

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

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

SUBJECT: Issues and Decision Memorandum for the Final Results in the
Administrative Review of Hand Trucks and Certain Parts Thereof
from the People's Republic of China

SUMMARY:

We have analyzed the comments and rebuttal comments of interested parties in the final results of the 2008-09 administrative review of the antidumping duty order covering hand trucks and certain parts thereof from the People's Republic of China (PRC). As a result of our analysis, we have made changes from the preliminary results in the margin calculations. We recommend that you approve the positions described in the "Discussion of Issues" section of this Issues and Decision Memorandum.

Listed below is the complete list of the issues in this administrative review from which we received comments from interested parties.

I. List of Comments

- Comment 1: Whether to Value Certain Inputs Using Purchases from Market-Economy Suppliers
- Comment 2: Use of the 2009-2010 Financial Statements of Rexello Castors Private Ltd. (Rexello)
- Comment 3: Use of Godrej & Boyce Manufacturing Co., Ltd. (Godrej & Boyce) Financial Statements
- Comment 4: 2004-2005 Financial Statements of Rexello and 2006-2007 Financial Statements of Infiniti Modules Private Ltd. (Infinite Modules)
- Comment 5: Surrogate Value for Hot-Rolled Steel
- Comment 6: Sample Sales
- Comment 7: Whether to Deduct Warranty Expenses from U.S. Price
- Comment 8: Whether to Revise the Calculation of Domestic Brokerage and Handling Expenses
- Comment 9: Whether to Rescind the Review with Respect to Yangjiang Shunhe Industrial Co.

II. Background

On January 14, 2011, the Department published the preliminary results of this administrative review of antidumping duty order on hand trucks and certain parts thereof from the PRC. See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping duty Administrative Review and Intent to Rescind in Part, 76 FR 2648 (January 14, 2011). The review covers six manufacturers/exporters of subject merchandise. New Tec Integration (Xiamen) Co., Ltd. (New-Tec) was the only company we analyzed in this review. The other five companies either certified that they had no shipments or did not respond to the questionnaire.

We received case briefs from Gleason Industrial Products, Inc. and Precision Products, Inc. (petitioners), and rebuttal briefs from New-Tec and Cosco Home and Office Products, Inc. (Cosco), a U.S. importer.

III. Discussion of Interested Party Comments

Comment 1: Whether to Value Certain Inputs Using Purchases from Market-Economy Suppliers

Petitioners argue the Department erred in its preliminary results by using New-Tec's market-economy (ME) purchases of inputs, rather than relying on surrogate values, because New-Tec has not met the Department's standard for using ME purchase prices. Petitioners point to the Department's regulations, which state that the Department will use the price paid to a ME supplier "where a factor is purchased from a market economy supplier and paid for in a market economy currency." See 19 CFR 351.408(c). However, petitioners further argue this regulation is governed by the preamble to the regulations, which states that the Department will use such a price only where the NME respondent has demonstrated to the agency's satisfaction that the alleged ME input factor is manufactured by a market economy producer. See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27366 (May 19, 1997) (emphasis added). See also Polyethylene Retail Carrier Bags from the People's Republic of China, 69 FR 34125 (June 18, 2004) (Carrier Bags from the PRC). It is that element of the standard, (i.e., demonstrating that the input was manufactured in a ME country), petitioners state, that New-Tec has failed to meet.

To support its contention, petitioners cite to New-Tec's responses to two questions the Department asked in supplemental questionnaires. In the first, the Department asked New-Tec to provide, for all inputs for which it claimed that it made ME purchases, copies of the invoices of all purchases of the inputs, including purchases from both ME and NME suppliers. See the July 21, 2010 supplemental questionnaire to New-Tec at 7. In its response to the supplemental questionnaire, New-Tec, citing the large volume of pages that would be required to supply the requested documents, provided the documents for only three months of the POR. See New-Tec's August 24, 2010, submission at 16. Petitioners state that New-Tec's response was inadequate, and even if it were adequate, most of the invoices New-Tec did supply failed to show

the country of origin of the materials. Furthermore, petitioners state that an internet search they performed failed to show any evidence of the existence of four of the five companies from which New-Tec allegedly sourced its ME inputs. See petitioners' February 23, 2011, case brief at 4-5 and their November 8, 2010, submission at 11-13.

The second response that New-Tec gave to a Departmental question that petitioners argue support its contention that New-Tec failed to meet its burden is in New-Tec's December 10, 2010, supplemental questionnaire response. In a November 22, 2010, supplemental questionnaire the Department requested that New-Tec provide copies of all invoices for its ME input purchases, and also, for each of the ME inputs, documentation from the input's manufacturer confirming the country of origin. See the November 22, 2010, supplemental questionnaire to New-Tec at 4. Petitioners argue that in New-Tec's December 10, 2010, response, New-Tec did not provide the requested documentation from the input's manufacturer that confirmed the country of origin, but instead proffered alleged country-of-origin statements from its suppliers, who are not the manufacturers. Furthermore, New-Tec did not explain why it could not respond to the question asked. Moreover, the certificates-of-origin do not identify the manufacturer, and are associated with only particular invoices which constitute less than one hundred percent of New-Tec's ME purchases. Additionally, two of the certificates identify an exporter not elsewhere mentioned on the record, and no address is given for the exporter.

Petitioners conclude that given New-Tec's failure to comply with the Department's requests for information, and given that New-Tec has the burden of proving the facts on which it requests the Department to rely, New-Tec has failed to support its claim.

New-Tec argues that the Department should continue to use its ME purchases to value inputs. It first states as an initial matter that it complied with all of the Department's requests for documentation regarding ME purchases in a complete and accurate manner. The documentation it placed on the record includes:

- A chart identifying supplier names, locations, quantities, and values. See New-Tec's March 25, 2010, submission at Exhibits 5 and 6.
- Documentation for all purchases of rubber wheels from both ME and NME sources. See New-Tec's June 8, 2010, submission at Exhibit 19.
- An Excel file providing detailed information for each and every POR purchase of ME inputs, including the dates of purchase, inventory-in slips, material codes, specifications, units of measure, unit prices, quantities, values, weights, and invoice numbers. See New-Tec's August 24, 2010, submission at Exhibit 14.
- Purchase documentation for all ME and NME inputs purchased during March, April, and May of 2009. See New-Tec's August 24, 2010, submission at Exhibit 15.
- Copies of all invoices related to ME purchases during the POR. See New-Tec's December 10, 2010, submission at Exhibit 6.

With respect to its August 24, 2010, submission at Exhibit 15, in which it submitted purchase documentation for only three months of the POR, rather than for the entire POR as the Department had requested, New-Tec states that all the documents the Department had requested

would have amounted to thousands of pages. Even so, New-Tec states, the material it did submit came to hundreds of pages, and was undoubtedly more documentation than would have been examined at an on-site verification.

With respect to the documentation provided in its December 10, 2010, submission at Exhibit 6, New-Tec notes that contrary to the petitioners' claim, the Department had not asked New-Tec to provide original documentation corresponding to each individual purchase of ME inputs during the POR. Thus, New-Tec states, the documentation it supplied was in compliance with the Department's request.

New-Tec also argues that given the tremendous volume of documentation New-Tec has already placed on the record, the petitioners' argument that it should have placed even more information on the record – information that is either not germane to the Department's analysis nor reasonably within New-Tec's control – is overblown and unreasonable, and should not be grounds for disregarding the ample information New-Tec has already submitted. Indeed, it is to avoid just such endless and useless "fishing expeditions" that in its application of 19 CFR 351.408(c)(1) the Department applies a rebuttable presumption to use ME purchase data when a respondent has established that it has purchased an input from a ME supplier and paid for it in ME currency. New-Tec cites Wooden Bedroom Furniture from the PRC:

The Department has instituted a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the POR exceeds 33 percent of the total volume of the input purchased from all sources during the same period. In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted-average {market-economy} price to value the input.

See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 73 FR 49162 (August 20, 2008), and accompanying Issues and Decision Memorandum at Comment 2 (Wooden Bedroom Furniture from the PRC). New-Tec argues that because New-Tec has met the 33 percent volume threshold for its ME purchases in this proceeding, petitioners have the evidentiary burden to rebut the presumption, and they have failed to meet it.

To demonstrate that it has met the threshold, New-Tec cites several facts. First, as described above, it has submitted purchase invoices from its suppliers for all its ME input purchases during the POR. See New-Tec's December 10, 2010, submission at Exhibit 6. With respect to petitioners' comments about these invoices, New-Tec makes numerous responses. First, New-Tec argues that the fact that its suppliers were not identical to the producers is of no consequence, as many companies purchase from trading companies, which then source their goods from other suppliers. Nor, in light of the global economy, is it relevant that the trading companies and producers are in different countries. Finally, because trading companies can range from sole proprietorships to global conglomerates, the fact that a company has no internet presence does not invalidate its existence any more than having an internet presence validates its existence.

Second, New-Tec argues that petitioners have incorrectly identified the standard the Department uses in determining whether to use ME purchases. New-Tec states that when applying 19 CFR 351.408(c)(1) in previous cases the Department has expressly found that establishing the location of the producer is not relevant to the Department's ME input analysis, and that it is only necessary that the respondent demonstrate that the inputs were purchased from an ME supplier and paid for in ME currency. New-Tec cites Certain Preserved Mushrooms from the PRC:

Under 19 CFR 351.408(c)(1), "where a factor is purchased from a market economy supplier and paid for in a market economy currency, the Secretary normally will use the price paid to the market economy supplier." This regulation does not require that the non-market economy respondent establish in which particular country the factor of production was produced, only that it was obtained from a market economy supplier. ... {A}lthough {respondent} Raoping was unable to provide evidence of the cans' country of manufacture, Raoping demonstrated to the Department's satisfaction at verification that the material was obtained from a Hong Kong supplier and that Raoping paid for the material in U.S. dollars. ...Based on these circumstances, Raoping has met the regulatory criteria used to value the cans at the market-economy purchase price, and we have continued to value these cans based on that price.

See Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China, 66 FR 31204 (June 11, 2001), and accompanying issues and Decision memorandum at Comment 7 (emphasis added by New-Tec) (Mushrooms From the People's Republic of China).

Similarly, New-Tec argues, in Color Television Receivers from China, the Department stated that it would use information for purchases from Hong Kong trading companies (as Hong Kong is an ME) for inputs which were paid for in an ME currency. The Department did not consider the country of origin at all in the analysis, even if a potential country of origin were China, an NME. See 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), and accompanying Issues and Decision Memorandum at Comment 8 (CTVs from the PRC).

Third, New-Tec argues that even if the country of origin were relevant to the Department's analysis, New-Tec has provided ample information to establish the inputs' origins. As support for this argument, it cites to the country-of-origin documentation it submitted in its December 10, 2010, submission at Exhibit 7. Most of these documents are certificates-of-origin issued by an independent agency. Others are certificates from the supplier. New-Tec states that it submitted these documents, rather than documents from the manufacturer of the input, because in most cases New-Tec's suppliers would be unwilling to disclose the manufacturers' identities to customers.

Furthermore, New-Tec argues that the approach petitioners advocate encourages the Department to believe that despite the documentation New-Tec submitted to the record, the inputs could still have been sourced from an NME supplier, even though this is not germane to the issue. New-Tec argues in reply that given the totality of the information on the record, if the goods were shipped from a source country, and the supplier or an independent agency stated that the goods originated in the source country, then a reasonable person would conclude that the goods indeed originated in that source country. That New-Tec is unable, New-Tec states, to obtain further documentation, for commercial reasons beyond its control, is not grounds for disregarding substantial record evidence that New-Tec has provided about the source of its inputs.

New-Tec argues further that the Department has examined and ultimately accepted New-Tec's purchases of ME inputs in prior segments of this antidumping proceeding and also in the "folding metal tables and chairs from the PRC" antidumping proceeding. Thus, this is not the first time that the Department has examined the issues the petitioners have raised with respect to New-Tec, and the Department has always ultimately used New-Tec's ME purchases.

Cosco, like New-Tec, argues that petitioners have not stated the proper test the Department uses in deciding whether to use ME prices. Cosco cites to Wooden Bedroom Furniture from the PRC (quoted above). Here, Cosco argues, New-Tec has provided detailed information that it purchased the inputs at ME price from ME sources, and thus has met the Department's criteria for using ME prices. Furthermore, Cosco states, petitioners have not provided any "case-specific" facts that indicate that the goods were purchased from NME countries or at prices that might be distorted by subsidies. Thus, Cosco states, the Department should reject petitioners' attempts to call into question the legitimacy of New-Tec's reported ME prices, and should continue to use the values in question for the final results margin calculation.

Department's Position:

We agree with petitioners that, generally, in order for the Department to use reported ME prices, the inputs at issue must be manufactured in an ME country, as well as having been purchased from an ME supplier and paid for in ME currency. Our regulations state, "where a factor is purchased from a market economy supplier and paid for in a market economy currency, {the Department} normally will use the price paid to the market economy supplier." 19 CFR 351.408(c)(1); see also Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27366 (May 19, 1997). Furthermore, as stated in Carrier Bags from the PRC, "We interpret the preamble to indicate that the regulation is applicable to those inputs which were produced in a market economy. Given this, the regulation does not apply to inputs that were produced in a NME, as is the situation here." See Carrier Bags from the PRC, Issues and Decision Memorandum at 26.

The cases New-Tec and Cosco cite do not prove its point. In Carrier Bags from the PRC, we distinguished both Mushrooms from the PRC and CTVs from the PRC from the fact pattern in Carrier Bags from the PRC. There we said,

Unlike in CTVs, in this case we have been presented with arguments as to why we should not use market-economy prices for inputs produced in a NME country. Based upon our review of those comments, we have determined that prices of products that originate in a NME country should not be used because of the inherent distortions involved in an economy that is not controlled by market forces. As the petitioners have observed, the statute provides for an alternative methodology to use in calculating normal value for subject merchandise exported from a NME country because the price and cost structures in a NME country result in sales of merchandise that do not reflect a fair-market value. Similarly, where a NME producer purchases an input from a trading company that sources from a non-market economy, we believe that the same type of concern exists about the transaction because the trading company's costs and ultimate prices are, in turn, influenced by its NME supplier's prices and costs.

In addition, we have strong concerns that, were we to use the prices of inputs that were produced in a NME country, our methodology for valuing the factors of production would become easily open to manipulation. This is particularly worrisome in cases where, as here, the inputs may never have left the stream of the NME commerce. It would not be difficult for a firm to open a paper company in Hong Kong (or other market-economy countries) and route "sales" through this company in order to take advantage of our market-economy-input methodology. For these reasons, our practice is not to use the prices of inputs that originated in a NME country even if the input is sourced from a market-economy supplier.

Contrary to the respondents' assertions, Mushrooms is not apposite to this case. In that case, "{w}e found no evidence at verification to indicate that the cans were not actually produced in a market economy." Mushrooms at Comment 7. The implication is, of course, that if we had found such evidence, as we have in this investigation, we would have ignored the price reported by the respondent and would have used a surrogate value instead.

See Carrier Bags from the PRC, Issues and Decision Memorandum at 27-28 (emphasis added).

Similarly, Wooden Bedroom Furniture from the PRC (cited by both New-Tec and Cosco) is also inapposite. Wooden Bedroom Furniture from the PRC does not directly address the issue of whether an ME-purchased input must be manufactured in a ME country in order for the Department to value that input using the purchase price. The "rebuttable presumption" (referenced in Wooden Bedroom Furniture from the PRC) that the ME purchase price is the "best available information," as required by the statute, to value the factor of production applies only in a situation where inputs are manufactured in a ME country. This is so because (as explained further below) only in a ME is the purchase price based upon market principles.

Where we have addressed this issue in past cases we have consistently required that inputs must be manufactured in a ME country, as well as purchased from a ME supplier and paid for in a ME currency, in order for us to value the input using the purchase price. See Notice of Final

Determination of Sales at Less Than Fair Value: Ferrovandium and Nitrided Vanadium from the Russian Federation, 60 FR 27957, 27962 (May 26, 1995) (“In NME proceedings, our consistent methodology has been to determine whether a good or service obtained through a market economy transaction is, in fact, sourced from a market economy rather than merely purchased in it”) and Folding Metal Tables and Chairs from the PRC; Final Results of Antidumping Duty Administrative Review, 71 FR 2905 (January 18, 2006), and accompanying Issues and Decision Memorandum at Comment 2 (“The Department does not accept ME purchase prices when the input in question was produced within an NME.”)

Our basis for this policy is explained in Carrier Bags from the PRC, quoted above. First, the prices and costs of inputs manufactured by a NME producer, even if purchased from a ME trading company, are subject to the distortions inherent in an economy not controlled by market forces. Second, were we to use the prices of inputs that were produced in a NME country, our methodology for valuing the factors of production would become easily open to manipulation. See Carrier Bags from the PRC, Issues and Decision Memorandum at 27-28.

Turning to the facts of this case, we note, as an initial matter, that there is no record evidence that any of the inputs at issue were manufactured in a NME, and petitioners have cited to none.¹ More importantly, we believe the record of this review establishes the country of manufacture for most of the ME inputs. Specifically, the record of this review contains country-of-manufacture information from two sources – (1) country-of-origin certificates from the supplier of the input (i.e., the trading company) or from an independent agency, and (2) commercial invoices from New-Tec’s purchases of ME inputs during the POR. See New-Tec’s December 10, 2010, submission at Exhibits 7 and 6, respectively. Based on our review of these documents, we determine that between these two sets of documents New-Tec has established the country of manufacture for most of the volume of each input. Therefore, in this review we have valued the ME inputs using the methodology described below. We note that our determination here differs from that in Carrier Bags from the PRC because there was evidence on the record in Carrier Bags from the PRC that demonstrated the inputs at issue were manufactured in the PRC. Furthermore, the lack of a company’s internet presence (which petitioners pointed out) is not significant enough to demonstrate the non-existence of a company given the record evidence that testify to the company’s existence.

Given our determination described above, we have adopted the following methodology for this review: Where the record establishes that more than thirty-three percent of the volume of the input was manufactured in a ME country and the input otherwise qualifies for treatment as a ME purchase, we valued the input using the ME price. Where the volume of an input manufactured

¹ See Folding Metal Tables and Chairs from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 71509 (December 11, 2006), and accompanying Decision Memorandum at Comment 1 (“Meco cite no record evidence indicating that... (3) Feili and/or New-Tec purchased from market-economy suppliers materials that were actually produced in NME countries”) and Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 76 FR 15295 (March 21, 2011), and accompanying Decision Memorandum at Comment 7 (“There is no evidence on the record suggesting that Since Hardware’s claimed purchases of cartons were of non-market origin”).

in a ME country was less than thirty-three percent of the total purchases of the input, or the record establishes the country of manufacture for less than thirty-three percent of an input, we valued the input using a weighted-average of the volume demonstrated to be manufactured in a ME country valued using the ME price and the volume manufactured in an NME valued using a surrogate value.

Though in this review the Department has determined it is appropriate to use New-Tec's reported ME purchases as described above, in future segments of this proceeding, depending on the facts of the case, the Department may request additional information from respondents regarding their market economy purchases.

Comment 2: Use of the 2009-2010 Financial Statements of Rexello Castors Private Ltd.
(Rexello)

Petitioners argue the Department should not use the 2009-2010 financial statement of Rexello, a financial statement that New-Tec placed on the record in its February 3, 2011, post-preliminary surrogate values submission. While the petitioners do not dispute that Rexello is a hand truck manufacturer, they contend, first, that the financial statements are neither publicly available, nor non-proprietary. Second, petitioners state that there is lack of evidence on the record confirming that the financial statements pertain to Rexello.

Petitioners state that under 19 CFR 351.408(c)(1) the Secretary will normally use publicly available information to value factors, and under 19 CFR 351.408(c)(4) the Secretary will normally use non-proprietary information gathered from producers of identical or comparable merchandise. Petitioners state they enlisted the services of Suri and Suri Law office, New Delhi, India, and after an extensive search of the Indian Registrar of Companies (Registrar), were unable to find Rexello's 2009-2010 financial statements. Therefore, the petitioners argue that New-Tec failed to demonstrate that 2009-2010 Rexello financials are publicly available and non-proprietary.

In addition to being neither publicly available nor non-proprietary, petitioners state there is uncertainty whether the Rexello 2009-2010 financial statements submitted by New-Tec are Rexello's actual audited financial statements. Petitioners note that Rexello's 2004-2005 audited financial statements (which petitioners submitted to the record in their February 3, 2011, submission) have signatures by board members and auditors throughout the document. However, the 2009-2010 Rexello financial statements submitted by New-Tec lack signatures of board members and auditors in the document or stamps or certifications that could assure the Department as to the authenticity of the document. Therefore, this lack of assurance should preclude the Department from using the 2009-2010 Rexello statements provided by New-Tec.

However, the petitioners state that three revisions should be made if the Department decides to utilize the 2009-2010 financials for Rexello. First, all "personnel expenses" should be included under SG&A and interest expenses. Second, "consumable stores and packing material" should be included in manufacturing overhead. Third, "discount & difference," "freight & forwarding charges," and "commission on sales" should be included in SG&A and interest.

Cosco argues that the Department has had a longstanding practice of recognizing financial statements from Indian private companies as being publicly available documents. Cosco further states that the financial statements of many companies do not have signatures or stamps, including large public companies, but this does not make them illegitimate.

New-Tec argues that Rexello's 2009-2010 financial statements are an appropriate source for surrogate financial ratios. New-Tec bases this argument on the contention that Rexello sells a variety of hand trucks, and its 2009-2010 financial statement is complete and on the record, and covers a period that substantially overlaps the POR.

Furthermore, New-Tec disputes petitioners' claim that financial statements for Indian private limited companies like Rexello are not publicly available. They claim the Indian regulations and web site of the Ministry of Corporate Affairs (MCA) (www.mca.gov.in), Government of India, cited by the petitioners demonstrate that financial statements of Indian private limited companies like Rexello are required to be filed with the Registrar on an annual basis; that information is available for public inspection and review at the Registrar. New-Tec claims the Department has previously "determined that financial statements of private companies filed with the Indian Registrar of Companies are in the public realm." See Notice of Final Determination of Sales at Less than Fair Value, and Affirmative Critical Circumstance, In Part: Certain Lined Paper Products from the People's Republic of China, 71 FR 53079 (September 8, 2006) (Certain Lined Paper), and accompanying Issues and Decision memorandum at Comment 1. The Department stated that financial statements filed with the Indian Registrar of Companies are within the public realm because they are either published on the website of the Registrar or available in hardcopy for a fee. See Certain Kitchen Appliances Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Values, 74 FR 36656 (July 24, 2009), and accompanying Issues and Decision Memorandum at Comment 10. See also First Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 57995 (November 10, 2009), and accompanying Issues and Decision Memorandum at Comment 2 (Activated Carbon). Therefore, past precedent shows that the Department has used financial statements of Indian private limited companies filed with the Registrar.

New-Tec argues that Rexello, as a private limited company of India, must file its financial statements annually with the Registrar. It claims a quick perusal of the MCA website confirms that Rexello filed its 2009-2010 financial statements with the Registrar. This fact, New-Tec argues, contradicts the assertion of the petitioners' contracted attorney in India that Rexello's 2009-2010 financial statements are not publicly available. New-Tec asserts the Indian attorney was merely unable to find the documents. Therefore, the Department should reject the petitioners' claim that Rexello's 2009-2010 financial statements are not publicly available, and accept the financial statements as a source of surrogate financial ratios.

New-Tec further argues that the petitioners' claim that the Rexello 2009-2010 financial statements cannot be verified as being authentic because they lack similar signatures and stamps should be rejected. New-Tec states the lack of stamps and signatures is consistent with internet-

based e-filing and e-access set up by the Indian government in recent years as evident by the Registrar's web site. Also, in Activated Carbon the Department determined that authentication stamps did not appear on the financial statements because they were downloaded copies of the documents. Therefore, the Department should find Rexello's 2009-2010 financial statements authentic because of the ability of Indian companies to e-file documents with the Registrar.

With regard to petitioners' argument that the Department should include the categories "discounts and difference," "freight and forwarding," and "commissions and sales" in SG&A and interest, New-Tec argues that direct selling expenses such as discounts, movement expenses, and commissions are deducted from U.S. sales price as adjustments. Including these items in both SG&A and as deductions from U.S price as argued by the petitioner would result in double counting. New-Tec states the Department has a clear practice of excluding items from the surrogate ratio for SG&A which are attributable to direct sales adjustments which are deducted from U.S. price. See Certain Woven Electric Blankets from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 38459 (July 2, 2010) (Electric Blankets), and accompanying Issues and Decision Memorandum at Comment 4. Therefore, the Department should deduct "discount and difference," "freight and forwarding charges," and "commission on sales" from the SG&A ratio in the final results.

Neither New-Tec nor Cosco commented on the petitioners' other suggested revisions to the financial ratios.

Department's Position:

Pursuant to section 773(c) of the Tariff Act of 1930, as amended (the Act), the Department values the factors of production using the "best available information" from a market economy country. For the surrogate financial ratios, the regulations state that the Department "normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country." 19 CFR 351.408(c)(4). For the reasons discussed below, we find that Rexello's 2009-10 financial statements constitute the best available information for the surrogate financial ratios.

The Department disagrees with petitioners' argument that it should reject Rexello's 2009-10 financial statement. First, we do not agree with petitioners that Rexello's 2009-10 financial statement is either proprietary or not publicly available. As we stated in Certain Lined Paper, "The Department has determined that financial statements of private companies filed with the Indian Registrar of Companies are in the public realm." See Certain Lined Paper, Issues and Decision Memorandum at 10. Second, we agree with New-Tec that the absence of stamps and signatures with the version of Rexello's financial statement New-Tec submitted to the record is consistent with its having downloaded the document from the Registrar's website. Our determination in this regard is consistent with the Department's finding in Activated Carbon, Issues and Decision Memorandum at 8.

Therefore, because we find that Rexello's 2009-10 financial statement qualifies for use in calculating financial ratios, because it is public and complete, and because it is a

contemporaneous financial statement of a company that produces comparable merchandise, we have used it in these final results of review. For further analysis of our reasons for using this financial statement, rather than other financial statements on the record of this review, see comments 3 and 4 (below).

With respect to petitioners' argument that we should make revisions to the financial ratios calculations, we do not agree with petitioners that we should include the categories "discount & difference," "freight & forwarding charges," and "commission on sales" in SG&A and interest. It is the Department's longstanding practice to avoid double-counting costs where the requisite data are available to do so. See Certain Tissue paper Products from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review, 72 FR 58642 (October 16, 2007), and accompanying Issues and Decision Memorandum at Comment 2. See also Electric Blankets, Issues and Decision Memorandum at 15. As the Department makes accounts for discounts, freight charges, and commissions by making appropriate adjustments to U.S. price, to include them in the SG&A ratio would be double counting.

However, we do agree with petitioners that the Rexello expense category "personnel expenses" is properly classified as SG&A, and as these expenses are not elsewhere accounted for in the sales adjustments, they should be included in the calculation of the SG&A ratio. We also agree with petitioners that because "consumable stores and packing material," are listed on Rexello's financial statement under "Manufacturing Expenses," they should be included in manufacturing overhead. We have made these changes in these final results.

Comment 3: Use of Godrej & Boyce Manufacturing Co., Ltd. (Godrej & Boyce) Financial Statements

Petitioners contend the Department erred in calculating financial ratios for New-Tec by using the 2008-09 Godrej & Boyce financial statement that New-Tec placed on the record as part of its June 11, 2010, surrogate values submission. The petitioners claim that the excerpts provided by New-Tec from Godrej & Boyce's website (in that same submission) show that Godrej & Boyce manufactures hand pallet trucks, which are vastly different than hand trucks and not subject to the hand truck order. Therefore the Godrej & Boyce financial statement should not be used.

Petitioners further state that if the Department continues to rely on the Godrej & Boyce financial statement for financial ratios, despite their contention, then the Department should make two revisions to its preliminary calculation. The first suggested revision is to change the category "net loss on sale/transfer of immovable property and other fixed assets" from a decrease to an increase in selling, general, and administrative (SG&A) expenses and interest. The second suggested revision is the removal of WIP and "increase in finished goods inventory" from the raw materials calculation.

New-Tec and Cosco argue that the financial statement used need not be that of a company that produces identical merchandise. Rather, they argue that it is adequate for the financial statement to be that of a producer of comparable merchandise. Furthermore, they state the Department has

recognized Godrej & Boyce as a manufacturer of comparable merchandise in previous segments of this proceeding. See, e.g., Hand Trucks and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 75 FR 29314 (May 25, 2010) (Hand Trucks 07/08).

New-Tec and Cosco did not comment on the petitioners' suggested changes to the financial ratio calculations.

Department's Position:

We disagree with petitioners that Godrej & Boyce's financial statement needs to be rejected because the merchandise it produces is outside the scope of the order. We agree with New-Tec and Cosco that a company need produce only comparable merchandise in order for its financial statement to qualify as an appropriate source for surrogate financial ratios. See 19 CFR 351.408(c)(4). The regulations do not require that the surrogate financial ratio be derived from the financial statement of a company that produces subject merchandise. We also agree with New-Tec and Cosco that the Department has in prior reviews found Godrej & Boyce to be a producer of comparable merchandise.

Nevertheless, given that the merchandise Rexello produces is identical merchandise that would be subject to the order were it shipped from the PRC, whereas Godrej & Boyce's is only comparable merchandise, the merchandise Rexello produces is more specific to New-Tec's exports of hand trucks subject to the order, and therefore the best available information. For this reason we have determined to use only Rexello's financial statement in these final results for purposes of calculating financial ratios. Doing so (rather than using a combination of Rexello's financial statement and that of Godrej & Boyce) is consistent with our general practice of using the financial statement of the company(ies) that produce merchandise most comparable to the merchandise under consideration. See, e.g., 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), and accompanying Issues and Decision Memorandum at Comment 2, where the Department used the financial statements of companies that produced stable bleaching powder and/or calcium hypochlorite, rather than the financial statement of a company that produced caustic soda, because it had determined that both calcium hypochlorite and stable bleaching power were more comparable to subject merchandise than was caustic soda, even though caustic soda was still found to be comparable merchandise. If we were to use a combination of Rexello and Godrej & Boyce, we would dilute the selected surrogate financial statement by including comparable merchandise.

Because we have not used Godrej & Boyce's financial statement in these final results, petitioners' comments regarding revisions to the financial ratios calculations are moot.

Comment 4: 2004-2005 Financials of Rexello and 2006-2007 Financial Statements of Infiniti Modules Private Ltd. (Infiniti Modules)

The petitioners request that the Department use one or both of the financial statements they provided to the Department. Petitioners state the 2004-2005 financial statements of Rexello (which petitioners submitted with their February 3, 2011, submission) are appropriate because Rexello is a non-disputed hand trucks producer and because they were publicly obtained from the Government of India. Therefore, this makes Rexello's 2004-2005 financial statements publicly available and authenticated.

The petitioners further state that Infiniti Modules' 2006-2007 financial statement (which petitioners also submitted with their February 3, 2011, submission) is appropriate because Infiniti Modules is a producer of "comparable merchandise" in the surrogate country. Specifically, both New-Tec and Infiniti Modules produce fabricated metal products such as metal tables and chairs. Petitioners argue since New-Tec and Infiniti Modules are producers of comparable merchandise, the latter's financial statements qualify under 19 CFR 351.408(c)(4).

Cosco argues that the Department should use Rexello's 2009-2010 financials as they are more contemporaneous than Rexello's 2004-2005 financial statements. Cosco acknowledges the Department has used non-contemporaneous financial statements in the past, but because there are more recent financial statements available, those should be used. Cosco did not comment on the use of Infiniti Modules' financial statement.

New-Tec argues the Department should not use Rexello's 2004-2005 financial statements because they predate the POR by three years, and are therefore far from being contemporaneous. Additionally, New-Tec argues that petitioners' arguments for using of Rexello's 2004-2005 financial statements over Rexello's 2009-2010 financial statements are contradictory. Specifically, petitioners argue that the 2009-2010 Rexello financial statements cannot be used in the final results, but the 2004-2005 Rexello financial statement can be used, despite the fact that during both periods Rexello was a private limited company. Therefore, New-Tec argues, the Department should consider using Rexello's 2009-2010 financial statements because they are contemporaneous and are generally usable by virtue of being publicly available.

New-Tec argues that the Department should not use Infiniti Modules' 2006-2007 statements for three reasons. First, the financial statements are not contemporaneous with the POR as they predate it by years. Second, the petitioners established that Infiniti Modules produces furniture, including fabricated metal tables and chairs. However, New-Tec contends that the current proceeding is about hand trucks, which are in no way comparable to furniture. Finally, Infiniti Modules is also a private company and if the petitioners' argument that Rexello's 2009-2010 financial statement cannot be used because of its status as a private limited company, then both the 2004-2005 Rexello financial statements and the 2006-2007 Infiniti Modules financial statements cannot be used.

Department's Position:

As explained in our response to comment 3 (above), the Department has determined that Rexello's 2009-10 financial statement is both publicly available and non-proprietary. Furthermore, Rexello produces identical merchandise. Therefore there is no reason to use a less

contemporaneous financial statement (i.e., Rexello's 2004-05 financial statement), as petitioners argue, when a more contemporaneous one (i.e., Rexello's 2009-10 financial statement) is on the record. See Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 72 FR 44827 (August 9, 2007), and accompanying Issues and Decision Memorandum at Comment 5, and Magnesium Metal From the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order, 75 FR 65450 (October 25, 2010), and accompanying Issues and Decision Memorandum at Comment 1 ("The Department generally excludes non-contemporaneous financial statements where suitable contemporaneous financial data are available").

Furthermore, the Department disagrees with petitioners' argument that we should use Infiniti Modules' 2006-07 financial statement. Although both New-Tec and Infiniti Modules produce pre-fabricated metal products (specifically, tables and chairs), the merchandise under consideration in this review is hand trucks, which Infiniti Modules does not produce. Therefore we find Rexello's financial statement to be the best available information for purposes of calculating surrogate financial ratios. Furthermore, Rexello's 2009-10 financial statements are more contemporaneous with the POR than are Infiniti Modules' 2006-07 financial statements. Therefore, we have used Rexello's 2009-10 financial statements to calculate financial ratios in these final results.

Comment 5: Surrogate Value for Hot-Rolled Steel

Petitioners argue the Department, if it does not use New-Tec's ME purchases of hot-rolled steel for the final results, should use an HTS number different from the one the Department identified for this input in its calculation worksheet found in the New-Tec Surrogate Values Memorandum at Exhibit 1. By way of background, petitioners explain that, in New-Tec's March 25, 2010, section D response and its August 24, 2010, submission, New-Tec identified this input as "hot-rolled steel," and associated it with HTS 7208.39.00. However, petitioners state that in New-Tec's December 10, 2010, submission, New-Tec gave a further breakdown of its reported hot-rolled steel into two separate, more specific forms of hot-rolled steel, and also changed the HTS number associated with the input to the two HTS numbers 7208.19.00 and 7208.90.00. Petitioners argue, based on New-Tec's narrative description of the input and the purchase invoices it submitted to the record, that the Department should instead use HTS numbers 7211.19.50 and 7208.54.10.

Neither New-Tec nor Cosco commented on this issue.

Department's Position:

In light of our determination to value New-Tec's reported ME inputs using New-Tec's reported ME prices, this issue is moot.

Comment 6: Sample Sales

Petitioners argue the Department erred in its preliminary results by removing from the calculation a set of sales that New-Tec shipped to U.S. customers at no charge. New-Tec reported a price of zero for these sales, and characterized them as “sample sales.” For reasons not susceptible to public summary, petitioners argue these shipments should not be considered samples, and should be included in the margin calculation. Petitioners also argue that to the extent these transactions were sold on a delivered basis, the Department should include a deduction for freight costs.

New-Tec and Cosco argue that including these sales in the margin calculation would contradict the Department’s practice not to include sample transactions in dumping calculations. See Stainless Steel Sheet and Strip in Coils from Japan: Final Results of Antidumping Duty Administrative Review, 75 FR 6631 (February 10, 2010) and accompanying Issues and Decision Memorandum at Comment 2 (S4 from Japan). They also argue that petitioners have provided no evidence to support their claim that these shipments were not samples, and have cited to no case precedent to support their theory.

Department’s Position:

We agree with New-Tec and Cosco that the transactions at issue are correctly classified as “sample sales,” and thus should not be included in the margin calculation. The transactions at issue total seven out of a total of 60,000 sales (public version figures). See New-Tec’s August 24, 2010, submission at Exhibit 32. New-Tec shipped these transactions at no charge. See New-Tec’s April 19, 2010, submission at 18. New-Tec provided its correspondence with its customer establishing that the sales at issue were provided in exchange for zero consideration. See New-Tec’s August 24, 2010, submission at Exhibit 2. Therefore, we have determined to treat these transactions as samples, and have excluded them from the margin calculation in these final results.

Comment 7: Whether to Deduct Warranty Expenses

Petitioners argue the Department should make an adjustment for warranty expenses in its calculation of net U.S. price. Petitioners state that New-Tec originally claimed it did not incur any warranty expenses on sales to the United States, but in a subsequent filing indicated some hand trucks were returned to New-Tec from its customers during the review period because of defects. Thus, petitioners argue, in the final results the Department should derive a warranty expense factor to account for the return of this defective merchandise.

New-Tec and Cosco argue the Department should reject petitioners’ argument because it implies that the returned products were useless, and of no value. They argue that petitioners have cited to no factual support for either proposition. Such products could have been repaired, resold as is, or salvaged for scrap value. Furthermore, Cosco argues that warranty expenses are already presumed to be included in the surrogate selling, general, and administrative (SG&A) ratio that is used to calculate SG&A expenses under the NME methodology. The deduction proposed by petitioners therefore would constitute double counting.

Department's Position:

We agree with New-Tec and Cosco that we should not deduct the cost of returns from U.S. price. In NME cases we deduct warranty expenses from U.S. prices only for constructed export price (CEP) sales. See February 4, 2010, antidumping questionnaire at C-33. All of New-Tec's sales in this review were export price (EP) sales. See New-Tec's April 19, 2010, section C response at 16. See also section 772 of the Act. Finally, we agree with Cosco that to deduct warranty expenses from U.S. price, but to include them in the normal value as part of SG&A, would result in an unfair comparison between U.S. price and normal value.

Comment 8: Whether to Revise the calculation of Domestic Brokerage and Handling

Petitioners argue that the Department should revise its calculation of domestic brokerage and handling in two ways.

For the preliminary results the Department applied a surrogate value for brokerage and handling of \$0.04/kilogram. To derive this figure, the Department started with a total cost for brokerage and handling of \$645 per 20-foot container. The Department divided this amount by the total capacity of a 20-foot container (21,727 kilograms) in order to derive the per-unit brokerage and handling cost for a 20-foot container (\$0.02969/kilogram). However, New-Tec used a 40-foot container to ship its hand trucks. Therefore, the Department adjusted the \$0.02969/kilogram figure by the ratio of the capacity for a 40-foot container (26,780 kilograms) relative to the capacity of a 20-foot container (21,727 kilograms) in order to derive the per-unit brokerage and handling cost for a 40-foot container (\$0.03659/kilogram).

Petitioners argue first that the Department should adjust New-Tec's brokerage and handling surrogate value to account for the fact that hand trucks have a relatively low shipping density. Petitioners claim that even though hand trucks are made with heavy materials such as aluminum and steel, their configuration and shape make them difficult to ship efficiently. Thus, petitioners state, shipments of hand trucks unavoidably involve a significant volume of air or "dead space." Therefore, in order to account fully for the brokerage and handling costs inherent in shipping hand trucks, petitioners argue the Department should adjust the surrogate value. They provide a suggested formula for doing so. It consists of multiplying the per-unit brokerage and handling cost for a 40-foot container (i.e., \$0.03659/kilogram) by a ratio, the numerator of which is the weight capacity of a 40-foot container (i.e., 26,780 kilograms) and the denominator of which is the actual weight of New-Tec's shipment.

Secondly, petitioners argue that in its calculation of domestic brokerage and handling the Department failed to multiply the surrogate value by the weight of the hand truck, thus understating the total cost of brokerage and handling.

New-Tec and Cosco argue the Department should reject petitioners' argument. They maintain petitioners cannot cite to record evidence to support their claim that hand trucks have a relatively

low shipping density. They also argue that petitioners have made these and other factual claims too late in the proceeding.

Department's Position:

The Department disagrees with the petitioners' argument that we should adjust the domestic brokerage and handling costs to account for supposed low shipping density. The petitioners' argument is based on New-Tec's Section A Response, Exhibit 6 (March 11, 2010) and New-Tec's August 24, 2010, supplemental response to question 17.d. Petitioners took New-Tec's supplemental response as the absolute maximum number of hand trucks New-Tec could fit in a 40-foot container. However, New-Tec's response does not indicate that total is the maximum number of hand trucks that could fit in a 40-foot container, but that that was the number of hand trucks it actually shipped in the containers. It is equally possible that New-Tec split equally the number of hand trucks among the available containers, leaving a large range for the maximum number of hand trucks a 40-foot container could carry. Because of such considerations, it is has been a long standing policy for the Department to calculate surrogate values such as brokerage and handling based on weight.

Furthermore, we consider that factors such as shipping density are already taken into account in the source we used to value brokerage and handling. Specifically, the source Doing Business 2010: India represents broad market averages. See January 7, 2011, Source Documents Memorandum. Using averages means that actual brokerage and handling costs will be higher for some customers and lower for others in the Indian market due to various factors, including shipping density. Therefore, variations in shipping density were already taken into account in the Department's calculation.

The Department agrees with the petitioners' argument that brokerage and handling needs to be multiplied by the weight of a hand truck. New-Tec reported all sales on a per piece basis, while the brokerage and handling surrogate value is on a per kilogram basis. To get a proper brokerage and handling cost the Department adjusted the calculation by multiplying brokerage and handling by kilograms per piece (i.e. the weight of a hand truck) to get brokerage and handling per piece.

Comment 9: Whether to Rescind the Review with Respect to Yangjiang Shunhe Industrial Co.

Petitioners argue the Department should reverse its preliminary determination to rescind the review with respect to Yangjiang Shunhe Industrial Co. (Yangjiang Shunhe). Yangjiang Shunhe claimed to have had no shipments of subject merchandise during the POR. See Yangjiang Shunhe's February 26, 2010 submission. After further research that confirmed Yangjiang Shunhe had no shipments of subject merchandise during the POR, the Department announced a preliminary determination to rescind the review with respect to Yangjiang Shunhe in its preliminary results. See Preliminary Results, 76 FR at 2649. Petitioners argue they placed information on the record of this review on March 10, 2010 that demonstrates that Yangjiang Shunhe had shipped over 82,000 kilograms of hand trucks during the POR. Petitioners argue, therefore, that the Department should determine that Yangjiang Shunhe is part of the PRC-wide

entity, and assign the PRC-wide entity (including Yangjiang Shunhe) a weighted-average dumping margin of 383.60 percent.

Department's Position:

We agree with petitioners in part. The evidence petitioners placed on the record of this review with respect to Yangjiang Shunhe is from Port Import-Export Research Service (PIERS). See petitioners' March 10, 2010, submission. PIERS data do not distinguish between subject and non-subject merchandise. On June 18, 2010, we placed on the record a list of all entries of hand trucks manufactured by Yangjiang Shunhe. We obtained this list from U.S. Customs and Border Protection. It showed that all shipments of hand trucks manufactured by Yangjiang Shunhe were not subject to the antidumping duty order. Therefore, there is no reason to reconsider our preliminary determination with respect to Yangjiang Shunhe as petitioners suggest. However, we agree with petitioners that Yangjiang Shunhe, having never been given separate-rate status in this proceeding, should remain part of the PRC-wide entity. We also agree that the rate for the PRC-wide entity should remain at 383.60 percent.

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 review and the final margin in the Federal Register.

Agree _____ Disagree _____

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

Date