

Shandong Rongxin Import & Export Co., Ltd. v. United States
Court No. 09-00316, Slip Op. 11-45 (CIT April 21, 2011)

FINAL RESULTS OF REDETERMINATION
PURSUANT TO REMAND

A. SUMMARY

The Department of Commerce (“Department”) has prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade (“CIT” or “Court”) in Shandong Rongxin Import & Export Co., Ltd. v. United States, Court No. 09-00316, Slip Op. 11-45 (CIT April 21, 2011) (“2nd Remand Order”). The CIT’s 2nd Remand Order concerns the Department’s initial remand results pursuant to China First Pencil Co., Ltd. v. United States, Consol. Court No. 09-00325, Slip Op. 10-110 (CIT September 30, 2010) (“1st Remand Order”) filed by the Department on December 20, 2010.¹

In the 2nd Remand Order, the Court remanded two issues concerning the surrogate value for labor to the Department for further administrative proceedings: 1) the Department’s decision to omit certain labor data from its calculations because the data were reported under a previous revision of ISIC;² and 2) the Department’s methodology for determining whether a country is a significant producer of comparable merchandise within the meaning of section 773(c)(4) of the Tariff Act of 1930, as amended (“the Act”).

As set forth in detail below, and consistent with the Department’s determination to develop a final labor methodology to be applied generally in all non-market economy (“NME”) antidumping cases, the Department has recalculated the labor rate in accordance with

¹ Prior to the 1st Remand Order, the Court consolidated two separate actions under consolidated case number 09-00325. After the 1st Remand Order, the Court severed the two previously consolidated actions, so that this litigation proceeded under its originally assigned case number 09-00316.

² As explained by the Court, the International Standard Industrial Classification of all Economic Activities (“ISIC”) is “a uniform, periodically updated system for the classification of economic activity, not unlike what the Harmonized Tariff Schedule is for the classification of imported merchandise.” See 2nd Remand Order at 7, n.3.

Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (“Labor Methodologies”), Dorbest Ltd. v. United States, 604 F.3d 1363 (Fed. Cir. 2010) (“Dorbest”), and the 2nd Remand Order using a methodology in compliance with section 773(c)(3) of the Act. The Department has revised, as appropriate, the remanded components of the margin calculations challenged in the complaint filed by Shandong Rongxin Import & Export Co., Ltd. (“Rongxin”).

B. REMANDED ISSUES

1. Wage Rate

Background

In the Pencils 06-07 Final Results,³ the Department calculated a surrogate wage value in accordance with the regression-based methodology set forth in 19 CFR 351.408(c)(3). In its 1st Remand Order, the CIT granted the Department’s voluntary remand request in light of the Federal Circuit’s intervening decision in Dorbest, which held that the Department’s regression-based methodology, 19 CFR 351.408(c)(3), was inconsistent with the surrogate valuation requirements of section 773(c)(4) of the Act. Starting in July 2010, the Department applied an interim labor methodology that derived a surrogate wage rate from countries that are both economically comparable and significant producers of merchandise comparable to the merchandise subject to the antidumping duty proceeding. The interim labor methodology was applied in all administrative determinations, including redeterminations pursuant to Court remand, during this time period.

³ Certain Cased Pencils from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 74 FR 33406 (July 13, 2009), and accompanying Issues and Decision Memorandum at Comment 3, as amended by Certain Cased Pencils from the People’s Republic of China: Amended Final Results of Antidumping Duty Administrative Review, 74 FR 45177 (September 1, 2009) (collectively “Pencils 06-07 Final Results”).

On December 20, 2010, the Department filed with the Court its remand results pursuant to the 1st Remand Order, which included our findings with regard to the recalculation of the wage rate pursuant to Dorbest. We calculated the labor surrogate value under the interim methodology using industry-specific International Labor Organization (“ILO”) Chapter 5B wages and earnings data reported by countries that the Department determined were economically comparable to the People’s Republic of China and significant producers of pencils.⁴ Meanwhile, on February 18, 2011, the Department published in the Federal Register a request for public comment on the interim methodology including the source data for the final labor methodology.⁵

On April 21, 2011, in the 2nd Remand Order, the CIT remanded the Department’s remand results for reconsideration of two components of the interim industry-specific methodology used to calculate wage rates. The CIT found that the Department’s reliance on export statistics, alone, to define the term “significant producers” under section 773(b)(c)(4) of the Act was “an impermissible construction” of that statutory provision.⁶ The CIT also held that the decision to limit wage data to a single ISIC revision, given that data from another revision were available, was also unsupported by substantial evidence.⁷ The Court instructed the Department to “reevaluate, in accordance with this opinion, the decision to omit labor data simply because it was reported under a previous revision of the ISIC” and to “modify, in accordance with this

⁴ Between July 2010 and October 2010, the Department implemented an interim wage rate methodology that reflected a simple average of national wage rates from countries found to meet both criteria under section 773(c)(4) of the Act. Industry-specific data, if available, is now the presumptive surrogate data used in the Department’s calculations. See Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 75 FR 64259 (October 19, 2010), unchanged in Certain New Pneumatic Off-the-Road Tires From the People’s Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review, 76 FR 22871 (April 25, 2011); see also Certain Activated Carbon From the People’s Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review, 75 FR 70208 (November 17, 2010) and accompanying Issues and Decision Memorandum at Comment 4f.

⁵ Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor: Request for Comment, 76 FR 9544 (Feb. 18, 2011).

⁶ See 2nd Remand Order at 17-19.

⁷ Id. at 14-17.

opinion, the way in which it determines whether a country is a significant producer of comparable merchandise within the meaning of 19 U.S.C. § 1677b(c)(4).”⁸

On June 9, 2011, the Department, through counsel, sought additional time from the Court in which to file remand results. In that request, the Department indicated that it intended to conform these remand results with the final labor methodology expected to be published in the coming weeks. The Court granted the motion for an extension of time so that remand results became due on August 5, 2011.

On June 21, 2011, the Department revised its methodology for valuing an NME respondent’s cost of labor in NME antidumping proceedings.⁹ In Labor Methodologies, the Department determined that the best methodology for valuing the NME respondent’s cost of labor is to use the industry-specific labor rate from the surrogate country. Additionally, the Department found that the best data source for calculating the industry-specific labor rate for the surrogate country is the data reported under “Chapter 6A: Labor Cost in Manufacturing” from the ILO Yearbook of Labor Statistics.¹⁰

Accordingly, the Department is changing its surrogate value selection for labor in this remand redetermination. Further, as discussed in detail below, the facts and information on the record warrant adjustments to the surrogate financial ratios. Specifically, the financial statements included disaggregated overhead (“OH”) and selling, general and administrative (“SG&A”) items that are already included in the ILO’s definition of Chapter 6A data.¹¹ As a result, as detailed below, the Department is making adjustments to ensure that those ratios are not overstated.

⁸ Id. at 20.

⁹ See Labor Methodologies, 76 FR at 36093.

¹⁰ Id. at 36093-94.

¹¹ Id.

a. Revised Labor Rate

On June 21, 2011, the Department determined that it will base labor cost in NME antidumping proceedings on ILO Chapter 6A data applicable to the primary surrogate country, rather than the Chapter 5B data it currently uses in all NME cases.¹²

Due to the variability in wage rates among economically comparable market economies, the Department has previously tried to include wage data from as many countries as possible that were also economically comparable to the NME and significant producers of comparable merchandise, within the meaning of section 773(c)(4) of the Act. Following the Federal Circuit's decision in Dorbest, the Department attempted to balance its desire for multiple data points with the statutory requirements that factor of production ("FOP") data be from countries that are both economically comparable and significant producers. See sections 773(c)(4)(A) and (B) of the Act. While the amount of available data was more constrained following Dorbest, the Department determined that the industry-specific interim methodology still provided the best available wage rate because it allowed for multiple data points, and adhered to the constraints set forth in the statute. Under this methodology, the Department considered countries that exported comparable merchandise to be "significant producers." However, in the 2nd Remand Order, the CIT found the Department's sole reliance on exports alone to define "significant producers" to be an "impermissible construction" of section 773(c)(4) of the Act.¹³

The Department has carefully considered the "significant producer" prong of section 773(c)(4)(B) of the Act in light of the 2nd Remand Order, which limits the Department's flexibility in interpreting the definition of "significant producer" as that term is used in the statute. The Department's goal in using a multiple country approach was to have a large basket

¹² Id.

¹³ See 2nd Remand Order at 17-19.

of countries with which to calculate the average wage rate.¹⁴ Upon our careful examination of our options in light of the 2nd Remand Order, we consider that any alternative definition for “significant producer” that would also be compliant with the Court’s decision would restrict the number of countries from which the Department could source wage data. As a result, the basket of countries for an average wage calculation would be significantly reduced so that there would be little, if any, benefit to relying on an average of wages from multiple countries for purposes of minimizing the variability that occurs in wages across countries. Therefore, in light of both the Federal Circuit’s decision in Dorbest, and the 2nd Remand Order, the Department finds that relying on multiple countries to calculate the wage rate is no longer the best approach for calculating the labor value.¹⁵ Accordingly, we have altered our labor methodology to rely on labor cost data from the primary surrogate country.¹⁶

Accordingly, the Department finds that using the data on industry-specific labor cost from the surrogate country in this proceeding is the best approach for valuing the labor input. It is fully consistent with how the Department values all other FOPs, and results in the use of a uniform basis for FOP valuation – a single surrogate country.

Data Relied Upon In This Remand Proceeding

In the Pencils 06-07 Final Results, the Department selected India as the surrogate country, because it is at a comparable level of economic development pursuant to section 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data.¹⁷ Therefore, for this remand redetermination, the Department will use

¹⁴ See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61720 (October 19, 2006) (“Antidumping Methodologies”).

¹⁵ See Labor Methodologies, 76 FR at 36093.

¹⁶ Id.

¹⁷ See Certain Cased Pencils from the People’s Republic of China; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 74 FR 673, 674 (January 7, 2009) (“Pencils 06-07 Prelim”), unchanged in Pencils 06-07 Final Results.

industry-specific labor cost data from India to calculate the surrogate labor rate. The relevant period of review (“POR”) covers December 1, 2006, through November 31, 2007. The Department conducted its administrative review of this period between January 28, 2008, and September 1, 2009. Due to the reporting practices of our data sources, there is normally a two-year interval between the year for which data are reported and the current year. Accordingly, for this remand redetermination, the Department is relying on 2007 ILO labor data because these data were available at the time the Department conducted the review.¹⁸

In order to calculate a new labor rate in conformity with the labor methodology set forth in Labor Methodologies, we are using labor cost data from the primary surrogate country, India, reported in the ILO Chapter 6A data. The Department selected India as the surrogate country in this proceeding based upon the finding that India was both economically comparable to the PRC and a significant producer of comparable merchandise.¹⁹ With respect to the “significant producer” prong under section 773(c)(4) of the Act that was of concern to the Court in the 2nd Remand Order, the Department has previously found in this administrative review that India is a significant producer of comparable merchandise based upon its relative level of production of 1,610,309 kilograms.²⁰ The Department has stated that, in considering whether a country is a significant producer of comparable merchandise, any judgment “should be consistent with the characteristics of worldwide production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics).”²¹ Under this standard, the Department concluded in

¹⁸ See Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 554-555 (1978) (“Administrative consideration of evidence . . . always creates a gap between the time the record is closed and the time the administrative decision is promulgated [and, we might add, the time the decision is judicially reviewed]...”).

¹⁹ See Pencils 06-07 Prelim, 74 FR at 674, unchanged in Pencils 06-07 Final Results.

²⁰ See Memorandum to the File from Alexander Montoro, International Trade Analyst, AD/CVD Operations, Office 1, re: 2006–2007 Antidumping Duty Administrative Review on Certain Cased Pencils from the People’s Republic of China: Selection of a Surrogate Country (“Surrogate Country Memo”), dated December 30, 2008 at 4 and Attachment 2.

²¹ See Policy Bulletin No. 04:1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) at 3.

the context of this administrative review that India's production of cased pencils, which ranked thirteenth in the world for 2007 based upon available data from the World Trade Atlas, was "consistent with the worldwide characteristics of cased pencils" production and sufficient to establish India as a significant producer of comparable merchandise.²² Thus, the Department's finding that India is a significant producer of comparable merchandise is supported by substantial evidence and is consistent with the Court's instructions that the Department "is free to adopt an altogether different approach to identifying significant production" on remand.²³

On June 27, 2011, the Department placed additional labor cost data on the record in order to determine the surrogate labor rate derived from Indian labor cost data and requested interested parties to comment. We did not receive any comments. See Attachment I.

The Department issued its Draft Remand Results to parties for comments on July 19, 2011.²⁴ On July 25, 2011, Rongxin provided comments on the Draft Remand Results. Rongxin's comments are addressed below.

Re-Valuation of the Labor Rate

We used the most recent Chapter 6A data that would have been available at the time of this administrative review (2002-2007), and adjusted those values to the 2006-2007 POR using the relevant Consumer Price Index ("CPI").²⁵ See Attachments II and III.

²² See Surrogate Country Memo at 4 and Attachment 2.

²³ See 2nd Remand Order at 19.

²⁴ See Letter to All Interested Parties, from Nancy Decker, Acting Director, AD/CVD Operations, Office 1, regarding, "Request for Parties' Comments: Draft of Second Remand Results of 2006-2007 Administrative Review of the Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China," dated July 19, 2011 ("Draft Remand Results").

²⁵ Under the Department's regression analysis, the Department limited the years of data it would analyze to a two-year period. See Antidumping Methodologies, 71 FR at 61720. However, because the overall number of countries being considered in the regression methodology was much larger than the single country now being considered in the Department's calculation, the pool of wage rates from which we could draw from two years worth of data was still significantly larger than the pool from which we may now draw using five years worth of data (in addition to the base year). The Department believes it is acceptable to review ILO data up to five years prior to the base year as necessary (as we have previously), albeit adjusted using the CPI. Thus, in order to have a broader and therefore

Specifically, the Department has relied upon the industry-specific data that includes pencils provided to the ILO under Sub-Classification 36 “Manufacture of furniture” of the ISIC-Revision 3 standard. Industry-specific data (i.e., data from Sub-Classification 36 of the ISIC-Revision 3) is available for India. See Attachment IV.

With respect to the Court’s holding concerning the Department’s exclusion of Indian labor data reported under the ISIC-Revision 2 standard in the first remand results, the issue before the Court on first remand was the Department’s determination not to include India as part of its basket of countries from which to value labor because Indian data were reported under ISIC-Revision 2 instead of ISIC-Revision 3.²⁶ In remanding back to the Department for a second time, the Court highlighted the “inconsistency” between the Department’s stated preference for a broad basket of countries and its exclusion of available Indian labor data.²⁷ However, for the reasons fully explained in our Labor Methodologies notice, the Department no longer considers reliance upon the broadest possible basket of countries to be the best approach for calculating the labor cost value.²⁸ In these final remand results, the Department has relied exclusively on ILO Chapter 6A data for India reported under the ISIC-Revision 3 to calculate a surrogate value for labor. In using data from a single country to value labor, the Department finds ILO Chapter 6A data for India reported under ISIC-Revision 3 to be the best available information under section 773(c)(1) of the Act because it is the most contemporaneous data source. Unlike for ILO Chapter 5B data, India reported the most current industry-specific data for ILO Chapter 6A under the ISIC-Revision 3. Thus, consistent with the Court’s remand instructions, the Department, through adoption of a single-country approach, has reevaluated its prior

more representative pool, the Department is using five years worth of ILO data. See Expected Non-Market Economy Wages: Request for Comment on Calculation Methodology, 70 FR 37761, 37762 (June 30, 2005).

²⁶ See 2nd Remand Order at 14-17.

²⁷ Id. at 16.

²⁸ See Antidumping Methodologies, 71 FR at 61721.

determination to omit Indian labor data reported under ISIC-Revision 2 from its calculations and in these final remand results has relied upon industry-specific data from India inclusive of pencils provided to the ILO under Sub-Classification 36 “Manufacture of furniture” of the ISIC-Revision 3 standard.

Based on the foregoing methodology, the revised labor cost rate applied to Rongxin in this remand redetermination is **41.92 rupees per hour**. See Attachment V.

b. Adjustments to the Surrogate Financial Ratios

As stated above, the Department will use Indian ILO data reported under Chapter 6A “Labor Cost in Manufacturing” of the Yearbook of Labor Statistics to calculate the surrogate value for labor. In the interim methodology, the Department was using ILO Chapter 5B data. Unlike Chapter 6A data that reflects all costs related to labor including wages, benefits, housing, training, etc., Chapter 5B data reflects only direct compensation and bonuses. For this reason, the Department has decided to change to the use of Chapter 6A data because we find that Chapter 6A better accounts for all direct and indirect labor costs. The Department will then adjust the surrogate financial ratios if there is indication that any indirect labor expenses contained in the surrogate financial statements are duplicative of those covered by Chapter 6A.²⁹

In the Pencils 06-07 Final Results, we used one surrogate financial statement, Triveni Pencils Ltd., to derive the surrogate financial ratios used to calculate normal value.³⁰ The Department’s previous surrogate wage rate methodologies used ILO Chapter 5B “wages and earnings.” The ILO defines Chapter 5B data to include two types of compensation: (1) direct

²⁹ See Folding Metal Tables and Chairs from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review, 71 FR 2905 (January 18, 2006) and accompanying Issues and Decision Memorandum, at Comment 1; Labor Methodologies, 76 FR at 36093-94.

³⁰ See Memorandum to the File, through Nancy Decker, Program Manager, Office 1, Import Administration, from David Layton and Alexander Montoro, International Trade Analysts, Import Administration, re: 2006-2007 Antidumping Duty Administrative Review of Certain Cased Pencils from the People’s Republic of China: Factor Valuation for the Final Results, dated July 6, 2009, at 11.

wages and salaries (“wages”), as well as (2) earnings data, which includes wages plus bonuses and gratuities (“earnings”).

The ILO defines Chapter 5B earnings data to include:

Remuneration in cash and in kind paid to employees, as a rule at regular intervals, for time worked or work done together with remuneration for time not worked, such as for annual vacation, other paid leave or holidays. Earnings exclude employers’ contributions in respect of their employees paid to social security and pension schemes and also the benefits received by employees under these schemes. Earnings also exclude severance and termination pay.³¹

Previously, where warranted, individually identifiable labor costs in the surrogate financial statements which were not included in wages or earnings in direct labor were categorized as OH or SG&A expenses for purposes of the Department’s calculation of surrogate financial ratios.³²

In contrast, the ILO defines Chapter 6A data to include:

The cost incurred by the employer in the employment of labor. The statistical concept of labor cost comprises remuneration for work performed, payments in respect of time paid for but not worked, bonuses and gratuities, the cost of food, drink and other payments in kind, cost of workers’ housing borne by employers, employers’ social security expenditures, cost to the employer for vocational training, welfare services and miscellaneous items, such as transport of workers, work clothes and recruitment, together with taxes regarded as labor cost...

...compensation of employees comprising {sic} all payments of producers of wages and salaries to their employees, in kind as well as in cash, and of contributions in respect of their employees to social security and to private pension, casualty insurance, life insurance and similar schemes...³³

³¹ See Labor Methodologies, 76 FR at 36093-94.

³² See Certain New Pneumatic Off-The-Road Tires from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008) (“OTR Tires”) and accompanying Issues and Decision Memorandum at Comment 18.G; Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 74 FR 47191 (September 15, 2009) and accompanying Issues and Decision Memorandum at Comment 10. See also Memorandum to the File, through Nancy Decker, Program Manager, AD/CVD Operations, Office 1, from Alexander Montoro and David Layton, International Trade Analysts, AD/CVD Operations, Office 1, re: 2006-2007 Antidumping Duty Administrative Review of Certain Cased Pencils from the People’s Republic of China: Factor Valuation for the Preliminary Results, dated December 30, 2008, at 12 and Attachment 14.

³³ See Labor Methodologies, 76 FR at 36093-94.

To ensure that Chapter 6A labor costs, included in the ILO defined “Labor cost” and “Compensation of employees,” are properly accounted for in the calculation of normal value, the Department will adjust, where possible, the surrogate financial ratios employed by the Department to value OH expenses, SG&A expenses, and profit.³⁴ Accordingly, we will categorize all individually identifiable direct labor costs included in the ILO's definition of Chapter 6A “Labor cost” and “Compensation of employees” as direct labor in the surrogate financial ratio calculations. Any labor costs that identified in the surrogate financial statement(s) that are also included in Chapter 6A “Labor cost” and “Compensation of employees” will be categorized as direct labor expenses for purposes of the Department's calculation of surrogate financial ratios.

For this remand, because the Department based its calculation of the Indian labor rate on Chapter 6A “Labor Cost in Manufacturing” data, the Department re-examined the financial statement used in this case to determine whether any adjustments need to be made. We determine that the following items from the surrogate financial statement should be categorized as direct labor in the surrogate financial ratio calculations:

Triveni Pencils Ltd.:

Schedule 17 “Manufacturing, Administrative and Selling Expenses: Employees’ remuneration and benefits” reports five categories: 1) Salaries, Wages & Bonus; 2) Contribution to Provident & Other Funds; 3) Job Works; 4) Workers & Staff Welfare; and 5) Group Insurance.

In Pencils 06-07 Final Results, we originally categorized Salaries, Wages & Bonus and Job Works as direct labor. Based on the foregoing methodology, we made additional adjustments and categorized Contribution to Provident & Other Funds, and Workers & Staff Welfare from OH to direct labor. Also, we adjusted Group Insurance from SG&A to direct

³⁴ See Antidumping Methodologies, 71 FR at 61721; OTR Tires and accompanying Issues and Decision Memorandum at Comment 18.G.

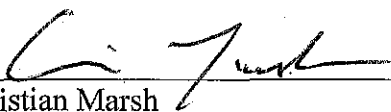
labor. The revised surrogate financial ratios applied to Rongxin in this remand redetermination are as follows: 1) OH, 2.67%; 2) SG&A, 6.65%; and, 3) Profit, 1.86%. See Attachment VI.

INTERESTED PARTIES' COMMENTS

On July 19, 2011, the Department released to interested parties the Draft Remand Results, which were also placed on file in the Department's Central Records Unit. On July 25, 2011, Rongxin filed comments stating that the appropriate CIT case number for this litigation is 09-00316, not 09-00325 as indicated in the Draft Remand Results. Rongxin is correct that the correct case number for this litigation is 09-00316. Any reference to consolidated case number 09-00325 as the active case number of this litigation in the draft remand results was an inadvertent oversight. We have corrected all incorrect references to that case number in these final results and provided additional explanation of the procedural history of the litigation. No other comments were received.

RESULTS OF REDETERMINATION

Pursuant to the Labor Methodologies, Dorbest, the 2nd Remand Order, and our discussion above, we have revised Rongxin's labor rate using ILO Chapter 6A labor data. Taking into account the changes discussed above, we revised Rongxin's final margin to 0.72 percent.³⁵



Christian Marsh
Acting Deputy Assistant Secretary
for Import Administration

8/4/11

Date

³⁵ See Memorandum to the File through Nancy Decker, Program Manager, AD/CVD Operations, Office 1, from Patricia M. Tran, International Trade Analyst, AD/CVD Operations, Office 1, re: Analysis Memorandum for the Redetermination Pursuant to 2nd Court Remand in the 2006-2007 Administrative Review of the Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China: Shandong Rongxin Import & Export Co., dated July 19, 2011 at 1.

Attachment I

**Letter to Interested Parties
June 27, 2011**



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

FILE

A-570-827
Case No. 09-003~~16~~
Remand: 12/1/06-11/30/07
Public Document
01: PMT

June 27, 2011

Re: Placement of New Factual Information on the Record – Second Remand Determination of 2006-2007 Administrative Review of the Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China


TO ALL INTERESTED PARTIES:

This concerns the industry-specific wage rate selection of the second remand determination pursuant to the remand order from the U.S. Court of International Trade ("CIT") in Shandong Rongxin Import & Export Co., Ltd. v. United States, Court No. 09-00316 (April 21, 2011).

Consistent with Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011), the Department of Commerce ("Department") is placing on the record of this remand proceeding, International Labor Organization Yearbook Chapter 6A data applicable to the primary surrogate country designated in this administrative review.

The Department is soliciting comments from parties on the narrow issue of the Department's revised wage rate methodology, as published on June 21, 2011. Parties may also submit comments on and factual information rebutting, clarifying, or correcting the new factual information placed on the remand record by the Department by **close of business on Friday, July 1, 2011**. Due to the abbreviated time constraints presented in this remand determination, the Department will be unable to accept rebuttal comments. If you have any questions on this matter, please contact Patricia Tran at (202) 482-1503.

Sincerely,


Nancy Decker
Program Manager
AD/CVD Operations, Office 1
Import Administration

Attachment



Attachment II

ILO Data

Selection: Years: 2002-2007
 Country(ies): IN
 Group of topics: Main statistics (annual)
 Table: 6A Labour cost in manufacturing
 Extracted on: 21/09/2011

COUNTRY	CODE COUNTRY	CURRENCY	SOURCE	CODE SOURCE	SOURCE_ID	SUBJECT	CODE SUBJECT	TYPE OF DATA	CODE TYPE OF DATA	WORKERS COVERAGE	CODE WORKER COVERAGE	SEX	CODE SEX	TABLE	CODE TABLE	CLASSIFIC ATION	CODE CLASSIFIC ATION	SUB-CLASSIFICATION	CODE SUB-CLASSIFICATION	D2002	D2003	D2004	D2005	D2006	D2007	NOTES
India	IN	Rupee	Industrial/ commercial survey	DS		Labour cost	6L	Labour cost	6L	Employees	64	Per day	6Z	Labour cost in manufacturing	64	ISC-Rev.3 -D	BD	35 Manufacture of Furniture, NEC	22	245.51	270.1	288.64	297.56		Establishments with 200 or more persons employed. Year ending in March of the year indicated.	

Attachment III

CPI Data

A_BEGIN_DATE	A_END_DATE	A_UPDATE_DATE	DATATYPE	CDROM	SCALE	UNITS	SCALE	COUNTRYNAME	DATABASE	SERIESCODE	DESCRIPTOR	2002	2003	2004	2005	2006	2007
1.95E+03	2.01E+03	2.01E+07	Average		1.00E+00	index number	Units	India	IFS	53463...ZF...	PPI / WPI	85.0	89.6	95.5	100.0	104.7	109.77
1.95E+03	2.01E+03	2.01E+07	Average		1.00E+00	index number	Units	India	IFS	53464...ZF...	CPI:INDUST.WORKERS,50 CENTERS	89.1	92.4	95.9	100.0	105.799	112.5

Attachment IV
Industry-Specific Subclassification



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Detailed structure and explanatory notes**ISIC Rev.3.1 code 3699****Structure****Hierarchy**

- Section: **D** - Manufacturing
- Division: **36** - Manufacture of furniture; manufacturing n.e.c.
- Group: **369** - Manufacturing n.e.c.
- **Class: 3699 - Other manufacturing n.e.c.**

Explanatory note**This class includes:**

- manufacture of brooms and brushes, including brushes constituting parts of machines, hand-operated mechanical floor sweepers, mops and feather dusters, paint brushes, paint pads and rollers, squeegees and other brushes, brooms, mops etc.
- manufacture of shoe and clothes brushes
- manufacture of pens and pencils of all kinds whether or not mechanical
- manufacture of pencil leads
- manufacture of date, sealing or numbering stamps, hand-operated devices for printing, or embossing labels, hand printing sets, prepared typewriter ribbons and inked pads
- manufacture of baby carriages
- manufacture of umbrellas, sun-umbrellas, walking sticks, seat-sticks, whips, riding crops, buttons, press-fasteners, snap-fasteners, press-studs, slide fasteners
- manufacture of cigarette lighters and matches
- manufacture of articles of personal use: smoking pipes, combs, hair slides, scent sprays, vacuum flasks and other vacuum vessels for personal or household use, wigs, false beards, eyebrows
- manufacture of roundabouts, swings, shooting galleries and other fairground amusements
- manufacture of linoleum and hard non-plastic surface floor coverings
- manufacture of imitation jewellery
- manufacture of miscellaneous articles: candles, tapers and the like, artificial flowers, fruit and foliage, jokes and novelties, hand sieves and hand riddles; tailors' dummies, burial caskets etc.
- taxidermy activities

This class excludes:

- *manufacture of lighter wicks, see 1729*

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Attachment V

Labor Rate Calculation

Revised Labor Rate

Country	Currency	Sub-Classification	Reporting Year	Labor Cost Reporting Period	Reported Labor Cost	Reporting Currency/Hour	Reporting Year CPI 2005	2007 POR CPI	CPI Infiator/defiator	Inflated Labor Cost/Hour
India	Rupees	36	2005	per day	297.96	37.245	100	112.539	1.12539	41.91515055

Attachment VI
Surrogate Financial Ratios

AD INVESTIGATION - PENCLS from PFC										
FINANCIAL STATEMENT OF TRIVENI PENCILS 2006-07										
Items	Sch.	Inc. Statement Amount	Raw Materials	Direct Labour	Energy	Mfg O'head	SGA & Interest	Profit Pre-Tax	Trading Goods	Excluded
INCOME:										
Sales	14	79,031,326								79,031,326
Other Income	15	2,695,070								2,695,070
Excise Duty Refund	15	13,262,522								13,262,522
TOTAL INCOME		94,988,918								94,988,918
EXPENDITURE:										
Consumption of Material	16	60,665,144								60,665,144
Manufacturing, Administrative & Selling Expenses	17	32,417,491								32,417,491
Interest & Finance Charges	18	529,075								529,075
Depreciation	6	676,729								676,729
Leasehold Land	6									
Factory Building on Leasehold Land	6	92,307				92,307				
Factory Building under Construction	6									
Plant & Machinery	6	487,321				487,321				
Furniture & Fixture	6	18,670					18,670			
Electric Installation	6	24,304					24,304			
Office Machinery	6	11,563					11,563			
Computer	6	1,278					1,278			
Car & Scooter	6	39,620					39,620			
Temporary Construction	6									
Fire Fighting Equipment	6	1,666					1,666			
Assets Below RS.5000/-	6	0					0			
TOTAL	6	676,729								676,729
TOTAL EXPENDITURE		94,288,439								94,288,439
PROFIT/(LOSS) BEFORE TAX		700,479								700,479
Prior Period Income/ (Expenditure)	19	-53,187								-53,187
Current Tax/Income Tax	19	0						647,292		0
Deferred Tax	19	125,295								125,295
PROFIT/(LOSS) AFTER TAX	19	772,587								772,587
SALBS	14									
Gross Sales	14	79,031,326								79,031,326
Loss/Discount	14	79,031,326								79,031,326
OTHER INCOME	15									
Rent	15									
Interest on FDR	15	5,655					-5,655			
Interest on Income Tax Refund	15									
Liability W/Off	15	128,687								128,687
Discount Received	15	50,338								-50,338
Job Work	15	2,510,390		-2,510,390						
	15	2,695,070								2,695,070
CONSUMPTION OF MATERIAL	16									
Raw Materials	16									
Opening Stock	16	4,641,066								4,641,066
Add: Purchases	16	17,082,944								17,082,944
		21,724,010								21,724,010
Less: Closing Stock	16	3,057,195								3,057,195
		18,666,815	18,666,815							
Packing Materials Consumed	16	43,720,451								43,720,451
Stores & Tools Consumed	16	119,676				119,676				
	A	62,505,942								62,505,942
DECREASE/INCREASE IN STOCK	16									
Closing Stock	16									
Work in Process	16	3,400,568	-3,400,568							
Finished Goods	(a)	2,686,358								2,686,358
		6,086,926								6,086,926
Less Opening Stock:	16									
Work in Process	16	3,571,225	3,571,225							
Finished Goods	16	674,903								674,903
	(b)	4,246,128								4,246,128
B=(a-b)		1,840,798								1,840,798
(A-B)		60,665,144								60,665,144
MANUFACTURE, ADMIN. & SELLING EXPENSES	17									
Salaries, Wages & Bonus	17	9,443,273		9,443,273						
Contribution to Provident & Other Funds	17	1,398,365		1,398,365						
Excise Duty & Education Cess	17	17,418,255								17,418,255
Job Works	17	1,177,265		1,177,265						
Labelling Charges	17	165,877								165,877
Workers' Staff Welfare	17	84,431		84,431						
Loading & Unloading Charges	17	41,405								41,405
Power & Fuel	17	910,720			910,720					
Repairs to Building	17	5,110				5,110				
Repairs to Machinery	17	145,804				145,804				
Travelling & Conveyance	17	17,316					17,316			
Rates & Taxes	17	86,898					86,898			
Insurance	17	198,446					198,446			
Group Insurance	17	13,085		13,085						
Freight Outward	17	59,895								59,895
Audit Fee	17	80,000						80,000		
Directors' Travelling	17									
Directors' Meeting Fees	17	2,600								2,600
Miscellaneous Expenses	17	1,168,746					1,168,746			
		32,417,491								32,417,491
INT. & FINANCE CHARGES	18									
Other Borrowings	18	527,721								527,721
On TDS	18	1,354								1,354
		529,075						529,075		
CURRENT TAX/ INCOME TAX	19									
Current Tax/Income Tax For The Year	19									
Income Tax for Previous Years	19	0								0
TOTAL		18,837,472	12,116,419	910,720	849,218	2,174,527	647,292			
Total of Material, Labour and Energy (MLE)						31,864,611				
Overhead as % of MLE						2.67%				
Total of MLE and Overhead							32,713,829			
SGA & Interest as % of MLE and Overhead							6.65%			
Total of MLE, Overhead and SGA & Interest								34,988,356		
Profit before tax as % of MLE, Overhead and SGA & Interest									1.86%	