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VOLUME II: CHINA DUMPING ALLEGATIONS

I. CERTAIN COATED PAPER FROM CHINA IS BEING SOLD TO OR IN THE UNITED STATES AT LESS THAN FAIR VALUE.

A. Names and Addresses of Persons Believed to be Selling Subject Merchandise At Less Than Fair Value (19 C.F.R. 351.202(b)(7)(i)(B))

The names, addresses, and contact information of the companies that the Petitioners believe may have produced the subject merchandise in 2008-2009 are listed in **Exhibit II-1**. Petitioners have relied on U.S. Customs and Border Protection Automated Manifest System import statistics to identify foreign shippers and to estimate the percentage of the volume of exports accounted for by each exporter. *See Exhibit I-9* in the companion Injury volume.

The names, addresses, and contact information of the companies that the Petitioners believe may have imported the subject merchandise into the United States during the most recent twelve-month period preceding the filing of the petition are listed in **Exhibit II-2**.

B. Calculation of Normal Values and Export Prices (19 C.F.R. 351.202(b)(7)(i)(A))

(1) Normal Values

(a) China is a non-market economy.

The Department has treated China as a non-market economy (“NME”) in all past antidumping proceedings, including investigations and administrative reviews.¹ There have been

¹ See, e.g., *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China; Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 Fed. Reg. 9278, 9283 (February 20, 2008), unchanged in *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China; Amended Final Determination of Sales at Less Than Fair Value*, 73 Fed. Reg. 51624 (September 4, 2008) (hereinafter “OTR Tires from China”).

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no recent changes in China requiring the Department to change this practice.² Accordingly, Petitioners calculate estimated dumping margins based on the Department's NME "normal value" methodology prescribed in 19 U.S.C. 1677b(c). That method focuses on NME producers' "factors of production" ("FOP") consumed in producing subject merchandise together with surrogate values from market economies. *See statute.*

(b) India is an appropriate market economy surrogate for China.

India is an appropriate surrogate for China for identifying values for FOPs within the meaning of 19 U.S.C. 1677b(c)(4). Both China and India are at comparable levels of economic development, *see discussion below*, and India is a significant producer of merchandise comparable to the products in question here.³

That China and India are economically comparable is first evident in the observation that the Department has used India as a surrogate for China in numerous other recent cases.⁴ It is

² In several recent investigations, including, *e.g.*, *OTR Tires from China, supra*, the Department found in a parallel proceeding that it was possible to apply the countervailing duty law to China, but it found in the antidumping case that the facts and circumstances in that country still made it necessary to apply NME antidumping methodology. *See id.*, Issues and Decision Memorandum, Comment 1, in support of affirmative LTFV determination.

³ Recently, the Department reached the latter conclusion in *Coated Free Sheet Paper from the People's Republic of China*, 72 Fed. Reg. 60632, 60634 (Dep't Comm. October 25, 2007) (Final LTFV Determ.). That investigation covered much the same merchandise in issue here. *See further discussion infra.*

⁴ For just investigations in early 2009, *see, e.g.*, *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China*, 74 Fed. Reg. 14514, 14516 (Dep't Comm. March 31, 2009) (Final LTFV Determ.); *Frontseating Service Valves from the People's Republic of China*, 74 Fed. Reg. 10886, 10888 (Dep't Comm. March 13, 2009) (Final LTFV Determ.); *1-Hydroxyethylidene-1-Diphosphonic Acid from the People's Republic of China*, 73 Fed. Reg. 62470, 62471-62472 (Dep't Comm. October 21, 2008) (Prelim. LTFV Determ.) (unchanged in this respect in the Final Determination, 74 Fed. Reg. 10545 (March 11, 2009)); *Certain Steel Threaded Rod from the People's Republic of China*, 74 Fed. Reg. 9807, 9809 (Dep't Comm. February 27, 2009) (Final LTFV Determ.); *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China*, 73 Fed. Reg. 51788, 52789-51790 (Dep't Comm. September 5 2008) (Prelim. LTFV Determ.) (unchanged in this respect in the Final Determination, 74 Fed. Reg. 4913 (January 28, 2009)); *Small Diameter Graphite Electrodes from*

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further evident in the materials contained in attached **Exhibit II-3**, which include statistical and economic profiles of the countries and other relevant information. *See exhibit*. It is also evident in financial reports of actual Indian paper producers. We attach as **Exhibit II-4** the annual reports of three such producers, two with integrated production operations (produce both pulp and finished paper) and one with non-integrated operations (produces finished paper from purchased pulp).⁵ The Department used the first two companies as surrogate producers in 2007 in the *Coated Free Sheet Paper from China* (“CFS”) investigation, which involved much the same merchandise in question here.⁶ We also note that, in *CFS*, other Indian producers were identified, but the Department did not use their reports for various reasons not pertinent here.⁷ All of these considerations indicate that India is a significant producer of the paper covered by this Petition.

Further considerations indicate that India would be a very good choice. As this Petition demonstrates, the country is an excellent source for numerous surrogate input values as well as surrogate financial information. *See infra*. As to the latter, the aforementioned Indian financial statements contain detailed financial data for calculating accurate financial ratios for use in

the People's Republic of China, 74 Fed. Reg. 2049, 2053 (Dep't Comm. January 14, 2009) (Final LTFV Determin.).

⁵ The integrated producers are (i) Seshasayee Paper and Boards Limited and (ii) JK Paper Ltd.; the non-integrated producer is Rama Newsprint and Papers Limited.

⁶ *See* Issues and Decision Memorandum, October 17, 2007, in support of *Coated Free Sheet Paper from the People's Republic of China*, 72 Fed. Reg. 60645 (October 25, 2007) (Final LTFV Determin.), at Comment 3. The instant petition refers frequently to that prior investigation. *Please note*: The Department found affirmative dumping margins in that proceeding but the International Trade Commission reached a negative injury determination. 72 Fed. Reg. 70892 (ITC, Dec. 13, 2007) (Negative Injury Determin.).

⁷ (For example, Century Textiles and Industries Limited was identified by the Petitioner in 2007, but its report was not used because it was impossible to identify data related to subject merchandise among the company's several product lines. The financial statements of Ballarpur Industries, Ltd. were not used by the Department because it had received countervailable subsidies, and some other companies were excluded for various other reasons. *See* IDM, *CFS*, *supra*, at Comment 3).

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determining “normal values,” which not always is the case with statements of producers in other countries. We further note that the Department has successfully used India as a surrogate for China in other cases involving paper in addition to the *CFS* investigation.⁸ There is no reason in *this* proceeding for the Department to change that successful practice.

Finally, India is preferable to Indonesia, another country the Department sometimes uses as a surrogate for China in antidumping cases, and which is also a producer and exporter of paper. In 2007, in *CFS from Indonesia; Final Affirmative Countervailing Duty Determination*, 72 Fed. Reg. 60642 (October 25, 2007) (“*CFS from Indonesia*”), the Department found that the Indonesian Government heavily subsidized the industry in question, which rendered the country inappropriate. *Id.* at 60644 (Net Subsidy Rate 22.48 percent). The parallel Countervailing Duty Petition here again alleges Indonesian subsidies.

Accordingly, India is an appropriate surrogate here, certainly for purposes of this Petition.

(c) *Production Processes*

U.S. producers are generally fully integrated operations. **Exhibit II-5** sets forth a diagram depicting the various production steps that Petitioners follow in producing subject paper from raw logs into finished paper.⁹ It is also possible that some producers purchase some or all

⁸ *Certain Tissue Paper Products and Certain Crepe Paper Products From the People’s Republic of China*, 69 Fed. Reg. 56407, 56409, 56412 (Dep’t Comm. September 21, 2004) (Prelim. LTFV Determ.) (unchanged in this respect in the Final Determination as to *Tissue Paper*, 70 Fed. Reg. 7475, 7476 (February 14, 2005), *as amended* 70 Fed. Reg. 16223 (March 30, 2005) (the *Crepe Paper* Final Determination was decided entirely based on adverse facts available, 69 Fed. Reg. 70233, 70234 (Dep’t Comm. December 3, 2004) (Final LTFV Determ.); *Certain Lined Paper Products from the People’s Republic of China*, 71 Fed. Reg. 53079, 53082 (Dep’t Comm. September 8, 2006) (Final LTFV Determ.); *Coated Free Sheet Paper from the People’s Republic of China*, *supra*, 72 Fed. Reg. 60632, 60634.

⁹ Petitioners produce some products, in part, using pulp produced from recycled paper. Usually, these products are more costly. The diagram in **Exhibit 5** does not depict steps for processing recycled paper. [

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of their pulp used in producing subject paper. However, the description below follows the depiction in the exhibit for an integrated producer. Proprietary information further reflects the specifics of one of the petitioners' operation (NewPage's).

Debarking and Chipping. Rough logs enter the process, where they are lowered into a debarking machine that removes bark and yields clean logs. Conveyors then move the logs to a chipper that cuts them into inch-sized pieces. Sometimes, Petitioners purchase additional chips from sawmills to supplement its own production.

Sorting Chips. Chips are separated by wood type -- hardwood and softwood -- to create different kinds of pulp. Petitioners use different kinds of pulp to produce different types of paper. Sometimes, different types of pulp are blended together to adjust the strength or smoothness of the finished product.

Chemical Pulping. Pulp is prepared in digester cooking vessels where chips are mixed and cooked under pressure with water and chemicals including, *inter alia*, for NewPage, []. These chemicals separate fibers and remove impurities while still maintaining fiber strength. Both hardwoods and softwoods are used to impart different characteristics to the pulp. Chemical pulp is distinguished from mechanical pulp by its being produced in the digestion cooking process as opposed to a mechanical grinding process. Mechanical pulp contains natural wood impurities which result in a lower quality paper.¹⁰

Washing. Pulp is then washed and screened to clean the fibers and remove impurities. Raw materials are recycled by reusing pulping chemicals and water.

] (proprietary information from NewPage). *See infra.*

¹⁰ For some higher-grade products, Petitioners use recycled paper as an input in producing pulp. The pictorial diagram does not reflect this.

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Bleaching. The pulp then passes through a multi-stage bleaching process to achieve the whiteness and brightness levels required for the product being produced. All papers manufactured in Petitioners' mills are acid and elemental-chlorine free.

Beating/Refining. The pulp is then piped into other machines where it is beaten and refined. Here, rotating bars or knives slice the fibers into shorter pieces and fray their surfaces for better bonding. Different types of paper are created by adding [

].¹¹

Processing in the Fourdrinier Wire. By the time the pulp reaches this stage it is approximately 99.5 percent water and ready for introduction into papermaking equipment. Here, it is first released onto the "fourdrinier wire," a wire web that catches the pulp fibers as water flows through. The agitation and suction of the water distributes the fibers evenly on this web.

Processing on the Felts. Thereafter, the wire web passes through felt rollers. These rollers squeeze the pulp and thereby reduce the pulp's water content to approximately 75 – 80 percent. Although it is wet, the resulting sheet can then move, unsupported, through the remaining paper-making equipment.

Drying. Sheet then runs through a series of steam-filled rollers that evaporate water content to approximately 4 – 5 percent. As the sheet (now paper) leaves the manufacturing equipment, it is wound onto large rolls weighing approximately 8 to 30 tons.

Coating and Calendering. The paper then enters the coating process. This is done by running it through a vat containing an appropriate coating liquid. This liquid includes [

], which brightens the paper, [], which increases opacity, [], which assist in binding the coating to the paper, [], which imparts a glossy

¹¹ Proprietary information from NewPage.

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surface, and various other [],¹² and the like.

Papermaking is a hot, wet process. It is therefore critical to control build-up of impurities, mold, fungus, and the like. Thus, the process also consumes other materials such as [

],¹³ The paper is then calendered at this point. Calendering (rolling) reduces thickness, smoothes the surface, and buffs the coating. At the end of the calendering operation, water content is between 2.5 – 3 percent. Approximately 80 percent of the paper that Petitioner NewPage manufactures is coated with enamel coating.

Cutting, Sheeting, and Storing. Rolls of paper as produced above are then cut and rewound into smaller rolls called “sheeter rolls.” In sheeter roll form, paper can be delivered to customers to be cut into individual sheets for sheet-fed printers. NewPage also cuts the smaller rolls into sheets and sells them for use in sheet-fed printers. Finished paper is stored in a computer-controlled distribution center where it is closely monitored for inventory accuracy, accessibility, and delivery time.

Petitioners believe that the production steps in China are comparable to NewPage’s operations in terms of processes, methods, and equipment, to the extent the steps are performed in China.¹⁴ See Affidavit of Michael Marziale, attached as **Exhibit II-6**. Hence, Petitioners believe that the above descriptions fairly describe production in China for purposes of this Petition.

(d) Chinese Prices for Export to the United States

Petitioners base U.S. prices on actual sales and sales confirmations to the United States in

¹² Proprietary information from NewPage.

¹³ Proprietary information from NewPage.

¹⁴ In a non-integrated operation the producer will purchase its pulp omitting some of the steps outlined.

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2009. []¹⁵ transactions are “export price” sales within the meaning of 19 U.S.C. 1677a(a), and the terms of sale are delivered duty-paid (“DDP,” “CIF,” “CNF”) at a designated destination. Accordingly, in accordance with section 1677a(a), we make appropriate adjustments to eliminate movement expenses and the like.

The calculations and supporting materials are set forth in attached **Exhibit II-7**. The exhibit consists of two Excel tables that identify sales and sales confirmations (together with supporting documentation) and the paper covered by each transaction. They also provide adjustment information and its supporting documentation.

Specifically, the first Excel table provides information on U.S. sales by [] to [] during the first half of 2009. The second provides information on sales and certain sales confirmations by [] [] to []¹⁶ also in the first half of 2009. The Department can view the sales confirmations as either actual U.S. sales or evidence of likely U.S. sales in the contemplation of 19 U.S.C. 1673(1) (antidumping duties to be assessed when a “class or kind of foreign merchandise is being, or is *likely* to be sold in the United States at less than its fair value”) (emphasis added).

As to the supporting documentation, the materials include commercial invoices or the actual sales confirmations (**Exhibit II-7-a** and **II-7-b**). The tables also set forth adjustment information for relevant movement expenses, including ocean freight (**Exhibit II-7c**), home market brokerage and handling (**Exhibit II-7d**), U.S. brokerage and handling (**Exhibit II-7e**), and U.S. freight (**Exhibit II-7f**). *See* tables.

¹⁵ Proprietary information from both confidential sources, [] and [].

¹⁶ Proprietary information from the first confidential source, [].

¹⁷ Proprietary information from the second confidential source [].

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The Department will note that we have not calculated surrogate values for Chinese inland freight because we lack information on the precise locales of the places of production. However, we have calculated an Indian surrogate value for Chinese brokerage and handling charges using the public questionnaire response of Navneet Publications (India) Limited (“Navneet”) in the 2007-2008 administrative review of *Certain Lined Paper from India*, 73 Fed. Reg. 64305 (Dep’t Comm. October 29, 2008) (Notice of Initiation Admin. Rev.). The response is dated March 20, 2009, and was used by the Department as part of the source data to calculate a surrogate value for brokerage and handling in the recent preliminary results of the 2007-2008 administrative review of *TRBs from China*, 74 Fed. Reg. 32539, 32544 (Dep’t Comm. July 8, 2009). This surrogate value is particularly appropriate because it is very recent information and applies to a proceeding involving paper products. We adjusted the reported values for inflation from the POR in the Indian proceeding to the POI in this investigation using the Indian Wholesale Price Index (“WPI”), following standard Department practice. See **Exhibit II-18**.

As for surrogate ocean freight, we have based our calculations on quotes from Maersk Line, dated May 30, 2009, for 20-foot containers from Shanghai, China, to Long Beach, California. Based on the practice and experience of Petitioner NewPage in shipping paper products (*see Exhibit 7-c*), we assumed a practical cargo load of 43,500 pounds for a 20-foot container.¹⁸ As the Maersk quote is contemporaneous with the POI, no adjustment for inflation is needed.

For U.S. brokerage and handling charges, we have calculated amounts from a weighted average of the charges listed in Gold East’s U.S. sales listing in its public Section C Response in

¹⁸ Exhibit 7-c contains a page from NewPage’s Customer Service Manual that indicates the following: “Intermodal shipments must comply with the following guidelines: The planned shipment does not exceed 43,500#.” We used this for all freight calculations.

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the previous *CFS* investigation. As the data in the public response are ranged, to be conservative, we assumed the brokerage and handling charges had been ranged *upward* by 10 percent, and therefore, to be conservative, we multiplied them by 0.9, which results in the lowest possible adjustment in conformity with 19 C.F.R. 351.304(c)(1). As the U.S. brokerage and handling charges are incurred in U.S. dollars, we adjusted Gold East's weighted average for inflation using the U.S. Producer Price Index (PPI) for Consumer Goods.

We calculated U.S. inland freight based on quotes for intermodal freight (the cheaper alternative) obtained by Petitioner from a U.S. freight company. The quotes are in dollars per container with a practical cargo load of 43,500 pounds per container. As the quotes are dated July 10, 2009, they are almost contemporaneous with the POI and no adjustment for inflation is needed.

As the subject merchandise is duty-free, no adjustment for U.S. duty is required.

We note that, in the previous investigation, Gold East did not report any amount for U.S. Harbor Maintenance Fee and Merchandise Processing Fee. We made those adjustments in the amount of 0.125 percent of the net invoice price (*i.e.*, invoice price minus the above movement charges) for the Harbor Maintenance Fee, and 0.21 percent of the same net invoice price (with a maximum limit of \$485 per entry (invoice)) for the Merchandise Processing Fee. Microsoft Excel performed the actual calculations.

(e) Normal Values Based on Factors of Production

Methodological Notes:

(1) Petitioners know of no definitive and current public-information regarding the specific factor inputs or corresponding consumption-rates of Chinese producers of subject paper. Therefore, Petitioners rely on the inputs and rates of one of its large members, NewPage, to

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estimate Chinese “normal values.” Petitioner NewPage’s mills are believed by the company to be among the most efficient in the world.¹⁹ Therefore, using Petitioner NewPage’s production experience will result in conservative measures of value for estimating production costs in China.²⁰ If Chinese producers are less efficient, their “normal values” should be higher than those alleged in this Petition.

(2) In the U.S. market at least, commercial invoices do not necessarily identify *all* physical characteristics of the paper covered by the given sale. Therefore, an invoice might not reflect the *grade* of paper or other technical characteristics, even though different grades may have different costs of production. Therefore, Petitioner NewPage develops “normal values” based on Petitioner’s *lowest-cost* line of relevant coated sheet paper within the subject “class or kind,” [].²¹ Petitioner considers this to be highly conservative because “normal values” would likely be higher if the paper covered by the subject sales was of a higher and more-costly grade. Thus, this Petition might significantly understate

¹⁹ See **Exhibit II-8**. Petitioner’s Securities and Exchange Commission Form 10-K for the year ending December 31, 2006, states that, “Over the past ten years, we have invested approximately \$1.1 billion at our paper mills, including maintenance capital expenditures, to build, maintain and update our facilities, enhance product mix, lower costs and meet environmental requirements.” See page 4. It further states that, “We believe that during 2006, our mills were in the top 20% of efficiency of all coated paper mills in North America, Europe and Asia based on the cash cost of delivery to Chicago, assuming an average exchange rate during the period of \$1.27 per Euro and an assumed cost per ton for freight to ship the paper from each mill to Chicago.” *Id.* Subsequent Form 10-K filings for 2007 and 2008 describe further measures taken by the company to increase efficiency and reduce costs.

²⁰ In the 2007 *CFS* investigation, the petitioner therein also relied on its own production experience in preparing “normal value” allegations, and the Department accepted that methodology for purposes of initiation. See *Coated Free Sheet Paper from the People’s Republic of China*, 71 Fed. Reg. 68537, 68541 (Dep’t Comm. November 27, 2006) (Notice of Initiation). In fact, use of this methodology, based on the production experience of U.S. producers, is a fairly standard practice in NME petitions. See, e.g., *Certain New Pneumatic Off-Road Tires from the People’s Republic of China*, 72 Fed. Reg. 43591, 43593 (Dep’t Comm. August 6, 2007) (Notice of Initiation).

²¹ Proprietary information from NewPage.

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dumping margins due to this conservative approach.

In any event, we provide in **Exhibit II-9** “cost models” for each “product model” covered by the U.S. sales, each based on Petitioner’s own experience in producing [] products during the first two quarters of 2009.²² As evident, each “cost model” (except as noted in the margin) identifies Petitioner’s consumption of relevant FOPs for producing a corresponding []²³ product. As described more fully below, we perform all value calculations in accordance with the Department’s methodology for calculating NME “normal values.” *See infra* and Exhibit.

(3) Petitioner NewPage uses its *standard* usage rates to calculate values in the various “cost models.” *See* (i) Affidavit of Thomas Ekelin, and (ii) further worksheets and explanations describing how Petitioner prepared its cost models, contained in attached **Exhibit II-10**. Several considerations make this fair. First, Petitioner continuously updates its standards, and did so most recently in January 2009. *Id.* Second, it would have required an enormous effort to calculate actual usage rates for the precise six-month period of investigation (“POI”). Finally, because the standards used are current, adjustments for variances would be negligible at most.

(4) Finally, although Petitioner NewPage is an integrated producer (*i.e.*, produces its own pulp), Petitioners cannot assume that all Chinese respondents will be integrated too. Therefore, Petitioners present alternative methods for calculating “normal values,” one that assumes integrated operations, the other non-integrated operations. *See* subpart A of **Exhibit II-9** for the former and subpart B for the latter. For integrated producers, Petitioners develop “normal

²² One exception: [

]

(confidential information from NewPage).

²³ Proprietary information from NewPage.

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values” based on the inputs consumed in producing *both* pulp and paper. For non-integrated producers, Petitioners develop “normal values” based on surrogate values for purchased pulp in India. In this regard we make the following observations.

Gold East Paper Co., Ltd. (“Gold East”), in China, [

].²⁴ *See supra.*

Petitioner is not certain whether Gold East was an integrated or non-integrated producer during the first half of 2009. In the 2006-07 *CFS* investigation, Gold East took the position that it was a *non-integrated* producer, and it reported data accordingly. *See Exhibit II-11*. Possibly, the LTFV sales in question now were produced in the same production operations that the company described two years ago. However, in December 2008, the APP conglomerate in China, of which Gold East is a part, *see Exhibit II-11*, apparently “completed” a pulp-production plant, which suggests a move toward integration. *See Exhibit II-11*. We have no information on the extent to which the new facility was operational in early 2009, the capacity of the new operation relative to the company’s overall paper-making operation, or the exact nature of the pulp involved. Nevertheless, it is at least possible that Gold East relied in whole or in part on self-produced pulp during the relevant POI.

Accordingly, we calculate alternative “normal values” for purposes of this petition. The first assumes integrated operations. The second assumes non-integrated operations and relies on surrogate values for pulp (not inputs used for producing pulp). For the latter, as explained more fully below, we make certain adjustments to Petitioner NewPage’s own experience to account for what we believe may be differences in Gold East’s production operations, as judged from public information. *See* the discussion of pulp valuations below.

²⁴ Proprietary information from both confidential sources, [] and [].

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Specific Surrogate Factor Values

We developed factor-values as follows:

(i) *Direct Materials*. Petitioner values virtually all direct materials using Indian import data obtained from the World Trade Atlas (WTA) for the latest available six month period, *i.e.*, September 2008 through February 2009. Import values in rupees (usually per Kilogram ("Rs./kg")), but sometimes per other units of measurement, *e.g.*, cubic meters for hardwood and softwood), are converted into dollars at the exchange rate applicable to the period September 2008-February 2009, the latest data available as of the time of preparation of the petition. In accordance with the Department's practice, as this period overlaps the POI, no adjustment for inflation is necessary. *See, e.g.*, ITA, Final Results Pursuant to Remand, June 17, 2003, in *CITIC Trading Company v. United States of America and ABC Coke et al.*, CIT Court No. 01-00901, at 6 ("since the surrogate value *** overlaps with the POI, there is no need to inflate the surrogate value; we will use the uninflated value ***"). These data are contained in **Exhibit II-12**. Also in accordance with Department practice, we have excluded (i) imports from countries regarded by the Department as NMEs, (ii) imports from Indonesia, South Korea and Thailand, which have been found by the Department to maintain broadly available export subsidies, and (iii) imports from countries designated as "unspecified countries" in the Indian import statistics.²⁵ As also noted below, we have also excluded certain aberrationally high values so as to present

²⁵ For the exclusion of imports from Indonesia, South Korea and Thailand, *see, e.g.*, *Coated Free Sheet Paper from the People's Republic of China*, Fed. Reg. 30758, 30763 (Dep't Comm. June 4, 2007) (Prelim. LTFV Determ.). The Department's policy of excluding imports from "unspecified countries" was indicated in a request for clarification sent to petitioner in that investigation on November 3, 2006. For the exclusion of imports from NMEs, *see, e.g.*, *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China*, 73 Fed. Reg. 9278 (Dep't Comm. February 20, 2008) (Prelim. LTFV Determ.). We identified countries regarded as NME for antidumping purposes from the list published in *Expected 2005 Wages of Selected NME Countries*, available on the Import Administration's website.

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conservative information. *See infra*.

Most of the subject input materials are immediately described in straightforward terms in Indian HS classifications. For example, []²⁶, and many other inputs have their own, discrete tariff provisions.²⁷ However, Petitioner NewPage also uses some materials (*viz.*, certain chemicals) such as [

], for which we cannot identify classifications because Petitioner merely purchases these inputs and the suppliers make them from proprietary formulations. Because manufacturers generally do not divulge the contents of their proprietary formulations, Petitioners use the general paper finishing agent classification in the Indian tariff schedules (HS 3809.92.00) to value these inputs. These inputs comprise a very small proportion of the total cost of producing subject paper.

With respect to the wood used to produce pulp in integrated operations, we note that the Indian tariff schedules separately identify numerous different types of nonconiferous wood under subheading 4403.99. However, as the petitioner explained in the previous *CFS* investigation, all of the individually named types (with one exception) either cannot be used to make pulp for paper due to technical reasons or because they are higher value woods and are not used for making pulp. *See* Petitioner's Response to the Department's November 3, 2006 Request For Clarification Of Certain Items Contained In Petition, November 8, 2006, in the previous *CFS* investigation, copy attached here as **Exhibit II-13**. One exception, *viz.*, birch (*Betulla* SPP) (HS 4403.99.26), can be used for making pulp, *id.*, but there were no imports of this wood into India during the period covered by the statistics we have used.

For softwood ("coniferous," HS 4401.21.00) woodchips, there were no imports during the

²⁶ Proprietary information from NewPage.

²⁷ Accordingly, some HS numbers are confidential in this Petition.

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expected POI, and the few imports during the two preceding years 2007 and 2008 appear to be at aberrationally high prices and involved very small quantities. *See Exhibit II-14.* Accordingly, to be conservative and in conformity with Department practice in such cases, we have not used them. *See, e.g.,* IDM in support of *Saccharin from the People's Republic of China*, 72 Fed. Reg. 51800 (Dep't Comm. September 11, 2007) (Final Results 2005-2006 Admin. Rev.), Comment 2 at 7. The latest usable Indian import prices were those for imports from the United States and the United Arab Emirates from November 2005 through April 2006, which were also used in the previous 2006 *CFS* Petition. *See Exhibit II-14.* We have used them here as a reasonable alternative to current data, adjusting them for inflation using the Indian WPI.

We further note that, for hardwood ("non-coniferous," HS 4401.22.00) woodchips, we have excluded imports from France and the United States because the prices appeared to be aberrationally high and the quantities involved seemed quite small. As noted *supra*, this conforms to Department practice, but the exclusion of France and the United States left no usable import values during the expected POI. There were, however, imports from Malaysia during the preceding 2007-2008 Indian fiscal year (April 2007 through March 2008); we have used the value of those imports from Malaysia as a reasonable alternative surrogate value. As this value is not contemporaneous with the expected POI, we have adjusted it for inflation using the Indian WPI.

With respect to purchased pulp for non-integrated operations, Petitioner NewPage uses two basic types of pulp to make the subject paper, in somewhat different proportion depending on the specific type of paper. Generally, the proportions range between []²⁸ percent chemical bleached or semi-bleached sulfate type hardwood pulp (usually identified in the trade

²⁸ Proprietary information from NewPage.

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statistics as “non-coniferous,” Indian HS 4703.29.00, and known in the trade as LBKP), and []²⁹ percent chemical bleached or semi-bleached sulfate type softwood pulp (usually identified as “coniferous,” Indian HS 4703.21.00, and known in the trade as NBKP). We also know, however, that in the previous *CFS* paper investigation, Gold East, []³⁰ reported using 70 percent hardwood (LBKP) pulp and a combination of 17 percent softwood (NBKP) pulp and 13 percent “wood pulp obtained by a combination of mechanical and chemical pulping processes” (Indian HS 4705.00.00 and known in the trade as BCTMP), as a substitute for the remaining NBKP pulp. *See Exhibit II-15*. Accordingly, we valued the softwood/NBKP pulp used by Petitioner in our cost models for non-integrated producers using a mix of the surrogate values of softwood/NBKP and BCTMP pulps, in the same 17/13 proportions as were reported by Gold East in the earlier investigation.³¹

For aluminum sulfate, a paper-making chemical, the latest usable Indian import data were for January through April 2008 (all later imports being from Indonesia, a country excluded per Department policy, *see supra*). We used those values and adjusted them for inflation using the Indian WPI.

For calcium carbonate, in the original *CFS* investigation the Department determined that the appropriate classification for the Chinese producers’ calcium carbonate input was the HS provision for marble, namely, HS 2515.11. *See Issues and Decision Memorandum for the Final*

²⁹ Proprietary information from NewPage.

³⁰ Proprietary information from both confidential sources, [] and [].

³¹ While the record in the 2007 *CFS* investigation indicated one non-integrated Chinese producer used 3 types of purchased pulp (NBKP, LBKP and BCTMP), there is no information to suggest that integrated Chinese producers produced pulp similar to BCTMP. Therefore, for the integrated model no adjustment has been made to account for known differences in the types of pulp produced by an integrated operation.

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Determination in the Less-Than-Fair-Value Investigation of Coated Free Sheet Paper from the People's Republic of China (PRC) at Comment 14 pp. 45-48. Since Gold East Paper Co., Ltd. ("Gold East") in China was the respondent in the original *CFS* investigation, and since it

[]³² we have used surrogate values for Indian imports classifiable under HS 2515.11 for the calcium carbonate input.

(ii) Production Labor. As with materials, Petitioner NewPage relies on standard labor usage for its pulp making, paper making, coating, and packing operations. Again, for reasons already stated, these standards are current and reliable. Petitioner then applies these rates to the Department's latest published labor value for China appearing on the Department's web site, *i.e.*, \$1.04/hour. The hourly labor rate listed, US\$1.04, is applied in the cost models and multiplied by Petitioner's labor usage rates to estimate labor costs in China. *See Exhibit II-16.*

(iii) Energy. As shown in **Exhibit II-9**, Petitioner NewPage uses several forms of energy -- electricity, natural gas, fuel oil, coal, and woodwaste. Again, Petitioner uses standard usages to calculate surrogate value amounts.

In valuing the cost of electricity in India, Petitioners use the same source recently used by the Department in the preliminary results of the 2007-2008 administrative review of *Tapered Roller Bearings from China*, 74 Fed. Reg. 32539 (Dep't Comm. July 8, 2009), namely, the rates published by the Central Electricity Authority of the Government of India ("CEA") in its publication titled *Electricity Tariff & Duty and Average Rates of Electricity Supply in India*, dated July 2006. *See Exhibit II-17.* From that publication, Petitioners took the average of the rates for industries of all sizes in each of the three Indian states where the surrogate companies'

³² Proprietary information from both confidential sources, [] and [].

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mills are located (Gujarat, Orissa and Tamil Nadu). *See id.* The average of all three states was then used to calculate the surrogate value of electricity for integrated producers (JK Paper and Seshasayee have mills in each state), and the average for Gujarat for non-integrated producers (Rama's paper mill is located in Gujarat). As the tariffs published by CEA are not contemporaneous with the POI, we adjusted them for inflation from the effective date of each tariff to the POI, by using the Indian WPI. *See id.* and **Exhibit II-18**.

For natural gas in India, Petitioners used Indian import statistics for liquefied natural gas (HS 2711.21.00) from the WTA, and converted the value from rupees per kilogram to rupees per MMBTU as described in **Exhibit II-19** (there were no imports of gaseous natural gas, HS 2711.21.00).

Petitioners valued fuel oil using Indian import statistics for HS 2710.19.50 from the WTA, and converted the value from rupees per ton to rupees per MMBTU as described in **Exhibit II-20**.

Petitioners value the coal input using the Indian import data from the World Trade Atlas for steam coal (HS 2701.19.20) (**Exhibit II-21**).

Regarding woodwaste, Petitioner NewPage notes [

]³³ Petitioner

relies on Indian import statistics (HS 4401.30.00) to value woodwaste. *See* **Exhibit II-9**.

(iv) **Factory Overhead Expenses, SG&A, and Profit.** To develop "normal values" for integrated operations, Petitioners developed surrogate financial ratios from the data in the

³³ Proprietary information from NewPage

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financial statements of the two integrated Indian producers whose financial statements we provide in the attached **Exhibit II-4**, viz., Seshasayee and JK Paper. These are the companies the Department used in the 2007 *CFS* investigation. For non-integrated “normal values,” we used the financial statements of Rama.³⁴ **Exhibit II-4** also contains worksheets demonstrating the ratio calculations. Petitioners then applied the ratios to the costs of manufacture as developed and described above for integrated and non-integrated operations.

C. Margins of Dumping (China)

Exhibit II-22 provides alternative margin calculations. As shown, estimated weighted-average margins are [] to [] percent for integrated producers and [] to [] percent for non-integrated producers³⁵

The weighted average rates are proprietary because anyone knowing one company’s rate would have an insight into the rate of the other. However, based on average “normal values” compared to average U.S. import values as reflected in U.S. import statistics, the dumping margins are 91.5 percent for integrated producers and 53.1 percent for non-integrated producers. These latter rates developed from public information generally demonstrate the fact of dumping and justify initiating an investigation. Calculations supporting this number are also attached in **Exhibit II-22** together with the U.S. import statistics.

Conclusion

On the basis of all of the foregoing information, Petitioners respectfully request the Department to initiate an investigation into sales at less than fair value of certain coated paper from China.

³⁴ The Department did not use Rama in 2007. However, Rama is the only non-integrated Indian producer for whom we have financial statements.

³⁵ Proprietary information from NewPage and both confidential sources, [] and [].