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International Trade Administration
Washington, D.C. 20230

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Administrative Review
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November 23, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Certain Hardwood Plywood Products from the People's Republic of China; 2017-2018

I. SUMMARY

We analyzed the case and rebuttal briefs of interested parties in the 2017-2018 administrative review of the antidumping duty (AD) *Order* on certain hardwood plywood products (hardwood plywood) from the People's Republic of China (China).[1] Based on our analysis, we made certain changes to the margin calculation programs of Linyi Chengen Import and Export Co., Ltd. (Chengen), the sole mandatory respondent participating in this administrative review. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

Below is the complete list of issues in this administrative review for which we received comments from interested parties:

Comment 1: Whether Commerce Should Postpone the Final Results Until It Is Able to Conduct Verification
Comment 2: Whether Commerce Should Apply the Intermediate Input Methodology
Comment 3: Surrogate Financial Ratios
Comment 4: Separate Rate
Comment 5: Surrogate Values (SVs)
A. SV for Logs
B. SV for Formaldehyde

[1] *See Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 83 FR 504 (January 4, 2018) (*Order*).

C. SV for Labor

II. BACKGROUND

On February 7, 2020, Commerce published the *Preliminary Results* of this administrative review.[2] The period of review is June 23, 2017 through December 31, 2018. We invited interested parties to comment on the *Preliminary Results*.[3] We received case briefs on behalf of Chengen;[4] Canusa Wood Products Ltd. a/k/a Canusa Wood Products Limited, Richmond International Forest Products LLC, Taraca Pacific Inc., and Concannon Corp. (collectively, the Importers Coalition);[5] and the Coalition for Fair Trade in Hardwood Plywood (the petitioner).[6] We also received rebuttal briefs on behalf of the Importers Coalition, Chengen, and the petitioner,[7] as well as Cosco Star International Co., Ltd.; Shandong Jinhua International Trading Co., Ltd.; Qingdao Top P&Q International Corp.; Jiangsu High Hope Arser Co., Ltd.; Pingyi Jinniu Wood Co., Ltd.; Linyi Dahua Wood Co., Ltd.; Happy Wood Industrial Group Co., Ltd.; Xuzhou Amish Import & Export Co., Ltd.; and Zhejiang Dehua TB Import & Export Co., Ltd. (collectively, Separate Rate Respondents).[8]

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days,[9] and on July 13, 2020, Commerce postponed the final results of this administrative review by an additional 60 days.[10] On July 21, 2020, Commerce further tolled all deadlines in administrative reviews by 60 days.[11] The revised deadline for the final results of this review is now November 23, 2020.

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[2] *See Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018,* 85 FR 7270 (February 7, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).
[3] *Id.*, 85 FR at 7271.
[4] *See* Chengen's Letter, "Hardwood Plywood Products from the People's Republic of China: Case Brief," dated June 29, 2020 (Chengen's Case Brief).
[5] *See* Importers Coalition's Letter, "Administrative Review of the Antidumping Duty Order on Plywood Products from the People's Republic of China: Letter in Lieu of Case Brief," dated June 29, 2020 (Importers Coalition's Case Brief).
[6] *See* Petitioner's Letter, "Hardwood Plywood Products from the People Republic of China: Petitioner's Case Brief," dated June 29, 2020. On November 13, 2020, at the request of Commerce and with the consent of Chengen, the petitioner submitted a revised case brief to publicly state information that had previously been treated as business proprietary information. *See* Petitioner's Letter, "Petitioner's Resubmission of Case Brief," dated November 23, 2020 (Petitioner's Case Brief); *see also* Memorandum, "Request for Revised Bracketing of Case Brief," dated November 12, 2020.
[7] *See* Importers Coalition's Letter, "Administrative Review of the Antidumping Duty Order on Plywood Products from the People's Republic of China: Rebuttal Brief," dated July 10, 2020 (Importers Coalition's Rebuttal Brief); *see also* Chengen's Letter, "Hardwood Plywood Products from the People's Republic of China: Rebuttal Briefs," dated July 10, 2020 (Chengen's Rebuttal Brief) and Petitioner's Letter, "Hardwood Plywood Products from People Republic of China: Petitioner's Rebuttal Case Brief," dated July 10, 2020 (Petitioner's Rebuttal Brief).
[8] *See* Separate Rate Respondent's Letter, "Hardwood Plywood Products from the People's Republic of China: Rebuttal Brief," dated July 6, 2020 (Separate Rate Respondents' Rebuttal Brief).
[9] *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.
[10] *See* Memorandum, "Certain Hardwood Plywood Products from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review, 2017-2018," dated July 13, 2020.
[11] *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

III. SCOPE OF THE ORDER

The merchandise covered by this order is hardwood and decorative plywood, and certain veneered panels as described below. For purposes of this proceeding, hardwood and decorative plywood is defined as a generally flat, multilayered plywood or other veneered panel, consisting of two or more layers or plies of wood veneers and a core, with the face and/or back veneer made of non-coniferous wood (hardwood) or bamboo. The veneers, along with the core may be glued or otherwise bonded together. Hardwood and decorative plywood may include products that meet the American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP-1-2016 (including any revisions to that standard).

For purposes of this proceeding a "veneer" is a slice of wood regardless of thickness which is cut, sliced or sawed from a log, bolt, or flitch. The face and back veneers are the outermost veneer of wood on either side of the core irrespective of additional surface coatings or covers as described below.

The core of hardwood and decorative plywood consists of the layer or layers of one or more material(s) that are situated between the face and back veneers. The core may be composed of a range of materials, including but not limited to hardwood, softwood, particleboard, or medium-density fiberboard (MDF).

All hardwood plywood is included within the scope of this investigation regardless of whether or not the face and/or back veneers are surface coated or covered and whether or not such surface coating(s) or covers obscures the grain, textures, or markings of the wood. Examples of surface coatings and covers include, but are not limited to: ultra violet light cured polyurethanes; oil or oil-modified or water based polyurethanes; wax; epoxy-ester finishes; moisture-cured urethanes; paints; stains; paper; aluminum; high pressure laminate; MDF; medium density overlay (MDO); and phenolic film. Additionally, the face veneer of hardwood plywood may be sanded; smoothed or given a "distressed" appearance through such methods as hand-scraping or wire brushing. All hardwood plywood is included within the scope even if it is trimmed; cut-to-size; notched; punched; drilled; or has underwent other forms of minor processing.

All hardwood and decorative plywood is included within the scope of this order, without regard to dimension (overall thickness, thickness of face veneer, thickness of back veneer, thickness of core, thickness of inner veneers, width, or length). However, the most common panel sizes of hardwood and decorative plywood are 1219 x 1829 mm (48 x 72 inches), 1219 x 2438 mm (48 x 96 inches), and 1219 x 3048 mm (48 x 120 inches).

Subject merchandise also includes hardwood and decorative plywood that has been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope product.

The scope of the order excludes the following items: (1) structural plywood (also known as "industrial plywood" or "industrial panels") that is manufactured to meet U.S. Products Standard PS 1-09, PS 2-09, or PS 2-10 for Structural Plywood (including any revisions to that standard or

any substantially equivalent international standard intended for structural plywood), and which has both a face and a back veneer of coniferous wood; (2) products which have a face and back veneer of cork; (3) multilayered wood flooring, as described in the antidumping duty and countervailing duty orders on Multilayered Wood Flooring from the People's Republic of China, Import Administration, International Trade Administration. *See Multilayered Wood Flooring from the People's Republic of China*, 76 FR 76690 (December 8, 2011) (amended final determination of sales at less than fair value and antidumping duty order), and *Multilayered Wood Flooring from the People's Republic of China*, 76 FR 76693 (December 8, 2011) (countervailing duty order), as amended by *Multilayered Wood Flooring from the People's Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012); (4) multilayered wood flooring with a face veneer of bamboo or composed entirely of bamboo; (5) plywood which has a shape or design other than a flat panel, with the exception of any minor processing described above; (6) products made entirely from bamboo and adhesives (also known as "solid bamboo"); and (7) Phenolic Film Faced Plyform (PFF), also known as Phenolic Surface Film Plywood (PSF), defined as a panel with an "Exterior" or "Exposure 1" bond classification as is defined by The Engineered Wood Association, having an opaque phenolic film layer with a weight equal to or greater than 90g/m3 permanently bonded on both the face and back veneers and an opaque, moisture resistant coating applied to the edges.

Excluded from the scope of this order are wooden furniture goods that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of this investigation is "ready to assemble" (RTA) furniture. RTA furniture is defined as (A) furniture packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes (1) all wooden components (in finished form) required to assemble a finished unit of furniture, (2) all accessory parts (e.g., screws, washers, dowels, nails, handles, knobs, adhesive glues) required to assemble a finished unit of furniture, and (3) instructions providing guidance on the assembly of a finished unit of furniture; (B) unassembled bathroom vanity cabinets, having a space for one or more sinks, that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional component shape/size, painted or stained prior to importation, and stacked within a singled shipping package, except for furniture feet which may be packed and shipped separately; or (C) unassembled bathroom vanity linen closets that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional shape/size, painted or stained prior to importation, and stacked within a single shipping package, except for furniture feet which may be packed and shipped separately.

Excluded from the scope of this order are kitchen cabinets that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of this investigation are RTA kitchen cabinets. RTA kitchen cabinets are defined as kitchen cabinets packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes (1) all wooden components (in finished form) required to assemble a finished unit of cabinetry, (2) all accessory parts (*e.g.*, screws, washers, dowels, nails, handles, knobs, hooks, adhesive glues) required to assemble a finished unit of cabinetry, and (3) instructions providing guidance on the assembly of a finished unit of cabinetry.

Excluded from the scope of this order are finished table tops, which are table tops imported in finished form with pre-cut or drilled openings to attach the underframe or legs. The table tops are ready for use at the time of import and require no further finishing or processing.

Excluded from the scope of this order are finished countertops that are imported in finished form and require no further finishing or manufacturing.

Excluded from the scope of this order are laminated veneer lumber door and window components with (1) a maximum width of 44 millimeters, a thickness from 30 millimeters to 72 millimeters, and a length of less than 2413 millimeters (2) water boiling point exterior adhesive, (3) a modulus of elasticity of 1,500,000 pounds per square inch or higher, (4) finger-jointed or lap-jointed core veneer with all layers oriented so that the grain is running parallel or with no more than 3 dispersed layers of veneer oriented with the grain running perpendicular to the other layers; and (5) top layer machined with a curved edge and one or more profile channels throughout.

Imports of hardwood plywood are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4412.10.0500; 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660; 4412.31.2510; 4412.31.2520; 4412.31.2610; 4412.31.2620; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4075; 4412.31.4080; 4412.31.4140; 4412.31.4150; 4412.31.4160; 4412.31.4180; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.5235; 4412.31.5255; 4412.31.5265; 4412.31.5275; 4412.31.6000; 4412.31.6100; 4412.31.9100; 4412.31.9200; 4412.32.0520; 4412.32.0540; 4412.32.0565; 4412.32.0570; 4412.32.0620; 4412.32.0640; 4412.32.0670; 4412.32.2510; 4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2630; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5600; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5700; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3141; 4412.94.3161; 4412.94.3175; 4412.94.4100; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5115; and 4412.99.5710.

Imports of hardwood plywood may also enter under HTSUS subheadings 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.10.9000; 4412.94.5100; 4412.94.9500; and 4412.99.9500. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

IV. CHANGES SINCE THE PRELIMINARY RESULTS

Based on review of the record and comments received from interested parties, Commerce made the following changes to the *Preliminary Results*, as discussed in detail below: (1) we adjusted the calculation of the surrogate financial ratios; (2) we revised the SV for formaldehyde; and (3) we changed the SV for labor.

V. DISCUSSION OF THE ISSUES:

Comment 1: Whether Commerce Should Postpone the Final Results Until It Is Able to Conduct Verification

Petitioner's Comments:

- As Commerce recognized in its preliminary results, verification is necessary here, as there are disagreements regarding a fundamental aspect of the margin calculation, namely the use of the intermediate input methodology.[12]
- As an alternative, Commerce should issue an additional supplemental questionnaire to Chengen.[13]
- Given the unique circumstances at issue in this proceeding, Commerce should postpone its final results until after it is able to conduct verification of Chengen.[14]

Importers Coalition Comments:

- Commerce should not postpone the final results to conduct a verification.[15]
- The significant evidence on the record supports the use of Chengen's actual log purchase data and, absent any evidence warranting use of the intermediate input method, the cancellation of verification should not be a reason for Commerce to deviate from its valuation of Chengen's log factor of production (FOP) data.[16]
- The preliminary results are consistent with the decision issued by the U.S. Court of International Trade (CIT) in the litigation challenging the final determination in the investigation phase, where the CIT noted that "Commerce's continued finding that {Chengen's} documentation was unreliable for lack of third-party confirmation is unsupported by substantial evidence and otherwise contrary to law."[17]

Chengen's Comments:

- Verification is not required; Commerce is well within its discretion to determine not to verify Chengen's information in this review.[18]
- Chengen has not changed its production or accounting methodology since the last verification. The "significant problems" suggested by the petitioner have been addressed by the substantial questionnaire responses of Chengen.[19]

Commerce Position:

We disagree with the petitioner that we should postpone the final results until we can conduct verification and, in light of the statutory deadlines associated with this review, we are also

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[12] *See* Petitioner's Case Brief at 1.
[13] *Id.*
[14] *Id*. at 5.
[15] *See* Importers Coalition's Rebuttal Brief at 1.
[16] *Id*. at 2.
[17] *Id.* at 3 (citing *Linyi Chengen Imp. & Exp. Co. v. United States*, 433 F. Supp. 3d 1278, 1286 (CIT 2020) (*Chengen 2020*)).
[18] *See* Chengen's Rebuttal Brief at 14.
[19] *Id.*

declining to issue a supplemental questionnaire in lieu of verification. In the *Preliminary Results,* we stated that:

> provided that the conditions in China allow, Commerce intends to conduct a verification of the accuracy of Chengen's log volume calculation, its reported consumption rates, and its sales and accounting documentation, in accordance with section 782(i)(3)(B) of the Act, because we find that the disagreement between interested parties with respect to such a fundamental component of our calculation, *i.e.*, whether to value the respondent's actual FOPs or intermediate input, constitutes good cause for verification.[20]

On April 6, 2020, we issued a briefing schedule for the final results, noting that we still intended to conduct verification of Chengen's reported information, "when the conditions allow" and that we would issue a separate briefing schedule for issues arising from verification after the release of any verification report.[21] We further stated that we did not intend to issue any additional supplemental questionnaires to Chengen at that time.[22] On April 23, 2020, Commerce indefinitely suspended the deadline for case and rebuttal briefs in response to a request from the petitioner to extend the deadline for case brief issues related to Chengen until verification was either cancelled or completed.[23]

As noted above, on April 24, 2020, the deadline for issuing the final results was tolled. On June 15, 2020, it had become clear that the time to issue the final results was fast approaching and that verification did not appear to be an option in light of the Global Level 4 travel advisory, preventing Commerce personnel from traveling to conduct verification.[24] Accordingly, we cancelled verification, established the briefing schedule for the final results, and explained that:

> Pursuant to section 776(a)(2)(D) of the Act, in situations where information has been provided but the information cannot be verified, Commerce will use "facts otherwise available" in reaching the applicable determination. Accordingly, as we are unable to proceed to verification in this administrative review for reasons beyond our control, we intend to rely on the information submitted on the record, which we relied on in reaching our *Preliminary Results*, as facts available in reaching our final results.[25]

Therefore, because verification is not possible under the current conditions, and statutory deadlines prevent us from issuing a supplemental questionnaire or postponing the final results any further, we are relying on the information submitted on the record for the *Preliminary Results*, as facts available in reaching our final results.[26]

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[20] *See Preliminary Results* PDM at 20.
[21] *See* Memorandum, "Briefing Schedule," dated April 6, 2020.
[22] *Id.*
[23] *See* Memorandum, "Suspension of Briefing Schedule," dated April 23, 2020.
[24] *See* Memorandum, "Cancellation of Verification and Establishment of Briefing Schedule," dated June 15, 2020 (Verification Cancellation Memo).
[25] *Id.*
[26] *See* section 776(a)(D) of the Tariff Act of 1930, as amended (the Act).

Comment 2: Whether Commerce Should Apply the Intermediate Input Methodology.

Petitioner's Comments:

Veneer FOPs Are More Accurate

- To calculate its log FOPs, Chengen first calculated a log yield/loss ratio by dividing the total POR volume of logs consumed by the total POR volume of veneers produced, without regard to quality or unusable veneers. Chengen then applied this yield/loss ratio to its veneer FOPs.[27]
- Chengen derived the total production volume of veneers from inventory records at the veneer production facility; this facility produced the veneers several months before they were used in production.[28]
- Although in the less-than-fair-value (LTFV) investigation, Commerce took issue with the denominator of the calculation, *i.e.*, volume of logs consumed, the numerator of the calculation is also problematic because Chengen cannot determine the volume of veneers suitable for plywood that it produced.[29]
- Because Chengen counted all veneers in its conversion ratio calculation, the ratio is high and unrealistic, resulting in distorted log FOPs.[30]

Chengen's Records Do Not Allow for Accurate Log FOPs

- Chengen relied on bills of materials (BOMs) to calculate its consumption of core and face veneers; these BOMs record the amount of veneers needed to produce the product and do not reflect the volume of logs consumed.[31]
- Chengen has no BOMs, and extremely limited production records, for its production of veneers from logs.[32] Instead, Chengen backs into the log FOPs by applying its log consumption ratio to the veneer FOPs.[33]
- Although Chengen claimed that it has "extensive" production records to document its veneer production, it only relied on its inventory "withdraw-in" slips, which it uses to make a single monthly entry in its material ledger.[34] These slips are not production records, and Commerce should recognize their inherently imprecise nature in deriving accurate FOPs.
- At verification in the LTFV investigation, Chengen could not back up its poplar log inventory-in figures with invoices because the suppliers do not provide invoices to Chengen.[35] Thus, Commerce found Chengen's record keeping insufficient for determining the volume of logs consumed and faulted its log volume calculation for

[27] *See* Petitioner's Case Brief at 13. The yield/loss ratio is also hereinafter referred to as the "conversion" ratio.
[28] *Id.* at 13-14.
[29] *Id.* at 14.
[30] *Id.*
[31] *Id.* (citing Petitioner's Letter, "Placing Information from the Investigation on the Record of this Administrative Review," dated September 24, 2019 (Petitioner's Record Submission) at Exhibit 1.6 (Chengen LTFV SDQR)).
[32] *Id.* at 15 (citing Petitioner's Record Submission at Exhibit 2.3 (Petitioner LTFV Pre-Prelim Comments) at 22-23).
[33] *Id.* (citing Chengen's Sections C and D Questionnaire Response dated July 23, 2019 (Chengen July 23, 2019 CDQR) and Chengen LTFV SDQR at 7 and Exhibit SQ5-9).
[34] *Id.* (citing Petitioner LTFV Pre-Prelim Comments at 22).
[35] *Id.* at 15-16 (citing Petitioner's Record Submission at Exhibit 3.2 (LTFV Verification Report)).

numerous deficiencies, including measuring diameter from the narrow end of the log, which would result in underestimation of the log volumes.[36]

- None of Chengen's log records flow to its financial statements, and they cannot be reconciled to the cost of goods sold (COGS) in Chengen's financial statements, except manually through the conversion ratio. Only the veneer costs form part of the COGS calculated by Chengen.[37]
- In the LTFV investigation and in this review Chengen tied its log FOPs to the volume of veneers reflected as part of the COGS of its financial statements by using the same values used to calculate the yield conversion ratio.[38]
- In the LTFV investigation, Commerce found veneer volumes vastly superior to the log FOPs and stated that they are inherently more accurate than the log volumes derived from imprecise and approximate measurements of varying and irregularly-shaped logs.[39]
- Commerce can overcome the deficiencies in the log FOPs by using veneer FOPs, which are supported by accurate measurements, based on BOMs, and backed up by inventory withdrawal slips that tie to the COGS in Chengen's financial statements.[40]
- Assuming the SVs for logs and the SV for veneers are accurate, there would be no basis to conclude that the log FOPs result in more (or less) accurate margins than the veneer FOPs.[41]

Chengen Does Not Track Veneer Grades but Recognizes Their Importance

- In the LTFV investigation and in this review, Chengen repeatedly claimed that it does not track the quality of the veneers it produces, consumes, or keeps in inventory, and it does not separately record different grades in its accounting or inventory systems; however, Chengen recognizes the importance of veneer grades by sorting and stacking veneers by grade in the production facility.[42]
- Chengen reported that it produced five grades of veneers but only used some of them in plywood production. The quality of veneer grades is vital to plywood production because only some grades are suitable for use in production.[43]
- Based on Chengen's steady production throughout the period of investigation (POI) and its ending monthly inventory of core veneers, Chengen appears to be using high-quality veneers for plywood production and keeping inferior veneers that cannot be used to make plywood in inventory.[44] Even so, Chengen included every type and amount of veneer in

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[36] *Id.* at 16-17 (citing LTFV Verification Report).
[37] *Id*. at 17-18 (citing Chengen's Supplemental Section D Questionnaire Response, dated December 2, 2019 (Chengen December 2, 2019 SDQR) at Exhibit SQ3-43).
[38] *Id.* at 18 (citing Petitioner's Record Submission at 1.3 (Chengen LTFV DQR) at Exhibit D-9 and Chengen July 23, 2019 CDQR at D-2.1).
[39] *Id*. (citing *Certain Hardwood Plywood Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 53460 (November 16, 2017) (*LTFV Final*), and accompanying IDM at Comment 2).
[40] *Id.* at 19.
[41] *Id.* at 19-20.
[42] *Id.* at 20-21 (citing Chengen LTFV SDQR at 2, 10, and 19; Chengen December 2, 2019 SDQR at 24; Chengen July 23, 2019 CDQR at D-21; and LTFV Verification Report at 13).
[43] *Id*. at 21 (citing LTFV Verification Report at 20).
[44] *Id.* (citing Chengen LTFV SDQR at Exhibit SQ5-19).

calculating its yield/loss ratio. This is likely the cause of Chengen's unsupportable yield/loss percentage, which greatly underestimates the log FOPs reported by Chengen.[45]

- Chengen did not provide the monthly inventory movement schedule for veneers or logs in this review, which showed massive inventory buildup in the investigation.[46]
- Chengen's lack of documentation regarding the veneer grades has significant effects on the reported log-to-usable-veneer ratio, a problem that does not exist with the veneer FOPs because they are based on the volume of veneers actually withdrawn from inventory and used in the production of plywood.[47]
- If Commerce relies on the log FOPs, it has to assume that everything that went into inventory was suitable for plywood production.[48]

Chengen's Yield Conversion Ratio is Distorting its Log FOPs

- Chengen's yield conversion ratio is unrealistic and cannot be relied upon due to recordkeeping shortcomings.[49]
- Commerce observed at verification that there is considerable waste from veneer production and Chengen claims to produce its pallets from the scrap left over from veneer production.[50]
- In addition to waste, a large portion of veneers is not suitable for plywood production.[51]
- Information submitted by the U.S. industry demonstrates that Chengen's yield/loss ratio is unreliable and unrealistic.[52]
- Chengen's reported yield/loss ratio is the single most egregious claim made to Commerce in this case and has absolutely no corroboration or basis in the real world. Therefore, it cannot be used to calculate acceptable log FOPs.[53]

Chengen Has Two Vastly Different Conversion Ratios

- Chengen calculates two vastly different conversion ratios for face and core veneers and its face veneers are not species-specific.[54]
- Chengen makes about half of the face veneers from birch and half from coniferous wood, but there is no data to calculate the conversion ratio based on the face veneer species used.[55]
- Chengen's own records confirm that the yield/loss for face veneers is twice the rate of yield/loss for core veneers, proving that Chengen's methodology is completely unreliable.[56]

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[45] *Id.* at 21.
[46] *Id.*
[47] *Id.* at 22.
[48] *Id.* at 22-23.
[49] *Id.* at 23.
[50] *Id.* (citing LTFV Verification Report at 11 and 13; and Chengen LTFV DQR at Exhibit SQ5-28).
[51] *Id.* at 24.
[52] *Id.* at 25 (citing Petitioner LTFV Pre-Prelim Comments at 27-28).
[53] *Id.* at 26.
[54] *Id.* at 27.
[55] *Id.*
[56] *Id.*

- Because the face veneer figures combine three species, the yield/loss for certain individual species is likely to be even higher than reported; however, there is no way to determine this variance per species because Chengen does not record that information.[57]

Significant Cost Elements Are Not Valued When Log FOPs Are Applied to Log SVs

- There is no evidence that the log SVs are measured in the same way as the Chinese standard and there are many different measuring standards worldwide.[58]
- Applying SVs based on one standard to FOPs based on the Chinese standard creates distorted normal values (NVs).[59]
- Chengen claims that it purchased all of its logs pre-cut at a length of exactly 2.6 meters; however, this would produce a large amount of scrap because Chengen would have to cut a 20 foot log into two usable pieces and sell one four foot section as a byproduct. Under these conditions, the average loss ratio for logs of various sizes would be 22 percent.[60]

There Is a Time Lag Between Data Used to Calculate Yield Ratios and Veneer FOPs

- Chengen's veneer production happens at one facility and Chengen transfers veneers periodically to the plywood production facility, creating a disconnect between the two facilities and their inventories.[61]
- While production of plywood was relatively consistent over the POI, log consumption varied, indicating that Chengen maintained significant inventory. Chengen did not provide the monthly log and veneer consumption figures for this review but there is no reason to suspect that its production patterns changed from those observed in the LTFV investigation.[62]
- If, at the end of the POI, Chengen processed a large volume of logs that were high quality, their yields would be reflected in the log conversion numbers. The delay between production steps and variety of grade of veneers could also explain the unreliable log FOPs and yield loss.[63]

Chengen's Comments:

- Commerce applied the intermediate input methodology in the LTFV investigation after taking issue with two components of Chengen's log FOP calculation, *i.e.*, the reliability of the log conversion standard and the third-party verification of the log purchases. However, Chengen's information has been developed differently in this review.[64]
- In this review, Chengen confirmed that the standard used by log sellers and Chengen is the Chinese National Standard and Chengen provided a fully translated copy of this standard for the record.[65]

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[57] *Id.*
[58] *Id.* at 28
[59] *Id.* at 29.
[60] *Id.* at 29-30.
[61] *Id.* at 31.
[62] *Id.*
[63] *Id.* at 31-32.
[64] *See* Chengen's Rebuttal Brief at 1.
[65] *Id.* at 1-2.

- Chengen provided documentation for U.S. log rules and European log rules, both of which measure the small end of the log for conversion.[66]
- Chengen provided detailed explanations about the log volume calculation formula and demonstrated that the volumes calculated using the Chinese National Standard are larger than the volumes calculated using two U.S. standards.[67]
- Chengen also explained the purchase invoices issued by Chengen to farmers and thoroughly documented that they are normal legal documentation and reliable third-party confirmation of purchases.[68]
- Chengen does not use BOMs for material consumption calculation purposes; instead, BOMs provide technical instructions for veneer assembly and construction. The lack of BOMs for the veneering stage does not mean the stage-by-stage build up is not accurate.[69]
- Veneer FOPs are not more accurate or reliable; rather, the use of log FOPs significantly increases accuracy.[70]
- Grade of veneer has no influence on the FOPs reported because respondents report consumption quantities, rather than costs incurred. Chengen consumes logs in the same quantity regardless of veneer grade.[71]
- In no case to date has any party ever offered grade-specific SVs.[72]
- Chinese producers do not disregard lower grade core veneers but instead repair all defects during the production process; this makes the yield/loss ratio much lower in China than in the United States.[73]
- Data referenced by the petitioner from the investigation has no relevance to this review. Contrary to the petitioner's claims, the POR ending inventory of core veneer was very low.[74]
- Whether Chengen sold high-quality veneer or low-quality veneer would have no impact on FOP reporting because FOPs are calculated according to log consumption and veneer production quantities. Common sense dictates that high – and low-quality veneers consume the same volume of logs.[75]
- The petitioner's arguments overlook the differences between Chengen's production and the U.S. production information placed on the record by the petitioner; Chinese producers use every piece of wood veneer even if it is cracked, split, or pock-marked with holes. Workers manually repair defects with tape and glue.[76]
- U.S. loss ratios are irrelevant to this review of Chinese production.[77]
- The different yield ratios for face and core veneers is due to a different production process for core veneer. Thus, it is reasonable that the ratios would differ. Face veneers

[66] *Id.* at 2.
[67] *Id.*
[68] *Id.*
[69] *Id.* at 3.
[70] *Id.*
[71] *Id.* at 4.
[72] *Id.*
[73] *Id.*
[74] *Id.* at 5.
[75] *Id.*
[76] *Id.* at 5-6.
[77] *Id.* at 6.

have a lower yield ratio because face veneers have significantly higher quality requirements than core veneers.[78]

- Any time lag between log consumption and plywood production has no impact on the reliability of Chengen's reporting and Chengen followed the instructions in the Section D questionnaire to report purchases and costs during the POR. It would be problematic to collect costs solely on the basis of the raw materials consumed for products that a respondent sold in a POR; further, it likely would not be possible to reconcile such costs to financial statements.[79]

Importers Coalition's Comments:

- Commerce properly rejected the intermediate input methodology in the *Preliminary Results*, finding that Chengen addressed Commerce's concerns from the LTFV investigation early in the review.[80]
- The *Preliminary Results* are also consistent with the decision of the CIT in *Chengen 2020* and with Commerce's remand redetermination.[81]
- Any concerns regarding the accuracy of information provided by Chengen have been removed in this review and Commerce noted the strength of the record supporting this conclusion in this review.[82]
- The fact that there was no verification does not provide any basis to change the reasoning in the *Preliminary Results*.[83]
- Commerce correctly calculated the separate rate in the *Preliminary Results* by basing it on the rate determined for the mandatory respondent.[84]

Commerce's Position: We disagree with the petitioner that the record supports departing from Commerce's longstanding preference to value the actual inputs used by a respondent in the production of subject merchandise and instead to apply the intermediate input methodology. Thus, we have continued to value Chengen's log FOPs for the final results, consistent with the CIT's ruling in *Chengen 2020*.

In the *Preliminary Results*, we explained that the decision to apply the intermediate input methodology in the *LTFV Final* was largely driven by certain observations at verification that conflicted with our understanding of the facts prior to verification.[85] Specifically, we noted that, in the investigation, "Chengen was unable to provide supplier invoices for its purchases of poplar log" and that "poplar log suppliers do not provide an invoice for the sales of poplar log." We also noted that "although we were able to verify Chengen's reported poplar log consumption against its own records, we were unable to cross-check Chengen's reported consumption of

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[78] *Id.* at 6-7.
[79] *Id.* at 7.
[80] *See* Importers Coalition's Case Brief at 2.
[81] *Id.* at 2-3 (citing *Chengen 2020*, 433 F. Supp. 3d at 1286; and Final Results of Redetermination Pursuant to Court Remand, *Linyi Chengen Import and Export Co., Ltd., et al. v. United States*, Consol. Court No. 18-00002, Slip Op. 19-67 (CIT June 3, 2019), dated August 23, 2019 (LTFV Remand II)).
[82] *Id.* at 3 (citing LTFV Remand II at 13).
[83] *Id.* at 4.
[84] *Id.* at 4-5.
[85] *See Preliminary Results* PDM at 18-19; *see also LTFV Final* IDM at Comment 2.

poplar against any third-party sources (*e.g.*, supplier invoices)."[86] With respect to Chengen's calculation of its log consumption, we learned for the first time at verification that Chengen relied upon a complex formula and conversion table to calculate the volume of the logs provided by its suppliers and that its calculation relied upon a measurement at the narrow end of the log.[87] When applying the intermediate input methodology for the *LTFV Final*, we noted our concern that the formula Chengen used only relied on the narrow end of the log and that the total volume of logs purchased and reported in Chengen's records was calculated by Chengen itself.[88] In litigation following the investigation, the CIT required Commerce to reconsider the methodology applied to Chengen in the *LTFV Final*.[89] Based on the decision of CIT, Commerce, under protest, declined to apply the intermediate input methodology and valued the logs consumed by Chengen rather than the volume of veneers, the intermediate input.[90]

In the *Preliminary Results* of this review, we explained that Chengen reported in its initial questionnaire responses how its purchases of logs were transacted and invoiced, and how the log volumes were calculated using the Chinese National Standard.[91] Chengen also provided a United States Department of Agriculture (USDA) technical report discussing the various U.S. standards for calculating the volume of logs, and the European Union standard for measuring the volume of round timber, noting that a number of the various formulae rely on a measurement from the narrow end of the log.[92] In a supplemental questionnaire response, Chengen demonstrated how the Chinese National Standard formula accounts for the taper coefficient of the log (*i.e.*, the difference between the narrow end of a log and the wider end) and calculates a volume in excess of the volume of a simple cylinder.[93] Chengen also demonstrated how the formula results in the largest log volume when compared to two other formulae detailed in the USDA Technical Report, one of which was described as "one of the three cubic volume formulae most commonly used in forest mensuration research."[94]

With respect to its material purchase records, Chengen explained that Chinese regulations stipulate that the purchaser of certain agricultural products issue tax invoices on behalf of the sellers.[95] In this review, Commerce requested a significant amount of supplemental documentation, clarification, and explanation regarding this practice, which Chengen provided in a timely manner.[96] Chengen also provided a sample "delivery sheet" from the POR provided by its suppliers of poplar logs, and the corresponding warehouse journal and warehouse-in slip.[97]

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[86] *See LTFV Final* IDM at Comment 2.
[87] *Id.*
[88] *Id.*
[89] *See Chengen 2020*.
[90] *See* LTFV Remand II.
[91] *See* Chengen July 23, 2019 CDQR at D6-D7 and Exhibit 11.
[92] *Id.* at 6-7 and Exhibits 12 (USDA Forest Service General Technical Report, "A Collection of Log Rules" (USDA Technical Report)) and 13.
[93] *See* Chengen December 2, 2019 SDQR at 10-12.
[94] *Id.* at 15-16; *see also* USDA Technical Report at 44.
[95] *See* Chengen July 23, 2019 CDQR at D6 and Exhibit 10.
[96] *See* Chengen December 2, 2019 SDQR at 5-9 and Exhibits 7 through 10.
[97] *Id.* at 16-17 and Exhibit 12. The lack of provision of a sample delivery sheet was the subject of debate in the final results of redetermination pursuant to court remand in the case of *Linyi Chengen Import and Export Co., Ltd. v. United States,* 391 F. Supp. 3d 1283 (CIT 2019).

Although the petitioner argues that veneer FOPs are more accurate for a number of reasons, the petitioner neglects to explain how the veneer SVs, when applied to the veneer FOPs, results in a more accurate margin. The Harmonized Tariff Schedule (HTS) subheadings proposed by the petitioner to value Chengen's veneer FOPs were 4408.90.1000 for hardwood veneer and 4408.10.3000 for coniferous veneer.[98] In the Prelim SV Memo, Commerce included the import data for these HTS subheadings, along with a description of the materials covered by the subheadings: "Face Veneer Sheets" and "Coniferous: Face Veneer Sheets."[99] Given that the core veneers used by Chengen are of much lower quality than its face veneer sheets, we disagree that valuing all of Chengen's veneers, the vast majority of which are core veneers, with an SV for face veneers is necessarily more accurate.

With regard to the petitioner's argument that there is minimal documentation supporting Chengen's log consumption, we disagree. At verification during the investigation, Commerce verifiers thoroughly examined Chengen's log consumption and veneer production records supporting its log FOPs, including its log warehouse journals and supporting log warehouse-in tickets, log purchase value added tax invoices and corresponding accounting vouchers, log raw material ledgers, log supplier account payable sub-ledgers, bank payment slips, log warehouse-out slips, semi-finished goods cost of production ledgers, veneer production record reports, veneer warehouse journals and supporting veneer warehouse-in tickets, and self-made semi-finished product ledgers.[100] These are typical types of documents that are examined at verification and clearly belie the dearth of documentation claimed by the petitioner. Indeed, while the petitioner argues that the alleged deficiencies in Chengen's log documentation can be cured by relying upon Chengen's reported veneer FOPs, much of the same type of documentation used to support Chengen's log FOPs is also used to support Chengen's veneer FOPs (*e.g.*, warehouse journals, warehouse-in tickets, warehouse-out slips, semi-finished product ledgers).[101] Although the petitioner contends that Chengen has no BOMs and extremely limited production records for its production of veneers from logs,[102] the record demonstrates that Commerce was able to review extensive production records at verification in the investigation. Moreover, we agree with Chengen that it makes no sense to maintain BOMs for veneer production because BOMs serve as a recipe for production, and it would serve no purpose to rely on a recipe that had a single ingredient (logs) that was placed through a single process (rotary peeling).

Although the petitioner contends that Chengen's log records do not flow to the COGS in its financial statements, while its veneer FOPs actually tie to the COGS in Chengen's financial statements,[103] we disagree. First, we note that Chengen and its affiliated producer, Linyi Dongfangjuxin Wood Co., Ltd.,[104] both submitted audited financial statements covering the

[98] *See* Petitioner's Letter, "Submission of Surrogate Values," dated September 13, 2019 (Petitioner SV Comments).
[99] *See* Memorandum, "Preliminary Surrogate Value Memorandum," dated January 31, 2020 (Prelim SV Memo) at Attachment 3f.
[100] *See* LTFV Verification Report at Exhibit 26.
[101] *Id.*
[102] *See* Petitioner's Case Brief at 14-15.
[103] *Id.* at 17-18.
[104] *See* Chengen's July 2, 2019, Section A Questionnaire Response (Chengen July 2, 2019 AQR) at 11.

POR.[105] Those financial statements contained unqualified auditors' opinions indicating that the financial statements fairly reflect the companies' financial situation.[106] Second, the petitioner's claim that Chengen's log records do not flow to its financial statements neglects to consider the basis on which Chengen's self-produced veneers were valued in its accounting records and is contradicted by the record. Specifically, Chengen's accounting records demonstrate Chengen's self-produced veneers are valued on the basis of the value of Chengen's log consumption.[107] In the investigation, because we were able to tie the semi-finished goods cost of production ledger to the veneer semi-finished goods ledger and then to the plywood cost of production ledger,[108] we were able to tie the value of logs to the financial statements.

We disagree with the petitioner that the intermediate input methodology is warranted because Chengen does not record the grade of the veneers it consumed. Most importantly, as noted above, the SV proposed by the petitioner to value Chengen's veneers does not identify any specific grade, only that they are face veneers.[109] Thus, while the petitioner argues that Chengen could be using high quality veneers for plywood production and keeping inferior veneers in inventory,[110] there would be no practical effect given that the SV applied to veneer FOPs does not reflect veneer grade. In addition, Chengen reported in its U.S. sales database sales of plywood with face/back veneers of various grades, indicating that it was not stockpiling inferior veneers in inventory.[111] In the *LTFV Investigation*, Commerce was able to successfully verify the face veneer grades reported in Chengen's U.S. sales database and the verifiers found no discrepancies in Chengen's reported data and supporting documentation regarding the grade of veneers of the plywood sold.[112] To the extent that the petitioner is arguing that a failure to track core veneer grade somehow impugns the quality of Chengen's data, Chengen reported all of its core veneers as a single "Core Grade,"[113] which means "the veneers can have cracks, holes, stains, {and} knots," and also stated that, because the core veneers are not visible in the final product, there are very few core veneers that are not usable.[114]

The petitioner argues that Chengen's reported yield loss is impossible, with no corroboration or basis in the real world.[115] However, information submitted by the petitioner itself appears to corroborate the data reported by Chengen.[116] In addition, Commerce responded to nearly identical arguments made by the petitioner earlier this year in the LTFV Remand II, where we provided a detailed analysis of Chengen's yield conversion ratio and explained why we do not

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[105] *See* Chengen July 2, 2019 AQR; and Chengen's August 23, 2019; Supplemental Questionnaire Response at Exhibit 7.
[106] *Id.*
[107] *See* LTFV Verification Report at Verification Exhibit 26, p. 82.
[108] *Id.* at 21.
[109] *See* Prelim SV Memo at Attachment 3f.
[110] *See* Petitioner's Case Brief at 21.
[111] *See, e.g.*, Chengen July 23, 2019 SCDQR at Exhibit 1.
[112] *See* LTFV Verification Report.
[113] *See* Chengen July 23, 2019 SCDQR at 11.
[114] *See* Petitioner's Record Submission at Exhibit 1.2 (Chengen March 29, 2017 SCQR) at 5 and Exhibit 4.2 (Chengen LTFV Rebuttal Brief) at 12.
[115] *See* Petitioner's Case Brief at 27.
[116] *See* Petitioner LTFV Pre-Prelim Comments at Exhibit 4; *see also* LTFV Remand II at 30-31 (wherein we describe proprietary documentation submitted by the petitioner that supports Chengen's yield conversion ratios), available at *https://enforcement.trade.gov/remands/19-67.pdf.*

have sufficient grounds to disregard that ratio.[117] Included in the LTFV Remand II was an analysis of the log volumes of various sizes, calculated using the Chinese National Standard and calculated using the formula for the volume of a simple uniform cylinder ($V=\pi r^2 L$).[118] Based on the resultant volumes, we concluded that the difference between the two volumes was attributable to the taper coefficient accounted for by the Chinese National Standard and the amount of wood that would need to be removed from a log until it is a uniform cylinder and more suitable for the rotary peeling process.

Although the petitioner repeatedly argues that a large portion of veneers is not suitable for plywood production, the record does not support such a claim.[119] In the investigation, we observed at verification workers "repairing veneers by filling in holes with pieces of wood and tape,"[120] supporting Chengen's claim that Chinese producers do not disregard lower grade core veneers and that defects are repaired during the production process.[121] Thus, although Chengen's yield conversion ratio may differ from the petitioner's own experience, the LTFV Verification Report and Chengen's documentation supported its reported consumption and production data. Chengen provided samples of the same documentation analyzed in the investigation and used the same methodology employed in the investigation in this review so there is no reason to disregard Chengen's FOP data in this review.[122] In addition, the petitioner's arguments regarding Chengen's allegedly low yield conversion ratio focus on Chengen's core veneer conversion ratio, which is much lower than the face veneer conversion ratio due to the quality and physical characteristics of the core veneers.[123] Finally, the petitioner claims that Chengen produces pallets from the scrap left over from veneer production,[124] but the LTFV Verification Report clearly stated that pallets were made at the plywood production facility from leftover scraps trimmed from finished plywood, not at the veneer production facility.[125] Nothing on the record of this review suggests that Chengen's process has changed since the investigation and it makes logical sense that Chengen would produce pallets at the facility where the plywood is produced and packed rather than at a separate facility where veneers are produced. In addition, although the images of pallets on the record of this review are not definitive, it does appear that they are made from scraps of plywood rather than leftover logs from the veneer production process.[126]

The petitioner argues that there is something unusual about the different conversion ratios that Chengen calculates for its core veneers and its face veneers, and that its face veneer conversion

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[117] *See* Petitioner's Case Brief at 23*; see also* LTFV Remand II. For further discussion of the business proprietary information associated with this issue, *see* Memorandum "Certain Hardwood Plywood Products from the People's Republic of China: Business Proprietary Memorandum for the Final Results," dated November 23, 2020 (BPI Memo) at Note 1.
[118] *Id.*
[119] *See* Petitioner's Case Brief at 23-24.
[120] *See* LTFV Verification Report at 14.
[121] *See* Chengen's Rebuttal Brief at 4.
[122] *See* Chengen July 23, 2019 CDQR; and Chengen December 2, 2019 SDQR.
[123] *See* Chengen July 23, 2019 SCDQR at 11; Chengen March 29, 2017 SCQR at 5 and Exhibit 4.2.; and Chengen Rebuttal Brief at 6-7.
[124] *See* Petitioner's Case Brief at 23.
[125] *See* LTFV Verification Report at 14.
[126] *See* Chengen December 2, 2019 SDQR at SQ3-37.

ratios are not species-specific.[127] As explained above, Chengen's core veneers and face veneers have widely different physical and quality requirements, so it does not seem unusual that the higher quality face veneers would have a higher yield loss, and it is not clear why different conversion ratios alone would prove Chengen's methodology "completely unreliable."[128] Rather, given the differences in quality between core and face veneers, it is expected that the higher quality product would, in general, have a higher yield loss. With respect to the petitioner's argument that Chengen's conversion ratio should not be used because it does not calculate a species-specific yield loss,[129] that is simply not the case. In its initial Section D questionnaire response, Chengen clearly calculates different conversion rates for each species that it consumed in the production of subject merchandise.[130]

The petitioner points to the lack of information regarding how the volumes represented by the import data SVs are calculated as a means to discredit the accuracy of valuing Chengen's log FOPs.[131] However, Commerce has a longstanding practice of valuing FOPs using Global Trade Atlas (GTA) import data and there is equally no information suggesting that the import SVs would result in inaccurate or distortive values. If importers believed their suppliers to be providing inaccurate log volumes, common sense would suggest that the importers would no longer purchase from those suppliers. Moreover, log FOPs are not isolated to the *Order* on plywood and Commerce administers several orders on wood products from China, where the accuracy of the volume of logs based on import data has not been disregarded.[132] Although the petitioner argues that the size in which Chengen's logs are delivered would result in considerable waste,[133] we cannot speculate how Chengen's suppliers determine the size of logs that they sell. Nor can we determine whether Chengen's suppliers would demand a premium for the specific size of logs purchased by Chengen or whether it is the sellers themselves that determine the size of the logs. In short, we cannot reach a conclusion on the mere allegation that such log sizes could theoretically introduce increased scrap or costs because Commerce's decisions must be based on the weight of the evidentiary record.

Finally, the petitioner argues that the timing difference between the calculation of the veneer production and the consumption of those veneers introduces a disconnect that could explain the allegedly unreliable log FOPs and yield loss.[134] The petitioner further argues that, while Chengen's production remained steady during the POI, its ending monthly inventory of core veneers suggests that Chengen is keeping inferior veneers in inventory.[135] However, as noted by Chengen, POI data has limited relevance to this 18-month POR, where Chengen's ending inventory was actually very low.[136] In addition, Chengen reported repairing and using lower grade core veneers,[137] indicating that it would not need to stockpile low quality core veneers and

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[127] *See* Petitioner's Case Brief at 27.
[128] *Id*.
[129] *Id.*
[130] *See* Chengen July 23, 2019 CDQR at D-2.1.
[131] *See* Petitioner's Case Brief at 29.
[132] *See, e.g.*, *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order*, 85 FR 22126 (April 21, 2020).
[133] *See* Petitioner's Case Brief at 29-30.
[134] *Id.* at 31-32.
[135] *See* Petitioner's Case Brief at 21.
[136] *See* Chengen's Rebuttal Brief at 4-5.
[137] *Id.*

instead consumes them in plywood production. Moreover, because Chengen's FOPs are based on actual veneer consumption levels, the amount of veneers remaining in inventory should not have an impact on the accuracy of Chengen's reported consumption rates.[138] With respect to log conversion rates and any potential impact of a purported time lag between conversion rate calculation and consumption in plywood production, we previously analyzed the conversion rates over the six-month POI and found little variation.[139] Thus we were able to conclude that any time lag between Chengen's veneer production and its plywood production should not impact the accuracy of its reported FOPs.[140] Given that this POR is 18 months, it is reasonable to conclude that any minor fluctuations in those conversion rates would be tempered by the extended period.

Although the petitioner faults Chengen for not providing monthly inventory movement schedules for veneers or logs in this review,[141] we note that we requested, and Chengen provided inventory movement schedules for certain months of the POR for select inputs and a chart showing Chengen's consumption of all inputs for each month of the POR.[142] If the petitioner believed that additional documentation should have been supplemented on the record it was free to submit comments on Chengen's questionnaire responses and suggest that Commerce request additional documentation, yet the petitioner did not submit such comments on any of Chengen's questionnaire responses.

For all of the foregoing reasons, we conclude that a departure from our preferred methodology of valuing the actual inputs consumed by the respondent to produce subject merchandise is not warranted by the record of this review. Because Chengen disclosed the facts that were cause for concern in the investigation early in this review, Commerce was able to request detailed supplemental information and documentation regarding the Chinese National Standard and Chengen's practice of providing purchase invoices to its suppliers of poplar logs.[143] Accordingly, for these final results of review, we are continuing to apply our normal non-market economy (NME) methodology and decline to apply the intermediate input methodology.

Comment 3: Surrogate Financial Ratios

In the *Preliminary Results*, we valued Chengen's financial ratios using the financial statements of four Malaysian producers: Focus Lumber Berhad (Focus), Fu Yee Corporation (Fu Yee), Megamas Plywood Sdn. Bhd. (Megamas) and Ta Ann Plywood Sdn. Bhd. (Ta Ann).[144]

Petitioner's Comments:

- The Ta Ann financial statements do not contain a breakout for depreciation and, consequently, the fixed overhead calculated from these financial statements is a mere 0.02%.

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[138] *See* Chengen July 23, 2019 CDQR at D-2 (Chengen "has reported its FOPs in Exhibit D-1 according to its actual input consumption.")
[139] *See* BPI Memo at Note 2*; see also* LTFV Remand II at 34-35.
[140] *Id.*
[141] *See* Petitioner's Case Brief at 31 and 31
[142] *See* Chengen December 2, 2019 SDQR at Exhibits SQ3-14 and SQ3-28.
[143] *See*, *e.g.*, Chengen December 2, 2019 SDQR at 5-17.
[144] *See Preliminary Results* PDM at 29-30.

Moreover, Ta Ann's financial statements indicate that it was the beneficiary of tax subsidies.[145]

- Although Fu Yee's statements reflect an extremely small profit, Fu Yee did not make a profit in 2018 but instead delayed paying legitimate business expenses.[146]
- Fu Yee's statements reflect a payable amount of 168,729 RM for "hire purchase payables," for which Fu Yee is accumulating interest fees for failing to pay. Commerce should find that the past due amount is an expense and as such determine that the company was not profitable in 2018 (146,211 – 168,279 = net loss).[147]
- Megamas is not a healthy functioning company, as its auditor noted that its current liabilities exceeded its current assets. Therefore, its financial ratios cannot be representative of the ratios of a typical plywood producer.[148]

Chengen's Comments:

- Ta Ann's statements do contain line items for depreciation, and a low overhead ratio does not render a company's financial statements unusable. Further, the petitioner has pointed to no program that has been countervailed by Commerce in Ta Ann's statements.[149]
- Commerce should not disregard Fu Yee's financial statements simply because a ratio was high or low.[150]
- Megamas had a profit and its statements have adequate details to calculate the ratios. The petitioner has provided no reason to discount these financial statements that is based on past Commerce precedent.[151]

Commerce Position: In valuing FOPs, section 773(c)(1) of the Act instructs Commerce to use "the best available information" from an appropriate market economy (ME) country. Commerce's criteria for choosing financial statements for the calculation of surrogate financial ratios are: the availability of contemporaneous financial statements; comparability to the respondent's experience; and publicly available information.[152] In accordance with 19 CFR 351.408(c)(4), Commerce normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country to value manufacturing overhead, general expenses, and profit. However, Commerce is not required to "duplicate the exact production experience of" an NME producer, nor must it undertake "an item-by-item analysis in calculating factory overhead."[153] Further, the courts have recognized Commerce's discretion when choosing appropriate companies' financial statements to calculate surrogate financial ratios.[154]

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[145] *See* Petitioner's Case Brief at 33-34.
[146] *Id.* at 34-35.
[147] *Id.*
[148] *Id.* at 35.
[149] *See* Chengen's Rebuttal Brief at 9-10.
[150] *Id.* at 10.
[151] *Id.* at 10-11.
[152] *See, e.g.*, *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 80 FR 51779 (August 26, 2015) (*Boltless Steel Shelving from China*), and accompanying IDM at Comment 1.
[153] *See Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1999); *see also Magnesium Corp. of Am. v. United States*, 166 F.3d 1364, 1372 (Fed. Cir. 1999).
[154] *See, e.g.*, *FMC Corp. v. United States*, 27 CIT 240, 251 (2003) (finding that Commerce "has wide discretion in choosing among various surrogate sources"), *aff'd FMC Corp. v. United States*, 87 Fed. Appx. 753 (Fed. Cir. 2004).

In the *Preliminary Results*, we preliminarily valued Chengen's financial ratios using the financial statements of four Malaysian producers: Focus, Fu Yee, Megamas, and Ta Ann.[155] For these final results, as discussed further below, we have calculated the surrogate financial ratios based on the financial statements for Focus, Fu Yee, and Ta Ann. In addition, we adjusted the financial ratios calculated using Ta Ann's financial statements to account for depreciation identified in the notes to its financial statements.

With respect to Fu Yee's statements, while we agree that the profit rate for Fu Yee is small compared to other financial statements available on the record, we disagree with the petitioner's contention that the company was actually not profitable.[156] As a general matter, Commerce does not look beyond the plain language in financial statements to speculate as to what each item includes or how each item should be treated.[157] First, the fact that the surrogate financial data belong to a company that is not a party to the proceeding means that Commerce has neither the authority to compel information from the surrogate company, nor the ability to verify any of its information. Second, the data in the financial statements have been prepared and examined by the appropriate financial authorities, in accordance with the generally accepted accounting principles applicable to the relevant surrogate country. Therefore, when utilizing the various line items from the surrogate company's financial statements for our financial ratio calculations, we prefer to rely on the treatment of these items as they are reflected in the surrogate financial statements. The auditor for Fu Yee provided an unqualified opinion as to the accuracy of Fu Yee's financial statements and we found no reason to find the stated profit figure unreliable. With respect to the "hire purchase payables" identified by the petitioner, there is nothing in the financial statements to support the claim that Fu Yee incurred late fees related to overdue payment. The notes only identify that a portion of this payable is due within 12 months and a portion is due after 12 months and that the outstanding amount bore an interest rate of 4.93 percent, not that Fu Yee was being assessed an overdue payment fee. In any event, as noted above, we disagree with the petitioner that it would be appropriate to treat the outstanding payables amount essentially as a write-off, in direct conflict with the assessment of Fu Yee's auditors and count this amount against its profit for fiscal year 2018. Accordingly, we continue to include Fu Yee's financial statements in the calculation of surrogate financial ratios for these final results.

With respect to Megamas, we have reexamined the financial statements and agree that the auditor's report for the company included a note of material uncertainty:

> We draw attention to Note 4 in the financial statements, which indicates that the Company recorded negative operating cash flows of RM164,274 during the financial year ended 31 December 2018. As of that date, the Company recorded a deficit in their total

[155] *See Preliminary Results* PDM at 29-30.
[156] *See* Chengen's Letter, "Hardwood Plywood Products from the People's Republic of China: Final Surrogate Values Submission," dated January 2, 2020 (Chengen Final SV Submission) at Exhibit SV2-3.
[157] *See, e.g.*, *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2009-2010*, 78 FR 11143 (February 15, 2013), and accompanying IDM at Comment 16; and *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008), and accompanying IDM at Comment 18B.

equity of RM9,148,055 and the Company's current liabilities exceeded its current assets by RM10,877,088. These events or conditions indicate that a material uncertainty exists that may cast significant doubt on the Company's ability to continue as a going concern. Our opinion is not modified in respect of this matter."[158]

In *Vietnam Fish Fillets AR17-18*, we contrasted financial statements for a profitable Indian company with Indonesian financial statements that noted "concerns about the company's ability to continue as a going concern."[159] Citing no other concerns with the Indonesian statements, we relied on the Indian statements that reflected no additional shortcomings.[160] In this review, given the concern raised by the auditor with respect to Megamas, and in light of other usable financial statements available on the record to calculate the surrogate financial ratios, we find Megamas' financial statements do not constitute the best available information.

With respect to Ta Ann, as an initial matter, we find no information that indicates that Ta Ann was receiving any countervailable subsidies. The petitioner refers to a note in Ta Ann's accounting policies that related to a reinvestment allowance.[161] However, the petitioner provided no information as to how this reinvestment allowance constitutes a subsidy from a program that Commerce previously found to be countervailable, and, thus, we find no basis to exclude Ta Ann's financial statements from consideration. However, after reexamining Ta Ann's financial statements, we agree with the petitioner that the fixed overhead shown on these financial statements does not include depreciation. Based on our analysis of the notes to the audited financial statements, there are certain depreciation expenses for factories/building/quarters and plant/machinery[162] that we conclude should be considered as manufacturing overhead for purposes of the antidumping analysis, and we have accordingly made appropriate adjustments to account for them in the overhead calculation.[163]

Comment 4: Separate Rate

Petitioner's Comments:

- Commerce should not assign the rate calculated for Chengen to the non-examined companies receiving a separate rate because there are significant questions with regard to Chengen's margin, as noted above.[164]
- Commerce originally selected an additional mandatory respondent; this company notified Commerce that it did not intend to respond to the questionnaire. Subsequently, it withdrew its request for review and Commerce rescinded the review with respect to the company. It would have received a rate based on adverse facts available (AFA) and the margin for the

[158] *See* Chengen Final SV Submission at Exhibit SV2-5.
[159] *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017– 2018*, 83 FR 23756 (April 29, 2020) (*Vietnam Fish Fillets AR17-18*), and accompanying IDM at Comment 2C.
[160] *Id.*
[161] *See* Petitioner's Case Brief at 35 (citing Chengen Final SV Submission at Exhibit SV2-8).
[162] *See* Chengen Final SV Submission at Exhibit SV2-8 (Note 3, Property, plant and equipment)
[163] *See* Memorandum, "Final Surrogate Values Memorandum," dated November 23, 2020 at Exhibit 1.
[164] *See* Petitioner's Case Brief at 38.

separate rate companies would have been based on the average of Chengen's and the AFA margin.[165]

Chengen's Comments:

- The petitioner has not put forth reasonable information arguing that Chengen's rate is not accurate and Commerce should follow its normal practice of assigning the separate rate, *i.e.*, assigning the mandatory respondent's margin to non-individually-examined companies.[166]

Separate Rate Respondents' Comments:

- Commerce should reject the petitioner's argument because it is contrary to Commerce's long-standing methodology for calculating the separate rate.[167]

Commerce Position: Commerce's normal practice is to assign to separate rate entities that were not individually examined a rate equal to the average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on AFA, in accordance with section 735(c)(5)(A) of the Act.[168] For these final results of review, we have calculated a dumping margin for the mandatory respondent Chengen that is neither zero, *de minimis*, or based entirely on AFA. When only one weighted-average dumping margin for an individually-investigated respondent is above *de minimis* and not based entirely on facts available, the separate rate will be equal to that single, above *de minimis* rate.[169]

Although we had intended to verify the questionnaire responses of Chengen, as explained above, the global health crisis required that we postpone, and eventually cancel, verification due to the Global Level 4 travel advisory.[170] Accordingly, as we are unable to proceed to verification in this administrative review for reasons beyond our control, we are relying on the information submitted on the record, which we relied on in reaching our *Preliminary Results*, as facts available in reaching our final results.[171]

Although the petitioner claims that, had the additional mandatory respondent remained under review and been assigned total AFA, its rate would have been averaged with Chengen's to calculate the separate rate,[172] that claim is inapposite. We decline to speculate on the manner in which we would have determined the separate rate in a hypothetical scenario that is not before us (*i.e.*, where the other mandatory remained under review or where Chengen received a calculated rate of zero or *de minimis*). In this review Chengen is the only mandatory respondent, and is receiving a margin that is not zero, *de minimis*, or based entirely on AFA.

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[165] *Id.* at 39-41.
[166] *See* Chengen's Rebuttal Brief at 16.
[167] *See* Separate Rate Respondents' Rebuttal Brief at 1-3.
[168] *See*, *e.g.*, *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).
[169] *See, e.g.*, *Boltless Steel Shelving from China*, 80 FR at 51781.
[170] *See* Verification Cancellation Memo.
[171] *Id.*
[172] *See* Petitioner's Case Brief at 39-41.

Consistent with the Act and our practice, we are using Chengen's weighted-average dumping margin, which is not zero, *de minimis*, or based entirely on AFA as the rate for the separate rate entities that were not individually examined.

Comment 5: Surrogate Values

A. SV for Logs

In the *Preliminary Results*, Commerce valued Chengen's log FOPs using Malaysian import data for HTS categories 4403.97.10.00 and 4403.95.10.00 from GTA. These data were stated in cubic meters, the same basis on which Chengen reported its log FOPs.[173]

Chengen's Comments:

- Commerce should value Chengen's log FOPs using Malaysian United Nations (UN) Comtrade data, provided by Chengen, which were reported on a kilogram (kg) basis.
- Chengen also submitted Malaysian GTA data at the six-digit HTS level. Because these data were identical to the data at the 10-digit level, there were no imports into Malaysia under other 10-digit HTS sub-categories within those six-digit HTS headings.[174]
- It is clear that the Malaysian import statistics are flawed because they result in an average density of poplar and birch of 2,267 kg/cubic meter and 2,688 kg/cubic meter, which is wholly unreasonable. Using the UN Comtrade data in kg and converting to cubic meters using the average density of poplar (425 kg/cubic meter) and birch (670 kg/cubic meter), Commerce can calculate a more accurate SV.[175]
- In the 18-month POR, Malaysia imported a mere 75 cubic meters of birch logs under HTS 4403.95.10.00 from only one country, Latvia, during only one month of the POI.[176]
- Likewise, Malaysia imported a mere 59 cubic meters of poplar logs under HTS 4403.97.10.00 from only one country, Belgium, during only one month of the POR.
- Chengen alone consumed more logs in a single month than Malaysia imported during the entire POR.[177]
- The Malaysia GTA quantities are not commercial considering the other import quantities on the record and the quantity consumed by Chengen.[178]
- Commerce should rely upon the six-digit HTS data from UN Comtrade as this would increase accuracy without sacrificing specificity.[179]
- In the alternative, Commerce should rely upon Romanian import statistics to value Chengen's log inputs.[180]

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[173] *See* Chengen July 23, 2019 CDQR at Exhibit D-2.1.
[174] *See* Chengen's Case Brief at 1.
[175] *Id.* at 2.
[176] *Id.* at 3.
[177] *Id.* at 4.
[178] *Id.* at 3-4.
[179] *Id.* at 3.
[180] *Id.*

Petitioner's Comments:

- Commerce has a long-standing practice of preferring GTA data over data from other surrogate value sources.[181]
- Chengen's entire argument is based on the unsupported claim that GTA volumes for the log SVs are inaccurate because, when compared to the UN Comtrade volumes, they result in unrealistic log densities.[182]
- Chengen does not address the most obvious question raised by its argument: Why should Commerce assume the GTA data are flawed and the UN Comtrade superior?[183]
- The GTA data are in the same unit of measurement as reported by Chengen for its log FOPs, cubic meters, while the UN Comtrade data are in kg and require the SVs to be converted to cubic meters before they can be used to calculate accurate NVs.[184]
- When Commerce selects an SV not from the primary surrogate country, it typically requires the HTS data to be aberrational: The SVs themselves demonstrate that the Malaysian HTS SVs are not aberrational, as the values are remarkably similar.[185]

Commerce Position: We disagree with Chengen that Commerce should disregard the Malaysia GTA data when valuing Chengen's reported log FOPs. Therefore, we have continued to rely on these data for purposes of the final results.

As explained in the *Preliminary Results*,[186] when Commerce is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOPs valued in a surrogate ME country or countries considered to be appropriate by Commerce. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce shall utilize, "to the extent possible, the prices or costs of FOPs in one or more {ME} countries that are: (A) at level of economic development comparable to that of the {NME} country; and (B) significant producers of comparable merchandise."[187] As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME unless it is determined that none of the countries are viable options because: (a) they either are not significant producers of comparable merchandise; (b) do not provide sufficiently reliable sources of publicly available SV data; or (c) are not suitable for use based on other reasons.[188] Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. To determine which countries are at a similar level of economic development, Commerce generally relies solely on per capita Gross National Income

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[181] *See* Petitioner's Rebuttal Brief at 1.
[182] *Id.* at 2.
[183] *Id.*
[184] *Id.* at 3.
[185] *Id.* at 4.
[186] *See Preliminary Results* PDM at 13.
[187] *See* Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1) available on Commerce's website at *http://enforcement.trade.gov/policy/bull04-1.html*.
[188] *See*, *e.g.*, *Certain Quartz Surface Products from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances*, 84 FR 23767 (May 23, 2019), and accompanying IDM at Comment 8.

from the World Bank's World Development Report.[189] In addition, if more than one country satisfies the two criteria noted above, Commerce narrows the field of potential surrogate countries to a single country (pursuant to 19 CFR 351.408(c)(2), Commerce "normally will value all factors in a single surrogate country") based on data availability and quality.

We continue to find, as we did in the *Preliminary Results*, that Malaysia is the appropriate primary surrogate country for this administrative review because Malaysia is at a comparable level of economic development, Malaysia is a significant producer of comparable merchandise, and Malaysian data constitute the best available data for valuing Chengen's FOPs, and we, therefore, decline to value Chengen's log FOPs with Romanian data.[190] As stated in the *Preliminary Results*, the Malaysia data are superior with respect to the breadth of available financial statements from producers of comparable merchandise.[191] This is consistent with Commerce's preference for using multiple financial statements to calculate surrogate financial ratios in order to normalize any potential distortions that may arise from using those of a single producer.[192] As discussed in further detail below, the record contains three financial statements from Malaysian companies that, as explained in the *Preliminary Results*, were primarily engaged in the production and sale of plywood, while the record contains the financial statements of a single Romanian producer that only derived 50 percent of its revenue from plywood.[193] In addition, Commerce long-standing practice has been to rely on GTA data from the primary surrogate country for surrogate values unless those values are aberrational or proven to be unreliable.[194] Commerce does not consider that small quantities *per se* necessarily result in aberrational import values.[195] Thus, the relatively low import quantities of birch and poplar into Malaysia alone do not impugn the accuracy of the log SVs derived from the Malaysian import data, which are specific to the input consumed by Chengen.[196] Thus, we disagree with Chengen that either the Romanian GTA data or the Malaysia UN Comtrade data are preferable to Malaysia GTA data when valuing Chengen's log FOPs.

Commerce applies certain criteria in determining whether certain SVs are aberrational or unreliable for purposes of calculating an AD margin. Specifically, our practice is to compare the SVs in question to the GTA average unit values (AUVs) calculated for the same period in other

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[189] *See* Policy Bulletin 04.1.
[190] *See* Prelim SV Memo at Exhibits 1 and 2.
[191] *See Preliminary Results* PDM at 16.
[192] *See, e.g.*, *Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 42314 (June 29, 2016), and accompanying IDM at Comment 30.
[193] *See Preliminary Results* PDM at 16-17 (stating that the "... Focus Lumber Statements, Fu Yee Statements, Megamas Statements, and Ta Ann Statements all demonstrate that the companies were primarily engaged in the production and sale of plywood, with between 79.8 and 99 percent of sales revenue being generated via sales of plywood... only 50 percent of Sigstrat's revenue was from plywood products, while 47.3 percent of its revenue was from the sale of molded products (seats, backrests, chairs, and tables)").
[194] *See, , e.g.*, *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011,* 78 FR 4386 (January 22, 2013), and accompanying IDM at Comment 7; and *Sodium Hexametaphosphate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 59375 (September 27, 2012), and accompanying IDM at Comment I.
[195] *See*, *e.g.*, *Hydrofluorocarbon Blends from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 17380 (April 25, 2019), and accompanying IDM at Comment 6.
[196] *See, e.g.*, Chengen December 2, 2019 SDQR at 23.

potential surrogate countries, to the extent that such data are available, and also to examine data from the same HTS subheading for the surrogate country over multiple years to assess whether the data are aberrational in a historical context.[197] The burden is on interested parties to provide Commerce with information in support of their arguments.[198] No interested party provided such data so that we may undertake an informed and reasonable analysis of the reliability of these particular Malaysian SVs; the only available information on the record are the AUVs for logs imported into Malaysia and Romania during the POR. Furthermore, the CIT has held that, "when faced with a choice between two imperfect options, it is within Commerce's discretion to determine which choice represents the best available information."[199] Accordingly, we cannot conclude that the Malaysian import values are aberrational or otherwise unusable for these final results of review. Consequently, when presented with two choices (Malaysia or Romania GTA data to value the FOPs in question), we find it appropriate to select the option from our primary surrogate country, which is Malaysia.

Chengen argues that Commerce should rely upon the six-digit HTS subheadings from UN Comtrade instead of the 10-digit import data from GTA based on the claim that this would increase accuracy and not sacrifice specificity.[200] However, Chengen fails to demonstrate that the Malaysian GTA data used to value its log inputs in the *Preliminary Results* were unusual or unreliable in any way. Although Chengen argues that the Malaysian GTA data must be inaccurate because they demonstrate impossible log densities, its argument assumes its own conclusion - – that the UN Comtrade data are reliable while the Malaysian GTA data are flawed. The record does not support this assumption.

Chengen also argues that in the alternative, Commerce should rely upon Romanian import statistics to value its log inputs. We disagree because Romania is not at the same level of economic development as China during this POR. Commerce does not select data from countries that are not at the same level of economic development if there are suitable options from the countries on the surrogate country list. In addition, Chengen's argument overlooks the fact that the Romanian import statistics for birch also represent a relatively small quantity compared to Chengen's consumption.[201] Thus, for at least one of Chengen's primary wood species, the Romanian data suffer the same deficiency that Chengen argues exists in the Malaysian data.

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[197] *See, e.g.*, *Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Administrative Review*, 75 FR 36630 (June 28, 2010), and accompanying IDM at Comment 4; *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006), and accompanying IDM at Comment 5; *Lightweight Thermal Paper from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 57329 (October 2, 2008), and accompanying IDM at Comment 10; and *Saccharin from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 7515 (February 13, 2006), and accompanying IDM at Comment 5.
[198] *See e.g.*, *QVD Food Co., Ltd. v. United States*, 658 F.3d 1318, 1324 (Fed. Cir. 2011).
[199] *See CS Wind Vietnam Co., Ltd. and CS Wind Corporation v. United States*, Slip Op. 14-33 at 26 (CIT 2014) (citing *Dorbest Ltd. v. United States*, 30 CIT 1671, 1687, 462 F. Supp. 2d 1262, 1277 (CIT 2006)).
[200] *See* Chengen's Case Brief at 3.
[201] *See* Chengen's Letter, "Preliminary Surrogate Value Submission," dated September 3, 2019 at Exhibit 2 (indicating that Romania imported 128 cubic meters of birch logs during the 18-month POR).

Although Chengen claims that the Malaysian import quantities "are not commercial considering the other import quantities on the record and the quantity consumed by" Chengen,[202] we disagree that quantities alone and a comparison against Chengen's consumption are determinative. For example, in *Juancheng Kangtai* the record included comprehensive data regarding various AUVs for each country on the surrogate country list in the underlying review, which allowed a detailed discussion and analysis of the prices and quantities traded among countries on the surrogate country list.[203] Importantly, those facts allowed Commerce to analyze whether an allegedly non-commercial quantity was consistent with other import volumes and whether the input in question was often traded in smaller quantities.[204] On remand, Commerce was able to conclude, based on a detailed analysis of price and quantity, that transactions are made at commercial quantities when they are competitive commercial transactions, either large or small, and that a finding that import volumes are commercial is not exclusively tied to a respondent's consumption levels.[205] The CIT ultimately sustained Commerce's conclusion in *Juancheng Kangtai II* that an allegedly small quantity was, in fact, a commercial quantity. Here, Chengen failed to provide the requisite data for Commerce to conduct such an analysis in this administrative review.[206] Accordingly, Chengen's claim that the Malaysian import values for birch and poplar are associated with commercially insignificant quantities and somehow not reliable SVs by which to value FOPs in this review is not supported by the record.

The parties have not pointed to any record evidence which is contrary to our findings in the *Preliminary Results*. Thus, we continue to find that Malaysia GTA data provide the best source for valuing Chengen's log inputs because they are specific to the input, they are from the only country on the surrogate country list for which the record contains all data to value Chengen's inputs, and no party has demonstrated that the values are distortive.

B. SV for Formaldehyde

Chengen uses formaldehyde to make the glue that holds the plywood layers together.[207] In the preliminary results, we valued Chengen's formaldehyde using GTA data in HTS subheading 2912.11.10, which is specific to "formalin."[208]

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[202] *See* Chengen's Case Brief at 4 (citing *Juancheng Kantai Chem. Co. v. United States*, 2015 Ct. Intl. Trade LEXIS 94, *65-66, 78 (CIT 2015) (*Juancheng Kangtai*)).
[203] *See Juancheng Kangtai*, 2015 CIT LEXIS 94, *66-69 ("Kangtai lists the import data for each country on the OP list (Indonesia, Costa Rica, the Philippines, Colombia, South Africa, and Thailand), the total US$ value and total quantities in kilograms, the AUV, and the percentage out of total kilograms for all listed country's import data. Of those, the Philippines' AUV is the lowest at US$0.21/kg (or US$210 per metric ton), while Indonesia and Costa Rica, with total imports in metric tons of 2,305.6 and 1,887.2, respectively, both show AUVs of US$0.54/kg (US$ 540 per metric ton). Colombia, South Africa, and Thailand, with total imports in metric tons of 84.0 9.7 and 3.0, respectively, display AUVs of US$0.50, US$ 3.54, and US$ 3.40, respectively").
[204] *See Juancheng Kangtai Chem. Co. v. United States*, 2017 CIT LEXIS 3, *26-31 (CIT 2017) (*Juancheng Kangtai II*) ("Commerce explained that transactions are made at 'commercial quant{ities}' when they 'reflect market values', '*i.e.*, competitive commercial transactions, either large or small'" and "... these examples indicated that the chemical was commercially traded in quantities smaller than Kangtai's annual consumption").
[205] *Id.*
[206] *See, e.g.*, *QVD Food v. United States*, 658 F. 3d 1318, 1324 (Fed. Cir. 2011) ("{T}he burden of creating an adequate record lies with {interested parties} and not with Commerce").
[207] *See* Chengen July 23, 2019 CDQR.
[208] *See* Prelim SV Memo.

Petitioner's Comments:

- Commerce should value formaldehyde using the HTS subheading 2912.11.90 because Chengen has failed to prove that the formaldehyde it used in the production process was formalin, which is the only formaldehyde product categorized under HTS subheading 2912.11.10. All remaining types of formaldehyde are classified under HTS subheading 2912.11.90.[209]
- The three alleged test reports submitted by Chengen in support of Commerce's reliance on HTS subheading 2912.11.10 were not signed or accredited to any testing agency and did not contain any indication they pertained to Chengen.[210]
- Although the test reports indicate formaldehyde levels were 36.98, 36.87 and 37.1 percent, there is no indication whether the percentage of formaldehyde pertains to mass or volume, and, according to Chengen's documents, formalin must contain 40 percent formaldehyde by volume or 37 percent by mass.[211]
- The Wikipedia page submitted by Chengen states that a typical commercial grade formalin may contain 10-12 percent methanol. However, Chengen's tests show that none of the methanol percentages is over one percent.[212]
- Chengen has failed to document its claim that its formaldehyde is formalin, and, therefore, it must fall within the "Other" formaldehyde category of 2912.11.90.[213]
- At the very least, Commerce should use HTS subheading 2912.11 at the six-digit level, as this category was used in the investigation and contains the values from both subcategories.[214]

Chengen's Comments:

- The petitioner made the same arguments prior to the *Preliminary Results* and has presented no new information to alter Commerce's position on the use of HTS subheading 2912.11.10.[215]
- The test reports definitively demonstrate the formaldehyde concentration of the input ranged from 36.87 to 37.1 percent, which was well within the tolerance for the concentration standard for 37 percent solution.[216]
- Chengen has also provided definitions from several sources stating that formalin is a 37 percent solution of formaldehyde.[217]
- The record demonstrates that Chengen's formaldehyde best meets the definition of formalin. Therefore, HTS subheading 2912.11.10 is the most specific HTS category with which to value the input.[218]

Commerce Position: We disagree with Chengen that the record supports the conclusion that Chengen's formaldehyde input was formalin. As a result, we no longer find that HTS

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[209] *See* Petitioner's Case Brief at 4.
[210] *Id.* at 36.
[211] *Id.*
[212] *Id.* at 36-37.
[213] *Id.* at 37.
[214] *Id.*
[215] *See* Chengen's Rebuttal Brief at 11.
[216] *Id.* at 12.
[217] *Id.*
[218] *Id.*

subheading 2912.11.10 is the most accurate HTS subheading by which to value Chengen's formaldehyde input. Chengen repeatedly referred to its input in this review as "formaldehyde"[219] and first identified it as formalin in its rebuttal surrogate value comments.[220] Chengen also submitted three test reports that it claims demonstrates that the formaldehyde concentration of the input ranged from 36.87 to 37.1 percent. However, these test reports were not accredited to any testing agency, nor did they contain any indication that they pertained to Chengen (including, significantly any link to Chengen's production of plywood).[221] The test reports also failed to specify if the percentage of formaldehyde reported was with respect to mass or volume.[222]

That said, we disagree with the petitioner that we should value Chengen's entire formaldehyde input using HTS category 2912.11.90. The record demonstrates only that HTS subheading 2912.11 is defined as "Methanal (formaldehyde)," and included under that six-digit subheading are 2912.11.10.00, "Formalin" and 2912.11.90.00 "Other." This description does not provide sufficient information to determine which subheading is most specific to Chengen's formaldehyde.[223] Given the uncertainty as to whether Chengen formaldehyde was formalin or some other type of formaldehyde, we find no basis to favor one HTS subheading over the other.

Accordingly, we find it reasonable to value Chengen's formaldehyde input using the average of HTS subheading 2912.11.10 and 2912.11.90 because we are unable to determine whether Chengen's input is properly classified under the subheading for formalin, or under the only other subheading for formaldehyde.

C. SV for Labor

In the *Preliminary Results*, we valued labor using Malaysian wage data specific to the manufacturing of veneer sheets and plywood.[224] The record also contains manufacturing-specific Malaysian wage data from "Trading Economics – Malaysia."[225]

Petitioner's Comments:

- Commerce should value labor using the "Trading Economics – Malaysia" data.[226]
- The data from the Malaysian Department of Statistics calculates the hourly labor rate by assigning the same wages to part-time employees as it does to full-time employees, even though they work less than 20 hours per week, and does not include all the benefits Malaysian employers are required to pay.[227]
- Commerce should use the labor rate proposed by the petitioner as it is much more reliable

[219] *See, e.g.*, Chengen July 23, 2019 CDQR at Exhibits D-2.2, D-3; and Chengen December 2, 2019 SDQR at 20.
[220] *See* Chengen's Letter, "Rebuttal Surrogate Value Submission," dated September 23, 2019 (Chengen Rebuttal SV Comments) at Exhibits 1 and 2.
[221] *Id.* at Exhibit 2.
[222] *Id.*
[223] *See* Petitioner SV Comments at Exhibit M-11.
[224] *See* Prelim SV Memo at Attachment 9.
[225] *See* Petitioner SV Comments at Exhibit M-3.
[226] *See* Petitioner's Case Brief at 4.
[227] *Id.*

than the labor rate submitted by Chengen.[228]

- The petitioner's labor rate is specific to manufacturing in Malaysia and comes from "Trading Economics – Malaysia," a source that Commerce has relied upon in the past.[229]

Chengen's Comments:

- Commerce should correct its labor calculation in the Final Results and use its normal 24 working days per month assumption instead of the 21 days used in the *Preliminary Results*.[230]
- The petitioner argues that Commerce should rely upon the general Trading Economics Malaysia labor data, suggesting that the Malaysia Department of Statistics labor rate is less preferable because it does not include part-time employees and does not include some labor benefits.[231]
- There is no discrepancy between the coverage of the wages/salaries and the number of employees to suggest that the labor rate would be underestimated.[232]
- The two-page Trading Economics webpage printout provides absolutely no description about the data or their source.[233]
- The Malaysia Department of Statistics indicates that salaries and wages paid includes cash payments, including bonuses, commissions, overtime wages, cost of living allowances and other allowances. The exclusion of employer's contribution for certain social security funds is minor and likely captured in the surrogate selling, general, and administrative (SG&A) expenses.[234]
- Commerce should continue to rely upon the Malaysia Department of Statistics data as the best available information to value labor.[235]

Commerce Position: We agree with the petitioner that "Trading Economics – Malaysia" is the preferable source for valuing Chengen's labor FOPs for these final results, but agree with Chengen that it is appropriate to assume 24 working days/month, based on Commerce's practice. In the *Preliminary Results*, we used the Malaysia Department of Statistics wage data to calculate the labor SV and inadvertently calculated the labor SV assuming 21 working days/month.[236] However, we have a stated practice of assuming 24 working days/month.[237]

With respect to the source of the wage data, although Chengen's preferred source is more specific to the production of subject merchandise, as pointed out by the petitioner, the data notes provide information that calls into question the accuracy of these data. Specifically, Technical Note 7 states that "{t}he employment data cover full-time and part-time employees," and defines full-time employees as "paid workers who work for at least 6 hours a day and for at least 20 days

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[228] *Id*. at 37.
[229] *Id*. at 38.
[230] *See* Chengen's Case Brief at 5.
[231] *See* Chengen's Rebuttal Brief at 12.
[232] *Id*.
[233] *Id*. at 13.
[234] *Id.*
[235] *Id.*
[236] *See* Prelim SV Memo at Exhibit 9.
[237] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092, 36094 (June 21, 2011).

a month," and part-time employees as "paid workers who work for less than 6 hours a day and/or less than 20 days a month."[238] In the *Preliminary Results*, we calculated the labor SV by dividing the total wages earned over the POR by the total number of employees to derive an average monthly wage, which we then divided by the number of working days per month and the number of hours in a working day.[239] However, after reexamining the source documents, it is clear that the raw data include: (1) "full-time" workers that work less than 24 days a month and less than eight hours a day (our standard assumption) and, more crucially, (2) part-time workers that work for less than six hours a day and/or less than 20 days a month. Including such workers in our normal calculation for a labor SV that includes 24 working days a month and eight working hours a day would understate the resultant labor SV. Because we do not know how many of the workers counted in the data were full-time and how many were part-time, there is no way to determine the degree of distortion or to control for any inaccuracies with a different calculation.

In addition to the fatal flaw described above, Technical Note 8 states that data exclude the employer's contribution to the "Employees' Provident Fund" and "Social Security Organisation."[240] Although Chengen claims that this exclusion is minor and likely captured in the surrogate SG&A,[241] it cites to no record support for these claims. As with the impact of the inclusion of part-time workers described above, we cannot be certain of the impact of this exclusion.

Accordingly, we look to the other source of wage data on the record, "Trading Economics – Malaysia," which represents manufacturing-specific and contemporaneous wage data from the primary surrogate country.[242] This source has been used in other recent proceedings[243] and the record does not indicate that it suffers the same deficiencies as the Malaysia Department of Statistics data. Therefore, we find that the Malaysian manufacturing wage data from "Trading Economics – Malaysia" represent the superior selection for valuing Chengen's labor FOPs for these final results.

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[238] *See* Chengen Rebuttal SV Comments at Exhibit 4.
[239] *See* Prelim SV Memo at Exhibit 9.
[240] *See* Chengen Rebuttal SV Comments at Exhibit 4.
[241] *See* Chengen Rebuttal Brief at 13.
[242] *See* Petitioner SV Comments at Exhibit M-3.
[243] *See, e.g.*, *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 84 FR 54106 (October 9, 2019), and accompanying PDM at 45, unchanged in *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 11953 (February 28, 2020).

VI. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this administrative review and the final estimated weighted-average dumping margins in the *Federal Register*.

☒ ☐

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Agree Disagree

11/23/2020

X

Signed by: JEFFREY KESSLER

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Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance