

November 10, 2010

**MEMORANDUM TO:** Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

**FROM:** Susan H. Kuhbach  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Issues and Decision Memorandum for the 2008 – 2009  
Administrative Review of Chlorinated Isocyanurates from the  
People’s Republic of China

---

**SUMMARY:**

We have analyzed the case and rebuttal briefs of interested parties in the antidumping duty administrative review of chlorinated isocyanurates from the People’s Republic of China. The period of review is June 1, 2008, through May 31, 2009. As a result of our analysis, we have made changes, including corrections of certain inadvertent programming and ministerial errors, in the margin calculation. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues for which we received comments and rebuttal comments by the parties:

- I. Surrogate Values**  
Comment 1: Surrogate Value for Steam Coal  
Comment 2: Wage Rate  
Comment 3: Selection of Financial Statements
- II. Specific Financial Statement Issues: Aditya**  
Comment 4: Interest Income
- III. Specific Financial Statement Issues: Kanoria**  
Comment 5: Miscellaneous Receipts  
Comment 6: Gross Interest Income  
Comment 7: Profit Ratio
- IV. Ministerial Errors**  
Comment 8: Kanoria’s SG&A Expense Calculation  
Comment 9: Domestic Brokerage and Handling

## LIST OF ABBREVIATIONS AND ACRONYMS

Act	Tariff Act of 1930, as amended
Aditya	Aditya Birla Chemicals Limited
CAFC	Court of Appeals for the Federal Circuit
chlorinated isos	Chlorinated Isocyanurates
CIL	Coal India Limited
CIT	Court of International Trade
CPI	Consumer Price Index
DBROKU	Domestic Brokerage and Handling per Unit
DINLFTPU	Domestic Inland Freight per Unit
Department	Department of Commerce
GNI	Gross National Income
GTA	Global Trade Atlas® Online (Indian import statistics)
HTS	Harmonized Tariff Schedule
FOP	Factors of Production
ILO	International Labor Organization
ISIC	International Standard Industrial Classification
ITC	International Trade Commission
Jiheng	Hebei Jiheng Chemical Corporation, Ltd.
Kanoria	Kanoria Chemicals and Industries Limited
FCCB	Foreign Currency Convertible Bonds
ME	Market Economy
MLE	Materials, Labor, & Energy
NME	Non-market Economy
OH	Overhead
Petitioners	Clearon Corporation and Occidental Chemical Corporation
POR	Period of Review
PRC	People's Republic of China
SBP	Stable Bleaching Powder
SG&A	Selling, general, and administrative costs
UHV	Useful Heat Value
USD	United States Dollar

## ADMINISTRATIVE CASE DECISIONS

(Alphabetical by Short Cite)

*Brake Rotors From the People's Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of the 2005-2006 Administrative Review*, 72 FR 42386 (August 2, 2007), and accompanying Issues and Decision Memorandum (“*Brake Rotors/PRC* (August 2, 2007)”)

*Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 12762 (March 19, 2007), and accompanying Issues and Decision Memorandum (“*Carrier Bags/PRC* (March 19, 2007)”)

*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), and accompanying Issues and Decision Memorandum (“*Certain Lined Paper/PRC* (September 8, 2006)”)

*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 (“*Chlorinated Isos/PRC* (May 10, 2005)”)

*Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 52645 (September 10, 2008), and accompanying Issues and Decision Memorandum (“*Chlorinated Isos/PRC* (September 10, 2008)”)

*Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 66087 (December 14, 2009), and accompanying Issues and Decision Memorandum (“*Chlorinated Isos/PRC* (December 14, 2009)”)

*Chlorinated Isocyanurates from the People's Republic of China: Final Results of New Shipper Review*, 74 FR 68575 (December 28, 2009), and accompanying Issues and Decision Memorandum (“*Chlorinated Isos/PRC* (December 28, 2009)”)

*Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 59217 (September 27, 2010), and accompanying Issues and Decision Memorandum (“*Coated Paper/PRC* (September 27, 2010)”)

*Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 19174 (April 17, 2007), and accompanying Issues and Decision Memorandum (“*Crawfish/PRC* (April 17, 2007)”)

*Certain Hot-Rolled Carbon Steel Flat Products from Romania: Final Results of Antidumping Duty Administrative Review*, 70 FR 34448 (June 14, 2005), and accompanying Issues and Decision Memorandum (“*Hot-Rolled Steel/Romania* (June 14, 2005)”)

*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), and accompanying Issues and Decision Memorandum (“*Lined Paper/PRC* (September 8, 2006)”)

*Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum (“*OTR Tires/PRC* (July 15, 2008)”)

*Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006), and accompanying Issues and Decision Memorandum (“*PET Film/India* (February 13, 2006)”)

*Chlorinated Isocyanurates from the People’s Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 27302 (May 14, 2010) (“*Preliminary Results*”)

*Stainless Steel Sheet and Strip in Coils From Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 7519 (February 13, 2006), and accompanying Issues and Decision Memorandum (“*SSSC/Taiwan* (February 13, 2006)”)

*Certain Steel Nails from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008), and accompanying Issues and Decision Memorandum (“*Steel Nails/PRC* (June 16, 2008)”)

*Final Determination of Sales at Less Than Fair Value: Wooden Bedroom Furniture From the People’s Republic of China*, 69 FR 67313 (November 17, 2004), and accompanying Issues and Decision Memorandum (“*WBF/PRC* (November 17, 2004)”)

*Wooden Bedroom Furniture from the People’s Republic of China: Final Results of the 2004-2005 Semi-Annual New Shipper Reviews*, 71 FR 70739 (December 6, 2006), and accompanying Issues and Decision Memorandum (“*WBF/PRC* (December 6, 2006)”)

*Wooden Bedroom Furniture from the People’s Republic of China: Preliminary Results of Antidumping Duty New Shipper Review*, 75 FR 9581 (March 3, 2010) (“*WBF/PRC* (March 3, 2010)”)

*Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review*, 75 FR 44764 (July 29, 2010) (“*WBF/PRC* (July 29, 2010)”)

*Certain Frozen Warmwater Shrimp From the People’s Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 52049 (September 12, 2007), and accompanying Issues and Decision Memorandum (“*Warmwater Shrimp/PRC* (September 12, 2007)”)

*Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of the Third Antidumping Administrative Review*, 74 FR 47191 (September 15, 2009), and accompanying Issues and Decision Memorandum (“*Warmwater Shrimp/PRC* (September 15, 2009)”)

*Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 47771 (August 9, 2010), and accompanying Issues and Decision Memorandum (“*Warmwater Shrimp/Vietnam* (August 9, 2010)”)

## BACKGROUND

On May 14, 2010, the Department published its preliminary results of review of the antidumping order on chlorinated isos from the PRC.<sup>1</sup> On June 3, 2010, Jiheng provided additional information on the appropriate surrogate values to use as a means of valuing FOP.<sup>2</sup> On June 15, 2010, the Department placed additional surrogate value information on the record of this review for valuation of the labor wage rate.<sup>3</sup> On June 24, 2010, the Department received case briefs from Petitioners and Jiheng.<sup>4</sup> On June 29, 2010, the Department received rebuttal briefs from Petitioners and Jiheng.<sup>5</sup> On July 20, 2010, the Department placed additional surrogate value information on the record for valuation of the labor wage rate.<sup>6</sup> On July 23, 2010, and July 27, 2010, the Department received comments from Petitioners and Jiheng on the additional surrogate value information.<sup>7</sup> On July 27, 2010, the Department received rebuttal comments from Petitioners and Jiheng.<sup>8</sup> On September 28, 2010, the Department placed additional surrogate value information on the record for valuation of the labor wage rate.<sup>9</sup> On October 4, 2010, the Department received comments from Jiheng on the industry specific wage rate information.<sup>10</sup>

---

<sup>1</sup> See *Preliminary Results*.

<sup>2</sup> See Chlorinated Isocyanurates from The People's Republic of China: Fourth Administrative Review (A-570-898): Hebei Jiheng Chemical Company, Ltd. Final Surrogate Value Information, dated June 3, 2010 ("Jiheng's Final Surrogate Value Submission").

<sup>3</sup> See Memorandum Regarding: 2008-2009 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Export Data, dated June 15, 2010.

<sup>4</sup> See Chlorinated Isocyanurates from The People's Republic of China (Fourth Administrative Review): Case Brief of Clearon Corporation and Occidental Chemical Corporation, dated June 24, 2010 ("Petitioners' Case Brief"); see also, Chlorinated Isocyanurates from The People's Republic of China: Fourth Administrative Review (A-570-898): Case Brief of Hebei Jiheng Chemical Company, Ltd., dated June 24, 2010 ("Jiheng's Case Brief").

<sup>5</sup> See Chlorinated Isocyanurates from The People's Republic of China (Fourth Administrative Review): Rebuttal Brief of Clearon Corporation and Occidental Chemical Corporation, dated June 29, 2010 ("Petitioners' Rebuttal Brief"); see also, Chlorinated Isocyanurates from The People's Republic of China: Fourth Administrative Review (A-570-898): Rebuttal Brief of Hebei Jiheng Chemical Company, Ltd., dated June 29, 2010 ("Jiheng's Rebuttal Brief").

<sup>6</sup> See Memorandum regarding: 2008-2009 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Wage Rate Data, dated July 20, 2010 ("Wage Rate Memo").

<sup>7</sup> See Chlorinated Isocyanurates from The People's Republic of China (Fourth Administrative Review): Petitioners' Comments Regarding New Labor Wage Rate Data, dated July 23, 2010 ("Petitioners' Wage Rate Comments"); see also, Chlorinated Isocyanurates from The People's Republic of China: Fourth Administrative Review (A-570-898): Initial Comments on Labor Data by Hebei Jiheng Chemical Company, Ltd., dated July 23, 2010 ("Jiheng's Wage Rate Comments").

<sup>8</sup> See Chlorinated Isocyanurates from The People's Republic of China (Fourth Administrative Review): Petitioners' Rebuttal Comments Regarding New Labor Wage Rate Data, dated July 23, 2010 ("Petitioners' Wage Rate Rebuttal Comments"); see also, Chlorinated Isocyanurates from The People's Republic of China: Fourth Administrative Review (A-570-898): Rebuttal Comments on Labor Data by Hebei Jiheng Chemical Company, Ltd., dated July 23, 2010 ("Jiheng's Wage Rate Rebuttal Comments").

<sup>9</sup> See Memorandum regarding: 2008-2009 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Industry Specific Labor Wage Data, dated September 28, 2010 ("Industry Specific Wage Data").

<sup>10</sup> See Chlorinated Isocyanurates from The People's Republic of China: Fourth Administrative Review (A-570-898): Comments on Additional Wage Rate Information, dated July 23, 2010 ("Jiheng's Industry Specific Wage Comments").

## DISCUSSION OF THE ISSUES:

### I. Surrogate Values

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

- For the final results, Petitioners argue that the Department should value steam coal using a weighted-average surrogate price that is calculated using CIL's 2007 price circular and GTA Indian import statistics for steam coal. Petitioners contend that because Indian chemical manufacturers are only eligible to receive 75 percent of their coal requirements at CIL prices,<sup>11</sup> the Department should calculate a coal surrogate value by weight-averaging the CIL average coal price (which should receive 75 percent weight) with the average Indian GTA import price (which should receive 25 percent weight).
- Conversely, consistent with the *Preliminary Results*, Jiheng argues that the Department should continue to rely only on CIL's 2007 price circular to calculate the surrogate value for steam coal. Jiheng suggests that the GTA Indian import data for steam coal are not product-specific and, thus, not the best available information on the record of this review.

**Department's Position:** For the final results, the Department is relying only on CIL's December 2007 Price Circular to calculate the surrogate value for steam coal, which is consistent with the *Preliminary Results*. In doing so, the Department is averaging Grade B and Grade C steam coal prices listed in the Circular. Section 773(c)(1) of the Act states that "the valuation of the factors of production shall be based on the best available information regarding the values of such factors." It is the Department's stated practice to choose a surrogate value that represents country-wide price averages specific to the input, which are contemporaneous with the POR, net of taxes and import duties, and based on publicly available, non-aberrational, data from a single surrogate ME country.<sup>12</sup> If a surrogate value meets these criteria, the Department finds that it represents a reliable and appropriate price for valuing an individual input. In this case, 2007 CIL price data are publicly available, they represent deregulated country-wide Indian coal price data, they are specific to Jiheng's reported coal inputs, and they are contemporaneous with the POR.

Initially, we find that domestic Indian steam coal price data from CIL are the best available record information for valuing Jiheng's steam coal inputs because they are specific to Jiheng's reported coal inputs. Generally, the Department uses domestic Indian price data (*i.e.*, CIL pricing data) when respondents provide accurate and reliable information concerning the UHV of the steam coal they consumed.<sup>13</sup> In this case, Jiheng has provided the Department with information regarding the UHV of the steam coal it consumed.<sup>14</sup> Therefore, Jiheng's steam coal inputs are easily categorized using the 2007 CIL price data, which assign prices for coal based on UHV. On the other hand, GTA steam coal price data, which Petitioners suggest we weight-average with the 2007 CIL price data, are listed under the heading "steam coal," without further

---

<sup>11</sup> See Petitioners' Information Regarding Surrogate Values for Factors of Production at Exhibit 3, dated February 23, 2010 ("Petitioners' Surrogate Value Submission").

<sup>12</sup> See *Hot-Rolled Steel/Romania* (June 14, 2005) IDM at Comment 2.

<sup>13</sup> See *OTR Tires/PRC* (July 15, 2008) IDM at Comment 13.

<sup>14</sup> See Jiheng's September 23, 2009, Initial Questionnaire Response at Exhibit D-14.

specificity. Accordingly, the GTA steam coal price data are not product specific to Jiheng's steam coal inputs and, as a result, are not the best available record information for valuing Jiheng's steam coal.

Further, the Department disagrees with Petitioners' argument that we should weight-average the CIL average coal price with the average Indian GTA import price because Indian chemical manufacturers are only eligible to receive 75 percent of their coal requirements at CIL prices. Based on the India Ministry of Coal's "Coal Distribution Policy," dated October 18, 2007, we agree with Petitioners that Indian chemical producers may only be able to obtain 75 percent of their coal requirements from CIL at CIL stated prices.<sup>15</sup> We also agree with Petitioners that the surrogate value worksheet submitted by Jiheng, which breaks down CIL coal recipients into "core" and "non-core" sectors,<sup>16</sup> does not conflict with the "Coal Distribution Policy" because the "Coal Distribution Policy" supersedes and dispenses with the distinction between "core" and "non-core" sectors for coal distribution in India.<sup>17</sup> Nevertheless, to weight-average CIL prices with Indian GTA import prices, as Petitioners suggest, would be contrary to the statutory requirement that we value FOPs using the best available information. As discussed above, the Indian GTA coal data are not specific to Jiheng's steam coal inputs, whereas the 2007 CIL price data are specific. Thus, because the 2007 CIL data meet all of the criteria for surrogate value selection, as well as being specific to Jiheng's steam coal inputs, they alone represent the best available information for valuing steam coal for this review.

Moreover, section 2.3 of the Indian Ministry of Industry "Coal Distribution Policy" merely states that "the balance 25 % of coal requirement...will be sourced by {chemical industry coal consumers} through e-auction/import of coal etc., as per their preference."<sup>18</sup> Thus, chemical industry coal consumers in India might have several options for sourcing their additional 25 percent coal requirements (*i.e.*, e-auctions or import). Other than the 75 percent of coal sourced through CIL, it is not clear what price reflects the actual terms on which steam coal is available to Indian chemical producers. In fact, there is no record evidence to suggest that the Indian chemical industry cannot source the additional 25 percent coal requirements at prices comparable to those published by CIL, whether purchased through e-auction or import. Therefore, we do not agree with Petitioners that weight-averaging in this case would result in a more accurate surrogate value than if we only use the 2007 CIL price data. Consequently, for the final results, the Department is continuing to rely only on CIL's December 2007 Price Circular as the best available information with which to value steam coal for all the reasons cited above.

## **Comment 2: Wage Rate**

- Petitioners argue that the Department should value labor using data that are specific to chemical manufacturing industries in comparable countries rather than a generic countrywide labor rate. To value labor, Petitioners suggest that the Department should use ILO wage data specific to chemical manufacturing to get a list of ten economically comparable countries that are significant producers of comparable merchandise and then

---

<sup>15</sup> See Petitioners' Surrogate Value Submission at Exhibit 3.

<sup>16</sup> See Jiheng's Final Surrogate Value Submission at Exhibit 2.

<sup>17</sup> See Petitioners' Surrogate Value Submission at Exhibit 3.

<sup>18</sup> See *id.*

calculate a simple average of the wage rates (converted to USDs and adjusted for inflation) from those ten countries.

- Conversely, Jiheng argues that the Department should use the hourly wage rate for India from the ILO as an alternative to our previous regression-based wage rate. Jiheng asserts that the Department's reliance on exporters of comparable merchandise is inconsistent with the Act's "significant producer" requirement. Jiheng contends that in calculating a surrogate labor wage, the Act requires the Department to acquire data from countries that are producers, rather than exporters, of comparable merchandise and thus, India is the only country that meets the statutory requirements. In addition, citing an ITC report and an SRI Consulting report, Jiheng suggests that none of the countries listed as exporting merchandise in the HTS tariff categories relied on by the Department in fact produces chlorinated isos. Further, Jiheng suggests that the tariff categories relied on by the Department to determine significant producers of comparable merchandise are unreliable because they include non-comparable merchandise and exclude comparable merchandise. Lastly, regarding the Department's use of the ILO data to calculate an industry-specific wage rate, Jiheng asserts that, with regard to the Philippines' data, the Department should use the contemporaneous data that reflect daily wage rates rather than using the less contemporaneous data that reflect monthly earnings.

**Department's position:** As a consequence of the CAFC's decision in *Dorbest Limited v. United States*, 604 F.3d 1363 (Fed. Cir. 2010) ("*Dorbest* (CAFC 2010)"), the Department is no longer relying on the regression-based wage rate described in 19 CFR 351.408(c)(3). The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. However, for these final results, in accordance with the Act, we have calculated an hourly wage rate to use in valuing Jiheng's reported labor input by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.<sup>19</sup>

Jiheng argues that the Department should use the national hourly wage rate for India from the ILO as an alternative to our previous regression-based wage rate. The Department disagrees. While information from a single surrogate country can reliably be used to value other FOPs, wage data from a single surrogate country do not constitute the best available information for purposes of valuing the labor input due to the variability that exists between wages and GNI. While there is a strong worldwide relationship between wage rates and GNI, too much variation exists among the wage rates of comparable MEs. As a result, we find that reliance on wage data from a single country is not preferable where data from multiple countries are available for the Department to use. For example, when examining the most recent wage data, even for countries that are relatively comparable in terms of GNI for purposes of factor valuation (*e.g.*, countries with GNIs between USD 1,040 and USD 3,990), the wage rate ranges from USD 0.41 to USD 2.08.<sup>20</sup> Additionally, although both India and Guatemala have GNIs below USD 2,500, and both could be considered economically comparable to the PRC, India's observed wage rate is USD 0.47, as compared to Guatemala's observed wage rate of USD 1.14 – which is more than double

<sup>19</sup> See section 773(c)(4) of the Act.

<sup>20</sup> See "Expected Wages of Selected NME Countries," revised in December 2009, available at <http://ia.ita.doc.gov/wages/index.html>.

that of India.<sup>21</sup> There are many socio-economic, political, and institutional factors, such as labor laws and policies unrelated to the size or strength of an economy, that cause significant variances in wage levels between countries. For this reason, and because labor is not traded internationally, the cross-country variability in labor rates, as a general rule, does not characterize other production inputs or impact other factor prices. Accordingly, the large variance in these wage rates illustrates why relying on a wage rate from a single country is not preferred. For these reasons, the Department maintains its longstanding position that, even when not employing a regression methodology, more data are still better than less data for purposes of valuing labor. Accordingly, the Department has employed a methodology that relies on a larger number of countries in order to minimize the effects of the variability that exists between wage data of comparable countries.

Furthermore, both the statute and our regulations recognize that it may be necessary to source factor data from more than one country.<sup>22</sup> Although 19 CFR 351.408(c)(2) of the Department's regulations provide that the Department will *normally* source the FOPs from a single surrogate country, the language in the regulation provides sufficient discretion for the Department to address situations in which sourcing an FOP from a single source is not preferable. Use of the word "normally" means that this is not an absolute mandate. As we explained above, the unique nature of the labor input warrants a departure from our normal preference of sourcing all factor inputs from a single surrogate country.

Therefore, we find that our reliance on wage data from several countries to value labor is fully consistent with the statute and our regulations, and does not contravene the directives set forth in *Dorbest* (CAFC 2010). Thus, in keeping with this practice, to achieve a labor value that is based on the best available information for these final results, we have relied on labor data from several countries determined to be both economically comparable to the PRC, and significant producers of comparable merchandise.

First, in order to determine the economically comparable surrogate countries from which to calculate a surrogate wage rate, the Department looked to the Surrogate Country Memo.<sup>23</sup> Early in this review, the Department selected six countries for consideration as the surrogate country for this review. To determine which countries were at comparable levels of economic development to the PRC, the Department placed primary emphasis on GNI.<sup>24</sup> The Department relies on GNI to generate its initial list of countries considered to be economically comparable to the PRC. In this review, the list of potential surrogate countries found to be economically comparable to the PRC included India, the Philippines, Indonesia, Ukraine, Thailand, and Peru. The Department used the high- and low-income countries identified in the Surrogate Country

---

<sup>21</sup> *See id.*

<sup>22</sup> *See* section 773(c)(1) of the Act ("the valuation of the factors of production shall be based on the best available information . . . in a market economy *country or countries* considered to be appropriate. . . ." (emphasis added)); *see also* section 773(c)(4) of the Act ("in valuing factors of production {the Department} . . . shall utilize . . . the prices or costs of factors of production in *one or more* market economy countries . . ." (emphasis added)).

<sup>23</sup> The Department notes that these six countries are part of a non-exhaustive list of countries that are at a level of economic development comparable to the PRC. *See* Memorandum regarding: Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China, dated January 25, 2010 ("Surrogate Country Memo").

<sup>24</sup> *See* 19 CFR 351.408(b).

Memo list as “bookends” and then identified all countries in the World Bank’s World Development Report for 2008 with per capita incomes from 2008 that placed them between these “bookends.” This resulted in 43 countries, ranging from India with USD 1,040 GNI to Peru with USD 3,990.<sup>25</sup>

Second, regarding the “significant producer” criterion, the Department identified all countries which have exports of comparable merchandise (defined as merchandise exported under HTS categories 2933.69, 3808.40, 3808.50, and 3808.94, the six-digit HTS categories identified in the scope of the *Order*) between 2007 and 2009.<sup>26</sup> After screening for countries that had exports of comparable merchandise, we found that 26 of the 43 countries designated as economically comparable to the PRC are also significant producers. In this case, we have defined a “significant producer” as a country that has exported comparable merchandise from 2007 through 2009.

With respect to Jiheng’s argument pertaining to the HTS classifications relied on by the Department, we note that the scope of the *Order*<sup>27</sup> in this proceeding references these six-digit HTS classifications specifically. Jiheng argues that these classifications are too broad and include merchandise that it believes is not “comparable” to subject merchandise.<sup>28</sup> It is true that by their nature certain HTS classifications cover a wide-range of merchandise, and the HTS classifications referenced in the scope of the *Order* encompass a diversity of chemical products. However, this is not to say that many, if not all, of these products are “comparable” to the subject merchandise. Indeed, the Act does not define the criteria which must be examined in determining whether merchandise is comparable for purposes of selecting a particular FOP.

As noted above, in light of *Dorbest* (CAFC 2010), the Department has established a new methodology for selecting the appropriate simple average wage rate for valuing the labor FOP. This methodology derives all of its wage data points from a uniform source, the ILO wage rate database. The Act requires the Department to rely on data from countries that are both economically comparable and significant producers of comparable merchandise, and therefore, the Department must identify such data within this data set. Thus, it is necessary for the Department to use standards for classifying products that are consistent across countries. The six-digit HTS is based on the international Harmonized Commodity Coding and Classification System, which has been established by the World Customs Organization and adopted by virtually all countries. Accordingly, for purposes of its analysis, the Department’s reliance on six-digit HTS categories in determining countries that are producers of comparable merchandise is reasonable and in accordance with the Act.

In addition, we disagree with Jiheng’s assertion that the Department’s reliance on exporters of comparable merchandise is inconsistent with the Act’s “significant producer” requirement.<sup>29</sup> The antidumping statute and regulations are silent in defining a “significant producer,” and the antidumping statute grants the Department discretion to look at various data sources for

---

<sup>25</sup> See Wage Rate Memo at Attachment 1.

<sup>26</sup> The export data is obtained from the GTA. See Wage Rate Memo at Attachment 1.

<sup>27</sup> See, e.g., *Chlorinated Isos/PRC* (December 14, 2009) at 66087.

<sup>28</sup> See Jiheng’s Wage Rate Comments at 4-6.

<sup>29</sup> See Jiheng’s Wage Rate Comments at 1.

determining the best available information.<sup>30</sup> Moreover, as Jiheng correctly notes, while the legislative history provides that the “term ‘significant producer’ *includes* any country that is a significant net exporter,”<sup>31</sup> it does not preclude reliance on additional or alternative metrics. Thus, in practice, the Department has relied on other indices for determining whether a country is a significant producer. For example, in *WBF/PRC* (March 3, 2010),<sup>32</sup> the Department relied on production data for selecting the primary surrogate country. However, contrary to Jiheng’s suggestion, because the legislative history specifically states that “‘significant producer’ *includes* any country that is a significant net exporter,” and that the Department “*may* use a significant net exporting country in valuing factors,”<sup>33</sup> nothing precludes the Department from relying on net exporting countries of comparable merchandise; rather, the legislative history provides the Department with discretion to use net exporters to value labor, among other FOPs. Specifically, we find the fact that a country exports comparable merchandise to other countries to be a strong indication that the country is a significant producer of comparable merchandise.<sup>34</sup> In particular, this threshold for significant producer maximizes the size of the ultimate basket while still accounting for this criterion. In turn, this provides the best available wage rate because multiple data points for labor will minimize potential distortions or arbitrary variations in wage data that are normally present among otherwise economically comparable countries. Further, while the Department recognizes the dictionary distinction between the terms “producer” and “exporter,” as noted by Jiheng,<sup>35</sup> the distinction is irrelevant given the Department’s discretion, which is granted by the plain language of the legislative history discussed above.

Thus, for purposes of valuing wages in this review and in line with the criteria outlined above, the Department determines the following 26 countries to be both economically comparable to the PRC, and significant producers of comparable merchandise: Albania, Bolivia, Cape Verde, Ecuador, Egypt, El Salvador, Fiji, Guatemala, Guyana, Honduras, India, Indonesia, Jordan, Morocco, Nicaragua, Nigeria, Paraguay, Peru, the Philippines, Samoa (Western), Sri Lanka, Swaziland, Syria, Thailand, Tunisia, and Ukraine.<sup>36</sup>

Next, the Department identified which of these 26 countries also reported the necessary wage data. In doing so, the Department has continued to rely upon ILO Chapter 5B data regarding

---

<sup>30</sup> See section 733(c) of the Act.

<sup>31</sup> See *Conference Report to the 1988 Omnibus Trade & Competitiveness Act*, H.R. Conf. Rep. No. 576, 590, 100<sup>th</sup> Cong. 2<sup>nd</sup> Sess. (1988), reprinted in 134 Cong. Rec. H2031 (daily ed. April 20, 1988) (“1988 Conference Report”).

<sup>32</sup> See *WBF/PRC* (March 3, 2010) at 9584 (emphasis added); unchanged in *WBF/PRC* (July 29, 2010).

<sup>33</sup> See *1988 Conference Report* (emphasis added).

<sup>34</sup> See *Coated Paper/PRC* (September 27, 2010) at Comment 30.

<sup>35</sup> See Jiheng’s Wage Rate Comments at 2-4.

<sup>36</sup> See Wage Rate Memo at Attachment 1.

“earnings,” if available, and “wages” if not.<sup>37</sup> Initially, we used the most recent six years of available data (2003-2008) and adjusted to the year that covers the majority of the POR using the relevant CPI.<sup>38</sup> Of the 26 countries that the Department has determined are both economically comparable and significant producers of comparable merchandise, eight countries, *i.e.*, Bolivia, Cape Verde, Morocco, Nigeria, Samoa (Western), Swaziland, Syria, and Tunisia, were not used in the wage rate valuation because there were no earnings, or wage, data available. The remaining 18 countries reported either earnings or wage rate data to the ILO within the prescribed six-year period.<sup>39</sup>

Additionally, with regards to the Honduran wage rate provided by the ILO, the Department is not relying on this wage rate since the Department determined in *Warmwater Shrimp/Vietnam* (August 9, 2010) IDM at Comment 10 that this wage rate is inaccurate, possibly due to an ILO reporting error. As explained in *Warmwater Shrimp/Vietnam* (August 9, 2010), the effective Honduran minimum wage during the same year (2006) as the underlying ILO data is \$91.99 per month. With the assumption that the current reported ILO wage rate is \$0.17, a worker would earn an average monthly wage of \$32.64, a third of the minimum wage rate. Therefore, consistent with the Department’s determination in *Warmwater Shrimp/Vietnam* (August 9, 2010), the Department finds that the calculated wage rate for Honduras is unreliable and is rejecting the Honduran wage rate for the purposes of averaging surrogate wage rates for this administrative review.

Finally, based on the selection methodology set forth above, the Department has determined that, for the final results, it is most appropriate to rely on industry-specific wage data reported by the ILO. Determinations as to whether industry-specific ILO datasets constitute the best available information must necessarily be made on a case-by-case basis. In making these determinations,

---

<sup>37</sup> The Department maintains its current preference for “earnings” over “wages” data under Chapter 5B. However, under the previous practice, the Department was typically able to obtain data from somewhere between 50-60+ countries. Given that the current basket now includes fewer countries, the Department found that our long-standing preference for a robust basket outweighs our exclusive preference for “earnings” data. We note that several countries that met the statutory criteria for economic comparability and significant production, such as Indonesia and Thailand, reported only a “wage” rate. Thus, if earnings data are unavailable from the most recent year of available data (2008) of the previous five years (2003-2007) for certain countries that are economically comparable and significant producers of comparable merchandise, the Department will use “wage” data, if available, from the base year or previous five years. The hierarchy for data suitability described in the 2006 *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback, and Request for Comments*, 71 FR 61716, (October 19, 2006) (“*Antidumping Methodologies*”) still applies for selecting among multiple data points within the “earnings” or “wage” data. This allows the Department to maintain consistency as much as possible across the basket.

<sup>38</sup> Under the Department’s regression analysis, the Department limited the years of data it would analyze to a two-year period. See *Antidumping Methodologies* at 61720. However, because the overall number of countries being considered in the regression methodology was much larger than the list of countries now being considered in the Department’s calculations, the pool of wage rates from which we could draw from two years worth of data was still significantly larger than the pool from which we may now draw using five years worth of data (in addition to the base year). The Department believes it is acceptable to review ILO data up to five years prior to the most year of available data as necessary (as we have previously), albeit adjusted using the CPI. See *Expected Non-Market Economy Wages: Request for Comment on Calculation Methodology*, 70 FR 37761, 37762 (June 30, 2005). In this manner, the Department will be able to capture the maximum amount of countries that are significant producers of comparable merchandise, including those countries that choose not to report their data on an annual basis. See also CPI data placed on record, obtained from the International Monetary Fund’s International Financial Statistics.

<sup>39</sup> See ILO’s Yearbook of Labour Statistics.

the Department considers a number of factors, such as the appropriateness of the ILO industry-specific data in light of the subject merchandise, and the availability of industry-specific data.

Because an industry-specific data set relevant to this proceeding exists within the Department's preferred ILO data source, and because the industry-specific data would be more specific to the subject merchandise than the national manufacturing data, absent evidence to the contrary, the Department used industry-specific data to calculate a surrogate wage rate for the final results, in accordance with section 773(c)(1) of the Act. Thus, the Department determines to calculate the wage rate using a simple average of the data reported to the ILO under Sub-Classification 24 of the ISIC-Revision.3 standard by countries determined to be both economically comparable to the PRC and significant producers of comparable merchandise. We have determined that this is the best available information from which to derive the surrogate wage rate based on the analysis set forth below.

The ISIC code is maintained by the United Nations Statistical Division and is updated periodically. The ILO, an organization under the auspices of the United Nations, utilizes this classification for reporting purposes. Currently, wage and earnings data are available from the ILO under the following revisions: ISIC-Rev.2, ISIC-Rev.3, and ISIC-Rev.4. The ISIC code establishes a two-digit breakout for each manufacturing category, and also often provides a three- or four-digit sub-category for each two-digit category. Depending on the country, data may be reported at the two-, three-, or four-digit subcategory.

Due to concerns that the industry definitions may lack consistency between different ISIC revisions, the Department finds that averaging wage rates within the same ISIC revision (*i.e.*, not mixing revisions) constitutes the best available information for the final results. While the Department finds use of industry-specific information is the best available information herein, the fact remains that there is a lack of information available that indicates how the wages from the selected category and other manufacturing sectors are weighted or combined. The Department finds that averaging wage rates that were reported under the same revision standard provides specificity to the industry being examined, but also ensures some degree of consistency across multiple labor data points being averaged. Accordingly, for the final results, the Department has only used industry-specific wage data from a single revision.

It is the Department's preference to use data reported under the most recent revision, however, in this case, none of the countries found to be economically comparable and significant producers reported data pursuant to ISIC-Rev.4. Accordingly, we turned to the industry definitions contained in ISIC-Rev.3 to find the appropriate classification for chlorinated isos. Under the ISIC-Revision.3 standard, the Department identified the two-digit series most specific to chlorinated isos as Sub-Classification 24, which is described as "Manufacture of chemicals and chemical products."<sup>40</sup> The Department has not found, nor has any party provided, any evidence to suggest that chlorinated isos should not be classified under Sub-Classification 24.<sup>41</sup> Thus, for this review, the Department has calculated the wage rate using a simple average of the data

---

<sup>40</sup> See Memorandum Regarding: 2008-2009 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Industry Specific Labor Wage Data, dated September 28, 2010 ("Industry Specific Data Memo"), at Attachment I.

<sup>41</sup> See Industry Specific Data Memo at Attachment 1.

provided to the ILO under Sub-Classification 24 of the ISIC-Revision.3 standard by countries determined to be economically comparable to the PRC and significant producers of comparable merchandise. Additionally, when selecting data available from the countries reporting under ISIC-Revision.3, Sub-Classification 24, we used the most specific wage data available within this revision.

From the 17 countries that the Department determined were both economically comparable to the PRC and significant producers of comparable merchandise, which had also reported either earnings or wage rate data to the ILO within the prescribed six-year period and were not disregarded for other reasons, the Department identified those with the necessary wage data. Of these remaining 17 countries, the following eight reported industry-specific data under the ISIC-Revision.3, under Classification 24, “Manufacture of chemicals and chemical products”: 1) Ecuador, 2) Egypt, 3) Indonesia, 4) Jordan, 5) Peru, 6) Philippines, 7) Thailand, and 8) Ukraine. The following nine, however, did not report wage data on an industry-specific basis: 1) Albania 2) El Salvador, 3) Fiji, 4) Guatemala, 5) Guyana, 6) India, 7) Nicaragua, 8) Paraguay, and 9) Sri Lanka. Consequently, these nine countries are not included in our wage rate calculation.

In sum, while the Department prefers to use the most specific wage data available within the selective ISIC revision, because no country that was considered economically comparable and a significant producer reported earnings or wage data below the two-digit level, the Department has relied on the two-digit sub-classification in our industry-specific wage rate calculation. Accordingly, based on the above, to arrive at the industry-specific wage rate calculated for this review, the Department relied on data reported under ISIC-Rev.3, Sub-Classification 24, “Manufacture of chemicals and chemical products,” from the following countries: Ecuador, Egypt, Indonesia, Jordan, Peru, Philippines, Thailand, and Ukraine.

Lastly, we disagree with Jiheng’s assertion that when calculating the industry-specific wage rate using the ILO data, with regard to the Philippines’ data, the Department should use the contemporaneous data that reflect daily wage rates rather than using the less contemporaneous data that reflect monthly earnings. As noted above,<sup>42</sup> the Department maintains its current preference for selecting “earnings” over “wages” when using ILO Chapter 5B data. Further, for the reasons discussed above, we used the most recent data within five years of the base year (2008) and adjusted to the base year using the relevant CPI when calculating the surrogate wage rate. In this case, we have two Philippines data points that reflect the relevant industry-specific wages: (1) a 2003 Philippines data point for “earnings per month,” which is within five years of the base year, and (2) a 2008 Philippines data point for “wage rates per day.” We prefer to use the former data point instead of a Philippines data point for “wage rates per day.” Thus, despite Jiheng’s suggestion, consistent with our preference for relying on “earnings” over “wages,” we have continued to use the ILO Philippine’s data that reflect “earnings per month” in 2003, rather than the ILO Philippine’s data that reflect “wage rates per day” in 2008 because we find these data to be the best information available for the reasons explained above.

Therefore, based on the foregoing methodology, the revised wage rate to be applied in the final results is 2.06 USD/Hour. This wage rate is derived from countries that are economically comparable to the PRC that are also significant producers of the comparable merchandise, which

---

<sup>42</sup> See *supra* note 36.

is consistent with *Dorbest* (CAFC 2010) and the statutory requirements of section 773(c) of the Act.

### Comment 3: Selection of Financial Statements

- Jiheng argues that the Department should only use Kanoria's 2008-2009 financial statements to calculate Jiheng's surrogate financial ratios for the final results. Jiheng contends that the Department should not use Aditya's 2008-2009 financial statements because Aditya's financial statements suggest that Aditya received state aid through the "Capital Subsidy," a program which the Department has found to be countervailable. In addition, Jiheng suggests that Kanoria's financial statements are more suitable than Aditya's statements for calculating financial ratios because Kanoria's production experience is more comparable to Jiheng's experience.
- On the other hand, consistent with the *Preliminary Results*, Petitioners argue that the Department should continue to average the financial ratios derived from Kanoria's 2008-2009 financial statements and Aditya's 2008-2009 financial statements. Petitioners contend that the Department should continue to use Aditya's financial statements because the "Capital Subsidy" program referred to in Aditya's financial statements has nothing to do with state aid from the Government of India and, in any case, has no effect on Aditya's pre-tax profit. Further, Petitioners suggest that Aditya is a comparable surrogate company because Aditya's experience and operations are sufficiently comparable to Jiheng's experience and operations.

**Department's Position:** For the final results, the Department is only relying on Kanoria's 2008-2009 financial statements to calculate Jiheng's surrogate financial ratios. Generally, when calculating "manufacturing overhead, general expenses, and profit" for an NME respondent, the Department will use surrogate financial ratios calculated from "non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country."<sup>43</sup> Pursuant to section 773(c)(1) of the Act, it is the Department's practice to use the best available information to derive the surrogate financial ratios. Therefore, to determine the best available information for deriving surrogate financial ratios, the Department considers several factors, including the quality, specificity, and contemporaneity of the source information.<sup>44</sup> Further, when choosing appropriate companies' financial statements to calculate surrogate financial ratios, the CIT has recognized the Department's discretion.<sup>45</sup> However, it is also the Department's practice to reject the financial statements of a company that we have reason to believe or suspect may have benefited from countervailable subsidies, particularly when other sufficient, reliable, and representative data are available for calculating surrogate financial ratios.<sup>46</sup>

---

<sup>43</sup> See 19 C.F.R. 351.408(c)(4).

<sup>44</sup> See, e.g., *Lined Paper/PRC* (September 8, 2006) IDM at Comment 1.

<sup>45</sup> See, e.g., *FMC Corporation v. United States*, 27 CIT 240 (CIT 2003) (where the CIT held that the Department can exercise discretion in choosing between reasonable alternatives); *affirmed FMC Corporation v. United States*, 87 Fed. Appx. 753 (Fed. Cir. 2004).

<sup>46</sup> See *OTR Tires/PRC* (July 15, 2008) IDM at Comment 17A; see *Warmwater Shrimp/PRC* (September 12, 2007) at Comment 2, citing *Crawfish/PRC* (April 17, 2007) IDM at Comment 1; see also H.R. Conf. Rep. No. 576, 2d Sess., Vol. 4, 590 (1988) ("Commerce shall avoid using any prices which it has reason to believe or suspect may be

In the instant review, for the *Preliminary Results*, the Department used two companies' financial statements to calculate surrogate financial ratios: Aditya's financial statements for the fiscal year ending March 31, 2009, and Kanoria's financial statements for the fiscal year ending March 31, 2009. Therefore, based on the parties' arguments, we considered whether averaging Aditya's and Kanoria's financial ratios constitutes the best available information.

Initially, both Aditya's and Kanoria's statements are contemporaneous with the POR. In addition, consistent with the Department's decisions in prior segments of this proceeding,<sup>47</sup> both companies produce SBP, which is comparable to chlorinated isocyanurates, and neither Petitioners nor Jiheng contests this comparability. Thus, regarding product-line comparability, we find that both Aditya and Kanoria are suitable as surrogates because both Aditya and Kanoria produce SBP and a similar mix of other products.<sup>48</sup>

Moreover, we disagree with Jiheng's argument that Kanoria's financial statements are more suitable than Aditya's statements for calculating financial ratios because Kanoria's production experience is more comparable to Jiheng's operations than is Aditya's production experience. First, it is unclear how Jiheng calculated Aditya's SBP production and sales revenue as a percentage of Aditya's overall production and sales revenue, respectively (*i.e.*, less than one percent of Aditya's total production and sales revenue). Based on the figures reported in Aditya's financial statements, Jiheng's calculated percentages are incorrect.<sup>49</sup> However, regardless of Jiheng's calculated production and sales figures, Petitioners correctly note that Aditya's and Kanoria's individual SBP production levels are irrelevant, except to the extent the different levels of SBP production affect the two companies' similarity of operations to that of Jiheng. The mere fact that Aditya produces less overall SBP than Kanoria does not automatically suggest that Aditya's or Kanoria's financial statements are more appropriate. Consistent with the Department's decision in *Certain Steel Nails from the PRC*, the mere fact that SBP only accounts for a small percentage of Aditya's overall operations alone does not mean Aditya's financial statements are not representative of a producer of SBP.<sup>50</sup> Therefore, Aditya's low levels of SBP production do not necessarily indicate Aditya's financial statements are unsuitable for calculating surrogate financial ratios.

Second, Petitioners correctly assert that Kanoria's financial statements demonstrate that SBP only accounts for a small percentage of Kanoria's overall operations: regarding capacity, production, and sales quantity and value, SBP accounts for less than 10 percent of either

---

dumped or subsidized prices").

<sup>47</sup> See *Chlorinated Isos/PRC* (May 10, 2005) IDM at Comment 2.

<sup>48</sup> See *Chlorinated Isocyanurates from The People's Republic of China* (Fourth Administrative Review): Information Regarding Surrogate Values for Factors of Production, dated February 23, 2010, Exhibit 1, at 4, 46 ("Petitioners' Surrogate Value Submission"); see also *Chlorinated Isocyanurates from The People's Republic of China: 4th Administrative Review (A-570-898): Hebei Jiheng Chemical Company, Ltd. Surrogate Values for Factors of Production*, dated February 16, 2010, Exhibit 7, at 60 ("Jiheng's Surrogate Value Submission").

<sup>49</sup> See Petitioners' Surrogate Value Submission at 46-47.

<sup>50</sup> See *Steel Nails/PRC* (June 16, 2008) IDM at Comment 11 ("We disagree with Petitioners' contention that, because Nasco's and Bandishar's respective production of nails accounts for relatively small percentages of their overall production, their financial ratios are not representative of a producer of nails.").

Aditya's or Kanoria's overall operations.<sup>51</sup> Thus, because SBP accounts for only a small percentage of both Aditya's and Kanoria's overall production of comparable merchandise, both Aditya and Kanoria are sufficiently similar in operations to Jiheng to serve as surrogate producers for purposes of calculating financial ratios.<sup>52</sup>

However, for this review, the Department agrees with Jiheng's assertion that Aditya's financial statements do not provide the best available information for calculating surrogate financial ratios because the Department has reason to believe or suspect that Aditya received a countervailable subsidy. Generally, the Department exercises "its discretion in deciding what constitutes a reasonable basis to believe or suspect that a value may be subsidized."<sup>53</sup> Specifically, regarding financial statements, "if a financial statement contains a reference to a specific subsidy program that the Department found countervailable in a formal CVD determination that would constitute a reasonable basis to believe or suspect that the prices may be subsidized."<sup>54</sup> If a company receives countervailable subsidies, the ratios derived from the financial statements of the company receiving those subsidies may be less representative of the financial experience of the relevant industry than the ratios derived from financial statements that do not contain evidence of subsidization.<sup>55</sup>

In the instant review, Aditya's financial statements make several references to "Capital Subsidy."<sup>56</sup> As Jiheng correctly argues, "Capital Subsidy" is a specific Government of India program that the Department has previously found provides countervailable benefits.<sup>57</sup> Therefore, we have reason to suspect that Aditya received a countervailable subsidy, which means that Aditya's financial statements are less likely to represent the financial experience of a manufacturer of chlorinated isos than the ratios derived from financial statements that do not contain evidence of subsidization. Consequently, we agree with Jiheng that Kanoria's financial statements provide the best available information for calculating financial ratios in this review.

Moreover, the Department disagrees with Petitioners' assertion that the plain language of Aditya's financial statements refutes the possibility that Aditya received government benefits by way of the "Capital Subsidy" program. Petitioners contend that the "Capital Subsidy" program referred to in Aditya's financial statements has nothing to do with state aid from the Government of India, particularly because page 39, note 2, of Aditya's financial report states that "during the year, the Company has reclassified its treatment in respect of Capital Subsidy *related to Promoter's Contribution* and accordingly treated the same as Capital Reserve."<sup>58</sup> In particular, Petitioners suggest that because these "Capital Subsidy" funds are "related to Promoter's

---

<sup>51</sup> See Jiheng's Surrogate Value Submission, Exhibit 7, at 60; see also Petitioners' Surrogate Value Submission, Exhibit 1, at 4, 46.

<sup>52</sup> See Jiheng's Surrogate Value Submission, Exhibit 7, at 60; see also Petitioners' Surrogate Value Submission, Exhibit 1, at 4, 46.

<sup>53</sup> See *Warmwater Shrimp/PRC* (September 15, 2009) IDM at Comment 8.

<sup>54</sup> See *id.*

<sup>55</sup> See *Crawfish/PRC* (April 17, 2007) IDM at Comment 1.

<sup>56</sup> See Jiheng's Surrogate Value Submission, Exhibit 7, at 25, 29-30, 35, and 38-39.

<sup>57</sup> See *PET Film/India* (February 13, 2006) at 7535, and accompanying Issues and Decision Memorandum; see also, the Department's Countervailable Subsidy Database, available at <http://ia.ita.doc.gov/esel/eselframes.html> (India Subsidy Programs: General).

<sup>58</sup> See Petitioners' Surrogate Value Submission, Exhibit 1, at 39 (emphasis added).

Contribution,” and because Promoters are Aditya’s majority owners,<sup>59</sup> “Capital Subsidy” has nothing to do with the Government of India. However, contrary to Petitioners’ argument, page 38 of Aditya’s financial statements characterizes “Capital Subsidy” in multiple ways: (1) Capital subsidy/Government grants are accounted for where it is reasonably certain that the ultimate collection will be made; (2) Capital subsidy/Government grants *related to* specific non depreciable assets are credited to capital reserve account; (3) Capital subsidy/Government grants *related to* specific depreciable assets are credited to capital reserve account and are recognized as income in profit and loss statement on a systematic and rational basis over the useful life of the assets; (4) Capital subsidy/Government grants *in the nature of Promoter’s Contribution* are credited to capital reserve account.<sup>60</sup> In other words, Aditya’s financial statements clearly indicate that Aditya receives multiple types of aid through “Capital subsidy/Government grants” and that the aid Aditya receives is not limited to “Promoter’s Contribution.” Thus, because “Capital Subsidy” is a program the Department has found provides countervailable benefits, the Department has reason to believe or suspect that Aditya received countervailable benefits.

Further, we disagree with Petitioners’ contention that “Capital Subsidy” has no effect on Aditya’s pre-tax profit merely because Aditya’s “reclassification” of “Capital Subsidy” funds “relating to Promoter’s Contribution” might not affect pre-tax profit. First, it is not clear from Aditya’s financial statements that none of the various types of “Capital Subsidy,” discussed above, affects pre-tax profit. Consequently, the Department cannot generally conclude that “Capital subsidy/Government grants” has no effect on Aditya’s pre-tax profit. More importantly, it is not the Department’s practice to consider the effect of a subsidy on a company’s financial standing in determining whether the subsidy is countervailable. Thus, the fact that Aditya’s financial statement indicates the receipt of a countervailable subsidy is sufficient in and of itself for the Department to find reason to believe or suspect that Aditya received countervailable benefits.

Finally, we agree with Jiheng’s suggestion that the Department’s decision to rely on Aditya’s financial statements in the recent *New Shipper Review* of this proceeding is irrelevant.<sup>61</sup> In the *New Shipper Review*, based on record evidence in that review, the Department did not identify “Capital Subsidy” as a program that the Department had previously found provides countervailable benefits.<sup>62</sup> However, for the instant administrative review, we have re-evaluated Aditya’s financial statements and found that “Capital Subsidy” is a program that the Department has previously found provides countervailable benefits from the Government of India. Therefore, in this review, it is appropriate to exclude Aditya’s financial statements.

In sum, while both Kanoria and Aditya are producers of comparable merchandise with financial statements that are publicly available and contemporaneous with the POR, we have reason to believe or suspect that Aditya received a countervailable subsidy, and as a result, we find that Aditya’s financial statements are less representative of the financial experience of the relevant industry than the ratios derived from financial statements that do not contain evidence of subsidization (*i.e.*, Kanoria’s financial statements). Thus, the Department is only using

---

<sup>59</sup> See *id.* at 17.

<sup>60</sup> See *id.* at 38.

<sup>61</sup> See *Chlorinated Isos/PRC* (December 28, 2009) IDM at Comment 1.

<sup>62</sup> See *id.*

Kanoria's 2008-2009 financial statements, which represent the best available information, to calculate surrogate financial ratios for the final results.

## II. Specific Financial Statement Issues: Aditya

### Comment 4: Interest Income

- Jiheng argues that in calculating Aditya's financial ratios the Department erroneously excluded all "interest received gross," from SG&A, particularly because "interest received gross" is short-term interest.
- Conversely, Petitioners argue that the Department should continue to exclude "interest received gross" from SG&A income because there is no record evidence suggesting that the "interest received gross" is short-term interest.

**Department's Position:** Because the Department is not relying on Aditya's financial statements for the final results in this review, for the reasons stated above,<sup>63</sup> issues specific to Aditya's financial statements are moot. As a result, we find that it is not necessary to address Jiheng's argument that for the *Preliminary Results* the Department erroneously excluded interest income from Aditya's SG&A calculation.

## III. Specific Financial Statement Issues: Kanoria

### Comment 5: Miscellaneous Receipts

- Jiheng argues that when calculating surrogate financial ratios using Kanoria's financial statements, the Department should include "miscellaneous receipts," which is reported in "other income," as an offset to SG&A expenses. Thus, Jiheng contends that the Department incorrectly excluded "miscellaneous receipts" from SG&A for the *Preliminary Results*.
- Conversely, consistent with the *Preliminary Results*, Petitioners argue that the Department should continue to exclude "miscellaneous receipts" from SG&A for the final results. Petitioners contend that in past segments of this proceeding the Department has either excluded "miscellaneous receipts" from SG&A entirely, or the Department has included in SG&A only the "insurance claims" portion of the "miscellaneous receipts" category. Alternatively, Petitioners suggest that if the Department does include "miscellaneous receipts" as an offset to SG&A, then the Department should continue to exclude "miscellaneous sales" and "export benefits," which are both included in "miscellaneous receipts"

**Department's Position:** For the final results, the Department is including "miscellaneous receipts" in its entirety as an offset to SG&A expenses when calculating surrogate financial ratios using Kanoria's financial statements. Generally, the Department's practice is to calculate the SG&A expense ratio using income and expenses relating to the general operations of the

---

<sup>63</sup> See Comment 3, *supra*.

company.<sup>64</sup> In deriving appropriate surrogate values for overhead, SG&A, and profit, the Department generally examines the financial statements on the record of the proceeding and categorizes expenses as they relate to MLE, factory OH, SG&A and profit, and excludes certain expenses (*e.g.*, movement expenses) consistent with the Department's practice of accounting for these latter expenses elsewhere.<sup>65</sup> However, in NME cases, it is not possible for the Department to further dissect the financial statements of a surrogate company as if the surrogate company were an interested party to the proceeding, particularly because the Department has no authority to either ask questions or verify the information from the surrogate company.<sup>66</sup> Thus, because we cannot go behind financial statements in determining the appropriateness of including an item in the financial ratio calculations, we look to information within the respective financial statements to determine the nature of the activity generating the potential adjustment to see if a relationship exists between the activity and the principal operations of the company.<sup>67</sup>

In the instant case, regarding Kanoria's financial statements, "other income" (Schedule K) includes the category "miscellaneous receipts and others," which is further defined in Schedule R to include miscellaneous sales, insurance and other claims, export benefits, other receipts, and liabilities no longer required written back.<sup>68</sup> For the *Preliminary Results*, the Department excluded "miscellaneous receipts and others" from SG&A in its entirety. However, beyond the explanation of "miscellaneous receipts and others" just described, there is no information in Kanoria's financial statements to indicate that any of the sub-categories of "miscellaneous receipts and others" (*i.e.*, miscellaneous sales, insurance and other claims, export benefits, other receipts, and liabilities no longer required written back) are not related to the general operations of the company. Therefore, in accordance with the Department's practice, "miscellaneous receipts and others" should be reflected in Kanoria's SG&A expense ratio and, as a result, we are treating it as an offset to SG&A expenses for the final results. Despite Petitioners' suggestion, the Department's decision to exclude miscellaneous receipts from SG&A in prior segments of this proceeding was based specifically on the record evidence of those prior segments rather than a general practice, and as such, these decisions are not binding on this review. Specifically, this is the first segment of this proceeding in which we are relying on Kanoria's financial statements for the fiscal year ending March 31, 2009, to calculate surrogate financial ratios.<sup>69</sup> Thus, despite the Department's decision in previous segments of this proceeding, based upon record evidence regarding other financial statements, we find in this segment that miscellaneous receipts should offset SG&A expenses based upon the information contained in Kanoria's 2008-2009 financial statements.

In addition, the Department disagrees with Petitioners' assertion that if we do include "miscellaneous receipts and others" in SG&A then we should at least exclude the sub-categories of miscellaneous sales and export benefits from our SG&A expense calculation. Regarding

---

<sup>64</sup> See, *e.g.*, *SSSC/Taiwan* (February 13, 2006) IDM at Comment 18 (stating that "the Department's practice is to calculate the G&A expense ratio using income and expenses relating to the general operations of the company").

<sup>65</sup> See *Crawfish/PRC* (April 17, 2007) IDM at Comment 1.

<sup>66</sup> See *WBF/PRC* (December 6, 2006) IDM at Comment 5.

<sup>67</sup> See, *e.g.*, *Brake Rotors/PRC* (August 2, 2007) IDM at Comment 3.

<sup>68</sup> See Jiheng's Surrogate Value Submission, Exhibit 7, at 49 and 54.

<sup>69</sup> See, *e.g.*, *Chlorinated Isos/PRC* (December 14, 2009) at 66088 (where the Department relied on Kanoria's financial statements for the fiscal year ending March 31, 2008); see also *Chlorinated Isos/PRC* (December 28, 2009) at 68575 (where the Department relied on Aditya's financial statements for the fiscal year ending March 31, 2009).

miscellaneous sales, Petitioners note that the Department excludes sales revenue in calculating surrogate financial ratios. While the Department does exclude specific sales revenue, we do not necessarily exclude from SG&A items listed as, *e.g.*, miscellaneous income or miscellaneous sales in a companies' financial statements,<sup>70</sup> particularly because we cannot go behind financial statements in determining the appropriateness of including an item in the financial ratio calculations. In this review, we have not found any information in Kanoria's financial statements to indicate that miscellaneous sales are not related to the general operations of the company, nor did we find any information in the financial statements to indicate that they are related to specific manufacturing or selling activities. Thus, we do not agree with Petitioners that the value of miscellaneous sales should be excluded from SG&A.

Similarly, Petitioners assert that the Department should exclude export benefits from SG&A because they appear to be export subsidies granted to Kanoria by the Government of India. Petitioners justify this assertion by stating that the Department's list of countervailable Indian programs includes several means through which government-sponsored entities provide export benefits to Indian companies (*i.e.*, credits on imported foods for exporters, preferential financing terms for export shipments, reimbursement of sales taxes on purchases of domestic materials for export oriented units, or duty-free financing of imported raw materials).<sup>71</sup> However, as discussed above, it is not possible for the Department to dissect the financial statements of a surrogate company beyond what is available within the financial statements themselves. In this case, Kanoria's financial statements provide no information beyond stating that "miscellaneous receipts and others" includes export benefits. Despite Petitioners' suggestion, there is no evidence that Kanoria receives benefits from a program that the Department has previously found to be countervailable, including any of the programs cited by Petitioners.<sup>72</sup> Thus, because the Department has no specific information regarding whether export benefits is, in fact, an export subsidy granted by the Government of India, we are including export benefits in SG&A.

Accordingly, because we have found no information in Kanoria's financial statements to indicate that "miscellaneous receipts and others" is not related to its general operations, the Department is including "miscellaneous receipts and others" in its entirety as an offset to SG&A expenses when calculating Kanoria's surrogate financial ratios for the final results.

#### **Comment 6: Gross Interest Income**

- Jiheng argues that for the *Preliminary Results*, the Department understated Kanoria's interest reported in other income (*i.e.*, 5.08 million rupees), which the Department uses as an offset to Kanoria's interest expense when calculating surrogate financial ratios. Jiheng contends that in recording Kanoria's interest income to calculate surrogate financial ratios, the Department should have used total "Interest (Gross)," which Jiheng suggests appears in Kanoria's Annual Report (Schedule J) as 5.10 million rupees.

---

<sup>70</sup> See, *e.g.*, *OTR Tires/PRC* (July 15, 2008) IDM at Comment 18.B.

<sup>71</sup> See Petitioners' Rebuttal Brief at 11, note 5.

<sup>72</sup> See *id.*

**Department's Position:** The Department disagrees with Jiheng's assertion that the Department understated Kanoria's interest reported in other income (*i.e.*, 5.08 million rupees).<sup>73</sup> While we agree with Jiheng's suggestion that the Department should use Kanoria's "Interest (Gross)" as reported in other income (Schedule J) (which represents short-term interest only), the number Jiheng suggests that the Department use (*i.e.*, 5.10 million rupees) is incorrect.<sup>74</sup> It appears that the 5.10 million rupees to which Jiheng referred is actually reported in "Interest (Gross)" (Schedule J) of the Consolidated Financial statements of Kanoria and its subsidiary, which is contained in the same yearly financial report as Kanoria's financial statements.<sup>75</sup> However, consistent with previous segments of this proceeding, the Department is only relying on the financial statements of Kanoria, not the Consolidated Financial statements of Kanoria and its subsidiary. Thus, according to Kanoria's financial statements, the Department properly used "Interest (Gross)" (Schedule J), as reported in other income (*i.e.*, 5.08 million rupees), to calculate surrogate financial ratios.<sup>76</sup>

### **Comment 7: Profit Ratio**

- In calculating Kanoria's financial ratios, Jiheng argues that the Department overstated Kanoria's profit ratio. Jiheng contends that instead of basing Kanoria's profit ratio on "profit before tax," the Department calculated the profit ratio using "profit before exceptional items & tax." Thus, for the final results, Jiheng suggests that the Department use "profit before tax," which is a lower profit value, to calculate Kanoria's profit ratio.
- Consistent with the *Preliminary Results*, Petitioners argue that the Department should not adjust its calculated profit figure, which is the same as "profit before exceptional items & tax" on Kanoria's Profit and Loss Sheet. Alternatively, Petitioners suggest that if the Department adjusts Kanoria's profit to calculate the surrogate profit ratio, then the Department should also include the loss associated with "exceptional items" as an addition to Kanoria's SG&A calculation, thereby raising Kanoria's SG&A ratio.

**Department's Position:** For the final results, the Department is including as part of Kanoria's SG&A calculation the period loss associated with the "exceptional items" and is applying Kanoria's "profit before tax" to calculate the surrogate profit ratio, both of which are consistent with the items reported in Kanoria's financial statements. In calculating surrogate values for overhead, SG&A, and profit, the Department examines the financial statements on the record of the proceeding and categorizes expenses as they relate to MLE, factory OH, SG&A and profit, and excludes certain expenses consistent with the Department's practice of accounting for these latter expenses elsewhere.<sup>77</sup> Generally, the Department calculates the SG&A expense ratio using income and expenses relating to the general operations of the company.<sup>78</sup> Further, in particular,

---

<sup>73</sup> See Memorandum Regarding: Preliminary Results of the 2008-2009 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Surrogate Value Memorandum, dated May 10, 2010 ("Preliminary Surrogate Value Memo"), at Attachment XXXVIII.

<sup>74</sup> See Jiheng's Surrogate Value Submission, Exhibit 7, at 49.

<sup>75</sup> See *id.* at 63, 70.

<sup>76</sup> See *id.* at 49.

<sup>77</sup> See *Crawfish/PRC* (April 17, 2007) IDM at Comment 1.

<sup>78</sup> See, e.g., *SSSC/Taiwan* (February 13, 2006) IDM at Comment 18.

the Department's practice is to offset a surrogate company's SG&A expenses with foreign exchange gains or losses.<sup>79</sup>

In calculating surrogate financial ratios for the *Preliminary Results*, the Department applied Kanoria's "profit before exceptional items & tax," which is reported as 472.22 million rupees.<sup>80</sup> However, according to Kanoria's financial statements, Kanoria incurred a loss of 243.43 million rupees as a result of "exceptional items,"<sup>81</sup> which the Department excluded from Kanoria's SG&A expenses for the *Preliminary Results*. Nevertheless, Kanoria's financial statements suggest that its "profit before tax" was 228.79 million rupees.<sup>82</sup> Thus, Jiheng suggests that the Department use this 228.79 million rupees "profit before tax" figure for the final results. Accordingly, we analyzed Kanoria's "exceptional items" as follows.

According to Schedule R (Note No.B. 15) of Kanoria's financial statements, "exceptional items" include the "gain/loss arising from the effect change in the foreign exchange rates on revaluation of the outstanding Foreign Currency Convertible Bonds (FCCB) & premium thereon, together with gain/loss on remittance/reinstatement of FCCB bank balances, which existed during previous year."<sup>83</sup> Schedule R (Note No.B. 14) suggests that the FCCBs were issued by Kanoria in USDs in order to fund "capital expenditure and related issue expenses."<sup>84</sup> In other words, the "exceptional items" loss referred to in Kanoria's financial statements is a result of a foreign exchange loss on FCCBs that were originally issued in USDs but need to be recorded in Indian rupees for accounting purposes.

Initially, Jiheng seems to argue that Kanoria's "profit before exceptional items & tax" somehow includes a gain arising from profit on the "exceptional items." This is incorrect, however. Kanoria's financial statements do not in any way attribute the "exceptional items" to income. It is only after Kanoria's general expenses are deducted from income that the "exceptional items" are separately recorded as a loss, which is then deducted from remaining profit, on Kanoria's financial statements. Thus, it is incorrect to say that the Department's profit calculation includes a gain arising from the revaluation of the outstanding FCCBs and remittance of FCCB bank balances. In contrast, the revaluation of the outstanding FCCBs and remittance of FCCB bank balances actually reduces Kanoria's profit because "exceptional items" reflect a loss.

In addition, the Department disagrees with Jiheng's assertion that the "exceptional items" reflect a prior-period gain. On the contrary, Kanoria's financial statements suggest that the revaluation was based on "the effect change in the foreign exchange rates" during the most recent fiscal year.<sup>85</sup> Thus, as the exchange rate on Kanoria's outstanding FCCB's changes from year-to-year, Kanoria reports a gain or loss as "exceptional items" but, in any case, the gain or loss reflects a change in the exchange rate during the period covered by the annual report (*i.e.*, in this case Kanoria's 2008-2009 financial statements). Consequently, Jiheng incorrectly suggests that the

---

<sup>79</sup> See *WBF/PRC* (November 17, 2004) IDM at Comment 3; see also, *Carrier Bags/PRC* (March 19, 2007) IDM at Comment 3k.

<sup>80</sup> See Preliminary Surrogate Value Memo at Attachment XXXVIII.

<sup>81</sup> See Jiheng's Surrogate Value Submission, Exhibit 7, at 43.

<sup>82</sup> See *id.*

<sup>83</sup> See *id.* at 43, 56.

<sup>84</sup> See *id.*

<sup>85</sup> See *id.*

Department's decision in *Chlorinated Isos/PRC* (September 10, 2008), which stated that prior-period income gains should be excluded from SG&A where there is no corresponding current period SG&A expense, is determinative in this case.<sup>86</sup> In the instant case, "exceptional items" reflect a current-period, rather than prior-period, loss.<sup>87</sup> Thus, the instant case is distinguishable from *Chlorinated Isos/PRC* (September 10, 2008).

Moreover, the Department disagrees with Jiheng's suggestion that the FCCBs are related to non-production activity. According to Kanoria's annual report, the FCCBs were issued by Kanoria in order to fund "capital expenditure and related issue expenses."<sup>88</sup> Consequently, the FCCBs are directly related to funding Kanoria's ongoing production and business operations.

In sum, for the final results, we are including in SG&A the period loss associated with "exceptional items" listed on Kanoria's financial statements and applying Kanoria's "profit before tax" figure of 228.79 million rupees, which is the profit figure that Jiheng suggests we use to calculate financial ratios. Because Kanoria's "exceptional items" reflect gains/losses on the revaluation of FCCBs, this result is consistent with the Department's practice of including within a surrogate company's SG&A expenses foreign exchange gains and losses.

#### IV. Ministerial Errors

##### Comment 8: Kanoria's SG&A Expense Calculation

- Jiheng argues that in calculating Kanoria's financial ratios, the Department made a ministerial error in Kanoria's SG&A expense ratio calculation. Jiheng contends that the Department erroneously used as a numerator an SG&A value that was not offset by Kanoria's short-term interest (*i.e.*, the Department used cell I60 on Kanoria's financial ratios spreadsheet – 509.45).

**Department's Position:** The Department agrees with Jiheng that for the *Preliminary Results*, we inadvertently used as a numerator an SG&A value that was not offset by Kanoria's short-term interest and miscellaneous receipts income and that this should be corrected for the final results. In calculating Kanoria's SG&A expense ratio to determine surrogate financial ratios, the Department should have used an SG&A value that represents SG&A and interest expenses offset by short-term interest and miscellaneous receipts income (*i.e.*, 504.37), which is displayed in cell I62 of Kanoria's financial ratios spreadsheet.<sup>89</sup> Instead, however, the Department used an SG&A value that was not offset by Kanoria's short-term interest and miscellaneous receipts income (*i.e.*, 509.45), which is displayed in cell I60 of Kanoria's financial ratios spreadsheet.<sup>90</sup> Therefore, for the final results, we have corrected this ministerial error from the *Preliminary Results* by using Kanoria's SG&A value, which has been adjusted for these final results,<sup>91</sup>

---

<sup>86</sup> See *Chlorinated Isos/PRC* (September 10, 2008) IDM at Comment 5.B.

<sup>87</sup> While the instant case deals with a current-period loss, the Department is not distinguishing between a current-period loss and a current-period gain. Regarding the Department's analysis, our treatment of both current-period losses and current-period gains is the same.

<sup>88</sup> See *id.* at 43, 56.

<sup>89</sup> See Preliminary Surrogate Value Memo at Attachment XXXVIII.

<sup>90</sup> See *id.*

<sup>91</sup> See Comment 5 and Comment 7, *supra*.

corresponding to SG&A and interest expenses offset by short-term interest and miscellaneous receipts income (*i.e.*, 670.14).<sup>92</sup>

### **Comment 9: Domestic Brokerage and Handling**

- Jiheng argues that when calculating its domestic movement expenses, the Department erroneously transformed the domestic movement values (*i.e.*, DBROKU and DINLFTPU) from a per-metric ton amount to a transaction-wide amount before deducting the movement expense per-metric ton from gross unit price per-metric ton. Jiheng contends that the Department's calculation resulted in the overstatement of domestic movement expenses and, as a result, the understatement of net U.S. price per-metric ton in the margin calculation program.

**Department's Position:** The Department agrees with Jiheng that for the *Preliminary Results* we inadvertently transformed the domestic movement values (*i.e.*, DBROKU and DINLFTPU) from a per-metric ton amount to a transaction-wide amount before deducting the domestic movement expense per-metric ton from gross unit price per-metric ton. In calculating the cost of Jiheng's domestic movement expenses, the Department should have calculated the cost on a per-unit basis (*i.e.*, per-metric ton of subject merchandise).<sup>93</sup> However, for the *Preliminary Results*, the Department calculated Jiheng's movement expenses on a transaction-wide basis.<sup>94</sup> As a result, the Department's calculation resulted in the overstatement of domestic movement expenses and, thus, the understatement of net U.S. price in the margin calculation program. For the final results, we have corrected this ministerial error and value Jiheng's domestic movement expenses on a per-metric ton basis instead of a transaction-wide basis.<sup>95</sup>

---

<sup>92</sup> For further information, *see* Memorandum Regarding: Final Results of the 2008-2009 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Final Results Surrogate Value Memorandum, dated concurrently with this memorandum ("Final Surrogate Value Memo").

<sup>93</sup> *See* Memorandum Regarding: Analysis for the Preliminary Results of the 2008-2009 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Company Ltd., dated May 10, 2010 ("Preliminary Analysis Memo"), at Attachment 1.

<sup>94</sup> *See id.*

<sup>95</sup> For a BPI discussion of this change, *see* Memorandum Regarding: Final Results of the 2008-2009 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Analysis Memorandum for the Final Results: Hebei Jiheng Chemical Company, Ltd., dated concurrently with this memorandum.

## RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this review and the final weighted-average dumping margins in the *Federal Register*.

---

Agree

---

Disagree

---

Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

---

Date