

Import Administration Policy Bulletin

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Topic: Factor of Production Reporting Requirements for Non-Market Economy Companies with Multiple Facilities and/or Production Processes/Lines

Approved: \_\_\_\_\_

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**SUMMARY**

With respect to the proper reporting of production inputs by respondent companies in antidumping duty investigations and reviews involving non-market economy (“NME”) countries, the Department of Commerce (“the Department”) requires that respondent companies in NMEs report production inputs, *i.e.*, factors of production, for their total production of the merchandise meeting the description in the scope of the investigation or review. This reporting requirement is regardless of the ultimate country of destination, *i.e.*, it does not pertain only to the inputs into the merchandise exported to the United States, location of the production facility, or production process employed.

**Statement of Policy:**

The Department calculates the fair market value or “normal value” based on the total quantities of the factors of production used to produce both the subject merchandise (merchandise described by the scope and exported to the United States) as well as like products (merchandise meeting the description of merchandise covered by the scope and ultimately sold in the home

market or third countries).<sup>1</sup> This practice is consistent with our practice in market economy antidumping proceedings, where we require that respondents report total production costs from all facilities and not just the more efficient facilities or the facilities that produce only for export. Employing this practice in NME proceedings similarly ensures that respondents do not report consumption rates from only their most efficient factories or production lines, which would result in an understatement of the average per-unit consumption rate for each input used in the production of the merchandise. The Department’s questionnaire reflects this practice with the following instructions to respondent companies:

“the factors file should contain information relating to all of the merchandise produced in each facility that is of the same model or product type as the merchandise sold to the United States, including the portion of production of those models or product types not destined for the United States.”<sup>2</sup>

Section 773(c)(1) of the Tariff Act of 1930, as amended (“the Act”), does not limit the normal value calculation for a respondent company to only those materials used in the production of the merchandise destined for the United States, *i.e.*, the subject merchandise, but to all the materials used in the production of all identical, and as appropriate, comparable, merchandise produced during the period of review regardless of final destination of the merchandise.<sup>3</sup> Therefore, in all NME antidumping proceedings, respondent companies must report the total consumption for the factors of production from each of their facilities that

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<sup>1</sup> See *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 52645 (September 10, 2008), and accompanying Issues and Decision Memorandum at Comment 8; *Synthetic Indigo From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 68 FR 53711 (September 12, 2003), and accompanying Issues and Decision Memorandum (“*Indigo from the PRC – 09/12/2003*”) at Comment 2; and *Final Determination of Sales at Less Than Fair Value: Coumarin from the People’s Republic of China*, 59 FR 66895, 66896 (December 28, 1994).

<sup>2</sup> See Original Questionnaire Section D at D-5.

<sup>3</sup> See, *e.g.*, *Indigo from the PRC – 09/12/2003* at Comment 2 and *China Processed Food Imp. & Exp. Co. v. United States*, 536 F. Supp. 2d 1347, 1349 (CIT 2008).

manufacture the product under investigation or review, regardless of the destination of that merchandise or the production facility. Obtaining all of the factors of production and quantifying those factors based on total production will ensure that the Department calculates the most accurate average per-unit consumption for the period of review.

**Implementation:**

This policy applies to all NME investigations and reviews.