-average dumping margin. It is important to note that the weighted average margin will reflect any non-dumped merchandise examined during the POR: the value of such sales is included in the denominator of the weighted-average dumping margin, while no dumping amount for non-dumped merchandise is included in the numerator. Thus, a greater amount of non-dumped merchandise results in a lower weighted average margin.

The Federal Circuit explained in *Timken* that denial of offsets is a "reasonable statutory interpretation given that it legitimately combats the problem of masked dumping, wherein certain profitable sales serve to mask sales at less than fair value. *See Timken*, 354 F. 3d at 1343. As reflected in that opinion, the issue of so-called masked dumping was part of the policy reason for interpreting the statute in the manner interpreted by the Department. No U.S. court has required the Department to demonstrate "masked dumping" before it is entitled to invoke this interpretation of the statute and deny offsets to dumped sales." *See, e.g., Timken*, 354 F. 3d at 1343; *Corus I*, 395 F. 3d 1343; *Corus Staal BV v. U.S.* 502 F. 3d 1370, 1375 (Fed. Cir. 2007) (*Corus II*); and *NSK Ltd. v. U.S.* 510 3d 1375 (Fed. Cir. 2007) (*NSK*). Notwithstanding one

NAFTA Panel's decision in *Stainless Sheet Strip and Coils from Mexico*, as discussed above, U.S. courts have affirmed the Department's decision to not offset dumped merchandise. *See id*.

Foshan Shunde has cited WTO dispute-settlement reports (WTO reports) finding the denial of offsets by the United States to be inconsistent with the AD Agreement. As an initial matter, the Federal Circuit has held that WTO reports are without effect under U.S. law "unless and until such a {report} has been adopted pursuant to the specified statutory scheme" established in the Uruguay Round Agreement (URAA). See *Corus I*, 395 F. 3d at 1347-49; accord *Corus II* 502 F. 3d at 1375; *NSK* 510 F. 3d 1375. Congress has adopted an explicit statutory scheme in the URAA for addressing the implementation of WTO reports. *See* 19 U.S.C. 3538. As is clear from the discretionary nature of this scheme, Congress did not intend for WTO reports to automatically trump the exercise of the Department's discretion in applying the statute. *See* 19 U.S.C. 3538(b)(4) (implementation of WTO reports is discretionary). Moreover, as part of the URAA process, Congress has provided a procedure through which the Department may change a regulation or practice in response to WTO reports. *See* 19 U.S.C. 3533(g); *see, e.g.*, *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006) (*Zeroing Notice*). With regard to the denial of offsets in administrative reviews, the United States has not employed this statutory procedure.

With respect to United States-Laws, Regulations and Methodology for Calculating Dumping Margins (Zeroing), WT/DS294/AB/R (April 18, 2006), the Department has modified its calculation of weighted average dumping margins when using average-to-average comparisons in antidumping investigations. *See Zeroing Notice*. In doing so, the Department declined to adopt any other modifications concerning any other methodology or type of proceeding, such as administrative reviews. *See id.*, 71 FR at 77724.[2]

With respect to United States-Measures Relating to Zeroing and Sunset Reviews, WT/DS322/AB/R (Jan. 9 2007), and United States-Continued Existence and Application of Zeroing Methodology, WT/DS350/AB/R (Feb. 9, 2009), the steps taken in response to these reports do not require a change to the Department's approach of calculating weighted dumping margins in the instant review. For all these reasons, the various WTO Appellate Body reports regarding zeroing do not establish whether the Department's denial of offsets in this administrative review is consistent with U.S. law. Accordingly, and consistent with the Department's interpretation of the Act described above, in the event that any of the export transactions examined in this review are found to exceed NV, the amount by which the price exceeds NV will not offset the dumping margin found in respect of other transactions.

[2] On December 28, 2010, the Department announced a proposed change to its practice. *See* Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings 75 FR 81533 (December 28, 2010).

**Comment 5: Whether Certain Expenses are Appropriately Classified as Packaging or Material Costs**

Petitioner asserts that the Department should treat various production inputs reported by Foshan Shunde and Since Hardware as regular materials or regular labor costs rather than as packing costs. Petitioner contends that Foshan Shunde's reported "corrugated paper," "desiccant," "adhesive tape," "polystyrene sheet," adhesivelabel1," "label," adhesivelabel2," paper and carton expenses relate to packaging materials rather than to packing materials *See* Petitioner November 15, 2010, brief at 10-11. Petitioner also argues that Since Hardware's reported "cartons," "corrugated paper for iron rest," "separating corrugated paper," "corrugated paper for rack," "PE sheet," "plastic strip," "adhesive tape," "marking label," "manual label," "instruction book," "polystyrene foam," and "desiccant" inputs are properly classified as packaging materials rather than as packing materials. *Id* at 14.

Petitioner cite to the Antidumping Manual which notes that packing materials refer only to charges related to the shipping of the merchandise whereas packaging materials are "integral parts of the merchandise that is sold." *See Import Administration Antidumping Manual*, Chapter 9 at 21. Petitioner cites to *Shanghai Eswell Enter, Co., v United States*, 31 CIT 1570, (2007) (*Shanghai Eswell*) wherein the Court distinguished between packaging inputs and production inputs.

Foshan Shunde asserts that *Shanghai Eswell* is inapposite here because *Shanghai Eswell* is a food case (the packaging at issue in *Shanghai Eswell* consisted of jars and corks for bottling honey). Foshan Shunde asserts that each of its production materials in question is not integral to the product in question as it is the case of honey in jars. Rather, Foshan Shunde asserts that the customer discards each of these materials after shipment of the merchandise. Since Hardware asserts that none of the inputs in question heighten the appeal of the product to the public nor are they integral parts of the merchandise sold. As such, Since Hardware contends that these materials are properly classified as packing inputs.

Department's Position:

We agree with Foshan Shunde and Since Hardware. The materials in question protect the merchandise during shipping and are discarded by the customer upon receipt of the merchandise. *See e.g.*, the description of the packing process set forth at Appendix D-2 of Since Hardware's December 1, 2010 Section D response which describes the use of adhesive tape labels and corrugated paper. Moreover, none of the materials in question heighten the appeal of the product nor are they integral parts of the merchandise sold. Accordingly, in these *Final Results*, we have continued to treat all of the materials in question as packing materials.

**Comment 6: Surrogate Value of Cotton**

Petitioner asserts that the *AR 5 Preliminary Results* understate the surrogate value of cotton. Petitioner notes that the Department derived surrogate cotton values from Indian HTS

classifications 5208.32, 5208.52.90, and 5210.51. Petitioner argues that the cotton within these HTS classifications weighs between 100 and 200 grams per square meter. Petitioner further asserts that from this information it follows that the per-kilogram surrogate value of cotton weighing 100 grams would be 10 times the surrogate value of the square meter value while the per-kilogram surrogate value of cotton weighing 200 grams would be 5 times the surrogate value of the square meter value. *See* Petitioner's November 15, 2010, rebuttal brief at page 20. Based upon the foregoing, Petitioner asserts that the conversion factor of 5 utilized by the Department in its *Preliminary Results* understates the surrogate value of cotton. Petitioner concludes that because both Since Hardware and Foshan Shunde failed to provide the actual weight of the cotton used in the production of subject merchandise, the Department should use a conversion factor of 10 to value the surrogate value of cotton inputs.

Foshan Shunde asserts that there is no basis for the Department to derive an adverse inference concerning its cotton inputs. Foshan Shunde insists that it reported cotton inputs consistently on a per kilogram basis, and that the first time that the Petitioner raised any concern regarding the conversion factors to be used was in Petitioner's August 24, 2010, surrogate value submission. Foshan Shunde suggests that because of the "lateness" of Petitioner's allegation, the Department should reject Petitioner's claim in its entirety concerning cotton surrogate values and continue to use a conversion factor of 5. *See* Foshan Shunde Rebuttal brief at page 10. Foshan Shunde asserts that if the Department does determine to apply a facts available inference in this case, it should use a factor of 7.5 which would represent the average range of cotton conversion between ranges of 100 to 200 grams per square meter. Since Hardware maintains that the Department correctly used a surrogate value of 5 to value its cotton inputs. Since Hardware asserts that at Appendix D-6 of its December 1, 2009, respondent reported that it used cotton fabric weighing 200 grams per square meter. *See* Since Hardware November 22, 2009, rebuttal brief at page 41.

Department's Position:

We agree with Petitioner that the conversion factor utilized for Foshan Shunde was understated. As Petitioner has noted, Foshan Shunde utilized cotton between 100 and 200 grams per square meter in its production process, and Foshan Shunde did not differentiate the specific gram size of the cotton utilized in its production process. *See* Foshan Shunde April 9, 2010, Supplemental Questionnaire Response at Exhibit 1. Accordingly, because Foshan Shunde's accounting system does not allow the company to determine the specific gram size of the cotton, we have used a conversion factor of 7.5 to Foshan Shunde's production inputs. This conversion factor represents the average conversion factor between the range of 100 grams per square meter and 200 grams per square meter. By limiting the conversion factor to 5, the Department would use a factor which would understate Foshan Shunde's claimed usage. We disagree with Petitioner that a conversion factor of 10 should be used because use of such a factor would overstate the surrogate value of Foshan Shunde's cotton inputs.

Regarding Since Hardware's utilization of cotton inputs, we disagree with Petitioner. Since Hardware reported that it utilized cotton fabric weighing 200 grams per square meter in its

production process. Accordingly, in these Final Results, we have continued to use a conversion factor of 5 to value Since Hardware's cotton inputs.

**Comment 7: Surrogate Value of Water**

Petitioner asserts that both Foshan Shunde and Since Hardware reported water usage on a metric ton basis. As such Petitioner claims that the conversion factor of 1000 applied by the Department was erroneous. Neither Since Hardware nor Foshan Shunde commented on this issue.

Department's Position:

We agree with Petitioner. Because both Since Hardware and Foshan Shunde reported water usage on a metric ton basis, we have removed the kilogram conversion factor from our analysis.

**Comment 8: Whether Foshan Shunde's Yield Losses are Reasonable and Necessitate Use of Facts Available; Whether Discrepancies in Since Hardware's Calculation of Yield Losses Necessitate Use of Adverse Facts Available**

Petitioner insists that Foshan Shunde's claimed uniform yields for all production inputs are not credible. Petitioner argues that in the absence of reliable yield information from Foshan Shunde, the Department should resort to facts available. Petitioner asserts that Foshan Shunde's accounting system assumes a common yield for each raw material input. However, Petitioner claims that Foshan Shunde has made no attempt to determine whether that assumption is based upon reality.

Petitioner further asserts that the production notes which incorporate Foshan Shunde's uniform yields are unverified. As such, Petitioner maintains that there is no evidence to suggest that Foshan Shunde has consistently applied uniform yields throughout for the steel used in production of the subject merchandise. Petitioner suggests that at verification, the Department determined that Foshan Shunde's production notes are templates and that the production examples which the Department examined during verification occurred long after the close of the POR. Moreover, for the production notes that the Department obtained at verification relating to 10 models, Petitioner asserts that there are variances between the yields claimed by Foshan Shunde and the actual yield loss shown on the production note. *See* Petitioner November 15, 2009, brief at pages 36-37. Petitioner argues that Foshan Shunde has been afforded ample opportunities to correct errors in its yield losses. Petitioner contends that Foshan Shunde has only corrected errors after Petitioner has identified problems with Foshan Shunde's factors of production calculation. Petitioner concludes that Foshan Shunde has failed to act to the best of its ability and asserts that the Department should proceed with facts available.

Petitioner also asserts that Since Hardware's claimed yield losses are not useable. Petitioner argues that in the absence of reliable yield losses the Department cannot calculate normal value and is obliged to base its margin calculations on adverse facts available. Petitioner notes that

Since Hardware claimed an identical yield loss for all of the products that it produced during the POR. Petitioner asserts that the manufacture of "complex" products such as ironing tables would involve larger yield losses than would the "simpler" products that Since Hardware manufacturers such as ladders. *See* Petitioner November 15, 2009, brief at page 15. Moreover, Petitioner asserts that Since Hardware's claimed yield losses have varied by POR. Petitioner asserts that such variance in yields supports the view that the "production of different products and models would experience different yields." *Id*.

Petitioner notes that in a May 5, 2010, supplemental questionnaire, the Department asked Since Hardware to 1) allocate the raw materials for each month of the POR over the monthly production of each product, and 2) determine average consumption over the POR based upon the monthly allocation of raw materials over monthly production. Petitioner asserts that Since Hardware failed to comply with this request. Instead, Petitioner argues that Since Hardware "reported the monthly consumption of each raw material and the total weight of each material in monthly production." *Id* at 24. Petitioner notes that such an approach results in the same yields that were originally reported by Since Hardware and asserts that Since Hardware has "thwarted" the Department's ability to determine whether Since Hardware's allocation is reasonable. *Id.* at 25.

Petitioner insists that the data underlying Since Hardware's factor calculations are unreliable. Petitioner asserts that this unreliability is evinced by differences between the constant yields for steel wire rod reported by Since Hardware and the "actual" yields for steel wire rod that were reported by Since Hardware in its June 2, 2010 submission. Petitioner contends that such difficulties extend to other production inputs as well including stainless steel, PP&F resin, PU foam, cotton fabric, and cotton fixing strip. Petitioner further claims that these discrepancies were not remedied by Since Hardware prior to verification nor were they addressed by the Department subsequent to the verification of Since Hardware.

Petitioner asserts that Since Hardware's October 21, 2010, submission fails to remedy the discrepancies in yields that Petitioner identified. Petitioner points out that Since Hardware's monthly production data are from the same source as the annual data that Since provided. Moreover, Petitioner asserts that Since Hardware has provided no demonstration as to how its monthly yield calculation relate to the annual yields maintained in Since Hardware's accounting system. *Id.* at 27-28. Petitioner further asserts that Since Hardware has failed to explain how its inventory withdrawals relate to its consumption from inventory. Petitioner suggests that the variance between Since Hardware's annual and monthly data evinces that Since Hardware maintains two separate sets of records. Petitioner contends that neither Since Hardware's monthly nor its annual production amounts can serve as the basis for determining Since Hardware's factors of production.

Petitioner concludes that Since Hardware failure to adequately report its yield losses constitutes failure to cooperate to the best of its ability. Petitioner asserts that the Department should thus base its calculations of Since Hardware on adverse facts available.

Foshan Shunde contends that by taking statements out of context, Petitioner has conflated yield looses associated with two different types of steel: white-annealed and black-annealed. With regard to black annealed steel, Foshan Shunde argues that the issue raised by Petitioner is small and does not impact the overall yield ratio for black annealed steel that was calculated by Foshan Shunde. *See* Foshan Shunde November 22, 2010, rebuttal brief at exhibit 3. Moreover, Foshan Shunde asserts that the yield losses that it reported are based on the "long-term production experience of the company." *See* Foshan Shunde November 22, 2010, rebuttal brief at page 12. Foshan Shunde claims that both its black annealed and white annealed yield losses are maintained in the normal course of business, and reflect Foshan Shunde's production experience with different types of steel. Foshan Shunde further asserts that in the instant administrative review, the Department verified Foshan Shunde's reported steel usage. Foshan Shunde insists that there are no errors in its factors of production database and no basis for the Department to apply adverse facts available.

Regarding production notes, Foshan Shunde notes that the Department instructed Foshan Shunde to use such information in compiling its factors of production response. Foshan Shunde states that the only difference between the production notes examined by the Department and the original production notes associated with POR production related to the production quantity. Foshan Shunde further asserts that it is the Department's standard practice pursuant to section 773(f)(1)(A) of the Act to rely on the production records of the exporter or producer of the merchandise provided those records are kept in accordance with generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise. Foshan Shunde notes that based upon these principles the Department determined in *Activated Carbon* to reject Petitioner's argument to disregard respondent's yield information and apply adverse facts available. *See Activated Carbon* and Accompanying Issues and Decision Memorandum at Comment 17c. Similarly, Foshan Shunde further notes that in *Polyethylene Bags from China : Notice of Final Determination of Sales at Less Than Fair Value* 69 FR 34125 (June 18, 2004), and accompanying Issues and Decision Memorandum at Comment 23 (*Polyethylene Bags*), the Department "accepted a respondent's method of allocating resin consumption, finding that, while the allocation method was not product specific as normally preferred by the Department, the allocation was reasonable given the records maintained by the respondent in the normal course of business." *See* Foshan Shunde November 22, 2010, rebuttal brief at page 12. Foshan Shunde notes the Department's determination was affirmed by both the US Court of International Trade and the U.S. Federal Circuit. *See Polyethylene Retail Carrier Bag Committee v. United States* 29 CIT 1418, 1428-29 (2005), *aff'd Polyethylene Retail Carrier Bag Committee v. United States,* Appeal No., 2006-1601 (Fed Cir. May 4, 2007).

Since Hardware contends that differences in yield losses do not impact the credibility of its factors of production database. Since Hardware asserts that it is "not as advanced as HPI and other manufacturers" but instead "relies on much more manual labor, including in its methods of accounting for factors of production." *See* Since Hardware November 22, 2009, rebuttal brief at page 6. Since Hardware contends that the Department verified the factors of production data that it submitted. Since Hardware also asserts that because of the "continuous production process

that it utilized, it relied upon estimates which were themselves based upon physical counts of 'raw materials' that were in various stages of the production process." *Id.* at 8.

Since Hardware claims that it used the same methodology to determine consumption over monthly production as it used to compile its Section D factors of production response, and that the Department successfully verified those data. Since Hardware asserts that because it utilized the same methodology in both exercises it generated the same monthly yield. *Id.* at 11. Since Hardware further insists that it maintains only one set of accounting records. Since Hardware asserts that it withdrew all of its reported yield and factors of production information from the same accounting system using the best methods that were available to the company. *Id.* at 13. In general, Since Hardware argues that it derived its June 2, 2011 submission from the same set of accounting records. *Id.* at 14. Further, Since Hardware asserts that on a monthly basis such a methodology is susceptible to possible under or over counting as it relies upon physical measurements of its inventory. Since Hardware asserts, however, that over a 12 month period, its calculations will result in more accurate measurements than monthly data which tend to fluctuate. *Id.* at 15.

Since Hardware asserts that it has timely responded to each of the Department's requests for information, and has cooperated to the best of its ability. Since Hardware concludes that the annual production data that it used to compile its Section D response are accurate and that there is thus no basis for the Department to proceed with appraisements based upon AFA.

Department's Position:

We disagree with Petitioner. Throughout this review both Foshan Shunde and Since Hardware have maintained that they are unable to track production on a model-specific basis and that their accounting systems necessitate the reporting of FOPs on a more generalized basis. In this review both Foshan Shunde and Since Hardware reported material cost and yield losses on a company-wide basis. In this review, we conducted verifications of both Foshan Shunde's and Since Hardware's FOP and sales response. *See* August 17, 2010, Verification of the Sales and Factors response of Foshan Shunde Yongjian Housewares and Hardware Co., Ltd. in the Antidumping Review of Floor Standing Metal Top Ironing Tables (Ironing Tables) and Certain Parts Thereof from the People's Republic of China (PRC) (Foshan Shunde Verification Report); *see also* August 16, 2010 Verification of the Sales and Factors Response of Since Hardware (Guangzhou) Co., Ltd. in the Antidumping Review of Floor Standing Metal Top Ironing Tables (Ironing Tables) and Certain Parts Thereof from the People's Republic of China (PRC) (Since Hardware Verification Report). From our verification of the FOP responses of both Foshan Shunde and Since Hardware, we find no evidence to suggest that either Foshan Shunde or Since Hardware failed to act to the best of their ability in providing information to calculate a dumping margin.

In determining production costs and evaluating the accuracy of yield information, the Department's practice is to rely on the records of the exporter or producer of the merchandise as long as such records are kept in accordance with generally accepted accounting principles and reasonably reflect the costs associated with the production and sale of the merchandise. *See, e.g.*,

*Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Final Results and Rescission of Anti-dumping Duty Administrative Review in Part*, 72 FR 4886 (January 21, 2007), and accompanying Issues and Decision Memorandum at Comment 8. Both Foshan Shunde and Since Hardware reported yield losses based upon the long-term experiences of the company. *See* Foshan Shunde Verification Report at 27 and Since Hardware verification report at 23. During verification of both of these two companies, we examined the material purchases incurred by both Foshan Shunde and Since Hardware during the POR. The record evidence in this review indicates that both Foshan Shunde and Since Hardware reported material costs and yield losses in a manner that was consistent with their accounting records. During our verification of Foshan Shunde, we examined the Production Notes kept by Foshan Shunde. We determined that those notes (along with the underlying estimate of yield loss) had been maintained by Foshan Shunde consistent with Foshan Shunde's accounting records. *See* Foshan Shunde Verification report at 26-27. Moreover, while Petitioner has identified several inputs in which Foshan Shunde incorrectly entered yield losses into its production notes we find no evidence to suggest that these errors were pervasive or impacted the accuracy of Foshan Shunde's overall calculation of material cost or yield loss.

With regards to the material costs and yield losses reported by Since Hardware, we disagree with Petitioners assertion that Since Hardware's June 2, 2011, submission undercuts the validity of its FOP information. The monthly summary of material withdrawals set forth in Since Hardware June 2, 2010, submission is based upon a manual count of inventory and production on hand. While these monthly counts are subject to estimates and possible future revisions, we found nothing at verification to suggest that Since Hardware maintained two sets of accounting ledgers or withheld information that would have permitted a more accurate reporting of material cost and yield losses. Moreover, at verification, we were able to trace Since Hardware's usage of numerous material inputs through to Since Hardware's material summary ledgers, accounts payable ledgers, and withdrawals from inventory. *See* Since Hardware verification report at 21-23.

While we will accept the respondents reporting of their FOP data in accordance with their normal books and records for the current reviews, we put both respondents on notice that the Department may expect and request technical engineering information or more precise reporting of production activity in reporting product-specific FOP data to the Department for future reviews.

**Comment 9: Foshan Shunde Packing Calculation**

Petitioner asserts that the Department omitted the variable for cartons in its calculation of packing expense. Foshan Shunde did comment on this issue.

Department's Position:

We agree with Petitioner. In these Final Results, we have included cartons in our calculation of packing expense.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the positions set forth above and adjusting the related margin calculations accordingly. If these recommendations are accepted, we will publish the final results and the final weighted-average dumping margins for Foshan Shunde and Since Hardware in the *Federal Register*.

Agree_____ Disagree_____

_____
Kim Glas
Acting Deputy Assistant Secretary
for Import Administration

_____
Date