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DATE: January 15, 2008

MEMORANDUM TO: David M. Spooner  
Assistant Secretary  
for Import Administration

FROM: Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

RE: Issues and Decision Memorandum for the Final Results of Certain  
Helical Spring Lock Washers from the People's Republic of China

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### **Summary**

On September 12, 2007, the Department of Commerce (“the Department”) published *Certain Helical Spring Lock Washers From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 52073 (“*Preliminary Results*”). The period of review (“POR”) is October 1, 2005, through September 30, 2006. The respondent in this case is Hangzhou Spring Washer Co., Ltd. (also known as Zhejiang Wanxin Group, Ltd.) (“HSW”).

We gave interested parties an opportunity to comment on the *Preliminary Results*. We have analyzed the case and rebuttal briefs of interested parties and made certain changes to our margin calculation.<sup>1</sup> We recommend that you approve the positions described in the “Discussion of the issues” section of this memorandum.

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<sup>1</sup> On October 16, 2007, HSW filed its case brief. Shakeproof submitted the final proprietary version of its brief on October 17, 2007. HSW submitted the final proprietary version of its rebuttal brief on October 23, 2007. Shakeproof did not submit a rebuttal brief.

### **List of Comments**

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### Cases and Litigation Cites:

1. *Amended Final Results of Antidumping Duty Administrative Review and New Shipper Reviews: Wooden Bedroom Furniture From the People's Republic of China*, 72 FR 46957 (August 22, 2007) (“*WBF Amended Final*”), and accompanying issues and decision memorandum at comment 25.
2. *Amended Final Results of the First Antidumping Duty Administrative Review: Folding Metal Tables and Chairs From the People's Republic of China*, 70 FR 3187 (January 21, 2005) (“*FMTCS Amended Final*”).
3. *Antidumping Duties; Countervailing Duties; Proposed Rule*, 61 FR 7308 (February 27, 1996) (“*AD CVD Proposed Rulemaking*”).
4. *Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 26589 (May 10, 2007) (“*CVP-23 AR1 Final*”), and accompanying issues and decision memorandum at comment 2.
5. *Certain Corrosion-Resistant Carbon Steel Flat Products and Cut- to-Length Carbon Steel Plate Products from Germany: Final Results of Countervailing Duty Changed Circumstances Reviews and Revocation of the Orders, in Whole*, 69 FR 17131 (April 1, 2004) (“*Germany CVD Revocation*”).
6. *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53387, 53399 (September 11, 2006) (“*Frozen Fish Preliminary Results*”).
7. *Certain Frozen Warmwater Shrimp From the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 52049 (September 12, 2007) (“*Shrimp 04-06 Final*”), and accompanying issues and decision memorandum at comment 2.
8. *Certain Helical Spring Lock Washers From The People's Republic of China; Final Results of Antidumping Administrative Review*, 61 FR 41994 (August 13, 1996) (“*HSLWs 93-94 Final*”), at comment 2.
9. *Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order, in Part*, 67 FR 69717 (November 19, 2002) (“*HSLWs 00-01 Final*”), and accompanying issues and decision memorandum at comment 6.

10. *Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order, in Part*, 69 FR 12119 (March 14, 2004) (“*HSLWs 01-02 Final*”), and accompanying issues and decision memorandum at comment 5.
11. *Certain Helical Spring Lock Washers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 28274 (May 17, 2005) (“*HSLWs 02-03 Final*”), and accompanying issues and decision memorandum at comments 2 and 10.
12. *Chrome-Plated Lug Nuts From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 61 FR 58514, 58518 (November 15, 1996) (“*Lug Nuts Final*”).
13. *Continuation of Antidumping Duty Orders on Certain Stainless Steel Plate in Coils From Belgium, Italy, South Korea, South Africa, and Taiwan, and the Countervailing Duty Orders on Certain Stainless Steel Plate in Coils From Belgium, Italy, and South Africa*, 70 FR 41,202 (July 18, 2005) (“*Multiple CVD Continuation of Steel Plate*”).
14. *Continuation of Countervailing Duty Order; Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil*, 70 FR 30417 (May 26, 2005) (“*CVD Hot-Rolled Brazil*”).
15. *Dorbest, Ltd. v. Unites States*, 462 F.Supp. 2d 1262, 1277 (Ct. Int'l Trade 2006) (“*Dorbest*”).
16. *F.lli de Cecco Di Filippo Fara S. Martino S.p.A. v. United States*, 216 F.3d 1027, 1032 (Fed. Cir. 2000) (“*de Cecco*”).
17. *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002) (“*Garlic 2000-2001 Final*”), and accompanying issues and decision memorandum at comment 5.
18. *Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Final Results of New Shipper Review and Final Rescission of Review*, 66 FR 64948 (December 17, 2001) (“*Freshwater Crawfish Final*”), and accompanying issues and decision memorandum at comments 1 and 2.
19. *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007) (“*Activated Carbon Final*”), and accompanying issues and decision memorandum at comment 18.

20. *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002), and accompanying issues and decision memorandum at comments 1-5 (“*ARG Final Determination*”).
21. *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China*, 62 FR 61964 (November 20, 1997) (“*Cut-to-Length Carbon Final*”), and accompanying issues and decision memorandum at comments 9, 16 and 29.
22. *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China* (“*Coated Free Sheet Final*”), 72 FR 60632 (October 25, 2007), and accompanying issues and decision memorandum at comment 17.
23. *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 72 FR 13239 (March 21, 2007) (“*Ironing Tables Final*”), and accompanying issues and decision memorandum at comment 1.
24. *Fuyao Glass Industry Group Co., Ltd. v. United States*, Consol Ct. No. 02-282, Slip Op. 05-06 (Ct. Int’l Trade 2005) (“*Fuyao Glass*”).
25. *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) (“*Glycine Final*”), and accompanying issues and decision memorandum at comment 3.
26. *Honey from the People's Republic of China: Rescission and Final Results of Antidumping Duty New Shipper Reviews*, 71 FR 58579 (Oct. 4, 2006) (“*Honey NSR Final*”), and accompanying issues and decision memorandum at comment 2.
27. *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373 (Fed. Circ.1999) (“*Nation Ford*”).
28. *Notice of Countervailing Duty Orders: Carbon and Certain Alloy Steel Wire Rod From Brazil and Canada*, 67 FR 64871 (October 22, 2002) (“*CVD Alloy Steel Brazil*”).
29. *Notice of Countervailing Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From South Africa* , 66 FR 60201 (December 3, 2001) (“*CVD Hot-Rolled South Africa*”).
30. *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) (“*Lined Paper Products*”), and accompanying issues and decision memorandum at comment 3
31. *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) (“*Color TV Final*”), and accompanying issues and decision memorandum at comment 14 and 20.
  32. *Notice of Final Determination of Sales at Less Than Fair Value: Barium Carbonate from China*, 68 FR 46577 (August 6, 2003) (“*Barium Carbonate Final*”) accompanying issues and decision memorandum at comment 6.
  33. *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People's Republic of China*, 69 FR 70997 (December 8, 2004) (“*Shrimp Investigation Final*”), and accompanying issues and decision memorandum at comment 9F.
  34. *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255 (December 31, 1998) (“*Mushrooms Final*”).
  35. *Notice of Final Determination of Sales at Less than Fair Value: Certain Small Diameter Seamless Standard, Line and Pressure Pipe from Romania*, 65 FR 39125 (June 23, 2000) (“*Seamless Pipe from Romania*”), and accompanying issues and decision memorandum at comment 1
  36. *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005) (“*Isos Final*”), and accompanying issues and decision memorandum at comment 7.
  37. *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 22183 (May 3, 2001) (“*Hot-Rolled Prelim*”).
  38. *Notice of Final Determination of Sales at Less Than Fair Value; Honey From the People's Republic of China*, 66 FR 50608 (October 4, 2001) (“*Honey Final*”), and accompanying issues and decision memorandum at comment 3.
  39. *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from the People's Republic of China*, 69 FR 34125 (June 18, 2004) (“*Polyethylene Retail Carrier Bags*”), and accompanying issues and decision memorandum at comment 9.

40. *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 47538 (August 11, 2003) (“*Polyvinyl Alcohol Final*”), and accompanying issues and decision memorandum at comment 1.
41. *Notice of Final Determinations of Sales at Less Than Fair Value: Pure Magnesium and Alloy Magnesium From the Russian Federation*, 60 FR 16440, 16446-7 (Mar. 30, 1995) (“*Pure Magnesium and Alloy Magnesium Final*”).
42. *Notice of Final Determination of Sales at Less Than Fair Value: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China*, 68 FR 55589 (September 26, 2003) (“*Brown Oxide Final*”), and accompanying issues and decision memorandum at comment 3.
43. *Notice of Final Results of the Tenth Administrative Review and New Shipper Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 70 FR 12443 (Mar. 14, 2005) (“*Carbon Steel Flat Products from Korea*”), and accompanying Issues and Decision Memorandum at Dongbu Comment 5.
44. *Omnibus Trade and Competitiveness Act of 1988 (“OCTA”)*, Conference Report to Accompany H.R. 3, H. Report No. 100-578, 590-91, 1988 U.S. Code and Adm. N. 1547, 1623 (1988) (“H.R. Rep. 100-578 (1988)”).
45. *Persulfates from the People's Republic of China: Final Results of Antidumping Administrative Review*, 64 FR 69494, 69497 (December 13, 1999) (“*Persulfates '96-'98*”).
46. *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 68 FR 6712 (February 10, 2003) (“*Persulfates Final*”), and accompanying issues and decision memorandum at comment 9.
47. *Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 54021, 54028 (September 13, 2006) (“*Polyethylene Retail Carrier Bags Prelim*”).
48. *Polyvinyl Alcohol From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 27991 (May 15, 2006) (“*Polyvinyl 03-04 Final*”).
49. *Sebacic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review* 64 FR 69503, 69504 (December 13, 1999) (“*Sebacic Acid Final*”).

50. *Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement of the Antidumping Duty Order*, 70 FR 16218 (March 30, 2005) (“*Sebacic Acid Changed Circumstances Review*”), and accompanying issues and decision memorandum at comment 6.
51. *Shandong Huarong Machinery Co., Ltd. v. United States*, 435 F. Supp.2d 1261, 1274-75 (Ct. Int'l Trade 2006) (“*Huarong Machinery*”).
52. *Sigma Corp. v. United States*, 86 F. Supp. 2d 1344 (Ct. Int'l Trade 2000) (“*Sigma*”).
53. *Silicon Metal from the People's Republic of China: Notice of Final Results of 2005/2006 New Shipper Reviews*, 72 FR 58641 (Oct. 16, 2007) (“*Silicon Metal NSR Final*”), and accompanying issues and decision memorandum at comment 7.
54. *Ta Chen Stainless Steel Pipe, Inc. v. United States*, 298 F.3d 1330, 1338-39 (Fed. Cir. 2002) (“*Ta Chen*”).
55. *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2004-2005 Administrative Review and Partial Rescission of Review*, 71 FR 75936 (December 19, 2006) (“*Bearings 2004-2005 Final*”), and accompanying issues and decision memorandum at comment 2.

## Discussion of the Issues

### Comment 1: Appropriate Adverse Facts Available

Shakeproof claims that, at verification, the Department found numerous serious deficiencies in HSW's reporting of packing expense. Shakeproof claims that HSW had not corrected these deficiencies in its supplemental response despite having completely revised its reporting of packing expense after the Department identified significant problems in HSW's original reporting.<sup>2</sup> Shakeproof maintains the Department's verification report is replete with instances in which the verifiers found that HSW had made misstatements in questionnaire responses and to the Department's verifiers, reported material information incompletely and/or inaccurately, and in general failed to comply with the Department to the best of its ability.<sup>3</sup> Shakeproof argues that, in light of the significance and pervasiveness of these deficiencies, particularly those related to packing material usage, which resulted in a substantial under-reporting of HSW's actual packing usage rate, the measure used by the Department as partial adverse facts available ("AFA") in the preliminary results in response to HSW's failure to cooperate to the best of its ability was insufficiently adverse. Shakeproof asserts that in the final results, as AFA, the Department should increase the packing usage rate for all sales by the highest percentage difference between the reported packing configuration and the actual packing configuration for any one sale.

HSW contends that the Department should reject Shakeproof's request to apply a more adverse inference for the discrepancies in HSW's reported packing materials. Citing *de Cecco* and *Ta Chen*, HSW contends that under sections 776(a) and (b) of the Tariff Act of 1930, as amended ("the Act"), the Department has considerable discretion in deciding whether to impose facts available and, then, which facts available should be utilized. HSW asserts that the Court of International Trade noted in *Huarong Machinery* that the Department's selection of information as AFA must be factually supported, and cannot be simply the highest rate available without any explanation as to how the AFA information relates to the missing information. According to HSW, Shakeproof has failed to demonstrate that the Department did not reasonably exercise its discretion in selecting AFA.

### Department Position:

It is undisputed that the results of verification regarding packing configurations warranted the application of AFA, under sections 776(a) and (b) of the Act. However, we do not find that

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<sup>2</sup> Shakeproof cites the Department's May 18, 2007, supplemental questionnaire, question D-10; see also Hangzhou's May 25, 2007, supplemental response, at 6-7.

<sup>3</sup> Shakeproof cites Memorandum regarding Verification of the Sales and Factors Response of Hangzhou Spring Washer Co., Ltd. in the Antidumping Duty Review of Certain Helical Spring Lock Washers from the People's Republic of China (August 28, 2007) ("HSW Verification Report") at 9, 15, 20-22, 29, 31-34, and 37-38.

discrepancies in the reported packing configurations warrant, as AFA, increasing the packing usage rate for all sales by the single highest percentage difference between the reported packing configuration and the actual packing configuration found at verification. In its argument, Shakeproof lists discrepancies found at verification in addition to the packing issue. Regarding the verification findings for which we determined in the preliminary results that it was not necessary to make any adjustments, we specifically addressed why we were not making adjustments with respect to those items. *See* HSW Verification Report; *see also* Memorandum regarding Preliminary Results of the 2005-2006 Administrative Review of Certain Helical Spring Lock Washers from the People's Republic of China: Calculation of Preliminary Margin for Hangzhou Spring Washer Plant, also known as Zhejiang Wanxin Group Co., Ltd. (September 4, 2007) ("Prelim Calc Memo"). Moreover, the existence of discrepancies which we determined did not require changes for the preliminary results will not affect our assessment of the proper AFA rate regarding the packing configuration.

In the course of reviewing the packing configurations during the sales trace process at verification we reviewed 4.12 percent of total sales, of which 20 percent used a packing configuration different from the one reported. The verification report contains a chart for those sales that we verified that used different packing configurations from the reported standard configuration, and lists the percentage difference between the actual configuration and the reported packing configuration. *See* HSW Verification Report. The fact that in the verification sample 20 percent<sup>4</sup> of packing configurations were misreported was, and is, substantial enough to warrant AFA, as outlined in detail in our preliminary results. As stated there, "{b}ecause HSW failed to cooperate to the best of its ability, we find it necessary to use an AFA, in part, with regard to the packing usage rates for the sales which we did not verify." *See Preliminary Results*. In the preliminary results we took a simple average of these percentage differences and used the resultant value to inflate the packing usage rates of those sales that we did not verify. *See* Prelim Calc Memo at 4-5.

While we find that the application of the highest percent difference – as advocated by Shakeproof – is unwarranted because the preponderance of examined transactions were reported correctly, upon reconsideration, we find that we should not have included in our simple average all percent differences in packing configurations since including negative packing configuration differences (*i.e.*, where HSW over-stated the actual packing material usage) is not adverse. Therefore, in the final results, instead of a simple average of these percentage differences, we will use a simple average exclusive of negative values (*i.e.*, sales for which HSW over-stated that actual packing material usage) and use this rate to inflate the packing usage rates of all the sales that were not verified. *See* Memorandum regarding Final Results of the 2005-2006 Administrative Review of Certain Helical Spring Lock Washers from the People's Republic of China: Calculation of Final

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<sup>4</sup>*See* HSW Verification Report at 22.

Margin for Hangzhou Spring Washer Plant, also known as Zhejiang Wanxin Group Co., Ltd. (January 15, 2008) (“Final Calc Memo”).

As in the preliminary results, for those sales we verified that used different packing configurations than those used in the reported standard configuration, we will continue to adjust the packing rate by the actual percentage difference found. For those sales we verified that used the reported standard configuration, we will continue to make no adjustment to the reported packing usage rate.

### **Comment 2: Surrogate Value for Steel Wire Rod: Source**

Shakeproof claims that all of the evidence on the record shows that the grade of carbon steel used by HSW in making non-stainless spring washers was spring quality steel.<sup>5</sup> Shakeproof also asserts that Suchi Fastener Pvt. Ltd.’s (“Suchi”) (the Indian producer whose financial statements the Department used for the preliminary results financial ratios) web page specifies that it uses “spring steel” (as well as stainless steel) as its “material of construction” for its spring lock washers.<sup>6</sup> According to Shakeproof, there is no evidence that anything other than spring steel was used by HSW for all non-stainless lock washers. Shakeproof argues that, consequently, the Department should value that steel input using Indian import values for spring steel.

Next, Shakeproof states that, to the extent the Department bases any surrogate values on Indian prices for non-spring carbon steel, the Department should use the publicly available, contemporaneous data published by the Indian government-sponsored Joint Plant Committee (“JPC”). Shakeproof states that in *Freshwater Crawfish Tail Meat from China* and *Cut-to-Length Carbon Final*, the Department used unpublished data from a private source (rather than published government data) precisely because the unpublished data provided more size-specific information. Shakeproof states that the JPC data cover the same grade of non-spring quality carbon steel as Indian import statistics and are equally reliable, but are far more size-specific and thus, demonstrably more accurate.<sup>7</sup> According to Shakeproof, the JPC is chaired by the Joint Secretary of the Indian Ministry of Steel and also includes four representatives from the Steel Authority of India Ltd. (“SAIL”), one representative from the Indian Ministry of Railways, and one representative each from Tata Iron and Steel Co., Ltd. and Rashtriya Ispat Nigam Ltd.<sup>8</sup>

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<sup>5</sup> In making this argument, Shakeproof relies upon the following: HSW’s February 15, 2007, Section C response (“HSW Section C”) at C-8; *see also* HSW Verification Report at Exhibit 5 at pages 3 - 4 (showing the sizes of spring lock washers made by HSW according to German spring lock washer standards DIN 127 and DIN 7980); *see also* Shakeproof Oct. 12, 2007, Surrogate Value submission (“Shakeproof Oct. SV Submission”) at attachment 7 (German standards DIN 127 and DIN 7980 for spring lock washers specifically require the use of spring steel).

<sup>6</sup> Shakeproof cites Shakeproof Oct. SV Submission at attachment 7.

<sup>7</sup> Shakeproof cites Shakeproof Oct. SV Submission at attachment 3.

<sup>8</sup> Shakeproof cites Shakeproof Oct. SV Submission at 2 n.1.

Shakeproof argues that the JPC prices are publicly available,<sup>9</sup> reflect POR prices in the Indian market place and, most importantly, are size-specific.<sup>10</sup> As such, Shakeproof contends that they best fulfill the Department's policy to use prices that are "publicly available values which are (1) non-export values; (2) representative of a range of prices within the {POR} or most contemporaneous with the {POR}; (3) product-specific; and (4) tax exclusive."<sup>11</sup> Shakeproof maintains that in other cases the Department used unpublished private source data (in lieu of published government data) precisely because the unpublished data provided more size-specific information. Shakeproof argues that, in this case, JPC data are more size-specific than the Indian import data and are also both published and government sponsored. Thus, Shakeproof asserts the JPC data are unquestionably the best information on the record for valuation of non-spring quality carbon steel wire rod ("SWR").

Shakeproof notes that the Department rejected SAIL data placed on the record by HSW in the 1994-1995 review of this case because the SAIL data were "more size-specific {but} less grade-specific than the Indian import statistics."<sup>12</sup> Shakeproof claims JPC data are government-sponsored, unlike the SAIL data provided by HSW in the 1996 review, and that there is no record evidence that the JPC data are any different in their grade coverage than the Indian import statistics. According to Shakeproof, because both sets of data cover the same grades and are publicly available, contemporaneous with the POR, and equally reliable, the Department should use the purportedly more size-specific data published by the JPC.

Finally, Shakeproof argues that to the extent the Department continues to rely on non-spring steel Indian import values for carbon SWR, the Department should include imports of carbon SWR greater than 14 mm in diameter. Shakeproof points out that HSW's response indicates that it uses carbon SWR from 5.5mm to 17mm in diameter.<sup>13</sup> It also notes that Indian imports of carbon SWR greater than or equal to 14mm are covered by Indian tariff category 7213.99.<sup>14</sup> Shakeproof asserts that in order to cover the full range of sizes of non-stainless HSLWs sold in the United States by HSW during the POR, if the Department uses Indian imports of non-spring steel to value SWR, it should rely on a combined calculation of Indian imports using both tariff categories 7213.91 and 7213.99.

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<sup>9</sup> Shakeproof cites [http://jpcindiansteel.org/jpc\\_weekprices.asp](http://jpcindiansteel.org/jpc_weekprices.asp)

<sup>10</sup> Shakeproof argues that although they are tax inclusive, the Department can easily remove the taxes, as it did in the preliminary results for certain *Chemical Weekly* prices. See, e.g., Preliminary Results Factor Valuation Memo, Att. 1 at 7.

<sup>11</sup> Shakeproof cites e.g., *Brown Oxide Final* at comment 3 and *Cut-to-Length Carbon Final* at comment 29.

<sup>12</sup> Shakeproof cites *HSLWs 93-94 Final* at comment 2.

<sup>13</sup> Shakeproof cites e.g., HSW's May 29, 2007, Supplemental response at attachment 11. (Shakeproof has referred to this based on the date the response was dated, May 25, 2007. However, in this memorandum we are referring to all submissions by the date which the Department received them. The final business proprietary version of this response was received May 29, 2007).

<sup>14</sup> Shakeproof cites Shakeproof April 19, 2007, Surrogate Value submission at attachment 1.

HSW argues that the Department should continue to use the Indian import statistics for SWR harmonized tariff schedule (“HTS”) number 7213.91 to derive the surrogate value for HSW’s reported wire rod factor. HSW asserts that Shakeproof’s request to use Indian import statistics for spring quality carbon SWR (HTS number 7214.99.10) should be rejected because HSW did not use spring quality carbon SWR, and it would be inappropriate to assume that HSW did so merely by referencing outdated German standards and an unverifiable Indian website.<sup>15</sup> According to HSW, Shakeproof’s alternative request to value carbon SWR based on data compiled by the Indian JPC should also be rejected because Shakeproof has identified no flaws that would warrant departing from the Indian import statistics, and because of other significant flaws in Shakeproof’s proposed JPC data.

HSW identifies the following flaws: 1) the JPC data for wire rod are less grade-specific than the Indian import statistics (*see, e.g., HSLWs 93-94 Final* at comment 2); 2) there is no information that establishes JPC data are only for carbon steel and do not include stainless steel; 3) even assuming that the JPC information is limited only to carbon SWR, there is no information about the quality of the carbon steel covered by the data; 4) JPC data provide no quantity information and, thus, the Department has no basis to evaluate whether the JPC prices necessarily reflect commercial quantities or are more representative than the import statistics, and that in past cases the Department has chosen or rejected surrogate value sources based on the quantities covered in the proposed surrogate value sources;<sup>16</sup> 5) the JPC price data are tax inclusive, but the Department’s surrogate value preference is for tax exclusive data. HSW acknowledges that it is possible to back out an imputed tax rate from the JPC prices but argues that the Department should avoid such unnecessary adjustments when reliable Indian import data are available that do not require such adjustments. Further, HSW claims that the Department has a stated practice of selecting surrogate values derived from Indian import statistics rather than those derived from other publicly available sources, citing *e.g., Silicon Metal NSR Final* at comment 7 (citing *Honey NSR Final* at comment 2) and *Dorbest* 462 F. Supp. 2d 1277.

Additionally, HSW argued that the Department should reject Shakeproof’s request to also include import statistics for carbon SWR greater than 14mm in diameter. HSW maintains that including the Indian tariff heading for SWR greater than 14mm in diameter would be over-inclusive because it would include diameters that are significantly greater than those actually used by HSW during the POR. Moreover, HSW asserts it would be inappropriate to use a simple average of the two tariff headings, when HSW’s use of SWR with diameters of 14-17mm was only a small fraction of HSW’s total SWR consumption. In fact, HSW claims, only one product used SWR greater than 14mm (*i.e., 17mm*).

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<sup>15</sup> HSW cites Shakeproof Oct. SV Submission at Attachment 7.

<sup>16</sup> HSW cites *Glycine Final* at comment 3.

**Department Position:**

We do not find it appropriate to value HSW's non-stainless SWR input with the Indian HTS category for spring steel (HTS number 7214.99.10). Shakeproof's main argument for using spring steel to value the steel input is based on HSLWs standards it submitted for DIN 127 and DIN 7980.<sup>17</sup> However, the vast majority of HSW's HSLWs were not produced under DIN 127 or DIN 7980. *See* Final Calc Memo for business proprietary details which cannot be discussed here.

More importantly, while the standards do state that DIN 127 and DIN 7980 are made of spring steel, they do not appear to be active standards.<sup>18</sup> As HSW points out, clearly stated in the standards for DIN 127 is the note “{i}t is recommended that DIN 128 be used instead of the present standard, which is to be withdrawn by January 1, 1992 (see Explanatory note).”<sup>19</sup> The explanatory note states that there is no real demand for DIN 127 which will be withdrawn “in due course” and have a five-year transition period.<sup>20</sup> DIN 127 was withdrawn in 1992, which means that this POR occurred nine years after the end of the five-year transition period (which ended in 1997). Since the information for DIN 127 has been outdated for almost a decade, we will not rely on it in making a determination on the appropriate way to value the steel used by HSW to make HSLWs. The DIN 7980 standard also notes it is to be withdrawn by January 1, 1992.<sup>21</sup> Furthermore, the DIN 7980 standard, are stamped “Superseded,” meaning that the standard submitted by Shakeproof is no longer applicable.<sup>22</sup> Thus, it is also not a usable source for making decisions on how to value the steel used by HSW to make HSLWs.

Finally, contrary to Shakeproof's claims, there is no evidence on the record that HSW used spring steel in its production. As stated above, the DIN 127 and DIN 7980 standards are outdated and must be disregarded. In this case, the fact that Suchi used spring steel to produce HSLWs does not demonstrate that HSW also used spring steel to make its HSLWs. Absent these sources, the record holds no evidence that HSW used “spring steel.” To the contrary, the record, including inventory material slips, raw material sub-ledgers, and purchase invoices shows that HSW used SWR and stainless stainless SWR to make its HSLWs. *See, e.g.*, HSW Verification Report at Exhibits 14, 16, and 20; Supplemental Sections C and D (“Supp C and D”) (April 18, 2007) at Exhibits 15 and 16. The record shows that under ASME standards carbon steel is used. *See* Shakeproof Oct. SV Submission at Exhibit 7 pages 2 and 4. Therefore, we will not value HSW's SWR input with spring steel.

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<sup>17</sup> *See* Shakeproof Oct. SV Submission at Exhibit 7.

<sup>18</sup> *See* Shakeproof Oct. SV Submission at Exhibit 7 at 8 and 11.

<sup>19</sup> *See* Shakeproof Oct. SV Submission at Exhibit 7 at 6.

<sup>20</sup> *See* Shakeproof Oct. SV Submission at Exhibit 7 at 8; *see also* XXX Calc Memo at Comment 2

<sup>21</sup> *See* Shakeproof Oct. SV Submission at Exhibit 7 at 9.

<sup>22</sup> *Id.*

Next, we must determine the most appropriate source for valuing HSW's SWR input. In valuing factors of production ("FOP"), section 773(c)(1) of the Act instructs the Department to use "the best available information" from the appropriate market-economy country. Among the Department's criteria for selecting surrogate value information is to use publicly available information and it considers several factors when choosing the most appropriate information, including the quality, specificity, and contemporaneity of the data. *See, e.g., Lined Paper Products, and Polyethylene Retail Carrier Bags*. Specifically, the Department's practice is, where possible, to use publicly available surrogate values, which are (1) non-export values; (2) representative of a range of prices within the POR or most contemporaneous with the POR; (3) product-specific; and (4) tax-exclusive. In selecting the surrogate values, we consider the quality, specificity, and contemporaneity of the data. *See, e.g., Brown Oxide Final* at comment 3. The specific options before the Department for valuing HSW's steel inputs are JPC data, Indian import statistics for HTS number 7213.91, and an average of two Indian import statistics for HTS number 7213.91 and HTS number 7213.99.

First, we must establish specifically what we are valuing. HSW uses a range of SWR between 5.5mm and 17mm in diameter.<sup>23</sup> HSW's raw material sub-ledgers demonstrate the specific variety of sizes of SWR.<sup>24</sup> HSW claims that only one product used SWR greater than 14mm in diameter (*i.e.*, 17mm). While we can confirm that one product specifically used 17mm, we find HSW's claims to be exaggerated. *See Final Calc Memo* for business proprietary details which cannot be discussed here. By testing the SWR consumption for one month of the POR we can establish that HSW's use of 14mm through 17mm SWR was only a small fraction of HSW's total SWR consumption. *See Final Calc Memo* for business proprietary details. Therefore, we must choose the best available information to value SWR that is between 5.5mm and 17mm in diameter, but is predominantly less than 14mm in diameter.

Upon review of the JPC data, we find that, while Shakeproof submitted data for three dates, one of these dates is after the POR, so we only have usable data for two dates. Further, Shakeproof used four items in its proposed surrogate value calculation (*i.e.*, wire rods 6mm, wire rods 8 mm, rounds 12mm, and rounds 16mm). However, HSW reported using SWR to produce HSLWs. Thus, as rounds are a different product than SWR, they are not the best available information to value SWR. This means for JPC we have data for two sizes of SWR (6 and 8 mm) for two dates in the POR covering four cities, or 16 prices in total.

The second option for valuing SWR is using Indian imports from HTS numbers 7213.91 and 7213.99 as obtained from the World Trade Atlas ("WTA"). We used HTS category 7213.91 to value SWR in the preliminary results. It is for "Oth,Coil,Circ <14Mm," that is, it covers SWR

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<sup>23</sup> *See* Supp. C and D at Exhibit 28.

<sup>24</sup> *See* HSW Verification Report at Exhibit 20; *see also* Final Calc Memo.

that is less than 14mm in diameter.<sup>25</sup> It contains data for all imports into India for the entire POR. There is no evidence that the data for HTS number 7213.91 are distorted in any way. HTS Category 7213.99 is for “Bars & Rods Hot-Rld of Iron/Non Aloy Stl Other Thn Crclrcrs Sctn Msrng  $\geq$ 14 mm in Diamtr.” There is no evidence that the data for HTS number 7213.99 are distorted in any way.

While the Department commonly uses Indian import statistics to value inputs, we do not have a practice of always choosing that source over other sources, (*see, e.g.*, Comment 4 below). Rather, we seek to use the best available information for each input, and as articulated in *Dorbest*, faced with two imperfect choices it is the Department's discretion to choose which to use.<sup>26</sup> In *Dorbest*, the Court of International Trade, while allowing that it was appropriate for the Department to generally prefer Indian import statistics, nevertheless stated that “Commerce's individual determinations, on a factor input by factor input basis, must also be supported by substantial evidence.”<sup>27</sup> In *Silicon Metal NSR Final* and *Honey NSR Final*, we chose WTA Indian import data over other sources because the Indian import data were found to be better data than the alternatives.<sup>28</sup> Since we do not have an automatic preference for Indian import data, we will consider both the JPC data and the Indian import data to determine which is the best available information.

In weighing the merits of using JPC data or Indian imports from the HTS, we note first that both are publicly available, non-export values, so in these respects are equal. The Indian imports from the HTS are tax-exclusive, which is preferable to the tax-inclusive JPC data.<sup>29</sup> However, as Shakeproof points out, it is possible to remove taxes from a calculation as we do with *Chemical Weekly* data.<sup>30</sup> The Indian imports from HTS numbers 7213.91 and 7213.99 cover the entire 12 months of the POR, that is, the data cover October 2005 through September 2006. JPC data cover two dates from within the POR, October 1, 2005, and March 15, 2006. HTS number 7213.91 includes the majority of sizes of SWR used by HSW, which is not the case with the JPC data. *See* HSW Verification Report at Exhibit 20; *see also* Final Calc Memo. Thus, since the Indian imports from HTS number 7213.91 cover more sizes of SWR used by HSW and contain a larger quantity of data that cover the whole POR, it is a better source with which to value SWR than are the JPC data.

Regarding Shakeproof's suggestion that we average Indian imports from HTS numbers 7213.91 alone or alternatively use the average of the Indian imports from HTS numbers 7213.91 and

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<sup>25</sup> *See* Memorandum regarding Preliminary Results of the 2005-2006 Administrative Review of Certain Helical Spring Lock Washers from the People's Republic of China Factors-of-Production Valuation for Preliminary Results (September 4, 2007) (“Prelim FOP Memo”) at Attachment 1.

<sup>26</sup> *Dorbest* 462 F. Supp at 1277.

<sup>27</sup> *Dorbest* 462 F. Supp at 1278.

<sup>28</sup> *See Silicon Metal NSR Final* at comment 7 and *Honey NSR Final* at comment 2.

<sup>29</sup> *See* Shakeproof Oct. SV Submission at 3.

<sup>30</sup> *See* Prelim FOP Memo at Attachment 1.

7213.99, we considered the portion of SWR consumed that was less than 14mm in diameter and the portion equal to or greater than 14mm in diameter. To accomplish this, we used “inventory-out” of SWR used to make HSLWs for a sample month, March 2006. *See* Final Calc Memo. This month was selected during verification for a detailed analysis. As a result, it contains a complete record of inventory withdrawals for a single month of the POR. *See* HSW Verification Report at Exhibit 20. This evidence shows that during this sample month, while the vast majority of SWR HSW used was less than 14mm in diameter, HSW did use some SWR that is equal to or greater than 14mm in diameter during the POR. *See* Final Calc Memo. The SWR greater than or equal to 14mm in diameter was not accounted for in our preliminary SWR surrogate value because we valued SWR using only HTS number 7213.91. However, given the fact that HSW used SWR greater than 14mm to produce subject merchandise during the POR, we should account for it in valuing SWR.

Therefore, we will use Indian imports from HTS number 7213.91 and 7213.99 to value SWR for the final results. Specifically, we will weight-average HTS numbers 7213.91 and 7213.99 based on the March 2006 inventory-out quantities. *See* Memorandum regarding Final Results of the 2005-2006 Administrative Review of Certain Helical Spring Lock Washers from the People's Republic of China: Factors-of-Production Valuation for Final Results (January 15, 2008) (“Final FOP Memo”).

**Comment 3: Surrogate Value for Steel Wire Rod and Stainless Steel Wire Rod:  
Adjustments to Calculation**

Shakeproof contends that, to the extent the Department relies on Indian import statistics as the basis for surrogate values for carbon SWR, it should correct certain errors in that calculation. Additionally, Shakeproof argues that the Department should correct errors in its calculation of the surrogate value for stainless SWR.

Specifically, for carbon SWR, Shakeproof argues that the Department should not have excluded imports from Germany because the countervailing duty (“CVD”) order against German carbon steel flat products and cut-to-length carbon steel plate was revoked. *See Germany CVD Revocation*. Shakeproof also argues the Department should exclude imports of SWR from South Africa and Brazil due to active CVD orders against these countries. *See CVD Hot-Rolled South Africa; see also CVD Hot-Rolled Brazil; CVD Alloy Steel Brazil*.

With regards to stainless SWR Shakeproof asserts that the Department should exclude imports from Belgium and Italy because these countries have active CVD orders on stainless steel products. Additionally, Shakeproof claims the Department should exclude imports from North Korea because the Department considers North Korea an NME county. *See Multiple CVD Continuation of Steel Plate*.

HSW did not respond to this argument.

### **Department Position:**

We have considered Shakeproof's arguments with regard to both of the Indian import-based surrogate values for SWR and stainless SWR. The Department's practice is to disregard such values where it has a reason to believe or suspect that these values may be subsidized. *See, e.g., Polyethylene Retail Carrier Bags Prelim*, unchanged in final results; *see also* OCTA H.R. Rep. 100-578 (1988). The Department has previously relied on its own CVD determinations as a basis to conclude that certain input values may be subsidized. In this case, Shakeproof has cited certain prior CVD determinations for its claims that the Department should or should not exclude surrogate values for carbon SWR and stainless SWR. On the basis of the information cited by Shakeproof, we conclude that it is appropriate to modify our findings regarding this issue.

First, we agree with Shakeproof that we should not have excluded imports from Germany for steel wire rod. As Shakeproof correctly points out, the Department revoked the last remaining CVD orders on German steel products. We note that the revocation of these orders stemmed from a lack of interest by the petitioners in those cases. We therefore also examined other information to ascertain the continued existence of the steel-related subsidy programs in those cases, including Germany's subsidy notification to the World Trade Organization ("WTO"). We note that Germany did not notify the WTO of any steel-related programs. Further, although Germany notified the WTO of one regional program which the Department previously countervailed in the cited proceedings, those subsidies were found to be tied to products other than carbon SWR and stainless SWR. For these reasons we find that we do not have a reason to believe or suspect that prices of these products from Germany may be subsidized and, therefore, we did not exclude them from our final surrogate value calculations. Second, we also agree with Shakeproof that we should exclude import values of SWR from South Africa and Brazil. The Department has active steel-related CVD orders against these countries. Further, in those cases the Department countervailed non-industry specific export subsidies. In prior cases, we found that the existence of these types of subsidies provided a reason to believe or suspect that all exports from the countries in question may be subsidized. *See, e.g., ARG Final Determination*. Third, with respect to stainless SWR, we determine that we should exclude imports from Belgium because of an active CVD order on stainless steel products. However, because we have revoked the order on stainless SWR from Italy and have no other basis to believe or suspect these prices may be subsidized, we did not disregard import values from that country.

Consistent with our determination in fish fillets from Vietnam, we have excluded Indian imports from North Korea from our stainless SWR surrogate value calculation. *See Frozen Fish Preliminary Results*, unchanged in final results.

### **Comment 4: Surrogate Value for Hydrochloric Acid**

Shakeproof claims that there is abundant record evidence that Indian import values for hydrochloric acid are not aberrational as found in other cases but, rather, are reliable and consistent. For example, Shakeproof cites to *HSLWs 02-03 Final* at comment 10, *HSLWs 01-02*

*Final* at comment 5, and *HSLWs 00-01 Final* at comment 6. Shakeproof maintains that these values are based on the weight of 100-percent chemical content, whereas U.S. import values that the Department has used as a benchmark are based on the weight of diluted solution.<sup>31</sup> Then, Shakeproof asserts that the Department should use Indian import statistics to value HSW's usage of hydrochloric acid, in accordance with the Department's normal practice. Shakeproof acknowledges that HSW purchased hydrochloric acid that was 31-percent concentrated.<sup>32</sup> However, according to Shakeproof, because HSW also reported its usage based on the weight of 100-percent chemical content, the Indian import statistics do not need to be adjusted to be compared to HSW's reported usage of hydrochloric acid.<sup>33</sup> Shakeproof contends that the *Chemical Weekly* values used by the Department in the preliminary results are not reliable because they are not firm prices, and one source of the price quotes does not manufacture hydrochloric acid.<sup>34</sup> According to Shakeproof, in light of these arguments, *Chemical Weekly* values cannot be considered the best available data<sup>35</sup> for valuing hydrochloric acid.

HSW responds that, consistent with its practice, the Department should continue to find that the Indian import statistics for hydrochloric acid are aberrational and continue to use *Chemical Weekly* as the surrogate value source for hydrochloric acid. According to HSW, there is insufficient record evidence to establish the chemical content of Indian import data as alleged by Shakeproof. HSW maintains that the record shows that it did not report its hydrochloric acid usage based on 100-percent chemical content but, rather, on a 31-percent basis.

HSW maintains that Shakeproof has failed to demonstrate that the Indian import statistics for hydrochloric acid are not aberrational, or that the *Chemical Weekly* values are unreliable. HSW points to a variety of cases where the Department used *Chemical Weekly* data in support of its position. See, e.g., *Activated Carbon Final* at comment 18 and *Polyvinyl 03-04 Final*. HSW points out that in prior HSLW reviews, the Department used a single price quote provided by Petitioner for plating services, even though issues were raised regarding the reliability of that quote.<sup>36</sup> HSW also asserts that *Chemical Weekly* is more than a single price quote, it is a long-standing Indian chemical industry publication that provides a broad network of price quotes from chemical suppliers throughout India and, therefore, satisfies the Department's criteria for its

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<sup>31</sup> See August 3, 2007, SV submission at 3-4 and Attachment 5 (Harmonized Tariff Schedule of the United States, Chapter 28, Note 1(b) (chemicals are reported "dissolved in water")); see also Shakeproof Oct. SV submission at Attachment 6.

<sup>32</sup> See HSW's April 18, 2007, supplemental response at Exhibit 28; See Shakeproof August 3, 2007 SV submission at 3-4 and Attachment 5; see also HSW's March 26, 2007, submission at Attachment 1.

<sup>33</sup> See Prelim FOP Memo at 5; see also HSW May 29, 2007, supplemental response at Exhibit 11.

<sup>34</sup> See Prelim FOP Memo at Attachment 2 (October, 11, 2005, *Chemical Weekly*, 233 and 241 (source of information: Mr. Subhash Ghorawat, Chemicals (India) Company)); see also Shakeproof Oct. SV submission at Attachments 2 at 23 (hydrochloric acid not listed as one of the products manufactured by Chemicals (India) Company).

<sup>35</sup> See, e.g., *Cut-to-Length Carbon Final* at comments 9 and 29 and *Brown Oxide Final* at comment 3.

<sup>36</sup> HSW cites *HSLWs 02-03 Final* at comment 2.

surrogate value sources to be product-specific, non-export values, from more than one supplier covering a broader spectrum of the economic experience the Chinese respondent would have if it were in a market economy.

### **Department Position:**

Shakeproof argues that WTA Indian import data for hydrochloric acid are not aberrational compared to U.S. import statistics and should be used to value HSW's hydrochloric acid for the final. We made no formal preliminary finding in this review that the Indian import data were aberrational for hydrochloric acid in this review. However, we note that the Department has found WTA import data for hydrochloric acid unreliable in other cases and has taken the same position in recent cases of valuing hydrochloric acid with *Chemical Weekly* data instead of WTA import statistics. See, e.g., *HSLWs 10<sup>th</sup> Review Final* at comment 10 and *Coated Free Sheet Final*.

While we originally found WTA import data for hydrochloric acid to be aberrational compared to U.S. import statistics in the carbazole violet pigment 23 investigation,<sup>37</sup> we note that since then the Department has expressed its preference, where necessary to benchmark surrogate values, to use data reflecting imports by potential surrogate countries, instead of U.S. import statistics.<sup>38</sup> However, in this review, hydrochloric acid surrogate value data reflecting imports by potential surrogate countries are not on the record. Nonetheless, in the *Coated Free Sheet Final* and *Hand Trucks Final*,<sup>39</sup> the Department found that the appropriate source with which to value hydrochloric acid was *Chemical Weekly*. In the *Coated Free Sheet Final*, the *Chemical Weekly* average unit value ("AUV") for hydrochloric acid was 5.55 Rs./kg and the AUV for Indian imports was 124.83 Rs./kg, while in the *Hand Trucks Final*, the *Chemical Weekly* AUV for hydrochloric acid was 4.0091 Rs./kg and the AUV for Indian imports was 124.49 Rs./kg.<sup>40</sup> It was in light of this fact pattern that the Department determined that *Chemical Weekly* was the appropriate surrogate source for hydrochloric acid in *Coated Free Sheet Final* and *Hand Trucks Final*. The fact pattern shown in those cases also appears in this review with the *Chemical*

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<sup>37</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 from the People's Republic of China*, 69 FR 67304 (November 17, 2004), and accompanying issues and decision memorandum at comment 7 ("We agree that the Indian import statistics used in the preliminary determination were aberrational, compared with WTA U.S. and European Union import data.").

<sup>38</sup> See *Saccharin from the People's Republic of China: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 51800 (September 11, 2007), and accompanying issues and decision memorandum at comment 2 ("While in the past the Department has used U.S. prices to benchmark surrogate values, . . . , the Department's current practice has been to benchmark surrogate values against imports from the list of potential surrogate countries for a given case, if available.").

<sup>39</sup> See *Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Administrative Review and Final Results of New Shipper Review*, 72 FR 27287 (May 15, 2007) ("*Hand Trucks Final*"), and accompanying issues and decision memorandum at comment 8.

<sup>40</sup> See *Coated Free Sheet Final* at comment 17 and *Hand Trucks Final* at comment 8.

*Weekly* AUV for hydrochloric acid being 5.15 Rs./kg.<sup>41</sup> while, according to Shakeproof's calculation, the Indian import AUV is 153.14 Rs./kg.<sup>42</sup>

Despite this, Shakeproof has attempted to explain that the pricing differences between Indian import statistics and *Chemical Weekly* data for hydrochloric acid are due to the data being reported on different concentration levels. It maintains that Indian import data are reported on a 100-percent concentration basis. We find, however, that evidence on the record does not resolve the issue of what concentration level Indian import data are reported.

Shakeproof is correct that in a prior HSLWs review we stated:

Our analysis of valuing hydrochloric acid was based on our interpretation that the value of the chemical in the cable represented hydrochloric acid in an industrial solution while the Indian import statistics represented bulk quantities at or near 100 percent consistency.<sup>43</sup>

In that case the Department appears to have assumed that WTA Indian import data for hydrochloric acid is based on 100-percent concentration levels. Since this was an assumption, we have not relied upon this determination as a factual conclusion for purposes of the instant review.

Further, we do not agree that, because Indian Standard Input Output Norm ("SION") schedule states hydrochloric acid is on a 100-percent basis, it logically follows that Indian imports under the HTS are reported on a 100-percent concentration basis. These are two different schedules. SION appears, as its name suggests, to be an Indian-specific standard. The Indian HTS on the other hand, is based on an internationally agreed upon schedule. While it is possible that, in harmony with SION, Indian imports of hydrochloric acid are reported on a 100-percent basis, there is nothing on the record to demonstrate this. Therefore, as stated at the preliminary results, we cannot assume SION gives us any information on the concentration levels of the HTS. *See* Prelim FOP Memo. Moreover, when we look at the description of Indian HTS 2806.10.00 (hydrochloric acid) in the WTA, it does not state a concentration level in its description, which is confirmed by examining the description of Indian HTS 2806.10.00 found on the Indian Ministry of Commerce and Industry website.<sup>44</sup>

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<sup>41</sup> *See* Prelim FOP Memo

<sup>42</sup> *See* Shakeproof's August 3, 2007, submission at Exhibit 5.

<sup>43</sup> *See Amended Final Determination and Amended Antidumping Duty Order: Certain Helical Spring Lock Washers From the People's Republic of China ("HSLWs 1993 Amended Final")*, 58 FR 61859 (November 23, 1993), at comment 2.

<sup>44</sup> *See* Shakeproof's August 3, 2007, submission at 5; *see also* Indian Ministry of Commerce and Industry website at <http://www.dgciskol.nic.in/>

Despite Shakeproof's protests to the contrary, we do know that the *Chemical Weekly* hydrochloric acid prices are based on 100-percent concentration levels. *See, e.g., Sebacic Acid Final* and *Polyvinyl 03-04 Final* at comment 4. In the sebacic acid case the Department contacted *Chemical Weekly* to determine the basis on which price quotes in the publication were given. In reaching a conclusion in that case, the Department stated:

In response to a November 16, 1999, inquiry regarding the concentration levels of *Chemical Weekly* price quotes, the editor of *Chemical Weekly* stated that chemical price quotes which do not mention the chemical's purity level are based on a one hundred percent purity level. *See* November 22, 1999, Memo to the File from Christopher Priddy.<sup>45</sup>

Because no party has provided any contradictory evidence on the record of this proceeding, based on the information obtained directly from *Chemical Weekly* as discussed in *Sebacic Acid Final*, we consider that hydrochloric acid prices in *Chemical Weekly* continue to be based on 100-percent purity. Consequently, we cannot draw the conclusion that a difference in concentration level explains the AUV price differences between Indian import statistics and *Chemical Weekly* data.

Shakeproof challenges the reliability of *Chemical Weekly*, arguing that Chemicals (India) Company ("CIC"), who provided price quotes for Chennai, does not sell hydrochloric acid because it is not on CIC's website as a product it manufactures.<sup>46</sup> This ignores the fact that companies can and do trade in goods they do not manufacture. *See, e.g., Prelim FOP Memo at Attachment 6* (containing Suchi financial statements which has a line item for "finished goods purchases"); *see also Carbon Steel Flat Products from Korea* (examining various costing methods in situations where a product is sold but not produced). Furthermore, in the persulfates case both the PRC respondent and the Indian company whose financial statements were used as a surrogate produced persulfates, but also purchased and resold other goods. *See Persulfates Final*.

Shakeproof has also objected to the use of *Chemical Weekly* based on a statement of a Mumbai page stating "{w}e cannot guarantee the accuracy of the price published in *Chemical Weekly* as they are based only on enquiries made by our correspondent and as such are not firm prices." *See Prelim FOP Memo at Attachment 2*. We note that *Chemical Weekly* price quotes are established in the public realm independent of antidumping duty considerations. As such these are not prices that have been manipulated for purposes of influencing an antidumping duty case. *Chemical Weekly* is a long-standing publication used to obtain chemical prices and the Department has found it consistently reliable as evidenced by our practice of relying upon *Chemical Weekly* as a

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<sup>45</sup> *See Sebacic Acid Final* at 69504.

<sup>46</sup> *See* Shakeproof Oct. SV submission at Attachment 6 page23; *see also Prelim FOP Memo at Attachment 2*.

surrogate value source. *See, e.g., Sebacic Acid Final; Coated Free Sheet Final, and Hand Trucks Final.* Moreover, we have in past cases determined that *Chemical Weekly* data “represent prices available in the Indian domestic market.” *See Activated Carbon Final* at Comment 18.

We have specifically found it appropriate to use *Chemical Weekly* data in multiple cases. These data are domestic price quotes which are publicly available. *See, e.g., Sebacic Acid Changed Circumstances Review.* We have rejected other price quotes in favor of *Chemical Weekly* price quotes since *Chemical Weekly* price quotes are country-wide. *See Polyvinyl Alcohol Final* (“the Department has a clear preference for using country-wide prices such as those published in *Chemical Weekly*, as opposed to specific price quotes . . .”). Thus, the Department continues to find *Chemical Weekly* to be a reliable source for obtaining surrogate values.

In conclusion, we are faced with similar facts for hydrochloric acid as there were in the *Coated Free Sheet Final* and the *Hand Trucks Final* cases. In those cases the Department determined that it was appropriate to use *Chemical Weekly* data over Indian Import statics for hydrochloric acid. In light of these facts, the Department determines that *Chemical Weekly* is the appropriate surrogate source for hydrochloric acid. Accordingly, we continue to use *Chemical Weekly* data to value hydrochloric acid in these final results.

Furthermore, we disagree with Shakeproof’s assertion that although HSW used a hydrochloric acid solution that was 31-percent hydrochloric acid and 69-percent water, it reported its usage rate based on 100-percent concentration. Some of the FOP summary sheets submitted by HSW list hydrochloric acid to be at 100-percent concentration.<sup>47</sup> However, based on other information provided by HSW, we consider this information to be incorrectly entered in the FOP summary sheets. We specifically asked HSW to support the concentration level of each of its inputs which it did in its April 18, 2007, submission at Exhibit 28. In this exhibit, HSW supported that it used 31-percent concentrated hydrochloric acid.<sup>48</sup> Since at verification we did not specifically examine the issue of concentration levels,<sup>49</sup> this supporting documentation stands as the only evidence on the record which speaks definitively to the concentration level of each chemical input. Moreover, there is no evidence on the record that HSW converted the usage rate from 31-percent concentration to 100-percent concentration levels for reporting purposes.

Therefore, we find that HSW reported its hydrochloric acid usage based on 31-percent concentrated hydrochloric acid. It is the Department’s longstanding practice to, where possible, adjust for concentration levels.<sup>50</sup> As demonstrated above, *Chemical Weekly* prices are for 100-

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<sup>47</sup> *See* HSW’s March 26, 2007, and May 29, 2007, submissions.

<sup>48</sup> *See* April 18, 2007, submission at Exhibit 28.

<sup>49</sup> *See* HSW Verification Report.

<sup>50</sup> *See, e.g., Amended Final Determination and Amended Antidumping Duty Order: Certain Helical Spring Lock Washers From the People's Republic of China*, 58 FR 61859 (November 23, 1993), at comment 1 and *Persulfates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 47887, 47889 (August 6, 2004) (unchanged in final results, 70 FR 6836 (February 9, 2005)).

percent concentrated hydrochloric acid. Therefore, we will continue to adjust *Chemical Weekly* data to reflect the value of hydrochloric acid that is at 31-percent concentration level in these final results.

#### **Comment 5: Surrogate Financial Statements: Source**

Shakeproof argues that, because of a lack of comparability in product mix between HSW and the producers whose financial statements are on the record, the best available data source for financial ratios in this review, as in prior reviews, is the Reserve Bank of India (“RBI”) Bulletin.<sup>51</sup> Shakeproof points out that pursuant to section 351.408(c)(4) of the Department’s regulations, in calculating overhead, selling general and administrative (“SG&A”) expenses, and profit “the Secretary normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.” Next, Shakeproof maintains both Suchi and Neelkamal Pvt. Ltd. (“Neelkamal”) are producers of comparable merchandise, and that the Suchi product lines are in no way more comparable to HSW’s than are the product lines of Neelkamal.<sup>52</sup> As such, Shakeproof asserts that, if the Department decides not to rely upon the RBI Bulletin, it should base the financial ratios on the 2005-06 financial statements of Neelkamal, the only financial statements on the record that are contemporaneous with the POR. *See Color TV Final* at comment 14, (“all else being equal, the Department prefers to use more contemporaneous data”); *Barium Carbonate Final* at comment 6. Finally, Shakeproof contends that if the Department “wrongly” continues to rely upon non-contemporaneous financial statements, it should, consistent with Department practice, use all three 2004-05 financial statements on the record (*i.e.*, Neelkamal, Rahi Springs Pvt. Ltd. (“Rahi Springs”), and Suchi,<sup>53</sup> since the product mixes of all three of these Indian producers are comparable to one another, citing *e.g.*, *WBF Amended Final* at comment 7; *Shrimp Investigation Final* at comment 9F; *Garlic 2000-2001 Final* at comment 5; *Persulfates Final* at comment 9; and *Mushrooms Final*.

HSW argues that the Department should reject Shakeproof’s request to use data from the RBI Bulletin to calculate financial ratios. According to HSW, the Department has available financial statements from Indian producers of identical or comparable merchandise to calculate surrogate financial ratios, which are preferable to the RBI data. HSW maintains that the Department should not use the financial statements of Neelkamal from 2004-05 or 2005-06 because the Department’s practice is not to use financial statements that are incomplete (as are the 2005-06 statements) or that show no profit (like the 2004-05 statements), citing *Shrimp 04-06 Final* at comment 2 (citing *Wooden Bedroom Furniture from the People's Republic of China: Final*

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<sup>51</sup> Shakeproof cites Shakeproof’s Oct. SV submission at Attachment 1; *see also HSLWs 02-03 Final* at comment 8; *See also HSLWs 01-02 Final* at comment 6.

<sup>52</sup> Shakeproof cites Shakeproof’s August 3, 2007, SV submission at Attachment 3; *see also* Shakeproof Oct. SV submission at Attachments 3 and 7; Prelim FOP Memo at 7; Hangzhou Jan. 23, 2007, Section A response at Exhibit A-11 at 4.

<sup>53</sup> Shakeproof cites Shakeproof Oct. SV submission at Attachments 1 and 2.

*Results of the 2004-2005 Semi-Annual New Shipper Reviews*, 71 FR 70739, 70739 (December 6, 2006)). HSW did not address the Rahi Springs financial statements.

**Department Position:**

As stated above in Comment 2, in valuing FOP we use “the best available information” taking into account factors, including the quality, specificity, and contemporaneity of the data. The RBI financial statements are very broad covering a group of over 1064 large public limited companies and capturing a wide range of products and services. See Shakeproof’s August 3, 2007, submission at Attachment 1. Our preference is for more specific data than RBI. Indeed, “it is the Department's preference to match the surrogate companies' production experience with Respondents' production experience.” See *Shrimp Investigation Final* at comment 9(F). However, where the Department was unable to find contemporaneous data that is more specific to a particular industry, it uses RBI as was the situation in the last completed HSLWs review. See *HSLWs 02-03 Final* at comment 10. Since we have usable financial data that are reasonably contemporaneous with the POR, RBI is not the best available information for calculating our financial ratios.

In addition, we will not use the Neelkamal financial statements from either 2005-06 or 2004-05. Upon examination, we find that the 2005-06 Neelkamal financial statements are incomplete. Specifically, they lack a profit and loss schedule. See Shakeproof’s August 3, 2007, submission at Attachment 3. It has been the Department’s practice to reject the use of incomplete financial statements where other complete financial statements are available to it. See, e.g., *Shrimp 04-06 Final* at comment 2; *HSLWs 02-03 Final* at comment 10; *Seamless Pipe from Romania*. The Neelkamal financial statements from 2004-05 show a negative profit and, therefore, we will not use them since the Department recently stated that it will not use financial statements with a zero or negative profit. See *Shrimp 04-06 Final* at comment 2:

However, the Department is hereby articulating and clarifying its practice with regard to the financial statements of zero/negative profit surrogate companies being used in the calculation of surrogate financial ratios for this and future reviews. In this review and in future investigations and reviews, the Department intends to use the financial statements of companies that have earned a profit if they are available and meet the Department’s surrogate value selection criteria.

Both Suchi and Rahi Springs are producers of spring lock washers, as well as other items, and as such are “producers of identical or comparable merchandise in the surrogate country” as required by section 351.408(c)(4) of the Department’s regulations. Additionally, their financial statements are equally contemporaneous with the POR. However, in examining Rahi Springs’ financial statements we find that they are difficult to read and we cannot with confidence determine the numbers recorded for certain line items (e.g., “To Wage & Labor Charges,” “To

Repair & Maintenance,” “To Discount & Rebate,” to mention some specific examples). However, Suchi’s financial statements are complete, legible, and show a profit. Therefore, we continue to use Suchi to calculate surrogate financial ratios of SG&A, profit and overhead cost for the final results.

#### **Comment 6: Surrogate Financial Statements: Adjustments to Calculation**

##### **A. Adjustment for “Octroi, Insurance, and Freight Forwarding”**

HSW argues that the Department incorrectly included octroi, insurance, and freight forwarding in its surrogate financial ratio calculation. According to HSW, “‘octroi’ expenses are associated with the taxation of movement of goods” and as movement expenses, which are already accounted for in FOP and ex-factory U.S. prices, should be excluded from the financial ratio calculation. *See, e.g., WBF Amended Final* at comment 25, *Ironing Tables Final* at comment 1, and *Honey Final* at comment 3. HSW asserts that including octroi expenses would double count movement expenses and, thus, the Department should not include them in the calculations of financial ratios from the Suchi financial statements.

Shakeproof did not address this argument.

##### **Department Position:**

HSW is correct that in past cases the Department has found that octroi expenses are transportation expenses already accounted for in the calculation of the normal value calculation and in U.S. price adjustments. *See, e.g., WBF Amended Final* at comment 25; *Ironing Tables Final* at comment 1, and *Honey Final* at comment 3. Insurance and freight forwarding expenses are also transportation expenses and, as stated in the *Honey Final* at comment 3, transportation expenses should not be included in the calculation of SG&A because to do so would result in double-counting since these expenses are accounted for in normal value and U.S. price adjustments. Therefore, for the final results, we will not include octroi, insurance, and freight forwarding expenses in the calculations of financial ratios. Specifically, we will list them in the excluded column of our Suchi financial ratio calculation worksheet. *See* Final FOP Memo.

##### **B. Treatment of Traded Goods**

Shakeproof argues that, if the 2004-05 financial statements of Suchi are used for the final results, consistent with its practice, the Department should remove traded goods from its calculation of overhead. *See Color TV Final* at comment 20 and *Persulfates Final* at comment 9. Specifically, Shakeproof maintains, the Department understated the overhead ratio by including in the denominator of that ratio calculation (*i.e.*, materials, labor, and energy) the portion of materials

consumed attributable to purchased finished goods.<sup>54</sup> According to Shakeproof, in Suchi's financial statements, the item "materials consumed" consists, in addition to raw materials consumed, of purchased finished goods of 4,993,955 rupees.<sup>55</sup> Shakeproof asserts that on the financial ratio calculation worksheet, the purchased finished goods amount of 4,993,955 should be reflected in the Traded Goods column while the remaining 118,434,817 should be reflected in the Raw Materials column. According to Shakeproof, this is in accordance with the Department's long-standing policy and the overhead ratio will be based on materials, labor and energy excluding traded goods.

HSW agrees that the Department's practice is not to include the purchase of traded goods in the denominator of the calculation of the surrogate overhead ratio. *See Fuyao Glass*. However, HSW points out that Shakeproof omitted any explanation of the Department's practice on the treatment of traded goods in the calculation of the surrogate SG&A and profit ratios. According to HSW, the Department's practice is to include the purchase of traded goods in the denominator of the surrogate SG&A and profit ratios because a company incurs SG&A expenses and realizes profit on traded goods. *See CVP-23 AR1 Final* at comment 2; *see also Bearings 2004-2005 Final* at comment 2; *see also FMTCs Amended Final*; *see Isos Final* at comment 7; *see Color TV Final* at comment 20. HSW asserts the Department normally includes the purchase of traded goods in the denominator of the SG&A ratio because the surrogate company's expenses associated with the purchase of traded goods cannot be excluded from the numerator and the Department must have an "apples to apples" comparison of the numerator and denominator. HSW maintains that, to the extent the Department excludes the line item for "finished goods purchased" from the denominator of the surrogate overhead ratio calculation, the Department should include that line item in the denominator of the surrogate SG&A and profit ratio calculations.

### **Department's Position:**

Shakeproof and HSW are correct that it is the Department's practice to exclude traded goods from the overhead ratio calculation. *See, e.g., Persulfates Final* at comment 9; *Color TV Final* at Comment 20; and *Bearings 2004-2005 Final* at comment 2. As HSW points out, it is also the Department's practice to include traded goods in the surrogate SG&A and profit ratio calculations. *See, e.g., Fuyao Glass, CVP-23 AR1 Final* at comment 2, and *Color TV Final* at comment 20. As stated in *Color TV Final* at comment 20:

companies incur SG&A expenses in order to resell goods. For example, companies pay salaries to the employees responsible for making sales, they pay rent on the sales offices from which the

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<sup>54</sup> Shakeproof cites Prelim FOP Memo at Attachment 1 ("Calculation of Surrogate Financial Ratios: Manufacturing Overhead, SG&A and Profit").

<sup>55</sup> While Shakeproof cited the Prelim Calc Memo at Attachment 6 at 22, this information is actually contained in the Prelim FOP Memo at Attachment 6 at 22.

traded goods are resold, etc. Similarly, it would be unreasonable to assume that these companies make no profit on their resales.

Therefore, for the final results of this review the Department will exclude the traded goods from the overhead ratio, but include traded goods in the SG&A and profit ratios. With regard to Suchi specifically, the Department will exclude the traded goods, or “goods purchased”, amount of 4,993,955 Rs from the overhead ratio, but include it in the SG&A and profit ratios. *See* Final FOP Memo. The Suchi “goods purchased” will be accounted for in the Traded Goods column while the remaining amount of Materials Consumed, totaling 118,434,841 Rs will continue to be accounted for in the raw materials column of the financial ratio calculation schedule. *See* Final FOP Memo.

### **Comment 7: Adjustment to Overhead Ratio for Environmental Compliance**

Shakeproof argues that the Department should increase the surrogate overhead ratio to account for the costs and expenses associated with HSW's compliance with China's strict environmental standards. According to Shakeproof, failure to do so will result in an overhead ratio that is significantly understated. Shakeproof asserts that there is ample precedent for the Department's taking the individual circumstances of a Chinese producer into account in calculating financial ratios and that the Department routinely considers the representativeness of the production experience of the surrogate producers in relation to the respondent's own experience. *See, e.g., Sigma*. Shakeproof maintains that the Department routinely considers the representativeness of the production experience of the surrogate producers in relation to the respondent's own experience. *See, e.g., Persulfates Final* at comment 9; *see also Hot-Rolled Prelim*. Shakeproof points out that the preamble to the Department's regulations states that the financial ratios

tend to be significant components of the constructed normal value of NME exports, and hence, it is particularly important to have accurate values for them . . . .

Given the importance of manufacturing overhead, general expenses and profit in the calculation of normal value, the Department believes it is important to seek information that is as accurate as possible.<sup>56</sup>

According to Shakeproof, in order to make the fair comparison that the law requires, the Department in the final results should increase the surrogate overhead ratio by three percent (corresponding to the generally accepted cost of complying with stricter environmental regulations) to account for the costs and expenses associated with HSW's compliance with the Chinese environmental standards.

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<sup>56</sup> *See AD CVD Proposed Rulemaking*.

HSW argues that the Department should reject Shakeproof's request to make further adjustments to the surrogate overhead ratio calculation to account for environmental compliance standards. According to HSW, although the Department has the statutory mandate to calculate margins as accurately as possible, the courts have recognized that "Commerce need not 'duplicate the exact production experience of the {Chinese} manufacturers at the expense of choosing a surrogate value that most accurately represents the fair market value of {the subject merchandise} in a {hypothetical} market economy {China}.'" See *Nation Ford* 166 F.3d at 1377. HSW claims that Shakeproof has not identified any instance in which the Department has made any adjustment like that proposed by Shakeproof for environmental compliance costs. HSW points out that Shakeproof appears to assume that any environmental compliance costs that HSW incurred as part of its overhead expenses would not be reflected in the surrogate overhead ratio, but has failed to provide any support for the flawed assumption that Indian surrogate producers do not have to comply with Indian environmental laws. Accordingly, HSW maintains that, to the extent HSW did incur any environmental compliance costs, such costs would be considered overhead costs and would already be reflected in the surrogate overhead ratio.

**Department Position:**

Shakeproof cites *Sigma* as precedent for the Department's taking the individual circumstances of a Chinese producer into account in calculating financial ratios. However, the situation in *Sigma* is different from this situation. In *Sigma*, the Department was attempting to find the appropriate overhead ratio for foundries of different sizes (*i.e.*, medium or small) and it was determined that foundries of different sizes (small, medium, and large) had different overhead. The Department's surrogate source was a cable which listed different overhead ratios for small foundries (20-30 percent) and large foundries (40-50 percent). Thus the Department was able to infer that medium size foundries must occupy the middle ground, that is, have a ratio of 30-40 percent. Thus, in *Sigma*, the Department recognized that it had information to, and should, assign different sized firms distinct overhead ratios. See *Sigma* 56 F. Supp 2d at 1349-1350. However, no special adjustments were made to the overhead ratios themselves, as Shakeproof is requesting in the instant review of HSLWs.

We are not persuaded by Shakeproof's argument that it is necessary to adjust the surrogate overhead ratio to reflect the cost of complying with Chinese environmental standards. Shakeproof has not provided and the record does not contain any evidence that India does not have environmental standards which manufacturers must comply with or that the surrogate overhead does not reflect a compliance with India's environmental standard. Nor has Shakeproof cited sources to support its statement that three percent is "the generally accepted cost of complying with stricter environmental regulations."

As we pointed out in *Bulk Aspirin from the People's Republic of China; Final Results of Antidumping Duty Review*, 68 FR 6710 (February 10, 2003), and accompanying issues and decision memorandum at comment 2:

once Commerce establishes that the surrogate produces identical or comparable merchandise, closely approximating the nonmarket producer's experience, Commerce merely uses the surrogate producer's data. 19 U.S.C. § 1677(c)(4) (2000); 19 C.F.R. 351.418(c)(4) (2001). Furthermore, Commerce is neither required to 'duplicate the exact production experience of the Chinese manufacturers,' *National Ford Chem. Co. v. United States*, 166 F. 3d. 1373, 1377 (Fed. Cir. 1999), nor undergo 'an item-by-item analysis in calculating factory overhead.' *Magnesium Corp. of Am. v. United States*, 166 F. 3d. 1364, 1372 (Fed. Cir. 1999). Moreover, Commerce need not use 'perfectly conforming information,' only comparable information.

*AD CVD Proposed Rulemaking* at 7344. We found, in Comment 5 *supra*, that Suchi is a producer of identical or comparable merchandise and, as such Suchi's experience closely approximate HSW's experience. Accordingly, consistent with the Department's long-standing practice, we have not adjusted the overhead ratio as suggested by Shakeproof. *See e.g., Polyvinyl Alcohol Final* at comment 1 and 10 (citing to *Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001), and accompanying issues and decision memorandum at Comment 2) (in which we declined to adjust overhead because "this type of adjustment is contrary to the Department's long-standing practice of not adjusting a surrogate producer's overhead figures"); *see also Lug Nuts Final; Persulfates '96-'98*; and *Pure Magnesium and Alloy Magnesium Final*. Therefore, for the final results of this review we will make no adjustment to the surrogate overhead ratio for purported environmental compliance costs.

**Recommendation**

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

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

\_\_\_\_\_  
David M. Spooner  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date