

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

FROM: John M. Andersen
Acting 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 2006 – 2007 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: Since Hardware's Claimed Purchases of Inputs from Market Economy Suppliers;
Use of Adverse Facts Available
- Comment 2: Proper Financial Statements to Use in Calculating Respondents' Financial
Expenses

BACKGROUND:

On September 9, 2008, 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*, 73 FR 52277 (September 9, 2008) (*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, 2006 through July 31, 2007. This administrative review covers Forever Holdings Limited (Forever Holdings) and the PRC-wide entity, which includes Since Hardware (Gunagzhou) Co., Ltd (Since Hardware).

In the *Preliminary Results*, we invited parties to comment. In response, on October 8 and October 10, 2008, the Department received respective case briefs from Since Hardware and from Home Products International (the Petitioner in this case). Petitioner and Since Hardware submitted rebuttal briefs on October 14 and October 17, 2008, respectively. On January 5, 2009, 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 of China: Extension of Time Limit for the Final Results of Administrative Review*, 74 FR 267 (January 5, 2009).

CHANGES FROM THE PRELIMINARY RESULTS

Based upon our analysis of comments received, we made the following changes in the margin calculations:

- For the reasons outlined in our response to Comment 1, we have determined to base our assessments and cash deposit rate for the PRC-wide entity, including Since Hardware, on adverse facts available (AFA).
- For Forever Holdings, we have based the calculation of factory overhead, selling, general and administrative (SG&A) expenses and profit on the audited 2006-2007 financial statements of Infiniti Modules. *See* Comment 2, below.

DISCUSSION OF THE ISSUES

Comment 1: Since Hardware's Claimed Purchases of Inputs from Market Economy Suppliers; Use of Adverse Facts Available

Petitioner contends the dumping margin for Since Hardware should be determined by using total AFA. Petitioner asserts Since Hardware has submitted fraudulent and forged documentation to support its claimed purchases of a steel input sourced from market economy suppliers. Petitioner notes that in its response to the Department's questionnaires, Since Hardware claimed it

purchased steel inputs along with other production inputs from market economy suppliers. Petitioner also notes the Department relied upon Since Hardware's claimed purchases of these inputs from market economy suppliers to calculate the margin published in the *Preliminary Results*. Petitioner asserts, however, that evidence obtained subsequent to the *Preliminary Results* establishes that "Since Hardware submitted false and forged documents in the current review and throughout each segment of the antidumping proceeding." See Petitioner's October 10, 2008 case brief at 4.

Petitioner asserts that Since Hardware "has consistently and repeatedly claimed with manifest falsity" that steel inputs (the most significant production input of the subject merchandise) originated in a market economy country. *Id.* Petitioner also asserts that Since Hardware failed to demonstrate that other production inputs were sourced in a market economy country. Petitioner contends the photographs provided by Since Hardware in its August 22, 2008 submission to support its claimed market economy purchases have no probative value. *Id.* at 5.

With respect to its claimed purchases of steel products from market economy suppliers, Petitioner notes Since Hardware has provided no mill certificates. *Id.* at 6. Moreover, Petitioner asserts that Since Hardware's claimed purchases of a steel input far exceeded the amount reflected in relevant trade data from the market economy country from which Since Hardware claimed to source the steel input. Further, Petitioner asserts the certificates of origin provided by Since Hardware to support the claimed market economy purchases were "phony." *Id.* Moreover, Petitioner insists that Since Hardware has submitted false documentation concerning the source of a steel input in both the first review (which covered the period February 3, 2004 through July 31, 2005) and the second review (which covered the period August 1, 2005 through July 31, 2006). The amended final results of the first review were published on April 19, 2007. See *Notice of Amended Final Results of Antidumping Duty Administrative Review: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China*, 72 FR 19689 (April 19, 2007). The final results for the second administrative review were published on March 18, 2008. See *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 14437 (March 18, 2008) (*Second Review Final Results*). Petitioner claims it has demonstrated that Since Hardware submitted "false information and false certificates of accuracy" during the verification of the first review. *Id.* at 8.

Petitioner further insists the photographs of raw materials inventories and other information provided by Since Hardware in Since Hardware's letters of September 19 and September 26, 2008 fail to provide a serious response to the Petitioner's allegations that Since Hardware's claimed purchases of inputs from market economy suppliers were "falsified" and "forged." *Id.* at 9. Petitioner maintains "Since Hardware has not proven up the origin of any of the inputs placed in issue and it does not, as it cannot, offer any explanation for the continuing, egregious parade of false statements of origin submitted by it to the Department over a period of years." *Id.*

Petitioner claims Since Hardware has provided false and misleading information which warrants appraisements based on total AFA. Petitioner notes the statute provides that if a party withholds

information requested by the Department, significantly impedes the proceeding, or provides information that cannot be verified by the Department, the Department “shall” proceed with facts otherwise available. *Id.* Petitioner further notes that where the Department finds that an interested party has failed to cooperate to the best of its ability the Department may use adverse inferences in determining the source of AFA.

Petitioner avers that the Department has resorted to AFA where it has found that a party has provided “false or misleading” information. *Id.* Petitioner cites to *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) and accompanying Issues and Decision Memorandum at Comment 27; *Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People’s Republic of China*, 71 FR 16116 (March 30, 2006) and accompanying Issues and Decision Memorandum at Comments 2 and 11, as instances where the Department proceeded with AFA because the respondent provided false or misleading information.

Petitioner contends that Since Hardware has impeded the proceeding. Petitioner asserts that upon being confronted with evidence that its certificate-of-origin documentation was forged, Since Hardware implied it was “merely the victim of its trading company supplier.” *Id.* at 11. Petitioner asserts the two trading companies from which Since Hardware sources its inputs have no specific reason to forge documentation. However, Petitioner continues, Since Hardware would have a clear motivation to provide false documentation. Moreover, Petitioner insists the information provided by Since Hardware is unverifiable because the photographs and other information submitted by Since Hardware in the course of this review provide no link to the country of origin of the production inputs. Petitioner further argues that Since Hardware “significantly impeded the investigation” by providing false information, filing incorrect certifications of the information, and failing to provide a credible explanation for the discrepancies in the information that Since Hardware submitted. *Id.* at 12-14. Petitioner asserts that Since Hardware’s failure to link the products claimed to be of market economy origin to any documentation of market economy origin, and the “conflicting, non-credible explanations” provided by Since Hardware have substantially impeded the review. *Id.* at 14.

Petitioner argues that the facts in this case warrant application of total AFA. Citing *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003), Petitioner notes the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) has interpreted failure to cooperate to the best of its ability to mean that a respondent is obligated to “do the maximum it is able to do.” Petitioner asserts the information submitted by Since Hardware falls short of the Federal Circuit’s threshold. Petitioner further argues that the Department is unable to determine from the information submitted by Since Hardware whether Since Hardware’s purchases of steel inputs were from market economy suppliers. Petitioner notes these steel inputs constitute major production inputs. Petitioner contends Since Hardware’s failure to accurately report the source documentation necessary to quantify the purchases of these steel inputs constitute failure on the part of Since Hardware to cooperate to the best of its ability.

As the basis of AFA, Petitioner suggests the Department should use the 157.68 percent rate calculated for Shunde Yongjian Housewares Co., Ltd. in the less-than-fair-value investigation. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China*, 69 FR 47868 (August 6, 2004) (*Amended Final Determination*). Petitioner notes that the rate of 157.68 percent represents a calculated rate from an earlier stage of this proceeding. Citing to *Shanghai Taoen International Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339 (Ct. Int'l Trade 2005), Petitioner asserts the 157.68 percent rate has a rational relationship to the party to whom it was applied. Petitioner further notes the 157.68 percent rate is a corroborated rate that was based on numerous sales. Finally, Petitioner insists this rate is reliable, the source for the PRC-wide rate, and representative of the industry.

In rebuttal, Since Hardware contends that it has provided “complete and accurate” information in this review. *See* Since Hardware October 17, 2008 Rebuttal Brief at page 1. As such, Since Hardware asserts that use of AFA in this case is inappropriate. Since Hardware argues that it has had a “long and positive” relationship with the Department. *Id.* Since Hardware notes that its responses were verified in both the original investigation and in the first administrative review of this proceeding. Since Hardware maintains it has submitted complete responses to the Department’s original and supplemental questionnaires. Moreover, Since Hardware points out that each submission it filed was accompanied by a certification from its general manager that “the information contained in this submission is, to the best of {his} knowledge complete and accurate.” *See* Since Hardware October 17, 2008 rebuttal brief at page 3. Since Hardware argues that the information contained in its September 12, 2008 submission establishes that it did, in fact, purchase raw materials from market economy suppliers. Since Hardware asserts this documentation included photographs of the raw material sitting in inventory, invoices and accounting records relating to the purchase and entry into inventory of these materials, photographs of the factory that sold some of the raw materials to Since Hardware, invoices from a trading company relating to some of the production materials, and Chinese Customs statistics. *Id.* at 2.

Since Hardware contends that it has submitted all of the documentation an end-user of raw materials could reasonably be expected to possess. Since Hardware claims Chinese Customs authorities do not require it to present certificate of origin documentation, and further asserts that it has relied upon the trading companies who furnished the production materials to provide “true and accurate documentation” concerning the source of its market economy inputs. *Id.* at 3. Since Hardware argues that the Department should not punish Since Hardware for placing faith in the trading companies which supplied production inputs to the company.

Finally, Since Hardware suggests that if the Department determines to disregard its claimed market economy purchases, it should use factors of production to value the production inputs rather than AFA. Since Hardware asserts that Shunde Yongjian’s margin is not reliable because it was calculated before the issuance of the antidumping duty order. Moreover, Since Hardware argues that should the Department determine to reject its claimed market economy purchases, there remains other factual information sufficient to calculate a margin for the company.

Department's Position

Since Hardware has provided unreliable and incomplete documentation in support of its claimed purchases of market economy inputs. We have determined that the nature of these unreliable submissions calls into question the reliability of the questionnaire responses submitted by Since Hardware in this review, including Since Hardware's claim of eligibility for separate rate status. Thus, we find Since Hardware is part of the PRC-wide entity for purposes of this review. Furthermore, in these final results we determine pursuant to section 776(b) of the Tariff Act of 1930, as amended (Act) that the PRC-wide entity, which includes Since Hardware, has failed to cooperate to the best of its ability. We have, therefore, in these final results of review based the margin of the PRC-entity, of which Since Hardware is a part, on AFA. As AFA, we have used the highest rate calculated for a respondent in prior segments of this proceeding. The highest calculated rate is the 157.68 percent margin calculated for Shunde Yongjian Housewares in the less-than-fair-value investigation of this proceeding. *See Amended Final Determination. See also, Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 883 (January 9, 2009) (the Department revoked a respondent's separate rate status and applied the PRC-wide rate to an entity as AFA). The statutory framework supporting the Department's use of AFA in this case is set forth below. *See Memorandum from Richard Weible, Director, Office 7 to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations; "Since Hardware (Guangzhou) Co., Ltd's. Claim Regarding Market Economy Purchases, and Use of Adverse Facts Available" (AFA Memorandum)*, dated March 9, 2009 at pages 16-17 for a discussion of the corroboration of the AFA rate. The AFA Memorandum is on file in the Central Records Unit, room 1117 of the Department of Commerce.

Section 776(a)(2) of the Act, provides that if an interested party (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(d) of the Act provides that if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed "deficient" under section 782(d) of the Act if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested

party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the Department “finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission... in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.” *See also Statement of Administrative Action (SAA)* accompanying the Uruguay Round Agreement Act, H.R. Rep. No. 103-316 at 870 (1994).

While the discussion set forth in this Issues and Decision Memorandum is public, much of our analysis concerning Since Hardware’s claimed purchases of market economy inputs is proprietary in nature. For discussion and analysis of the proprietary data considered in this review, *see* AFA Memorandum.

Pursuant to section 776(a)(2) of the Act, we find Since Hardware’s conduct in this review to have significantly impeded the proceeding. The steel inputs in question which Since Hardware claimed to have sourced primarily from market economy suppliers constitute a major portion of the production inputs of the subject merchandise. As discussed below, numerous typographical errors and discrepancies appear in the documentation that Since Hardware submitted concerning its alleged purchases of inputs from market economy suppliers. Since Hardware has implausibly attempted to shift all responsibility for the submission of these unreliable and inaccurate data upon multiple, independent suppliers. *See e.g.*, Since Hardware’s September 12, 2008 letter at 2. However, these independent suppliers would have no interest in submitting such unreliable and inaccurate data to the Department. Additionally, copies of the ledger entries submitted by Since Hardware indicate that entries in Since Hardware’s accounting system also reflect inaccurate and unreliable information. *See* Since Hardware’s September 12, 2008 letter at Exhibits 2 and 4; Since Hardware’s October 31, 2008 letter at exhibit 2. Based on the foregoing and our examination of the evidence set forth below, we are compelled to conclude that the purported market economy purchases reported by Since Hardware result in serious deficiencies in Since Hardware’s entire questionnaire responses. We therefore conclude that Since Hardware’s questionnaire responses are no longer reliable for purposes of determining Since Hardware’s margin of dumping in this administrative review. These deficiencies include:

- The certificates submitted by Since Hardware relating to its claimed purchases of a steel input from a market economy supplier are clearly not used by the regulatory agency responsible for certifying the origin of the input. These certificates constitute the entire basis for establishing that Since Hardware purchased the steel input from a market economy supplier. In its October 31, 2008 letter, the Department asked Since Hardware to explain the discrepancies detailed by Petitioner in the certificate of origin forms which Since Hardware submitted. However, Since Hardware failed to address the discrepancies enumerated in Petitioner’s September 2, 2008 letter and described in the AFA Memorandum. These discrepancies are detailed in the AFA Memorandum. *See* AFA Memorandum at pages 3-5.

- The identical typographical errors and other discrepancies appear on documentation submitted from multiple, independent, unaffiliated suppliers. Since Hardware has never explained the source of these typographical errors and discrepancies, and has provided no credible explanation as to why the same set of typographical errors appear in the documentation submitted from multiple independent, unaffiliated suppliers. Moreover, the Department has examined the certifications provided by another respondent in a previous segment of the proceeding. Those certificates are from the same market economy country from which Since Hardware claims to have sourced this steel input. *See* Attachment 1 of the AFA Memorandum. None of the typographical errors identified in Since Hardware's documentation are found in the same type of documentation submitted by that respondent to corroborate its market economy purchases.
- In addition to the discrepancies in the certificates of origin, the records pertaining to market economy purchases maintained in Since Hardware's own accounting system appear to be unreliable. In its September 12, 2008 letter and again in its October 31, 2008 response to the Department's questions, Since Hardware provided copies of ledger entries that were purportedly associated with both its market economy purchases of steel inputs and of another production input which Since Hardware claimed to have sourced from a market economy supplier. *See* Since Hardware September 12, 2008 letter at Exhibits 2 and 4; Since Hardware October 31, 2008 letter at Exhibit 2. These copies of ledger entries are consistent with the now-discredited certificate of origin documentation submitted by Since Hardware. This suggests that the pervasive errors in the certificate of origin documents infect Since Hardware's own books and accounting records. Because Since Hardware's own accounting records reflect unreliable and inaccurate information, the Department is unable to trust in the accuracy and validity of the data which Since Hardware retrieved from its accounting system.
- The Department questions the plausibility of Since Hardware not having mill certificates. With regard to its steel purchases, Since Hardware has consistently claimed that it relied upon its suppliers to ensure the steel's quality, as Since Hardware lacked the technical expertise to evaluate the steel itself. To support its claim, Since Hardware insists it never obtained mill test certificates (the very document necessary to identify the steel's chemical and mechanical properties) from its suppliers. None of the sales documentation provided by Since Hardware even specifies the grade of steel involved, let alone its specific properties. There are several problems with Since Hardware's response on this issue. First, Since Hardware did, in fact, submit mill test certificates in the course of the first administrative review. Petitioner has put these mill certificates on the record of this segment of these proceedings. *See* Exhibit 8 of Petitioner's September 2, 2008 letter. Second, acquiring a steel product absent a description of its physical, mechanical, and chemical properties is implausible. Absent such a description, the manufacturer has no way of knowing whether the steel inputs meet the needs of the manufacturer's customers. There are thousands of different physical, mechanical and chemical combinations for steel inputs. Absent some confirmation of the properties of its steel inputs, be it mill test certificates or its own independent testing, Since Hardware would be incapable of knowing if the purchased steel was suitable for the forming and shaping requirements to meet its needs. Since Hardware has not explained how it knows any specific properties of the steel it

purchases and whether the material it acquires is suitable for making ironing tables.

- Since Hardware's claimed purchases of a major steel input is not supported by trade data. *See* AFA Memorandum at page 12.
- The Department questions the authenticity of the certificates of origin submitted by Since Hardware to support its claimed purchases of a steel input. As opposed to its suppliers, Since Hardware has a strong interest in providing data that would lead the Department to rely upon purported market economy purchases. Providing such market economy data would allow Since Hardware to control the valuation of two key inputs, rather than relying on the Department's factors of production. Submission of such data, in essence, allows Since Hardware far greater control in the calculation of its eventual margin. As to the authenticity of the certificates of origin that it supplied, Since Hardware has offered no rebuttal to the allegations made by Petitioner. Moreover, Since Hardware provided no explanation concerning why the same set of typographical errors appear in the certificate of origin documentation submitted by multiple suppliers. Furthermore, while Since Hardware could stand to benefit from the submission of unreliable data concerning its purchases of market economy purchases, Since Hardware has offered no explanation as to why multiple independent suppliers would benefit from the submission of such unreliable data. In the absence of any evidence to suggest that multiple suppliers colluded to provide unreliable certificates, the most plausible explanation for these same errors appearing in both suppliers' documents is that Since Hardware is the source of these inaccuracies.
- In our letter of October 22, 2008, we afforded Since Hardware a final opportunity to address the various deficiencies in its questionnaire responses and specifically directed Since Hardware to coordinate its response with its suppliers. Rather than provide such a coordinated response, Since Hardware instead attempted to assign responsibility for such deficiencies to its suppliers.

We have determined that the documentation submitted by Since Hardware to support its claimed purchases of market economy inputs to be unreliable and inaccurate. The deficiencies in Since Hardware's response establish a pattern of behavior that undermines the reliability and credibility of Since Hardware's entire questionnaire response, including Since Hardware's claim of eligibility for separate rate status. Since Hardware's claimed market economy purchases conflict with trade data concerning steel exports from a market economy supplier and with published international trade statistics. Moreover, we find Since Hardware's claim that it does not maintain mill certificates for its steel imports implausible. Finally, despite repeated attempts to remedy and clarify the deficiencies prevalent in its responses, Since Hardware has failed to do so. Based on the foregoing, we therefore have determined consistent with the statute and our regulations to assign as AFA a rate of 157.68 to the PRC-wide entity, which includes Since Hardware in the final results of this review. *See also* AFA Memorandum.

Comment 2: Proper Financial Statements to Use in Calculating Respondents' Financial Expenses

Petitioner contends that to calculate factory overhead, SG&A expenses, and profit, the Department should use the audited financial statements for Infiniti Modules Pvt. Ltd. (Infiniti Modules) for the year ending March 31, 2007 (2007 financial statements) rather than the audited financial statements for Infiniti Modules for the year ending March 31, 2006 (2006 financial statements). Petitioner contends the 2007 financial statements constitute the best available information for valuing factory overhead, SG&A expenses, and profit. Petitioner notes Infiniti Modules' 2007 financial statements are publically available and are more contemporaneous than are Infiniti Modules' 2006 financial statements. In Petitioner's September 29, 2008 submission, Petitioner calculated ratios for factory overhead, SG&A expenses, and profit based upon the 2007 financial statements. *See* "Floor Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China; Surrogate Values Information Concerning Factory Overhead, SG&A expenses and Profit"; *see also* Petitioner's September 29, 2008 letter at page 3. Petitioner asserts that in our final results we should use those ratios set forth in Petitioner's September 29, 2008 letter.

Since Hardware contends that regardless of whether the Department uses the 2007 or 2006 financial statements of Infiniti Modules, the Department should make three changes to the financial ratios derived from either of these financial statements. First, Since Hardware argues that consistent with the policy set forth in the August 7, 2008 Memorandum "Steel Wire Garment Hangers from the People's Republic of China: Surrogate Values for the Final Determination at Attachment 26b" (Garment Hangers Surrogate Values), the Department should exclude "job work expenses" from the calculation of SG&A. Since Hardware maintains that "job work expenses" are a component of labor costs rather than a component of SG&A expenses. Secondly, Since Hardware asserts the Department should include "Miscellaneous receipts," "other income" and "miscellaneous income" in its calculation of SG&A expenses. Since Hardware claims these items relate to the operations of the company as a whole. Thus, consistent with the practice set forth in Garment Hangers Surrogate Values and *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) (*Pneumatic Tires*) and accompanying Issues and Decision Memorandum at Comment 18B, Since Hardware argues that the Department should include these items as an offset to SG&A expenses. Finally, Since Hardware avers the Department should include "job work revenue" as an offset to SG&A expenses. Since Hardware claims there is nothing in either the 2006 or 2007 financial statements of Infiniti Modules to suggest that "job work revenues" are unrelated to Infiniti Modules' operations as a whole.

Petitioner rebuts that "job work expenses" are neither a component of Infiniti Modules' direct labor costs nor a component of the direct labor costs of any other company. Petitioner notes Infiniti Modules reported "job work expenses" in its Schedule 16 "Manufacturing & Other Expenses" rather than in Schedule 15 "Payment To & Provisions For Employees." Petitioner asserts that "job work expenses" constitute "fees paid by a firm for work or service performed by

another entity that necessarily makes use of machinery or equipment, or of workers' labor or both in some unknown combination." See Petitioner October 14, 2008 rebuttal brief at page 3.

Concerning "Miscellaneous receipts," "other income" and "miscellaneous income," Petitioner notes the Department has routinely excluded these items in past reviews. See *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) and accompanying Issues and Decision Memorandum at 6-7 and n. 18 (*First Review Final Results*); and *Second Review Final Results* and accompanying Issues and Decision Memorandum at 9-11. Petitioner notes that in the *Second Review Final Results*, the Department concluded that the "miscellaneous income" reported by a potential surrogate producer "was insufficient to permit the Department to conclude that such income was *not* related to the general operations of the company." *Id.* at 4 (Petitioner's emphasis). Petitioner further disputes that Garment Hangers Surrogate Values and *Pneumatic Tires* support the premise that "Miscellaneous receipts," "other income" and "miscellaneous income" should be used to offset SG&A expenses. Rather, Petitioner asserts that in Garment Hangers Surrogate Values and *Pneumatic Tires*, the Department merely evaluated each of the items in question to determine whether it related to the general operations of the company as a whole. Petitioner asserts in the case of the income items at issue for Infiniti Modules, the Department has already determined that the items are unrelated to the general operations of the company.

Finally, Petitioner asserts that should the Department determine to use Infiniti Modules' 2007 financial statements, the question of whether SG&A expenses should be reduced by "job-work income" is moot because the 2007 financial statements reported no such "job work income." Petitioner notes, however, that were the Department to use the 2006 financial statements for Infiniti Modules, the Department "resolved the issue contrary to Since Hardware's position" in both the *First Review Final Results* and *Second Review Final Results*. *Id.* at 5.

Department's Position

For the reasons noted in our response to Comment 1, we have based our analysis for the PRC-wide entity, which includes Since Hardware on AFA. However, we agree with Petitioner that the 2007 financial statements for Infiniti Modules constitute the "best available information" for valuing factory overhead, SG&A expenses and profit pursuant to section 773(c)(1) of the Act. The 2007 financial statements are audited, publically available and are more contemporary to the period covered by this review than are the 2006 financial statements for Infiniti Modules.

Moreover, we disagree with Since Hardware's assertion that the Department should offset SG&A expense with "job work expenses" line items relating to "Miscellaneous receipts," "other income," "miscellaneous income" or "job work revenue." Consistent with the position that we have taken in the *First Review Final Results* and *Second Review Final Results* we have determined that no adjustment to the 2007 Financial Statements for any of these items is warranted. Concerning "job work expenses" we agree with Petitioner that the classification of items as "Manufacturing and Other Expenses" rather than as "Payment To & Provisions For

Employees” qualifies the item as a general expense rather than as a component of direct labor expense. Additionally, we continue to maintain (consistent with the position that we have taken in the *First Review Final Results* and the *Second Review Final Results*) that “Miscellaneous receipts,” “other income” and “miscellaneous income” should be excluded from SG&A expenses because such expenses do not relate to the general operations of the company. Finally, because the 2007 financial statements for Infiniti Modules contain no provision for “job work income” Since Hardware’s arguments concerning whether an offset for this item is moot. Based on the foregoing, we have in our final results determined to use the ratios set forth in Petitioner’s September 29, 2008 letter to calculate factory overhead, SG&A expenses and profit for Forever Holdings.

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 Forever Holdings and for the PRC-wide entity, which includes Since Hardware in the *Federal Register*.

Agree _____

Disagree _____

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

Date