**FINAL RESULTS OF REDETERMINATION PURSUANT TO COURT REMAND**

**A.      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 ("CIT" or

the "Court") in Dorbest Limited, et al. v. United States, Consol. Court No. 05-cv-00003 (October

31, 2006) ("Dorbest et al. v. United States").  The Court's opinion and remand order have been

issued with regard to the Notice of Final Determination of Sales at Less Than Fair Value for

Wooden Bedroom Furniture from the People's Republic of China, 69 FR 67313 (November 17,

2004) ("Final Determination"), and accompanying Issues and Decision Memorandum ("Issues

and Decision Memorandum"), as amended by, Notice of Amended Final Determination of Sales

at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the

People's Republic of China, 70 F.R. 329 (Jan. 4, 2005) ("Amended Final Determination and

Antidumping Duty Order").

The Court remanded the following issues to the Department for further administrative

proceedings consistent with the Court's opinion and order: 1) calculation of the labor wage rate;

2) valuation of hooks and connectors; 3) valuation of resin; 4) use of Indian import data to value

mirrors; 5) selection of surrogate companies for the calculation of the financial ratios; 6)

valuation of cardboard; 7) valuation of metal spare parts; 8) valuation of non-scope metal

canopies and other metal parts; and 9) treatment of certain expenses on incoming raw materials.

The Department requested, and the Court granted, a voluntary remand on the latter three issues. See Order in Dorbest et al. v. United States.

In accordance with the Court's instructions, in our draft remand redetermination, we analyzed information on the record of the underlying investigation with respect to the remanded issues. Consistent with the Court's remand order, the Department, in the draft remand results, revised as appropriate the remanded components of litigants' margin calculations, including Dorbest's margin calculation using the best available information on the record. Specifically, in issuing the draft remand results, we: 1) recalculated the labor rate for Rui Feng Woodwork Co., Ltd., Rui Feng Lumber Development Co., Ltd. and Dorbest Limited (collectively, "Dorbest"); 2) explained our valuation of Dorbest's hooks and connectors; 3) recalculated the margin for Dorbest based on a revised surrogate value selection for resin input; 4) recalculated Dorbest's margin based on a revised surrogate value selection for mirror inputs; 5) revised the selection of surrogate companies for calculating financial ratios for all mandatory respondents; 6) explained our valuation of Dorbest's packing cardboard; 7) eliminated the spare parts discount adjustment to Dorbest's U.S. price, 8) removed non-scope metal parts from Dorbest's normal value calculation; 9) treated certain expenses regarding Dorbest's incoming raw materials as direct material costs rather than as a deduction from U.S. prices; and 10) recalculated the Section A rate (also referred to as "separate rate") for all Section A respondents (also referred to as "separate rate" respondents) using the fully revised mandatory respondents' rates.

After reviewing comments received by parties in response to the Department's draft remand redetermination, the Department made certain revisions to its calculation. The Department revised its calculation of the surrogate labor rate for Dorbest only.

On issues where Dorbest was plaintiff, we revised Dorbest's margin. On issues where the Petitioners were plaintiffs, we revised the margins for all mandatory companies in the original investigation. For parties that received a separate rate that were not plaintiffs in this litigation, we have revised the separate rate as a result of the revised margins resulting from Petitioners' remanded issues only.[1] We will be applying this revised rate to the companies that are exporters. The specific issues giving rise to the Department's recalculations are described below, in the Analysis section of this final redetermination, within the respective subheading.

## B. ANALYSIS

### 1. *Department's Wage Rate Calculation*

During the investigation, the Department calculated a surrogate wage rate for the People's Republic of China (the "PRC") in accordance with its regression-based methodology set forth in 19 CFR 351.408(c)(3). The plaintiffs challenged several aspects of this calculation before this Court. The Court remanded the wage rate calculation and instructed the Department to "either (a) justify why its data set constitutes the best available information; or (b) incorporate those countries meeting its criteria into the data set; and (c) reconsider its use of its methodology or an alternative method for determining the labor rate for the PRC in this case."

*(1) Selection of Data for the Regression Model (i.e., Basket of Countries)*

With respect to the data set used to calculate the wage rate applied in this case, the Court instructed the Department to "either (a) justify why its data set constitutes the best available

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[1] In our draft results, we also applied the changes in Dorbest's margin to the intervening litigants. However, as explained more fully in our response to the parties' comments, because the intervening parties were not interveners in Dorbest's lawsuit, we determine they are not entitled to changes that flow from Dorbest's lawsuit and have corrected our error in the final remand redetermination.

information; or (b) incorporate those countries meeting its criteria into the data set. . ." See

Order in Dorbest et al. v. United States. Pursuant to the Court's instructions, the Department has

reconsidered the data set used in this case and, as more fully described below, determined to

include all data that meet the Department's suitability requirements and that were available at the

time the 2004 wage rate was calculated.[2]

With respect to whether to expand its data set, the Department acknowledged in the Final

Determination that, while it might be necessary to expand the data set, the Department required

more time than was available in the context of the investigation to examine additional data, and

determine an accurate construction based on such additional data. See Issues and Decision

Memorandum at Comment 23. As a result, the Department relied only on data that the

Department had opportunity to examine at the time it made its determination.

Since the Department's determination, the Department has had the opportunity to

reexamine its methodology, including how data are selected in the calculation of the wage rate.

On June 30, 2005, the Department published a detailed description of its methodology for the

calculation of expected NME wage rates and a request for comment. See  Expected Non-Market

Economy Wages:  Request for Comment on Calculation Methodology, 70 FR 37761 (June 30,

2005) ("Wage Rate FR").  The Department considered the comments received in response to the

Wage Rate FR, many of which echoed concerns raised in the course of this litigation.  The

Department subsequently published a notice on October 19, 2006, that detailed its revised

methodology for calculating expected NME wage rates in antidumping proceedings involving

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[2]  All of the data relied upon in the Department's recalculated 2004 wage rate for the PRC for purposes of this
remand were downloaded on or around December 13, 2004, i.e., wage rate data from the International Labor
Organization ("ILO"), Gross National Income per capita ("GNI") from the World Bank, and exchange rate and
Consumer Price Index ("CPI") data from International Financial Statistics.

NME countries. See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716 (October 19, 2006) (hereafter, "Antidumping Methodologies Notice").

Although the revised methodology is being applied on a prospective basis in other cases, it directly addresses the Court's concern that during the investigation, the Department may have excluded data that otherwise meet the Department's selection criteria. Unlike at the time of the investigation, however, the Department has since improved the process by which it examines all available data to determine which data should be included in its regression analysis. Therefore, the Department determines that applying the new methodology when calculating the wage rate in our remand results will address the Court's concern that data from certain countries were ignored during the investigation.

In examining the data available, and in examining its wage rate methodology in light of the comments received, the Department agreed that the basket of countries upon which the regression is based should be expanded to include all countries for which data are available. A broader data set represents the "best information available" for purposes of calculating the regression, as it better ensures accuracy and fairness. See Antidumping Methodologies Notice, 71 FR at 61721. The revised data set, used in this remand determination, will therefore include all data that meet the Department's suitability requirements, as described in Annex I attached, which include contemporaneity and that earnings data cover both men and women and all reporting industries in the country.

In addition, the Department noted in the Antidumping Methodologies Notice that the ILO defines "earnings" under Chapter 5 of its Yearbook of Labour Statistics as being inclusive of "wages," and as including both bonuses and gratuities. The Department determined that, to

ensure that its calculation of expected NME wage rates accurately reflects the remuneration received by workers, it should rely on "earnings," not "wages," as the "best information available." For these remand results, the Department has thus relied on "earnings" from Chapter 5b of the ILO's Yearbook of Labour Statistics.

Finally, in the Department's previous methodology, the Department included data from Chapter 5 of the Yearbook of Labour Statistics that had been reported within five years of the Base Year, thereby considering a total of six years of data. (The "Base Year" is the year upon which the regression data are based and is two years prior to the year in which the Department conducts its regression analysis.) During the course of reviewing its methodology, the Department concluded that the inflation of data up to five years could reduce the accuracy of the calculation, as wage rate data that are potentially six years old may not represent the wage dynamics in labor markets today. Moreover, given the significant availability of more contemporaneous data, inflating old data is no longer necessary to achieve an acceptably large basket of countries.[3] Therefore, following the revised methodology, in this remand determination, the Department has relied only on ILO wage rate data that have been reported within one year prior to the Base Year (in the present calculation for the purposes of this remand, the base year is 2002), thereby considering a total of two years of data, (i.e., 2001 and 2002).

The Department believes that the revised methodology, arrived at after a period of public notice and comment, fully addresses the Court's concern with regard to full inclusion of all data that meet the Department's selection criteria. Therefore, the Department has revised the 2004 expected wage rate for the PRC using this revised version of the methodology for the purposes

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[3] For example, 61 economies reported suitable data within one year of 2002 for the Department's revised 2004 wage rate attached.

of this remand, relying on all suitable data that were available in 2004.

*(2) The Wage Rate Methodology*

In addition to concerns regarding the basket of countries relied on in the Department's regression analysis, the Court further raised several concerns with respect to whether the Department's regression methodology produces an accurate result. We address each of these concerns, in turn, below.

*a. The Regression Model Does Not Create Distortion*

In its opinion, the Court states that the Department's regression model "appears to produce distorted results." See Dorbest et al. v. United States at 77. Specifically, the Court points to India as an example, noting that India's wage rate as reported to the ILO is US $0.21, but that if the Department's regression model were used to estimate India's wage rate, it would yield a higher result. See id. at 77-78. The Court further noted that the regression methodology appears to produce distorted results because it would produce a positive wage rate for a country with a hypothetical GNI of zero. See id. at 78. As explained below, the Department cannot purport to produce perfect wage rates with its regression methodology, as no estimate ever can claim such precision. However, there is no inherent distortion in the regression model that would lead to systematic overestimation of wages.

The Department acknowledges that its regression line provides only an estimate of what an NME's hourly wage rate would be, based on wage rate and GNI data from market economies available through the ILO. As with any estimate based on a pool of data, some data will fall

above the estimate and some data will fall below the estimate.[4]  This is illustrated in Graph One,

the plot line from the Department's revised 2004 calculation attached in Annex II.

*India's Wage Rate*

The Court's examples, however, focus only on those reported wage rates, such as for

India, that fall below the regression line.  See Dorbest et. al v. United States at 79.  As Graph

One of Annex II shows, however, there are also a significant number of wage rates that fall

above the line, i.e., economies for which the regression line would "understate" wage rates.

Even confining this analysis to those economies classified by the World Bank in 2002 to be low-

income economies (US $735 or less) and lower-middle income economies (between US $735

and US $2,935), i.e., the two classifications that encompass all of the Department's NMEs, seven

out of 20 wage rates fall above the regression line. This is also illustrated in Annex IV, which

presents all 61 countries' actual wages relied upon in the Department's revised 2004 calculation

for purposes of this remand, as well as the wages that would be estimated using that regression.

The 22 countries that have been highlighted in the chart are those which lie above the regression

line, i.e., the regression line would "underestimate" these wage rates.  The table in Annex IV,

like Graph One in Annex II, shows that the Department's regression-based methodology does not

distort or systematically overestimate wage rates in general nor the wage rates of poor countries

specifically.  Rather, the regression line serves to smooth out the differences in the reported

wage rates.

India's wage rate is the lowest reported wage rate in the Department's data set, despite

not being the lowest GNI per capita.  This wage rate is not viewed as an anomaly, but as another

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[4] When a data point falls above the regression line, the estimated wage rate based on the regression line would
naturally be lower than the actual wage rate, i.e., "understated".  Conversely, when the data point falls below the
line, the estimated wage rate based on the regression line would naturally be higher, i.e., "overstated."

piece of data that informs the regression line.   However, given that India's wage rate is so much

lower than that of other countries in relation to its GNI, <u>any</u> estimation method that relied on data

from other countries would be expected to generate an estimate higher than India's actual

reported wage of US $0.21.  Table 1 below shows what the expected wage rate for India might

be using a variety of methods.

**Table 1**

**Estimating India's Wage Rate**[5]

Table 1 presents the results of five methods for estimating what India's wage rate could have
been in 2002, given its **2002 GNI of US $470**, as well as the difference between these estimates
and the **actual reported hourly wage rate of US $0.21** that India reported to the ILO in 2002.

| Regression-Based | | Single Wage Rate | | Average Closest Eight | | Average $500-range | | Average $1000-range | |
|---|---|---|---|---|---|---|---|---|---|
| Wage | Difference from  0.21 | Wage | Difference from 0.21 | Wage | Difference from 0.21 | Wage | Difference from 0.21 | Wage | Difference from 0.21 |
| .55 | .34 | 0.32 to 0.94 | 0.11 to 0.73 | 0.67 | 0.46 | 0.49 | 0.28 | 0.56 | 0.35 |

Because India's wage rate is so low relative to its GNI, each method "overstates" India's

wage rate.  This table illustrates how focusing on a single data point, such as India's, can lead to

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[5] The first column estimates India's wage rate based on the results of the Department's revised calculation applied in
this remand determination, with the important exception that India's data have been excluded.  <u>See</u> Annex III.  Wage
Rate = GNI* .000478 +.324516.  The second column presents the range of wage rates that the Department might
choose if it were to select one country's wage rate as a surrogate value for labor for a country with a GNI of US
$470. (See the table in Annex IV, which lists the countries relied upon, in order of ascending GNI, in the Department
recalculation of the 2004 estimated wage rate for purposes of this remand.) The third column presents a wage rate for
each NME arrived at by averaging the wage rates reported by eight market economies with the closest GNIs to US
$470.  The fourth and fifth columns present a wage rate for each NME arrived at by averaging the wage rates
reported by market economies with GNIs approximately US $500 and US $1000 higher and lower than US $470.
Each method relies on all data available in the Department's revised 2004 expected NME wage rate, not including
India's data.

an appearance of distortion where there is none. As discussed in detail below, the Department's

regression methodology is superior to these other averaging methods or a single wage rate

because the regression methodology is basically a variable average, which smooths out the

variations in the data, ties the estimated wage rate directly to each NME's GNI, and provides

predictable results that are as accurate as possible.

*Regression Through The Origin*

With regard to the Court's concern of an apparent distortion arising out of a positive

"constant," or "y-axis intercept," it is not appropriate to impose a theoretical constraint on the

calculation of expected NME wage rates. See Dorbest et. al v. United States at 78. This

technique is known as regression through the origin, or "RTO." As a general matter, the

Department has never attempted to estimate a wage for a country with zero GNI because such a

country does not exist. In fact, the lowest reported per capita GNI in Annex IV is US $420, a

figure that is far from zero. Because the data points drive the regression line, and because no

country has a zero wage rate, the intercept will never, in reality, be zero. For a more detailed

discussion of why Dorbest's suggestion that the Department's use of RTO is inappropriate for

purposes of the Department's wage rate calculation, please see Comment 1-E, below.

While there is no way to ensure that the estimated wage rate for a "hypothetical" market

economy is perfect, the Department employs its regression methodology, based solely on the all

the actual data that meet the Department's criteria, to minimize potential distortions in its

variable average wage calculation. As described above, this includes using all earnings data that

best reflect the dynamics of contemporaneous labor markets and represent both men and women

in all reporting industries. This large basket of data is less susceptible to both the country-by-

country, as well as the year-on-year, variability in data than all other suggested methods, and

enables the Department to arrive at the most accurate, predictable and fair surrogate value for labor.

  b.  *Use of China's GNI is Appropriate*

The Court further remanded the Department's wage rate "for an explanation as to why Commerce finds the PRC's GNI data to be sufficiently reliable to utilize in a regression analysis."  See Dorbest et al. v. United States, at p. 82.   The Department acknowledges that the GNI of an NME such as the PRC may reflect, at least to some extent, non-market income data, which are inherently unreliable.  However, the Department finds that each NME's GNI, as published in the World Bank Indicators, is the "best available" metric for establishing economic comparability for all surrogate values, including labor.  There are no other sources or metrics available which would be untainted by the non-market nature of the economy underlying an NME's GNI, nor has such a metric been suggested.  Further, an NME's GNI is the metric that the Department routinely uses in NME cases to establish economic comparability of the surrogate country used to value all other surrogate values.  Given that there is no better source available or suggested, the Department finds no reason to deviate from its practice of relying on the PRC's GNI in this case.

Though the Department cannot ensure that each NME's GNI is untainted from any non-market influence, it can at least rely on third parties such as the World Bank, which is a highly reputable intergovernmental organization with reliable data collection methods.  The World Bank collects national account data and converts GNI into U.S. dollars from national currencies in a consistent manner.  GNI data are collected from national statistical organizations and central banks by visiting and resident World Bank missions, and in high-income, developed countries, the World Bank utilizes data from Organization for Economic Co-operation and Development

("OECD") data files. The World Bank then applies the Atlas conversion factor to data from all countries alike, to reduce the impact of exchange rate fluctuations in the cross-country comparison of national incomes. See Annex V attached.

> c. *The Department's Wage Rate Methodology Provides the Most Accurate Wage Rate In Light of Information Available*

On remand, the Court further instructed the Department to "reconsider its use of its methodology or an alternative method for determining the labor rate for the PRC in this case." In considering the comments received in response to the Wage Rate FR, as well the concerns raised in the context of this litigation, the Department has considered a number of alternative methods for arriving at expected wage rates for NMEs, including choosing a single wage rate from an economically comparable market economy, averaging the wage rates of economically comparable market economies, and running the regression only on economically comparable countries. While these alternatives may appear to be less complex and therein have intuitive appeal, the Department found, as explained herein, that none of these alternatives reduces the potential for distortion or increases either fairness or predictability. Rather, the regression methodology is preferable because it allows the Department to rely on the broadest data set possible to arrive at a wage rate that is directly tied to each NME's GNI.

> *Wage Rate from a Single Surrogate Country*

For example, when it was examining its wage rate methodology, the Department received comments arguing that it should abandon its regression-based calculation of expected NME wage rates and, instead, revert to its former use of a single surrogate value. Antidumping

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Methodologies Notice, 71 FR at 61720-21. However, in addition to being inconsistent with its regulations (19 C.F.R. 351.408(c)(3)), this proposal would lead to highly variable results, which would undermine the accuracy, fairness and predictability of the Department's calculations.

As the Department noted in the Proposed Rule, while there is a strong positive correlation between wage rates and GNI (the r-square for the Department's revised 2004 calculation attached was .86, indicating an extremely strong relationship between GNI and wage rates), there is also variation in the individual wage rates of comparable market economies. See Proposed Rule, 71 FR 7308, 7345; Final Rule, 62 FR 27296, 27367. The Department's revised 2004 regression attached hereto illustrates this variability. For example, the observed hourly wage rates for market economy countries with national incomes below US $1,000 ranged from US $0.21 to US $0.94; the observed hourly wage rate for market economies with GNIs approximately $600 higher and lower than the PRC (with a GNI of US $960) ranged from US $0.21 to US $1.43. (See revised 2004 calculation attached.) Therefore, if the Department adopted this suggestion in a proceeding involving the PRC, values for labor might range from US $0.21 to US $1.43, depending on which economically comparable country is selected as the surrogate.

This inevitable variability in the underlying ILO data is especially true in the case of the poorer countries where wage rates can be so low that even a difference of a few cents can appear to be enormous if represented in percentage terms. The Department is able to avoid this variability through the regression-based methodology for estimating wage rates due to the availability of reliable wage rate data and the consistent relationship between wage rates and GNI over time. The Department relies upon what is, in essence, a variable average, i.e., an average wage rate of all market economies, indexed to each NME's level of economic

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development <u>via</u> its GNI.  Under the Department's regression methodology, the value for labor will be the same in every proceeding involving a given NME.  This enhances the fairness and predictability of the Department's calculations.

*Other Averaging Methods*

Table 2 below, in which the Department presents a comparison of potential "averaging" methods that could be used to arrive at expected wage rates for NMEs, demonstrates how the Department's regression-based methodology smooths out the variability in the data, while also including all the data that meet its criteria.  The methods are the same as those described in Table 1.  The third column presents the Department's regression-based calculations of expected NME wage rates based on the revised methodology applied in this remand determination.  The fourth column presents a wage rate for each NME arrived at by averaging the wage rates reported by eight market economies with the closest GNIs to each NME.  The fifth and sixth columns present a wage rate for each NME arrived at by averaging the wage rates reported by market economies with GNIs approximately US $500 and US $1000 higher and lower than each NME, respectively.

**TABLE 2**

**Estimates of NME wages using a variety of methods**

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| Country | 2002 GNI | Expected NME Wage Rate | Average Closest Eight | Average $500-range | Average $1000-range |
|---|---|---|---|---|---|
| Tajikistan | 170 | **0.40** | 0.52 | 0.30 | 0.43 |
| KyrgyzRepublic | 290 | **0.45** | 0.52 | 0.46 | 0.48 |
| Vietnam | 430 | **0.52** | 0.52 | 0.43 | 0.48 |
| Uzbekistan | 460 | **0.53** | 0.52 | 0.43 | 0.48 |
| Moldova | 470 | **0.54** | 0.52 | 0.43 | 0.52 |
| Azerbaijan | 720 | **0.66** | 0.52 | 0.48 | 0.65 |
| Georgia | 720 | **0.66** | 0.52 | 0.48 | 0.65 |
| Ukraine | 780 | **0.69** | 0.52 | 0.48 | 0.75 |
| Armenia | 810 | **0.70** | 0.52 | 0.48 | 0.77 |
| Turkmenistan | 870 | **0.73** | 0.52 | 0.48 | 0.77 |
| China | 960 | **0.77** | 0.65 | 0.54 | 0.77 |
| Belarus | 1,380 | **0.97** | 0.94 | 0.92 | 0.79 |

Expected NME Wage Rate = GNI*.000478+.314174.  See Annex II.

As is apparent from this chart, the Department's regression-based methodology allows the Department to estimate a wage rate that is as closely tied to each NME's GNI as possible. For example, if the Department were to average the wage rates of the eight countries closest to the GNI of each NME, the Department would arrive at the counterintuitive result of an estimated wage rate of US $0.52 for all NMEs with GNIs ranging from US $170 to US $870.  Similarly, there were no reported wage rates in the Department's data set with GNIs lower than US $420. Therefore, any estimated wage rate for NMEs with GNIs lower than $420 would be based solely on economies with higher GNIs.  In contrast, the regression line allows the Department to extrapolate the data to estimate the fairest wage rate for countries such as Tajikistan and the Kyrgyz Republic.  Table 2 shows that the estimated wage rate for these two countries is US $0.40 and US $0.45 respectively, while averaging the closest eight results in US $0.52.

Finally, and most importantly, the Department also considered the potential effects of the year-on-year inclusion or exclusion of any one data point.  Countries do not necessarily

report a suitable wage rate to the ILO every year. (India, for example, did not report a suitable

1999 and 2000 wage rate to the ILO, as evidenced by the Department's need to inflate 1998 data

for the September 2003 calculation of expected NME wages based on 2001 data. See

http://ia.ita.doc.gov/wages/01wages/01wages.html.) Therefore, the number and composition of

the countries in the basket may vary unavoidably from year to year. As shown below, a larger

basket of data and the more-stable regression-based methodology best weathers the inevitable

year-on-year changes in the data set and minimizes the potential for dramatic year-to-year

variability in the estimated wage rates.

Hypothetically, for instance, if India's wage rate were not available in 2002, the wage

rates arrived at through straight averaging shown in Table 3 change significantly.[6] Table 4

presents the difference in wage rates arrived at using a data set with India versus wage rates

based on the same data set without India. While the wage rates based on the Department's

regression-based methodology remain relatively stable without India (viz., the estimated wage

rate for each NME based on the Department's regression methodology rises about US $0.01), the

wage rates based on straight averages rise between US $0.02 and US $0.15 (on average US

$0.07). Because the Department's regression line is based on a very broad data set, and

therefore is  not highly dependent on each and every data point, it is not as susceptible to the

inevitable variability in the data. This leads to more predictable and fair calculations.

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[6] See Annex III for the calculation. This calculation is only for the purposes of this remand and is identical to that presented in Annex II, except that India's data have been excluded. Therefore, following the data compilation and regression methodology described in the Antidumping Methodologies Notice and Annex II herein, with the single exception of excluding data from India, and using GNI and wage data for Base Year 2002, the regression results are: Wage = GNI*.000478+.324516.

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**TABLE 3**

**Estimates of NME wages using a variety of methods**, **excluding data from India**

| Country | 2002 GNI | Expected NME Wage Rate | Average Closest Eight | Average $500-range | Average $1000-range |
|---|---|---|---|---|---|
| Tajikistan | 170 | **0.41** | 0.67 | 0.34 | 0.49 |
| Kyrgyz Republic | 290 | **0.46** | 0.67 | 0.54 | 0.53 |
| Vietnam | 430 | **0.53** | 0.67 | 0.49 | 0.53 |
| Uzbekistan | 460 | **0.54** | 0.67 | 0.49 | 0.53 |
| Moldova | 470 | **0.55** | 0.67 | 0.49 | 0.56 |
| Azerbaijan | 720 | **0.67** | 0.67 | 0.53 | 0.69 |
| Georgia | 720 | **0.67** | 0.67 | 0.53 | 0.69 |
| Ukraine | 780 | **0.70** | 0.67 | 0.53 | 0.79 |
| Armenia | 810 | **0.71** | 0.67 | 0.53 | 0.80 |
| Turkmenistan | 870 | **0.74** | 0.67 | 0.53 | 0.80 |
| China | 960 | **0.78** | 0.67 | 0.62 | 0.80 |
| Belarus | 1,380 | **0.98** | 0.94 | 0.92 | 0.83 |

Expected NME Wage Rate = GNI*.000478+.324516.  See Annex III.

**TABLE 4**

**A comparison of estimates based on a data set including India and estimates based a data set excluding India,** i.e., a comparison of Table 2 and Table 3

| Country | 2002 GNI | Expected NME wage Rate | Average Closest Eight | Average $500-range | Average $1000-range |
|---|---|---|---|---|---|
| Tajikistan | 170 | 0.01 | 0.15 | 0.04 | 0.06 |
| Kyrgyz Republic | 290 | 0.01 | 0.15 | 0.08 | 0.05 |
| Vietnam | 430 | 0.01 | 0.15 | 0.06 | 0.05 |
| Uzbekistan | 460 | 0.01 | 0.15 | 0.06 | 0.05 |
| Moldova | 470 | 0.01 | 0.15 | 0.06 | 0.04 |
| Azerbaijan | 720 | 0.01 | 0.15 | 0.05 | 0.04 |
| Georgia | 720 | 0.01 | 0.15 | 0.05 | 0.04 |
| Ukraine | 780 | 0.01 | 0.15 | 0.05 | 0.04 |
| Armenia | 810 | 0.01 | 0.15 | 0.05 | 0.03 |
| Turkmenistan | 870 | 0.01 | 0.02 | 0.05 | 0.03 |
| China | 960 | 0.01 | 0.02 | 0.08 | 0.03 |
| Belarus | 1,380 | 0.01 | 0.00 | 0.00 | 0.04 |

*Economically Comparable Countries*

A similar problem arises with limiting the regression to data from economies at comparable levels of development to each NME.  See Antidumping Methodology Notice.

The Department found that restricting the basket of countries to include only countries that are economically comparable to each NME is not feasible and would undermine the consistency and predictability of the Department's regression analysis.  A basket of "economically comparable" countries could be extremely small.  For example, there are only five countries with GNIs less than US $1,000 in the Department's revised 2004 expected NME wage rate calculation attached and many NME countries' GNIs are around this range.  Like the "averaging" methods described above, a regression based on an extremely small basket of countries would be highly dependent on each and every data point.  In that case, the inclusion or exclusion of, for example, India, would have an even starker effect.

Relative basket size would not be such a critical factor if there were a perfect correlation between GNI and wage rates. If this were the case, a precise regression line could be derived from suitable data from only two countries. However, as the Department has noted repeatedly, while there is a strong world-wide relationship between wage rates and GNI, there is nevertheless variability in the data. For example, in the data relied upon for the Department's revised 2004 calculation for purposes of this remand, observed wage rates did not increase in lockstep with increases in GNI in the five countries with GNIs less than US $1,000: Nicaragua, with a GNI of US $720, had reported a wage rate of US $0.94 per hour, while Sri Lanka, with a GNI of US $850, had reported a wage rate of US $0.33 per hour. See Annex IV.

As stated above, a larger basket minimizes the effects of any single data point and thereby better captures the global relationship between wage rates and GNI. More data are, therefore, better than less data for the purposes of the Department's regression analysis, provided they are suitable and reliable. See Proposed Rule, 71 FR 7308, 7345; Final Rule, 62 FR 27296, 27367.

*OLS versus GLS*

Finally, as the Court notes, certain parties in this proceeding have argued that the Department should use a generalized least squares ("GLS") methodology for its regression analysis to account for heteroscedasticity in the data set. With regard to the use of such an alternative regression methodology, the Department notes that in its Proposed Rule, the Department explicitly stated that it would utilize an Ordinary Least Squares ("OLS") regression analysis. See Proposed Rule, 71 FR at 7345. OLS regression analysis is a commonly used tool that is a basic component of any statistical analysis package. Like all statistical tools, the OLS analysis has certain limitations and cannot account for all characteristics of any given data set,

including heteroscedasticity. One of the assumptions of the OLS regression analysis is that the variance of the error terms is constant across observations. If the variance of the error terms is not constant, the error terms are considered heteroscedastic. As discussed fully in our response to Comment 1-F, below, heteroscedasticity is not relevant to the Department's calculation of expected NME wage rates.

Furthermore, the data set upon which the Department bases its regression analysis changes on an annual basis. The Department does not consider it necessary or prudent, especially in light of its stated intention to use an OLS analysis, to decide on a year-by-year basis whether or not the level of heteroscedasticity in a given year's data would weigh in favor of using a GLS regression analysis. Instead, the OLS regression analysis allows the Department to rely on a simple, easily duplicated methodology that enhances the fairness, predictability and transparency of the Department's antidumping duty calculations, while also ensuring their accuracy.

*(3) Conclusion*

For these reasons, consistent with the regulation, the statute and with this Court's order, the Department's revised wage rate calculation applied to this case relies on a significantly larger basket of countries. A larger basket maximizes the accuracy of the regression results, minimizes the effects of the potential year-to-year variability in the basket, and provides predictability and fairness. Importantly, the Department notes that economic comparability is established in the regression calculation through the GNI of the NME in question, which ensures that the result represents a wage rate for a country economically comparable to the NME. Using the revised data set, the recalculated wage rate for the PRC in this investigation is US $0.77. See Annex II for details on the calculations.

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**COMMENTS ON THE DEPARTMENT'S LABOR RATE METHODOLOGY AND CALCULATION FOR PURPOSES OF THIS REMAND**

**Comment 1-A:  Clerical Error:  Incorrect Selection of Country-Specific Wage Rate**

Dorbest states that the Department incorrectly calculated country-specific wage rates for Spain, Poland, and the United Kingdom by averaging two wage rates (one related to "wage earners" and one related to "employees") for each country.  Instead, based on the Department's stated selection criteria, Dorbest argues that the Department should have relied on only the preferred "wage earner" wage rate.

Petitioners argue that Dorbest is incorrect in stating that the Department averaged two wage rates to arrive at the appropriate wage rate for Spain.  Rather, there is only one wage rate for Spain that meets all of the Department's criteria - the wage rate that the Department used.  Further, Petitioners argue that the Department appropriately averaged two wage rates, which were identical in all fields of categorization, to arrive at the appropriate wage rate for Poland and the United Kingdom.

Department's Position:

The Department agrees with Petitioners.  The Department has examined and considered these clerical error allegations of Dorbest, and is uncertain as to which data Dorbest is relying on.  With respect to Spain, there is only one wage rate that meets all of the Department's criteria and the Department did not average two wage rates.  See Annex V.

With respect to Poland and the United Kingdom, as shown in Annex VI and VII, the Department properly averaged the two identical wage rates for each country that met all of the Department's criteria.

**Comment 1-B:  Clerical Error:  Incorrect Exchange Rate**

Dorbest states that the Department incorrectly applied an exchange rate of .944 to the

U.S. wage rate that was already denominated in U.S. dollars in the Department's recalculation of

wage rates for purposes of this remand. Petitioners did not comment on this error directly, but

accounted for this error by applying the correct exchange rate of 1 to its calculations presented in

its April 10, 2007, submission.

Department's Position:

The Department agrees with Dorbest, and has used the correct exchange rate of 1 for the

U.S. wage rate in the expected NME wage rate calculated for purposes of this remand. The

Department has also made these corrections to the tables presented above.

**Comment 1-C: Clerical Error: Serbia & Montenegro Improperly Excluded From the Basket of Countries.**

Dorbest noted that the Department excluded Serbia and Montenegro from the regression

data on the basis that no CPI index was available for this country. Dorbest argues, however, that

since this country reported a wage rate for 2002, which met all other selection criteria, the

Department cannot exclude the wage rate for Serbia and Montenegro on this basis. Rather, the

only information relating to Serbia and Montenegro not available in the Department's raw

dataset is a 2002 exchange rate. Dorbest argues that specific, uncontroversial exchange rates are

widely available from a variety of sources and suggested that the Department use an exchange

rate from the CIA Factbook.

Petitioners agree with Dorbest that CPI data is not necessary when the labor rate data are

available for the base year and, therefore, the Department did not need CPI data for Serbia and

Montenegro. Petitioners argue that, were the Department to accept a practice of going outside of

its standard data sources, there are a number of other economies for which it could have obtained

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missing exchange rates or GNI data.  In addition, Petitioners note that the CIA Factbook, cited

by Dorbest as a source for an exchange rate for Serbia and Montenegro, states that all data

related to population in that country may be in error because of ongoing military actions,

indicating that <u>per</u> <u>capita</u> GNI for Serbia and Montenegro is unreliable.  Finally, Petitioners

argue that if the Department were to accept Dorbest's suggestion to use an exchange rate derived

from outside its usual sources, and which was not placed on the record until after the conclusion

of the underlying investigation, the Department should also use the most recently posted wage

rate data from the ILO.

<u>Department's Position</u>:

The Department agrees in part with Petitioners.  First, CPI data is not necessary when the

labor rate data are available for the base year and, therefore, the Department did not need CPI

data for Serbia and Montenegro.  The Department, in Annex II, explains why Serbia and

Montenegro was excluded from the basket of countries.

As a general matter, the Department does not consider it prudent or fair to engage in the

practice of going outside of its standard data sources for its regression analysis, which would

only encourage "cherry-picking" data to drive the wage regression, leading to debates regarding

rationale for including or excluding certain data points, such as CPI, GNI and exchange rates.

Instead, the Department has chosen sources that it believes are consistently reliable and has

received no comment to the contrary.

Moreover, with respect to the Department's calculation for purposes of this remand, as

explained fully in our response to Comment 1-G, the Department also notes that it is relying on

the data available in December 2004.  An exchange rate for Serbia and Montenegro is not

available within that dataset.

**Comment 1-D: Distortions**

Dorbest argues that despite improvements to the basket of countries in the Department's recalculation of the wage rate for purposes of this remand, the estimator as applied to 2002 data (corrected for clerical errors) continues to indicate an upward bias in the wage estimates for lower wage countries. Dorbest presents a table with a subset of 12 low-wage countries that indicates that the predicted wage rate for 10 of the 12 countries is significantly higher than the actual wage rates, with an average difference of US $0.16 per hour, or 25 percent. Dorbest argues that almost 2/3 (38) of the 61 countries in the Department's wage rate calculation for purposes of this remand, as well as 2/3 of the low- and lower-middle income countries, have wages that are lower than the estimated wages, which Dorbest argues is evidence that the Department's regression results in an overstatement of wages for most countries.

Petitioners argue that Dorbest's sample of countries is biased and that the countries have been chosen to illustrate its point. Moreover, despite Dorbest's claims that the 12 countries were selected on the basis of having actual wage rates less than US $1.00, Ecuador's actual wage is US $1.43. Petitioners argue that if one compares the actual and predicted wages for all 20 lowest income countries, the average predicted wage is only US $0.02 higher than the average actual wage, a difference that is less than two percent of the average actual wage. Petitioners argue that this result suggests that the Department's regression actually provides a very good prediction for lower income countries.

Department's Position:

The Department agrees with Petitioners. As discussed in detail above, with any estimate based on a pool of data, some data will fall above the estimate and some data will fall below the

estimate. Dorbest's chart has selectively chosen data points to prove its point. The table in

Annex IV presents a more complete picture.

As discussed above, the table in Annex IV illustrates that there are also a significant

number of wage rates that fall above the line, i.e., economies for which the regression line would

"understate" wage rates. For example, wage rates for seven of the lowest income countries (20

countries) fall above the regression line. Moreover, the average "overestimation" of wage rates

for all lowest income countries is only US $0.02. This is not a distortion, let alone the

significant distortion that Dorbest purports. Rather, the Department's methodology results in

reliable, undistorted estimates of wage rates, including wage rates for low-income countries.

**Comment 1-E: Regression Through the Origin (RTO)**

Dorbest does not dispute that, in general, there is a positive relationship between wages

and GNI and that, given this relationship, a regression analysis will necessarily be a better

predicting method for wage rates than a simple average, which does not take into account the

upward sloping relationship. However, Dorbest argues that in rejecting the RTO variation of the

OLS method, the Department has selected an "inaccurate statistical means of modeling the

relationship between wages and income." Specifically, Dorbest argues that with a constant term

of .29, a hypothetical country with a zero GNI would still have the resources to pay its workers a

positive wage of US $0.29, which is logically impossible. To correct this, Dorbest argues that

the Department should adopt the RTO technique, which may be appropriate in applied

econometrics if there is a strong reason to believe that when the variable is zero, the dependent

variable is also zero. Dorbest cites to several examples where RTO may be appropriate, such as

the Capital Asset Pricing Model, Friedman's permanent income hypothesis and cost analysis

theory. In addition, Dorbest utilized three diagnostic metrics: (1) testing the constant term for

significance, using the dataset's t-statistic, (2) comparing the standard error of the estimators with and without RTO to assess which estimator provides a superior fit, and (3) comparing the confidence interval of the GNI coefficients of both estimators to support the use of RTO. Dorbest argues that the Department can easily apply RTO, as it is available in the Excel program relied upon by the Department in calculating its expected NME wage rates. Finally, Dorbest argues that the linear relationship assumed by the Department is not the only possible relationship between per capita GNI and the hourly wage, proffering instead a relationship of constant elasticity, i.e., a one-percent change in income is associated with a certain percent change in the wage. However, Dorbest is not suggesting at this stage that such an approach must be adopted by the Department. Rather, Dorbest argues that the potential for a non-linear relationship explains why the linear-based OLS approach continues to be distortive and why the RTO approach will generate more accurate results.

Petitioners cite Dr. Gujarati's text relied upon by Dorbest to caution against the use of RTO, stating that "(u)nless there is very strong a priori expectation, one would be well advised to stick to the conventional intercept-present model." Further, Petitioners argue that there is no statistical anomaly in having a positive intercept (or "constant") term and cite to Eisenhauer's text, also relied upon by Dorbest, to illustrate why RTO may not be appropriate:

> If the data are far from the origin, we have no evidence that the linearity
> applies over this expanded range. For example, the response may increase
> exponentially near the origin and then stabilize into a near linear response
> in the region of the typical inputs. Alternatively, observations at the origin
> may represent a discontinuity from an otherwise linear function with a
> positive or negative intercept.
>
> See Petitioners' April 10, 2007, submission at 11, citing to Basic Econometrics
> at 159, Eisenhauer.

Petitioners argue that if the true relationship between wages and income are nonlinear near the origin, RTO causes a bias that leads to an under-estimation of wages in low-income countries.  For example, wages may be zero at zero income, but jump up discretely to meet subsistence needs and then develop quickly into a linear relationship at observed income levels, a situation directly envisioned in the Eisenhauer quote above.  Petitioners compare the results of two regressions based on 2002 wage rate data.  In this table, predicted wages based on regression results *without* employing RTO are, on average, $0.02 higher than actual wages.  In contrast, the regression results *with* RTO underestimate wages for the same lowest income countries by over $0.27, or 26.6 percent of the actual wage.  In short, Petitioners argue that the RTO method only serves to artificially deflate wages and illustrates the kind of self-serving statistical and econometric debates that will ensue if the Department were to deviate from its standard OLS regression, which would only lead to the loss of predictability and fairness.

Department's Position:

The Department agrees with Petitioners. As a general matter, the use of RTO  needs to be approached with considerable caution.  In some limited cases, testing certain econometric models can involve such theoretical constraints.  However, the Department is *not* testing an econometric model, which appears to be the misapprehension of Dorbest.  In fact, the Department's wage rate calculation is not an exercise in econometrics at all.  Econometrics relates to the development and application of quantitative or statistical methods to the study of economic principles in order to test economic hypotheses.  Rather, the Department is using a statistical tool, regression analysis, to generate a *variable* average of wages, i.e., an average wage that varies with per-capita GNI.  Simply put, the Department is using regression analysis as

a reasonable tool to draw the most appropriate line (the variable average) through the existing universe of ILO wage data that meet the Department's criteria.

Dorbest argues that the "Department's use of OLS implicitly assumes a linear relationship between GNI and the hourly wage rate." This is true. As discussed above, the Department is not testing a hypothesis related to this relationship, but rather, the Department is relying on the relationship between wages and GNI to arrive at a variable average for hourly wage rates, indexed to each NME's GNI. Dorbest does not dispute that there is a positive relationship between wages and GNI. Dorbest states further that the Department is "rejecting an approach that produces theoretically consistent results for a hypothetical country in favor of an approach that produces demonstrably biased results for in-sample countries." The Department believes that it is neither reasonable nor fair to place a constraint on the calculation that is "theoretically consistent for a hypothetical country" over a method that provides the best fit with the actual data, with the result to be applied to the actual NME countries and respondents involved.

For this reason, RTO, which represents a constraint on an econometric model, makes no sense because there is no econometric model. The regression line must be unconstrained to achieve the best fit of the entire universe of wage and income data. Because this wage rate calculation is not an exercise in econometric modeling, the Department does not theorize on the precise nature of the relationship between wage rates and GNI near the origin. Rather, the Department notes that the universe of relevant data does not indicate that the intercept relating to this universe of data is zero. Rather, as Petitioners' comparisons of the regression results with and without RTO indicate, it is more likely that RTO is inappropriate, especially for poorer

countries whose data will necessarily be closer to that potential leverage point: zero GNI, zero wage rate.

Finally, Dorbest's discussion of a possible non-linear relationship is misplaced. Both RTO and the GLS method (see Comment 1-F below) suggested by Dorbest are linear regression methods.

## Comment 1-F: Heteroscedasticity

Dorbest states that the OLS technique is considered the best available estimation technique when the so-called "classical assumptions" hold true, including the assumption that the error term must have constant variance, but that OLS is not the best estimation technique when heteroscedasticity (i.e., when the variance of the error terms in not constant) is present, which can be detected using a number of diagnostic tests on the residuals, such as the Park Test, the White test, and the ARCH test. Dorbest presents a table that illustrates that the dispersion of error terms is different in groups of countries categorized by income. Dorbest argues that there is a greater dispersion of error terms in the group of high-income countries than in the group of low-income countries, which Dorbest argues is the textbook example of heteroscedasticity. Dorbest argues that the Department's reasoning for not employing the GLS methodology, which Dorbest states is the recommended statistical technique to correct for heteroscedasticity, is flawed for three reasons. First, Dorbest argues that while the commentary to its proposed rules may have stated that the Department will use OLS, the Department's regulations that were adopted did not specify the use of OLS. Second, the presence of heteroscedastic error terms ensures that OLS is not the best linear unbiased estimation technique and, therefore, the Department is incorrect in stating that OLS ensures accuracy despite the presence of heteroscedasticity. GLS would correct for heteroscedasticity when it is present and would not be

employed when it was not. Therefore, the Department would not need to assess on a year-to-year basis whether GLS should be employed. Third, the OLS technique tends to overestimate the wages of low-income countries and is therefore likely to overestimate the wages of low-income NMEs. As such, GLS would be more appropriate. Dorbest argues that the Department should routinely test for heteroscedasticity and, if present, apply the more valid statistical technique of GLS. Dorbest applies the "White's" test to the OLS regression results to show that there is strong evidence of heteroscedasticity and applies the Weighted Least Squares (WLS) approach, which Dorbest states is a standard GLS approach, available in SAS, when heteroscedasticity is present. Dorbest notes that the WLS regression still results in an intercept (or constant) that is higher than zero (see the discussion on RTO above), which may be the result of a non-linear relationship between wages and GNI. Dorbest argues that WLS is nevertheless superior to OLS for statistical reasons.

Petitioners argue that the reliability of the "minimum variance estimator" is the only relevant implication of not accounting for heteroscedasticity in a regression. Petitioners cite to Dr. Gujarati's text relied upon by Dorbest to establish that the Department's OLS methodology remains unbiased and consistent and, as a result, any prediction made using the OLS methodology remains unbiased as well. Petitioners also argue that it is not easy to either detect or correct for heteroscedasticity. Petitioners state that the Department has not argued that it is precluded from using another method, such as GLS, but rather that it has a longstanding policy and consistent practice of utilizing OLS since the Final Rule was published in 1997.

Finally, Petitioners argue that the Department is bound by its regulations to calculate a wage rate based on a methodology that applies to all proceedings, viz., the Department's regulations do not permit the Department to calculate a wage rate using a methodology that is

tailored to a specific investigation of review. Accordingly, having already rejected the suggestion and explained its rationale for continuing to use OLS rather than GLS, the Department is bound by its regulations to apply the same approach, i.e., OLS, in the recalculation of the wage rate for purposes of this remand.

Department's Position:

The Department agrees in part with Petitioners. First, as stated above, the Department reiterates that its use of regression analysis is not an exercise in econometrics. Rather, the Department utilizes regression analysis as a tool to arrive at a variable average. The wage and income data that underlie the Department's calculations comprise the entire relevant universe of data, i.e., wage and income data that meet the Department's reliability criteria. This is in contrast to an econometric model, which posits a hypothesis on the basis of an economic theory, including a number of assumptions regarding the dispersion of data, etc. In this latter case, the hypothesis is tested using a sample of data from the entire universe of data because it is usually impossible to have a pool of data that represents the entire actual universe of data. The Department, however, is not conducting an econometric exercise to test a hypothesis regarding wages and GNI on a sample of data. Rather, the Department is using all available data that meet its reliability criteria to arrive at a variable average for wage rates, using the regression analysis as a reasonable tool to do so.

Therefore, the OLS regression output results (such as the t-statistic, etc.) that provide information about the hypothesis, the econometric model and the underlying assumptions are not relevant for the Department's purposes. The only relevant aspect of the regression is the line itself, which represents the variable average of the entire universe of data.

Heteroscedasticity is not relevant to the Department's calculation of expected NME wage rates. However, even if the Department's regression analysis were to be characterized as an econometric model, the potential for heteroscedasticity would not affect the unbiasedness of the estimator. See Dorbest April 5,2007, submission, exhibit 6, Basic Econometrics at 381 (Dr. Gujarati's text, cited by both Dorbest and Petitioners, "heteroscedasticity does not destroy the unbiasedness and consistency properties of the OLS estimators," which is to say, that the line is unbiased and consistent). OLS is a reasonable method for the Department to employ to arrive at an unbiased estimator. In both a statistical and overall sense, OLS, which minimizes the sum of errors, is the best averaging tool for the Department's calculation of expected NME wage rates.

The Department also agrees with Petitioners that heteroscedasticity is not easily detected or corrected for, as evidenced by the many tests and potential correction methods presented in the econometric and statistical texts in the exhibits of Dorbest's April 5, 2007, submission. By contrast, OLS is easily replicated in Excel, which enhances the transparency of the Department's regression analysis, and has proven very useful, especially in light of the Department's recently initiated practice to request comment on its annual wage rate calculations.

Finally, the Department agrees with Petitioners' argument that our regulation intends that, because labor is a crucial input that exists in every case, the same methodology should apply across all cases. It would, therefore, be counter to the purpose of the stated goals of producing a stable, predictable wage rate to apply varied wage rate methodologies across different cases.

**Comment 1-G: Data Set Used in the Wage Regression**

Petitioners argue that the data downloaded in December 2004 and utilized by the

Department in calculating a wage rate for the purposes of this remand are stale and result in a

significant understatement of wages.  Further, the Department has significantly altered the data

parameters of the wage rate calculation by broadening the basket of countries and changing the

time periods relative to the base year from which data can be used.  Petitioners argue that

applying such a new methodology to stale data would impermissibly result in a calculation of

distorted dumping margins.  Citing to Borlem S.A.-Empreedimentosindustriais v. United States,

913 F.2d 933, 937 (Fed. Cir. 1990) ("Borlem"), Petitioners argue that when an intervening

agency action results in the use of a different methodology, a subsequent determination on

remand should be based on updated information necessary to implement that revised

methodology.  Because the Department is making a new decision, based on a new methodology,

with regard to the wage rate, the Department should use the most accurate data.

Dorbest notes that the Department is using the same dataset that it used in the first

remand on this issue and the Department did not make any changes in the data for countries that

are common between the calculations for the first and second remands.  Dorbest argues that

Petitioners are incorrect that intervening changes in methodology nullify the December 2004

dataset.  Dorbest argues that the change in methodology is the result of the arguments put forth

by Dorbest.  Dorbest argues that Petitioners have not previously argued that the 2002 data were

stale or that the Department should update the December 2004 dataset and should be precluded

from arguing an issue that has already been decided by the Court.  Dorbest also points out that

Petitioners do not claim that the updated data were "available" to the Department in December

2004.  Dorbest contends that the changes to the wage and GNI data noted by Petitioners in the

2007 data do not undermine the Department's original determination, nor is there an error

alleged on the part of the government, and no gross error in the data is alleged. In sum, Dorbest concludes that Petitioners failed to allege any error in the Department's use of information available to it at the time of the original determination, and therefore, the Department should reject the use of the updated 2007 data.

Department's Position:

We disagree with Petitioners that, in this instance, it is appropriate to use new data that were not available at the time of our original investigation to calculate our revised wage rate for purposes of this remand determination. When the Court invalidated our wage rate calculation in this case, the Department relied on the 2002 (as updated in 2004) data that would have been available to it at the time of our initial calculation. Because we were able to abide by the Court's remand order and complete our remand determination using these data, there is no need to seek additional data, or to rely on data that were not available to the Department at the time of the original determination in 2004.

We further disagree that the data relied upon is "stale" as alleged by Petitioners. Each year, due to the length of time needed for the World Bank to update its statistics, the Department calculates the wage rate based on data from two years prior. For example, in this case, we used 2002 data to calculate the 2004 wage rate. The World Bank, however, continually updates its data, such that by 2007, the 2002 data have been updated even further. However, it does not render the data relied upon for our 2004 wage rate inaccurate, as it was simply the best available information at the time of our determination. While the Department responded to the Court's remand order using a revised methodology, there is no reason to rely on data that were updated in 2007 to calculate a 2004 wage rate. Also, other than not being available in 2004, Petitioners have failed to allege any other reason as to why the 2004 data are insufficient in this instance.

The Court in Dorbest further affirmed the appropriateness of using data that were available at the time of our original determination. See Dorbest et al. v. United States at 86-87. Accordingly, we will be using data currently on this record that were available at the time of our 2004 calculation to calculate the revised wage rate in this remand.

**2.      *Valuation of Hooks and Connectors***

In the Final Determination, the Department determined that Dorbest's factor inputs for hooks and connectors should be valued using Indian Harmonized Tariff System ("HTS") subheading 8302.4200 ("other fittings etc. suitable for furniture") because the subheading used in the Preliminary Determination, Indian HTS 8302.1009, was no longer a valid HTS category. See Issues and Decision Memorandum at Comment 19. Dorbest challenged the Department's use of subheading 8302.4200 to value hooks and connectors and argued that the Department should have used the Indian HTS subheading suggested by Dorbest and which the Department used in the Preliminary Determination. The Court remanded the Department's valuation of hooks and connectors "for a fuller explanation or use of a different subheading." See Order in Dorbest et. al. v. United States. In accordance with the Court's remand instructions, we have reexamined our use of subheading 8302.4200 and considered how the selected subheading reflects the factor inputs. As discussed below, we continue to find that HTS subheading 8302.4200 is the best available information to value Dorbest's hooks and connectors.      In analyzing whether the chosen subheading was appropriate, we first considered the evidence on the record with respect to the description of these inputs. Dorbest described (1) its connectors as "3/4 inch iron bed post connector…" and "copper tube for connecting wood…" and (2) its hooks as "Iron hooks used for connecting the bed…." See Dorbest's May 26, 2004, submission, Re:

Response to the Department's Request of HTS Data in Wooden Bedroom Furniture from the People's Republic of China (Investigation A-570-890) ("Dorbest HTS Submission").  There is no information on the record to suggest that the description of these inputs is not accurate nor has any party suggested otherwise.

Next, in accordance with the Court's instructions, we have compared the description of the subheading relied upon in the Final Determination to the inputs being valued.  In the Final Determination, the Department relied on the Indian HTS subheading 8302.4200 as "mountings, fittings and similar articles" that are "suitable for furniture."  See Issues and Decision Memorandum at Comment 19.  Also, in its HTS Submission, Dorbest's description was defined as Indian HTS subheading 8302.4200 "Hardware, fixtures, castors etc. and parts, base metal: Other fittings etc suitable for furniture."  See Dorbest HTS Submission at Attachment 1. Accordingly, based on this information, we determine that HTS subheading 8302.4200 relates to hardware made out of metal that is suitable for furniture.  To determine whether "mountings, fittings, and similar articles" include hooks and connectors, we have considered the definition of fittings and mountings.  A fitting is "a small detachable part for a machine or an apparatus" and a mounting is "something that provides a backing or appropriate setting."  See Webster's II New Riverside University Dictionary (1988).  Although we find that the mounting definition bears no relationship to hooks and connectors, we do find that there is a relationship between fittings and hooks and connectors.  Given Dorbest's description of hooks and connectors, we determine that it is reasonable to find that these inputs fall within the definition of a metal fitting suitable for furniture and would be classified under HTS subheading 8302.4200.

Although the Department finds that the subheading relied upon in the Final Determination would include hooks and connectors, and is the best category for which to value

Dorbest's hooks and connectors inputs, we considered whether other HTS subheadings would be more specific to the inputs in question. Regarding the HTS subheading suggested by Dorbest, 8302.1009, we note that in contrast to subheading 8302.4200, which appears to include hooks and connectors, Dorbest's suggested subheading appears to exclude hooks and connectors because it is specific to "hinges and parts thereof." See Dorbest HTS submission at Attachment 1. By definition hinges are "a jointed or flexible device that allows the turning or pivoting of a part, as a door or lid, on a stationary frame." See Webster's II New Riverside University Dictionary (1988). Moreover, Dorbest separately reported a factor input for hinges, suggesting that hooks and connectors are different from hinges. Based on Dorbest's descriptions of hooks and connectors, these inputs are used to connect parts of the bed for which one would not expect to have turning or moving parts. Accordingly, in addition to being an expired category, because the HTS subheading suggested by Dorbest is limited to "hinges and parts thereof," and the record evidence supports a finding that hooks and connectors are not hinges, we determine that HTS subheading 8302.1009 is not appropriate to value hooks and connectors. Additionally, in a review of the Indian HTS, we have found no other subheadings that are more specific to the input in question. Consequently, we continue to find that the Indian HTS subheading used in the Final Determination, 8302.4200, represents the best available surrogate to value Dorbest's hooks and connectors because the subheading appears to include hooks and connectors, and there are no subheadings that are more specific to the inputs in question.

**Comment 2:  Valuation of Hooks and Connectors**

No party commented on this issue.

*3.      Valuation of Resin Applique*

In the Final Determination, the Department determined that Dorbest's factor input resin

applique should be valued using Indian HTS subheading 3926.3090 ("other articles of plastics

and articles of other materials … fittings for furniture, coachwork, or the like") because the

subheading used in the Preliminary Determination, Indian HTS 3926.4009, was no longer a valid

HTS category.  See Issues and Decision Memorandum at Comment 19.  Dorbest challenged the

Department's use of subheading 3926.3090 to value resin applique and argued that the

Department should have used the Indian HTS subheading suggested by Dorbest and which the

Department used in the Preliminary Determination.  The Court remanded the Department's

selection of the resin value.  See Order in Dorbest et. al. v. United States.  As discussed below,

upon further and closer examination of the record, we have found that the HTS subheading we

selected was not the best available in that it was not the category that most closely resembled the

factor input.  We have determined for purposes of the redetermination pursuant to remand that

Indian HTS subheading 3926.4099 represents the best available information to value resin

applique.

In accordance with the Court's remand instructions, we first considered whether Dorbest

is representing its input to be ornamentation and then considered what the appropriate

subheading would be to reflect the input as described by Dorbest.  See id. at 113.  To determine

whether the input is ornamental in nature, we analyzed the information on the record with

respect to the nature of the input used by Dorbest.  As an initial matter, we note that the use of

the word "applique" in the name of the input suggests that the input is ornamental in nature since

by definition an "applique" is a decoration or ornament.[7]  Moreover, in its HTS submission

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[7] Webster's II New Riverside University Dictionary (1988) defines applique as "a decoration or ornament, as in
needlework, made by cutting pieces of one material and attaching them to the surface of another."

Dorbest described the input as "PVC and polymer used for decorating." See Dorbest HTS

Submission at Attachment 1. There is no information on the record to suggest that the

description of this input is not accurate nor has any party suggested otherwise. Accordingly,

based on the information on the record, we determine that the input resin applique is ornamental

in nature.

Having determined that the input is ornamental, we considered what the appropriate

subheading should be. We first considered the Indian HTS subheading used in the Final

Determination and the subheading suggested by Dorbest. Indian HTS subheading 3926.3090,

used in the Final Determination, covers "other articles of plastics and articles of other materials

… fittings for furniture, coachwork, or the like." A fitting by definition is "a small detachable

part for a machine or apparatus" and as such is not ornamental. See Webster's II New Riverside

University Dictionary (1988). Indian HTS subheading 3926.4009, the subheading recommended

by Dorbest, covers "articles of plastics (inc. polymers & resin)." See Dorbest HTS Submission

at Attachment 1. While both subheadings pertain to plastic products, only the subheading

suggested by Dorbest, 3926.4009, appears to include articles that are ornamental in nature.

However, we have determined not to use the subheading suggested by Dorbest because it

represents an expired category that is not contemporaneous with the period of investigation

("POI") and we do not find that inflating an expired category that has been phased out and will

never be used again in the future constitutes the best available information, particularly when

other valid, contemporaneous categories that meet the description of Dorbest's factor input are

available. Specifically, in reviewing the Indian HTS, we found a subheading that more directly

relates to the input in question: Indian HTS subheading 3926.4099 covers "other articles of

plastics: other statuette & other ornamental articles NES." Because this subheading is specific

to the input in question (i.e., covers plastic ornamental articles) and is contemporaneous with the POI (and accordingly does not represent an expired HTS category), we have determined this to be the best available surrogate with which to value Dorbest's resin applique. Moreover, we note that there is a close overlap in the description of HTS subheading 3926.4099 selected and the HTS subheading proposed by Dorbest, 3926.4009, in that both appear to include plastic ornamental articles, which further supports the proposition that the selected HTS subheading is specific to Dorbest's input. For source documentation and a worksheet detailing the average unit value for imports into India under HTS 3926.4099 during the POI, see Dorbest Calculation Memorandum for Remand Results.

**Comment 3: Valuation of Resin Applique**

Dorbest argues that it was improper and unnecessary for the Department to reopen the factual record to select a new HTS number to value Dorbest's resin applique. Dorbest states that the Department should have relied on the HTS subheading it provided to value resin applique, HTS 3926.4009, and applied an appropriate inflator to make the value contemporaneous. Dorbest claims that the CIT remanded the surrogate value selection for resin applique to the Department for two reasons: 1) it was unclear to as to whether Dorbest's input was "ornamental" in nature; and 2) the Court overruled the Department's reliance on contemporaneity as the basis for rejecting the value proposed by Dorbest. Dorbest notes that in its draft remand determination, the Department determined that Dorbest's input is "ornamental" and subsequently abandoned the HTS number used in the Final Determination (HTS 3926.3090) because it applies to furniture fittings and not ornamental articles. Dorbest explains that the Department found that the surrogate value it suggested, HTS 3926.4009, fits the description of Dorbest's input, but rejected it for the same reason expressed during the investigation, because it pre-dated the POI.

Citing the original remand order, Dorbest argues that the CIT specifically instructed the Department that contemporaneity was not by itself a sufficient reason to reject Dorbest's input. See Dorbest et. al v. United States, at 112 ("the use of contemporaneity as the sole justification for its decision does not comport with Commerce's statements that contemporaneity is but one of several criteria when selecting surrogate value information.")  Consequently, Dorbest asserts that the Department's continued insistence on rejecting HTS number 3926.4009 flies in the face of the Court's order on this point.  Moreover, Dorbest argues that because the HTS category selected by the Department, 3926.4099, was not part of the record during the course of the proceeding, the Department's inclusion of import statistics relating to this HTS now unlawfully expands the administrative record beyond that which is reviewable under statute.  Dorbest contends that because the import statistics related to HTS 3926.4099 were not "presented to" the Department, "developed by" the Department, or "obtained by the Department during the original investigation," they do not fall within the Department's regulatory definition of the record pursuant to 19 CFR 351.104(a)(1).  Dorbest asserts that the remand order did not empower the Department to reopen the factual record to gather new HTS import information, but rather overturned the Department's reliance on contemporaneity as the sole basis for rejecting Dorbest's suggested HTS number.

Dorbest contends that it is inappropriate and unnecessary for the Department to place new information on the record.  However, Dorbest maintains that if the Department continues to rely on Indian HTS 3926.4099, it should consider information from Infodrive.  Dorbest claims that the Infodrive data reveal that there are numerous instances of misclassified products within HTS 3926.4099.  Specifically, Dorbest states that HTS 3926.4099 improperly includes plastic pellets, plastic beads, resin clock, figures (made of polyresin), and photo frames, all of which

Dorbest claims should be classified under different HTS numbers. <u>See</u> Dorbest's April 5, 2007,

submission at Exhibit 12. Dorbest claims that the fact that it was able to uncover these problems

with the Department's new HTS in the short time allotted to it for reviewing the draft remand

confirms the underlying policy reason for not re-opening the record for new surrogate values

when not directed by the Court. Dorbest argues that it should not be required to re-litigate an

issue already decided by the Court especially since the Department provides no new reason for

refusing to use the surrogate value suggested by Dorbest. Dorbest states that if the Department

continues to use HTS 3926.4099, it should remove HTS imports from the United States and

Singapore as these imports were only made in one month of the POI and because they exceed the

average unit value of the other countries by 300 percent or more. As support for excluding

aberrational values, Dorbest cites to <u>Hebei Metals & Minerals Import & Export Corporation and</u>

<u>Hebei Wuxin Metals & Minerals Trading Co., Ltd. v. United States</u>, 2004 Ct. Intl. Trade LEXIS

89; Slip Op. 2004-88 (July 19, 2004) ("<u>Hebei Metals</u>").

Petitioners argue that the Department's draft remand results properly valued Dorbest's

resin applique. Petitioners maintain that Dorbest has mischaracterized the CIT decision and

remand order. Petitioners assert that while the Court said that contemporaneity could not be the

sole factor in the Department's selection of an HTS classification, this was not the primary basis

for the CIT's remand of the Department's valuation of Dorbest's resin applique. Petitioners

explain that the remand order stated only that "Commerce's valuation of resin is remanded" and

that the Court did not direct the Department to use Dorbest's proposed HTS classification on

remand if it found that the resin input was ornamental in nature. <u>See</u> <u>Dorbest et. al v. United</u>

<u>States</u>, at 113. Petitioners contend that the Court's remand order is consistent with the broad

discretion afforded to the Department under the statute to select the appropriate surrogate value

to value the factors of production. See Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1999); Luoyang Bearing Corp. v. United States, 347 F.Supp 2d 1326, 1353 (Ct. Int'l Trade 2004); Shanghai Foreign Trade Enters. Co. v. United States, 318 F.Supp. 2d 1339, 1350 (Ct. Int'l Trade 2004). Petitioners argue that consistent with the statute, the Department exercised its discretion and determined that HTS 3926.4099 constituted the "best available information" based on the description of the factor provided by Dorbest, the description of the Indian HTS subheading, and the contemporaneity of the value with the POI. Petitioners claim that Dorbest has not argued that the HTS classification selected by the Department does not match or relate to its factor of production. Moreover, Petitioners contend that the Department acted consistently with the CIT's instructions when it used the Monthly Statistics of Foreign Trade in India ("MSFTI") data to select HTS 3926.4099 since the Indian and MSFTI data were available in their entirety to the Department during the investigation and were used in the investigation to calculate surrogate values for all of respondents' factors of production that were not determined to be market economy inputs.

With respect to Dorbest's use of the Infodrive data, Petitioners argue that the Department should reject the information consistent with its stated preference in the draft remand results given that there is no evidence that Infodrive India data with respect to HTS 3926.4099 include all imports into India. Moreover, Petitioners contend that Dorbest has not alleged or demonstrated that any of the alleged misclassifications are distortive. Petitioners also urge the Department to reject Dorbest's claim that the average unit value data for the imports under HTS 3926.4099 from the United States are aberrational. Citing Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from the People's Republic of China, 69 FR 34125 (June 18, 2004) ("Bags from the PRC"), and accompanying Issues and

Decision Memorandum at Comment 6, and <u>Certain Helical Spring Lock Washers from the People's Republic of China</u>, 58 FR 48833 (September 20, 1993) ("<u>Lock Washers</u>"), Petitioners claim that it is not the Department's policy to reject import values simply because the values are too high or too low. Petitioners also maintain that it is inappropriate to reject the import data from the United States and Singapore because they are not based on a small quantity of imports in comparison to other countries. <u>See</u> <u>Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China</u>, 63 FR 16758 (April 6, 1998). Petitioners argue that the Department should not make arbitrary decisions about which values are "too high" or "too low." Petitioners state that if the Department determines that the data regarding imports from the United States and Singapore are aberrational, it should also exclude data that are significantly lower than the average value, such as the value of imports from Japan. <u>See</u> <u>Lock Washers</u>.

<u>Department's Position</u>:

After considering parties' comments, we continue to find that HTS subheading 3926.4099 represents the best available information with which to value Dorbest's input resin applique. As an initial matter, we note that the Department's basis for rejecting the HTS subheading proposed by Dorbest, 3926.4009, was because it represented an expired HTS category, not simply because of lack of contemporaneity with the POI. It was for this reason that the Department first rejected the use of this HTS subheading in the original investigation and determined to select a new HTS subheading which it believed at the time most closely resembled the subheading advanced by Dorbest. <u>See</u> <u>Final Determination</u> at Comment 19. However, as explained above, on Court-ordered remand, the Department has carefully reviewed the nature of Dorbest's input and found that it does not resemble the HTS subheading used in the <u>Final</u>

Determination, 3926.3090, in that the input is ornamental while the HTS subheading selected in the Final Determination covers merchandise that is not ornamental in nature. Because the use of HTS subheading 3926.3090 to value Dorbest's input has been invalidated, it is necessary to consider other alternatives. Given the Department's stated preference not to use expired HTS categories, such as the one proposed by Dorbest (see Final Determination at Comment 19), the Department reviewed existing HTS subheadings from the POI to determine whether one resembled the input used by Dorbest and did not represent an expired category. We have determined that HTS subheading 3926.4099 meets these criteria: it is specific to the input in question (i.e., covers plastic ornamental articles) and is contemporaneous with the POI. Moreover, we note that there is a close overlap in the description of the HTS subheading selected, 3926.4099, and the HTS subheading proposed by Dorbest, 3926.4009, in that both appear to include plastic ornamental articles. Specifically, HTS subheading 3926.4099 covers "other articles of plastics: other statuette & other ornamental articles NES," while HTS subheading 3926.4099 covers "articles of plastics (inc. polymers & resin)." Although Dorbest has challenged the classification of certain inputs in the selected HTS subheading, it has not argued that the HTS description is not specific to the input in question.

With respect to Dorbest's argument that the Department's selection of HTS subheading 3926.4099 reflects an improper expansion of the administrative record, we disagree. Had we known that at the time of the Final Determination the use of HTS subheading 3926.3090 was not the best viable option, the Department would have, consistent with its practice, considered the use of other HTS subheadings in the MSFTI data to value Dorbest's input. As noted by Petitioners, nearly all of the factors of production, with the exception of those inputs purchased from market economies, were valued using MSFTI data. See, e.g., Analysis Memorandum for

the Redetermination Pursuant to Court Remand in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China: Rui Feng Woodwork Co., Ltd. ("Rui Feng Dongguan"), Rui Feng Lumber Development Co., Ltd. ("Rui Feng Shenzhen"), and their parent company Dorbest Limited (collectively "Dorbest"), dated May 25, 2007, at Attachment 3 ("Surrogate Value Sheet"). Accordingly, use of the MSFTI data to find an alternate HTS subheading for use as a surrogate is consistent with the Department's practice and appropriate in this instance since the Court invalidated our use of HTS subheading 3926.3090, and did not specifically direct the Department to use Dorbest's proposed, expired HTS classification on remand if it found that the resin input was ornamental in nature. See Dorbest et. al v. United States, at 113. On the contrary, the Court stated that "[i]f, in the Remand Determination process, Commerce finds that the factor input is ornamental in nature, Commerce needs to determine what the appropriate subheading would be to reflect that it is ornamental." See id. After finding that Dorbest's input was ornamental in nature, the Department determined that HTS subheading 3926.4099 was the most appropriate because it was specific to the input in question and did not represent an expired category. We disagree with Dorbest that it was prejudiced by the Department's selection of a different HTS subheading to value Dorbest's resin applique. All parties were afforded ample time to review and rebut, as well as clarify and correct the information. Given the significant amount of time allotted for comment, we find that all parties, including Dorbest, had sufficient time to review HTS subheading 3926.4099 and provide comment.

In its comments on the draft remand results, Dorbest placed Infodrive data on the record which it claims demonstrates that there are numerous instances of misclassified product within HTS subheading 3926.4099. Upon review of these data, we determine that these Infodrive data

cannot be relied upon because they fail to account for a significant percentage of imports

reported under the HTS subheading and because the data are not reported in a uniform,

measurable quantity. The Department discussed these concerns with the use of Infodrive data as

a benchmark below in the section on "Mirrors." See also Issues and Decision Memorandum at

Comment 10. In this instance, the Infodrive data fail to include import data on the following

countries that appear in the MSFTI data: France, Oman, Singapore, Switzerland, Taiwan, and

the United States. See Dorbest's April 5, 2007, submission at Exhibit 12. Together, these

countries represent 54 percent of total imports, by quantity, excluding imports from the PRC,

Thailand, and South Korea. See id. at Exhibit 13. In addition to failing to account for a sizable

percentage of imports, only imports from Spain and Japan appear to be completely represented in

the Infodrive data (based on the value of imports, with the MSFTI data rounding the figures).

See id. at Exhibits 12 and 13. The remainder of the listed countries' imports in Infodrive appear

incomplete. See id. Finally, imports in the Infodrive data are classified under multiple units of

measurement (e.g., kilograms, pieces, set, meter, not otherwise specified). See id. at Exhibit 12.

As a result, it is not possible to conduct a complete comparison of the Infodrive data to the

MSFTI data. Therefore, for the aforementioned reasons, we do not find the Infodrive data to be

informative and continue to find that the MSFTI data represent quality data that are specific to

the input in question.

As discussed below in the "Mirror" section, the Department used Infodrive to determine

that import data from Taiwan in the MSFTI data were distortive. In that instance, there was

direct and complete evidence from Infodrive showing that imports from Taiwan do not contain

the product in question, and the mirror imports reported in Infodrive represented a significant

portion of the overall imports under the relevant HTS category. In the case of resin, however, as

noted above, only imports from Japan and Spain appear to be fully reflected in the Infodrive data, although an exact comparison is not possible given the different units of measurement in the Infodrive data. Dorbest has presented no information regarding whether inputs from Spain are reflective of the HTS subheading. Although Dorbest has argued that plastic beads, which account for 100 percent of Japanese imports according to the Infodrive data, are misclassified, it has not argued that the Japanese imports are distorting the overall average unit value. In fact, Dorbest has not advocated the exclusion of the Japanese imports of these plastic beads, which have the lowest average unit value, in contrast to its request to exclude imports from the United States and Singapore, which have the highest average unit value. Given that HTS subheading 3926.4099 is a basket category that may include products which are not identical to the input used by Dorbest, without evidence of a distortion, we do not find it appropriate to move away from this HTS that appears to cover the input in question.

We also disagree with Dorbest that the Department should exclude imports from the United States and Singapore because imports were made in only one month of the POI and the average unit values are aberrational compared with other countries. Dorbest has cited to no case where the Department excluded a country's imports simply because they were only made in one month of a six-month POI. The Department has in certain instances excluded imports from countries where import prices were much higher than the average and where the imports were in small quantities. See Bags from the PRC at Comment 6. However, in this instance, the import quantities from the United States and Singapore for HTS subheading 3926.4099 are not small. Out of 11 total countries whose imports were included in the calculation of the surrogate value for Dorbest's input, imports from the United States and Singapore represent the third and eighth highest quantity, respectively. See Dorbest's April 5, 2007, submission at Exhibit 13.

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Moreover, in contrast to the facts in Hebei Metals, where the input value from Sweden was 8.5 times the average value, the average unit value from the United States and Singapore are 3.1 and 4.2 times the average unit value from all other countries, respectively. See id. (excluding imports from the United States and Singapore, the average unit value is 333.94 Rs per kilogram). We do not find that these differences in value distort the overall average value. Accordingly, because neither the quantity nor the average value of imports from the United States and Singapore are aberrational compared to imports from other countries, we have determined not to exclude these imports from our calculation of the surrogate value for resin applique. For purposes of this remand redetermination, we have made no changes to our calculation of the surrogate value for Dorbest's resin applique from the draft remand because we find that HTS subheading 3926.4099 represents specific, quality, and contemporaneous data that is the best available information on the record.

### 4. *Valuation of Mirrors*

In the Final Determination, the Department determined that mirrors should be valued using import data (HTS subheading 7009.9100) from MSFTI because they represent the best available information to ensure that the antidumping margins are calculated accurately in this case. See Issues and Decision Memorandum at Comment 25. Respondents challenged the use of the MSFTI data and argued that other data on the record are more appropriate for valuing mirrors. The Court remanded the Department's decision to use MSFTI data to value mirrors for further explanation. See Order in Dorbest et. al. v. United States. As discussed below, upon further and closer examination of the record, we have found that the POI MSFTI import data for mirrors are not the best available information because those data were distorted by the inclusion of specialty mirrors that are not comparable to the type of mirrors used by respondents. We have

determined for purposes of the redetermination pursuant to remand that the data from the Indian

glass industry publication ("Glass Yug") represent the best available information to value

mirrors.

In conducting this remand determination, we first evaluated the alleged inaccuracies of

the MSFTI data set with respect to the HTS subheading used in the Final Determination. During

the original investigation, respondents argued that the evidence on the record demonstrates that

MSFTI data for subheading 7009.9100 are overly distorted by the inclusion of specialty mirrors

from Taiwan. Specifically, the respondents claimed that data from Infodrive show that mirrors

reported as being imported under subheading 7009.9100 include Taiwanese exports of specialty

mirrors (rearview mirrors) to an Indian company by the name of "Enginetech." See Issues and

Decision Memorandum at Comment 25. Respondents' allegation that the mirrors being

imported were rearview mirrors was based on data obtained from the website of the company

Enginetech, which indicates that the company sells automotive parts, including rearview mirrors.

See August 17, 2004, submission from Markor International Furniture (Tianjin) Manufacture

Co., Ltd. and Lacquer Craft Manufacturing Company, Ltd., Re: Wooden Bedroom Furniture

From China: Surrogate Value Submission ("Lacquer Craft/Markor Surrogate Value

Submission") at Exhibit 9. Moreover, respondents have also shown that the value of imports

from Taiwan from Infodrive is the same as the total value of imports from Taiwan reported in the

MSFTI data.[8] See Slip-Op 06-160 at page 52 (citing Dorbest Reply Brief at 6). We have re-

examined this information and find that it constitutes substantial evidence in support of the

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[8] The value of imports from Taiwan from Infodrive for subheading 7009.9100 is 2,665,062.75 rupees while the value of imports from Taiwan from MSFTI is .002665 billion rupees or 2,665,000 rupees (WTA data rounds figures). See April 16, 2004, Submission of Surrogate Values for the Factors of Production of Shing Mark Enterprise Co., Ltd. ("Shing Mark Surrogate Value Submission") at Exhibit 22.

assertion that the imports from Taiwan represent specialty mirrors that would not be used by Indian producers of wooden bedroom furniture. Specifically, the Infordrive import data indicate that all of the imports within the mirrors HTS category from Taiwan into India were made by the Indian company "Enginetech," which the record indicates is an automotive parts company that sells, among other things, rearview mirrors. Moreover, there is record evidence that the Infodrive import data represent 100 percent of imports of the mirrors HTS category from Taiwan into India and the Taiwanese data represent 80.74 percent of the total imports under this HTS category.

As the Department explained in the Final Determination, the Department prefers not to use Infodrive to derive surrogate values or as a benchmark to evaluate other potential surrogate values because it normally does not account for all of the imports which fall under a particular HTS subheading and it does not report data in a uniform measurable quantity. See Issues and Decision Memorandum at Comment 10. However, because of the unique circumstances, as described in the previous paragraph, where direct and complete evidence from Infodrive on one country exists, showing that imports from this country do not contain the product in question, and that the mirror imports reported in Infodrive do represent such a significant portion of the overall imports under the relevant HTS category, the Department has determined that import data from Taiwan are distortive because they are not specific to the input used by respondent.

We next considered whether an adjustment should be made to the MSFTI data to reflect certain issues with the Taiwanese data. Excluding the Taiwanese import data would limit the size of the import dataset from 16.967 MT to 3.267 MT. See Memorandum to the File: Preliminary Determination Factors Valuation Memorandum: Wooden Bedroom Furniture from the People's Republic of China ("Factors Valuation Memo"), dated June 17, 2004, at Attachment

11 (HTS 7009.9100). While in some cases it may be appropriate to diverge from our strong preference for using the entirety of the HTS classification and remove imports from one or more countries for which substantial evidence demonstrates that imports from such countries do not reflect the input in question, we do not find that such an adjustment to the MSFTI data is appropriate in this case. In this instance, imports from Taiwan represent a significant percentage of total imports in this subheading. Moreover, the record evidence indicates that the imports not only do not reflect the input in question but are also misclassified within the MSFTI data. As discussed above, the evidence on the record indicates that the imports from Taiwan were likely of specialty rearview mirrors. As discussed in the Final Determination, rearview mirrors have a separate HTS subheading, 7009.1000. See Issues and Decision Memorandum at Comment 25. Given that an overwhelming majority of imports under this category of the MSFTI data were misclassified, the Department cannot presume with any degree of certainty that the remaining imports within this category are not similarly misclassified, particularly given that the limited information in Infodrive with respect to imports from Germany and Malaysia suggest that at least a portion of these imports in the MSFTI data were similarly misclassified (imports from Germany are of telescopic mirrors and "Chiara" mirrors for the bathroom and imports from Malaysia appear to be for car mirrors). See Shing Mark Surrogate Value Submission at Exhibit 22. Accordingly, given these reasons and the availability of other data sources, for purposes of this remand determination, we determine that the POI MSFTI data for subheading 7009.9100 are not specific to respondents' mirrors and should not be used as a surrogate, in whole or in part.[9]

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[9] Because we have found that the MSFTI data for subheading 7009.9100 are distorted by the inclusion of specialty rearview mirrors from Taiwan, we find that the question of whether respondents use imported mirrors is moot.

Next, we evaluated the other data sources on the record for valuing mirrors.  We note that

with the exception of the Glass Yug and Infodrive data source, the Court appeared to agree with

the Department's determination that the other sources were inappropriate to use as surrogate

values for mirrors.  See Dorbest et. al. v. United States, at 44-46.  The Court found that the

Department's determination to reject POI purchase-price information for mirrors from two

Indian producers of wooden furniture, Tarun Vadehra and Highland House, and one Indonesian

producer of wooden bedroom furniture, Goldfindo, as surrogate values for mirrors was supported

by substantial evidence.  See id.  Namely, the Court agreed that the data do not cover country-

wide prices and are too narrow to be considered for surrogate valuation.  See id.  Further, in its

discussion of the valuation of mirrors, the Court, while not explicitly ruling out the use of

Infodrive as a potential data source for valuing mirrors, focused on the use of the Infodrive data

as a benchmark.  For the reasons discussed above and in the Final Determination, we continue to

find that Infodrive is not an appropriate source for surrogate values.  Accordingly, we have not

considered any of these four data sources as potential surrogates although, consistent with the

Court's instructions, we have considered the Indian sources as benchmarks.

We have reconsidered the use of the Glass Yug data source.  For the reasons discussed

below, in the absence of reliable import statistics, we find that the Glass Yug data source

represents the best available information on the record with which to value mirrors.  In the

Factors Valuation Memo, the Department explained the preferred criteria for selecting surrogate

values:  1) a non-export average; 2) most contemporaneous with the POI; 3) product-specific;

and 4) tax-exclusive.  See Factors Valuation Memo at page 2.  In this case, the suggested data

are derived from the April - June 2003 edition of Glass Yug, a publicly available quarterly

Indian glass publication that reports on the flat glass industry.  See Shing Mark Surrogate Value

Submission at Exhibit 48. The data suggested by respondents consist of prices offered in the domestic Indian market by two large Indian companies, Gujarat Guardian Ltd. ("Gujarat") and Saint-Gobain Glass India Ltd. ("Saint-Gobain"), for mirrors ranging in thickness from 2.5 to 6 millimeters.

A review of the record evidence supports a finding that Gujarat and Saint-Gobain are large Indian producers that are significant players in the Indian mirror marketplace. First, the Glass Yug publication specifically identifies Gujarat and Saint-Gobain as manufacturers of mirrors. See Shing Mark Surrogate Value Submission at Exhibit 48 (page 9) (the article states that the prices reported therein are for "sales of their branded mirrors…" by "both manufacturers"). Moreover, Saint-Gobain is identified as one of the five largest flat glass and value-added glass manufacturers in the world (value-added glass is defined as including reflective glass) See id. at 22. The Glass Yug publication indicates that both manufacturers are large producers of float glass with Gujarat and Saint-Gobain having the largest share of the float glass[10] market in India in 2002, with 24.4 and 20.13 percent of the market, respectively. See id. at page 10. In addition to occupying significant shares in the Indian float glass market, information in the Glass Yug publication supports a finding that both companies are significant players in the Indian mirror market. Specifically, the article on Gujarat discusses Gujarat's "yeoman role in creating demand for world class float glass and mirror in the domestic glass market." See id. at 18. The Glass Yug publication also states that

> Gujarat Guardian Ltd. and Saint-Gobain Glass India Ltd. are both manufacturing
> world class branded mirror as well and there is a fierce competition between
> them in the field of basic flat (float) glass and mirror. See id. at 19-20.

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[10] Float glass can be converted into valued-added glass products such as mirrors. See id. at 22.

The marketing efforts of the two producers to promote their mirrors in the Indian glass market are noted in the Glass Yug publication, with Saint-Gobain described as holding meetings with "a large number of dealers" in cities all over India. See id. at 22. It is further noted that in response to St. Gobain's "intense marketing," Gujarat introduced a warranty plan on its "Modiguard" mirror. See id. at 21. Accordingly, based on our analysis of the information on the record, we find that there is substantial evidence in support of a finding that Gujarat and Saint-Gobain are large Indian producers that are significant players in the Indian mirror marketplace. Although the Department prefers countrywide data, we find that in the absence of such data, the use of this price information from these two large multinational producers is reasonably representative[11] of the cost of mirrors in India in that it likely reflects numerous transactions between many buyers and sellers.

We also find that the Glass Yug data are contemporaneous. While the data are not perfectly contemporaneous with the entire POI, they do fall entirely within the POI and thus require no inflator. In terms of the specificity of the data, we determine that in the case of Dorbest, the only mandatory respondent to contest this issue in litigation, the Glass Yug price is specific to the product described by respondent. Specifically, Dorbest described its mirrors as 5mm in thickness. See June 15, 2004, submission from Dorbest Ltd., Re: Response to DOC's June 8, 2004, Second Supplemental Sections C-D Questionnaire in Wooden Bedroom Furniture from China, at pages 314 and 318. The Glass Yug data include specific prices for 5mm mirrors. Because there is no information on the record as to whether the mirrors used by Dorbest are beveled or not, upon reconsideration of this issue on remand, we do not find that the lack of

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[11] As discussed in detail below, the representative nature of the Glass Yug value for mirror prices in India is evidenced by the fact that this value is corroborated by other Indian sources.

information as to whether the price information contained in the Glass Yug data is specific to beveled mirrors is a factor for rejecting the Glass Yug data. Regarding whether the data include taxes, we determine that the Glass Yug data likely exclude taxes in that the price trend listings in the publication all specify that the data are exclusive of taxes. See Shing Mark Surrogate Value Submission at Exhibit 48 (pages 11 and 12). Finally, we find that the Glass Yug data are corroborated by other sources on the record (i.e., Tarun Vadehra and Highland House) which report values for mirrors that are comparable to the type used by respondents. Based on the data in Glass Yug, the value for 5mm mirrors is US $9.35/m2, which is in the range of the other data on the record for 5mm mirrors. The unit price of a 5mm mirror, according to the Tarun Vadehra data, is US $10.69/m2, and the unit price of a 5/6mm mirror, according to Highland House data, is US $1.22/sq. ft or US $13.13/m2. See April 20, 2004, submission from Markor and Lacquer Craft , Re: Wooden Bedroom Furniture From the People's Republic of China; Surrogate Country Submissions. We find that this corroboration supports the finding that the Glass Yug unit price for a 5mm mirror is representative of prices for 5mm mirrors used by furniture producers in India. We have not considered the Infodrive import data as a potential benchmark because the only identifiable imports of 5mm mirrors were from Indonesia, a country which the Department has previously determined maintains broadly available, non-industry-specific export subsidies and whose import values the Department excludes from its average unit value calculations. See Shing Mark Surrogate Value Submission at Exhibit 22. Accordingly, because the Glass Yug value is a contemporaneous, non-export, product-specific, tax-exclusive, and representative value, we have determined this to be the best available surrogate with which to value Dorbest's mirrors.

**Comment 4:  Valuation of Mirrors**

Petitioners argue that the Department should continue to use MSFTI data for the valuation of mirrors.  Petitioners maintain that after finding that the mirrors imported from Taiwan were distorting the MSFTI average, the Department improperly rejected the remaining MSFTI data for mirrors and instead relied on the pricing data from Glass Yug.  Petitioners claim that if the Department continues to find that Taiwanese mirrors are rearview mirrors, it should treat the situation like any other in which the MSFTI include aberrant country-specific data for an HTS item.  See e.g., Notice of Final Determination of Sales at Less Than Fair Value:  Steel Wire Rope From India and the People's Republic of China; Notice of Final Determination of Sales at Not Less Than Fair Value:  Steel Wire Rope From Malaysia, 66 FR 12759, 12761 (February 28, 2001) (excluding aberrational Malaysian unit values from the import statistics before averaging the remaining values to calculate a surrogate value after recognizing that the Department excludes "aberrational data that appear to distort the overall value for a specific import category"); and Chrome-Plated Lug Nuts From The People's Republic of China; Final Results of Antidumping Duty Administrative Review, 63 FR 53872, 53873 (October 7, 1998) (discarding data determined to be aberrational based on a comparison with other Indian import values).  Petitioners assert that there is no merit to the Department's reasoning that it would be improper to use the remaining MSFTI data because a "significant percentage of total imports in this subheading are from Taiwan."  See Draft Remand Results at 27.  Petitioners contend that no record evidence exists for challenging the classification of the remaining volume of mirrors reported in MSFTI and that the remaining MSFTI data provide information for 3.267 metric tons of mirrors from eight countries.

Petitioners argue that the Department should not rely on Glass Yug data for several

reasons. First, Petitioners state that the totality of the pricing data available in Glass Yug is in a

small table and the published prices are only for two brands of mirrors. Second, Petitioners

claim that even the Department has acknowledged that the pricing data are not countrywide data

and not contemporaneous with the POI. See Draft Remand Results at 29. Petitioners also

contend that there is no evidence that the two Indian producers from which the pricing data are

derived are large producers of mirrors. To support their claim, Petitioners cite to the fact that the

article indicates that the two Indian producers were trying to increase their sales of branded

mirrors and maintain that this is evidence that other suppliers must control the market for

mirrors. Finally, Petitioners maintain that the prices cited in the article are not market prices.

They cite the article indicating that the producers were providing "hefty discounts" and note that

despite these discounts, the title of the article indicates that "Prices Move Upward Despite

Pressures and Stillness." Accordingly, Petitioners argue that the Department should ignore the

Glass Yug data and instead rely on the MSFTI data for HTS 7009.9100.

Dorbest argues that the Department was justified in utilizing the Glass Yug data in this

remand since the data have been corroborated and represents the best available information on

the record.

Dorbest claims that Petitioners have failed to establish that the MSFTI data for mirrors

are usable. Dorbest contends that, contrary to Petitioners' assertion, Dorbest challenged the use

of the MSFTI data for HTS 7009.9100 in its entirety as unreliable and inaccurate, not just with

respect to Taiwan. See Complaint of Plaintiffs in Dorbest v. United States, CIT Ct. No. 05-0003

(January 28, 2005). Dorbest states that in its Rule 56.2 Brief to the Court, Dorbest argued that

MSFTI subheading 7009.9100 was: 1) too broad because it was not focused on the thickness

used by respondents, 2) inaccurate because it included misclassified products, and 3) unnecessary since a valid domestic value that meets the Department's other criteria was available.  See Memorandum of Points and Authorities in Support of Plaintiffs' and Plaintiff-Intervenors' Rule 56.2 Motion for Judgement on the Agency Record at 36-46.  Dorbest explains that its focus in this argument has been on imports from Taiwan since Taiwan dominated the imports under 7009.9100 and because there was a direct link between the MSFTI and Infodrive data.  However, Dorbest contends that the record also affirmatively indicates that the imports under this HTS subheading from Malaysia and Germany are misclassified.  See Dorbest et. al v. United States, at 46 and 55.

Dorbest also challenges Petitioners' suggestion that the Department exclude the Taiwanese import data as aberrant.  Dorbest contends that the imports from Taiwan under HTS subheading 7009.9100 are not simply "aberrant," but rather are items in the wrong HTS entirely.  Dorbest asserts that Petitioners have not cited to any case where the Department rejected a country's data from inclusion within the average value calculation where that country dominates the entire HTS and where that country's imports confirm that Indian importers and Indian Customs did not accurately categorize goods within the HTS.  Dorbest maintains that the Department was correct to avoid using the remaining imports, which it claims represent 17 percent of the MSFTI total, given the indication that Indian importers and Indian Customs had difficulty in accurately classifying goods for this HTS subheading.

Dorbest then compares the quality of the MSFTI data to Glass Yug.  First, Dorbest argues that the Glass Yug data are more specific since the Department was able to determine a surrogate value that matched the thickness of the mirrors used by Dorbest.  Dorbest claims that the thickness of mirrors remaining under HTS subheading 7009.9100, if Taiwan is excluded,

remains unknown.  Second, Dorbest states that Petitioners have not disputed that the Glass Yug

prices are tax-exclusive.  Third, Dorbest asserts that, contrary to Petitioners' assertion, the Glass

Yug data are contemporaneous, with the pricing data covering half of the POI.  Dorbest

maintains that there is no requirement that a surrogate value cover all months of the applicable

period to satisfy the Department's preference for contemporaneity.

Dorbest also challenges Petitioners' arguments that the Glass Yug pricing data are not

representative and that the prices are distortive of the market for mirrors in India.  Dorbest states

that the Department compared the Glass Yug prices to other benchmarks on the record, namely

the Tarun Vadehra and Highland House information, and found that the prices were

corroborated.  Dorbest contends that the corroboration of the Glass Yug data by the pricing

information of two Indian furniture producers dispels any notion that the Glass Yug data are not

representative of prices for the thickness of mirrors used by furniture producers in India.  In

response to Petitioners' argument that the Glass Yug prices do not reflect the broader mirror

market in India, Dorbest claims that reaching for a broader market is unnecessary and

inappropriate because the specificity of the Glass Yug data enables the Department to make a

precise match with the thickness of the mirrors used by Dorbest.  Dorbest maintains that the

Glass Yug data satisfy the Department's preference for use of "product-specific" data and that

MSFTI does not.  Moreover, citing to the Glass Yug article, Dorbest argues that the record

supports a finding that the two producers whose prices are reported in Glass Yug are

manufacturers of mirrors and major players in the market.  Dorbest notes that the article

discusses Gujarat's "yoeman's role in creating demand for world class float glass and mirror in

the domestic glass market."  See Shing Mark Surrogate Value Submission at Exhibit 48, page

18.  According to Dorbest, the article also states that St. Gobain invented the modern production

methodology for mirror production and promoted its mirrors by holding meetings with "a large

number of dealers" in cities located all over India.  See id. at Exhibit 48, page 22.

Dorbest argues that if the Department agrees with Petitioners' position, it must still

consider the evidence on the record which Dorbest claims indicates that Indian furniture

manufacturers did not use imported inputs.  Dorbest maintains that the MSFTI data proposed by

Petitioners are a poor alternative to the Glass Yug data and that the MSFTI's representativeness

has been called into question by Dorbest, the Court, and now the Department.  Accordingly,

Dorbest asserts that the Department should continue to use the Glass Yug data.

Department's Position:

We disagree with Petitioners and continue to find that the Glass Yug value represents the

best available information on the record with which to value Dorbest's mirrors.  As discussed

above, we have determined that the Glass Yug value is a contemporaneous, non-export, product-

specific, tax-exclusive, and representative value.  Petitioners have argued that if the Department

continues to find that Taiwanese mirrors are rearview mirrors, it should simply exclude the

Taiwanese imports from the MSFTI data, consistent with the way the Department excludes

aberrant country-specific data for an HTS item.  While we agree that the Department has

excluded imports from select countries in the calculation of the average unit value in certain

instances because the data were found to be aberrational (see Bags from the PRC at Comment 6),

we do not agree that such an adjustment is appropriate in this instance.  First, as noted by

Dorbest, the Department did not find the imports from Taiwan under HTS subheading 7009.9100

to be aberrant.  Rather, the Department determined that import data from Taiwan are distortive

because there was substantial evidence that the imports from Taiwan represented specialty

mirrors that would not be used by Indian producers of wooden bedroom furniture.  Moreover, the

record evidence indicates that the imports not only do not reflect the input in question, but are also misclassified within the MSFTI data. The evidence on the record indicates that the imports from Taiwan were likely of specialty rearview mirrors. As discussed in the Final Determination, rearview mirrors have a separate HTS subheading, 7009.1000. See Issues and Decision Memorandum at Comment 25. Given that an overwhelming majority of imports under the MSFTI data were misclassified, the Department cannot presume with any degree of certainty that the remaining imports are not similarly misclassified, particularly given that the limited information in Infodrive with respect to imports from Germany and Malaysia suggests that at least a portion of these imports in the MSFTI data were similarly misclassified (imports from Germany are of telescopic mirrors and "Chiara" mirrors for the bathroom and imports from Malaysia appear to be for car mirrors). See Shing Mark Surrogate Value Submission at Exhibit 22. Thus, contrary to Petitioners' assertions, we do not find the remaining MSFTI data to be robust. Accordingly, given these reasons and the availability of other data sources, for purposes of this remand determination, we determine that the POI MSFTI data for subheading 7009.9100 are not specific to respondent's mirrors and should not be used as a surrogate, in whole or in part.

In arguing for the use of the POI MSFTI data to value Dorbest's mirrors, Petitioners have made specific arguments against the use of the Glass Yug data. They argue that the pricing data are not contemporaneous, not country-wide, not representative and that the prices are distortive of the market for mirrors in India. With respect to contemporaneity, we find the Glass Yug data to be contemporaneous with the POI. While the data do not align perfectly with the POI, they do overlap partially within the POI and, consistent with our practice, the Department has not inflated the value nor have Petitioners suggested such an adjustment. Also, although the

Department prefers countrywide data, we find that in the absence of such data, the use of this price information from two large multinational producers is reasonably representative of the cost of mirrors in India in that it likely reflects numerous transactions between many buyers and sellers. Moreover, both brands of mirror listed have pricing for mirrors that correspond directly with the type of mirror used by Dorbest. The corroboration of the Glass Yug value by the Tarun Vadehra and Highland House data, which reported values for mirrors that are comparable to the type used by respondent, further demonstrates that the Glass Yug value is representative of prices for mirrors used by Indian furniture producers. We note that Petitioners have not challenged the validity of the comparison on the Glass Yug data to the Tarun Vadehra/Highland House mirror information.

We also disagree with Petitioners' allegation that there is no evidence that Gujarat and Saint-Gobain are large Indian producers of mirrors. First, the Glass Yug publication specifically identifies Gujarat and Saint-Gobain as manufacturers of mirrors. See Shing Mark Surrogate Value Submission at Exhibit 48 (page 9) (the article states that the prices reported therein are for "sales of their branded mirrors…" by "both manufacturers"). Moreover, Saint-Gobain is identified as one of the five largest flat glass and value-added glass manufacturers in the world (value-added glass is defined as including reflective glass). See id. at 22. The Glass Yug publication indicates that both manufacturers are large producers of float glass with Gujarat and Saint-Gobain having the largest shares of the float glass[12] market in India in 2002, with 24.4 and 20.13 percent of the market, respectively. See id. at page 10. In addition to occupying significant shares in the Indian float glass market, information in the Glass Yug publication

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[12] Float glass can be converted into valued-added glass products such as mirrors. See id. at 22.

supports a finding that both companies are significant players in the Indian mirror market. Specifically, the article on Gujarat discusses Gujarat's "yeoman role in creating demand for world class float glass and mirror in the domestic glass market." See id. at page 18. The Glass Yug publication also states that:

> Gujarat Guardian Ltd. and Saint-Gobain Glass India Ltd. are both manufacturing world class branded mirror as well and there is a fierce competition between them in the field of basic flat (float) glass and mirror. See id. at 19-20.

The marketing efforts of the two producers to promote their mirrors in the Indian glass market are noted in the Glass Yug publication, with Saint-Gobain described as holding meetings with "a large number of dealers" in cities all over India. See id. at 22. It is further noted that in response to Saint-Gobain's "intense marketing," Gujarat introduced a warranty program on its "Modiguard" mirror. See id. at 21. Thus, the record evidence makes clear that both producers were actively engaged in the marketing of mirrors in India. Accordingly, based on the information on the record, we find that Gujarat and Saint-Gobain are large Indian producers that are significant players in the Indian mirror marketplace.

We also disagree with Petitioners' suggestion that because Gujarat and Saint-Gobain were offering "hefty discounts" to increase their sales of branded mirrors, other suppliers must control the market for mirrors. Within the Glass Yug publication, there is no mention of other mirror suppliers in the Indian market. In fact, as noted above, Gujarat's decision to introduce a warranty program was in response to Saint-Gobain's "intense marketing." In support of their argument that prices cited in the article are not market prices, Petitioners have cited to the fact that although producers were offering "hefty discounts," the title of the article is "Prices Move Upward Despite Pressures and Stillness." However, a careful review of the article suggests that

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the title is referring to the float glass market. See id. at 9 ("the prices of float glass in the domestic glass market remained under pressure and a situation of stillness prevailed"). Accordingly, we have dismissed Petitioners' claim on this point as it is without merit. Finally, Petitioners have alleged that the article does not discuss pricing for the broader mirror market in India and that the prices are distortive. Petitioners have provided no evidence of this alleged distortion. In fact, as noted above, the Glass Yug value is corroborated by other Indian sources, supporting the notion that it is a representative value of the broader mirror market in India. Therefore, for the reasons discussed above, we have determined to continue to value Dorbest's mirror input for this remand determination using the Glass Yug value because it represents the best available information on the record.

**5.      *Surrogate Financial Ratios/Financial Statements***

In the Final Determination, the Department determined to use the 2002/2003 financial statements of nine Indian companies. See Issues and Decision Memorandum at Comment 3. Both Petitioners and respondents challenged the Department on the inclusion of financial statements from Evergreen International Ltd. ("Evergreen") and Jayaraja Furniture ("Jayayraja"). Additionally, respondents challenged the Department's determination to include the financial statements of Swaran Furniture Ltd. ("Swaran"), Nizamuddin Furniture Private Ltd. ("Nizamuddin"), Fusion Design Private Ltd. ("Fusion Design"), and D'nD's Fine Furniture Pvt., Ltd. ("DnD"). The Court remanded the Department's selection of surrogate companies for the calculation of the financial ratios. Specifically, the Court instructed that on remand, ". . . Commerce must explain its inclusion of Jayaraja's financial statement; [and] Commerce must explain its inclusion of financial statements from Swaran, Nizamuddin, Fusion Design, and

DnD."  See Order in Dorbest et. al. v. United States.  The Court also ordered the Department to

reconsider and explain its inclusion of the financial statement from Evergreen.  See id.

As explained below, after a full re-examination of the record evidence, we continue to

find that the financial statements of Swaran, Nizamuddin, Fusion Design, and DnD should be

included in the Department's surrogate financial ratio calculation because these financial

statements are reliable and just as reflective of respondents' manufacturing experiences as the

other financial statements.  However, upon further and closer review of the financial statements

of Evergreen and Jayaraja, we find that there are significant questions as to the reliability an

appropriateness of using their financial data as sources of surrogate financial ratios, and have

therefore excluded them.

*Financial Statements of Swaran, Nizamuddin, Fusion Design, and DnD*

Dorbest has argued that the inclusion of the financial statements of Nizamuddin, Fusion

Design, Swaran, and DnD was improper because the firms from which the financial statements

came have production experiences different from its own.  In its remand order, the Court cited

differences in the calculated selling, general, and administrative ("SG&A") ratios of

Nizamuddin, Fusion Design, Swaran, and DnD compared to the calculated SG&A ratios of the

other financial statements used by the Department and stated that the Department did not

demonstrate "that the size of Nizamuddin, Fusion Design, Swaran, and DnD are irrelevant."  See

Dorbest et. al. v. United States, at 101.  The Court stated that "general principles of economics

and intuition would suggest that such a distinction {in the SG&A ratios} has relevance" and that

there was "evidence to suggest that there might be a relationship between production experience

and overhead."  See id. at 102.  Citing these issues as well as the existence of "financial

statements of firms which (appear) to have similar manufacturing experiences to the

Respondents," the Court stated that "Commerce has an obligation to explain why it included these financial statements." See id. at 102. Nevertheless, the Court "expresse{d} no opinion on which company or companies reasonably approximate the Respondents' production experiences." See id. at 103. We have considered the Court's comments in our re-evaluation of the record evidence and have more fully explained our determination to include the financial statements of these companies.

In the Final Determination, we selected the financial statements of Swaran, Nizamuddin, Fusion Design, and DnD on the basis that they were Indian producers of wooden furniture and the financial statements were contemporaneous and reliable. See Issues and Decision Memorandum at Comment 3. No party has contested the contemporaneity of these financial statements. In arguing that the inclusion of these financial statements was improper, Dorbest has challenged whether Swaran and DnD are furniture producers. After thorough review of the record evidence, the Department continues to find that the record evidence (through marketing products or industry directories) supports our initial finding that Swaran, Nizamuddin, Fusion Design, and DnD are Indian manufacturers of wooden furniture[13]. See Issues and Decisions Memorandum at Comment 3; Factors Valuation Memo at 7-8; Letter from Petitioners, dated October 7, 2004, at 112-118. The Department's analysis of each company's financial statements supports a finding that each of these companies was, in fact, a producer in that each company

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[13] We note that the record evidence specifically indicates that some companies produce wooden bedroom furniture while for others the record only indicates that they produce wooden furniture. For purposes of this remand determination, given that wooden bedroom furniture and other wooden furniture are produced from the same inputs and the same production processes, we have determined that producers of wooden furniture are equally comparable for purposes of factor determination to producers of wooden bedroom furniture.

shows raw materials and labor consumed.[14]  Specifically, the record contains marketing products (e.g., brochures, web-sites, etc.) or industry directories for each of these companies indicating that these companies are manufacturers of comparable merchandise.  Furthermore, for each company, the financial statement shows evidence of production, raw materials, and labor consumed.

We next consider the Court's concerns regarding the use of the financial statements of Swaran, Nizamuddin, Fusion Design, and DnD.  As an initial matter, based on our review of record evidence, we find that none of the seven Indian companies used in our calculation of the surrogate financial ratios approximates the size of Dorbest, now the sole respondent to contest this issue in litigation.  Specifically, the Indian companies have reported revenues ranging in size from US $40,000 (2,020,869 Rs)[15] to US $11 million (497,960,993 Rs), with six of the seven companies having annual revenues of less than US $1 million.  See Petitioners' April 10, 2007, rebuttal comments at Exhibit 6.  The revenue generated by Dorbest's U.S. sales of subject merchandise during the six-month POI, annualized to 12 months, is significantly higher than the revenues earned by any of the Indian surrogates.  See Dorbest Calculation Memorandum for Remand Results at 1.  Given that none of the seven surrogate companies used in the draft remand results approximate the size of Dorbest, we do not find that their relative size in relation to Dorbest is a basis for the inclusion or rejection of a financial statement.

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[14] For financial statements of Nizamuddin, Fusion Design, and Swaran, see Letter from Petitioners, dated April 29, 2004, at Exhibit 17.  For Financial Statement of DnD, see Letter from Petitioners, dated August 17, 2004, at Exhibit 3.

[15] The average POI USD/Rs exchange rate was .021491.  See Dorbest Calculation Memorandum for Remand Results at Attachment 3 (Surrogate Value Sheet).

Moreover, upon careful examination of the record, we have found no evidence that relative size is a primary driver in the differences in financial ratios of the Indian surrogate companies on the record. We first compared the relative size of the seven Indian surrogates to the calculated SG&A ratios determined in the Amended Final Determination. Upon review of this information, we have no evidence that size accounts for the difference in the SG&A ratios of the surrogate companies. For example, we note that the SG&A ratio for the largest surrogate company, Indian Furniture Products, Inc. ("IFP"), represents the mid-point of the calculated SG&A ratios. See Petitioners' April 10, 2007, rebuttal comments at Exhibit 6. This observation is contrary to what one would expect if relative size drove the SG&A ratio such that the largest surrogate company would be expected to have the lowest SG&A ratio, not the mid-point. Moreover, we determine the SG&A ratios for Raghbir Interiors ("Raghbir") and Akriti Perfections ("Akriti"), which are more comparable in size to Swaran, Nizamuddin, Fusion Design, and DnD than IFP, are comparable to the SG&A ratio for DnD. Specifically, the SG&A ratios for Raghbir and Akriti are 10.44 and 13.53 percent, respectively, while the SG&A ratio for DnD is 15.66 percent. See id. This demonstrates that, although the surrogate companies may differ in size (Raghbir had revenues almost four times higher than DnD), their SG&A ratios may be comparable. See id. Finally, in considering the average of the SG&A ratios for Swaran, Nizamuddin, Fusion Design, and DnD, we find that the average is skewed by the high SG&A ratio for Swaran.[16] If the SG&A ratio for Swaran were removed from the average, the new average would be 27.34 percent, which is comparable to the SG&A ratio of 24.38 percent for IFP. See id. This again supports a finding that relative size does not drive the SG&A ratios as

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[16] As discussed in the Final Determination, it is the Department's preference to use multiple financial statements in order to eliminate potential distortions that may arise from using those of a single producer, such as the case would be if only the SG&A ratio for Swaran were used. See Issues and Decision Memorandum at Comment 3.

IFP had revenues approximately 100 times larger than Nizamuddin, Fusion Design, and DnD. See id. We also do not find that the record evidence supports a relationship between production experience and overhead. Specifically, IFP, the surrogate company with the highest revenues, had the highest calculated overhead ratio while Raghbir, the surrogate company with the second highest revenues, had the lowest overhead ratio. See id. Moreover, DnD and Swaran had overhead ratios that were comparable to IFP's (7.63 and 7.16 percent versus IFP's overhead ratio of 8.77 percent). See id. Accordingly, based on our review of record evidence, we do not find a direct relationship between the revenues and the financial ratios for the financial statements selected. Given this finding and our finding that none of the companies approximates the size of Dorbest, we continue to determine that the financial ratios of Swaran, Nizamuddin, Fusion Design, and DnD are not distortive and are as reflective of Dorbest's production experience as the financial statements of IFP, Raghbir, and Akriti. As discussed in the Final Determination, it is the Department's preference to use multiple financial statements when they are not distortive or otherwise unreliable, in order to eliminate potential distortions that may arise from using those of a single producer. See Issues and Decision Memorandum at Comment 3. The use of financial statements of Swaran, Nizamuddin, Fusion Design, DnD, IFP, Raghbir, and Akriti satisfies this preference.

*Financial Statements of Evergreen and Jayaraja*

Upon further and closer examination of the record, we find that the financial statements of Jayaraja and Evergreen should be excluded. With respect to Evergreen, the Court stated that the Department failed to explain "why the inclusion of Evergreen's financial statement, in spite of the complication identified by Commerce, adds to the accuracy of its calculation of the surrogate ratios." See Dorbest et. al. v. United States, at 97. The Court also specifically rejected

the Department's argument that Petitioners failed to show that the Department's calculation of

SG&A expenses and profit resulted in a distortion to the surrogate ratios. See id. at 98 ("this is

not an appropriate basis upon which to approve Commerce's selection"). Although we were able

to disaggregate the consumption of raw materials between Evergreen's leather and furniture

divisions, we have some concern that the inability to properly allocate Evergreen's SG&A

expenses and profit to merchandise that meets the description of the scope could create

distortions in the calculation of Evergreen's financial ratios. Evergreen's financial statements do

not disaggregate profits or SG&A expenses for its leather goods and furniture divisions.

Accordingly, in the Final Determination, the Department calculated the SG&A and profit ratios

for Evergreen by including in the denominator of the calculation the identifiable manufacturing

expenses related to the production of leather goods. See Issues and Decision Memorandum, at

Comment 3. Upon further consideration of this issue, we find that sufficient evidence does not

exist for a finding that the profit margin for producing and selling leather garments is the same as

that for producing and selling furniture. There is no information on the record regarding the

profit ratios incurred by these two divisions of Evergreen. With respect to SG&A expenses, as

noted in the Final Determination, Evergreen's financial statements indicate that it "'outsources

almost the entire production' of its leather goods." See id. (citing Evergreen's financials at note

23). Consequently, the furniture division may employ greater usage of general and

administrative expenses since the furniture division is an in-house operation while the leather

goods division is mostly engaged in subcontracting production. Accordingly, given the

possibility of distortion in the SG&A and profit ratios calculated using Evergreen's financial

statements, the Court's rejection of the Department's argument that Petitioners failed to show a

distortion, and the availability of other financial statements on the record, we have determined

not to rely on Evergreen's financial statements in the calculation of the financial ratios for purposes of this remand determination.

We have similarly determined to exclude Jayaraja's financial statements from the calculation of the financial ratios for purposes of this remand determination. Upon careful reconsideration of the issue, we find that due to the lack of the auditor's report, schedules, the auditor's opinions and notes to the financial statement, Jayaraja's financial statements do not provide sufficient detail for the Department to allocate Jayaraja's expenses among direct expenses, overhead, and SG&A with any level of certainty. As noted above, the Court has stated that lack of evidence of a distortion is not a sufficient basis for the Department to reject a parties' concerns about potential distortions. See Dorbest et. al. v. United States, at 98. While the Department did not find any direct evidence of a distortion in the Final Determination in the use of Jayaraja's financial statements to calculate the financial ratios, the lack of schedules or notes means that the Department cannot interpret the data presented in Jayaraja's financial statements and ensure that the company's direct expenses, overhead, and SG&A are appropriately allocated. For example, as previously discussed before the Court, the Jayaraja financial statements do not report an amount for depreciation. Although general accounting principles require consideration of depreciation, without schedules or notes, the Department has no means to conclusively determine if Jayaraja had any depreciation expenses during the period. See, e.g., Dorbest's March 1, 2004, Section A Questionnaire Response at Exhibit 8 (2002 Balance Sheet at Lines 18 and 19 – Fixed Assets and Depreciation). Moreover, this finding that Jayaraja's financial statements are inappropriate for use in this remand determination is consistent with the Department's practice to normally disregard surrogate financial statements if they are incomplete and lack certain key reports (e.g., schedules, notes). See Notice Final Determination of Sales at

Less Than Fair Value: Silicomanganese from Kazakhstan, 67 FR 15535 (April 2, 2002), and accompanying Issues and Decision Memorandum at Comment 3. Finally, our determination to exclude Jayaraja's financial statements is consistent with our determination to exclude Evergreen's financial statements as there are concerns about the potential for distortion in the use of both companies' financial statements. We note that the Court instructed the Department that it "must uniformly apply whatever criterion it ultimately adopts." See Dorbest et. al v. United States, at 103.

Given that we have a significant pool of reliable surrogate financial statements from furniture producers on this record, we determine that we do not need to use the financial statements from Evergreen or Jayaraja. We have recalculated the surrogate ratios, excluding Evergreen and Jayaraja, and applied these remand ratios to all the mandatory respondents. For recalculation, see Memorandum to the File: Recalculation of Surrogate Financial Ratios pursuant to Draft Remand.

**Comment 5-A: Inclusion of Swaran, Nizamuddin, Fusion Design and DnD**

Dorbest argues that the Department has failed to address the fundamental distortion cited by the Court by continuing to use the financial statements of Swaran, Nizamuddin, Fusion Design and DnD. Dorbest notes that in its remand, the Court cited the nearly 20-percent difference between the SG&A ratios of the Four Companies[17] versus the remaining companies and stated that "Commerce did not address these averages." See Dorbest et. al v. United States, at 100-101. Dorbest maintains that in its draft remand the Department continued to fail to explain why the principles of economies of scale, cited by the Court, do not weigh against use of these Four Companies' financial statements and how the large gap in the SG&A ratios between

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[17] This is shorthand for Swaran, Nizamuddin, Fusion Design and DnD.

the Four Companies and the remaining pool of Indian companies is not simply the consequence

of a different cost structure flowing from economies of scale. Dorbest explains that in the draft

remand results, the Department stated it "does not limit its selection of surrogate financial

statements to reflect the experience of only its mandatory respondents because industries often

contain a range of companies and sizes." See Draft Remand Results at 33. Dorbest argues that

the Department's new position is in error because it is based on the theory that non-mandatory

respondents are "producers subject to investigation." See id. at 34. Dorbest contends that the

Department's logic -- that the whole Chinese industry is being "investigated -- is contradicted by

the statute, SAA, and the Department's own statements in the Respondent Selection

Memorandum that it was only "investigating" the mandatory respondents. See Memorandum

from Edward C. Yang to Joseph A. Spetrini: Selection of Respondents for the Antidumping

Investigation of Wooden Bedroom Furniture from the People's Republic of China at 4. Noting

that the margins for the non-selected cooperating firms are calculated based on the mandatory

respondents' margins, Dorbest asserts that the Department's argument ignores the legal and

factual reality resulting from the Department's decision to limit the number of producers

investigated.

Dorbest also argues that the Department's determination to compare the Four

Companies' financial ratios to the entire Chinese industry appears at odds with the Department's

determination to limit its application of the new mirror surrogate value to Dorbest. Dorbest

contends that legal issues appealed by Dorbest alone should be analyzed according to their

impact on Dorbest alone. Dorbest maintains that the distortion in comparing the cost structure of

the large Chinese mandatory respondents and, more specifically, Dorbest, with the small Four

Companies is not erased by the fact that there are also small companies in the PRC who

thereafter received the Section A rate. Dorbest states that while the Court cited the difference in the cost structure of the Four Companies compared to the other Indian producers and the large Chinese mandatory respondents, the Department has continued to argue that the differences in the cost structure for a smaller company are reflected in both the numerator and the denominator, and that therefore the resulting ratio of the two should be unaffected. Dorbest cites two problems with this argument. First, it claims that this same logic has already been rejected by the Court. See Dorbest et. al v. United States, at 100-101. Second, Dorbest maintains that the Department has failed to address how, if the smaller companies' cost structure is unaffected by their smaller size, they nevertheless result in an average SG&A ratio that is more than double that of the other larger companies.

Moreover, Dorbest argues that the distortions in using the Four Companies' financial statements flow through to the Section A companies because there is a mismatch between the large Chinese companies selected by the Department for individual investigation and the small Indian producers. Dorbest states that the Department is overlaying the SG&A ratio of small companies who enjoy little benefit from economies of scale onto the materials, labor, and energy of large companies who enjoy such benefits. Dorbest further explains that the fact that the Department then goes to a second step and applies the average rate of the mandatory respondents to the non-selected Section A companies only means that the distortion which occurs at the first step flows downstream to the average rate applied to the Section A companies and not that the distortion is eliminated. In arguing that the Department should comply with the Court's opinion by removing the Four Companies from the average ratio calculation, Dorbest notes that the Court found that the Department has sufficient remaining surrogate financial statements to calculate dumping margins as accurately as possible. See Dorbest et. al v. United States, at 103. Dorbest

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also argues that the Department has failed to take heed of the Court's instruction to "uniformly apply whatever criterion it ultimately adopts" (see id., at 103) or the Court's recitation of case law requiring the Department to "'conduct a fair comparison of the data sets on the record' with regard to its announced method or criteria" (see id., at 13 (quoting Allied Pac. Food (Dalian) Co. v. United States, 30 CIT, 435 F.Supp. 2d 1295, 1313014 (2006)). Dorbest claims that while the Department provided no explanation as to how the SG&A averages of the Four Companies are not facially distorted, as required by the CIT, the Department determined to exclude Evergreen and Jayaraja with little analysis. Dorbest asserts that this determination constitutes a double standard since the Department failed to explain away the distortion in the Four Companies' cost structures expressed in their SG&A ratios.

Petitioners argue that the Department should continue to use the financial statements of Swaran, Nizamuddin, Fusion Design, and DnD. As an initial matter, Petitioners claim that Dorbest would have the Department disregard the Court's concluding direction on the selection of financial ratios:

> {T}he Court expresses no opinion on which company or companies reasonably approximate the Respondents' production experiences. Commerce is free on remand to find that these financial statements are as reflective of the Respondents' manufacturing experiences as the other financial statements upon which it relies. See Dorbest et. al v. United States, at 103.

Petitioners claim that there is no evidence of record that furniture companies in general or Indian companies in particular benefit from economies of scale. They contend that, while in certain capital intensive manufacturing industries a company can lower its per-unit fixed costs by spreading such costs over a larger production bases, furniture manufacturing is labor and materials intensive, not capital intensive. Accordingly, Petitioners conclude that there is no basis

to assume that an Indian company with higher revenue will have lower per-unit fixed costs. Moreover, they assert that the record evidence does not indicate the capacity utilization ratios of any of the furniture producers.

Petitioners also argue that because economies of scale could affect both "factory overhead" and "general and administrative" expenses, any analysis of the impact that economies of scale have on financial statements must take into account the financial ratios for both SG&A expenses and factory overhead expenses. They maintain that the record evidence demonstrates no correlation between sales revenues and financial ratios for the financial statements selected by the Department. Petitioners note that Dorbest does not define the thresholds for large, medium, and small Indian furniture producers, other than to suggest that the Four Companies are small producers. Petitioners suggest that the Court appears to have incorrectly assumed that while the Four Companies are small, the remaining surrogate companies are large producers. Petitioners claim that evidence on the record demonstrates that two of the companies, Akriti and Raghbir, should not be classified as large producers because an analysis of the revenues reported for each potential surrogate indicates that they are comparable in size to the Four Companies. Accordingly, Petitioners conclude that this demonstrates that size does not explain the difference among the financial ratios of Akriti and Raghbir. They argue that the existence of different financial ratios demonstrates that different companies will have different financial ratios, which is why, they claim, the Department averages ratios from the pool of reliable financial statements. Petitioners also assert that given the Court's instructions that "Commerce must uniformly apply whatever criterion it ultimately adopts" (see Dorbest et. al v. United States, at 103), it would be inconsistent for the Department to reject the financial statements of the Four Companies because

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they are not large furniture producers while using the financial statements for two of the three remaining companies that are not large furniture producers.

Moreover, Petitioners maintain that if economies of scale existed, and if they affected the financial ratios, then one would expect to see a relatively smooth increase in the factory overhead and SG&A ratios as revenues decreased from the largest company to the smallest company. Petitioners contend that the record evidence does not demonstrate that this is the case. They note that while IFP is the largest company, it has the largest overhead ratio of any company and an SG&A ratio larger than three of the six smaller companies. They also state that Fusion Design, the smallest company in the group, has the second smallest factory overhead ratio. Finally, Petitioners claim that the sum of the factory overhead and SG&A ratios for IFP is nearly identical to those of two of the smallest companies. Accordingly, Petitioners assert that the record evidence demonstrates no correlation between the revenues and the financial ratios for the financial statements.

Petitioners also argue that the Department correctly recognized that the investigated furniture producers range in size. Petitioners claim that Dorbest fails to recognize that the Department's statutory authority for selecting mandatory respondents does not exclude non-mandatory respondents from the investigation. See Section 777A of the Tariff Act of 1930, as amended (the "Act"). Petitioners also maintain that the SAA also notes "Commerce will calculate individual dumping margins for those firms selected for examination and an 'all others' rate to be applied to those firms not selected for examination." See SAA at 872. Accordingly, they argue that there is no basis for arguing that the Department is foreclosed from considering the size of all respondents in an investigation.

Department's Position:

We disagree with Dorbest and continue to find that there is substantial evidence in support of the inclusion of the financial statements of Swaran, Nizamuddin, Fusion Design and DnD in the calculation of the surrogate financial ratios. For purposes of this final remand determination, we have addressed the alleged distortions cited by the Court in its order. Specifically, for the reasons outlined above, the Department has determined that the record evidence does not show how relative size might have affected the financial ratios of the Indian surrogate companies. Moreover, we have determined that none of the seven surrogate companies used in the draft remand results approximates the size of Dorbest. With respect to Dorbest's argument that the Department's statements in the draft remand results regarding examining the production experience of all respondents was in error, we agree in part. Although the Department continues to find that all Chinese respondents are subject to investigation, not just the selected mandatory respondents, we agree with Dorbest that because the financial ratios are only directly applied to the mandatory respondents, it is appropriate to consider the production experience of only the mandatory respondents. In this instance, we have determined that none of the surrogate companies approximates the size of Dorbest. Nevertheless, as more fully discussed in the section above titled "*Financial Statements of Swaran, Nizamuddin, Fusion Design, and DnD*," we find that these financial statements are reliable and just as reflective of Dorbest's manufacturing experiences as the other financial statements used in the calculation of the financial ratios and have determined to continue to rely on them for purposes of this remand redetermination.

**Comment 5-B: Exclusion of Evergreen and Jayaraja**

Dorbest argues that the Department erred in excluding the financial statements of Evergreen and Jayaraja. Dorbest explains that the Court remanded the use of Evergreen's

financial statements to the Department for the Department to "justify its decision to include statements which it admits are of questionable reliability and thereby unlikely to constitute the best available information." See Dorbest et. al v. United States, at 97. Dorbest asserts that rather than provide such a justification, the Department abandoned its defense of Evergreen entirely noting "some concern that the inability to properly allocate Evergreen's selling, general and administrative ('SG&A') expenses…could create distortions." See Draft Remand Results at 34. Dorbest contends that the Department has failed to identify the nature of these distortions or provide support for abandoning its prior position and that the Department's determination is in error because it is not based on substantial evidence. Dorbest also argues that the Department has applied a double standard in the selection of the surrogate financial statements because it rejected Evergreen's statements without providing substantial evidence but continued to use the Four Companies' financial ratios despite evidence of facial distortions. Dorbest maintains that the Department should continue to use Evergreen's financial statement for the same reasons expressed to the Court. Dorbest contends that while the Court remanded the case for the Department to provide more explanation, the Department has provided less explanation.

With respect to Jayaraja, Dorbest argues that, contrary to the Department's statements in the draft remand, the Jayaraja financial statement included an auditor's certification, balance sheet, and profit and loss statement. Moreover, Dorbest contends that the Department was able to allocate Jayaraja's expense items among direct expenses, overhead and SG&A in the original investigation. Dorbest claims that neither the Department nor Petitioners identified any item in Jayaraja's financial statement the allocation of which is questionable. Dorbest also maintains that the Department's finding in the draft remand results that the lack of certain items prohibits it from calculating Jayaraja's ratios "with any level of certainty," is in contradiction to the

Department's determination on this issue during the original case and its statements to the federal judge overseeing this appeal. See Draft Remand Results at 34. Dorbest asserts that the Department stands on precarious ground since it offers no factual basis for the change in its determination. Dorbest argues that the Department should modify its draft remand to explain either: 1) how use of Jayaraja's financial statement is reasonable as previously explained to the Court, or 2) what factual information in Jayaraja's financial statement has changed between the time of the filing of the Department's brief and its draft remand determination. Dorbest charges that absent such explanation, the Department's draft remand redetermination represents an unsupported and arbitrary departure from its prior practice.

Petitioners argue that the Department properly determined to exclude the 2002/2003 financial statements of Jayaraja and Evergreen from the financial ratio calculations. They maintain that, contrary to Dorbest's complaints, on remand the Department properly re-examined its position from the original investigation after considering information that demonstrates the financial statements for Evergreen and Jayaraja are not reliable. Petitioners note that the Department's determination in the draft remand with respect to the financial statements of Jayaraja and Evergreen is consistent with the Department's determination to exclude these two financial statements in the final results of the first new shipper review. See Memorandum from Stephen Claeys to David Spooner Regarding Issues and Decision Memorandum for the New Shipper Reviews of Wooden Bedroom Furniture from the People's Republic of China covering the period June 24, through June 30, 2005, Comment 1 (rejecting use of Evergreen's financial statements) and Comment 2 (rejecting use of Jayaraja's financial statements) (November 21, 2006).

Petitioners argue that Evergreen's financial statements are not usable because the majority of Evergreen's business is manufacturing leather garments. They claim that the record contains no basis for the Department to allocate the company's financial profit and expenditures between Evergreen's leather goods and furniture operations. They also assert that the Department does not use financial statements from a producer where a significant portion of its business is not related to the subject merchandise. See, e.g., Notice of Final Determination of Sales At Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate From Ukraine, 66 FR 38632 (July 25, 2001), and accompanying Issues and Decision Memorandum at Comment 4; and Notice of Final Determination of Sales At Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate From The People's Republic of China, 65 FR 19873 (April 13, 2000), and accompanying Issues and Decision Memorandum at Comment 8. Petitioners claim that Evergreen's financial statements indicate that the production and sale of leather garments are the most important part of Evergreen's business, making the use of the financial statements improper. Petitioners note that Evergreen's financial statements identify the principle products of the company as first, "garments," and second, "furniture." See Evergreen's Financial Statements, at Item V ("Balance Sheet Abstract and Company's General Business Profile"). Second, they note that the financial statements indicate that sales of leather garments were the majority of Evergreen's business. See id. at note 25.b. Finally, they note that less than one-quarter (by value) of the raw materials consumed during the period were used by the furniture division, while over three-quarters were consumed by the leather garments division. See id. at note 24.

Petitioners also argue that Evergreen's financial statements do not disaggregate profits for its leather goods and furniture divisions, which they claim makes it impossible for the

Department to determine the profit ratio for Evergreen's furniture operations.  They maintain

that it would be improper for the Department to speculate that the profit margin for producing

and selling leather garments is the same as that for producing and selling furniture.  Petitioners

further explain that Evergreen's financial statements also fail to allocate SG&A expenses

between the leather goods and furniture divisions.  Petitioners argue that the Department cannot

apply the same SG&A ratio for the entire company to the furniture division because record

evidence indicates that the furniture division would require greater usage of general and

administrative expenses since the furniture division is an in-house operation while the leather

goods division is mostly engaged in subcontracting production.  Finally, Petitioners claim that

the information in Evergreen's financial statements is insufficient to let the Department

disaggregate materials, labor, and energy expenses.

With respect to Jayaraja's financial statements, Petitioners maintain that the Department

properly determined in the draft remand results that Jayaraja's financial statements "do not

provide sufficient detail for the Department to allocate Jayaraja's expenses among direct

expenses, overhead, and SG&A with any level of certainty."  See Draft Remand Results at 34.

Petitioners explain that the Jayaraja financial statements consist of only two pages – the balance

sheet and the profit and loss statement and that there are no notes, schedule, auditor's opinion or

director's statements.  Citing Notice of Final Determination of Sales At Less Than Fair Value:

Silicomaganese From Kazakhstan, 67 FR 15535 (April 2, 2002), and accompanying Issues and

Decision Memorandum at Comment 3, Petitioners state that it is the Department's well-

established practice to reject such incomplete financial statements.  Petitioners contend that,

without schedules or notes, the Department cannot interpret the data presented in a company's

profit and loss statement.  As an example, Petitioners note that Jayaraja's financial statements

report zero depreciation and assert that without a depreciation schedule and listing of fixed assets, which they claim is on the record of every other statement on the record, there is no way to determine whether Jayaraja is even a manufacturing company. Additionally, Petitioners contend that because there are no notes or schedules to describe the interest revenue or identify interest-bearing assets, the Department cannot calculate the short-term or long-term interest revenue.

Department's Position:

We disagree with Dorbest and continue to find that the financial statements of Evergreen and Jayaraja should be excluded from the calculation of the surrogate financial ratios. Contrary to Dorbest's claims, the determination to exclude the financial statements of Evergreen and Jayaraja while retaining the financial statements of Swaran, Nizamuddin, Fusion Design and DnD does not represent a double standard. In both instances, the Department's determination to include or exclude a company's financial statement was based on substantial record evidence. The Department's findings with respect to the financial statements of Swaran, Nizamuddin, Fusion Design, and DnD are detailed above.

With respect to Evergreen, the Department explained in the draft remand results that it was excluding Evergreen's financial statement due to "some concern that the inability to properly allocate Evergreen's SG&A expenses and profit to merchandise that meets the description of the scope, could create distortions in the calculation of Evergreen's financial ratios." See Draft Remand Results at 34. For purposes of this final remand determination, we have elaborated on the nature of the potential distortions caused by the use of Evergreen's financial statements. Specifically, we find that sufficient evidence does not exist for a finding that the profit margin for producing and selling leather garments is the same as that for

producing and selling furniture. There is no information on the record regarding the profit ratios

incurred by these two divisions of Evergreen. With respect to SG&A expenses, because the

furniture division is an in-house operation while the leather goods division is mostly engaged in

subcontracting production, the furniture division may employ greater usage of general and

administrative expenses relating to the leather goods division. Consequently, we find that there

is a possibility of distortion in the SG&A and profit ratios calculated using Evergreen's financial

statements. It is because of this potential distortion along with the Court's rejection of the

Department's argument that Petitioners failed to show a distortion, and the availability of other

financial statements on the record that we have determined to alter our position from the Final

Determination and to not rely on Evergreen's financial statements in the calculation of the

financial ratios for purposes of this remand determination.

The Department determined on remand to exclude Jayaraja's financial statements from

the calculation of the surrogate financial ratios because the financial statements do not provide

sufficient detail for the Department to allocate Jayaraja's expenses among direct expenses,

overhead, and SG&A with any level of certainty due to the lack of the auditor's report,[18]

schedules, the auditor's opinions and notes to the financial statement. As noted by Dorbest, this

represents a change from our position in the Final Determination.[19] This change was prompted

by the Department's careful reconsideration of the use of these financial statements on remand.

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[18] Although Dorbest is correct that Jayaraja's financial statements include an auditor's certification, this is
fundamentally different than an auditor's opinion or auditor's report.

[19] The Department similarly determined to exclude the 2002/2003 financial statements of Jayaraja and Evergreen
from the calculation of the surrogate financial ratios in the preliminary results of the first administrative review of
this order. See Wooden Bedroom Furniture from the People's Republic of China: Final Results of the 2004-2005
Semi-Annual New Shipper Reviews, 71 FR 70739 (December 6, 2006), and accompanying Issues and Decision
Memorandum at Comments 1 and 2.

Similar to our findings with respect to the use of Evergreen's financial statements, we determined that we are unable to assess the possibility of distortion in the use of Jayaraja's financial statements to calculate respondents' overhead, profit, and SG&A ratios because of the lack of certain key reports as discussed above. Consistent with this concern, as noted by Petitioners, it is generally the Department's practice to disregard surrogate financial statements if they are incomplete and lack certain key reports (e.g., schedules, notes). See Notice Final Determination of Sales at Less Than Fair Value: Silicomanganese from Kazakhstan, 67 FR 15535 (April 2, 2002), and accompanying Issues and Decision Memorandum at Comment 3. Also, we note that the Court instructed the Department that it "must uniformly apply whatever criterion it ultimately adopts." See Dorbest et. al v. United States, at 103. Our determination to exclude Jayaraja's financial statements is consistent with our determination to exclude Evergreen's financial statements as there are concerns about the potential for distortion in the use of both companies' financial statements.

### 6. *Valuation of Dorbest's Packing Cardboard*

In the Final Determination, the Department valued Dorbest's packing cardboard factor of production using the average unit value of merchandise entered under Indian HTS subheading 4808.1000, which describes "corrugated paper and paperboard, whether or not perforated." See Issues and Decision Memorandum at Comment 19. This determination was made in accordance with record evidence, specifically Dorbest's verification report, which indicated that Dorbest's packing cardboard was made of corrugated paper, but did not specify whether Dorbest's packing

cardboard was perforated or non-perforated.  See Issues and Decision Memorandum at Comment 19.[20]

Following the Final Determination, Dorbest alleged that the Department should have classified packing cardboard under HTS subheading 4808.9000, which describes "other paper and paperboard corrugated," noting that it did not use perforated packing cardboard to package subject merchandise.  See Dorbest November 22, 2004, Ministerial Error Comments at 10-11. The Department agreed and reversed its valuation of packing cardboard in its Amended Final Determination, concluding that Dorbest's cardboard should be classified under HTS subheading 4808.9000 because record evidence did not contradict Dorbest's claim that it did not use perforated packing cardboard.  See Amended Final Determination and accompanying Issues and Decision Memorandum at Comment 5.

Before the Court, Petitioners challenged the Department's use of HTS subheading 4808.9000 for valuing Dorbest's packing cardboard.  Petitioners alleged that HTS subheading 4808.1000 is more appropriate to value Dorbest's packing cardboard because Dorbest's packing cardboard is corrugated and HTS subheading 4808.1000 is specific to corrugated cardboard. Moreover, Petitioners argued that because the phrase "perforated or not" appears in this HTS classification, the issue of whether Dorbest's cardboard is perforated should be irrelevant to the Department's determination.  See Petitioners' brief at 22-23.

Upon remand, the Court instructed the Department to "explain, with reference to the description of the input, why 4808.9000 is the appropriate classification, or to change the classification accordingly."  See Order in Dorbest et. al. v. United States at 119.  In accordance

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[20]  The characterization of Dorbest's packing cardboard as corrugated is not contested by the parties.

with the Court's instructions, the Department has re-analyzed the record evidence and re-examined the HTS subcategories at issue. As discussed more fully below, the Department confirmed its determination, based on record evidence, that Dorbest did not utilize perforated cardboard in its packaging of subject merchandise during the POI. Also, the Department determines that HTS subheading 4808.9000 remains the most appropriate surrogate to use in the valuation of Dorbest's packing cardboard.

Upon thorough review of the record of the investigation, the Department found no record evidence to contradict Dorbest's claim that its packing cardboard is non-perforated. Thus, for purposes of this valuation and consistent with the Department's <u>Amended Final Determination,</u> the Department continues to determine that Dorbest's packing cardboard is non-perforated.

Second, in order to properly value Dorbest's packing cardboard, the Department examined the distinguishing characteristic of the two HTS subcategories at issue: subheading 4808.1000 ("corrugated paper/paperboard whether or not perforated") and subheading 4808.9000 ("other paper and paperboard corrugated"). As noted above, the former was used in the <u>Final Determination</u> and the latter was used in the <u>Amended Final Determination</u> to value Dorbest's packing cardboard. At the outset, the Department continues to find that both HTS subcategories specifically include paperboard that is corrugated, as the term "corrugated" is included the description of both. Next, the Department agrees with the Court that the term "whether or not perforated," in HTS subheading 4808.1000, does not draw a distinction between paperboard that is perforated and non-perforated. Consequently, subheading 4808.1000 may include paperboard that is non-perforated as well as paper/paperboard that is perforated. In essence, it allows for the inclusion of both.

Finally, the Department compared HTS subcategories 4808.1000 and 4808.9000 with each other and determined that both subcategories are specific to corrugated paper, which is the type of packing cardboard Dorbest used for packing its subject merchandise during the POI. However, the Department also determined that these two HTS subcategories are distinguishable according to the characteristic of perforation. As stated above, subheading 4808.1000 is likely to include some perforated corrugated paperboard because the description of the subheading (by including the words "whether or not perforated") allows for the inclusion of both perforated and non-perforated paperboard. On the other hand, subheading 4808.9000 is likely to not include perforated paperboard, since any perforated paperboard is more likely to be classified under subheading 4808.1000 ("corrugated paper/paperboard whether or not perforated"). Therefore, by valuing Dorbest's packing cardboard using the HTS subheading that likely excludes perforated cardboard, the Department is capturing the essential corrugated paper characteristic of Dorbest's packing cardboard without introducing the distortive element of perforation in this valuation.

Thus, the Department has determined to continue valuing Dorbest's non-perforated packing cardboard using the HTS subheading that is more likely to exclude perforated packing cardboard, that is, subheading 4808.1000. The Department's ultimate selection was made in an attempt to eliminate any distortions that may potentially be caused by valuing Dorbest's non-perforated packing cardboard using an HTS subheading that likely includes perforated paperboard.

**Comment 6: Valuation of Dorbest's Packing Cardboard**

In its April 5, 2007, submission to the Department, Dorbest stated that it agreed with the Department's continued use of HTS subheading of 4808.9000 for its valuation of packing

cardboard.  Dorbest points out that the alternative HTS subheading, 4808.1000, was not applied

to any other respondent, as that subheading includes value-added cardboard not used by Dorbest

or any other respondent.  See Dorbest's submission to the Department, dated April 5, 2007, at

42.

On April 5, 2005, Petitioners urged the Department to classify Dorbest's packing

coardboard under HTS subheading 4808.1000, as it was a more specific subheading.  See

Petitioners' submission to the Department, dated April 6, 2007, at 21.  Petitioners argue that the

CIT found that the Department's choice of HTS subheading 4808.9000 "is not supported by

substantial evidence where the alternate subheading more clearly fits the description of the factor

input," absent an adequate explanation.  Petitioners argue for the "proper interpretation of the

HTS," which, they maintain, is only appropriate when there is no other tariff subheading that

covers the merchandise more specifically.  Petitioners contend that HTS subheading 4808.1000

is specific because it covers both perforated and non-perforated paper and paperboard.

Moreover, Petitioners state that since HTS subheading 4808.9000 also includes perforated paper,

there was no basis for the Department's conclusion that this subheading is a more appropriate

classification for Dorbest's packing cardboard.  See id. at 22-23.

Dorbest submitted its rebuttal arguments on April 10, 2007, and disagreed with

Petitioners' arguments.  See Dorbest's Rebuttal Comments to the Department, dated April 10,

2007 ("Dorbest Rebuttal Comments"), at 20.  Dorbest explained that the Court did not direct the

Department to change HTS subcategories from 4808.9000 to 4808.1000, but rather ordered the

Department to "explain...or change" the classification.  Dorbest notes that the Department

provided a reasonable explanation for its selection of 4808.9000.

Dorbest states that the Department's application of 4808.1000 to Dorbest's packing

cardboard was a mistake that the Department made efforts to correct. Moreover, Dorbest states

that Petitioners have not justified the application of 4808.1000 to only Dorbest's cardboard,

while applying 4808.9000 to all other mandatory respondents, noting that there is no distinction

between Dorbest's packing cardboard and that of other respondents.

Dorbest cites to Infodrive data to support its argument for using HTS subheading

4808.9000. Dorbest explains that Infodrive data for 4808.1000 indicate that none of the imports

under this subheading match Dorbest's cardboard as the subheading consists of "corrugated box"

(i.e., finished boxes, not cardboard) and "Ikea Blister Outer" (which is unlike Dorbest's plain

cardboard). See id at 21. Thus, Dorbest points out that the Department correctly refrained from

applying 4808.1000 to value its packing cardboard because distortions may result from such

valuation. Dorbest next explains that Infodrive data for 4808.9000 include "paperboard," "white

corrugated sheet," and other kinds of cardboard similar to Dorbest's cardboard, concluding that

application of subheading 4808.9000 to Dorbest's cardboard will not lead to misclassifications.

See id.

Finally, Dorbest points out that the Court confirmed that the Department's objective is to

select the HTS subheading that approximates the cost of a factor of production, and not assume

the role of a customs authority to apply strict theoretical rules of classification. Dorbest also

references the Court's statement that the Department's choice of surrogate value would only be

upset if "no reasonable mind could find Commerce's choice of HTS heading or subheading is

proper." See id. Dorbest explains that the Department provided a rational basis for its selection

of 4808.9000 to value Dorbest's packing cardboard because the use of the alternative HTS

subheading would potentially lead to a distortive effect resulting from the inclusion of value-

added qualities. Dorbest notes that Infodrive data confirm the Department's concern of possible

distortion, as subheading 4808.1000 includes distinguishable and high-end products, while subheading 4808.9000 contains plain cardboard of the kind used by Dorbest. See id, at 21 - 22. Dorbest lastly notes that the use of 4808.9000 to value Dorbest's cardboard best approximates respondent's costs. See id. at 22.

Department's Position:

The Department agrees with Dorbest and continues to find that HTS subheading 4808.9000 represents a value that best reflects the value of Dorbest's packing cardboard. The Department also disagrees with Petitioners that subheading 4808.1000 is not supported by record evidence and that it is not sufficiently specific to Dorbest's input.

The Indian HTS subcategories at issue are 4808.1000, describing corrugated paper/paperboard whether or not perforated" and 4808.9000, describing "other paper and paperboard corrugated." As an initial matter, it is undisputed that both HTS subcategories 4808.1000 and 4808.9000 include corrugated paperboard. The remaining issue to be decided is which of the two HTS subcategories is most appropriate for valuing Dorbest's nonperforated packing cardboard.

The Department emphasizes that when valuing factors of production for Dorbest, it is not classifying Dorbest's corrugated packing cardboard within either of these subcategories. Rather, the Department notes that it is evaluating which HTS subcategory better reflects Dorbest's packing cardboard input. We find that HTS subcategory 4808.1000 is more likely to also include an item that does not represent Dorbest's input (i.e., perforated cardboard) because its description specifically allows for the inclusion of such. The existence of perforated paperboard is likely to increase the value of a subcategory, as perforation would add value to the paperboard. Thus, in determining which HTS subheading best reflects the value of Dorbest's nonperforated,

corrugated cardboard, the Department did not select the subcategory that likely includes the

higher valued perforated paperboard (i.e., 4808.1000).  Consequently, the Department finds it

inappropriate to use this subheading because it would likely exaggerate the surrogate value for

Dorbest's cardboard.

Therefore, the Department continues to find that the most appropriate surrogate value to

apply to Dorbest's corrugated, non-perforated packing cardboard is HTS subheading 4808.9000

because this subheading only includes paper/paperboard that is corrugated.  Moreover, the

Department agrees with Dorbest's statement that using this subheading to value packing

cardboard is consistent with the Department's valuation of all other respondents' packing

cardboard during the investigation.

### 7.      *Voluntary Remand Issues*

The Department requested a voluntary remand with respect to the following three issues:

1) treatment of spare parts, 2) elimination of metal parts and canopies, and 3) valuation of

incoming raw material expenses.  The Department requested a voluntary remand on these issues

after re-examining the record of the underlying investigation and realizing that certain elements

of Dorbest's margin calculation were made in error.  A remand to the agency is appropriate

where the agency "believes that its original decision is incorrect on the merits and wishes to

change the result."  See SKF USA Inc, et al. v. United States, 254 F.3d 1022, 1029-30 (Fed. Cir.

May 25, 2001).  Therefore, consistent with its request for a voluntary remand, and as detailed

further below, the Department has corrected errors to Dorbest's margin calculation by

eliminating certain spare parts discounts, certain non-scope metal parts, and certain expenses

associated with incoming raw materials.

a.       Elimination of Dorbest's Spare Parts Discount

Record evidence indicates that during the POI, Dorbest provided its U.S. customers with free-of-charge merchandise as part of its standard purchase order agreements.[21] Dorbest included the per-unit consumption factors for its production of free spare parts with respect to the main items to which the spare part related. See Dorbest's June 15, 2004, submission at 9. Thus, the normal value for the item included the production cost of the free spare part.

In the Final Determination, the Department treated the free-of-charge merchandise as a discount to Dorbest's U.S. price (i.e., sales discounts). See Issues and Decisions Memorandum at Comment 37. The Department calculated the free-of-charge discount using invoice information collected during verification relating to Dorbest's U.S. sales. Because the Department could not distinguish whether Dorbest's free-of-charge items were of subject or non-subject merchandise, it applied an allocation methodology using the total value of all free-of-charge items and dividing it by the total value of all merchandise contained in the invoices. See id. The Department applied the resulting ratio (as a deduction) to all of Dorbest's U.S. sales prices. See id.

Dorbest argued that the Department's reduction to U.S. price to account for its free-of-charge items was in error. Dorbest explained that it does not charge its customers for a certain amount of spare parts in a sale, and those "free" spare parts are not exchanged for consideration. See Dorbest Brief at 16-20. In support of its argument, Dorbest relied on the Federal Circuit's decision in NSK Ltd. v. United States, 115 F.3d 965, 975 (Fed. Cir. 1997) ("NSK"), where the court held that the terms "sold" or "sale" as used in the antidumping duty law "requires both a

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[21] The Department noted at verification that Dorbest provided a customer with certain spare parts free of charge, but charged a fee for additional requested spare parts that exceeded the customer's general allowance of free-of-charge spare parts that is recorded in its invoice. See Dorbest Verification Report at 11.

transfer of ownership to an unrelated party and consideration." See NSK,115 F.3d at 975.

After reviewing Dorbest's record evidence, the Department requested a voluntary remand to eliminate the spare parts discount adjustment from Dorbest's U.S. price calculation. The record indicates that U.S. prices reported in Dorbest's sales database included a negotiated allowance for free spare parts (and when that allowance is exceeded, the customer is then charged for the excess parts).[22]  Specifically, Dorbest's verification report states that Dorbest engaged in a practice of providing a certain amount of extra or spare parts to its customers, not as a separate sale transaction for no consideration, but instead as an integral part of the sale of the ordered items.[23]  Dorbest also readily admits that the "value of the free spare parts was already included in the negotiated price..." of the sale. See Dorbest Brief at 19.  Additional information obtained during Dorbest's verification suggests that consideration for such transactions was set in contemplation that the spare parts would be provided, in a certain amount, for no additional charge.[24]  Thus, if a sale included Dorbest's general provision of spare parts at no charge, they were not treated as separate sales (for which consideration would be required), but were included together as one sale on the invoice. See id.; Dorbest Verification Exhibit 8, at 45-59.  Accordingly, the Department finds sufficient evidence on the record to conclude that Dorbest's provision of spare parts to its U.S. customers at no charge was an integral part of its sales for consideration.

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[22]  See id., supra note 21.

[23] Dorbest officials explained to the Department at verification that as part of its sales, Dorbest provides a "general allowance of...spare parts at no charge."  See Dorbest Verification Report, September 28, 2004, at p. 11.  Dorbest's statement is corroborated by the sales invoices submitted to the Department during the investigation. See Dorbest Verification Exhibit 8, at 45-49.

[24] At verification, the Department noted that Dorbest officials explained that only a certain number of spare parts were included in the overall sale. See Dorbest Verification Report, p. 11.

Dorbest, in its brief before the Court, argued that the Department's adjustment to its U.S.

price calculation, by reducing U.S. price for the free-of-charge spare parts, was in error because

the Department double-counted the value of these spare parts when it accounted for them as both

a deduction to the U.S. price and in the build-up of the normal value component of its margin

calculation.  See Dorbest brief at 20.  The Department agrees that its adjustment to Dorbest's

U.S. price, while also valuing the spare parts in Dorbest's normal value calculation, constituted

impermissible double-counting.  The Department acknowledges that, because the value of the

spare parts was already accounted for in Dorbest's reported price to its U.S. customers and the

value of these parts was also included in the normal value build-up, it was unnecessary for the

Department to deduct the spare parts value from Dorbest's reported U.S. prices.  Therefore, we

have removed this deduction from our calculation.

b.  Elimination of Certain Metal Components from Dorbest's Normal Value

In order to group similar products for purposes of calculating the average U.S. price and

normal value, the Department identified certain criteria for the respondents to use in establishing

Control Numbers ("CONNUMs") in the original investigation.  Each CONNUM was comprised

of physical characteristic data fields which were relevant to identifying various types of wooden

bedroom furniture.  See Department's Section C Questionnaire, dated February 11, 2004.  The

Department permitted the mandatory respondents to add more fields beyond the 11 physical

characteristics identified in the questionnaire as necessary to adequately describe subject

merchandise.  Dorbest provided additional Piece Type codes, including "18 Canopy Bed Piece."

See Dorbest's March 29, 2004, Section C and D submission, at 5 (Pub. 704, fr. 13).  As required

by the Department, Dorbest reported its per-unit consumption of all raw materials used to

manufacture all individual products falling within each CONNUM.  See, e.g., Supplemental

C&D Questionnaire, at 3.

On August 6, 2004, Petitioners proposed that the Department exclude metal furniture

parts from the Antidumping Duty Order.  See Petitioners' August 6, 2005, letter at 21.[25]  In its

Final Determination, the Department announced that it agreed with Petitioners' exclusion request

for metal parts and added an exclusion for "certain metal parts" (exclusion number 11) to its

scope language.  See Final Determination, 69 FR at 67314.  The Department defined "metal

parts" in footnote 13 of its scope description, adopting Petitioners' proposed exclusion language.

Additionally, the metal parts scope exclusion specifically differentiated between excluded metal

parts and included wood parts.  Wooden bed canopies were specifically included, while metal

bed canopies were subject to the exclusion.  See id.  For the Final Determination, Dorbest's

metal canopies were included in Dorbest's margin calculation.

On November 22, 2004, Dorbest notified the Department that three specific CONNUMs

relating to metal bed canopies should be excluded according to the Department's November 8,

2004, scope revision Federal Register notice.  Dorbest explained that these three CONNUMs

characterized metal parts and not "wooden bed canopies," the only type of canopy remaining

within the scope.  See Dorbest's Ministerial Error Allegation, at p. 14-15.  To support its claim,

Dorbest demonstrated, by relying on record evidence, that the three types of metal canopies each

consumed a significant amount of iron and zero, or less than one millionth of a kilogram, of

wood.  See id. at 15.

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[25] Petitioners' proposed exclusion language was as follows: "metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (i.e., wooden headboards for beds, wooden footboard for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form.  Such parts are usually classified in subheading 9403.90.7000, HTSUS."  See id.

Dorbest further raised this issue to the Department as a ministerial error, alleging that the Department erred in including certain metal furniture parts, such as metal bed canopies, in its margin calculation as they should have been excluded according to the "certain metal parts" scope exclusion. See id. at 14-15. The Department denied Dorbest's clerical error allegation and did not remove the identified metal parts from Dorbest's margin calculation. See Amended Final Determination at Comment 8. The Department rejected the request as untimely stating that "Dorbest had ample opportunity to comment on the scope issue after the Petitioners filed their August 6, 2004, scope comments." See id.

The statute expressly limits the Department's authority to calculate the estimated weighted-average dumping margin on only subject merchandise, and implicitly prohibits the calculation of dumping margins based on non-scope merchandise.[26] Additionally, the CIT has explicitly confirmed this prohibition by stating that "{m}erchandise which is outside the scope of an antidumping order cannot be used in the calculation of dumping duties." See Torrington Co. v. United States, 818 F.Supp. 1563, 1578 (CIT 1993). Moreover, the CIT has also noted that where information is available on the administrative record, the Department must exclude non-scope merchandise from its calculation of an antidumping duty margin. See Badger-Powhatan v. United States, 633 F.Supp. 1364, 1372-73 (CIT 1986) (stating "ITA chose to state an average margin for reasons of convenience does not relieve it of the burden of producing a proper calculation from information already available in the original administrative record").

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[26]In rendering a final determination, the Department is required to "determine the estimated weighted average dumping margin for each exporter and producer {of subject merchandise} individually investigated." See Section 735(c)(1)(B)(i)(I) of the Act; see also section 771(35)(A) of the Act. "{S}ubject merchandise' is defined as "the class or kind of merchandise that is within the scope of an investigation." See Section 771(25) of the Act.

The Department acknowledges that information relating to Dorbest's certain metal parts

were on the original record of the investigation prior to both the Final Determination and the

issuance of the Antidumping Duty Order. The Department also recognizes that the fact that

Dorbest did not raise this issue until its November 22, 2004, ministerial error allegation would

not have been a determinative factor in its scope analysis.

The Department thus requested a voluntary remand to correct for the inappropriate

inclusion of certain metal parts in its calculation of Dorbest's margin. Accordingly, for purposes

of this remand and in order to correctly reflect the scope of the Order, the Department has

excluded certain metal parts from Dorbest's margin calculation by removing sales of all

CONNUMs associated with these metal parts from Dorbest's margin calculation.

c.      Elimination of Certain Expenses from Dorbest's U.S. Price

During the investigation, and in response to the Department's questionnaires, Dorbest

reported a certain category of expenses as direct selling expenses in its U.S. sales database,

within the field DIRSEL1U, because Dorbest believed these expenses related to its finished

product rather than its incoming raw materials. See Dorbest's May 24, 2004, Supplemental

Questionnaire Response at 18-19.

On July 13, 2004, in response to the Department's supplemental questionnaire, Dorbest

stated that upon reviewing underlying documentation, it realized that it had miscategorized these

expenses. See Dorbest's July 13, 2004, Supplemental Questionnaire Response at 3. Dorbest

explained that the expenses related to board and lumber incoming raw materials, rather than to

the sales of finished product, and that its prior categorization of the expenses as relating to the

finished product (i.e., as direct selling expense) was in error. See id. To correct the error,

Dorbest suggested that these expenses "should not be deducted from the U.S. selling price" because they do not constitute selling expenses. See id.

In August 2004, the Department conducted a verification of Dorbest's questionnaire responses and examined information relating to Dorbest's reported DIRSEL1U data field. Based on information reviewed at verification, the Department concluded that Dorbest's DIRSEL1U expenses were in fact not selling expenses but were expenses associated with the purchase of raw material inputs. See Dorbest Verification Report, Exhibit 8 at 13.

However, for the Final Determination, the Department treated Dorbest's DIRSEL1U expenses as direct selling expenses because "Dorbest categorized this expense as related to sales" in its questionnaire responses. See Issues and Decision Memorandum at Comment 34. In accordance with section 772(c)(2)(A) of the the Act"), which states that U.S. price may be reduced only by expenses "incident to bringing the subject merchandise from the original place of shipment in the exporting country to the place of delivery in the United States," the Department deducted the DIRSEL1U expenses from Dorbest's gross U.S. sales price. See id.; see also section 772(c)(2) of the Act.

Before the Court, Dorbest challenged the Department's final margin calculation with respect to the DIRSEL1U deduction made to Dorbest's U.S. price. See Dorbest brief at 23. Specifically, Dorbest argued that the Department should not deduct DIRSEL1U from its U.S. price because the amounts reported in that field did not represent expenses associated with the sale of finished subject merchandise, but rather represented expenses associated with incoming raw materials used in the production of subject merchandise. See Dorbest's October 6, 2004, Case Brief at 23. Relying on section 772(c)(2) of the Act, Dorbest further argued that there is no

statutory provision for a deduction from U.S. price for expenses associated with the production of subject merchandise.

Upon re-examination of record evidence, the Department finds that Dorbest's expenses reported in DIRSEL1U should have been treated as raw material costs rather than direct selling expenses. The Department requested a voluntary remand to account for these expenses within the normal value component of Dorbest's margin calculation and eliminate the deduction from the U.S. price component of the margin calculation. The Department has now done so in accordance with its request for a voluntary remand.

**Comment 7: Voluntary Remand Issues**

Dorbest states that it concurs with the Department's resolution of the three voluntary remand issues. Petitioners did not comment on these issues.

Department's Position:

Having received no substantive comments with respect to the voluntary remand issues (i.e., metal spare parts, non-scope metal canopies, and treatment of certain expenses on incoming raw materials ), there are no comments for the Department to address with respect to these issues.

*8.    Shing Mark Enterprise Co., Ltd. ("Shing Mark")[27]*

**Comment 8-A:  Shing Mark's Comments**

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[27] On April 5, 2007, Mowry International Group, LLC entered an appearance on behalf of Shing Mark Enterprise Co., Ltd., Carven Industries Limited (BVI), Carven Industries Limited (HK), Dongguan Yongpeng Furniture Co., Ltd. (collectively "Shing Mark").

Shing Mark contends that the Department should recalculate its margin based on all the relevant issues pursuant to the CIT's remand in the litigation consolidated in <u>Dorbest Limited v. United States</u>, Court No. 05-0003 ("<u>Dorbest</u>").  Shing Mark argues that if the Department revises Shing Mark's margin calculations with respect to the labor wage rate and mirrors, its calculated antidumping margin will fall to 0.69 percent, which is <u>de minimis</u>.  As a result, it should be excluded from the order.

Shing Mark asserts that even though it is not a party to the litigation, it is entitled to comment on the draft remand results because the Department solicited comments from all interested parties.  Shing Mark argues that the Department must therefore consider its comments and take them into account when issuing the final results on redetermination of remand because its rate is directly affected by the draft remand results.

Shing Mark argues that in challenging the Department's margin calculations, the Petitioners opened the door for application of lower rates to all respondents.  Shing Mark further argues that because it relied on factor information that Shing Mark submitted during the investigation, Petitioners must have intended for any changes to the selection for mirrors to also apply to Shing Mark.  Shing Mark further contends that the surrogate values that it placed on the record in <u>Glass Yug</u> are the correct surrogate values for Shing Mark's mirrors.  Shing Mark also argues that the Department's mandate to calculate margins as accurately as possible requires that it recalculate Shing Mark's margin based on the revised mirror and labor wage rate data in accord with <u>Dorbest</u>, Slip Op. at 11 (<u>citing</u>, <u>e.g.</u>, <u>Allied-Signal Aerospace Co., v. United States</u>, 996 F.2d 1185, 1190 (Fed. Cir. 1993) ("<u>Allied-Signal</u>"); and <u>Rhone Poulenc, Inc. v. United States</u>, 899 F.2d 1191 (Fed. Cir. 1990) ("<u>Rhone-Poulenc</u>")).

Shing Mark further argues that the CIT's use of the plural term "Respondents" indicates

that the Court intended to apply the revised mirror surrogate values to all respondents, not to

Dorbest alone.  Further, Shing Mark claims that in referring to "respondents" in <u>Dorbest</u>, Slip

Op. at 31, 40, 42-43, 47 53, the CIT repeatedly relies on data and arguments submitted by Shing

Mark in the investigation.

Finally, Shing Mark argues that the recalculation of its antidumping duty margin based

on the revised factors for mirrors and the labor wage rate would not be a burden on the

Department because the Department has already recalculated Shing Mark's rate with respect to

the financial ratios.

**Comment 8-B:  Petitioners' Rebuttal**

Petitioners contend that Shing Mark is not a party to the appeal now on remand and, thus,

has no standing to submit comments on the Department's remand results.  Petitioners further

claim that the CIT has no jurisdiction over any claims asserted by Shing Mark and the CIT did not

order a remand or order any relief with respect to Shing Mark, citing <u>Industria De Fundicao Tupy</u>

<u>v. Brown</u>, 866 F. Supp 572 (CIT 1994) (holding that an antidumping order was final as to a party

that failed to appeal); <u>Piazza v. Aponte Roque</u>, 909 F.2d 35, 39 (1st Cir. 1990).  Petitioners also

note that Shing Mark did not cite any authority in support of its position.

Petitioners contend that the CIT's remand order prohibits comments from non-parties.

Citing <u>Win-Tex Products, Inc. v. United States</u>, 843 F. Supp. 709, 711 (CIT 1994) ("It is well-

settled that an order of the Court remanding a matter to an administrative agency for further

findings and proceedings is itself interlocutory relief and that pending the completion of the

remand proceedings by the agency, the case remains within the jurisdiction, control, and

supervision of the court issuing the remand order").  Petitioners contend that, although the

Department has some discretion in accepting information during a remand, that discretion can be

limited. Thus, Petitioners argue that the CIT's remand order in this case specifically limited the

entities who are permitted to file comments to "parties" as set forth in Dorbest Ltd. v. United

States, 462 F. Supp. 2d 1262, 1322 (CIT 2006) ("Dorbest 2006), citing Laclede Steel Co., v.

United States, 19 CIT 1076, 1078 (1995); Zhejiang Machinery Import & Export Corp. v. United

States, Slip Op. 07-15 at 9, n. 12 (January 29, 2007) (affirming the Department's decision not to

address new arguments raised for the first time on remand as outside the scope of the remand

order). Petitioners further claim that it is well settled that favorable court decisions apply only to

the companies in the appeal, and thus, argue that the Department has no legal basis to consider the

claims that Shing Mark waived over two years ago by failing to file a timely appeal. Petitioners

contend that in this case, the "parties" to which the CIT refers are the parties over which the CIT

has jurisdiction in the appeal.

Further, Petitioners contend that the CIT's remand on the valuation of mirrors and the

labor rate was the result of a complaint filed by Dorbest. As a result, Petitioners argue, no party

other than Dorbest has status to benefit from the CIT's decision on these issues because no other

party has appellant status as either a plaintiff or plaintiff-intervenor on these particular issues. In

response to Shing Mark's argument that it is entitled to have its rate changed because Petitioners

raised the issues concerning the valuation of mirrors for the application of adverse facts available

("AFA") and the valuation of factors of production, Petitioners claim that the CIT remanded only

very limited aspects of their claims (e.g., the calculation of financial ratios). The CIT did not

remand any aspect of Petitioners' claims with respect to Shing Mark's valuation of mirrors.

Thus, Petitioners claim that, because only Dorbest raised the issue of mirror valuation and the

wage rate calculation methodology, only Dorbest is entitled to relief on remand.

**Comment 8-C:  Shing Mark's Replies**

Shing Mark rebuts that Petitioners are wrong in their arguments that Shing Mark's comments should be rejected. Rather, Shing Mark contends that its comments were expressly solicited in the Department's March 13, 2007, memorandum issuing the draft remand results which was addressed to all interested parties. Thus, Shing Mark contends that Petitioners' assertion that Shing Mark's comments were "unsolicited" is in error.

Shing Mark reiterates that it was a vigorous participant as a mandatory respondent in the underlying investigation, submitting numerous questionnaire responses and briefs, including the voluminous information on the classification and valuation of mirrors. Shing Mark further claims that Petitioners do not address its arguments concerning the Department's statutory, court-acknowledged duty to calculate antidumping margins as accurately as possible using the best available information. Thus, because the Department solicited Shing Mark's comments on the draft remand results, given the significant impact that the draft remand results will have on its antidumping duty margin, the Department must consider Shing Mark's April 5, 2007, comments on their merits and disregard Petitioners' arguments to the contrary.

Department's Position:

The Department agrees with Petitioners and finds that Shing Mark is not entitled to any changes to its rate resulting from Dorbest's law suit because Shing Mark never challenged the rate it received from the investigation, and it is not otherwise a party to this litigation. Had Shing Mark wished to challenge the rate it received as a result of the investigation, it needed to have filed a proper action before the CIT within 30 days of when the Department published its Order. See Section 516A of the Act. Shing Mark cannot somehow claim a benefit to the claims challenged on behalf of Dorbest. Contrary to Shing Mark's claim, simply being an active

participant during the administrative proceeding, does not entitle a party to a change in its margin two years after the fact, when that party waived its statutory right to challenge the Department's determination.

Further, neither the Court's opinion nor Petitioners' arguments suggest that changes made to Dorbest's wage rate or the surrogate selection for Dorbest's mirrors should also be applicable to Shing Mark, and Shing Mark's arguments to the contrary are, at best, unpersuasive. Under the Court's remand order, the Department is not authorized, let alone required, to provide Shing Mark with a revised margin based on the resulting changes from Dorbest's lawsuit.

Shing Mark's further argument as to administrative burden is wholly irrelevant given that Shing Mark has already waived its statutory right to a court challenge. In any event, the Department disagrees that such an undertaking poses no administrative burden. The burden issue raised by Shing Mark goes beyond the potential burden placed on the Department in this case, and opens up the potential burden on the Department of future cases in which parties choose to waive their right to challenge the Department's determination and then attempt to re-open ta final determination. Such a result would undermine the fundamental role of finality for administrative determinations and raise substantial burdens for administrative agencies. It is partly for this reason that such statutory time bars exist.

Therefore, for the final results of redetermination, the Department has made no additional changes to Shing Mark's margin.


9. *Financial Ratio Issues Not Before the Department on Remand*

**Comment 9-A: Petitioners' Comments**

Petitioners argue that the Department should make certain changes concerning the

surrogate financial ratios, even though the Court has reserved judgment on these issues, and they

are not before the Department on remand.  Specifically, Petitioners argue that the Department:

(1) should treat DnD's "Salary & Other Benefit to Staff" as either SG&A or factory overhead

expenses rather than MLE expenese; and (2) should not offset SG&A expenses of DnD and

Raghbir with interest income.  Also, Petitioners argue that it is erroneous for the Department not

to segregate labor expenses into MLE and non-manufacturing labor for all surrogate companies

used in the financial ratio calculations, and that it is improper for the Department to apply 100

percent of a company's labor expenses to MLE.  Petitioners argue that this latter labor-related

adjustment should also be addressed in the Department's final remand determination.

**Comment 9-B:  Dongguan's Rebuttal**

Dongguan Lung Dong Furniture Co., Ltd. and Dongguan Dong He Furniture Co., Ltd.

(collectively "Dongguan") argues that, in Dorbest at 1302, the Court explained that it was not

making a decision on: (1) whether the Department should treat certain expenses as SG&A

expenses instead of cost of manufacturing expenses; and (2) whether the Department incorrectly

categorized certain expenses of the Indian companies used to calculate the surrogate financial

ratios, and that the Court specifically stated that it would "reserve judgment on these subsidiary

issues until Commerce issues a Remand Determination."  Dongguan contends that asking the

Department to address issues that the Court specifically reserved for its own future consideration

places the Department in the position of substituting its judgment for that of the Court.  Therefore,

Dongguan argues, the Department should decline to adopt Petitioners' position and continue to

defer judgment to the CIT to review and decide Petitioners' arguments.

Department's Position:

The Department has not addressed, or made any changes concerning these surrogate

financial ratio issues in this remand determination because the Court has specifically reserved

judgment on these issues, and they are not properly before the Department at present.  Dorbest et.

a.l. v. United States, at footnote 37.


10.     *Labor Costs Not Accounted For In the NME Wage Rate*

**Comment 10-A:  Petitioner's Comments**

Petitioners claim that when the Department published its Antidumping Methodologies

Notice, it rejected a request to use the ILO's Chapter 6 data (which reports all costs to the

producer - including wages, benefits, housing, training - related to labor) to calculate the

surrogate wage rates, stating that the Department intended to capture as much of such labor costs

as possible in its financial ratio calculations.  Further, Petitioners claim that the Antidumping

Methodologies Notice explains that it is the Department's practice to categorize all individually

identifiable labor costs not included in the ILO's definition of earnings as overhead expenses.

Thus, Petitioners contend, for purposes of this remand, the Department has the responsibility to

ensure that labor costs not captured in the wage rate are accounted for in the financial ratio

calculations.

Petitioners contend that in light of the above, when possible, the Department should

classify the following items as factory overhead: "Salary & Other Benefit to Staff," "ESI

Expenses," "Provident Fund Expenses," "Staff Welfare," and other employee benefits (if not

captured in the surrogate wage rate calculation).

Department's Position:

The Department has not, in the context of these remand results, applied its new practice

of, adjusting the surrogate financial ratios employed for "earnings."  See Antidumping

Methodologies Notice, 71 FR 61716, 61722 (October 19, 2006).  Such an adjustment would be inappropriate here because: (1) this was a later developed practice that began after the final determination of the investigation in this case; and (2) the issue is not before the Department on remand.

The Department's practice of including other labor expenses in overhead, when the facts of the record allow, is a practice that developed after the Department began to reexamine its wage rate methodology internally.  See, e.g., Folding Metal Tables and Chairs, Issues and Decisions Memorandum at Comment 1.B at 10, 71 FR 2905 (Jan. 18, 2006); Persulfates from the People's Republic of China, 71 FR 7725 (February 14, 2006), Issues and Decisions Memorandum at Comment 3.  During our original investigation in this case, such adjustments were not the normal practice of the Department, no party brought this issue to our attention, and as a result, the Department never determined or addressed whether a factual scenario that would warrant making such adjustments was present in this case.  Because such determinations must be made by the Department on a case-by-case basis, the record would need to be further examined in order to make a determination as to whether similar adjustments were warranted here.

The Court raised specific concerns regarding our selection of countries used to determine the wage rate.  In response, we found it appropriate to apply a portion of our new methodology, which was otherwise intended to have a prospective application, to respond to the specific concerns raised by the Court.  However, we do not otherwise find it appropriate to apply a later developed practice when the issue is not within the realm of the Court's remand order.

This issue was not included in Petitioners' complaint(s) to the Court; however, Petitioners did attempt to bring the issue to the Court's attention in the form of  "supplemental authority."  This supplemental motion was not filed until after all parties' briefs had been filed, but before the

Court issued its decision.  Given that Petitioners filed a separate motion, requesting the Court to

remand this issue to the Department, and that the Court did not include this issue in its remand

order, the Department concludes that the Court did not intend to remand this issue, and therefore,

it would be inappropriate to address this issue within the context of this remand determination.


*11.*    *New Clerical Error Allegations*

**Comment 11-A:  Petitioners' Comments**

Petitioners explain that between the final and amended final determination in the

investigation, the Department determined that it incorrectly failed to use the reported market

economy prices for 13 of Dorbest's inputs, including rubberwood.  As a result, the Department

stated that it would use the market economy prices reported for these inputs in the amended final

determination instead of the surrogate values that were used in the preliminary and final

determinations.  For 12 of the 13 identified inputs, Petitioners claim that the Department made a

certain proprietary adjustment with respect to market-economy prices.  However, Petitioners

contend that it inadvertently and incorrectly failed to make this same adjustment for rubberwood.

As a result, Petitioners assert that the Department used the incorrect value for the market

economy price for rubberwood in its amended final results.

Petitioners argue that this error is a ministerial error within the meaning of the statute, as

opposed to a methodological error, meaning that it is an error "in addition, subtraction, or other

arithmetic function," or clerical error "resulting from inaccurate copying, duplication, or the like,"

or "any other type of unintentional error which the administering authority considers ministerial"

in accordance with section 751(h) of the Act.  Petitioners claim that in similar circumstances, the

Department has corrected a clear calculation error discovered during the course of the remand.

For example, Petitioners note that in the fifth review of the antidumping duty order on certain

semiconductors from the Republic of Korea, the Petitioner, Micron Technology, Inc. ("Micron"),

discovered a clerical error relating to the calculation of entered value for a respondent in the final

results of the review while the cause was on remand from the CIT on unrelated issues.  Petitioners

contend that the clerical error was not raised at the proceeding before the Department, but was

raised for the first time by Micron on remand.  Petitioners claim that in the Final Results of

Redetermination Pursuant to Court Remand, Hyundai Electronics Industries, Co., Ltd and

Hyundai Electronics America, Inc. v. United States and Micron Technology, Inc., Court No. 00-

00027 (August 31, 2004) at 31-32, the Department agreed with Micron that this was a clerical

error and corrected the error by making programming changes in the final results of the

redetermination on remand; see also Luoyang Bearing Corp. v. United States, 358 F. Supp. 2d

1296, 1300 (CIT 2005); Luoyang Bearing Corp. v. United States, Final Results of

Redetermination Pursuant to Remand (September 2004).

Petitioners contend that the respondents in the review, Hynix Semiconductor Inc. and

Hynix Semiconductor America Inc. (collectively, "Hynix"), argued that the Department was time-

barred from revisiting the calculation.  However, the CIT upheld the Department's determination

to correct a clerical error stating that "Commerce may with or without a party's request, correct

errors that it reasonably regards as ministerial in final determinations."  Further, the CIT in

Hyndai Elecs. Ind. Co., Ltd. v. United States, 395 F. Supp. 2d 1231, 1243 (CIT 2005), held that

the Court itself has a responsibility to exercise its discretion to prevent knowingly affirming a

determination with errors.  Also, Petitioners contend that additional cases support the

Department's authority to correct clerical errors discovered during the remand phase of a

proceeding, e.g., Maui Pineapple Co., v. United States, 264 F. Supp. 2d 1244, 1263-64 (CIT

2003) (holding that the exhaustion doctrine does not apply when a litigant identifies errors of a clerical nature); Federal Mogul Corp. v. United States, 18 CIT 1168, 872 F. Supp. 1011, 1014 (1994) (refusing to apply the exhaustion doctrine because the correction of clerical errors is "fundamental to the proper administration of our dumping laws."); Aramide Maatschappij v. United States, 19 CIT 1094, 901 F. Supp. 353, 361 (1995) (noting that the CIT has "uniformly authorized the correction of any clerical errors which would affect the accuracy of a determination.").

Therefore, Petitioners argue that, in recalculating Dorbest's margin on remand, the Department should correct the clerical error with respect to the market economy inputs for rubberwood.


**Comment 11-B:  Dorbest's Rebuttal and Clerical Error Allegations**

Dorbest argues that the Department should not recalculate the surrogate value for rubberwood because Petitioners did not allege a ministerial error until more than two years after the close of the record of the investigation and the filing of their complaint, and more than a year and a half since the first remand in this case.  Dorbest argues that the Department should not reward Petitioners' tardiness in bringing this error to light.  It points out that parties in the investigation made their decision to participate in the litigation based on the issues framed in the Complaints.  Dorbest contends that changing other aspects of the Department's margin calculation program not included in claims raised before the CIT would cause prejudice to Dorbest and other parties.  Further, Dorbest argues that Petitioners have not explained their delay in waiting to raise this issue and have failed to allege prejudice as a justification for their delay. Therefore, Dorbest contends that the Department should not make any changes to the valuation of

rubberwood for the final remand results.

For its part, Dorbest contends that the Department should make the following corrections in the final remand results: (1) Use the shortest reported distance from the factory to the port as the Sigma distance for nails, pads, ash veneers, and WGLIDES; (2) remove the inflation factor applied to the calculation of the surrogate value for light bulbs because the HTS category for light bulbs was not included in the four HTS categories to which the Department stated it was applying an inflation factor; (3) correct the formula on the SV CALC sheet for light bulbs from "=+(G44*N44*O43*P44)+**Q44**" to "=+(G44*N44*O43*P44)+**O44**;"(4) apply the market-economy input price for WSTAINS reported in Exhibit 20 of Dorbest's July 13, 2004, submission, which was the most recently submitted value and the one subject to the Department's verification; (5) remove "unspecified" countries from the calculation of the average unit values for NME material purchases of tape; (6) apply the correct surrogate value of 101.68 Rs./kg. for HTS category 3923.2100 to PLASTICAPP; (7) remove the conversion factor for freight in the calculation of freight-in for WHEELS; (8) revise the freight-in chart included in the Dorbest Surrogate Values Chart Remand2.xls to reference cell N130 instead of M130; and (9) dentify the units for SPAPER as metric tons instead of kilograms, and, as a result, apply a conversion factor of 0.001.

**Comment 11-C:  Petitioners' Reply**

Petitioners claim that they and Dorbest both identified clerical errors in Dorbest's margin calculation from the amended final determination.  Thus, Petitioners contend that the Department should correct the identified clerical errors when it calculates Dorbest's margin for the final remand results.

Department's Position:

The Department disagrees that it is appropriate to make any corrections, clerical or otherwise, that have not been specifically remanded by the Court. None of the alleged clerical errors were raised during the administrative proceeding pursuant to our regulations (19 CFR 351.224), nor were any of these allegations raised in the parties' complaints in this litigation. As for Petitioners' claim that an error was made during our corrections of ministerial errors, a clerical error allegation could have been made either pursuant to our amended final determination or in their complaint with the Court.

Because none of the issues were raised previously, the Court has not remanded these issues, and they are not rightfully before the Department on remand. It is well-settled that, absent the possibility of grave injustice, failure to brief an argument constitutes a waiver of the issue. See Ta Chen Stainless Steel Pipe v. United States, 342 F. Supp. 2d 1191, 1207 (2004) ("By its silence, [the plaintiff] waived its right to raise the issue on appeal."). The Department has neither examined the merits of these clerical error allegations, nor made any changes resulting from these allegations in the final remand results. Furthermore, we agree with Dorbest that due to the number of parties in this case, and the fact that parties decide whether to appeal and/or enter lawsuits as intervenors based upon the Department's final order and the claims initially brought by parties in litigation, it would be unfair to make a whole host of corrections at this juncture, when over two years after the time to appeal has run. In addition, the Department hardly has the additional administrative resources to be continually re-examining the record of the investigation to test the authenticity and legitimacy of new clerical error allegations that are untimely filed, not the basis of any of the parties' challenges before the Court, and not subject to this remand determination.

While, as Petitioners point out, in some limited circumstances, the Department might have

previously consented to clerical changes in past cases, for the above reasons, we do not find it appropriate under the circumstances here.

## *12. Rate Assigned to the Exporters in the Art Heritage Group*

**Comment 12-A:  Art Heritage Group's Comments**

The Exporting Intervenors[28] and Importing Intervenors[29] (collectively "the defendant-intervenors" or the "Art Heritage Group") argue that an accurate margin requires a correction of the labor wage rate as it applies to all mandatory respondents, and not just Dorbest.  The Art Heritage Group argues that re-calculating the rates of all the mandatory companies, using the revised labor wage rate, solely for purposes of calculating a litigant-specific rate, would produce the most accurate margin possible for the defendant-intervenors, and would be no different from when the Department used Dorbest's pre-litigation rate to calculate the rate for the non-litigants.

**Comment 12-B:  Petitioners' Comments**

Petitioners disagree with the Department's calculation of a margin of 6.79 percent

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[28] Art Heritage International, Ltd./Super Art Furniture Co., Ltd./Artwork Metal & Plastic Co., Ltd./Jibson Industries Ltd./Always Loyal International; Fortune Glory Industrial Ltd. (HK Ltd.)/Nanhai Jiantai Woodwork Co., Ltd.; and Fine furniture (Shanghai) Ltd.

[29] Coaster Company of America; Collezione Europa USA, Inc.; Fine Furniture Design & Marketing LLC; Global Furniture, Inc.; Good Companies; Hillsdale Furniture, LLC; Klaussner International, LLC; Magnussen Home Furnishings Inc.; L. Powell Company; RiversEdge Furniture Company; Woodstuff Manufacturing Inc., d/b/a Samuel Lawrence Furniture; Schnadig Corporation; and Standard Furniture Manufacturing Co., Inc.

incorporating Dorbest-specific changes for Art Heritage Group. Petitioners argue that because no

Section A respondents in the investigation were plaintiff-intervenors in the consolidated action

case at the time of the remand order, none are entitled to take advantage of a lower Section A rate.

Petitioners claim that the Art Heritage Group only intervened as plaintiffs in the action brought by

Lacquer Craft (No. -05-00083) at the CIT.

Petitioners claim that the CIT's judgment in October 2006 severed the action brought by

Lacquer Craft (No. 05-00083) from the consolidated case (No. 05-00003) originally brought by

Dorbest, and that the Court simultaneously dismissed all claims by Lacquer Craft in Case No. 05-

00083 with prejudice. As a result, Petitioners argue that these companies permanently lost their

status as plaintiff-intervenors in the lawsuit. Further, Petitioners argue that because the time in

which they could have filed an appeal has passed without any action on their part, they have lost

their status as plaintiff-intervenors to pursue any claims that Lacquer Craft may have raised.

Because these Section A respondents appeared as plaintiff-intervenors only in Lacquer Craft's

now-dismissed action, the only status they have in what remains of the consolidated 05-00003

action is as defendant-intervenors in the case originally brought by Petitioners (No. 05-00085).

Petitioners note that in the first page of Dorbest, which was issued the same day as the stipulated

judgment severing and dismissing Lacquer Craft's action, the CIT accurately listed Art Heritage

Group as defendant-intervenors, not plaintiff-intervenors.

Petitioners contend that as defendant-intervenors in support of only some portions of the

Department's redetermination of remand, these Section A respondents cannot affirmatively seek

relief and cannot share in any relief obtained by other parties. Petitioners claim that several prior

cases support their position: Federated Department Stores ("It is the generally accepted rule in

civil cases that where less than all of the several co-parties appeal from an adverse judgment, a

reversal as to the parties appealing does not necessitate or justify a reversal as to the parties not appealing."); Consolidated Textiles (confirming that a party could not take advantage of an all-other rate that was decreased on remand in an appeal in which the party never intervened).

Thus, Petitioners argue that the Department should revise the draft remand results, and assign the three separate-rate respondents the same weighted-average dumping margin as all other Section A respondents.

**Comment 12-C: The Intervenors' Rebuttal**

The Art Heritage Group disagrees with Petitioners' argument that they are not entitled to take advantage of the lower Section A rate, because they intervened as plaintiffs only in the CIT actions brought by Lacquer Craft. Because this question concerns the effects of a judicial judgment on the right of litigants, the Art Heritage Group argues that for the final remand results, the Department should continue to calculate two different separate-rate margins (i.e., a lower margin for the Art Heritage Group), and allow the Court to determine which parties are entitled to the lower separate rate, resulting from the litigation.

Further, the Art Heritage Group contends that they should receive a revised rate based on Dorbest's revised rate because they intervened in the case filed by Petitioners (No. 05-00085), which is one of the cases consolidated into the action brought by Dorbest (No. 05-00003). They contend that the issue of the separate rate remains an issue in the litigation by virtue of Petitioners' complaint, and that the Department is required to calculate that rate in accord with Dorbest 2006 (citing Allied-Signal and Rhone-Poulenc). The Art Heritage Group argues that irrespective of whether Lacquer Craft remains in the case, Petitioners opened the door for application of a lower rate to all intervening separate-rate respondents when they challenged the calculation of the export price/constructed export price and normal value, and made their

complaint applicable to non-mandatory respondents which qualified for the separate rate. They

further contend that Petitioners do not get to select whether the rate applied is lower or higher,

and that any party that appeals the Department's determinations understands that it may or may

not prevail.

The Art Heritage Group contends that the Department has the duty to use the best

available information in calculating antidumping duty margins under section 773(c)(1) of the Act,

which in this case necessitates use of the information used to calculate Dorbest's margin.

The Art Heritage Group claims that its situation is distinguishable from Federated

Department Stores, where not all parties appealed from an adverse judgment, and the Court did

not afford the favorable judgment to the non-appealing parties. By contrast, in this case, the Art

Heritage Group fully participated in the consolidated appeal before the Court, as well as the

underlying investigation.

The Art Heritage Group contends that Consolidated Textiles is distinguishable because in

that case, the court disallowed a party to take advantage of the post-litigation, all-others rate when

the underlying litigation concerned only the individual rate assessed for another respondent.

Here, the Art Heritage Group argues, the calculation of the separate rate was a subject of

Petitioners' litigation and remains at issue.

**Comment 12-D:  Petitioners' Rebuttal**

Petitioners contend that the CIT's consolidation of the furniture appeals did not grant the

Art Heritage Group status as plaintiff-intervenors in Dorbest's action.  Citing Johnson v.

Manhattan Ry Co., 289 U.S. 479, 496-96 (1933), Silver Read America, Inc. v. United States, 600

f. Supp. 852,858 (1985), and Republic Steel Corp. v. United States, 6 CIT 37, 38 (1983),

Petitioners argue that consolidation is permitted as a matter of convenience and economy in

administration, but does not merge the suits into a single cause of action, or change the rights of the parties, or make those who are parties in one suit parties in another.

According to Petitioners, because the importers appeared as plaintiff-intervenors in Lacquer Craft's now-dismissed action, the only status they have in the remaining portion of the consolidated 05-00003 action is as defendant-intervenors in the case brought by Petitioners. Thus, Petitioners argue that no company in the Art Heritage Group is entitled to a lower Section A rate determined by the Department.

Department's Position:

We agree with Petitioners that upon realizing that the Art Heritage Group did not intervene in Dorbest's court challenge, the Department's decision to calculate margins for the exporters in the Art Heritage Group based on the changes made to Dorbest's margin is in error. Draft Remand at p. 2.

In our draft remand results, when recalculating the margin for all section A respondents, including the Art Heritage Group, we revised the separate rate as a result of the revised mandatory margins resulting from Petitioners' remanded issues. Further, due to a mistaken belief that Art Heritage Group had status as plaintiff-intervenors, we further revised the separate rates applied to the exporters in the Art Heritage Group by including the changes resulting from Dorbest's litigation. However, as Petitioners correctly point out, because the Art Heritage Group intervened as plaintiff-intervenors only in Lacquer Craft's case (which is now dissolved), and not Dorbest's case, these companies are not entitled to a revised rate based on the changes resulting from Dorbest's issues. Therefore, our recalculation of the margins applied to these exporters in our draft remand results, which included the changes to Dorbest's margin, is an error that we have corrected in our final remand results.

While the Department agrees with Art Heritage Group, in part, that matters of jurisdiction and standing will ultimately be decided by the Court, binding case precedent makes clear that because these exporters are not a party to Dorbest's litigation, they are not entitled to any changes that flow from Dorbest's lawsuit. It is well settled that an intervening party is admitted to a "'proceeding as it stands, and in respect of the pending issues, but is not permitted to enlarge those issues.'" Laizhou Auto Brake Equipment Company v. United States, 2007 Ct. Int'l Trade Lexis 22, 8 Slip Op. 2007-24. (February 16, 2007), citing Vinson v. Washington Gas Light Co., 321 U.S. 489, 498 (1944). [30] Furthermore, consolidation of Lacquer Craft's and Dorbest's case does not afford Art Heritage Group any rights in Dorbest's case, because consolidation of an action "does not merge the suits into a single cause, change the rights of the parties, or make those who are parties in one suit parties in another." Silver Reed America, Inc. v. United States 600 F. Supp. at 858, citing Johnson v. Manhattan Ry., 289 U.S. 479, 496 (1933).

We further do not agree that Consolidated Textiles supports Art Heritage Group's claims that it is entitled to benefit from Dorbest's action, but rather supports the opposite conclusion. In Consolidated Textiles, the Court found that parties are not legally entitled to a revised "all others" rate, resulting from litigation, unless they intervene in the underlying litigation. See Consolidated Textiles, 346 F. Supp. 2d 1290, 1295 (2004). Therefore, because Art Heritage Group is not a party to Dorbest's lawsuit, the Department agrees with Petitioners that the Art Heritage Group is not entitled to any rate changes that flow from Dorbest's challenge to the investigation.

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[30] See also Torrington Co. v. United States 731 F. Supp. 1073, 1075 (1990), (an intervernor is limited to the field of litigation open to the original parties, and cannot enlarge the issues tendered by or arising out of plaintiff's bill."), citing Chandler & Price Co. v. Brandtjen & Kluge, Inc., 296 U.S. 53 (1935); see also Parkdale International v. United States, 429 F. Supp. 2d 1324,1337 (April 17, 2006); Fuji Elec. Co. v. United States, 595 F. Supp. 1152, 1154 (1984) (a party "appearing as intervenor, takes the action as it has been framed by the parties therein"); see also Federated Department Stores, Inc. v. Moitie et al., 452 U.S. 394, 400 (there is no equitable doctrine "which countenances an exception to the finality of a party's failure to appeal merely because his rights are 'closely interwoven' with those of another party").

Additionally, contrary to Art Heritage Group's claim, the group's status as a defendant-intervenor in Petitioners' case does not entitle them to a rate change based on the issues in Dorbest's lawsuit.  See Art Heritage Rebuttal Comments, p. 3, April 10, 2007.   Art Heritage Group argues that because Petitioners challenged the separate rate, its claim should somehow cause the separate rate to be reduced based on Dorbest's challenges.  We disagree.  Because the Petitioners challenged all mandatory rates and the separate-rate respondents' rate as a whole, only changes that flow from Petitioners' complaint will affect the separate-rate respondents' rate.

Furthermore, even if the Art Heritage Group companies were plaintiff-intervenors in Dorbest's case, which they are not, we disagree that the Department is required or authorized to revise all of the mandatory respondents' rates for the purpose of calculating a revised rate for Art Heritage Group.   Dorbest's litigation only concerns Dorbest's individual rate.  See Consolidated Textiles, 346 F. Supp. 2d at 1295 (2004) ("Rather, as the Government correctly points out, "'the Geum Poong litigation concerned only the individual rate assessed for Geum Poong Corp.'").  Changes to Dorbest's margin may not apply to the other mandatory rates, as a party cannot rest his claim to relief on the legal rights or interests of third parties.  See Warth v. Seldin, 422 U.S. 490, 499 (1975); Nordlinger v. Hahn, 505 U.S. 1, 11 (1992) ("This Court's prudential standing principles impose a 'general prohibitions on raising another person's legal rights.'") (citations omitted).  None of the other mandatory respondent companies sued on their individual rates, nor did Art Heritage Group challenge these individual rates as a plaintiff in its own right.  Accordingly, the only rate that would change as a result of the issues Dorbest challenged is Dorbest's rate.

Accordingly, for our final remand results, we have not applied changes to Dorbest's margin resulting from Dorbest's litigated issues with respect to the rate calculated for Art

Heritage Group companies, nor have we applied any of these changes to the other mandatory

respondent companies for purposes of recalculating the rate for Art Heritage Group.

### 13. *Importing Intervenors are Eligible for a Lower Separate Rate*

**Comment 13-A:  Art Heritage Comments**

Art Heritage Group argues that the Department erred in failing to apply the lower,

recalculated separate rate to the importing intervenors.  Art Heritage Group claims that the

importing intervenors decided to participate in the appeal to take advantage of any lower separate

rate on remand because their Chinese suppliers either could not or would not participate in the

appeal, and the fact that these companies are importers rather than foreign producers should not

change the analysis.  According to Art Heritage Group, the importing intervenors are located in

the United States, pay antidumping duties and thus, have a direct pecuniary interest at stake and

are in a better position to appeal a U.S. government decision than a foreign manufacturer.

Therefore, the importing intervenors argue that they should not be punished by the fact that their

suppliers are not parties to the litigation.

The importing intervenors also argue that the CIT has already granted an injunction,

specifically naming each of the importing intervenors in this litigation, enjoining the Department

and U.S. Customs and Border Protection ("CBP") from liquidating any of their unliquidated

entries of wooden bedroom furniture from the PRC.  By not allowing importing intervenors to

benefit from the results of the litigation, they claim the Department has deprived importers of the

relief sought in this litigation, nullified the purpose of the Court's injunction and nullified the

ability of importers to protect their rights in U.S. courts.

The importing intervenors contend that the logic for applying the new separate rate to the

importing intervenors is the same as that in <u>Asociacion Colobiana de Exportatdores de Flores v.</u>

Floral Trade Counsel of Davis, 13 CIT 858, 863, 724 F. Supp. 969, 973 (1989) ("Asocolflores"),

where the Department was charged with administering an injunction with respect to certain

importer/producer combinations.  Further citing to Consolidated Textiles, the importing

intervenors argue that because they have already participated in the litigation, they therefore,

should be entitled to any lower "all others" rate that results from the efforts of Dorbest.

The importing invenors argue that because the Department has already determined that

separate-rate litigants are entitled to a revised separate rate, and that the separate rate has already

been recalculated for the exporting intervenors, applying the new rate to the imports of the

importing intervenors would not be administratively burdensome.  Importing intervenors claim

that the Department and CBP are familiar with the 'administrability' of assigning rates to

combinations of companies, as upon the conclusion of an administrative review, the Department

normally provides CBP with importer-specific assessment rates.  Morever, according to the

importing intervenors, the Department assigns special antidumping cash deposit rates to

producer/exporter combinations even for cash deposit purposes, and as seen in Asocolflores at

974, the Department was charged with administering an injunction with respect to only certain

importer/producer combinations.  Importing intervenors further contend that they could compile a

list of their separate rate-eligible suppliers and provide this list to the Department at any time after

final judgment.

Finally, they argue that if the Department had correctly calculated the antidumping

margins for the mandatory respondents, the importers would already be able to take advantage of

an accurate, lower separate rate.


**Comment 13-B:  Petitioners' Rebuttal**

Petitioners contend that in addition to the fact that the importing intervenors lack standing to seek a downward revision to their cash deposit rate, the statute and the Department's practice do not provide for separate Section A rates to be assigned to importers. Petitioners claim that a Section A separate rate is a cash deposit rate, and cash deposit rates are calculated only for producers and exporters. Petitioners claim that section 735(c)(1)(B) of the Act directs the Department, upon issuance of a final determination, to determine the "estimated weighted average dumping margin for each producer and exporter individually investigated." In addition, Petitioners note that section 735(c)(5)(A) of the Act directs the Department to use the dumping margins for other exporters or producers in the calculation of the "all others" rate, and thus only authorizes the Department to calculate cash deposit rates for parties that produced or exported the subject merchandise, not importers. Petitioners maintain that this principle is consistent with the Department's practice in NME cases, such as in its remand determination of the wage-rate issue in this case, where the Department stated that it would recalculate the Section A cash deposit rate only for producers and exporters that intervened as plaintiffs before the CIT.

Petitioners disagree that Asocoflores supports the proposition that it is logical to apply the new separate rate to importers. Rather, Petitioners contend that the issue in Asocoflores involved whether to grant an injunction against liquidation, which is entirely different from the issue of whether an importer is entitled to a cash deposit rate separate and apart from the rate applicable to the exporters or producers of the subject merchandise.

Further, Petitioners argue that the fact that the importing interveners have an injunction is irrelevant. The CIT's injunction suspends liquidation of the importing intervenors' entries pending the conclusion of litigation; it does not dictate the manner in which the Department must calculate cash deposit rates. Rather, Petitioners assert that these rates are determined in

accordance with the applicable provision of the statute and the Department's regulations. To the

extent the importing intervenors claim that they are entitled to relief as a result of the CIT's final

judgment with respect to these entries, Petitioners assert that such relief will be provided in the

form of revised cash deposit rates for the exporters and producers of the subject merchandise, not

in the form of a revised importer-specific cash deposit rate. Consequently, Petitioners argue, the

injunction fully protects the importing intervenors' rights (i.e., having their entries liquidated in

accordance with the final court decision in the action).

Finally, Petitioners disagree with the importing intervenors reliance on 19 CFR 351.107 as

an example of a situation in which the Department assigns and CBP implements combination

rates, and further disagrees that CBP's experience with combination rates makes it easy to

administer importer-specific cash deposit rates. Petitioners note that the fact that the regulation

provides for combination cash deposit rates for producer/exporter combination, but not

combinations including importers, simply reinforces the principle that importers are not entitled

to separate cash deposit rates.

Department's Position:

We disagree with Art Heritage Group that importers should be assigned individual rates.

In accordance with the statute, the Department only calculates and assigns individual rates to

exporters or producers, not to importers. Importers then receive the rate assigned to their

suppliers. While it has long been our practice to assess duties on an importer-specific basis, the

Department does not assign importer-specific cash deposit rates. See Heavy Forged Hand Tools

From the People's Republic of China; Final Results of Antidumping Duty Administrative

Reviews, 62 FR 11813, 11818 (March 13, 1997).

As the Department explained in the preamble to its regulations, importers are assigned

rates based on the rates of their exporters.  Specifically, "the Department . . . will calculate

importer-specific assessment rates <u>for each producer or exporter reviewed</u>.  Thus, if one importer

purchases from several producers or exporters, the Department will assign that importer an

assessment rate for each producer or exporter."  <u>Antidumping Duties; Countervailing Duties</u>, 62

FR 27296, 27302 (May 19, 1997) (emphasis supplied).  The Department's practice is reasonable

and in accordance with the statute, which directs the Department to calculate margins only with

respect to exporters and producers, not importers.  <u>See</u> <u>Floral Trade Council of Davis, Cal. v.</u>

<u>U.S.,</u> 12 CIT 788, 692 F. Supp. 1387 (CIT 1988) (affirming that ITA is not required to investigate

importers or to provide importer-specific rates).  In particular, section 735(c)(1)(B) of the Act

directs that the Department shall calculate an "estimated weighted average dumping margin for

each <u>producer and exporter</u> individually investigated" and shall determine "the estimated all-

others rate for all <u>exporters and producers</u> not individually investigated."  (emphasis added).

Additionally, section 735(c)(5) of the Act only refers to "<u>exporters or producers</u>" in directing how

to calculate the all-others rate.  The statute does not authorize or require the Department to

calculate importer-specific separate rates, and it makes little practical sense to do so, as it is the

exporters and producers who must submit home market and U.S. price data to have a margin

calculated, not importers.

Contrary to Art Heritage Group's apparent understanding, the decision to only assign rates

to exporters and/or producers is not purely a ministerial exercise.  The issue of whether the

Department is authorized or required to apply a separate cash deposit rate to importers reflects a

question of statutory and regulatory interpretation, rather than one of administrative convenience.

We disagree that <u>Asocolflores</u> supports Art Heritage Group's claim that rates should be

assigned on an importer-specific basis, but rather, it specifically acknowledges that the

Department's investigations are "geared toward exporters or producers, not to importers," and confirms that rates applied to importers flow from those calculated for their respective exporters/producers. See Asocolflores at 973-974.

We further disagree that not assigning importer-specific rates effectively nullifies the injunctions of the importing intervenors, or keeps importers from participating in proceedings and/or litigation. The purpose of an injunction is to suspend entries pending the outcome of the court litigation, and the injunction currently in place is doing just that. Furthermore, provided all jurisdictional requirements are met, relief in the form of a revised cash deposit rate will pass through to the importers through revised rates received by their respective exporters.

We further disagree with Art Heritage Group that it would pose no administrative hardship to adopt a practice of applying individual rates to importers. On the contrary, in addition to not being authorized by statute, applying cash deposit rates on an importer-specific basis would be administratively infeasible. See Heavy Forged Hand Tools From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews, 62 FR 11813, 11818 (March 13, 1997). Assessment rates are retrospective, which is what makes it feasible to issue importer-specific assessment rates for the mandatory respondents (i.e., they reflect a completed period where the mandatory exporters' universe of importers is already known). The Department, however, does not issue importer-specific assessment instructions for the Section A respondents because it does not have the importer-specific pricing information to do so. Cash deposit rates, which are applied prospectively, are necessarily exporter-specific because we do not know in advance who the future importers will be. Should the Department attempt to issue exporter/importer-specific cash deposit rates associated with an on-going segment, we could potentially wind up with an infinite number of exporter/importer combinations. For example,

with respect to the instant order, more than 53 exporters are subject to the first administrative review. In that review the Department selected five mandatory respondents. Upon completion of the review, the Department will issue one cash deposit instruction covering all respondents in the review. As this information is public, all cash deposit rates may be contained in one set of instructions. It is quite possible that each of the five mandatory respondents could have three importers during the period. In that case, the Department would also have to issue 17 separate assessment instructions, that is, 15 exporter/importer-specific instructions for the mandatory companies, one set of instructions for all separate-rate companies, and one set of instructions for the PRC-wide entity. Under the proposal made by Art Heritage Group, if each exporter had three importers and the Department was required to issue importer-specific cash deposit and assessment instructions for each separate-rate exporter, the Department would have to issue more than 159 separate cash deposit instructions and more than 159 separate assessment instructions for this segment alone. Moreover, each would contain business proprietary information (i.e., the name of the importer), which in itself carries additional administrative procedures and burdens to protect the proprietary data. Thus, in addition to not being provided for in our statute, assigning individual rates to importers is not the "simple" administrative exercise that Art Heritage Group alleges. Based on all of the above, we will not be assigning importer-specific rates in our amended final determination.

**CONCLUSION**

The Department has analyzed interested party comments and made certain corrections to its wage rate calculation. Accordingly, as a result of the Department's final remand redetermination, the Department recalculated respondents' margins affected by this litigation,

which yield the following margins: Dorbest, 2.87 percent; Lung Dong, 2.71 percent; Starcorp, 17.50 percent; Shing Mark, 5.20 percent; and, for the parties that received separate rates, 7.87 percent.

_____

David M. Spooner
Assistant Secretary
  for Import Administration

_____

Date

**ANNEX I**

**The Expected NME Wage Rate Methodology**

The Department's regulations generally describe the methodology by which the Department calculates expected NME wages:

> For labor, the Secretary will use regression-based wage rates reflective of the observed relationship between wages and national income in market economy countries. The Secretary will calculate the wage rate to be applied in non-market economy proceedings each year. The calculation will be based on current data, and will be made available to the public.
>
> 19 CFR 351.408 (c)(3).

In accordance with 19 CFR 351.408(c)(3), the Department annually calculates expected NME wages in two steps. First, the Department uses an ordinary least squares regression analysis to estimate a linear relationship between per-capita GNI and hourly wages in market economy ("ME") countries. Second, the Department uses the results of the regression and NME GNI data to estimate hourly wage rates for NME countries.

There is usually a two-year interval between the current year and the most recent reporting year of the data required for this methodology due to the practices of the respective data sources. The Department bases its regression analysis on this most recent reporting year, which the Department refers to as the "Base Year." For example, the Department relied upon data from 2001 to calculate expected NME wages in 2003, i.e., the "Base Year" for the 2003 calculation was 2001. In practice, the "Base Year," i.e., the year upon which the regression data are based, is two years prior to the year in which the Department conducts its regression analysis.

*1. Regression Analysis*

The Department's regression analysis, which describes generally the relationship between wages and GNI, relies upon four distinct data series: (A) country-specific wage rate (earnings) data from Chapter 5B of the ILO's *Yearbook of Labour Statistics*; (B) country-specific consumer price index ("CPI") data from the *International Financial Statistics* of the International Monetary Fund ("IMF"); (C) exchange rate data from the IMF's *International Financial Statistics*; and (D) country-specific GNI data from the *World Development Indicators* of the World Bank ("WB").

The wage rate data described above are converted to hourly wage rates and adjusted using CPI data to be representative of the current Base Year. The data are then converted to U.S. dollars using the appropriate exchange rate data. A regression analysis is ultimately run on these adjusted wage rate data and GNI. The following sections describe each data series and how it is used.

*(A) Wage Data*

For every country for which data are available and suitable (as described below), the Department chooses a single wage rate that represents a broad measure of wages for that country. The Department will choose data that are either contemporaneous with the Base Year or one year prior. Thus, the Department limits its selection of data to a two-year period.

The ILO Chapter 5B database categorizes data under a number of parameters.[31] The Department prioritizes these parameters to arrive at a single wage rate for each country

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[31] For example, "Type of Data," i.e., whether the data reported is "earnings" or "wages,'" "Sex," i.e., male/female coverage; "Sub-Classification," i.e., coverage of different types of industry; "Worker Coverage," i.e., coverage of different types of workers, such as wage earners or salaried employees; "Type of Data," i.e., the unit of time for which the wage is reported, such as per hour or per month; and, "Source ID," i.e., a code for the source of the data; "Source," i.e., the original survey source of the data and "Classification," i.e., the industrial classification.

representing the broadest possible measure of wages.  As such, there are three criteria that all data must meet to be considered suitable for the Department's regression analysis.

First, under the category "Type of Data," the Department will only use data reported in "earnings."

Second, under the category "Sex," the Department will only use data that cover both men and women.[32]

Third, under the category "Sub-Classification," the Department will only use data that represent all reported industries.  This is indicated in the database by a value of "Total" for the "Sub-Classification" parameter.

If there is more than one record in the ILO database that meet these three requirements, the Department will choose the data point from the Base Year over data from the prior year.

At times, there is more than one data record in the ILO database that both (1) is reported in the same, most contemporaneous year, and (2) meets the three required criteria above.  In such cases,  the Department chooses a single data point by prioritizing the following three parameters, described in greater detail below:  (1) "Worker Coverage," i.e., coverage of different types of workers; (2) "Type of Data," i.e., the unit of time for which the wage is reported; and, (3) "Source ID," i.e., a code for the source of the data.

For example, for the parameter "Worker Coverage," the Department considers "wage earners" to be the best measurement for calculating expected  NME wages and prioritizes such data over "employees," "salaried employees" and "total employment," in that order.

When the values for all parameters listed above are equal, the Department prioritizes data reported on an hourly basis over that reported on a daily, weekly and monthly basis, in that order,

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[32]  The Department does not consider values of "Indices, Men and Women" for this parameter.

for the parameter "Type of Data."  Through this choice, the Department minimizes potential error due to converting daily, weekly or monthly wages to hourly wages.

When the values for all parameters listed above are equal, the Department prioritizes data classified under the International Standard Industrial Classification (ISIC) Revision 3 (ISIC Rev.3-D) over ISIC Revision 2 (ISIC Rev. 2-3).  ISIC Rev. 3-D was revised in 1989 and is a more recent classification standard than the 1968 ISIC Rev. 2-3.  See http://unstats.un.org/unsd/cr/family2.asp?Cl=2 and http://laborsta.ilo.org/applv8/data/isic2e.html.

Finally, when the values for all parameters listed above are equal, the Department prioritizes data with a "Source ID" value of "no value" over "1," "2" and "3," in that order.

The ILO data that are not reported on an hourly basis are converted to an hourly basis based on the premise that there are eight working hours per day, 5.5 working days a week and 24 working days per month.

*(B) CPI Data*

Once hourly figures have been calculated based on the wage rate data discussed above, the wages are adjusted to the Base Year on the basis of the CPI for each country, as reported by the IMF's *International Financial Statistics*. This adjustment is made for any wage rate data not reported for the Base Year.

*(C) Exchange Rate Data*

These inflation-adjusted wage data, which are denominated in each country's national currency, are then converted to U.S. dollars using Base Year period-average exchange rates reported by the IMF's *International Financial Statistics*.

Thus, using (A) wage data, (B) CPI data and (C) exchange rate data, discussed above, the Department arrives at hourly wages, denominated in U.S. dollars and adjusted for inflation for

each country for which all the above data are available.

Finally, once the data have been converted to U.S. dollars per hour and adjusted for inflation, it is the Department's practice to eliminate values that could not possibly be reflective of actual wage levels or values that vary in either direction in the extreme from year to year (and which probably reflect errors in the original source data). For example, if a country is found to have average wage levels of US$0.01 per hour, the Department would eliminate that value as erroneous.

*(D) GNI Data*

The Department uses Base Year GNI data for each of the countries in the Department's analysis, as reported by the WB. GNI data are denominated in U.S. dollars current for the Base Year. The WB defines GNI per capita as equivalent to gross national product per capita, which is "the dollar value of a country's final output of goods and services in a year divided by its population."

The Department conducts its linear, ordinary least squares regression analysis using the Base Year wages per hour in U.S. dollars discussed above and Base Year GNI per capita in U.S. dollars to arrive at the following equation: $Wage[i] = Y\text{-intercept} + X\text{-coefficient} * GNI$. The X-coefficient describes the slope of the line estimated by the regression analysis, while the Y-intercept is the point on the Y-axis where the regression line intercepts the Y-axis. The results of this regression analysis describe generally the relationship between hourly wages and GNI.

2. *Application of Regression Results to NME GNI Data*

The Department applies the NME Base Year GNI to the equation presented above to arrive at an estimated wage rate for the NME. This is done for each NME.

**Annex II**

**Calculation of China's Expected Wages Rate based on 2002 GNI**

Following the criteria and methodology described in the both the Antidumping

Methodologies Notice and Annex I herein, and using the data available to the Department as of

December 2004, the Department has calculated China's expected NME wages.

2001 and 2002 data in Chapter 5B of the ILO International Labour Statistics were

available for 94 economies:  Albania, Argentina, Armenia, Australia, Austria, Azerbaijan,

Bahrain, Botswana, Brazil, Bulgaria, Cambodia, Canada, Chile, China, Colombia, Costa Rica,

Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Estonia, Finland,

France, Georgia, Germany, Gibraltar, Guatemala, Hong Kong, Hungary, Iceland, India,

Indonesia, Iran, Ireland, Isle of Man, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Kyrgyzstan,

Latvia, Lithuania, Luxembourg, Macau, China, Macedonia, Malaysia, Malta, Mauritius, Mexico,

Moldova, Mongolia, Myanmar, Netherlands, New Zealand, Nicaragua, Norway, Pakistan,

Panama, Paraguay, Peru, Poland, Puerto Rico, Qatar, Romania, Saint Helena, Saint Lucia, Saint

Vincent and the Grenadines, San Marino, Serbia and Montenegro, Seychelles, Singapore,

Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Thailand,

Trinidad and Tobago, Turkey, Ukraine, United Kingdom, United States, Uruguay, West bank and

Gaza strip, and Zimbabwe.

Within this data set, for 2001 and 2002, there were no ``earnings'' data for the following 9

economies: Cambodia, Hong Kong, China, Indonesia, Italy, Myanmar, Netherlands, Saint

Vincent and the Grenadines, Thailand, and Peru.  Similarly, there were no ``men and women''

data for Saint Lucia. 2001 and 2002 data representing all industries (``Total'') were available for

the remaining 84 entities. There were two entries for Poland and the United Kingdom that met all

of the Department's criteria for choosing a single wage rate. These entries were averaged to arrive at a single wage rate for each economy.

Of these 84 entities, a consumer price index was unavailable for the following 6 economies: Cuba, Gibraltar, Puerto Rico, Saint Helena, San Marino, and Taiwan.  Of the remaining economies, there was no exchange rate available for Macau and Serbia and Montenegro. Additionally, there was no GNI data for Cyprus, Isle of Man, Qatar, West Bank and Gaza Strip, Zimbabwe.

Of the remaining 71 entities, the following are currently or were NMEs, designated by the Department in 2001 or 2002: Armenia, Azerbaijan, China, Estonia, Georgia, Kyrgyzstan, Lithuania, Moldova, Romania, and Ukraine. Accordingly, the Department ran its preliminary 2006 expected NME wage regression on the following 61 countries:  Albania, Argentina, Australia, Austria, Bahrain, Botswana, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Finland, France, Germany, Guatemala, Hungary, Iceland, India, Iran, Islamic Rep. of, Ireland, Israel, Japan, Jordan, Kazakhstan, Korea, Republic of, Latvia, Luxembourg, Macedonia, The former Yugoslav Rep. of, Malaysia, Malta, Mauritius, Mexico, Mongolia, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Poland, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Trinidad and Tobago, Turkey, United Kingdom, United States, Uruguay.

As noted in the ILO database, the wage rates for Korea, Mongolia and Turkey are denominated in units of 1,000 of their respective national currency, and have been converted accordingly.

Following the data compilation and regression methodology described in the <u>Antidumping Methodologies Notice</u> and Annex II herein, and using GNI and wage data for Base Year 2002, the regression results are: Wage = GNI*.000478+.314174.

| Country | 2002 GNI (USD per Annum) | Expected NME Wage Rate (USD per Hour) |
|---------|--------------------------|---------------------------------------|
| China   | 960                      | 0.77                                  |

# ANNEX II

| | Calculation of Hourly Wages in 2002 U.S. Dollars | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Country Name | Average Wage Rate, NC/hr | Reporting Year | Reporting Year CPI | 2002 CPI | Inflator To 2002 | Inflated Hourly Wages (2002) | Exchange Rate, USD/NC | Wages, USD Per Hour |
| Albania | 74.66 | 2002 | 111.12 | 111.12 | 1 | 74.66 | 0.0071 | 0.53 |
| Argentina | 4.29 | 2001 | 98.9334 | 124.526 | 1.258685 | 5.40 | 0.3559 | 1.92 |
| Australia | 20.45 | 2002 | 107.516 | 107.516 | 1 | 20.45 | 0.5439 | 11.12 |
| Austria | 10.66 | 2001 | 102.66 | 104.518 | 1.018099 | 10.85 | 0.9444 | 10.25 |
| Bahrain | 1.19 | 2002 | 101.465 | 101.465 | 1 | 1.19 | 2.6596 | 3.16 |
| Botswana | 4.63 | 2002 | 115.119 | 115.119 | 1 | 4.63 | 0.1585 | 0.73 |
| Brazil | 4.70 | 2002 | 115.868 | 115.868 | 1 | 4.70 | 0.3535 | 1.66 |
| Bulgaria | 1.27 | 2002 | 113.599 | 113.599 | 1 | 1.27 | 0.4830 | 0.61 |
| Canada | 19.10 | 2002 | 104.837 | 104.837 | 1 | 19.10 | 0.6374 | 12.17 |
| Chile | 1,139.27 | 2002 | 106.147 | 106.147 | 1 | 1139.27 | 0.0015 | 1.66 |
| Colombia | 1,841.61 | 2002 | 114.822 | 114.822 | 1 | 1841.61 | 0.0004 | 0.73 |
| Costa Rica | 667.74 | 2001 | 111.227 | 121.418 | 1.091623 | 728.93 | 0.0028 | 2.03 |
| Croatia | 24.97 | 2002 | 106.547 | 106.547 | 1 | 24.97 | 0.1275 | 3.18 |
| Czech Republic | 64.20 | 2002 | 106.575 | 106.575 | 1 | 64.20 | 0.0307 | 1.97 |
| Denmark | 207.02 | 2002 | 104.833 | 104.833 | 1 | 207.02 | 0.1271 | 26.31 |
| Ecuador | 1.27 | 2001 | 137.678 | 154.866 | 1.124842 | 1.43 | 1.0000 | 1.43 |
| Egypt | 3.34 | 2002 | 105.069 | 105.069 | 1 | 3.34 | 0.2222 | 0.74 |
| El Salvador | 1.21 | 2002 | 105.686 | 105.686 | 1 | 1.21 | 1.0000 | 1.21 |
| Finland | 12.28 | 2002 | 104.183 | 104.183 | 1 | 12.28 | 0.9444 | 11.59 |
| France | 8.14 | 2002 | 103.62 | 103.62 | 1 | 8.14 | 0.9444 | 7.69 |
| Germany | 14.72 | 2002 | 103.375 | 103.375 | 1 | 14.72 | 0.9444 | 13.90 |
| Guatemala | 9.57 | 2002 | 116.276 | 116.276 | 1 | 9.57 | 0.1279 | 1.22 |
| Hungary | 595.30 | 2002 | 114.973 | 114.973 | 1 | 595.30 | 0.0039 | 2.32 |
| Iceland | 1,108.00 | 2002 | 111.893 | 111.893 | 1 | 1108.00 | 0.0110 | 12.15 |
| India | 9.86 | 2001 | 103.685 | 108.239 | 1.043921 | 10.29 | 0.0206 | 0.21 |
| Iran, Islamic Rep. | 5,282.73 | 2001 | 111.274 | 127.226 | 1.143358 | 6040.06 | 0.0002 | 1.21 |
| Ireland | 12.29 | 2002 | 109.768 | 109.768 | 1 | 12.29 | 0.9444 | 11.61 |
| Israel | 47.81 | 2002 | 106.8 | 106.8 | 1 | 47.81 | 0.2112 | 10.10 |
| Japan | 1,543.75 | 2002 | 98.3582 | 98.3582 | 1 | 1543.75 | 0.0080 | 12.33 |
| Jordan | 0.96 | 2001 | 101.788 | 103.644 | 1.018234 | 0.98 | 1.4104 | 1.38 |
| Kazakhstan | 115.26 | 2002 | 114.679 | 114.679 | 1 | 115.26 | 0.0065 | 0.75 |
| Korea, Republic o | 9,671.88 | 2002 | 106.9 | 106.9 | 1 | 9671.88 | 0.0008 | 7.74 |
| Latvia | 0.76 | 2002 | 104.481 | 104.481 | 1 | 0.76 | 1.6188 | 1.23 |
| Luxembourg | 13.10 | 2002 | 104.797 | 104.797 | 1 | 13.10 | 0.9444 | 12.37 |
| Macedonia, The f | 51.79 | 2002 | 107.634 | 107.634 | 1 | 51.79 | 0.0156 | 0.81 |
| Malaysia | 7.97 | 2001 | 101.417 | 103.25 | 1.018074 | 8.12 | 0.2632 | 2.14 |
| Malta | 2.30 | 2002 | 105.182 | 105.182 | 1 | 2.30 | 2.3100 | 5.31 |
| Mauritius | 32.06 | 2002 | 112.198 | 112.198 | 1 | 32.06 | 0.0334 | 1.07 |
| Mexico | 25.19 | 2002 | 111.714 | 111.714 | 1 | 25.19 | 0.1038 | 2.61 |
| Mongolia | 357.81 | 2002 | 107.252 | 107.252 | 1 | 357.81 | 0.0009 | 0.32 |
| New Zealand | 18.00 | 2002 | 105.373 | 105.373 | 1 | 18.00 | 0.4642 | 8.36 |
| Nicaragua | 13.46 | 2002 | 111.645 | 111.645 | 1 | 13.46 | 0.0702 | 0.94 |
| Norway | 135.37 | 2002 | 104.344 | 104.344 | 1 | 135.37 | 0.1261 | 17.07 |
| Pakistan | 21.43 | 2002 | 106.542 | 106.542 | 1 | 21.43 | 0.0167 | 0.36 |
| Panama | 1.80 | 2002 | 101.316 | 101.316 | 1 | 1.80 | 1.0000 | 1.80 |
| Paraguay | 3,852.80 | 2002 | 118.54 | 118.54 | 1 | 3852.80 | 0.0002 | 0.69 |
| Poland | 10.19 | 2002 | 107.491 | 107.491 | 1 | 10.19 | 0.2452 | 2.50 |
| Seychelles | 17.19 | 2002 | 106.155 | 106.155 | 1 | 17.19 | 0.1825 | 3.14 |
| Singapore | 16.43 | 2002 | 100.602 | 100.602 | 1 | 16.43 | 0.5587 | 9.18 |
| Slovakia | 72.07 | 2002 | 110.897 | 110.897 | 1 | 72.07 | 0.0221 | 1.59 |
| Slovenia | 1,021.98 | 2002 | 116.526 | 116.526 | 1 | 1021.98 | 0.0042 | 4.26 |
| South Africa | 27.07 | 2002 | 115.388 | 115.388 | 1 | 27.07 | 0.0954 | 2.58 |
| Spain | 10.97 | 2002 | 106.768 | 106.768 | 1 | 10.97 | 0.9444 | 10.36 |
| Sri Lanka | 31.93 | 2002 | 125.062 | 125.062 | 1 | 31.93 | 0.0105 | 0.33 |
| Sweden | 118.20 | 2002 | 104.64 | 104.64 | 1 | 118.20 | 0.1030 | 12.18 |
| Switzerland | 32.06 | 2002 | 101.636 | 101.636 | 1 | 32.06 | 0.6437 | 20.64 |
| Trinidad and Toba | 26.40 | 2002 | 109.905 | 109.905 | 1 | 26.40 | 0.1600 | 4.23 |
| Turkey | 2,917,600.00 | 2001 | 154.4 | 223.825 | 1.449644 | 4229480.70 | 0.0000 | 2.82 |
| United Kingdom | 11.05 | 2002 | 103.485 | 103.485 | 1 | 11.05 | 1.5013 | 16.59 |
| United States | 15.29 | 2002 | 107.652 | 107.652 | 1 | 15.29 | 1.0000 | 15.29 |
| Uruguay | 35.71 | 2001 | 104.359 | 118.941 | 1.139729 | 40.70 | 0.0505 | 2.06 |

# ANNEX II

| Wages and GNI per Capita in 2002 U.S. Dollars | | |
|---|---|---|
| Country Name | Inflated Wages, 2002 USD Per Hour (y) | 2002 GNI, USD per Annum, current (x) |
| Albania | 0.53 | 1,420 |
| Argentina | 1.92 | 4,220 |
| Australia | 11.12 | 19,530 |
| Austria | 10.25 | 23,860 |
| Bahrain | 3.16 | 11,260 |
| Botswana | 0.73 | 2,990 |
| Brazil | 1.66 | 2,860 |
| Bulgaria | 0.61 | 1,790 |
| Canada | 12.17 | 22,390 |
| Chile | 1.66 | 4,350 |
| Colombia | 0.73 | 1,810 |
| Costa Rica | 2.03 | 4,070 |
| Croatia | 3.18 | 4,620 |
| Czech Republic | 1.97 | 5,490 |
| Denmark | 26.31 | 30,260 |
| Ecuador | 1.43 | 1,490 |
| Egypt | 0.74 | 1,470 |
| El Salvador | 1.21 | 2,080 |
| Finland | 11.59 | 23,890 |
| France | 7.69 | 22,240 |
| Germany | 13.90 | 22,740 |
| Guatemala | 1.22 | 1,750 |
| Hungary | 2.32 | 5,240 |
| Iceland | 12.15 | 27,960 |
| India | 0.21 | 470 |
| Iran, Islamic Rep. | 1.21 | 1,790 |
| Ireland | 11.61 | 23,030 |
| Israel | 10.10 | 16,020 |
| Japan | 12.33 | 34,010 |
| Jordan | 1.38 | 1,760 |
| Kazakhstan | 0.75 | 1,520 |
| Korea, Republic o | 7.74 | 11,280 |
| Latvia | 1.23 | 3,490 |
| Luxembourg | 12.37 | 39,470 |
| Macedonia, The fo | 0.81 | 1,710 |
| Malaysia | 2.14 | 3,550 |
| Malta | 5.31 | 9,260 |
| Mauritius | 1.07 | 3,860 |
| Mexico | 2.61 | 5,940 |
| Mongolia | 0.32 | 430 |
| New Zealand | 8.36 | 13,250 |
| Nicaragua | 0.94 | 720 |
| Norway | 17.07 | 38,730 |
| Pakistan | 0.36 | 420 |
| Panama | 1.80 | 4,020 |
| Paraguay | 0.69 | 1,180 |
| Poland | 2.50 | 4,670 |
| Seychelles | 3.14 | 6,910 |
| Singapore | 9.18 | 21,180 |
| Slovakia | 1.59 | 4,050 |
| Slovenia | 4.26 | 10,200 |
| South Africa | 2.58 | 2,630 |
| Spain | 10.36 | 14,580 |
| Sri Lanka | 0.33 | 850 |
| Sweden | 12.18 | 25,970 |
| Switzerland | 20.64 | 36,170 |
| Trinidad and Toba | 4.23 | 6,600 |
| Turkey | 2.82 | 2,510 |
| United Kingdom | 16.59 | 25,490 |
| United States | 15.29 | 35,400 |
| Uruguay | 2.06 | 4,350 |

# ANNEX II

SUMMARY OUTPUT

| Regression Statistics | |
|---|---|
| Multiple R | 0.927687 |
| R Square | 0.860603 |
| Adjusted R Square | 0.858241 |
| Standard Error | 2.247749 |
| Observations | 61 |

ANOVA

| | df | SS | MS | F | ignificance F |
|---|---|---|---|---|---|
| Regression | 1 | 1840.342 | 1840.342 | 364.2526 | 6.33E-27 |
| Residual | 59 | 298.0902 | 5.052377 | | |
| Total | 60 | 2138.432 | | | |

| | | Coefficient | standard Err | t Stat | P-value | Lower 95% | Upper 95% | ower 95.0% | Jpper 95.0% |
|---|---|---|---|---|---|---|---|---|---|
| | | 0.314174 | 0.397534 | 0.790309 | 0.432513 | -0.48129 | 1.109639 | -0.48129 | 1.109639 |
| 2002 GNI, USD per Annum, current (x) | 2002 GNI, USD | 0.000478 | 2.51E-05 | 19.0854 | 6.33E-27 | 0.000428 | 0.000529 | 0.000428 | 0.000529 |

RESIDUAL OUTPUT          RESIDUAL OUTPUT

| Observation | Observation | Vages, 200: | Residuals | idard Residuals |
|---|---|---|---|---|
| 1 | 1 | 0.99363 | -0.460736 | -0.206706 |
| 2 | 2 | 2.333401 | -0.411448 | -0.184594 |
| 3 | 3 | 9.659077 | 1.463739 | 0.656698 |
| 4 | 4 | 11.73094 | -1.484829 | -0.666159 |
| 5 | 5 | 5.701968 | -2.543728 | -1.141228 |
| 6 | 6 | 1.744858 | -1.01079 | -0.453485 |
| 7 | 7 | 1.682655 | -0.022001 | -0.009871 |
| 8 | 8 | 1.170671 | -0.556898 | -0.249849 |
| 9 | 9 | 11.02756 | 1.145961 | 0.514129 |
| 10 | 10 | 2.395604 | -0.739298 | -0.331682 |
| 11 | 11 | 1.180241 | -0.451269 | -0.202459 |
| 12 | 12 | 2.261627 | -0.234003 | -0.104984 |
| 13 | 13 | 2.524797 | 0.659343 | 0.29581 |
| 14 | 14 | 2.941083 | -0.970477 | -0.435398 |
| 15 | 15 | 14.79327 | 11.51255 | 5.165037 |
| 16 | 16 | 1.027124 | 0.401425 | 0.180097 |
| 17 | 17 | 1.017554 | -0.275081 | -0.123413 |
| 18 | 18 | 1.309433 | -0.099433 | -0.04461 |
| 19 | 19 | 11.74529 | -0.151565 | -0.067999 |
| 20 | 20 | 10.95578 | -3.267623 | -1.465999 |
| 21 | 21 | 11.19503 | 2.706819 | 1.214398 |
| 22 | 22 | 1.151531 | 0.072172 | 0.032379 |
| 23 | 23 | 2.82146 | -0.504374 | -0.226284 |
| 24 | 24 | 13.69274 | -1.542417 | -0.691996 |
| 25 | 25 | 0.539065 | -0.327379 | -0.146876 |
| 26 | 26 | 1.170671 | 0.037552 | 0.016847 |
| 27 | 27 | 11.33379 | 0.273119 | 0.122533 |
| 28 | 28 | 7.979578 | 2.116031 | 0.949344 |
| 29 | 29 | 16.58761 | -4.254326 | -1.908677 |
| 30 | 30 | 1.156316 | 0.227482 | 0.102058 |
| 31 | 31 | 1.041479 | -0.289475 | -0.129871 |
| 32 | 32 | 5.711538 | 2.032211 | 0.911739 |
| 33 | 33 | 1.984103 | -0.757257 | -0.339739 |
| 34 | 34 | 19.20016 | -6.828271 | -3.063462 |
| 35 | 35 | 1.132392 | -0.325441 | -0.146007 |
| 36 | 36 | 2.012813 | 0.1235 | 0.055408 |
| 37 | 37 | 4.744988 | 0.568058 | 0.254856 |
| 38 | 38 | 2.161144 | -1.09103 | -0.489484 |
| 39 | 39 | 3.156403 | -0.542537 | -0.243406 |
| 40 | 40 | 0.519925 | -0.197448 | -0.088584 |
| 41 | 41 | 6.654162 | 1.701852 | 0.763525 |
| 42 | 42 | 0.658687 | 0.286053 | 0.128336 |
| 43 | 43 | 18.84608 | -1.779873 | -0.798529 |
| 44 | 44 | 0.51514 | -0.156527 | -0.070225 |
| 45 | 45 | 2.237703 | -0.437703 | -0.196373 |
| 46 | 46 | 0.878792 | -0.192404 | -0.086321 |
| 47 | 47 | 2.548721 | -0.051137 | -0.022942 |
| 48 | 48 | 3.620538 | -0.484678 | -0.217448 |
| 49 | 49 | 10.44858 | -1.27148 | -0.570442 |
| 50 | 50 | 2.252057 | -0.657177 | -0.294839 |
| 51 | 51 | 5.194769 | -0.933565 | -0.418838 |
| 52 | 52 | 1.572602 | 1.009319 | 0.452825 |
| 53 | 53 | 7.290553 | 3.069723 | 1.377213 |
| 54 | 54 | 0.720891 | -0.387069 | -0.173656 |
| 55 | 55 | 12.74055 | -0.56335 | -0.252743 |
| 56 | 56 | 17.62114 | 3.015577 | 1.35292 |
| 57 | 57 | 3.472206 | 0.753144 | 0.337893 |
| 58 | 58 | 1.515183 | 1.302319 | 0.584277 |
| 59 | 59 | 12.51088 | 4.078048 | 1.829591 |
| 60 | 60 | 17.25271 | -1.962707 | -0.880557 |
| 61 | 61 | 2.395604 | -0.339196 | -0.152178 |

# ANNEX II

## 2002 GNI, USD per Annum, current (x) Line Fit Plot



Y-axis: Inflated Wages, 2002 USD Per Hour (y) — 30.00, 25.00, 20.00, 15.00, 10.00, 5.00, -

X-axis: 2002 GNI, USD per Annum, current (x) — -, 10,000, 20,000, 30,000, 40,000, 50,000

Legend:
- Inflated Wages, 2002 USD Per Hour (y)
- Predicted Inflated Wages, 2002 USD Per Hour (y)
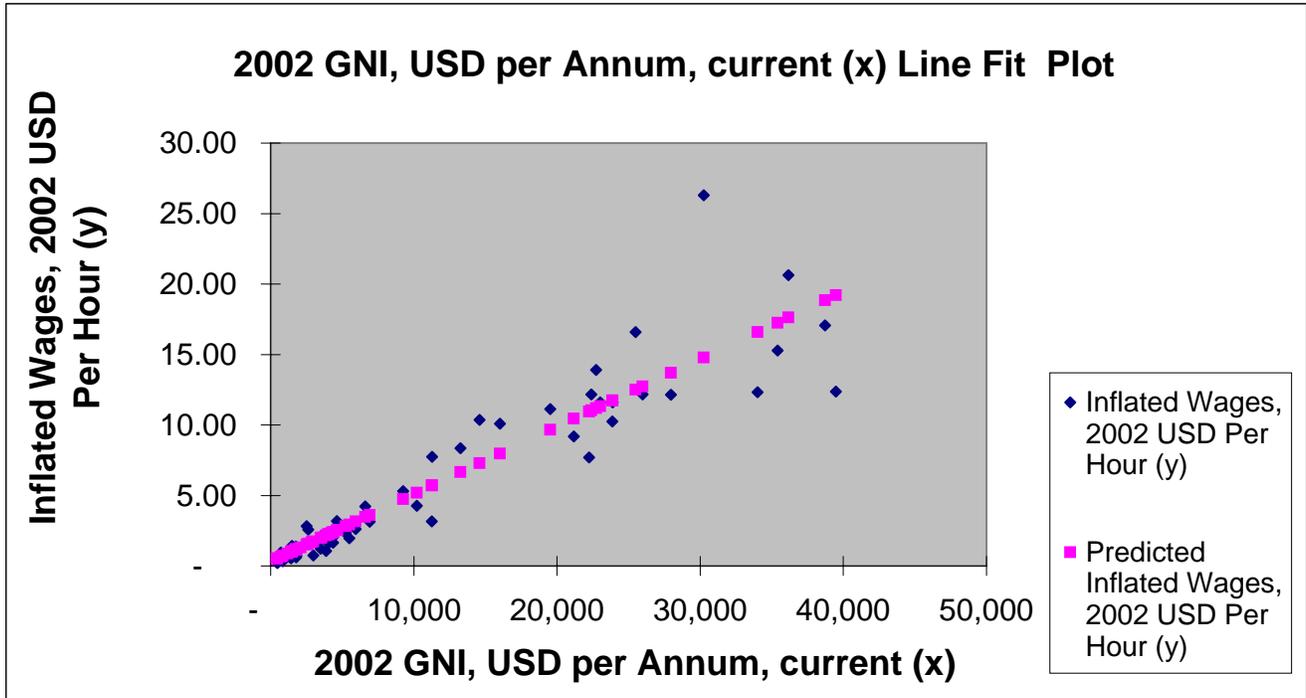
**Annex III**

**Calculation of Expected NME Wages Rate based on 2002 GNI**

This calculation is only for the purposes of this remand and is identical to that presented in Annex II, except that India's data has been excluded.  Therefore, following the data compilation and regression methodology described in the Antidumping Methodologies Notice and Annex II herein, with the single exception of excluding data from India, and using GNI and wage data for Base Year 2002, the regression results are: Wage = GNI*.000478+.324516.

# ANNEX III

SUMMARY OUTPUT

| Regression Statistics | |
|---|---|
| Multiple R | 0.926684 |
| R Square | 0.858743 |
| Adjusted R Square | 0.856307 |
| Standard Error | 2.266623 |
| Observations | 60 |

ANOVA

| | df | SS | MS | F | ignificance F |
|---|---|---|---|---|---|
| Regression | 1 | 1811.5 | 1811.5 | 352.5977 | 2.52E-26 |
| Residual | 58 | 297.9797 | 5.137582 | | |
| Total | 59 | 2109.479 | | | |

| | | Coefficients | tandard Err | t Stat | P-value | Lower 95% | Upper 95% | ower 95.0% | Jpper 95.0% |
|---|---|---|---|---|---|---|---|---|---|
| | | 0.324516 | 0.407026 | 0.797284 | 0.428538 | -0.490236 | 1.139267 | -0.490236 | 1.139267 |
| 2002 GNI, USD per Annum, current (x) | 2002 GNI, | 0.000478 | 2.55E-05 | 18.77759 | 2.52E-26 | 0.000427 | 0.000529 | 0.000427 | 0.000529 |

RESIDUAL OUTPUT

| Observation | Observation | Vages, 200 | Residuals | dard Residuals |
|---|---|---|---|---|
| 1 | 1 | 1.003347 | -0.470453 | -0.209338 |
| 2 | 2 | 2.341887 | -0.419934 | -0.186859 |
| 3 | 3 | 9.660833 | 1.461983 | 0.650541 |
| 4 | 4 | 11.73079 | -1.484682 | -0.660642 |
| 5 | 5 | 5.707359 | -2.54912 | -1.134287 |
| 6 | 6 | 1.753885 | -1.019817 | -0.45379 |
| 7 | 7 | 1.691739 | -0.031085 | -0.013832 |
| 8 | 8 | 1.180225 | -0.566452 | -0.252055 |
| 9 | 9 | 11.02806 | 1.145462 | 0.509699 |
| 10 | 10 | 2.404033 | -0.747727 | -0.332718 |
| 11 | 11 | 1.189786 | -0.460814 | -0.20505 |
| 12 | 12 | 2.270179 | -0.242556 | -0.10793 |
| 13 | 13 | 2.533107 | 0.651033 | 0.289691 |
| 14 | 14 | 2.949011 | -0.978405 | -0.435363 |
| 15 | 15 | 14.79031 | 11.51551 | 5.124081 |
| 16 | 16 | 1.03681 | 0.391739 | 0.174313 |
| 17 | 17 | 1.027249 | -0.284776 | -0.126717 |
| 18 | 18 | 1.31886 | -0.10886 | -0.04844 |
| 19 | 19 | 11.74513 | -0.151405 | -0.067371 |
| 20 | 20 | 10.95635 | -3.268188 | -1.454252 |
| 21 | 21 | 11.19537 | 2.706474 | 1.204305 |
| 22 | 22 | 1.161103 | 0.0626 | 0.027855 |
| 23 | 23 | 2.829498 | -0.512412 | -0.228009 |
| 24 | 24 | 13.6908 | -1.540467 | -0.685465 |
| 25 | 25 | 1.180225 | 0.027997 | 0.012458 |
| 26 | 26 | 11.33401 | 0.272901 | 0.121433 |
| 27 | 27 | 7.982878 | 2.112731 | 0.940106 |
| 28 | 28 | 16.583 | -4.249717 | -1.891005 |
| 29 | 29 | 1.165884 | 0.217914 | 0.096966 |
| 30 | 30 | 1.051152 | -0.299148 | -0.133112 |
| 31 | 31 | 5.71692 | 2.026828 | 0.901881 |
| 32 | 32 | 1.99291 | -0.766064 | -0.340877 |
| 33 | 33 | 19.19315 | -6.821263 | -3.035271 |
| 34 | 34 | 1.141981 | -0.335031 | -0.149079 |
| 35 | 35 | 2.021593 | 0.11472 | 0.051047 |
| 36 | 36 | 4.751259 | 0.561787 | 0.249979 |
| 37 | 37 | 2.169789 | -1.099675 | -0.489324 |
| 38 | 38 | 3.164133 | -0.550268 | -0.244854 |
| 39 | 39 | 0.530077 | -0.2076 | -0.092376 |
| 40 | 40 | 6.658679 | 1.697335 | 0.755266 |
| 41 | 41 | 0.668712 | 0.276028 | 0.122825 |
| 42 | 42 | 18.83939 | -1.77319 | -0.78902 |
| 43 | 43 | 0.525297 | -0.166684 | -0.07417 |
| 44 | 44 | 2.246277 | -0.446277 | -0.198581 |
| 45 | 45 | 0.888615 | -0.202227 | -0.089985 |
| 46 | 46 | 2.557009 | -0.059425 | -0.026443 |
| 47 | 47 | 3.627842 | -0.491982 | -0.218918 |
| 48 | 48 | 10.44962 | -1.272511 | -0.566232 |
| 49 | 49 | 2.260618 | -0.665738 | -0.296235 |
| 50 | 50 | 5.200626 | -0.939423 | -0.418017 |
| 51 | 51 | 1.581787 | 1.000134 | 0.445031 |
| 52 | 52 | 7.294486 | 3.065791 | 1.364191 |
| 53 | 53 | 0.730858 | -0.397036 | -0.17667 |
| 54 | 54 | 12.73948 | -0.562275 | -0.250197 |
| 55 | 55 | 17.61559 | 3.021135 | 1.34432 |
| 56 | 56 | 3.479646 | 0.745704 | 0.331817 |
| 57 | 57 | 1.524421 | 1.293081 | 0.575385 |
| 58 | 58 | 12.51001 | 4.078911 | 1.815001 |
| 59 | 59 | 17.24749 | -1.957488 | -0.871027 |
| 60 | 60 | 2.404033 | -0.347625 | -0.154683 |
| 61 | | | | |

# ANNEX III

| Wages and GNI per Capita in 2002 U.S. Dollars | | |
|---|---|---|
| Country Name | Inflated Wages, 2002 USD Per Hour (y) | 2002 GNI, USD per Annum, current (x) |
| Albania | 0.53 | 1,420 |
| Argentina | 1.92 | 4,220 |
| Australia | 11.12 | 19,530 |
| Austria | 10.25 | 23,860 |
| Bahrain | 3.16 | 11,260 |
| Botswana | 0.73 | 2,990 |
| Brazil | 1.66 | 2,860 |
| Bulgaria | 0.61 | 1,790 |
| Canada | 12.17 | 22,390 |
| Chile | 1.66 | 4,350 |
| Colombia | 0.73 | 1,810 |
| Costa Rica | 2.03 | 4,070 |
| Croatia | 3.18 | 4,620 |
| Czech Republic | 1.97 | 5,490 |
| Denmark | 26.31 | 30,260 |
| Ecuador | 1.43 | 1,490 |
| Egypt | 0.74 | 1,470 |
| El Salvador | 1.21 | 2,080 |
| Finland | 11.59 | 23,890 |
| France | 7.69 | 22,240 |
| Germany | 13.90 | 22,740 |
| Guatemala | 1.22 | 1,750 |
| Hungary | 2.32 | 5,240 |
| Iceland | 12.15 | 27,960 |
| Iran, Islamic Rep. | 1.21 | 1,790 |
| Ireland | 11.61 | 23,030 |
| Israel | 10.10 | 16,020 |
| Japan | 12.33 | 34,010 |
| Jordan | 1.38 | 1,760 |
| Kazakhstan | 0.75 | 1,520 |
| Korea, Republic of | 7.74 | 11,280 |
| Latvia | 1.23 | 3,490 |
| Luxembourg | 12.37 | 39,470 |
| Macedonia, The fc | 0.81 | 1,710 |
| Malaysia | 2.14 | 3,550 |
| Malta | 5.31 | 9,260 |
| Mauritius | 1.07 | 3,860 |
| Mexico | 2.61 | 5,940 |
| Mongolia | 0.32 | 430 |
| New Zealand | 8.36 | 13,250 |
| Nicaragua | 0.94 | 720 |
| Norway | 17.07 | 38,730 |
| Pakistan | 0.36 | 420 |
| Panama | 1.80 | 4,020 |
| Paraguay | 0.69 | 1,180 |
| Poland | 2.50 | 4,670 |
| Seychelles | 3.14 | 6,910 |
| Singapore | 9.18 | 21,180 |
| Slovakia | 1.59 | 4,050 |
| Slovenia | 4.26 | 10,200 |
| South Africa | 2.58 | 2,630 |
| Spain | 10.36 | 14,580 |
| Sri Lanka | 0.33 | 850 |
| Sweden | 12.18 | 25,970 |
| Switzerland | 20.64 | 36,170 |
| Trinidad and Toba | 4.23 | 6,600 |
| Turkey | 2.82 | 2,510 |
| United Kingdom | 16.59 | 25,490 |
| United States | 15.29 | 35,400 |
| Uruguay | 2.06 | 4,350 |

**Chart One**

The Chart presents the 61 market economy countries' actual wages used in the Department's revised 2004 calculation for purposes of this remand, as well as the wages that would be estimated using that regression. The countries that have been highlighted are those which would lie *above* the regression line, *i.e.*, the regression line would "underestimate" the wage rate. This chart shows that the Department's regression-based methodology does not distort or systematically over-estimate wage rates in general nor specifically, the wage rates of poor countries . Rather, the regression line serves to smooth out the differences in the reported wage rates.

| Country Name | Inflated Wages, 2002 USD Per Hour (y) | 2002 GNI, USD per Annum, current (x) | Estimated Wage |
|---|---|---|---|
| Pakistan | 0.36 | 420 | 0.51 |
| Mongolia | 0.32 | 430 | 0.52 |
| India | 0.21 | 470 | 0.54 |
| Nicaragua | 0.94 | 720 | 0.66 |
| Sri Lanka | 0.33 | 850 | 0.72 |
| Paraguay | 0.69 | 1,180 | 0.88 |
| Albania | 0.53 | 1,420 | 0.99 |
| Egypt | 0.74 | 1,470 | 1.02 |
| Ecuador | 1.43 | 1,490 | 1.03 |
| Kazakhstan | 0.75 | 1,520 | 1.04 |
| Macedonia, | 0.81 | 1,710 | 1.13 |
| Guatemala | 1.22 | 1,750 | 1.15 |
| Jordan | 1.38 | 1,760 | 1.16 |
| Bulgaria | 0.61 | 1,790 | 1.17 |
| Iran, Islam | 1.21 | 1,790 | 1.17 |
| Colombia | 0.73 | 1,810 | 1.18 |
| El Salvador | 1.21 | 2,080 | 1.31 |
| Turkey | 2.82 | 2,510 | 1.51 |
| South Afric | 2.58 | 2,630 | 1.57 |
| Brazil | 1.66 | 2,860 | 1.68 |
| Botswana | 0.73 | 2,990 | 1.74 |
| Latvia | 1.23 | 3,490 | 1.98 |
| Malaysia | 2.14 | 3,550 | 2.01 |
| Mauritius | 1.07 | 3,860 | 2.16 |
| Panama | 1.80 | 4,020 | 2.24 |
| Slovakia | 1.59 | 4,050 | 2.25 |
| Costa Rica | 2.03 | 4,070 | 2.26 |
| Argentina | 1.92 | 4,220 | 2.33 |
| Chile | 1.66 | 4,350 | 2.39 |
| Uruguay | 2.06 | 4,350 | 2.39 |
| Croatia | 3.18 | 4,620 | 2.52 |
| Poland | 2.50 | 4,670 | 2.55 |
| Hungary | 2.32 | 5,240 | 2.82 |
| Czech Repu | 1.97 | 5,490 | 2.94 |
| Mexico | 2.61 | 5,940 | 3.15 |
| Trinidad an | 4.23 | 6,600 | 3.47 |
| Seychelles | 3.14 | 6,910 | 3.62 |
| Malta | 5.31 | 9,260 | 4.74 |
| Slovenia | 4.26 | 10,200 | 5.19 |
| Bahrain | 3.16 | 11,260 | 5.70 |
| Korea, Rep | 7.74 | 11,280 | 5.71 |
| New Zealan | 8.36 | 13,250 | 6.65 |
| Spain | 10.36 | 14,580 | 7.28 |
| Israel | 10.10 | 16,020 | 7.97 |
| Australia | 11.12 | 19,530 | 9.65 |
| Singapore | 9.18 | 21,180 | 10.44 |
| France | 7.69 | 22,240 | 10.94 |
| Canada | 12.17 | 22,390 | 11.02 |
| Germany | 13.90 | 22,740 | 11.18 |
| Ireland | 11.61 | 23,030 | 11.32 |
| Austria | 10.25 | 23,860 | 11.72 |
| Finland | 11.59 | 23,890 | 11.73 |
| United King | 16.59 | 25,490 | 12.50 |
| Sweden | 12.18 | 25,970 | 12.73 |
| Iceland | 12.15 | 27,960 | 13.68 |
| Denmark | 26.31 | 30,260 | 14.78 |
| Japan | 12.33 | 34,010 | 16.57 |
| United Stat | 14.44 | 35,400 | 17.24 |
| Switzerland | 20.64 | 36,170 | 17.60 |
| Norway | 17.07 | 38,730 | 18.83 |
| Luxembour | 12.37 | 39,470 | 19.18 |

# ANNEX V

**INTERNATIONAL LABOUR ORGANIZATION Geneva**
**LABORSTA Labour Statistics Database**
**Copyright International Labour Organization 1998-2004**

**table: 5B**
**extracted on 10/12/2004.**

| COUNTSOU | TYPE OF DATA | WORKER CO | SEX | CLASSIFICATIO | SUB-CLASSIFI | D2001 | D2002 | |
|---|---|---|---|---|---|---|---|---|
| Spain | 1 Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | Total | 10.46 | 10.97 | **Chosen wage** |
| Spain | 2 Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | Total | 9.02 | 9.47 | **Source ID: 1 over 2** |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | Total | | | **No wages in relevant years** |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | Total | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 381~382,385 | | | **Not "Total"** |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 351~352 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 322~324 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 311~312 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 390 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 385 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 384 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 383 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 382 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 381 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 372 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 371 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 369 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 362 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 361 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 356 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 355 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 342 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 341 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 324 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 323 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 322 | | | |
| Spain | Earnings per hour | Employees | Men and Women | ISIC Rev. 2 - 3 | 321 | | | |

# ANNEX V

| Country | | Measure | Type | Sex | Classification | Code | Value 1 | Value 2 |
|---|---|---|---|---|---|---|---|---|
| Spain | | Earnings per hour | Employees | Men and Women | ISIC-Rev.2 3 | 314 | | |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC-Rev.2 3 | 313 | | |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 37 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 37 | 8.96 | 9.18 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 37 | 7.62 | 7.96 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 36 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 36 | 7.58 | 7.85 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 36 | 6.81 | 6.99 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 35 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 35 | 12.56 | 13.55 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 35 | 11.2 | 11.77 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 34 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 34 | 13.02 | 13.56 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 34 | 11.32 | 11.89 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC-Rev.2 3 | 33 | | |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 33 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 33 | 12.05 | 12.11 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 33 | 10.52 | 10.65 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 32 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 32 | 13.22 | 12.73 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 32 | 11.16 | 10.88 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC-Rev.2 3 | 31 | | |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 31 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 31 | 11.09 | 11.65 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 31 | 9.62 | 10.13 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 30 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 30 | 14.31 | 13.76 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 30 | 13.15 | 12.4 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 29 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 29 | 11.09 | 11.92 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 29 | 9.83 | 10.32 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 28 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 28 | 9.54 | 10.02 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 28 | 8.4 | 8.95 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 27 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 27 | 13.69 | 14.17 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 27 | 11.94 | 12.41 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 26 | | |

**ANNEX V**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 26 | 10.4 | 10.72 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 26 | 8.91 | 9.14 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 25 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 25 | 11.07 | 11.77 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 25 | 9.29 | 9.9 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 24 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 24 | 14.79 | 15.83 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 24 | 11.83 | 12.81 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 23 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 23 | 23.11 | 24.47 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 23 | 17.7 | 18.64 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 22 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 22 | 12.07 | 12.42 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 22 | 9.93 | 10.24 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 21 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 21 | 11.89 | 12.27 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 21 | 10.41 | 10.85 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 20 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 20 | 7.38 | 7.49 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 20 | 6.5 | 6.74 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 19 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 19 | 6.22 | 6.59 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 19 | 5.89 | 6.2 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 18 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 18 | 6.33 | 6.77 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 18 | 5.61 | 5.88 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 17 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 17 | 8.16 | 8.32 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 17 | 7.31 | 7.33 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 16 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 16 | 16.54 | 19.26 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 16 | 12.87 | 14.39 |
| Spain | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 15 | | |
| Spain | 1 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 15 | 9.4 | 10 |
| Spain | 2 | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 15 | 8.05 | 8.6 |

# ANNEX VI

| Average 1999.9/per month and 1911.52/per month | **1955.71** |
|---|---|
| 1902.705 per month/192 hours per month = | **10.18598958** |

| COUNTRY | SOURCE | TYPE OF DATA | WORKER CO | SEX | CLASSIFICATIC | SUB-CLAS | D2001 | D2002 | |
|---|---|---|---|---|---|---|---|---|---|
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | Total | 1938.9 | 1999.9 | **Identical** |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | Total | 1866.51 | 1911.52 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 37 | 2420.3 | 2256.1 | **Not "Total"** |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 37 | 2281.23 | 2125.9 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 36 | 1460.6 | 1517.7 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 36 | 1403.65 | 1432.81 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 35 | 2372.2 | 2262.7 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 35 | 2349.37 | 2247.35 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 34 | 2159.8 | 2231.1 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 34 | 2145.61 | 2218.09 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 33 | 2313.7 | 2366.7 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 33 | 2247.21 | 2249.85 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 32 | 2865.4 | 3148 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 32 | 2814.47 | 3057.99 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 31 | 2082.6 | 2138.7 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 31 | 2057.22 | 2102.63 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 30 | 3115 | 3040.4 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 30 | 2987.69 | 3010.48 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 29 | 2045.1 | 2121.5 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 29 | 2018.76 | 2088.67 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 28 | 1852.8 | 1913.3 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 28 | 1781.55 | 1810.24 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 27 | 2334.3 | 2357.9 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 27 | 2328.66 | 2348.98 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 26 | 2006.9 | 2107.8 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 26 | 1915.82 | 1954.15 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 25 | 1948.4 | 2017.1 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 25 | 1850.9 | 1932.4 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 24 | 2858.6 | 3027.8 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 24 | 2839.99 | 2987.03 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 23 | 3739.8 | 3875 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 23 | 3736.23 | 3859.01 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 22 | 2800.3 | 2921.1 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 22 | 2494 | 2702.98 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 21 | 2256.1 | 2354.9 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 21 | 2181.7 | 2285.98 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 20 | 1452.2 | 1498.4 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 20 | 1344.13 | 1377.16 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 19 | 1262.9 | 1275.3 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 19 | 1214.18 | 1234.54 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 18 | 1104.4 | 1122.2 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 18 | 1081.02 | 1091.96 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 17 | 1492.1 | 1536.8 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 17 | 1462.25 | 1502.57 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 16 | 3683.5 | 3911.6 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 16 | 3681.13 | 3906.9 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 15 | 1797.2 | 1826.3 | |
| Poland | | Earnings per month | Employees | Men and Women | ISIC Rev. 3 - D | 15 | 1725.04 | 1741.33 | |

# ANNEX VII

**INTERNATIONAL LABOUR ORGANIZATION Geneva**
**LABORSTA Labour Statistics Database**
**Copyright International Labour Organization 1998-2004**
table: 5B
extracted on 10/12/2004.

| Average 11.02/per hour and 11.08/per hour = | 11.05 |
|---|---|

| COUNTRY | SOURCE I | TYPE OF DATA | WORKER COVE | SEX | CLASSIFICATI | SUB-CLASSI | D2001 | D2002 | |
|---|---|---|---|---|---|---|---|---|---|
| United Kingdom | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | Total | 10.53 | 11.02 | **Identical** |
| United Kingdom | | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | Total | 10.49 | 11.08 | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | Total | | | **No wages in** |
| United Kingdom | | Earnings per week | Wage earners | Men and Women | ISIC Rev. 2 - 3 | Total | | | **relevant years** |
| United Kingdom | | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | Total | 11.04 | 11.62 | **Not "Men and** |
| United Kingdom | | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | Total | 11.02 | 11.61 | **Women"** |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | Total | | | |
| United Kingdom | | Earnings per week | Wage earners | Men | ISIC Rev. 2 - 3 | Total | | | |
| United Kingdom | | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | Total | 8.56 | 9.08 | |
| United Kingdom | | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | Total | 8.54 | 9.06 | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | Total | | | |
| United Kingdom | | Earnings per week | Wage earners | Women | ISIC Rev. 2 - 3 | Total | | | |
| United Kingdom | | Earnings per week | Employees | Indices, Men and W | ISIC Rev. 2 - 3 | Total | 129.1 | 133.6 | |
| United Kingdom | | Earnings per week | Employees | Indices, Men and W | ISIC Rev. 3 - D | Total | 104.2 | 107.9 | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 351~352 | | | **Not "Total"** |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 351~352 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 351~352 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 311~312 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 311~312 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 311~312 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 390 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 390 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 390 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 385 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 385 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 384 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 384 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 384 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 383 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 383 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 383 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 382 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 382 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 382 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 381 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 381 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 372 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 372 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 371 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 371 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 369 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 369 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 362 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 362 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 361 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 361 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 361 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 356 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 356 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 356 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 355 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 355 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 353 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 353 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 352 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 352 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 352 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 351 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 351 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 342 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 342 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 342 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 341 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 341 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 341 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 332 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 332 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 331 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 331 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 324 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men | ISIC Rev. 2 - 3 | 324 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Women | ISIC Rev. 2 - 3 | 324 | | | |
| United Kingdom | | Earnings per hour | Wage earners | Men and Women | ISIC Rev. 2 - 3 | 323 | | | |

# ANNEX VII

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| United Kingdom | Earnings per hour | Wage earners | Men and Women | ISIC-Rev.2 - 3 | 322 | | |
| United Kingdom | Earnings per hour | Wage earners | Men | ISIC-Rev.2 - 3 | 322 | | |
| United Kingdom | Earnings per hour | Wage earners | Women | ISIC-Rev.2 - 3 | 322 | | |
| United Kingdom | Earnings per hour | Wage earners | Men and Women | ISIC-Rev.2 - 3 | 321 | | |
| United Kingdom | Earnings per hour | Wage earners | Men | ISIC-Rev.2 - 3 | 321 | | |
| United Kingdom | Earnings per hour | Wage earners | Women | ISIC-Rev.2 - 3 | 321 | | |
| United Kingdom | Earnings per hour | Wage earners | Men and Women | ISIC-Rev.2 - 3 | 313 | | |
| United Kingdom | Earnings per hour | Wage earners | Men | ISIC-Rev.2 - 3 | 313 | | |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 36 | 8.13 | 8.73 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 36 | 8.47 | 9.13 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 36 | 7.03 | 7.37 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 35 | 12.03 | 12.53 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 35 | 12.25 | 12.73 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 35 | | |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 34 | 11.04 | 11.87 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 34 | 11.31 | 12.15 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 34 | 8.76 | 9.42 |
| United Kingdom | Earnings per hour | Wage earners | Men and Women | ISIC-Rev.2 - 3 | 34 | | |
| United Kingdom | Earnings per hour | Wage earners | Men | ISIC-Rev.2 - 3 | 34 | | |
| United Kingdom | Earnings per hour | Wage earners | Women | ISIC-Rev.2 - 3 | 34 | | |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 33 | 11.34 | 12.49 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 33 | 12.47 | 13.77 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 33 | 8.32 | 8.71 |
| United Kingdom | Earnings per hour | Wage earners | Men and Women | ISIC-Rev.2 - 3 | 33 | | |
| United Kingdom | Earnings per hour | Wage earners | Men | ISIC-Rev.2 - 3 | 33 | | |
| United Kingdom | Earnings per hour | Wage earners | Women | ISIC-Rev.2 - 3 | 33 | | |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 32 | 12.34 | 12.9 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 32 | 13.65 | 14.31 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 32 | 8.73 | 8.86 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 31 | 10.07 | 10.42 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 31 | 10.89 | 11.46 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 31 | 7.4 | 7.24 |
| United Kingdom | Earnings per hour | Wage earners | Men and Women | ISIC-Rev.2 - 3 | 31 | | |
| United Kingdom | Earnings per hour | Wage earners | Men | ISIC-Rev.2 - 3 | 31 | | |
| United Kingdom | Earnings per hour | Wage earners | Women | ISIC-Rev.2 - 3 | 31 | | |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 30 | 12.64 | 14.22 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 30 | 13.45 | 14.93 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 30 | | |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 29 | 10.47 | 10.91 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 29 | 10.78 | 11.24 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 29 | 8.36 | 8.63 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 28 | 8.87 | 9.6 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 28 | 9.1 | 9.88 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 28 | 7.2 | 7.6 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 27 | 10.42 | 10.82 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 27 | 10.68 | 11.07 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 27 | 7.96 | 8.33 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 26 | 9.25 | |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 26 | 9.67 | |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 26 | 7.41 | 7.46 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 25 | 9.13 | 9.76 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 25 | 9.67 | 10.23 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 25 | 6.99 | 7.64 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 24 | 13.59 | 13.93 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 24 | 14.7 | 15.01 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 24 | 10.89 | 11.56 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 23 | 13.37 | 14.46 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 23 | 13.82 | 14.9 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 22 | 12.87 | 13.26 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 22 | 13.79 | 13.8 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 22 | 10.9 | |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 21 | 9.87 | 10.43 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 21 | 10.28 | 10.89 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 21 | 8.28 | 9.67 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 20 | 8.16 | 8.51 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 20 | 8.14 | 8.67 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 20 | | 7.08 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 19 | 7.54 | 7.2 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 19 | | |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 19 | | |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 18 | | |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 18 | | 6.62 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 17 | 8.08 | 8.59 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 17 | 9.06 | 9.49 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 17 | 6.22 | 6.62 |
| United Kingdom | Earnings per hour | Employees | Men and Women | ISIC Rev. 3 - D | 15 | 9.39 | 9.92 |
| United Kingdom | Earnings per hour | Employees | Men | ISIC Rev. 3 - D | 15 | 9.95 | 10.59 |
| United Kingdom | Earnings per hour | Employees | Women | ISIC Rev. 3 - D | 15 | 7.88 | 8.08 |