FINAL RESULTS OF REDETERMINATION PURSUANT TO
UNITED STATES COURT OF INTERNATIONAL TRADE REMAND ORDER

GOLDLINK INDUSTRIES CO., LTD., TRUST CHEM CO., LTD., TIANJIN HANCHEM INTERNATIONAL TRADING CO., LTD., Plaintiffs,
v.
UNITED STATES, Defendant,
and
NATION FORD CHEMICAL COMPANY and SUN CHEMICAL CORPORATION, Defendant- Intervenors and Plaintiffs,
and
CLARIANT CORPORATION, Defendant- Intervenor and Plaintiff.
Court No. 05-00060
Slip Op. 06-65 (May 4, 2006)

SUMMARY

The Department of Commerce ("the Department") has prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade ("the Court") in *Goldlink Industries Co., Ltd., Trust Chem Co., Ltd., Tianjin Hanchem International Trading Co., Ltd. v. United States*, 431 F. Supp. 2d 1323 (CIT 2006) ("*Goldlink.*"). This remand covers five issues from the final determination of sales at less than fair value for carbazole violet pigment 23 ("CVP") from the People's Republic of China ("PRC"), covering the period of investigation ("POI") April 1, 2003, through September 30, 2003. Specifically, the Court ordered the Department to do the following: (1) re-examine its determination to apply total adverse facts available ("AFA") to Tianjin Hanchem International Trading Co., Ltd. ("Hanchem"); (2) further explain its determination that the subsidies Pidilite Industries, Ltd. ("Pidilite"), an Indian producer of CVP, received did not distort Pidilite's financial ratios; (3) re-examine the surrogate values for benzene sulfonyl chloride, calcium chloride and steam; (4) either include terminal charges and brokerage fees in movement costs or precisely explain its decision not to include such costs; and (5) re-open the record and allow parties to submit new information as necessary. In accordance with the Court's remand instructions, we have provided

certain explanations and made certain redeterminations with respect to these issues. As a result of the redeterminations, the Department has calculated a revised dumping margin of 12.46 percent for Goldlink Industries Co., Ltd. ("Goldlink"), 39.29 percent for Trust Chem Co., Ltd. ("Trust Chem"), 85.41 percent for Hanchem, 57.07 percent for Nantong Haidi Chemicals Co., Ltd. ("Nantong"), and 241.32 percent for the PRC-wide entity.

BACKGROUND

On November 17, 2004, the Department published in the *Federal Register* its final determination in the above-referenced investigation. *See Notice of Final Determination of Sales at Less Than Fair Value for Carbazole Violet Pigment 23 from the People's Republic of China,* 69 FR 67304 (November 17, 2004) ("*Final Determination*"). On May 4, 2006, the Court issued its remand order instructing the Department to re-open the record as necessary and allow interested parties to submit new information as necessary. On July 14, 2006, the Department sent a letter to all interested parties requesting additional information regarding the surrogate value of steam. On July 21, 2006, the Department received submissions from Nation Ford Chemical Company and Sun Chemical Corporation ("the Petitioners") and Clariant Corporation ("Clariant"), a domestic interested party, in which they argued that the Department should value steam using information already on the record. Goldlink, Trust Chem, Hanchem, and Nantong did not provide any information in response to the Department's July 14, 2006, request. On September 22, 2006, the Department released the Draft Remand Redetermination to interested parties and requested that they submit comments by September 27, 2006. Petitioners submitted comments on September 27, 2006. Respondents did not submit comments. We have addressed these comments in the Analysis of Comments Received section, below.

DISCUSSION

1. *The Department shall re-examine its determination to apply total AFA to Hanchem*

In the underlying investigation, Hanchem provided certain data for U.S. sales of CVP. In the *Final Determination*, we determined we were unable to verify the reported total value of Hanchem's sales to the United States during the POI and we were unable to verify a significant percentage of the U.S. prices for Hanchem's reported U.S. sales. *See Final Determination* and accompanying Issues and Decision Memorandum at Comment 19. Therefore, based on the record evidence, the Department determined that Hanchem provided unverifiable information and did not cooperate to the best of its ability in complying with the Department's requests for information. Accordingly, the Department applied total AFA to Hanchem in the *Final Determination*. *See* the memorandum from Charles Riggle, Program Manager, to the file, "Antidumping Duty Investigation of Carbazole Violet Pigment from the People's Republic of China, Analysis Memorandum for Final Determination for Tianjin Hanchem International Trading Co., Ltd.," dated November 8, 2004. We continue to maintain that the application of total AFA in these circumstances is appropriate, for the reasons articulated in our *Final Determination* and accompanying memoranda. However, in accordance with the Court's remand instructions, we have modified our final determination as discussed below.

The Court states that the Department did not cite to any record evidence to "reasonably warrant an application of total adverse facts available other than the discrepancies in verifying some but not all of Hanchem's United States sales." *See Goldlink,* 431 F. Supp. 2d 1323 (CIT 2006) at 1330. The Court notes further that the Department states that during verification it

"found no evidence that any U.S. sales were missing" from Hanchem's questionnaire responses. *See Goldlink,* 431 F. Supp. 2d 1323 (CIT 2006) at 1331. Furthermore, the Court notes that the Department did not indicate in its verification report that Hanchem was uncooperative during verification. *Id.* Accordingly, the Court finds that, if Hanchem's inability to reconcile values here is of such consequence as to warrant application of total AFA, the Department must reasonably support its conclusion with evidence on the record other than that which has been identified.

Pursuant to the Court's order, the Department has re-examined its determination to apply total AFA to Hanchem. The Department's verification report documents the Department's findings at verification. Based on those findings, the Department is able to calculate dumping margins for certain sales using information on the record. Thus, for this remand redetermination, we have not applied AFA to these sales.

For the remaining U.S. sales, the Department has continued to apply, as AFA, the PRC-wide rate. *See* Memorandum from Ann Fornaro, International Trade Compliance Analyst, to the file through Charles Riggle, Program Manager, "Antidumping Duty Investigation of Carbazole Violet Pigment from the People's Republic of China, Analysis Memorandum for the Final Results of Redetermination Pursuant to Remand for Tianjin Hanchem International Trading Co., Ltd.," dated October 16, 2006, which includes business proprietary information, for further discussion. This rate has changed since the final determination in the investigation. *See* Comment 3 below. *See also* Memorandum from Ann Fornaro, International Trade Compliance Analyst, through Charles Riggle, Program Manager, to Wendy J. Frankel, Office Director, AD/CVD Operations, Office 8, "Antidumping Duty Investigation of Carbazole Violet Pigment from the People's Republic of China, Recalculated PRC-Wide Rate for Final Results of

Redetermination Pursuant to Remand," ("PRC-Wide Rate Memorandum") dated October 16, 2006.

2. *The Department shall further explain its determination that the subsidies Pidilite received did not distort Pidilite's financial ratios.*

In the underlying investigation, the Department calculated surrogate financial ratios (factory overhead, selling, general and administrative expenses ("SG&A"), and profit) for all respondents using data from Pidilite's financial statements. In a simultaneous countervailing duty investigation, the Department found that the government of India was providing countervailable subsidies to Indian producers and exporters of CVP. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Carbazole Violet Pigment 23 from India*, 69 FR 22763 (April 27, 2004). *See also Final Affirmative Countervailing Duty Determination: Carbazole Violet Pigment 23 From India,* 69 FR 67321 (November 17, 2004). In the *Final Determination* the Department stated that "there is no reason not to use Pidilite's financial statements, besides the affirmative CVD determination. Further, the Petitioners have not demonstrated that the subsidies at issue systematically distort Pidilite's financial ratios. In every other respect, we find these financial statements to be the best available information we have on record." *See Final Determination* and accompanying Issues and Decision Memorandum at Comment 1.

The Court states that "{while} it is reasonable that the mere presence of subsidies does not necessarily mean the financial ratios are distorted, Commerce must explain its determination that Pidilite's financial ratios are not distorted by the subsidies it received here." *See Goldlink,* 431 F. Supp. 2d 1323 (CIT 2006) at 1334. The Court remands this issue to the Department "to further explain its determination in detail, specifically how the subsidies Pidilite received did not

distort its financial ratios rendering them unusable." *See Goldlink,* 431 F. Supp. 2d 1323 (CIT 2006) at 1335. The Court instructs the Department that, if on remand it determines that Pidilite's financial statements are distorted, it should review information on the record to determine what the best available information is.

Pursuant to the Court's order that the Department explain specifically how the subsidies Pidilite received did not distort its financial ratios rendering them unusable, the Department provides the following explanation. To implement the statutory directive to include in normal value amounts for "general expenses and profit," the Department usually calculates separate values for SG&A, manufacturing overhead and profit, using ratios derived from financial statements of one or more companies that produce identical or comparable merchandise in the surrogate country. To calculate the SG&A ratio, the Department's practice is to divide a surrogate company's SG&A costs by its total cost of manufacturing. *See*, *e.g.*, *Manganese Metal From the People's Republic of China; Final Results of Second Antidumping Administrative Review*, 64 FR 49447, 49448 (September 13, 1999). For the manufacturing overhead ratio, the Department typically divides total manufacturing overhead expenses by total direct manufacturing expenses. *Id*. Finally, to determine a surrogate ratio for profit, the Department divides before-tax profit by the sum of direct expenses, manufacturing overhead and SG&A. *Id*. These ratios are converted to percentage rates. To calculate the surrogate value for the overhead component of normal value, the Department multiplies the overhead percentage rate by the sum of the surrogate values for direct materials, energy and labor. To calculate the surrogate value for the SG&A component of normal value, the Department multiplies the SG&A percentage rate by the sum of the surrogate values for direct materials, energy, labor and overhead. To calculate the surrogate value for the profit component of normal value, the Department multiplies the profit

percentage rate by the sum of the surrogate values for direct materials, energy, labor, overhead and SG&A.

The overwhelming bulk of countervailable subsidies received by Pidilite is included in the general category "other income" in Pidilite's financial statements. "Other income" is not used by the Department in its calculation of the SG&A or manufacturing overhead ratios. Rather, as stated above, the SG&A ratio is calculated by dividing a surrogate company's SG&A costs by its total cost of manufacturing. Income is not included in SG&A costs or cost of manufacturing. Similarly, income is not included in manufacturing overhead expenses or direct manufacturing expenses. Therefore, the inclusion of subsidies in "other income" does not directly affect the calculation of these ratios and there is no other evidence of distortion due to those subsidies that would affect the calculation of the ratios.

Income, including export incentives, is used in the calculation of the profit ratio, but the effect of the subsidies/export incentives on the profit ratio is insignificant. To calculate the profit ratio, the Department subtracts expenses from income to determine before-tax profit. The Department then divides the before-tax profit by the sum of the values of direct expenses, factory overhead, and SG&A. In the underlying investigation, the Department calculated a profit ratio of 22.94 percent in this manner. Since the countervailable subsidies are included in "other income" in the sub-category "export incentives," if export incentives are subtracted from other income, the resulting profit ratio is 22.65 percent, a difference of only 0.29 percent. Thus any "distortion" with respect to the profit ratio is insignificant. See the attached worksheet, Exhibit 1.

Thus, based upon the information on the record, and the Department's methodology for calculating the financial ratios, there is no indication that the financial ratios calculated by the Department for Pidilite are significantly distorted by the presence of these subsidies.

3. *The Department shall re-examine the surrogate values for benzene sulfonyl chloride, calcium chloride and steam.*

The Department requested a voluntary remand to reconsider the calculation of surrogate values for benzene sulfonyl chloride, calcium chloride and steam. In the *Final Determination,* the Department valued benzene sulfonyl chloride using the wrong HTS number, and valued calcium chloride based on the wrong chemical concentration. In addition, the Department declined to value steam because the only steam values on the record are based on U.S. price quotes.

First, we have recalculated the surrogate value for benzene sulfonyl chloride using the correct HTS category (HTS 29041090) and Indian import statistics. Second, we have recalculated the surrogate value for calcium chloride using prices for 100 percent concentration. Further, we have calculated a surrogate value for steam using an Indian price for natural gas by applying a ratio of British Thermal Units ("BTUs") associated with a fixed unit of steam and natural gas. This information is on the record of this proceeding. *See* Memorandum from Paul Stolz, International Trade Compliance Analyst, to the file, through Charles Riggle, Program Manager, "Antidumping Duty Investigation of Carbazole Violet Pigment from the People's Republic of China, Final Results of Redetermination Pursuant to Remand, Surrogate Value for Steam," dated October 16, 2006. The Department has calculated a surrogate value for steam using this methodology in other administrative proceedings. *See Certain Tissue Paper Products and Certain Crepe Paper Products from the People's Republic of China: Notice of Preliminary Determinations of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination for Certain Tissue Paper Products*, 69 FR 56407 (September 21, 2004) ("*Tissue Paper Prelim*"), as affirmed in the final

determination, *Notice of Final Determination of Sales at Less Than Fair Value: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 7475 (February 14, 2005) ("*Tissue Paper Final*"). *See also Honey from the People's Republic of China: Intent to Rescind and Preliminary Results of Antidumping Duty New Shipper Reviews*, 71 FR 32923 (June 7, 2006) ("*Honey*"). In addition, *see* Memorandum from Paul Stolz, International Trade Compliance Analyst, to the file, through Charles Riggle, Program Manager, "Antidumping Duty Investigation of Carbazole Violet Pigment from the People's Republic of China, Surrogate Values for Final Results of Redetermination Pursuant to Remand," dated October 16, 2006.

Because we have changed our surrogate value selections, we have recalculated the PRC-wide rate as well. In the final determination we calculated the PRC-wide rate using AFA. To do so we relied on the normal values calculated for the respondent companies because the normal value from the petition did not fall within the range of calculated normal values and the U.S. price calculation from the petition (which could be corroborated with respondents' data). As a result of the change in certain surrogate value selections, the respondents' calculated normal values have changed. Consequently, we have re-calculated the AFA and PRC-wide rates using the highest calculated normal value from among all of the respondents in the proceeding. As a result, the PRC-wide rate has changed from 217.94 percent to 241.32 percent. *See* PRC-Wide Rate Memorandum.

4. *The Department shall either include terminal charges and brokerage fees in movement costs or precisely explain its decision not to include such costs.*

In the underlying investigation, where the Department used Indian import statistics to calculate surrogate values, it did not add Indian brokerage fees and terminal charges to the CIF Indian import values. The Court states that in calculating surrogate values, the Department must

account for the full cost of the material input, to ultimately satisfy its obligation to determine the margin as accurately as possible. The Court states that the issue is not whether Pidilite incurs terminal charges and brokerage fees, but whether Chinese producers and exporters incur these charges. *See Goldlink,* 431 F. Supp. 2d 1323 (CIT 2006) at 1339. Furthermore, the Court cites other antidumping proceedings in which the Department has made adjustments for brokerage fees and terminal charges. *Id.* Therefore, the Court remanded this issue to the Department and instructed it to either include terminal charges and brokerage fees in movement costs or precisely and reasonably explain its decision to not include such costs. *See Goldlink,* 431 F. Supp. 2d 1323 (CIT 2006) at 1340.

Consistent with the Court's instructions, the Department provides the following explanation for its decision not to include terminal charges and brokerage fees in movement costs. In this proceeding, we calculated a surrogate value where the Chinese exporters/producers subject to this investigation sourced their material inputs/packing materials from domestic suppliers. It is precisely for that reason that it is not appropriate to add additional amounts for terminal charges or for brokerage and handling fees. When the Chinese producer sources its material inputs/packing materials domestically, using local transportation, truck or rail freight, no port is involved, and, therefore, the producer incurs no terminal port charges or brokerage and handling fees.

The Court notes that there are instances where the Department has adjusted both normal value and export price for such charges. We frequently adjust export price for such charges where the respondent incurs such expenses related to its exports to the United States.[1] The Court

[1] *See, e.g., Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 58672 (October 7, 2005) (unchanged in *Freshwater Crawfish Tail*

cites one instance where the Department adjusted normal value for terminal charges and brokerage and handling fees.[2] In that case, however, the Korean respondent did not have a viable home market. Therefore, the Department considered the respondent's third-country sales to the PRC as a basis for normal value. Because these sales involved exportation to the third-country market, and, thus, incurred terminal charges and brokerage and handling fees, it was appropriate in that instance to adjust for such charges. The circumstances in the instant investigation are different. In the instant investigation, the Department is calculating normal value in accordance with section 773(c) of the Tariff Act of 1930, as amended ("the Act"). Pursuant to section 773(c)(1)(B) of the Act, the Department must "determine the normal value of the subject merchandise on the basis of the value of the factors of production utilized in producing the merchandise and to which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses." It would not be appropriate to determine normal value on the basis of the value of factors of production not utilized or expenses not incurred.

Where we used Indian import statistics to calculate surrogate values for material inputs, the values are reported on a CIF basis. Thus, the reported import values include the costs of transporting the merchandise to India. We apply the Indian value as a surrogate for the domestically sourced Chinese input. If the Chinese producer purchased the material input from a market-economy supplier and paid for it in a market-economy currency, we would normally use

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Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review, 71 FR 7013 (February 10, 2006), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 70 FR 67412 (November 7, 2005) (unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 71 FR 16116 (March 30, 2006).

[2] *See Oil Country Tubular Goods, Other Than Drill Pipe, From Korea: Preliminary Results of New Shipper Review and Antidumping Duty Administrative Review, and Rescission, in Part, of the Antidumping Duty Administrative Review*, 67 FR 57570 (September 11, 2002).

the price paid to the market-economy supplier.[3] If, in doing so, the Chinese producer incurred terminal charges and brokerage and handling fees, we would include values for those expenses. However, the fact that the input is domestically sourced is the precise reason that we apply a surrogate value. It is also the precise reason that it is not appropriate to add a value for terminal charges or brokerage and handling fees. Beginning with the Indian value as the surrogate for the domestically sourced input, we add to the surrogate value an amount for freight. By doing so, we replicate the experience of the Chinese producer as accurately as possible. Where the Chinese producer sourced inputs domestically and did not incur terminal charges and brokerage and handling fees with respect to the purchase of its material inputs, it is not appropriate to add terminal charges and brokerage fees to CIF import values to calculate surrogate values.

5. *The Department shall re-open the record and allow parties to submit new information as necessary.*

As noted above, the Department re-opened the record of this proceeding to request surrogate value information from interested parties with respect to steam. The Department was able to address other issues remanded to it relying on information already on the record of this proceeding.

ANALYSIS OF COMMENTS RECEIVED

List of Comments

Comment 1: *Petitioners and Clariant argue that the Department should continue to apply total AFA to Hanchem.*

Comment 2: *Petitioners and Clariant argue that the Department should value steam using U.S. steam prices.*

[3] *See* 19 CFR 351.408(c)(1).

Comment 3: *Petitioners and Clariant argue that the Department should add terminal charges and brokerage fees to surrogate values calculated using CIF import prices.*

COMMENT 1: ***Petitioners argue that the Department should continue to apply total AFA to Hanchem.***

Petitioners state that it is appropriate for the Department to apply total AFA in calculating Hanchem's margin. However, since the Department has applied partial AFA to calculate Hanchem's margin for this remand redetermination, Petitioners contend that the Department should further address Hanchem's failure to provide information requested throughout the investigation and otherwise address the record evidence that supports the Department's original conclusion that Hanchem did not cooperate to the best of its ability to comply with the Department's request for information.

Clariant states that it fully supports the September 27, 2006, comments filed by Petitioners. Clariant further states that in the Draft Remand Redetermination the Department reversed its original decision to base Hanchem's margin on total AFA. Clariant objects to the Department's decision to use some of Hanchem's sales in the margin calculation and to apply AFA to only certain other sales. Clariant states that the Court did not require the Department to overturn its original decision to apply total AFA to Hanchem, but only to "reasonably support its determination with substantial evidence on the record."[4] Clariant believes that the Department's inability to reconcile the values of some sales undermines the accuracy of Hanchem's entire U.S. sales response and warrants the application of total AFA.

[4] *See* Letter from Clariant to the Secretary of Commerce, "Comments on the Draft Remand Redetermination: Final Determination of Sales at Less Than Fair Value for Carbazole Violet Pigment 23 from China," dated September 27, 2006, at 2, citing *Goldlink Industries Co., Ltd v. United States*, Slip Op. 06-65 (CIT May 4, 2006) at 18.

Department's Position:

In this remand, the Court ordered the Department to re-examine its determination to apply total AFA to Hanchem. In its analysis of the parties' arguments, the Court found "that Commerce's application of total adverse facts available to Hanchem is unsupported by record evidence."[5] The Court further ordered that, if the Department maintained that total AFA was warranted, "then Commerce must reasonably support its determination with substantial evidence on the record other than that which has been previously identified."[6] The Department does not agree with the Court's conclusion that, based on the Department's original analysis, total AFA is not warranted for Hanchem. However, contrary to Petitioner's assertions, the Department has no further evidence to cite in this particular case to support the Department's contention that Hanchem's failure to supply complete and timely information undermined the credibility of the entire U.S. sales database. The Department has, therefore, adopted the second option provided by the Court, which is to apply partial AFA to Hanchem's U.S. sales. The Department has calculated a margin for Hanchem by using the sales for which the Department could trace payments to the company's audited accounts and applying AFA to the other sales, for which the Department could not trace payment in full to the company's audited accounts. This partial AFA calculation yields a margin of 85.41 percent.

COMMENT 2: ***Petitioners and Clariant argue that the Department should value steam using U.S. steam prices.***

Petitioners and Clariant argue that in the Draft Remand Redetermination the Department provides no discussion or rationale for the rejection of the steam surrogate value data Petitioners

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[5] *See Goldlink*, 431 F. Supp. at 1330.

[6] *Ibid.*

placed on the record of this proceeding, other than a passing reference to it being based on U.S. price quotes. Petitioners claim that the Department has not demonstrated why the surrogate value it used based on an Indian value for natural gas, is better data than the U.S. price quotes covering the energy input actually used by the Chinese producer.

Clariant argues that the Department has used U.S. prices as surrogate values in the past when surrogate data is not available from a comparable economy producing comparable merchandise, and that this has been upheld by the CIT.[7] In *Union Camp,* at 850, the Court refers to the Department's statement that it "may use values from the United States or other countries not at a comparable level of development . . . {when} it cannot find those values in a comparable economy that produce comparable merchandise.[8]" In *WIMA* the CIT stated "Commerce's use of U.S. basswood prices as a surrogate value for Chinese lindenwood is based on substantial evidence and otherwise in accordance with law." *See WIMA* at 1185.

Department's Position:

In accordance with section 773(c)(1) of the Act, in general, where the subject merchandise is exported from a non-market economy country, the Department "shall determine the normal value of the subject merchandise on the basis of the value of the factors of production utilized in producing the merchandise." Section 773(c)(4) states that, in valuing factors of production under paragraph (1), the Department "shall utilize, to the extent possible, the prices or

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[7] Clariant cites *Union Camp Corporation v. United States,* 8 F. Supp. 2d 842, 850, 22 C.I.T. 267 (March 27, 1998) ("*Union Camp*") and *Writing Instrument Manufacturers Association v. United States*, 948 F. Supp. 629, 639, 21 C.I.T. 1185 (November 13, 1997) ("*WIMA*").

[8] *See Sebacic Acid From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 10533 (March 7, 1997).

costs of factors of production in one or more market economy countries that are (A) at a level of economic development comparable to that of the nonmarket economy country, and (B) significant producers of comparable merchandise."

Notwithstanding Petitioners' and Clariant's arguments regarding the Department's prior use of U.S. surrogate values, the Department has done so only when no reliable surrogate information was available from a market economy country meeting the criteria specified in section 773(c)(4) of the Act. For instance, while Clariant cited the CIT's decision in *WIMA*, upholding the Department's use of U.S. basswood prices as a surrogate value for Chinese lindenwood, the Department used U.S. basswood prices only after exhaustive research failed to produce surrogate values from surrogate countries at a level of economic development comparable to that of the PRC.[9] However, in numerous other proceedings, the Department has declined to use surrogate values from countries, including the United States, that are economically more advanced than the PRC.[10]

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[9] *See Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils From the People's Republic of China*, 59 FR 55625 (November 8, 1994), where the Department stated that while section 773(c)(4) of the Act "directs the Department to value the NME factors of production in a comparable surrogate country that is a significant producer of comparable merchandise, this is required only to the extent possible. In this case, where wood is such a significant input and where the only alternative to the basswood price, a price for jelutong, is so much higher than the most comparable wood, we have determined that it is appropriate to use the most comparable wood even though we can only find prices for this input in the United States."

[10] *See, e.g., Sebacic Acid From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 10530 (Friday, March 7, 1997) ("A U.S. or Japanese value in this case is not representative of a PRC value because neither the U.S. nor Japan are at a level of economic development comparable to that of the PRC."); *Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 12651 (March 15, 2005) and accompanying Issues and decision Memorandum at Comment, where the Department declined to use proposed U.S. and Japanese surrogate values because those countries are not at a level of economic development comparable to the Romania); and *Notice of Final Determination of Sales at Less Than Fair Value: Barium Carbonate From the People's Republic of China*, 68 FR 46577 (August 6, 2003), and accompanying Issues and decision Memorandum at Comment 1c, where the Department rejected a proposed surrogate value based on a price quote from an Australian producer to a U.S. customer because the Department did "not consider the United States to be a potential surrogate for the PRC."

Therefore, where we have reliable surrogate value data from a market economy country that meets the criteria set forth in section 773(c)(4) of the Act, we prefer to use that data. Accordingly, pursuant to the statute and in keeping with this longstanding practice, we would only consider the U.S. prices suggested by Petitioners absent useable, reliable data from a surrogate country meeting the statutory criteria. The usefulness of steam in the production process is based on its BTU content, and natural gas can easily be converted on a BTU basis to a steam equivalent. Therefore, for the final remand redetermination, we are continuing to use price data for natural gas (converted on a BTU basis to a steam equivalent) from the primary surrogate country, India, to calculate a surrogate value for steam. The Department has used this methodology in a number of antidumping proceedings in the past.[11] This methodology is reasonable because the CVP producer is ultimately purchasing heat energy, or BTUs to be used to manufacture CVP. Heat energy can be produced via various means including electricity, natural gas and steam. The means/materials used to produce heat energy can be compared in terms of BTUs. For example, the U.S. steam price data submitted by Petitioners for the record of this proceeding states that "Steam heat is sold in thousands of pounds (Klbs). A klb contains about one million British Thermal Units (BTU's) of heat energy, which is equivalent to 12.5 therms of natural gas or 293 kilowatt-hours of electricity at typical conversion efficiencies."[12]

Thus, because we have on the record of this proceeding a BTU equivalent price for steam based on an Indian value for natural gas, there is no need, in valuing steam, to resort to data from

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[11] *See, e.g. Tissue Paper Prelim,* as affirmed in the final determination, *Tissue Paper Final. See also Honey.* In addition *see Certain Cased Pencils from the People's Republic of China; Preliminary Results of Antidumping Administrative Review and Intent to Rescind in Part,* 70 FR 76755 (December 28, 2005), as affirmed in the final determination, *Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 71 FR 38366 (July 6, 2006).

[12] *See* Petitioners' August 24, 2004, submission.

the United States, which is not at a level of economic development comparable to that of the PRC.

COMMENT 3: ***Petitioners and Clariant argue that the Department should add terminal charges and brokerage fees to surrogate values calculated using CIF import prices.***

Petitioners and Clariant argue that when calculating surrogate values using CIF import values, the Department must add additional costs incurred before the product is free and clear of the delivery port. Petitioners argue that this would best replicate the total material input cost incurred by the Chinese producer. Petitioners argue that under CIF terms the seller is responsible for the cost, freight, and minimum insurance coverage to deliver merchandise to the named port of destination. Petitioners claim that the buyer is responsible for brokerage fees and terminal and handling charges at the port of destination. Petitioners argue that the Department is mistakenly considering CIF to be CIF "landed at sellers expense" which would include the cost of brokerage fees, terminal and handling charges. Petitioners argue that CIF does not include the cost of brokerage fees, terminal and handling charges and that these charges are the responsibility of the buyer. Therefore, Petitioners argue that if the cost of brokerage fees, terminal and handling charges are not added to the CIF value, the surrogate value is understated.

Clariant claims that the Department stated in its Draft Remand Redetermination that it is not appropriate to add terminal and brokerage costs to CIF import values because the Chinese exporters sourced their inputs domestically and did not incur terminal charges or brokerage and handling fees. Clariant argues that the Department has used Indian CIF import prices which include ocean freight and insurance as part of the surrogate value even though the Chinese exporters sourced their material inputs domestically and did not incur ocean freight or insurance. Clariant argues that the Department has failed to provide a rational basis for excluding movement

costs for brokerage and terminal charges while including international transport costs, ocean freight and insurance, included in CIF values.

Department's Position:

In the instant investigation, the Department is calculating normal value in accordance with section 773(c) of the Act. Pursuant to section 773(c)(1)(B) of the Act, the Department must "determine the normal value of the subject merchandise on the basis of the value of the factors of production utilized in producing the merchandise and to which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses." Where the Chinese producer sourced inputs domestically, and did not incur terminal charges and brokerage and handling fees with respect to the purchase of its material inputs, it is not appropriate to add terminal charges and brokerage fees to CIF import values to calculate surrogate values.

We find that there is no inconsistency in this approach even though CIF import values include freight and insurance that the Chinese producer did not incur. Based upon the Federal Circuit's reasoning in *Sigma Corporation v. United States*, 117 F. 3d 1401, 1407-08 (Fed. Cir. 1997), it is reasonable to treat an Indian import price, which includes insurance and freight, as if it were an Indian domestic price, which does not include insurance and freight. The market will render the two prices essentially equivalent. It follows that the Indian import price is a reasonable surrogate for a Chinese domestic price, regardless of whether the Chinese producer actually incurred all of the component charges in the Indian import price. Once the Department has identified its surrogate for the Chinese domestic price, the Department will only add in inland freight charges that reflect the actual experience of the Chinese producer.

Thus, use of a CIF Indian import price as the basis of surrogate value is not inconsistent with not adding in import and brokerage fees, provided that import and brokerage fees were not actually incurred by the Chinese producer.

FINAL RESULTS OF REMAND REDETERMINATION

We have recalculated the antidumping duty rates applicable to Goldlink, Trust Chem, Hanchem, Nantong and the PRC-wide rate in accordance with this final redetermination as shown in the chart below.

Exporter/Manufacturer	***Final Determination*** **Weighted-Average Margin Percentage**	**Redetermination Weighted-Average Margin Percentage**
Goldlink	5.51	12.46
Trust Chem	27.19	39.29
Hanchem	217.94	85.41
Nantong	44.50	57.07
PRC-Wide Entity	217.94	241.32

This redetermination is in accordance with the order of the Court in *Goldlink.*

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David M. Spooner
Assistant Secretary
for Import Administration

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Date