

DEPARTMENT OF COMMERCE**International Trade Administration****Surrogate Country Selection in Proceedings Involving Non-Market Economy Countries; Request for Comment**

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“the Department”) is seeking a second round of public comment on an aspect of its non-market economy (“NME”) methodology in antidumping proceedings. The Department is requesting comment on certain aspects of the methodology by which it selects an economically comparable market economy country to serve as a surrogate for the NME country under investigation or review.

DATES: Comments must be submitted within thirty days from the publication of this notice.

ADDRESSES: Written comments (original and six copies) should be sent to David Spooner, Assistant Secretary for Import Administration, U.S. Department of Commerce, Central Records Unit, Room 1870, 14th Street & Constitution Ave., NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Lawrence Norton, Economist, or Anthony Hill, Economist, Office of Policy, Import Administration, U.S. Department of Commerce, Room 2837, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: 202-482-1579 or 202-482-1843, respectively.

Background

The Department previously requested in the **Federal Register** (72 FR 13246, March 21, 2007) comment on its selection of a “surrogate country” in NME antidumping proceedings, particularly on the issue of economic comparability. This refers to the practice in antidumping proceedings involving NME countries in which the Department calculates normal value by valuing the NME producer’s factors of production, to the extent possible, using prices from a market economy that is at a comparable level of economic development and that is also a significant producer of comparable merchandise. As is discussed in the Department’s previous request for comment, the Tariff Act of 1930, as amended (“the Act”), provides broad discretion in the selection of surrogate market economy countries to value NME factors of production. Section 773(c)(4) of the Act further directs the

Department to base its selection of an appropriate surrogate country, to the extent possible, on its having “a level of economic development comparable to that of the nonmarket economy country.”

Although the Act does not provide a definition of “comparable level of economic development,” the Department’s regulations at 19 CFR 351.408(b) direct the Department to “place primary emphasis on *per capita* GDP as the measure of economic comparability.” In the Import Administration Policy Bulletin 04.1,¹ the Department provided guidance on economic comparability and established a sequential procedure for selecting a surrogate country, with economic comparability being the first factor considered.

The Department’s most recent notice in the **Federal Register** on this issue requested public comment on what range of per capita income should be considered comparable to a given NME country. The Department also requested comment on whether and on what basis the Department should generally disregard certain economically comparable countries as lacking data suitable for valuing the factors of production. In other words, the Department was interested in public comment on whether and how the Department can limit its initial analysis of countries that are economically comparable to a sub-group of countries more likely to have the data necessary to conduct an antidumping duty proceeding (72 FR 13246, March 21, 2007). As discussed in the previous **Federal Register** notice requesting comment and as described in Policy Bulletin 04.1, the Department currently formulates a non-exhaustive list in each proceeding of about five countries economically comparable to the NME country that, in the Department’s experience, are most likely to offer data necessary to conduct the proceeding. In its subsequent analysis of potential surrogate countries, the Department then examines the production of comparable merchandise, whether production is significant, and the availability of data in the countries on this initial list. If parties suggest the consideration of another economically comparable country that did not appear on this initial list, the Department will also consider the appropriateness of using that country in its analysis.

The Department received eleven submissions in response to its May 21, 2007 request for comment (all of the

comments the Department received are available at the Import Administration Web site at <http://www.trade.gov/ia>). While no commenter addressed directly how the Department should precisely define “economically comparable,” several commenters suggested that the Department not interpret this requirement so narrowly as to prevent the Department from using the best available information in its dumping analysis. Certain commenters also suggested that the initial, non-exclusive “list” of economically comparable potential surrogate countries contain a balance of countries both above and below the per capita income level of the NME country.

The Department also received suggestions that it involve interested parties on the issue of surrogate country selection earlier and more frequently in the process, including in the formulation of the initial list, and that it broaden the number of countries in the initial list. One commenter suggested expanding the initial list to ten economically comparable countries, and another suggested that the Department put out a complete list of the world’s economies and request comment on what countries should be considered comparable to the NME in question. Some commenters argued that the Department consider other factors besides per capita income, such as the nature of a country’s economy, level of urbanization, integration into world markets, or the “comparability” of the industry in the potential surrogate to the industry in the NME.

Request for Comment

The Department would like to receive additional comments to those it received in response to its March 21, 2007 request for comment. In particular, the Department would like to receive comments focusing on the statutory concept of “economically comparable.” The Department is required by its statute and regulations to consider economic comparability in its selection of a surrogate country and to base “comparability” on per capita income, but as stated above, the term is not defined specifically. Therefore, the Department is particularly interested in comments and suggestions on specific guidelines the Department should follow in determining the economic comparability of countries in a given case. Under the Department’s established sequential process for selecting a surrogate country (as described in Policy Bulletin 04.1), the Department first determines a list of countries that are economically comparable and then analyzes each of

¹ The full text of the policy bulletin can be found at <http://ia.ita.doc.gov/policy/bull04-1.html>.

these countries for production of comparable merchandise, whether there is significant production, and availability of data. The Department invites comments on this process. In particular, it welcomes suggestions on how it should construct the initial list of economically comparable countries, how this set of countries should be balanced, and how many countries it should contain.

As a second matter, the Department is also interested in inviting comment on whether certain comparable countries should be excluded, at least initially, from the Department's analysis of which country is the best possible surrogate in a given proceeding on the basis of a general lack of country specific data. With regard to this issue, if the Department were able to determine that a group of countries does not generally offer the data necessary to conduct an antidumping proceeding, both the Department and parties would be relieved of the burden of examining those countries as potential surrogates in every proceeding. Please note, however, that parties would retain the ability to advocate the consideration of a country that would otherwise not be considered if they determined that there were case-specific arguments for doing so.

Finally, the Department requests comment on how it should evaluate and weigh the production experiences and data availability of countries in cases where there may be more than one potential surrogate country with reliable data and significant production of comparable merchandise. See e.g., *Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Reviews and Notice of Partial Rescission*, 72 FR 6201, 6208 (February 9, 2007).

Submission of Comments

Persons wishing to comment should file a signed original and six copies of each set of comments by the date specified above. The Department will consider all comments received by the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in the

development of any changes to its practice. The Department requires that comments be submitted in written form. The Department recommends submission of comments in electronic form to accompany the required paper copies. Comments filed in electronic form should be submitted either by e-mail to the webmaster below, or on CD-ROM, as comments submitted on diskettes are likely to be damaged by postal radiation treatment. Comments received in electronic form will be made available to the public in Portable Document Format (PDF) on the Internet at the Import Administration Web site at the following address:

<http://www.trade.gov/ia/>.

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482-0866, e-mail address: webmaster-support@ita.doc.gov.

Dated: July 22, 2007.

David Spooner,

Assistant Secretary for Import Administration.

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DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 25, 2007.

ADDRESSES: Written comments should be electronically mailed to ICDocketMgr@ed.gov or faxed to 202-245-6623. Commenters should include the following subject line in their response "Comment: [insert OMB number], [insert abbreviated collection name, e.g., "Upward Bound Evaluation"]".

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public

consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 19, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: National Assessment of Educational Progress 2008-2010 Operational and Pilot Surveys System Clearance—Wave 2.

Frequency: One time.

Affected Public: Individuals or household; State, Local, or Tribal Government, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 46,597.

Burden Hours: 12,450.

Abstract: These materials are questionnaires to be used in 2008 for the NAEP, including a science pilot assessment, 12th grade motivational study materials, reading study and materials to be completed by school administrators, teachers and students. They are covered under the 2008-2010 NAEP assessments three-year system clearance. This is Wave 2 to be submitted under the system clearance.

Requests for copies of the information collection submission for OMB review may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3407. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to