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January 4, 2013

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Import Administration

**FROM:** Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Certain Polyester Staple Fiber from the People's Republic of  
China: Issues and Decision Memorandum for the Final Results of  
the 2010-2011 Administrative Review

**SUMMARY:**

We have analyzed the comments submitted in the 2010-2011 administrative review of certain polyester staple fiber ("PSF") from the People's Republic of China ("PRC"). As a result of our analysis, we have made changes from the *Preliminary Results*.<sup>1</sup> We recommend that you approve the positions described in the "Discussion of the Issues" section of this Issues and Decision Memorandum. Below is the complete list of the issues in this review for which we received comments on the *Preliminary Results*.

- Comment 1. Surrogate Value for Steam Coal
- Comment 2. Surrogate Financial Ratios
- Comment 3. Surrogate Value for Inland Freight
- Comment 4. Surrogate Value for Water
- Comment 5. Surrogate Value for Brokerage & Handling
- Comment 6. Ministerial Error
- Comment 7. Huvis Sichuan No Shipments Certification
- Comment 8. Zeroing

**BACKGROUND:**

The period of review ("POR") is June 1, 2010, to May 31, 2011. On July 6, 2012, the Department published the *Preliminary Results*. In accordance with 19 CFR 351.309(c)(ii), we invited parties to comment on our *Preliminary Results*. On July 10, 2012, DAK Americas LLC ("Petitioner") filed comments regarding a ministerial error. On July 23, 2012, Zhaoqing Tifo

<sup>1</sup> See *Certain Polyester Staple Fiber from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 77 FR 39990 (July 6, 2012) ("Preliminary Results").



New Fiber Co., Ltd. (“Zhaoqing Tifo”) requested an extension to file surrogate value (“SV”) information and its case brief for these Final Results. On July 26, 2012, the Department granted this extension request. On August 3, 2012, the Department partially extended the deadline for the completion of the Final Results by 30 days to December 3, 2012. On August 6, 2012, Huvis Sichuan Co., Ltd. (“Huvis Sichuan”) submitted comments on the *Preliminary Results*. On August 8, 2012, Zhaoqing Tifo filed SV information. On August 27, 2012, Petitioner submitted rebuttal SV information and a request for a formal hearing. On August 28, August 31, and September 12, the Department extended the deadlines for parties to submit case briefs, hearing requests and rebuttals. On September 21, 2012, Zhaoqing Tifo submitted its case brief and a request for a formal hearing. On September 28, 2012, Petitioner submitted its rebuttal brief and withdrew its request for a hearing. On October 19, 2012, Petitioner submitted a redacted version of its rebuttal brief in response to the Department’s request. On October 31, 2012, Zhaoqing Tifo withdrew its request for a hearing. On October 31, 2012, the Department tolled all administrative deadlines by two days.<sup>2</sup> On November 5, 2012, the Department fully extended the deadline for the completion of the Final Results by an additional 30 days to January 4, 2013. On November 8, 2012, the Department met with Zhaoqing Tifo to discuss its SV submission for the Final Results.

#### **SCOPE OF THE ORDER:**

The merchandise covered by the order is synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The subject merchandise may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

The following products are excluded from the scope: (1) PSF of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) at subheading 5503.20.0025 and known to the industry as PSF for spinning and generally used in woven and knit applications to produce textile and apparel products; (2) PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches and that are generally used in the manufacture of carpeting; and (3) low-melt PSF defined as a bi-component fiber with an outer, non-polyester sheath that melts at a significantly lower temperature than its inner polyester core (classified at HTSUS 5503.20.0015).

Certain PSF is classifiable under the HTSUS subheadings 5503.20.0045 and 5503.20.0065. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

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<sup>2</sup> As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days. See Memorandum for The Record, from Paul Piquado, Assistant Secretary for Import Administration regarding Tolling Administrative Deadlines as a Result of the Government Closure During Hurricane Sandy, dated October 31, 2012.

## DISCUSSION OF THE ISSUES

### *Comment 1: Surrogate Value for Steam Coal*

#### *Zhaoqing Tifo:*

- In every prior review of PSF from the PRC, the Department has used a domestic Indian source for the final SV for steam coal.<sup>3</sup> Consistent with *Bulk Aspirin*, the Department's use of domestic over import prices for steam coal is not only a preference, but follows a long-established practice of using reliable, more-specific domestic sources for inputs, when available.<sup>4</sup>
- The Department should use coal prices from the *Ministry of Energy and Mineral Resources of the Republic of Indonesia* ("ESDM") that are specific to the grade of coal that Zhaoqing Tifo uses.<sup>5</sup>
- To comply with the decision in *Taian*, product specificity must be the primary consideration.<sup>6</sup> The ESDM price is the only specific Indonesian data on the record and is the only data specific to Zhaoqing Tifo's actual consumption, *i.e.*, the only data corresponding to the specific caloric value of the steam coal it consumes.
- The Global Trade Atlas ("GTA") data consists primarily of imports from Japan. Japan has no coal industry and, thus, the reported Indonesian imports of coal from Japan must be value-added highly processed re-exported coal that does not correspond to the simple steam coal that Zhaoqing Tifo uses to heat water. Indonesia, like the PRC, and unlike Japan, has a large domestic mining industry that supplies domestic industries.<sup>7</sup>
- In *Yantai Oriental Juice Co. v. United States* ("Yantai"), the Court of International Trade ("CIT") confirmed that it would make no commercial sense for a domestic manufacturer to pay a premium reflected in a basket tariff import value when less expensive domestic sources were available.<sup>8</sup>

#### *Petitioner:*

- Zhaoqing Tifo claims that *Taian* requires the Department to abandon its non-hierarchical SV selection methodology to give primary consideration to product specificity. This case is not yet final.

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<sup>3</sup> See *First Administrative Review of Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010), and accompanying Issues and Decision Memorandum at Comment 1A (citing to the use of domestic Indian coal data in the past as well as a CIT decision upholding the use of another Indian domestic coal source); see also *Certain Polyester Staple Fiber From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 76 FR 2886 (January 18, 2011), and Zhaoqing Tifo's August 8, 2012 SV response at Exhibit SV-2, which contains the second review SV memorandum "Preliminary SV Memo Antidumping Duty Administrative Review of Certain Polyester Staple fiber from the People's Republic of China: SVs for the Preliminary Results," dated June 30, 2011, at 8.

<sup>4</sup> See *Bulk Aspirin from the People's Republic of China: Final Results of Antidumping Duty Review*, 68 FR 6710 (Feb. 10, 2003) ("*Bulk Aspirin*"), and accompanying Issues and Decision Memorandum at Comment I.

<sup>5</sup> In the *Preliminary Results*, the Department valued coal using Indonesian imports of HTS 2701.19, defined as "Coal, Other Than Anthracite or Bituminous Whether Or Not Pulverized, But not Agglomerated." Zhaoqing Tifo notes that this is a basket HTS category that includes imports of types and grades that Zhaoqing Tifo does not use.

<sup>6</sup> See *Taian Ziyang Food Company Ltd. v. United States*, 783 F. Supp. 2d 1292 (CIT 2011) ("*Taian*").

<sup>7</sup> See Zhaoqing Tifo Case Brief at 13, dated September 21, 2012 ("Zhaoqing Tifo Case Brief").

<sup>8</sup> See *Yantai Oriental Juice Co. v. United States*, 26 CIT 605, 617 (CIT 2002).

- *Taian* does not upset the Department's reliance on all factors when selecting the best available information. For example, in *Mushrooms*, the respondent claimed that the Department must reject import basket categories because more specific sources were available.<sup>9</sup> The Department then sustained the use of import basket categories explicitly noting that "...the Department has used 'basket' categories where such information is more contemporaneous or reflects a broader market experience notwithstanding the alternative data may be more specific to the production input."<sup>10</sup>
- Consistent with *Lightweight Thermal Paper*, the Department has a preference for testing the reliability of an average unit value ("AUV") from the primary surrogate country by comparing the data to import statistics of other potential surrogate countries where such comparisons are possible, and will also consider AUVs of the primary surrogate from prior periods.<sup>11</sup>
- ESDM are not prices transacted between unaffiliated parties but, rather, calculated benchmarks, published by a government agency, that reflect potential supply-side value targets based on calorific content. These values are less probative than are the broad-based values represented by country wide import data for all of Indonesia.<sup>12</sup>
- ESDM is derived from government indexes based on non-Indonesian reference values such as "New Castle Export Index" and "Global Coal New Castle Index".<sup>13</sup> The values proffered by Zhaoqing Tifo cannot reasonably be considered representative of any sales between parties – in contrast to the GTA data, which represent actual transaction values.
- Within the ESDM data, the values that Zhaoqing Tifo suggests are representative of its own experience appear in the columns labeled "Indominco IM East" and "Melawan Coal" which appear to be company brands. Thus, these values are more akin to company-specific values derived from company financial statements, rather than broad, country-wide averages favored by the Department in selecting SVs. Because these appear to be supply-side indicia, not transaction prices, there are no (and likely cannot be) indications of the quantities related to the values.
- Zhaoqing Tifo's reference to the steam coal values from India relied upon by the Department in prior segments of this proceeding are not determinative because the Department has moved away from India precisely because the PRC and India are not at sufficiently similar levels of development.<sup>14</sup>
- Zhaoqing Tifo's argument that Japan cannot be a valid source country for the type of steam coal it has consumed is also incorrect.<sup>15</sup> "In order to remain coal and be categorized as coal (not coke, oil, activated carbon, etc. which have their own separate HTS categories), coal must be minimally processed. If, for example, Japan imported

<sup>9</sup> See *Certain Preserved Mushrooms From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 55808 (September 11, 2012) ("*Mushrooms*") and accompanying Issues and Decision Memorandum at Comments 3 and 4.

<sup>10</sup> *Id.*, and accompanying Issues and Decision Memorandum at Comment 4 (footnotes omitted).

<sup>11</sup> See, e.g., *Lightweight Thermal Paper from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 57329 (October 2, 2008) and accompanying Issues and Decision Memorandum at Comment 9.

<sup>12</sup> See Zhaoqing Tifo's SVs for the Final Results dated August 8, 2012, at Exhibit SV-5. ("Zhaoqing Tifo's SVs for the Final Results")

<sup>13</sup> See Zhaoqing Tifo's SVs for the Final Results at Exhibit SV-5.

<sup>14</sup> See Zhaoqing Tifo Case Brief at 8.

<sup>15</sup> See Zhaoqing Tifo Case Brief at 11-12.

subbituminous coal and washed it, the resulting cleaner coal<sup>16</sup> would be classified as HTSUS 2701.19 and qualify as steam coal.”<sup>17</sup> Accordingly, the preferred GTA values are more broad-based, country-wide values that are the most representative record information.

**Department’s Position:** In selecting SVs for factors of production (“FOPs”), section.773(c)(1) of the Tariff Act of 1930, as amended (the “Act”), instructs the Department to use “the best available information” from the appropriate market economy country. The Department’s criteria for selecting SV information are normally based on the use of publicly available information, and the Department considers several factors, including quality, specificity, and contemporaneity when choosing the most appropriate data.<sup>18</sup> Additionally, it is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis of valuing the FOPs on a case-by-case basis.<sup>19</sup> As there is no hierarchy for applying the above-mentioned principles, the Department must weigh available information with respect to each input value and make a product-specific, and case-specific, decision as to what the “best” available SV is for each input.<sup>20</sup>

We agree with Petitioner that the GTA data for Harmonized Tariff Schedule (“HTS”) 2701.19 are the best available information to value steam coal. In numerous past cases the Department has found GTA data to be product-specific, representative of a broad-market average, publicly available, contemporaneous with the period of review, and free of taxes and duties.<sup>21</sup>

When valuing FOPs, the Department prefers actual transaction prices.<sup>22</sup> While the ESDM offers a value for one characteristic of steam coal (*i.e.* calorific value), the ESDM contains information from international benchmark steam coal indexes and certain brand name prices, rather than actual transactions involving parties in Indonesia.<sup>23</sup> We agree with Petitioner that some of the ESDM values appear to be derived from government indexes based on non-Indonesian reference

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<sup>16</sup> That is the function of coal washeries as outlined in the Indian coal industry, *see* Zhaoqing Tifo’s August 8, 2012 SV Letter at Exhibit SV-1(emphasis added).

<sup>17</sup> *See* Letter from Petitioner regarding 4th Administrative Review of Polyester Staple Fiber From the People’s Republic of China – Redacted Rebuttal Brief, dated October 19, 2012 at 11 (“Petitioner’s Redacted Rebuttal Brief”).

<sup>18</sup> *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People’s Republic of China*, 71 FR 53079 (September 8, 2006) (“*Lined Paper*”) and accompanying Issues and Decision Memorandum at Comment 3.

<sup>19</sup> *See, e.g., Certain Steel Threaded Rod from the People’s Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 67332 (November 9, 2012) and accompanying Issues and Decision Memorandum at Comment 1b.

<sup>20</sup> *See, e.g., Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>21</sup> *See, e.g., Glycine from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 64100 (October 18, 2012) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>22</sup> *See, e.g., Honey from the People’s Republic of China: Rescission and Final Results of Antidumping Duty New Shipper Reviews*, 71 FR 58579 (October 4, 2006) and accompanying Issues and Decision Memorandum at Comment 2; *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 56158 (September 12, 2011) and accompanying Issues and Decision Memorandum at Comment 1a.

<sup>23</sup> *See* Zhaoqing Tifo’s SVs for the Final Results at Exhibit SV-5.

values (*i.e.*, “New Castle Export Index” and “Global Coal New Castle Index”). Therefore, the values proposed by Zhaoqing Tifo cannot be considered representative of transactions between parties in Indonesia, while the GTA data represent actual transaction values. We also agree with Petitioner that the rest of the ESDM values that Zhaoqing Tifo suggests are representative of its own experience appear to be company brands, (*i.e.*, “Indominco IM East” and “Melawan Coal”) or otherwise sub-national level indicators. Therefore, these values are more akin to company-specific values derived from a company’s financial statements, rather than a broad, country-wide average like the GTA data.

Further, while the preface to the ESDM states that it is “an effort to provide accurate and reliable energy economic data and information consolidated in one book”, it further notes that the data contained in ESDM are not standardized and are “generally not provided with sufficient explanation or clarification” which could lead to “inaccurate energy analysis.”<sup>24</sup>

Zhaoqing Tifo provided specific steam coal SVs for each month of the POR, which it claims are derived from the indexes in the ESDM. Zhaoqing Tifo contends that the Department should use this POR data to value steam coal in its SV calculation.<sup>25</sup> However, Zhaoqing Tifo has not provided a clear step-by-step explanation as to how it utilized the data from ESDM’s various indexes and prices to calculate the proffered POR specific SV. Zhaoqing Tifo has merely provided a translation of the ESDM text which purports to explain the calculation process.<sup>26</sup> This text does not provide any guidance on how the Indonesian government combined the data, or how Zhaoqing Tifo extrapolated data from the POR based on the data. Given the potential inaccuracies noted in the ESDM, questions concerning Zhaoqing Tifo’s SV calculation and the fact that such calculations would not be representative of transaction prices within Indonesia, we have not used the ESDM to value coal in these Final Results.

We agree with Petitioner that *Taian* does not require the Department to abandon its non-hierarchical list of factors in evaluating various SVs or to give primary consideration to product specificity. Again, we note that the ESDM only offers a specific value for one characteristic of steam coal (*i.e.* calorific value). As Petitioner has noted, *Taian* is not yet final, it does not categorically elevate “product specificity” over all other criteria, and the Department’s actions on remand were made “under protest.”<sup>27</sup> The Department still has to consider the quality and contemporaneity of the ESDM data. As stated above, the ESDM itself underscores the low quality of the data, and Zhaoqing Tifo has not provided a clear explanation of how it obtained contemporaneous data for the POR based on data within the ESDM Handbook.

We also agree with Petitioner that, consistent with *Mushrooms*, that GTA data are preferable to specific sources like ESDM. We note that the Department has used “basket” categories where such information is more contemporaneous or reflects a broader market experience notwithstanding alternative data that may be more specific to the production input.<sup>28</sup> We also

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<sup>24</sup> See Zhaoqing Tifo’s SVs for the Final Results at Exhibit SV-6.

<sup>25</sup> *Id.*

<sup>26</sup> See Zhaoqing Tifo’s SVs for the Final Results at Exhibit SV-5.

<sup>27</sup> See Letter from Petitioner’s Redacted Rebuttal Brief, at 2.

<sup>28</sup> See, e.g., *Polyethylene Retail Carrier Bags: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Review*, 73 FR 14216 (March 17, 2008), and accompanying Issues and Decision Memorandum at Comment 6 (“*Polyethylene Retail Carrier Bags*”).

note that HTS category 2701.19 encompasses the entire breadth of Indonesian imports of coal for the POR and, thus, is both more representative of broad market averages<sup>29</sup> and more contemporaneous with the POR<sup>30</sup>.

Zhaoqing Tifo contends that *Bulk Aspirin* establishes the Department's long-established practice of using reliable, more-specific domestic sources for inputs over import prices, when available. We note that in *Bulk Aspirin*, the Department only agreed with the petitioner in part regarding the use domestic prices to value certain inputs in that review. The Department stated that, "where the petitioner has provided information showing that the import price reflects a wide variety of purity/concentration levels for an input; we have generally used the domestic price."<sup>31</sup> In this case, while Zhaoqing Tifo argues that HTS 2701.19 is a basket category that includes imports of types and grades that Zhaoqing Tifo does not consume, Zhaoqing Tifo has not submitted evidence of, and the record does not otherwise reflect, the types and grades of coal that it consumes. Moreover, Zhaoqing Tifo has even stated that HTS 2701.19 is the HTS number that best corresponds to the coal that it consumes.<sup>32</sup> As mentioned above, the Department has used "basket" categories where such information is more contemporaneous or reflects a broader market experience notwithstanding alternative data that may be more specific to the production input.<sup>33</sup>

With respect to *Yantai*, Zhaoqing Tifo argues that the CIT confirmed that it would make no commercial sense for a domestic manufacturer to pay a premium reflected in a basket tariff import value when less expensive domestic sources were available.<sup>34</sup> In *Yantai*, the CIT disagreed with the Department's conclusion to use import data to value coal because there was no indication that domestic coal market was distorted. However, based on the evidence on the record, the Department cannot make any conclusions about the domestic Indonesian market. Even though the ESDM is produced by the Indonesian government, the data contained in the handbook are based on international benchmark coal indexes and are not transactional prices. Therefore, the data does not give a reliable view of the price Indonesian companies paid for coal.

With respect to Indian coal values used in prior segments, we acknowledge that we used an Indian domestic source to value steam coal in the earlier administrative reviews of PSF from the PRC.<sup>35</sup> However, in those reviews we selected India, which had other sources of information available, as the primary surrogate country, whereas in the current review, we have selected Indonesia as our primary surrogate country.<sup>36</sup> We agree with Petitioner that Zhaoqing Tifo's reference to the steam coal values from India relied upon by the Department in prior segments of

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<sup>29</sup> See Memorandum to The File, through Scot T. Fullerton, Program Manager, Office 9, from Steven Hampton, International Trade Analyst, Office 9, regarding 2010-2011 Antidumping Duty Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: SVs for the Preliminary Results, dated July 5, 2012 at Attachment 13.

<sup>30</sup> See Zhaoqing Tifo's SVs for the Final Results at Exhibit SV-6, page IV.

<sup>31</sup> See *Bulk Aspirin* and accompanying Issues and Decision Memorandum at Comment 1.

<sup>32</sup> See Zhaoqing Tifo's 2nd Supplemental Questionnaire Response dated March 5, 2012, at 3.

<sup>33</sup> See *Polyethylene Retail Carrier Bags* and accompanying Issues and Decision Memorandum at Comment 6.

<sup>34</sup> See *Yantai*, 26 CIT at 617.

<sup>35</sup> See *Certain Polyester Staple Fiber From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review, and Intent To Revoke Order in Part*, 76 FR 40329, 40331 (July 8, 2011), unchanged in final.

<sup>36</sup> See *Preliminary Results*, 77 FR at 39992.

this proceeding are not determinative because the Department has moved away from using India as a surrogate country.<sup>37</sup>

Regarding GTA data derived from Japan, Zhaoqing Tifo has not proven that this data are aberrant. In determining whether a SV derived from GTA data are aberrational, it is the Department's practice to compare it with the GTA data for the input at issue of the other five economically comparable countries in the Surrogate Country Memo.<sup>38</sup> We note that Zhaoqing Tifo has not provided the Department with the information to complete this comparison. Moreover, although Zhaoqing Tifo notes that the volume of imports for HTS 2701.19 is only 710 metric tons, there is no indication that this amount does not represent commercial quantities.<sup>39</sup> In response to Zhaoqing Tifo's presumption that Japan has no coal industry, and thus the reported Indonesian imports of coal from Japan must be value-added highly processed re-exported coal, Zhaoqing Tifo has not provided any information concerning the nature of these Indonesian imports.

Lastly, although the HTS category 2701.19 is not limited to steam coal, no party has argued that steam coal would be properly classified under a different HTS category. Therefore, we will use GTA data for HTS 2701.19 from Indonesia to value coal in the Final Results.

#### ***Comment 2: Surrogate Financial Ratios***

##### *Zhaoqing Tifo:*

- Consistent with *OCTG*, in choosing surrogate financial ratios, it is the Department's policy to consider the "specificity, contemporaneity, and quality of the data", and the Department's regulations further provide that surrogate financial ratios be derived from "non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country."<sup>40</sup>
- The Department's decision to use P.T. Asia Pacific Fibers ("P.T. Asia Pacific") for the financial ratios in this case was based on the mistaken conclusion that P.T. Asia Pacific's production process and experience is at the same level of integration as Zhaoqing Tifo. Unlike Zhaoqing Tifo, P.T. Asia Pacific produces virgin PSF from freshly manufactured polyester chips whereas Zhaoqing Tifo produces regenerated PSF, primarily from used plastic bottles. More importantly, P.T. Asia Pacific is a vertically integrated company that manufactures its own chemical raw material for polyester chips, purified terephthalic

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<sup>37</sup> See Letter to All Interested Parties regarding Antidumping Duty Order on Polyester Staple Fiber from the People's Republic of China, dated November 9, 2011, at Attachment 1 ("Surrogate Country Memo," incorporated by reference herein).

<sup>38</sup> See *Trust Chem Co. v. United States*, 791 F. Supp. 2d 1257, 1264-64 (CIT 2011).

<sup>39</sup> We made a similar finding with respect to Indonesian GTA data for coal in *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 64100 (October 18, 2012) and accompanying Issues and Decision Memorandum at Comment 4.

<sup>40</sup> See *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010) ("*OCTG*") and accompanying Issues and Decisions Memorandum at Cmt. 13 (emphasis added); see also 19 C.F.R. §351.408.

acid (“PTA”).<sup>41</sup> P.T. Asia Pacific’s production process and experience is thus different from Zhaoqing Tifo’s production process.

- The complexity of PTA production is detailed in Zhaoqing Tifo’s SV submission. Large production plants are pictured which dwarf the size and simplicity of regenerated fiber production facilities and other facilities that have no integrated PTA production.<sup>42</sup> P.T. Asia Pacific’s production of PTA on site adds a significant manufacturing step to put the company at a level of integration that is not comparable to Zhaoqing Tifo’s production process and experience.<sup>43</sup>
- The Department should not use P.T. Asia Pacific to calculate surrogate financial ratios because it is not the best available information on the record of this case. In the SVs for the Final Results, Zhaoqing Tifo submitted the detailed 2010 financial statements for the Indonesian manufacturer of subject merchandise, P.T. Tifico Fiber Indonesia Tbk (“P.T. Tifico”).<sup>44</sup> P.T. Tifico is a producer of virgin PSF, rather than regenerated PSF like Zhaoqing Tifo but, like Zhaoqing Tifo, P.T. Tifico purchases raw materials that go directly into the production of subject merchandise. There is no indication whatsoever that P.T. Tifico is a vertically integrated manufacturer. To the contrary, the structure of trade accounts payable for supplies from chemical companies<sup>45</sup> and its trade receivables for sales to textile companies<sup>46</sup> testify to the fact that P.T. Tifico has a business structure that corresponds to Zhaoqing Tifo’s business structure: both buy direct ingredients for the simple manufacture of PSF.
- Because the manufacturing processes of P.T. Tifico are far more comparable to those of Zhaoqing Tifo than are P.T. Asia Pacific’s manufacturing processes, the Department should rely solely upon the financial statement of P.T. Tifico for the Final Results.
- Zhaoqing Tifo has provided P.T. Tifico’s calculated financial ratios on the record.<sup>47</sup>

*Petitioner:*

- Zhaoqing Tifo has not demonstrated that this difference in integration level actually exists. Even if different integration levels exist as Zhaoqing Tifo describes, they represent a trivial distinction between the two companies.
- P.T. Asia Pacific has more complete and detailed information permitting the calculation of accurate financial ratios. Unlike the financial statements of P.T. Asia Pacific, those of P.T. Tifico have a major element missing, namely the cost of goods sold has no breakout for electricity, water, or other energy factors.<sup>48</sup> This means that the Department would need to place all potential energy costs into the overhead numerator and turn off all company-specific energy and water consumption factors, in order to capture all costs while also preventing double-counting. While such a course might be appropriate absent a better option, the Department already has on the record a more detailed and accurate financial statement for calculating surrogate financial ratios from P.T. Asia Pacific.

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<sup>41</sup> See Zhaoqing Tifo’s SVs for the Final Results at Exhibit SV-25, at page 2 (“Asia Pacific Fibers is at the forefront of the polyester industry; propelled by vertical integration...”).

<sup>42</sup> See Zhaoqing Tifo’s Case Brief at Exhibit 2, attached thereto, for selected pages from Exhibit SV-28.

<sup>43</sup> See Zhaoqing Tifo’s SVs for the Final Results at Exhibit SV-28.

<sup>44</sup> See Zhaoqing Tifo’s SVs for the Final Results at Exhibit SV-14.

<sup>45</sup> *Id.* at page 48.

<sup>46</sup> *Id.* at page 40.

<sup>47</sup> See Zhaoqing Tifo’s Case Brief at Exhibit 3.

<sup>48</sup> See Zhaoqing Tifo’s SVs for the Final Results at Exhibit SV-14 at 63.

**Department's Position:** In these Final Results, we have calculated all financial ratios using P.T. Tifico's 2010 financial statement. P.T. Tifico is a producer of PSF, and as explained below, we find that P.T. Tifico's financial statement represents the "best available" information within the meaning of the statute.

As noted above, in selecting surrogate FOPs, section 773(c)(1) of the Act instructs the Department to use "the best available information" from the appropriate market economy country. It is the Department's well established practice to rely upon the primary surrogate country for all SVs, whenever possible, and to only resort to a secondary surrogate country if data from the primary surrogate country are unavailable or unreliable.<sup>49</sup> Furthermore, the Department's criteria for choosing surrogate companies are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.<sup>50</sup> Moreover, for valuing overhead, selling, general and administrative expenses ("SG&A"), and profit, the Department uses non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.<sup>51</sup> The courts have recognized the Department's discretion when choosing appropriate companies' financial statements to calculate surrogate financial ratios.<sup>52</sup>

Record evidence indicates that P.T. Asia Pacific is vertically integrated, as its "manufacturing operations span the entire polyester staple fiber production chain from raw materials to end products" and is "the only integrated producer of polyester in Indonesia."<sup>53</sup> In contrast, P.T. Tifico is not vertically integrated. Like Zhaoqing Tifo, P.T. Tifico purchases polyethylene terephthalate ("PET") chips from third parties which then go into the production process of subject merchandise.<sup>54</sup> P.T. Tifico's purchases of PET chips have been documented in its financial statements.<sup>55</sup> In contrast, P.T. Asia Pacific manufactures its own PTA.<sup>56</sup> We agree with Zhaoqing Tifo's argument that P.T. Tifico's less integrated and less complex production operations are more comparable to Zhaoqing Tifo's than those of P.T. Asia Pacific.<sup>57</sup>

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<sup>49</sup> See, e.g., *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results and Partial Rescission of the Seventh Antidumping Duty Administrative Review*, 77 FR 15039 (March 14, 2012) and accompanying Issues and Decision Memorandum at Comment 2A; *Steel Wire Garment Hangers from the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the Second Antidumping Duty Administrative Review*, 76 FR 66903, 66905 (October 28, 2011), unchanged in final *Steel Wire Garment Hangers from the People's Republic of China: Final Results and Final Partial Rescission of Second Antidumping Duty Administrative Review*, 77 FR 12553 (March 1, 2012).

<sup>50</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005) and accompanying Issues and Decision Memorandum at Comment 3.

<sup>51</sup> See 19 CFR 351.408(c)(4); see also section 773(c)(4) of the Act.

<sup>52</sup> See, e.g., *FMC Corp. v. United States*, 27 CIT 240, 251 (CIT 2003); affirmed *FMC Corp. v. United States*, 87 Fed. Appx. 753 (Fed. Cir. 2004) (where the Court of International Trade held that the Department can exercise discretion in choosing between reasonable alternatives); see also *Crawfish Processors Alliance v. United States*, 343 F. Supp.2d 1242, 1251 (CIT 2004) ("If Commerce's determination of what constitutes the best available information is reasonable, then the Court must defer to Commerce.").

<sup>53</sup> See Petitioner's submission regarding Certain Polyester Staple Fiber dated January 19, 2012 at P.T. Asia Pacific Annual Report 2010 page 3.

<sup>54</sup> See Zhaoqing Tifo's SVs for the Final Results at SV-14 at 40, 48, and 63.

<sup>55</sup> *Id.*

<sup>56</sup> See Zhaoqing Tifo's Case Brief at Exhibit 2, attached thereto, for selected pages from Exhibit SV-28.

<sup>57</sup> We made a similar finding with respect to the calculation of surrogate financial ratios in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester*

Moreover, P.T. Tifico produces identical merchandise, is located in the primary surrogate country, and does not appear to be subsidized. Therefore, P.T. Tifico's financial statement represents the best available information to calculate surrogate financial ratios.

However, we agree with Petitioner's assertion that Zhaoqing Tifo made numerous errors in its calculation of the proposed surrogate financial ratios.<sup>58</sup> Petitioner provided corrections to these errors on the record and we agree with all of the proposed corrections.<sup>59</sup> We also note that P.T. Tifico's financial statement does not include a separate breakout of its costs for electricity and water. Therefore, in order to prevent double counting, we have placed all electricity and water costs into the overhead numerator and omitted the valuation of electricity and water consumption factors.<sup>60</sup> Consequently, we have utilized P.T. Tifico's financial statement with all of Petitioner's proposed corrections for these final results.

### ***Comment 3: Surrogate Value for Inland Freight***

#### ***Zhaoqing Tifo:***

- In the *Preliminary Results*, the Department calculated surrogate inland freight costs from the World Bank's *Doing Business 2012: Indonesia* ("*Doing Business*"). However, this source does not include "country wide" data, as it only covers freight costs from the largest city in Indonesia to the main industrial port.
- In the course of evaluating the representativeness of domestic SV sources, the Department places a premium on sources with multiple "data points."<sup>61</sup> Any source for domestic inland freight prices that contains multiple data points and more of the surrogate country geographically is preferred over a source reflecting a single data point from a single location.
- The Department should value inland freight using the 2001 study, *Cost of Investing and Doing Business in ASEAN*<sup>62</sup> ("ASEAN study"), which was applied to value Indonesian truck freight rates in the 2009-2010 review of *Ironing Tables from China*<sup>63</sup> or truck

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*Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007) and accompanying Issues and Decision Memorandum at Comment 12.

<sup>58</sup> See Petitioner's Redacted Rebuttal Brief dated October 19, 2012, at 14.

<sup>59</sup> *Id.* at 15. Specifically, the improper classifications of materials/costs, and reversing a negative and positive value for work in progress.

<sup>60</sup> See Memorandum to the File, through Scot T. Fullerton, Program Manager, Office 9, from Steven Hampton regarding 2010-2011 Antidumping Duty Administrative Review of Certain Polyester Staple fiber from the People's Republic of China: SVs for the Final Results dated January 4, 2013, incorporated by reference herein.

<sup>61</sup> See *Fresh Garlic from the People's Republic of China: Final Results and Final Rescission, in Part, of the 2008-2009 Antidumping Duty Administrative Review*, 76 FR 37321 (June 27, 2011), and accompanying Issues and Decision Memorandum at Comment 7 ("The hierarchy for data suitability is described in the *Antidumping Methodologies* 2006 and still applies for selecting among multiple data points..."); *Fresh Garlic from the People's Republic of China, Final Results of the 2009-2010 Administrative Review of the Antidumping Duty Order*, 77 FR 34346 (June 11, 2012), and accompanying Issues and Decision Memorandum at Comment 5 (after discussing the fact that the Azadpur Market published daily or nearly daily prices for garlic bulbs for many provinces in India, the Department held: "Thus we find that Azadpur data are geographically and temporally representative of the garlic industry in India. It is therefore a reliable and credible representation of a broad market average.").

<sup>62</sup> This study was published in 2001 by the ASEAN Secretariat, Jakarta United Nations Development Programme.

<sup>63</sup> See *Floor-Standing Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 55357 (September 7, 2011), unchanged in

freight rates published by the Indonesian freight forwarder P.T. Mantap Abiah Abadinad, which was applied in the 2010-2011 administrative review of *Citric Acid from China*.<sup>64</sup>

- Consistent with *Multilayered Wood Flooring from China*, where the record included both the *Doing Business* data based on limited data points and other sources providing country wide data points, the Department chose the source with multiple data points.<sup>65</sup>

*Petitioner:*

- The Department should continue to use the World Bank's *Doing Business* study because data covering freight costs from the largest city in Indonesia to the main industrial port are highly representative of Indonesian freight costs because they represent the largest body of sample data available. Moreover, these data reflect highly competitive pricing and indicate a high level of efficiency.
- The ASEAN truck freight rates were researched in 2001. These rates, which reflect fuel charges, have changed dramatically in the past 10 years and may not be inflated with general inflation data.
- The rate of one lone freight forwarder, P.T. Mantap Abiah Abadiand ("P.T. Mantap Abiah"), does not represent a broad national average, certainly not nearly as much as the data collected by the World Bank to calculate an annual average for all traffic in Indonesia's most important commercial city-to-port transportation sector.

**Department's Position:** We determine that the best available information with which to value inland freight is *Doing Business*. The value for inland freight in *Doing Business* is publicly available, is contemporaneous with the POR, and consists of a broad market average. In contrast, the values from the ASEAN study, while publicly available, are not contemporaneous with the POR (*i.e.*, they predate the POR by nine years)<sup>66</sup>, and the freight values of P.T. Mantap Abiah appear to consist of freight costs for a single Indonesian freight forwarder.

The Department prefers to value factors using prices that are broad market averages because "a single input price reported by a surrogate producer may be less representative of the cost of that input in the surrogate country."<sup>67</sup> With respect to the *Doing Business* study, we note that the study contains data which "is collected from local freight forwarders, shipping lines, customs brokers, port officials and banks."<sup>68</sup> Thus, although the *Doing Business* study provides freight costs solely for the distance between the main city and the port, it reflects the freight costs of multiple vendors and users (*i.e.*, shipping lines, customs brokers, port officials and banks).

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*Final Results, See Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 14499 (March 12, 2012).

<sup>64</sup> See *Citric Acid and Certain Citrate Salts From the People's Republic of China: Preliminary Results of the Second Administrative Review of the Antidumping Duty Order; and Partial Rescission of Administrative Review*, 77 FR 33399 (June 6, 2012) ("Citric Acid Prelim").

<sup>65</sup> See *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011), and accompanying Issues and Decision Memorandum at Comment 18 (choosing domestic freight rate publication covering multiple cities over *Doing Business: Philippines*, which reported the same data on transportation from one city to one port).

<sup>66</sup> See Zhaoqing Tifo's SVs for the Final Results at Exhibit SV-19.

<sup>67</sup> See *Honey from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Order Administrative Review*, 71 FR 34893 (June 16, 2006).

<sup>68</sup> See *Doing Business* at 84.

In contrast, the ASEAN study contains data on truck freight rates from Jakarta to eight cities in Indonesia. However, there is no indication that this data represents the experience of multiple vendors. Moreover, this data notes that, “rates are subject to change in accordance with fuel price, minimum wage, etc.”<sup>69</sup>

While the data from P.T. Mantap Abiah submitted by Zhaoqing Tifo appears to contain truck freight rates for multiple destinations within Indonesia, the costs are all based on the experience of one company in the surrogate country. Furthermore, Zhaoqing Tifo has not provided English-translation explanatory notes to the data published by P.T. Mantap Abiah.<sup>70</sup> Moreover, in *Citric Acid from China*, the Department had to make several adjustments to the data from P.T. Mantap Abiah in order to use it as an SV. The Department had to calculate the distances between each city and Jakarta, average the freight rates for 12 Indonesian cities, deflate these values to be contemporaneous with the POR, and convert those rates to metric tons.<sup>71</sup> Therefore, we agree with Petitioner that the freight costs identified in the *Doing Business* study from the largest city in Indonesia to the main industrial port are more representative of Indonesian freight costs because they represent the largest body of sample data available on this record.

We disagree with Zhaoqing Tifo that *Multilayered Wood Flooring from China* is similar to the circumstances here because in that case, the domestic source chosen by the Department, from the Confederation of Truckers Association of the Philippines Inc., represented data on 92 destinations from multiple members of a trucking association, not routes from a single freight forwarder, as in the P.T. Mantap Abiah source.<sup>72</sup> Therefore, for the reasons noted above, we will continue to use *Doing Business* to value inland freight in these Final Results.

#### ***Comment 4: Surrogate Value for Water***

##### ***Zhaoqing Tifo:***

- As discussed above for Inland Freight, the Department prefers country wide data with maximum data points. In the *Preliminary Results*, the Department derived water costs from a single municipality, Jakarta. For the Final Results, the Department should use the water rates from the two municipalities contained in *PAM Jaya*<sup>73</sup> data, Jakarta and Surakarta, as this data reflects more data points that are also more geographically diverse.

##### ***Petitioner:***

- Only one of the *Pam Jaya* values is applicable: the rate that applies to the industrial consumption of water, and specifically includes textile factories as the type of business covered. The other value proposed by Zhaoqing Tifo is not applicable because it covers much different water supply/demand factors, *e.g.*, small shops, mall water fountains, *etc.*

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<sup>69</sup> See Zhaoqing Tifo’s SVs for the Final Results at Exhibit SV-19.

<sup>70</sup> *Id.*

<sup>71</sup> See *Citric Acid Prelim.*

<sup>72</sup> See *Multilayered Wood Flooring from the People’s Republic of China*, 76 FR 64318 (Oct. 18, 2011), and accompanying Issues & Decision Memo at Comment 18.

<sup>73</sup> *Pam Jaya* is Jakarta’s public water authority. The data was gathered on January 15, 2007.

- If the Department determines that the SV used from Jakarta in the *Preliminary Results* should not be used alone, it should be averaged with the value for textile factors, after inflating the value to the POR.<sup>74</sup>

**Department's Position:** For these Final Results, we are using P.T. Tifico as the surrogate financial company. Because P.T. Tifico's financial statement does not break out energy, consistent with our practice,<sup>75</sup> we will not separately value water in the margin program, as it is already captured in the surrogate financial ratios.

***Comment 5: Surrogate Value for Brokerage & Handling***

***Zhaoqing Tifo:***

- The Department failed to deduct the costs to obtain a letter of credit from this expense. The World Bank states in a 2012 *Doing Business Trading Across Borders Report* for South Sudan that the parameters of its hypothetical case for every country covered by its *Doing Business* reports include the exporter's cost of obtaining a letter of credit.
- Starting in the second administrative review of PSF from the PRC, the Department has relied on the *Doing Business* series of World Bank reports to calculate brokerage and handling.<sup>76</sup> Moreover, the Department recognized that the *Doing Business* data universally (*i.e.*, for all countries) presumes that payment is by letter of credit and that the cost of obtaining the export letter of credit was embedded in the brokerage and handling costs reported in those studies.<sup>77</sup> Further, the Department recognized that since PSF respondents in the PRC do not export by letter of credit, that amount must be backed out of the "document preparation" portion of the brokerage and handling fees.<sup>78</sup> Similarly, in this review, there is no record evidence that Zhaoqing Tifo exports by letter of credit.
- Consistent with *Hand Trucks*, fees for letters of credit are bank fees, which are accounted for in the Department's SV calculation for SG&A in non-market economy antidumping cases.<sup>79</sup> Therefore, the Department should deduct the letter of credit cost to avoid double counting.

***Petitioner:***

- The reason that there is no evidence regarding Zhaoqing Tifo's use of export letters of credit or any other financing instrument is because Zhaoqing Tifo is located in a non-market economy. The use of financial instruments to finance export accounts receivable for its sales would be included in a market-economy section C sales questionnaire

<sup>74</sup> See Zhaoqing Tifo's SVs for the Final Results at Exhibit SV-4, tariff schedule label: "Sesual Denpan Peraturan Gubernur Provinsi DKI Jakarta Nomor, 11 Tahun 2007 Tanggun, 15 January 2007."

<sup>75</sup> See, e.g., *Certain Steel Wheels From the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances*, 77 FR 17021 (March 23, 2012) and accompanying Issues and Decision Memorandum at Comment 3.

<sup>76</sup> See *Certain Polyester Staple Fiber From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 76 FR 2886 (January 18, 2011) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> See *Final Results of the Administrative Review of the AD Order on Hand Trucks from China*, 75 FR 29314 (May 25, 2010) ("*Hand Trucks*") and accompanying Issues and Decision Memorandum at Comment 1

response where the period of credit, the period of inventory, carrying costs, bank fees and invoice discounting on letters of credit, prevailing interest rates, *etc.* would be examined, become evidence, and be used in the calculation of export expenses.

- In a non-market economy case, the credit financing element of the total brokerage and handling charges stand in fully for any and all export servicing fees, costs, and expenses. The entire export charges reflected for brokerage and handling services in the *Doing Business* report are applicable to Zhaoqing Tifo's export sales to the U.S.
- With respect to potential double-counting with the SQ&A expenses of financial ratios, Petitioner notes that the Department may elect to keep the brokerage and handling ("B&H") calculation intact, retaining its methodology from the *Preliminary Results* and move any bank charges from the SG&A numerator.

**Department's Position:** We have continued to use *Doing Business* to value Zhaoqing Tifo's B&H expense. As noted above, in valuing FOPs, section 773(c)(1) of the Act instructs the Department to use the "best available information" from the appropriate market economy country. Also, as noted above, the Department's SV information is normally based on publicly available information, and the Department considers several factors, including the quality, specificity, and contemporaneity when choosing the most appropriate data.<sup>80</sup> Further, the Department's practice is to consider FOPs on a case-by-case basis wherein the Department makes product and case-specific decisions as to what constitutes the "best" available SV for each input.<sup>81</sup>

We find that there is insufficient evidence to support Zhaoqing Tifo's argument that the value from *Doing Business* includes the exporter's cost of obtaining a letter of credit. Zhaoqing Tifo relies on a *Doing Business 2012: Trading Across Borders* report for South Sudan.<sup>82</sup> We find this evidence unpersuasive because it does not directly address the Indonesian data relied upon in these final results. Additionally, the *Doing Business* study makes no mention of how much of "the document preparation fees" are related to securing letters of credit, if any, or how much of those expenses relate to other components of brokerage and handling expense. Unlike the record in PSF from the PRC cited by Zhaoqing Tifo, the record in this review does not permit a segregation of letter of credit fees. For this reason, we disagree that there is sufficient support warranting an adjustment to the values reflected in the *Doing Business* study.

Based upon the foregoing, in these Final Results, we have continued to use the B&H calculation set forth in the *Preliminary Results*.

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<sup>80</sup> See *e.g.*, *Lined Paper* and accompanying Issues and Decision Memorandum at Comment 3.

<sup>81</sup> See *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>82</sup> See Zhaoqing Tifo Case Brief at 23, and Zhaoqing Tifo's SVs for the Final Results, at Exhibit SV-11 "Trading Across Borders Report", dated August 8, 2012.

***Comment 6: Ministerial Error***

*Petitioner:*

- In the *Preliminary Results*, the Department calculated a *per unit rate* resulting in a *de minimis* margin for Zhaoqing Tifo. The Department should calculate an *ad valorem* margin for Zhaoqing Tifo.

**Department's Position:** We agree with Petitioner's comments and have corrected this inadvertent error in the final results.

***Comment 7: Huvis Sichuan's No Shipment Certification***

*Huvis Sichuan*

- There is no evidence on the record that Huvis Sichuan had entries of subject merchandise during the POR. The *Preliminary Results* should have included explicit notice that the Department intends to rescind this review with respect to Huvis Sichuan and that the cash deposit rate for Huvis Sichuan will continue to be the rate established in the most recently completed segment of this proceeding. The Final Results should include this information.

**Department's Position:** The Department issued a no shipment inquiry to U.S. Customs and Border Protection ("CBP") regarding Huvis Sichuan and did not receive a response, thus indicating that neither CBP nor the record of this review had evidence of entries of subject merchandise into the United States exported by Huvis Sichuan. Therefore, we determine that Huvis Sichuan had no reviewable entries of subject merchandise during the POR. Consistent with its assessment practice in non-market economy cases, however, the Department no longer rescinds the review in these circumstances, but rather completes the review with respect to Huvis Sichuan (in this case with a finding of no entries), and issues appropriate instructions to CBP based on the final results of the review.<sup>83</sup> We have stated this information explicitly in the Federal Register notice publishing the Final Results.

***Comment 8: Zeroing***

*Zhaoqing Tifo:*

- The Department should continue to implement its final modification that eliminates zeroing negative margins in the Final Results consistent with its recently modified practice.<sup>84</sup>

**Department's Position:** We have continued to implement our modification with respect to zeroing for these Final Results.

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<sup>83</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

<sup>84</sup> See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012). The effective date of this modification was for all preliminary results published after April 16, 2012. The *Preliminary Results* were published on July 6, 2012.

**RECOMMENDATION**

Based on our analysis of the comments received, we recommend adopting all of the above changes and positions, and adjusting the margin calculation program accordingly. If accepted, we will publish the final results of review and the final dumping margins in the *Federal Register*.

AGREE ✓ DISAGREE \_\_\_\_\_

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Import Administration

4 JANUARY 2017  
Date