

October 18, 2011

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

FROM: Gary Taverman  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the 2009-2010  
Administrative Review of Folding Metal Tables and Chairs from  
the People's Republic of China

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## SUMMARY

We have analyzed the case and rebuttal briefs of interested parties in the administrative review of the antidumping duty order on folding metal tables and chairs from the People's Republic of China ("PRC"). The period of review ("POR") covers June 1, 2009, through May 31, 2010. As a result of our analysis, we have made changes to the margin calculations in the preliminary results. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues for which we received comments and rebuttal comments by parties:

Comment 1: Selection of the Primary Surrogate Country

- A. Economic Comparability
- B. Significant Production of Comparable Merchandise
- C. Best Available Surrogate Value Information
  - 1. Best Available Data
  - 2. Labor Rate

Comment 2: Surrogate Financial Statements

- A. Use of Maximaa's Financial Statements
- B. Use of Lion's Financial Statements

Comment 3: Application of Sigma Cap in New-Tec's Supplier Distance Calculation

Comment 4: Application of Paper Honey Comb in New-Tec's Direct and Packing Material Calculation

Comment 5: Application of the Appropriate Margin to Lifetime

## BACKGROUND

On June 20, 2011, the Department of Commerce ("Department") published *Folding Metal Tables and Chairs from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review, and Intent to Revoke in Part*, 76 FR

35832 (June 20, 2011) (“*Preliminary Results*”) in the 2009-2010 administrative review of the antidumping duty order on folding metal tables and chairs from the People’s Republic of China (“PRC”), covering the period June 1, 2009, through May 31, 2010. On July 20, 2011, the Department received case briefs from New-Tec Integration (Xiamen) Co., Ltd. (“New-Tec”), a mandatory respondent, Meco Corporation (“Meco”), a domestic producer of the like product, and Lifetime Hong Kong Ltd. (“Lifetime”), a separate-rate respondent. On July 25, 2011, the Department received rebuttal briefs from Meco, Feili Group (Fujian) Co., Ltd. and Feili Furniture Development Limited Quanzhou City (collectively, “Feili”), a mandatory respondent, New-Tec, Cosco Home and Office Products (“Cosco”), an importer interested party in this review, and Lifetime. On August 9, 2011, Meco, Feili Group (Fujian) Co., Ltd. and Feili Furniture Development Limited Quanzhou City (collectively, “Feili”), a mandatory respondent, New-Tec, and Cosco Home and Office Products (“Cosco”), an importer and interested party in this review submitted their revised case and rebuttal briefs. On August 11, 2011, the Department held a public hearing.

## DISCUSSION OF THE ISSUES

### Comment 1: Selection of the Primary Surrogate Country

#### A. Economic Comparability

- Meco argues that the Department should select Indonesia, not India, as the primary surrogate country because Indonesia is more comparable to the PRC than India<sup>1</sup> in terms of its level of economic development.<sup>2</sup>
- Cosco and New-Tec argue that, because the countries on the surrogate country list are not ranked, India and Indonesia are equally comparable to the PRC. New-Tec, Feili, and Cosco argue that principles of fairness prevent the Department from changing its methodology at the late stage of a proceeding.<sup>3</sup>

**Department Position:** For the final results, we continue to find that India is economically comparable to the PRC. As we explained in the *Preliminary Results*, because the Department treats the PRC as a non-market economy (“NME”), when calculating normal value, section 773(c)(4) of the Tariff Act of 1930, as amended (“the Act”) requires, to the extent possible, that the Department values the factors of production (“FOPs”) in a surrogate country that is (A) at a level of economic development comparable to the PRC and (B) is a significant producer of comparable merchandise. According to *Policy Bulletin 04.1*, the Department has adopted a “sequential consideration of the statutory elements.” First, Import Administration’s Office of Policy provides a list of potential surrogate countries that are at a comparable level of economic

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<sup>1</sup> The Department notes that at the end of the proceeding, in relation to Meco’s arguments about the labor wage rate, Meco contradicted itself and argued that India was not comparable to the PRC at all. However, the argument was based upon untimely new factual information that was rejected. For further information, *see infra* at Comment 2c.

<sup>2</sup> *See* Letter to All Interested Parties Regarding Surrogate Country Selection, dated February 4, 2010 (“Surrogate Country Letter”); *see* “Exception to the Sequencing Procedure” from “*Import Administration Policy Bulletin No. 04.1* (March 1, 2004) (“*Policy Bulletin 04.1*”).

<sup>3</sup> *See Shikoku Chemicals Corp. v. United States*, 795 F. Supp. 417, 422 (CIT 1992) (“*Shikoku*”); *see, e.g., Certain Steel Nails from the PRC: Final Results of the First Antidumping Duty Administrative Review*, 76 FR 16379, 16380 (March 23, 2011) (“*Nails from the PRC*”).

development to the NME country. The surrogate countries on the list are not ranked and are considered equivalent in terms of economic comparability. The Department then identifies among those countries which ones are significant producers of comparable merchandise. Finally, if more than one country satisfies those criteria, the country with the best factors data is selected as the primary surrogate country. In this case, the Department identified India, the Philippines, Indonesia, Thailand, Ukraine, and Peru as countries which are economically comparable to the PRC.<sup>4</sup>

Meco refers to an exception under *Policy Bulletin 04.1* and asserts that the exception to the sequential order applies in this case which “compels the selection of Indonesia as the primary surrogate country” because it is the country closest to the NME country in terms of per capita GNI. According to the “Exception to the Sequencing Procedure of *Policy Bulletin 04.1*,” occasionally, there are cases in which it is more appropriate for the team to address economic comparability only after the significant producer of comparable merchandise is met. In these instances, we note that the Department’s usual practice of treating the five or six countries listed in its surrogate country selection memorandum as equally comparable in terms of their stage of economic development is less clear.<sup>5</sup> However, Meco provides no factual or legal basis to support its assertion that this exception applies in its case brief and that the surrogate countries on the list should therefore be ranked according to their per capita GNI. Therefore, we disagree with Meco’s conclusory statement that the “Exception to the Sequencing Procedure” of *Policy Bulletin 04.1* applies in this instant case.

During the August 10, 2011, public hearing, we asked Meco to support its assertion that the “Exception to the Sequencing Procedure” of *Policy Bulletin 04.1* applies to the instant case. Specifically, we asked Meco to explain why the significant producer criterion is particularly important in this case.<sup>6</sup> Meco stated: “What we did was I believe we calculated the contribution to normal value of the surrogate ratios. And they vastly outweigh in terms of the effect on {normal} value, the inputs that would be valued using the Indian HTS import data.”<sup>7</sup>

We find that Meco’s proffered explanation does not address the circumstances to which the “Exception to the Sequencing Procedure” of *Policy Bulletin 04.1* were meant to apply. *Policy Bulletin 04.1* specifically states that the significant producer requirement is particularly important in cases where subject merchandise is unusual or unique.<sup>8</sup> For example, the “significant producer of comparable merchandise” requirement is particularly important in cases involving subject merchandise with unique or unusual inputs, such as crawfish, because it is produced by only a few countries.<sup>9</sup> Additionally, the requirement is important for cases that involve subject merchandise such as pure magnesium because the major input is electricity, which is not widely traded internationally, but is used intensively in the production of magnesium.<sup>10</sup> The Department explained that the significant producer requirement is particularly important in these cases because the Department wants to avoid selecting a surrogate country in which the relative

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<sup>4</sup> See Surrogate Country Letter.

<sup>5</sup> See *Policy Bulletin 04.1* at 4.

<sup>6</sup> See Transcript of Administrative Hearing dated August 11, 2011, at 52-53.

<sup>7</sup> See *id.*

<sup>8</sup> See *Policy Bulletin 04.1* at 4.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

scarcity (either through domestic sources or through imports) of a major non- or little-traded input precludes the country from being a competitive producer of comparable merchandise.<sup>11</sup> For example, in the *Notice of Preliminary Determination of Sales at Less than Fair Value: Urea Ammonium Nitrate Solutions from the Russian Federation*, 67 FR 62008 (October 3, 2003), the Department placed particular emphasis on the significant producer requirement in light of the gas-intensive nature of urea ammonium nitrate production, and the fact that natural gas is not commonly imported into the countries being considered as surrogate countries.

In this instant case, record evidence does not demonstrate that hot- or cold-rolled steel, major inputs to produce folding metal tables and chairs, are like electricity or urea ammonium nitrate solutions, which are non- or little- traded internationally. Additionally, record evidence does not demonstrate that folding metal tables and chairs, which use cold- and hot-rolled steel inputs, are like crawfish which utilizes unusual or unique inputs and is produced by only a few countries. In fact, record evidence suggests that folding metal tables and chairs are produced in numerous countries, and its cold- and hot-rolled steel inputs are widely traded internationally.<sup>12</sup> Therefore, because Meco provides no facts to support, and record evidence does not support, Meco's contention that this is a case where particular emphasis on significant producer of comparable merchandise is warranted, we do not find a strong factual basis for application of the exception to the sequencing procedure. Accordingly, for the final results, we continue to find that India and Indonesia are equally comparable in their levels of economic development to that of the PRC because both countries are listed on the Surrogate Country Memo.

We disagree with New-Tec, Feili, and Cosco that the principles of fairness prevent the Department from changing surrogate country at the late stage of a proceeding. As we noted in the *Preliminary Results*, we provided all interested parties the list of potential surrogate countries on January 5, 2011—over six months before the preliminary results deadline. At that time, parties were provided with a deadline to submit comments and parties submitted comments. We note that parties did not request an extension to supplement the record or to submit additional comments after the deadline. New-Tec, Feili, and Cosco were, therefore, given the opportunity to submit comments about surrogate country throughout the entire proceeding. Accordingly, we find that it is incorrect for New-Tec, Feili, and Cosco to argue that the Department is required to provide parties with an opportunity to submit comments about surrogate country if the Department intends to change surrogate country for the final results. Moreover, we find this argument is moot since we did not change the surrogate country for the final results.

### **B. Significant Production of Both Identical and Comparable Merchandise**

- Meco asserts that the record indicates that India and Indonesia are both significant producers of comparable merchandise.
- Lifetime and New-Tec argue record evidence demonstrates that India is a significant producer of comparable merchandise. According to New-Tec, record evidence only shows that Indonesian companies have potential to produce comparable merchandise.

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<sup>11</sup> *Id.*

<sup>12</sup> See 2009-2010 FMTC Administrative Review Preliminary Surrogate Value Memorandum (“Prelim SV memo”).

**Department Position:** Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is significant producer of comparable merchandise. The term “significant producer” is not defined in the statute. Some clarification is provided in the Conference Report to the 1988 Omnibus Trade and Competitiveness Act, which added to the statute the current NME provisions and states that “significant producer” includes any country that is a “significant net exporter.” The Department’s policy is clear with respect to the weight assigned to significant production of both identical and comparable merchandise:

The statute does not require that the Department use a surrogate country that is at a level of economic development most comparable to the NME country and that is the most significant producer of comparable merchandise. The statute requires only that the Department use a surrogate market economy country that is at a level of economic development comparable to that of the NME country and that is a significant producer of comparable merchandise.

Record evidence demonstrates that both India and Indonesia are significant producers of comparable merchandise. Specifically, we find that GTA Export Statistics support the argument that Indonesia and India are significant producers of comparable merchandise because it identifies Indonesia and India as exporters of comparable merchandise based on the exports reported under the relevant HTS categories.<sup>13</sup> Consequently, we continue to find that both India and Indonesia are significant producers of comparable merchandise and are, therefore, both equally eligible for selection as a surrogate country. To determine which country to select as the primary surrogate country, we must examine which country provides better surrogate value data.<sup>14</sup>

## **C. Best Available Surrogate Value Information**

### **1. Best Available Data**

- Meco states that after selecting the country that is economically comparable and is a significant producer of comparable merchandise, the Department must select the country with the “best factors data.”<sup>15</sup> Meco asserts that surrogate values (“SV”) are available from the Indonesian edition of GTA.<sup>16</sup> According to Meco, unlike the previous review Indonesian SVs for this review are based on 8-digit categories for valuing raw materials, as well as for energy and utility inputs. On page 22 of its case brief, Meco cites to numerous cases where the Department has selected Indonesia as the primary surrogate country. Finally, Meco argues that, after deducting the respondents’ market-economy (“ME”) inputs, the impact of surrogate financial ratios is far greater and should be the

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<sup>13</sup> See Prelim SV Memo at Attachment VI.

<sup>14</sup> See *Policy Bulletin 04.1*.

<sup>15</sup> See *Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 74 FR 16838 (April 13, 2009), and accompanying Issues and Decision Memorandum at Comment 1 (“4/13/09 Citric Acid”); and *Allied Pacific Food (Dalian) Co. v. United States*, 587 F. Supp. 2d 1330 (CIT 2008).

<sup>16</sup> See Meco’s January 26, 2011, surrogate value submission (“1/26/11 Meco’s SV submission”), at Exhibit 4.

determining factor in selection of the surrogate country.<sup>17</sup>

- New-Tec argues that Indian data are available for all factor values, and in the past the Department has selected financial statements from a secondary surrogate country only when no financial ratio valuation information was available from the primary country.<sup>18</sup> New-Tec cites to cases where the Department selected Indonesian SVs where the Indian SVs were unavailable but, nevertheless, used Indian financial statements for the purposes of surrogate financial ratio calculations.<sup>19</sup> According to New-Tec, in all other cases cited by Meco where India was the primary surrogate country, Indonesian data were used to supplement SVs. New-Tec argues that the Department must consider all data in determining the choice of surrogate country. According to New-Tec, Meco's suggestion that the respondents' use of ME factors should be factored in the surrogate country consideration is without merit. New-Tec maintains that Indonesian import statistics are not superior as they contain six-digit Harmonized Tariff Schedule ("HTS") categories as opposed to the majority of Indian eight-digit categories. Additionally, New-Tec asserts that there is no Indonesian SV for natural gas, and the truck rate dates back to 2001. New-Tec further argues that reliance upon the financial statements of PT Lion Metal Works Tbk ("Lion"), *i.e.*, the Indonesian financial data on the record, is not appropriate because that company does not correspond to the situation of the respondents and is just another diversified manufacturer. New-Tec argues that adequate Indian data are available for all factor values.<sup>20</sup> According to New-Tec, Indian financial data accurately represent the respondents' experience. Therefore, New-Tec argues that due the multitude of flaws in the Indonesian data, the Department should continue to use India as the primary surrogate country.<sup>21</sup>

**Department Position:** It is the Department's practice to select, as the primary surrogate, a country that meets the criteria set forth in section 773(c)(4) of the Act (*i.e.*, a country at a comparable level of economic development, which is also a significant producer of comparable merchandise), and has the best available information for valuing FOPs.<sup>22</sup> As the Department's *Policy Bulletin 04.1* explains, after identification of economically comparable producers that are also significant exporters "...if more than one country has survived the selection process to this point, the country with the best factors data is selected as the primary surrogate country." This

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<sup>17</sup> See Meco's case brief, at Exhibit 2.

<sup>18</sup> See 4/13/09 *Citric Acid*.

<sup>19</sup> See *Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 65 FR 45753 (July 25, 2000); and *Industrial Nitrocellulose From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 65667 (December 15, 1997).

<sup>20</sup> See *Preliminary Results*, 76 FR at 35835.

<sup>21</sup> See *Chinsung Indus Co., Ltd. v. United States*, 705 F. Supp. 598, 600-01 (CIT 1989).

<sup>22</sup> See *Policy Bulletin 04.1; Folding Metal Tables and Chairs from the People's Republic of China: Final Results of 2007-2008 Deferred Antidumping Duty Administrative Review and Final Results of 2008-2009 Antidumping Duty Administrative Review*, 76 FR 2883 (January 18, 2011) ("*1/18/11 FMTCS*"), and accompanying Issues and Decision Memorandum, at Comment 1.C; and *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 1.C ("*8/20/08 WBF*").

decision is made on a case-by-case basis, in consideration of the surrogate country from which the Department can obtain SVs with which to value the FOPs of a given product.<sup>23</sup>

Accordingly, we agree with Meco that where the Department deems multiple countries to be at similar levels of economic development, the Department should select the country with the best SV data. In accordance with 19 CFR 351.408(c)(2), the Department normally will value all FOPs using a single surrogate country, where specific, reliable, contemporaneous, and publicly available data exist. As we stated in the *Preliminary Results*, India provides the best opportunity to use quality, publicly available data to value FOPs. This is because every raw material, labor, energy, and utility FOP had an SV from an Indian source. At the same time, we disagree with Meco that all SVs are readily available from Indonesia. Meco submitted raw material SVs derived from GTA but did not submit SVs for steel wire rod and polyethylene plastic sheet, otherwise available from Indian GTA.<sup>24</sup> Furthermore, the record does not contain data for valuation of natural gas from Indonesian sources, and truck freight values date back to 2001, several years before the POR.<sup>25</sup> Therefore, Indian data are complete and do not require supplementation, while Indonesian data are incomplete.

Meco argues that a significant portion of the weight of the raw materials consumed by the respondents is attributed to market-economy purchases (“MEPs”). Therefore, according to Meco, the impact on the normal value calculation of the factors sourced from NME suppliers is minor. Based on the above logic, Meco contends that selection of the primary surrogate country should depend upon the country of origin of the best financial data on the record. We agree with New-Tec that the Department considers all data, regardless of valuation of these data with or without MEPS. As we stated in *1/18/11 FMTCs*, at Comment 1.C, in selecting a surrogate country, we do not give more importance to financial ratios than to surrogate values for raw materials, but instead equally consider all surrogate data in selecting a surrogate country.

With respect to Meco’s argument regarding Indonesian 10-digit HTS categories being more precise than Indian 8-digit categories, we note that all of the Indonesian 10-digit categories contain “00” as the last two digits, thus indicating a mere repetition of the base 8-digit category.<sup>26</sup> Therefore, Indonesian HTS categories are no more precise than Indian HTS categories.

Thus, consistent with the Department practice, we evaluated data considerations for the purposes of surrogate country selection as a whole, including availability of surrogate financial ratio data and availability of surrogate values for direct material inputs and other FOPs.<sup>27</sup> In this case, we determined that the surrogate value data for FOPs from India represent the best available information because they are reliable, contemporaneous, publicly available, and more specific to the inputs in question than are the Indonesian data. See below for a full discussion regarding our analysis of surrogate financial data on the record of this review.

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<sup>23</sup> See *Policy Bulletin 04.1*, at 4; see, e.g., *1/18/11 FMTCs* and *8/20/08 WBF*.

<sup>24</sup> See *1/26/11 Meco’s SV submission*, at Exhibit 4 and Prelim SV memo, at Attachment 1.

<sup>25</sup> See *id.*

<sup>26</sup> See Exhibit 2 of Meco’s January 26, 2011, SV submission.

<sup>27</sup> See *Policy Bulletin 04.1*.

## 2. Labor Rate

- Meco argues that, for the final results, the Department should use Indonesian Chapter 5B data because it is the best available information in this review to value labor. Specifically, Meco contends India was not economically comparable to the PRC during the POR and it is the Department's policy to value labor using data from economically comparable countries that are also significant producers of comparable merchandise.<sup>28</sup> Additionally, Meco argues that Department should not use Chapter 6A data because the new data source does not provide more accuracy but, rather replaces one potential bias with another (*i.e.*, overstated labor cost). Finally, Meco asserts that the Department should convert the labor rate to U.S. dollars using an annual average exchange rate.

**Department Position:** In the *Preliminary Results*, we valued labor using the interim wage rate methodology following the Court of Appeals for the Federal Circuit ("CAFC") ruling in *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1372 (CAFC 2010). On June 21, 2011, the Department determined that it would rely on a single surrogate country to value labor, and would use labor data from ILO Yearbook Chapter 6A as its primary data source.<sup>29</sup> Following this announcement, the Department placed Chapter 6A Indian labor cost data and a new surrogate wage rate on this record. Additionally, the Department made certain adjustments to the surrogate financial ratio calculations to remove disaggregated overhead and selling, general and administrative ("SG&A") items that are included in the ILO's definition of Chapter 6A data as described in greater detail below. Pursuant to section 773(c)(4) of the Act, we continue to use India ILO industry-specific Chapter 6A data to value labor in this review for the final results.

We disagree with Meco's contention that we should use Chapter 5B data from Indonesia because India was not economically comparable to the PRC during the POR and that the Department should, therefore, rely on Indonesian data. According to the Surrogate Country Memo and *Policy Bulletin 04.1*, India and Indonesia are equally comparable in their levels of economic development to that of the PRC. Accordingly, we continue to value labor using Indian ILO industry-specific Chapter 6A data.

Additionally, Meco argues that the Department should not use Chapter 6A data because the new data source does not provide more accuracy, but rather replaces one potential bias with another (*i.e.*, overstated labor cost). We disagree. As explained in *Labor Methodologies*, unlike Chapter 6A data that reflect all costs related to labor including wages, benefits, housing, training, *etc.*, Chapter 5B data reflect only direct compensation and bonuses. The Department also adjusts, when possible, the calculated factory overhead ratio to reflect all indirect labor costs (*e.g.*, employee pension benefits, worker training) itemized in the company's financial statement.<sup>30</sup> In this instance, we examined the surrogate financial statements to confirm that we were not

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<sup>28</sup> For support of the argument that India was not economically comparable to the PRC during the POR, Meco submitted new factual information pertaining to the selection of a primary surrogate country. The Department rejected this factual information because it was untimely pursuant to 19 CFR 351.301(b)(2). See Department's Rejection of New Factual Information Letter, dated August 5, 2011. We note that, prior to this untimely submission, Meco did not allege that India was not economically similar to the PRC.

<sup>29</sup> See *Labor Methodologies*.

<sup>30</sup> See *Labor Methodologies*.

overstating any labor by including it in both the labor calculation and in overhead or SG&A. The Department was able to identify and adjust for indirect labor costs (*i.e.*, “Contribution to Provident Fund, EDLI Gratuity Etc.” and “Staff and Labour Welfare”) since these items were itemized in the financial statements. As such, we continue to find that Chapter 6A is more accurate and reliable than Chapter 5B because Chapter 6A data better reflect all costs related to labor and because we have adjusted for potential overstating.

Finally, Meco contends that the Department should convert the labor rate to U.S. dollars using an annual average exchange rate to be consistent with the Department’s use of annual average inflator (*i.e.*, Consumer Price Index) and because most of the ILO labor data is on an annual average basis. Additionally, Meco argues that this annual wage rate is being applied to an annual average labor factor for the POR. We disagree. In order to be consistent with the Department’s methodology applied to all other FOPs denominated in foreign currencies, we continue to use the surrogate labor rate valued in Indian rupees and apply the daily exchange rate in the SAS program.

## **Comment 2: Surrogate Financial Statements**

### **A. Use of Maximaa’s Financial Statements**

- Meco argues that the Department should reject Maximaa Systems Limited’s (“Maximaa”) financial statements for the fiscal year ending (“FYE”) 3/31/09 and 3/31/10. According to Meco, Maximaa’s financial statements for the FYE 3/31/10 showed an operating loss and, therefore, should be rejected as unreliable based on the Department’s well-established practice of rejecting surrogate financial statements that have incurred a loss.<sup>31</sup>
- Meco further argues that Maximaa’s 3/31/09 financial statements should be rejected because they are not contemporaneous with the POR. Meco asserts that it is the Department’s preference to select contemporaneous financial statements.<sup>32</sup> Additionally, Meco states that Maximaa’s 3/31/09 financial statements should be rejected because they are incomplete. According to Meco, Maximaa’s 3/31/09 financial statements are missing certain schedules that were present in Maximaa’s 3/31/10 financial statements. Meco cites to the Department’s previous determinations to reject incomplete surrogate financial statements.<sup>33</sup>

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<sup>31</sup> See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review*, 72 FR 52052 (September 12, 2007), and accompanying Issues and Decision Memorandum at Comment 2; *4/13/09 Citric Acid*, and accompanying Issues and Decision Memorandum at Comment 1.

<sup>32</sup> See *Folding Metal Tables and Chairs from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 68568 (December 28, 2009) (“12/28/09 FMTCs”); *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results, Partial Rescission, and Request for Revocation, in Part, of the Fifth Administrative Review*, 76 FR 12054 (March 4, 2011).

<sup>33</sup> See *e.g.*, *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People’s Republic of China*, 72 FR 13239 (March 12, 2007), and accompanying Issues and Decision Memorandum at Comment 1 (“3/12/07 Ironing Tables”).

- Meco argues that the record does not contain any information about Maximaa’s product mix, raw material consumption or production process. Meco maintains that in the past the Department determined that 49 percent of Maximaa’s total production constituted production of comparable merchandise.<sup>34</sup> However, according to Meco, Maximaa’s comparable merchandise, mainly filing cabinets, are less comparable than those of Lion.
- Meco argues that the Department should reject Maximaa’s 3/31/09 financial statements because they indicate that Maximaa is heavily engaged in the resale of finished goods. According to Meco, traded goods are included in the numerator of the SG&A and profit ratios of the surrogate financial ratios and, thus, distort these ratios. As a contrast to Maximaa, Lion does not purchase goods for resale. Therefore, Meco argues, the Department should use Lion, because its financial statements would not lead to any potential distortions. Meco further maintains that in *3/12/07 Ironing Tables*, the Department rejected surrogate financial statements because the producer was engaged in substantial purchase and resale activities.
- Cosco argues that with the exception of the issue of contemporaneity, all arguments were addressed by the Department in the last review.<sup>35</sup> With respect to the contemporaneity of Maximaa’s fiscal year ending 3/31/09, Cosco and New-Tec assert that there are numerous instances where the Department has used surrogate financial statements from periods preceding and overlapping with the POR.<sup>36</sup> Cosco and New-Tec assert that the Department selects financial statements that are the best in terms of specificity, quality, and contemporaneity. According to New-Tec, the Department has previously found that both Maximaa and Godrej & Boyce Manufacturing Company Limited (“Godrej”) are the surrogate producers that best meet these criteria. According to Cosco, notwithstanding contemporaneity, Maximaa FYE 3/31/09 meets these criteria.

**Department Position:** As an initial matter and in accordance with 19 CFR 351.408(c)(2), the Department normally values all factors from a single surrogate country, and will resort to a secondary surrogate country only if data from the primary surrogate country are unavailable or unreliable.<sup>37</sup> Consistent with this practice, in valuing FOPs from an NME country, the Department’s preference is to use financial data gathered from the primary surrogate country, provided the data are accurate, complete, contemporaneous, representative, and are not distorted or otherwise unreliable, as addressed below.<sup>38</sup> Accordingly, in this case, where we have on the record of this review reliable, accurate, complete surrogate financial statements from the primary surrogate country that are representative of the overall experience of the respondents, Meco has not provided a compelling reason for the Department to ignore this preference and use

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<sup>34</sup> See *1/18/11 FMTCs*.

<sup>35</sup> See *id.*

<sup>36</sup> See *Fresh Garlic From the People's Republic of China: Final Results of the Eleventh New Shipper Reviews*, and accompanying Issues and Decision Memorandum, at Comment 2, 72 FR 54896 (September 27, 2007); *Fresh Garlic From the People's Republic of China: Final Results of New Shipper Review*, and accompanying Issues and Decision Memorandum, at Comment 4, 75 FR 61130 (October 4, 2010); and *Hebei Metals & Minerals Imp. & Exp. Corp. v. United States*, 29 CIT 288, 301, 366 F. Supp. 2d 1264, 1275 (2005).

<sup>37</sup> See *1/18/11 FMTCs*, and accompanying Issues and Decision Memorandum at Comment 2.A.

<sup>38</sup> See 19 CFR 351.408(c)(4).

Indonesian financial data rather than the reliable Indian data available from the primary surrogate country, as discussed in detail below. Therefore, we disagree with Meco's contention that Lion's financial statements are the best available data for calculating surrogate financial ratios.

New-Tec is correct in its assertions that the Department previously found the Maximaa and Godrej financial statements to represent the best available data on the record of prior segments of this proceeding. However, while that might inform the decision here, the record in each segment of a proceeding stands on its own and, therefore, information must be evaluated in comparison to the other information on that same record.<sup>39</sup> In this case, we have evaluated the record fully and find that Godrej is primarily a producer of non-comparable merchandise as the majority of Godrej's sales revenue is comprised of sales of merchandise (*e.g.*, security equipment, typewriters, locks, home appliances, forklifts and other industrial products) not comparable to subject merchandise produced by the respondents.<sup>40</sup> Therefore, we continue to find that the Maximaa 2009 financial statements represent the best information available for purposes of calculating surrogate financial ratios for these final results of review.

We do not disagree with Meco that Maximaa's 2009 financial statements are not contemporaneous.<sup>41</sup> However, we note that surrogate financial statements are used for calculation of ratios, as opposed to values and, therefore, are not subject to inflation. In other words, the Department adjusts values for inflation over time but ratios maintain the same proportionate correlation over time. In the past, the Department has selected non-contemporaneous financial statements while the record has contained other less specific but contemporaneous financial statements.<sup>42</sup>

We disagree with Meco that Maximaa's 2009 financial statements are incomplete. There is no record evidence to support that assertion. Meco cites to certain schedules that exist in Meco's 2008 and 2010 financial statements but are not attached in the 2009 statements used by the Department in the *Preliminary Results*. However, nothing in Maximaa's 2009 financial statements indicates that these schedules are indeed missing or somehow should have been part of the 2009 statements. In other words, the existing balance sheet and/or P&L statement do not reference these schedules. For example, Maximaa's P&L statement's "manufacturing, administrative & selling expense" references schedule 14, which among other schedules provides line items that comprise Maximaa's manufacturing, administrative and selling expenses. However, schedules cited by Meco are not referenced anywhere in Maximaa's 2009 financial statements, which leads to our conclusion that they were never part of 2009 financial statements.

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<sup>39</sup> See 1/18/11, at Comment 2.A.

<sup>40</sup> See New-Tec's 1/26/11 SV Submission, at Exhibit 1.

<sup>41</sup> As explained in the *Preliminary Results*, we agree with Meco that Maximaa's 2010 financial statements are not appropriate to rely upon in this case because they demonstrate a negative profit and there are other, usable, financial statements on the record. See *Preliminary Results*, 76 FR at 35835.

<sup>42</sup> See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty New Shipper Reviews*, 76 FR 35403 (June 17, 2011), and accompanying Issues and Decision Memorandum, at Comment 1.C and *Pure Magnesium From the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 75 FR 80791 (December 23, 2010), and accompanying Issues and Decision Memorandum, at Comment 2; see also *Hebei Metals & Minerals Import & Export Corporation and Hebei Wuxin Metals & Minerals Trading Co., Ltd. v. United States*, 366 F. Supp. 2d 1264, 1275 (CIT 2005).

Maximaa's 2009 financial statements contain "Directors' Report," "Auditor's Report," balance sheet, profit and loss ("P&L") statement, and schedules and notes that provide the details to the balance sheet and P&L statement.<sup>43</sup> We also note that the cases cited by Meco, where the Department did not use certain surrogate financial statements, referred to financial statements with missing P&L statements in *3/18/08 Ironing Tables*,<sup>44</sup> missing Auditor's Notes along with insufficient detail to calculate financial ratios in *5/17/05 Lock Washers*,<sup>45</sup> and missing Auditor's Notes and financial statements being four pages long in *Silicomanganese from Kazakhstan*.<sup>46</sup> Even if the Department concluded that schedules cited by Meco were, indeed, missing, they do not represent a "key section" or "vital" information for the Department's calculation for surrogate financial ratios.<sup>47</sup> Based on the above analysis, we determined that Maximaa's 2009 financial statements are complete.

We further disagree with Meco that the record of this proceeding contains no information concerning Maximaa's product mix, raw material consumption, and production processes. In the *Preliminary Results*, we placed on the record information regarding Maximaa's products, including steel furniture, steel racks, steel angles, steel storage systems, and steel pallets.<sup>48</sup> Maximaa's Auditor's Report states that its "core business is steel furniture."<sup>49</sup> With respect to Meco's comparison of Indonesian producer, Lion, to Maximaa, we find this argument irrelevant because the record contains usable financial statements from the primary surrogate country. Furthermore, we have stated in the *Preliminary Results* that Lion's annual report does not provide sufficient detail for the Department to discern the amount of comparable merchandise that it produces.<sup>50</sup>

Finally, we addressed Meco's assertions regarding traded goods in *1/18/11 FMTCs*, at Comment 2.E, by stating that "our methodology for accounting for traded goods properly allocates, to the extent possible, the overhead to manufacturing and the general expense and profit proportionally between produced and traded goods, and Meco admits that this methodology is appropriate for cases where a more comparable company's data are not available." None of these facts have changed for the current review. In the instant review, Meco again states that the Department's practice of excluding traded goods from the manufacturing overhead ratio is permissible but only when there is no better surrogate producer on the record. As we discussed above, Maximaa is a surrogate producer of comparable merchandise from the primary surrogate country. Therefore, Lion is not considered a better surrogate producer and it is appropriate to rely upon Maximaa's

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<sup>43</sup> See New-Tec's 1/26/11 SV Submission, at Exhibit 2.

<sup>44</sup> See *Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 14437 (March 18, 2008), and accompanying Issues and Decision Memorandum at Comment 1 ("*3/18/08 Ironing Tables*").

<sup>45</sup> See *Certain Helical Spring Lock Washers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 28274 (May 17, 2005), and accompanying Issues and Decision Memorandum, at Comment 8 ("*5/17/05 Lock Washers*").

<sup>46</sup> See *Final Determination of Sales at Less Than Fair Value: Silicomanganese From Kazakhstan*, 67 FR 15535 (April 2, 2002) ("*Silicomanganese from Kazakhstan*").

<sup>47</sup> See *Association of American School Paper Suppliers v United States*, Slip Op. 11-101 (CIT 2011) (noting that "...Commerce has also previously indicated that incompleteness alone may not be sufficient to reject statements and that it has in the past relied upon incomplete financial statements").

<sup>48</sup> See Prelim SV Memo, at Attachment VII.

<sup>49</sup> See New-Tec's January 26, 2011, SV submission, at Exhibit 2.

<sup>50</sup> See *Preliminary Results*, 76 FR at 35835.

data. As in the previous review, the Department continues to exclude traded goods from that manufacturing overhead ratio.

Similarly, Meco discusses the Department's rejection of Delite Kom in *3/18/08 Ironing Tables* as a case in point for rejecting Maximaa's financial statements. In *1/18/11 FMTCs*, we stated that "despite Meco's comparison of Maximaa to Delite Kom, a potential surrogate financial ratio company in *3/18/08 Ironing Tables*, the present case is distinguishable from *3/18/08 Ironing Tables* since Delite Kom was rejected not only because it had traded goods, but also due to the detail of the traded goods listed on a largely illegible and untitled page in its financial statements that indicated the traded goods reflected non-comparable merchandise." In other words, as New-Tec points out, Delite Kom's traded goods may have not been related to comparable merchandise, whereas Maximaa's traded goods are related to steel furniture, *i.e.*, comparable merchandise. Therefore, we continue to find that the Maximaa statements represent the best information available for purposes of calculating surrogate financial ratios for these final results of review.

#### **B. Use of Lion's Financial Statements**

- Meco argues that the financial statements of Indonesian surrogate producer, Lion, constitute the best available information for calculating surrogate financial ratios. Meco further argues that Lion's 12/31/09 financial statement is contemporaneous with seven months of the POR, whereas Maximaa's 3/31/09 financial statement does not overlap with the POR. Meco argues that the scope of Lion's operations more closely resemble the operations of the respondents because Lion's cost of goods sold result from production of comparable merchandise rather than purchases for resale as is the case with Maximaa's cost of goods sold. Finally, Meco asserts that Godrej, another Indian producer on the record of this review, is not a producer of comparable merchandise. Therefore, the Department should continue to reject Godrej's financial statements.
- New-Tec argues that the Department should not use Lion's financial statements for calculation of surrogate financial ratios. According to New-Tec, Lion is a producer of diversified products, not just comparable merchandise. New-Tec rebuts Meco's argument regarding Lion's use of steel raw materials by asserting that the Department has rejected financial statements of a producer of non-comparable merchandise, which consumed comparable raw materials.<sup>51</sup> New-Tec further argues that Lion is different from the respondents in many respects, including the fact that Lion is a large conglomerate; and has a significant amount of sales to affiliated parties. Finally, New-Tec argues that Lion's financial statements contain flaws. According to New-Tec, financial ratios derived from Lion's financial statements would be distorted due to the fact that Lion sells a large share of its products to affiliated companies, meaning that the prices would not be at arm's length.<sup>52</sup> New-Tec further notes that Lion's SG&A includes

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<sup>51</sup> See *12/28/09 FMTCs*, and accompanying Issues and Decision Memorandum, at Comment 1.

<sup>52</sup> See *Stainless Steel Sheet and Strip in Coils from France: Final Results of Antidumping Administrative Review*, 70 FR 7240 (February 11, 2005), and accompanying Issues and Decision Memorandum; and *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 70 FR 73729 (December 13, 2005), and accompanying Issues and Decision Memorandum.

activity of a property development subsidiary and would distort the respondents' SG&A ratio.<sup>53</sup>

- Cosco argues that the Department could select financial statements from a secondary surrogate country only if the record did not contain surrogate financial statement from its primary surrogate country. Additionally, according to Cosco, the Department rejected Lion in the *Preliminary Results* due to insufficient detail in Lion's financial statements to discern the amount of comparable merchandise.

**Department Position:** As we stated in comment 2.A. above, we have on the record of this review, reliable, accurate, and complete surrogate financial statements from the primary surrogate country that is representative of the overall experience of the respondents. Meco has not provided a compelling reason for the Department to ignore this preference and use Indonesian financial data rather than the reliable Indian data available from the primary surrogate country. Therefore, we disagree with Meco's contention that Lion's financial statements are the best available data for calculating surrogate financial ratios in this administrative review. If we disqualified the Indian surrogate financial statements, we would have evaluated Lion's 2010 financial statements. However, the Department finds no major deficiencies with Maximaa's 2009 financial statements and finds them suitable for calculating surrogate financial ratios. Thus, regardless of whether Lion is a suitable surrogate source of financial data, we would continue to select Maximaa's financial statements because they satisfy the Department's surrogate value criteria and are from the primary surrogate country. Therefore, for the purposes of the final results of this administrative review, we continue to rely upon the financial statements of Indian producer, Maximaa.

### **Comment 3: Application of Sigma Cap in New-Tec's Supplier Distance Calculation**

- New-Tec argues that the Department erred in its calculation of normal value by failing to apply the Sigma freight cap when calculating the FOP used to calculate normal value.
- Meco did not comment on this issue.

**Department Position:** We agree with New-Tec. In the *Preliminary Results*, the Department did not apply the Sigma freight cap (*i.e.*, the distance from the factory to the nearest port) when calculating the freight cost to be added to the surrogate value of the FOP inputs. For the final results, we applied the Sigma freight cap to the FOP inputs where the reported distances from the domestic supplier to the factory were greater than the reported distance from the factory to the nearest port.

### **Comment 4: Application of Paper Honeycomb in New-Tec's Direct and Packing Material Calculation**

- New-Tec argues that the Department erred by including PHONEYCOMB2 (*i.e.*, paper honey comb reported as packing material) within its calculation for total direct materials,

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<sup>53</sup> See 1/26/11 Meco's SV submission, at Exhibit 11 and New-Tec's February 2, 2011 SV Rebuttal, at Exhibit 2.

and also incorrectly included the field PHONEYCOMB1 (*i.e.*, paper honey comb reported as direct material) within its calculation for total packing because PHONEYCOMB1 was reported as a direct material for the product and PHONEYCOMB2 was reported as a packing material.

- Meco did not comment on this issue.

**Department Position:** We agree with New-Tec. In the *Preliminary Results*, the Department included both PHONEYCOMB1 and PHONEYCOMB2 in the total direct material calculation as well as in the total packing calculation. PHONEYCOMB1 was reported as a direct material for the product and PHONEYCOMB2 was reported as a packing material. Accordingly, for the final results, we have deducted PHONEYCOMB1 in the total packing calculation and PHONEYCOMB2 in the total direct material calculation.

### **Comment 5: Application of the Appropriate Margin to Lifetime**

- Lifetime argues that the Department should treat Lifetime as a voluntary respondent under section 782(a) of the Act and calculate for it a separate dumping margin. Alternatively, Lifetime states that the Department should assign it the weighted-average margin of the rates calculated for the two mandatory respondents, as opposed to the 1.50 percent margin that was assigned in the *Preliminary Results*. According to Lifetime, the U.S. Court of International Trade's ("CIT") decision in *Amanda Foods*<sup>54</sup> confirms that the Department has the authority and discretion to average mandatory respondents' zero and *de minimis* margins to determine a separate rate for non-investigated respondents. Specifically, Lifetime maintains that the Department should employ a methodology that is likely to approximate the actual rate Lifetime would have received if the Department computed a separate dumping margin for Lifetime, and that assigning Lifetime an average of the rates calculated for the mandatory respondents is appropriate because Lifetime shares sufficient economic characteristics with the mandatory respondents.
- Meco argues that the Department should continue using its standard methodology of excluding zero or *de minimis* rates when calculating a separate rate for a separate-rate respondent.<sup>55</sup> According to Meco, Lifetime's sales quantities are different from that of the mandatory respondents and, therefore, mandatory respondents' *de minimis* margins are not representative of Lifetime. Finally, Meco maintains that the CIT's decision in *Amanda Foods* does not preclude the Department from applying calculated margins to the separate-rate respondents.

**Department Position:** The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. However, the Department's practice has been to look to section 735(c)(5)(A) of the

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<sup>54</sup> See *Amanda Foods (Vietnam) Ltd. v. United States*, Slip Op. 2011-39, 2011(CIT 2011) ("*Amanda Foods*").

<sup>55</sup> See *Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1360 (CIT 2008) and section 731(b)(d) of the Act.

Act for guidance in this situation. Section 735(c)(5)(A) of the Act states that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available, and that when all rates calculated for mandatory respondents are zero, *de minimis*, or based entirely upon facts available, we may use “any reasonable method” to determine the all-others rate. Accordingly, when determining the rate to assign to cooperative companies not selected for individual examination, the Department’s usual practice has been to average the rates for the selected companies, excluding zero, *de minimis* and rates based entirely on facts available.<sup>56</sup> In previous cases, the Department has determined that a “reasonable method” to use when, as here, the rates of the mandatory respondents are zero and *de minimis*, is to apply to those companies not selected for individual review (but eligible for a separate rate in NME cases) the average of the most recently determined rates that are not zero, *de minimis* or based entirely on facts available (which may be from a prior administrative review or a new shipper review). Moreover, where any such nonselected company had its own calculated rate that is contemporaneous with or more recent than such prior determined rates, the Department has applied such individual rate to the nonselected company in the review in question, including when that rate is zero or *de minimis*.<sup>57</sup>

In the *Preliminary Results*, the Department had established a margin for Lifetime based on the last above *de minimis* calculated margin for any respondent in this proceeding, which was a rate calculated for New-Tec from the administrative review covering the 2005-2006 period. However, we determined that the rate of the new shipper, Xinjiamei Furniture (Zhangzhou) Co., Ltd. (“Xinjiamei Furniture”) is more appropriate than New-Tec’s rate from a previous segment of this proceeding. Xinjiamei Furniture is a party to a segment contemporaneous with the current administrative review.<sup>58</sup>

Lifetime argues that the Department should have either calculated a separate dumping margin for it, or used the average rate of the mandatory respondent in spite of those rates being zero or *de minimis*. With respect to the first argument, the Department did not select Lifetime as a mandatory respondent because the Department did not find it practicable to individually examine more than two respondents and, pursuant to section 777A(c)(2)(B) of the Act, selected Feili and New-Tec as the largest exporters by volume.<sup>59</sup> Moreover, because the Department could not individually examine more than two respondents, it would have been unduly burdensome for the Department to have examined Lifetime as a voluntary respondent under section 782(a) of the Act. Therefore, the Department did not individually examine Lifetime, and thus, did not calculate an individual margin for Lifetime.

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<sup>56</sup> See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Review in Part*, 73 FR 52823, 52824 (September 11, 2008) and accompanying Issues and Decision Memorandum at Comment 16.

<sup>57</sup> See *id.* and *Administrative Review of Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940, 51942 (August 19, 2011).

<sup>58</sup> See Attachment I of Letter to All Interested Parties, entitled “2009-2010 Administrative Review of the Antidumping Duty Order on Folding Metal Tables and Chairs from the People’s Republic of China: CBP Data for Respondent Selection,” dated August 2, 2010.

<sup>59</sup> See Memorandum, entitled “Administrative Review of the 2009-2010 Antidumping Duty Order on Folding Metal Tables and Chairs from the People’s Republic of China: Respondent Selection,” dated October 21, 2010.

With respect to Lifetime's argument that the Department should have applied the average margin of the mandatory respondents, we also disagree. We agree that in certain circumstances it may be appropriate for the Department to average mandatory respondents' zero and *de minimis* margins to determine a separate rate for non-investigated respondents. This is because, as explained above, when all rates calculated for mandatory respondents are zero, *de minimis*, or based entirely upon facts available, the Department may use "any reasonable method" to determine the rate to assign the cooperative companies not selected for individual examination, which may include averaging the mandatory respondents' zero and *de minimis* margins. However, we have determined, for the reasons explained herein, that assigning Lifetime the rate of the concurrent new shipper, Xinjiamei Furniture, is a reasonable method and more appropriate than assigning it the average of the rates calculated for the mandatory respondents, because the new shipper review covers precisely the same time period as the administrative review and provides evidence of dumping during the POR. In fact, if Xinjiamei Furniture were a mandatory respondent in the administrative review, we would automatically exclude New-Tec's and Feili's zero and *de minimis* rates and apply Xinjiamei Furniture's calculated above *de minimis* rate to Lifetime, in accordance with section 735(c)(5)(A).

Lifetime also contends that the CIT confirmed the Department's authority to average mandatory respondents' zero and *de minimis* margins by stating that "Commerce may not categorically exclude averaging the zero and *de minimis* rates received by individually investigated respondents."<sup>60</sup> For the final results of review, we have not categorically excluded averaging the mandatory respondents' zero and *de minimis* rates. Rather, the Department determines that there is evidence of dumping during the POR, *i.e.*, Xinjiamei Furniture, and that it is, therefore, a reasonable method and more appropriate to assign Xinjiamei Furniture's rate to Lifetime. Additionally, we find without merit Lifetime's contention that it shares similar economic characteristics with New-Tec and Feili by stating that all three companies have significant production in the PRC, and that all three produce folding metal tables and chairs primarily or exclusively from steel or other metal. We do not find that Lifetime has shown that it shares "economic characteristics" with the selected respondents to make assigning a zero or *de minimis* margin more appropriate. Furthermore, we find that this argument is unpersuasive because all producers covered by this order produce folding metal tables and chairs in the PRC, including Xinjiamei Furniture. Finally, we note that Lifetime seemed to suggest that in a review of *Brake Rotors from the PRC* the Department applied a zero percent margin to separate-rate respondents that shared "economic characteristics" with individually reviewed companies for whom the Department calculated zero or *de minimis* margins. Lifetime's suggestion is misplaced. While in the *Brake Rotors* review cited by Lifetime the Department did request that respondents provide their "economic characteristics," it was for the purpose of determining whether to use stratification when conducting sampling for respondent selection, and was not relevant in determining which margin to assign the separate rate companies.<sup>61</sup> Accordingly, the Department has concluded that in this case a reasonable method for determining the rate for the non-selected

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<sup>60</sup> See *Amanda Foods*.

<sup>61</sup> See *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006) and accompanying Issues and Decision Memorandum at Comment 1 ("... the Department found no discernible variation in the respondents' economic characteristics that warranted stratification.").

company, Lifetime, is to apply the rate that was calculated for the respondent in the NSR, which covers the same POR.

**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 review and the final weighted-average dumping margins in the *Federal Register*.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

\_\_\_\_\_  
Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date