

July 23, 2010

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

FROM: Edward C. Yang
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the
January 2009 through June 2009 New Shipper Review of Wooden
Bedroom Furniture from the People's Republic of China

SUMMARY

We have analyzed the case and rebuttal briefs of interested parties in the new shipper review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China ("PRC"). The period of review ("POR") is January 1, 2009, through June 30, 2009. As a result of our analysis, the Department of Commerce ("the Department") has made changes to the margin calculations. We recommend that you approve the positions described below. On April 2, 2010, the Department received a case brief from Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd. ("Zhejiang Tianyi"). On April 7, 2010, the Department received a rebuttal brief from the American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc. (collectively, "Petitioners"). On May 18, 2010, the Department received factual information submitted by Petitioners, which raised issues concerning the veracity of the information on the record submitted by Zhejiang Tianyi. In May and June 2010, the Department issued questionnaires to Zhejiang Tianyi. In May, June, and July 2010, Zhejiang Tianyi submitted its responses to the Department's questionnaires and comments on its eligibility for a new shipper review and the validity of its data. On July 9, and July 14, 2010, the Department received comments on the surrogate value for labor from Petitioners.

Issue 1: Zhejiang Tianyi's Eligibility for a New Shipper Review and the Validity of Its Data

- Petitioners submitted factual information which they state demonstrates that Zhejiang Tianyi had certified a false statement in its request for a new shipper review and that the data Zhejiang Tianyi submitted may be inaccurate.

- Zhejiang Tianyi states that it is unable to comment on much of the information submitted by the individual (“anonymous source”) who had provided information to Petitioners because it is over-bracketed with significant portions in double brackets.
- Zhejiang Tianyi argues that Petitioners’ May 18, 2010, response was untimely and raises the question whether due process and equal protection has been followed.
- Zhejiang Tianyi argues that it is reasonable to assume that the anonymous source works in the furniture industry and is not a neutral observer. Therefore, the Department should uphold the statute and regulations in regards to the anonymous source’s claims.
- Zhejiang Tianyi argues that due process requires the Department to treat the information from the anonymous source no differently from that submitted by any other party.
- Zhejiang Tianyi argues that the information provided by the anonymous source should be treated as speculation because it does not meet the standard of substantial evidence.
- Zhejiang Tianyi asserts that an affidavit from the anonymous source certifying that the information he has provided is correct to the best of his knowledge is worthless because he has not provided evidence to substantiate his claims.
- Zhejiang Tianyi maintains that, as it has in other cases where an interested party has failed to cooperate, the Department should not rely on the information from the anonymous source because he refuses to provide further evidence and is unwilling to meet with Department officials.
- Zhejiang Tianyi argues that because the allegation made by Petitioners and the information from the anonymous source is not credible, the Department should remove all documentation from the record submitted by either Petitioners or the anonymous source.
- Zhejiang Tianyi argues that the Department had essentially completed its new shipper review by April 23, 2010, and, therefore, no further argument or factual information could be submitted in this review according to the Department’s regulations. Thus, the Department should remove the questionnaires the Department issued as a result of Petitioners’ allegations and remove Zhejiang Tianyi’s responses.
- Zhejiang Tianyi argues that it has fully cooperated with the Department and substantial evidence on the record supports the validity of its review.

Department’s position: The Department disagrees with Zhejiang Tianyi that Petitioners’ May 18, 2010, submission was untimely. As noted in a memorandum to the file, the Department has authority to extend the deadline for submission of factual information under 19 C.F.R. 351.302(b). In this case, the Department found good cause to extend the deadline for Petitioners

to resubmit their revised April 23, 2010 letter by one day until May 18, 2010, and, thus, accepted Petitioners' May 18, 2010, submission.¹

The Department also disagrees with Zhejiang Tianyi that no further factual information or argument could be submitted after case briefs had been filed with the Department. As noted in the letter to Petitioners, the Department found that due to the issues concerning the veracity of the information on the record submitted by Zhejiang Tianyi and its qualification as a new shipper, there was good cause to exercise its discretion under 19 CFR 351.302(b) and extended the deadline for the submission of factual information.² Therefore, the Department has not removed any of the documents placed on the record by Zhejiang Tianyi, the Department, or Petitioners.

The Department finds that Zhejiang Tianyi has fully cooperated with the Department based upon the preponderance of the evidence on the record that supports the validity of Zhejiang Tianyi's data and its eligibility for a new shipper review. In conducting this new shipper review, the Department must determine the weight, if any, which it should give to the anonymous source's allegations against Zhejiang Tianyi. In this regard, the Department finds that the anonymous source has acted in a manner that lacks credibility. The anonymous source was unwilling to meet with the Department, unwilling to further discuss his allegations with the Department, unable to provide any corroborating evidence and the anonymous source has cut off all communication with the Department. Accordingly, for the purposes of these final results, the Department has assigned no evidentiary weight to the anonymous source's allegations. Further, the Department notes that Zhejiang Tianyi has been able to thoroughly rebut these allegations. Much of the details of this discussion are business confidential.³ However, the Department has determined that the evidence on the record of the instant review indicates that: (1) Zhejiang Tianyi is not affiliated with any exporter/producer which exported or produced wooden bedroom furniture during the investigation; and (2) the information Zhejiang Tianyi provided to the Department was accurate. Accordingly, and as discussed fully in the accompanying business proprietary memorandum,⁴ the Department finds that Zhejiang Tianyi is eligible for a new shipper review and that its data may be relied upon to calculate its dumping margin in the instant review.

Issue 2: Reliance on the Regression-Based Wage Rate as a Surrogate Value for Labor

- Zhejiang Tianyi argues that the U.S. Court of International Trade ("CIT") ruling in Allied Pacific II⁵ essentially concluded that 19 CFR 351.408(c)(3) and its methodology is inconsistent with the statute. Specifically, Zhejiang Tianyi argues that the statute directs

¹ See Memorandum to the File regarding, "2009 New Shipper Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China: Extension of Petitioners' Submission," dated May 20, 2010.

² See Letter to Petitioners regarding, "New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: April 23, 2010 Factual Information Submission," dated May 13, 2010.

³ See Memorandum to the File, regarding "Zhejiang Tianyi's Eligibility for a New Shipper Review and the Validity of its Data," dated July 23, 2010.

⁴ Id.

⁵ Citing Allied Pacific Food (Dalian) Co., Ltd., et. al v. United States, 587 F. Supp. 2d 1330, 1351-61(CIT 2008)("Allied Pacific II").

the Department to select surrogate values using data from a market economy (“ME”) country at a comparable level of economic development to that of the non-market economy (“NME”) country that is a significant producer of comparable merchandise.

- Zhejiang Tianyi argues that the wage rate regression methodology used by the Department to value labor is not entitled to deference under Chevron⁶ because section 773(c)(4) of the Tariff Act of 1930, as amended (the “Act”) spoke directly to the methodology by which the Department is to value factors of production (“FOPs”), including labor.
- Zhejiang Tianyi maintains that while the Department is not required to value the hours of required labor entirely, or even principally, according to the cost or costs of labor in countries described in section 773(c)(4) of the Act, the statute nevertheless provides that the Department “shall utilize, to the extent possible,” such prices or costs and speaks to how Congress intended for the Department to value labor.
- Zhejiang Tianyi asserts that the record is insufficient to conclude the Department has adequately established that all countries included in its regression-based analysis meet the statutory requirements.
- Zhejiang Tianyi argues that the Department should obtain the necessary Philippine data from the International Labour Organization’s (“ILO”) web site, as compiled in ILO Yearbook, Table 5B, wages, in Manufacturing, 2006-2007 and use the data to value Zhejiang Tianyi’s reported labor.
- Zhejiang Tianyi argues that the surrogate value for labor should be derived from publicly available, country-wide Philippine wage data because Department has not substantiated its claim that the regression analysis used to calculate labor rates is more accurate than using a labor rate from a country at the same or similar level of economic development to the PRC that is also a significant producer of wooden bedroom furniture.
- Zhejiang Tianyi asserts the Department’s NME methodology is based on the assumption that the prices and other economic data from the PRC are unusable, but the Department’s calculation for the PRC wage rate uses the PRC’s gross national income (“GNI”), which is in conflict with the Department’s surrogate value policy.
- Zhejiang Tianyi argues that the Department's regression analysis should be corrected because it (1) did not include all countries for which GNI data are available, and (2) arbitrarily and punitively included data from highly-developed countries whose GNI far exceeds that of the PRC.

⁶ Citing Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 842-843, 104 S. Ct. 2778, 81 L. Ed. 2d 694 (1984) (“Chevron”).

- Zhejiang Tianyi argues that the Department should include the data of all countries for which GNI data are available and remove the data of countries whose GNI per capita is substantially higher than that of the PRC.
- Zhejiang Tianyi maintains that by selectively picking a subset of data, the regression analysis is distorted and, therefore, does not result in a value that is accurate, fair, or predictable.
- Zhejiang Tianyi also argues that the Department's manipulation of the labor rate by adding the world's wealthiest economies while excluding other countries is arbitrary and punitive because it inflates the wage rate.
- Petitioners argue that in accordance with 19 CFR 351.408(c)(3), the Department properly used a surrogate wage rate of USD 1.39 in its Preliminary Results and that this rate is the best available surrogate value for labor.⁷
- Petitioners assert that the CIT has recognized that the statute does not direct the Department to use a specific methodology to value labor, and the appellate courts have recognized that the Department's interpretation of the statute is therefore given controlling weight as long as it is rational.⁸
- Petitioners state that a draft version of the regulation codified at 19 CFR 351.408(c)(3) was subject to public comment and, pursuant to comments submitted, the Department recognized that its prior practice of using labor data collected from only one selected surrogate country resulted in wage rate variations and unpredictable margin calculations. Petitioners note that the Preamble to the Department's regulations states that the Department's reliance upon a regression-based wage rate would “significantly enhance the accuracy, fairness, and predictability of calculations in NME cases.”⁹
- Petitioners contend that, since the decision in Allied Pacific II, the Department continues to find that a regression-based wage rate is appropriate and has already rejected the legal argument that Zhejiang Tianyi is making. Petitioners further assert that in the final results of the third administrative review, the Department recognized that the decision in Allied Pacific II, which forms the crux of Zhejiang Tianyi's argument, is not a final decision, as the Department has not yet exhausted its appellate rights and, therefore, the Department should reach the same conclusion in this review.
- Furthermore, Petitioners state that the Department has already rejected the argument that Zhejiang Tianyi makes in regards to using wage rate data from the same primary country

⁷ See Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review, 75 FR 9581 (March 3, 2010) (“Preliminary Results”).

⁸ Citing Luoyang Bearing Corp. v. United States, 347 F. Supp. 2d 1326, 1346 (CIT 2004), Chevron, 467 U.S. at 844, and Koyo Seiko Co., Ltd. v. United States, 36 F.3d 1565, 1570 (Fed. Cir. 1994).

⁹ Citing Antidumping Duties; Countervailing Duties: Final Rule, 62 FR 27296 (May 19, 1997),

as it used for the majority of its surrogates and that this rejection was affirmed by the CIT in Dorbest II.¹⁰

- Even if the Department were to use a wage rate that is not derived from its regression methodology, Petitioners note that Zhejiang Tianyi did not place alternative data on the record. Therefore, Petitioners argue, the Department must reject Zhejiang Tianyi's argument to replace the Department's established methodology with alternative data and should continue to use the regression-based wage rate used in the Preliminary Results.¹¹
- Petitioners assert that the Department should reject Zhejiang Tianyi's argument that additional countries should be included in the regression analysis as the Department has done in Certain Cased Pencils,¹² where the Department found that the selected group of countries established a dependable dataset and that it would be inappropriate to evaluate appropriateness of each additional data point within the context of a single proceeding.
- Petitioners also assert that Zhejiang Tianyi's argument that the inclusion of highly developed countries has inflated the wage rate and the resulting dumping margin calculation is wrong because the Department's data show that the predicted wage for a low income country is very close to the actual wage in other low income countries, not the actual wage in high income countries.
- Petitioners state that the Department has already explained that using only economically comparable countries would undermine the consistency and predictability of the regression analysis and the use of a larger basket of countries, including all developed countries for which there are reliable data, better grasps the relationship between wage rates and GNI.

Department's position: As a consequence of the United States Court of Appeals for the Federal Circuit ("CAFC")'s recent ruling in Dorbest II, the Department is no longer relying on the regression-based wage rate described in 19 CFR 351.408(c)(3). The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. For these final results, we have calculated an hourly wage rate to use in valuing Zhejiang Tianyi's reported labor input by averaging earnings and/or wages in countries that are both economically comparable to the PRC and significant producers of comparable merchandise. As discussed infra at Comment 3, the Department has determined that the best available information for calculating a wage rate is based on multiple surrogate countries rather than an individual surrogate country.

¹⁰ Citing Dorbest Ltd. v. United States, 547 F. Supp. 2d 1321, 1330 (CIT 2008) ("Dorbest II").

¹¹ See Preliminary Results, 75 FR at 9585.

¹² Citing Certain Cased Pencils from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 74 FR 33406 (July 13, 2009) and accompanying Issues and Decision Memorandum at Comment 3 ("Certain Cased Pencils").

In order to determine the economically comparable surrogate countries from which to calculate a surrogate wage rate, the Department looked to the Preliminary Results.¹³ Early in this review, the Department selected six countries for consideration as the surrogate country for this review. To determine which countries were at comparable levels of economic development to the PRC, the Department placed primary emphasis on GNI.¹⁴ The Department relies on GNI to generate its initial list of countries considered to be economically comparable to the PRC. In this review, the list of potential surrogate countries found to be economically comparable to the PRC included India, the Philippines, Indonesia, Colombia, Thailand, and Peru. The Department used the high- and low-income countries identified in the Preliminary Results as “bookends” and then identified all countries in the World Bank’s World Development Report for 2007 with per capita incomes (using the 2007 GNIs from the 2009 Expected Wages of Selected NME Countries) that placed them between these “bookends.” This resulted in 52 countries, ranging from India and Yemen with USD 950 GNI to Colombia and Namibia with USD 4,100.¹⁵

Regarding the second criterion of “significant producer,” the Department identified all countries which have exports of comparable merchandise (defined as Harmonized Tariff Schedule 9403.50 and 7009.92, which are identified in the scope of this order) between 2007 and 2009.¹⁶ After screening for countries that had exports of comparable merchandise, we found that 35 of the 52 countries designated as economically comparable to the PRC are also significant producers. In this case, we have defined a “significant producer” as a country that has exported comparable merchandise from 2007 through 2009. The antidumping statute and regulations are silent in defining a “significant producer,” and the antidumping statute grants the Department discretion to look at various data sources for determining the best available information. See section 733(c) of the Act. Moreover, while the legislative history provides that the “term ‘significant producer’ includes any country that is a significant net exporter”,¹⁷ it does not preclude reliance on additional or alternative metrics. In practice, the Department has relied on other indicia for determining whether a country is a significant producer. For example, in the Preliminary Results,¹⁸ the Department relied on production data for selecting the primary surrogate country. In this case, we have relied on countries with exports of comparable merchandise as significant producers.

For purposes of valuing wages in this review, the Department determines the following 36 countries to be both economically comparable to the PRC, and significant producers of comparable merchandise: Albania, Algeria, Belize, Bhutan, Bolivia, Bosnia & Herzegovina, Cape Verde, Colombia, Dominican Republic, Ecuador, Egypt, El Salvador, Fiji, Guatemala, Guyana, Honduras, India, Indonesia, Jordan, Macedonia, Mongolia, Morocco, Namibia,

¹³ See Preliminary Results, 75 FR at 9584.

¹⁴ See 19 CFR 351.408(b).

¹⁵ See Memorandum to The File, through Howard Smith, Program Manager, AD/CVD Operations, Office 4, concerning, “Wage Data,” dated July 13, 2010.

¹⁶ The export data is obtained from the Global Trade Atlas. See Memorandum to The File, through Howard Smith, Program Manager, AD/CVD Operations, Office 4, concerning, “Wage Data,” dated July 13, 2010.

¹⁷ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Conf. Rep. No. 576, 590, 100th Cong. 2nd Sess. (1988), reprinted in 134 Cong. Rec. H2031 (daily ed. April 20, 1988).

¹⁸ See Preliminary Results, 75 FR at 9584.

Nicaragua, Paraguay, Peru, the Philippines, Samoa, Sri Lanka, Sudan, Swaziland, Syria, Thailand, Tunisia, Ukraine, and Yemen.

Third, from the 36 countries that the Department determined were both economically comparable to the PRC and significant producers of comparable merchandise, the Department identified those with the necessary wage data. In doing so, the Department has continued to rely upon ILO Chapter 5B data “earnings”, if available and “wages” if not.¹⁹ We used the most recent data within five years of the base year (2007) and adjusted to the base year using the relevant Consumer Price Index (“CPI”).²⁰ Of the 36 countries that the Department has determined are both economically comparable and significant producers of comparable merchandise, 13 countries, *i.e.*, Algeria, Belize, Bhutan, Bolivia, Cape Verde, Morocco, Namibia, Samoa, Sudan, Swaziland, Syria, Tunisia, and Yemen, were not used in the wage rate valuation because there was no earnings or wage data available. The remaining countries reported either earnings or wage rate data to the ILO within the last five years.²¹

The Department relied on data from the following countries to arrive at its wage rate in these final results: Albania, Bosnia & Herzegovina, Colombia, Dominican Republic, Ecuador, Egypt, El Salvador, Fiji, Guatemala, Guyana, Honduras, India, Indonesia, Jordan, Macedonia, Mongolia, Nicaragua, Paraguay, Peru, the Philippines, Sri Lanka, Thailand, and Ukraine. The Department calculated a simple average of the wage rates from these 23 countries. This resulted in a wage rate derived from comparable economies that are also significant producers of the

¹⁹ The Department maintains its current preference for “earnings” over “wages” data under Chapter 5B. See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61721 (October 19, 2006) (explaining that “earnings” more accurately reflect the remuneration received by workers) (“Antidumping Methodologies”). However, under the previous practice, the Department was typically able to obtain data from somewhere between 50-60+ countries. Given that the current basket now includes 16 countries, the Department found that our long-standing preference for a robust basket outweighs our exclusive preference for “earnings” data. We note that several countries that met the statutory criteria for economic comparability and significant production, such as Indonesia and Thailand, reported only a “wage” rate. Thus, if earnings data is unavailable from the base year (2007) of the previous five years (2002-2006) for certain countries that are economically comparable and significant producers of comparable merchandise, the Department will use “wage” data, if available, from the base year or previous five years. The hierarchy for data suitability described in the 2006 Antidumping Methodologies still applies for selecting among multiple data points within the “earnings” or “wage” data. This allows the Department to maintain consistency as much as possible across the basket.

²⁰ Under the Department’s regression analysis, the Department limited the years of data it would analyze to a two-year period. See Antidumping Methodologies, 71 FR at 61720. However, because the overall number of countries being considered in the regression methodology was much larger than the list of countries now being considered in the Department’s calculations, the pool of wage rates from which we could draw from two years-worth of data was still significantly larger than the pool from which we may now draw using five years worth of data (in addition to the base year). The Department believes it is acceptable to review ILO data up to five years prior to the base year as necessary (as we have previously), albeit adjusted using the Consumer Price Index. See Expected Non-Market Economy Wages: Request for Comment on Calculation Methodology, 70 FR 37761, 37762 (June 30, 2005). In this manner, the Department will be able to capture the maximum amount of countries that are significant producers of comparable merchandise, including those countries that choose not to report their data on an annual basis. See also Memorandum to The File, through Howard Smith, Program Manager, AD/CVD Operations, Office 4, concerning, “Wage Data,” dated July 13, 2010 for CPI data placed on record, obtained from the International Monetary Fund’s International Financial Statistics.

²¹ See Memorandum to The File, through Howard Smith, Program Manager, AD/CVD Operations, Office 4, concerning, “Wage Data,” dated July 13, 2010 for wage data from ILO’s Yearbook of Labour Statistics.

merchandise, consistent with the CAFC's ruling in Dorbest II and the statutory requirements of section 773(c) of the Act.

Issue 3: Whether the Department Should Use the Hourly Wage Rate Only from the Philippines to Value Wage Rate

- Zhejiang Tianyi argues that the Department should use the hourly wage rate only for the Philippines from the ILO as an alternative to our previous regression-based wage rate.
- In light of the new wage data on the record, Petitioners argue that the Department should continue using as large a dataset as possible to value labor in order to avoid the unreliability and arbitrariness that would come from using data from only one country or a small dataset.

Department's position: The Department agrees with Petitioners that a larger dataset is preferable for valuing wage rate. While information from a single surrogate country can reliably be used to value other FOPs, wage data from a single surrogate country does not constitute the best available information for purposes of valuing the labor input due to the variability that exists between wages and GNI. While there is a strong worldwide relationship between wage rates and GNI, too much variation exists among the wage rates of comparable MEs. As a result, we find reliance on wage data from a single country to be unreliable and arbitrary. For example, when examining the most recent wage data, even for countries that are relatively comparable in terms of GNI for purposes of factor valuation (e.g., countries with GNIs between USD 950 and USD 4,100), the hourly wage rate spans from USD 0.41 to USD 2.08.²² Additionally, although both India and Guatemala have GNIs below USD 2,500, and both could be considered economically comparable to the PRC, India's observed wage rate is USD 0.47, as compared to Guatemala's observed wage rate of USD 1.14 – over double that of India.²³ There are many socio-economic, political and institutional factors, such as labor laws and policies unrelated to the size or strength of an economy, that cause significant variances in wage levels between countries. For this reason, and because labor is not traded internationally, the cross-country variability in labor rates, as a general rule, does not characterize other production inputs or impact other factor prices. Accordingly, the large variance in these wage rates illustrates the arbitrariness of relying on a wage rate from a single country. For these reasons, the Department maintains its long-standing position that, even when not employing a regression methodology, data from multiple surrogate countries are better than data from a single surrogate country for purposes of valuing labor. Accordingly, the Department has employed a methodology that relies on a larger number of comparable countries in order to minimize the effects of the variability that exists between wage data of individual comparable countries.

²² See "Expected Wages of Selected NME Countries," revised in December 2009, available at <<http://ia.ita.doc.gov/wages/index.html>>.

²³ See "Expected Wages of Selected NME Countries," revised in December 2009, available at <<http://ia.ita.doc.gov/wages/index.html>>.

Issue 4: Whether the Department Should Expand the List of Economically Comparable Countries

- Petitioners maintain that while the Department has used the surrogate country selection memorandum issued by the Office of Policy to identify the high- and low-income countries that “bookend” the group of economically comparable countries, it also makes clear that this list of countries is not exclusive and was not generated with the intention of identifying all economically comparable countries.
- Petitioners also argue that the countries selected as economically comparable to the PRC are biased in favor of lower GNI countries. Specifically, Petitioners note that among the list generated by the Office of Policy of economically comparable countries, the PRC’s GNI is 2.83 times greater than the GNI of one country on the list (i.e., India), but none of the countries included in this list have a GNI greater than 2.83 times that of the PRC’s GNI. Thus, Petitioners argue, the GNI of the high-income “bookend” country with respect to the PRC should have the same ratio to the PRC’s GNI that the low-income country’s GNI has to the PRC.
- Petitioners argue that the Department should use relative GNI ranges (ratios of GNI) instead of absolute GNI ranges (actual income dollars) to identify the low-and high-income “bookend” countries because the absolute difference in per-capita GNI is less meaningful measure of economic comparability. Petitioners illustrate this point by noting that in absolute terms, Canada’s 2008 GNI (USD 43,640) is closer to that of Burundi (USD 140), the poorest country of the world, than to that of Norway (USD 87,340). However, Petitioners assert that Norway is only twice as wealth as Canada, but Canada is 312 times wealthier than Burundi.
- Petitioners argue that if the Department continues to define economically comparable countries using the countries listed in the surrogate country selection memorandum from the Office of Policy, it should have used Colombia as the high-income “bookend.”

Department’s position: The Department finds that the selection of the range of economically comparable countries based on absolute GNIs is reasonable and consistent with the statute. As a preliminary matter, Petitioners provide no legal basis for the argument that the Department should use relative GNI ranges when determining economically comparable countries for purposes of determining wage rates, but rely on absolute GNIs when determining economically comparable countries for purposes of determining the primary surrogate country for valuing all other FOPs. The Department has a long-standing and predictable practice of selecting economically comparable countries on the basis of absolute GNI, and nothing in Petitioners’ submissions undermines the reasonableness of that practice.

With respect to Petitioners’ hypothetical example, it is an example that is not grounded in the facts of this case. It compares an extreme GNI range, from Burundi (USD 140) to Norway (USD 87,340), a difference of over USD 80,000. This hypothetical example is not instructive or dispositive of the merits of using absolute GNI ranges in this new shipper review because it does not address the range that the Department actually selected. In this proceeding, the Department

selected a range that extends from India (USD 950) to Colombia (USD 4,100). The result is that the differences between the lowest “bookend,” India (USD 950) and the PRC (USD 2,360), and the highest “bookend,” Colombia (USD 4,100) and the PRC (USD 2,360), USD 1,410 and USD 1,740 respectively, are not substantial. These ranges are not meant to reflect a numerical threshold and, given that GNIs are updated on an annual basis, the countries that the Department determines are “economically comparable” will change on annual basis as well. The GNI ranges in this new shipper review, nonetheless, illustrate that our current analysis results in an overall range far less than the USD 80,000 range used in Petitioners’ hypothetical. Further, all of the countries in this range are lower income economies as compared with those upper income countries, like Norway. Therefore, the Department’s selection of this narrow range using absolute GNIs is reasonable and consistent with the requirements of section 773(c)(4)(A) of the Act that the Department use MEs that are “at a level of economic development comparable to that of the NME country.”²⁴

The Department agrees with Petitioners that it should have used Colombia as the high-income “bookend.” Because the Department had noted the discrepancy between the new wage data it had released and the countries listed in the memorandum from the Office of Policy, the Department released additional wage data for comments from interested parties on July 12, 2010, which used Colombia as the high-income “bookend.” The Department did not receive any additional comments on this issue and, therefore, the Department has used the data with Colombia as the high-income “bookend” for the calculation for the surrogate value for labor in the instant review.

Issue 5: The Correction of Errors in the Wage Rate Data

- Petitioners argue that the Department should not convert the wage rate for El Salvador because it is already denominated in U.S. dollars.
- Petitioners argue that the Department used an incorrect 2006 starting wage for Guatemala of Quetzal 1,581 per month because the ILO data Petitioners have submitted to the record shows that the currently available usable wage rate for Guatemala in 2007 is Quetzal 2,579.44 per month.
- Petitioners argues that the Department should use the more recent 2007 wage rate for Paraguay of 5,399,063 Guarani instead of the older 2003 wage rate of 816,428 Guarani.

Department’s position: The Department agrees with Petitioners, in part. In the calculations for the final results of the instant review, the Department did not convert the wage rate for El

²⁴ Petitioners’ argument that the range of economically comparable GNIs should be somehow “centered” on the basis of relative GNIs is unpersuasive, given that the Department has determined to continue using absolute GNI for its analysis. The absolute difference between the upper (USD 1,740) and lower (USD 1,410) range of the “bookends” in this case is USD 330 – an unsubstantial amount considering the broad range of worldwide GNIs available and the absolute range of GNIs for economically comparable surrogates in this new shipper review (USD 3,150). Moreover, it would be unreasonable to expect that the Department can or should always ensure that the upper range and lower range are equivalent since the underlying data does not permit such mathematical precision.

Salvador because, as Petitioners noted, the wage rate reported to the ILO is in U.S. dollars and not El Salvador Colones. Additionally, the Department finds that the data Petitioners provided is useable and, therefore, in its calculation of the surrogate value for labor, the Department used the more recent 2007 wage rate for Guatemala. As the Department has found previously, the earnings data from Paraguay appear to be aberrant, and may be the result of a typographical or reporting error by the ILO Web site, and has thus been excluded from the regression data set.²⁵ See Memorandum to the File regarding, “Final Results of 2009 New Shipper Review of Wooden Bedroom Furniture from the People’s Republic of China: Surrogate Value Memorandum,” dated July 23, 2010.

RECOMMENDATION

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

Agree

Disagree

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

Date

²⁵See Expected Non-Market Economy Wages: Request for Comments on 2009 Calculation, 74 FR 51555, 51556 (October 7, 2009).