

the PRC in terms of per capita gross national product and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. In instances where Indian surrogate value information was not available, we relied on Indonesian, Philippine, and U.S. values as noted below. Indonesia and the Philippines are also comparable to the PRC in terms of per capita gross national product and the national distribution of labor, and are significant producers of comparable merchandise. See *Memorandum From Jeffrey May, Director, Office of Policy, to Holly Kuga, Senior Office Director, AD/CVD Enforcement*, dated July 31, 2002, and *Memorandum from Paul Stolz to File*, dated December 16, 2002, which are on file in the Central Records Unit (CRU), room B-099 of the main Commerce building. We valued Chinese Lindenwood, the wood product used to produce pencils in the PRC, using publicly available, published U.S. prices for American Basswood because price information for Chinese Lindenwood and American Basswood is not available elsewhere.<sup>2</sup>

In accordance with section 773(c)(1) of the Act, for purposes of calculating NV, we attempted to value the FOPs using surrogate values that were in effect during the POR. However, when we were unable to obtain the surrogate values in effect during the POR, we adjusted the values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for all factor values, except labor, using the WPI for India as published in *International Financial Statistics*. We valued the FOP as follows:

1) We calculated a surrogate value for Chinese Lindenwood Pencil Slats using publicly available U.S. lumber prices for Basswood published in the 2002 *Hardwood Market Report* for the period December 2000 to November 2001.  
2) We valued the following material inputs using Indian import data from the Monthly Statistics of the Foreign Trade of India (MSFTI) for December 2000 November 2001: erasers, ferrules, wax, glue, foil, color leads/cores and scrap wood.

3) We valued black cores/leads using Indian import data from the Eximkey.com database, operated by the Asis Group, Asis Infotech Pvt. Ltd.

4) In accordance with section 351.408 (c)(1) of the Department's regulations, for CalCedar-Tianjin, we valued cedar pencil stock and stain at their actual acquisition cost because these inputs were purchased from a market economy supplier in a market economy currency. Specifically, CalCedar-Tianjin, purchased these inputs using U.S. dollars. Furthermore, we valued cedar pencil stock that was produced by CalCedar-Tianjin, in the United States and used in the PRC to produce subject merchandise using CalCedar-Tianjin's cost of production in the United States.  
5) We valued the following packing materials using Indian import data from the MSFTI for December 2000 November 2001: plastic straps, plastic bags, cartons, packing boxes, packing tape, labels, corrugated cardboard, and pallets.

6) We valued energy inputs as follows: we valued natural gas using the Indonesian value reported in the publication *Energy Prices and Taxes, Quarterly Statistics (Third Quarter 2001)*, published by the International Energy Agency. We valued electricity using the 2002 industry/commercial category-wise average tariff for electricity (U.S. dollars/kWh) used by Indian industrial enterprises from the publicly available *Key World Energy Statistics (2002) (Energy Statistics)*, published by the International Energy Agency. We also valued diesel fuel using the Indian value reported in the publication *Energy Statistics*.

7) We valued water using the Indian value reported in the publication *Second Water Utilities Data Book (1997)*, published by the Asian Development Bank.

8) In accordance with 19 CFR 351.408(c)(3), we valued labor using a regression-based wage rate for the PRC listed in the Import Administration web site under "Expected Wages of Selected NME Countries." See <http://ia.ita.doc.gov/wages>.

9) We derived ratios for factory overhead, selling, general and administrative (SG&A) expenses, and profit using the financial statements of Asia Wood International Corporation, a Philippine wood products producer. From this information, we were able to calculate factory overhead as a percentage of direct materials, labor, and energy expenses; SG&A expenses as a percentage of the total cost of manufacturing; and profit as a percentage of the sum of the total cost of manufacturing and SG&A expenses.

10) We used the following sources to value truck and rail freight services incurred to transport the finished product to the port and direct materials, packing materials, and coal from the suppliers of the inputs to the producers. We valued truck freight services using the 1999 rate quotes reported by Indian freight companies and used in the less than fair value investigation of bulk aspirin from the PRC. See *Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000). We valued rail freight services using the April 1995 rates published by the Indian Railway Conference Association. We adjusted these values, as appropriate, to account for inflation or deflation between the effective period and the POR.

For further discussion of the surrogate values used in this review, see the *Memorandum From The Team Regarding Selection of Surrogate Values for Factors of Production for the Preliminary Results of the Administrative Review of Certain Cased Pencils from the People's Republic of China*, (December 31, 2002), which is on file in the CRU-Public File.

#### Use of Partial Facts Available

Section 776(a)(1) of the Act provides for the use of facts available if information needed by the Department to make a determination is not on the record. In this review, one of the pencil producers that supplied Shandong with pencils refused to report any information regarding its FOP. Because the necessary information regarding this producer's FOP is not on the record, the Department has resorted to the use of facts available in order to calculate the margin on Shandong's sales of the uncooperative producer's pencils.

Pursuant to section 776(b) of the Act, when the Department uses facts available in reaching its determination, it may apply adverse inferences, if an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 771(9) of the Act defines an interested party as "a foreign manufacturer, producer, or exporter ... of subject merchandise ... ." Because the producer in question is an interested party within the meaning of section 776(b) of the Act, and it is the party who failed to supply the requested information, we believe it is appropriate to consider the producer's actions in this matter when determining whether it is appropriate to apply an adverse inference with respect to the use of partial facts available.

<sup>2</sup> Chinese Lindenwood and American Basswood are virtually the same type of wood. U.S. prices for American Basswood were used to value Chinese Lindenwood in the less than fair value investigation. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the People's Republic of China*, 59 FR 55625, 55632 (1994). This methodology was upheld by the Court of International Trade. See *Writing Instrument Manufacturers Association, Pencil Section, et al. v. United States*, Slip Op. 97-151 (Ct. Int'l. Trade, Nov. 13, 1997) at 16.