



A-570-992
Investigation
01/01/2013 – 06/30/2013
Public Document
E&C Office VII: JJZ/MK

DATE: September 22, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Monosodium Glutamate from the People's Republic of China:
Issues and Decision Memorandum for the Final Determination of
Sales at Less Than Fair Value

I. SUMMARY

In this final determination, the Department of Commerce (the Department) finds that monosodium glutamate (MSG) from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2013, through June 30, 2013.

We analyzed the comments submitted by interested parties in this investigation. As a result of this analysis, and based on our findings at verification, we made changes to the margin calculations for the respondent in this investigation, Langfang Meihua Bio-Technology Co., Ltd. (Langfang Meihua), Tongliao Meihua Biological SCI-TECH Co., Ltd. (Tongliao Meihua), Meihua Group International Trading (Hong Kong) Limited, Meihua Holdings Group Co., Ltd, and Meihua Holdings Group Co., Ltd, Bazhou Branch (collectively, Meihua, or the Meihua Group). 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 in this investigation for which we received comments:

1. The Department's Inland Freight Calculation
2. Letter of Credit Costs from the Brokerage and Handling Surrogate Value
3. Meihua's Steam and Other Energy Inputs
4. The Department's Co-Product Allocation
5. Meihua's Sulfuric Acid and Sulfur Dioxide Inputs
6. Meihua's Organic Bacterial Protein (OBP) By-Product Valuation



7. Whether to Allow Offsets when Aggregating the A-A and A-T Margins for the Department's Mixed Methodology to Calculate Meihua's Margin
8. Meihua's Reported Tape Distance
9. The Valuation of Wind Power
10. The Valuation of Water
11. Limiting A By-Product Offset
12. Meihua's Irrecoverable Value Added Taxes
13. Meihua's Weighted-Average Factors of Production
14. Whether the Department Should Use Indonesian Import Statistics To Value Lignite Coal
15. Whether the Department Should Use Domestic Prices in Indonesia to Value Corn
16. The Valuation of High Protein Scrap

II. BACKGROUND

On May 8, 2014, the Department published the preliminary determination in the LTFV investigation of MSG from the PRC.¹ On June 13, 2014, the Department published the amended preliminary determination of the antidumping duty (AD) investigation.² Between June 16 and 24, 2014, the Department conducted verification of the Meihua Group in Langfang City, Hebei Province; and in Tongliao City, Inner Mongolia Autonomous Region,³ PRC. The Department issued the verification report of the Meihua Group on July 17, 2014.³

On June 6, 2014, the Meihua Group requested a hearing to be held concerning the arguments made in the instant investigation.⁴ On July 31, 2014, the Meihua Group and Petitioner submitted case briefs.⁵ On August 7, 2014, both interested parties submitted rebuttal briefs.⁶ On September 3, 2014, the Department held a hearing at the Department's main office building.⁷

¹ See *Monosodium Glutamate from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination*, 79 FR 26408 (May 8, 2014) ("Preliminary Determination").

² See *Monosodium Glutamate from the People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value of the Antidumping Duty Investigation*, 79 FR 33907 (June 13, 2014) ("Amended Preliminary Determination").

³ See Memorandum to the File, through Ed Yang, Director, Office VII, Enforcement and Compliance, from Jun Jack Zhao, International Trade Compliance Analyst, Office VII, Enforcement and Compliance, titled "Verification Report of the Sales and Factors Responses of Langfang Meihua Bio-Technology Co., Ltd., Meihua Holdings Groups Co., Ltd., and Tongliao Meihua Biological SCI-TECH Co., Ltd. in the Antidumping Duty Investigation of Monosodium Glutamate from the People's Republic of China," dated July 17, 2014 ("Meihua's Verification Report").

⁴ See Letter from the Meihua Group, "Re: Monosodium Glutamate from the People's Republic of China: Request for Hearing and Request for a Closed Session," dated June 6, 2014.

⁵ See Letter from the Meihua Group, "Re: Monosodium Glutamate from the People's Republic of China: Case Brief;" see also, letter from Petitioner, "Antidumping Duty Investigation on Monosodium Glutamate from China: Petitioner's Case Brief," both dated on June 31, 2014.

⁶ See Letter from the Meihua Group, "Re: Monosodium Glutamate from the People's Republic of China: Rebuttal Case Brief;" see also, letter from Petitioner, "Antidumping Duty Investigation on Monosodium Glutamate from China: Petitioner's Rebuttal Brief," both dated on August 7, 2014.

⁷ See Memorandum to the File, "Hearing in the Antidumping Duty Investigation of Monosodium Glutamate from the People's Republic of China," dated September 11, 2014.

III. SCOPE OF THE INVESTIGATION

Subsequent to the *Preliminary Determination*, the U.S. International Trade Commission (the ITC) contacted the Department regarding the scope language for this investigation and its parallel AD investigation on MSG from the Republic of Indonesia.⁸ Specifically, the ITC sought clarification on the written descriptions of anhydrous and monohydrous forms of MSG and their chemical formula references. As a result, we conducted independent research on this issue, and placed our findings on the records of this investigation and the parallel AD investigation on MSG from the Republic of Indonesia for comment.⁹ Petitioner is the only party that commented on this scope issue.¹⁰

In its scope comments, Petitioner states that the existing scope language covers both anhydrous and monohydrous forms of MSG, as it intended when filing the Indonesia and PRC MSG petitions. Petitioner goes on to explain that the scopes' inclusion of MSG "whether or not blended or in solution with other products" and "regardless of physical form (including, but not limited to, substrates, solutions, dry powders or any particle size, or unfinished forms such as MSG slurry)," is evidence of Petitioner's intention.¹¹ Petitioner stated that while it believed the current scope language applies to both anhydrous and monohydrous forms of MSG, it provided a proposed revision to the scope language in response to our request. Petitioner explained that the revisions are intended to clarify the scope language in order to eliminate any confusion on whether both the anhydrous and monohydrate forms of MSG are covered by the scope.¹² Below is the revised scope language as submitted by Petitioner. Petitioner's revised language is noted in **bold underline**.

The scope of this investigation covers monosodium glutamate (MSG), whether or not blended or in solution with other products. Specifically, MSG that has been blended or is in solution with other product(s) is included in this scope when the resulting mix contains 15% or more of MSG by dry weight. Products with which MSG may be blended include, but are not limited to, salts, sugars, starches, maltodextrins, and various seasonings. Further, MSG is included in this investigation regardless of physical form (including, but not limited to, **in monohydrate or anhydrous form, or as** substrates, solutions, dry powders of any particle size, or unfinished forms such as MSG slurry), end-use application, or packaging.

MSG **in monohydrate form** has a molecular formula of $C_5H_8NO_4Na - H_2O$, a Chemical Abstract Service (CAS) registry number of 6106-04-3, and a Unique Ingredient Identifier (UNII) number of W81N5U6R6U. **MSG in anhydrous**

⁸ See, e.g., *Monosodium Glutamate From the People's Republic of China, and the Republic of Indonesia: Initiation of Antidumping Duty Investigations*, 78 FR 65278 (October 31, 2013).

⁹ See Memorandum to the File from, Kaitlin Wojnar, International Trade Analyst, "Antidumping Duty Investigation of Monosodium Glutamate from the People's Republic of China; Notification of Inconsistency in Scope and Request for Comment," (July 9, 2014).

¹⁰ See the Letter to the Secretary, "Antidumping Duty Investigation on Monosodium Glutamate from China and Indonesia: Comments on Scope," (July 21, 2014) (Petitioner's Scope Comments).

¹¹ See Petitioner's Scope Comments at 2.

¹² *Id.*, at 3.

form has a molecular formula of $C_5H_8NO_4Na$, a CAS registry number of 142-47-2, and a UNII number of C3C196L9FG.

Merchandise covered by the scope of this investigation is currently classified in the Harmonized Tariff Schedule (HTS) of the United States at subheading 2922.42.10.00. Merchandise subject to the investigation may also enter under HTS subheadings 2922.42.50.00, 2103.90.72.00, 2103.90.74.00, 2103.90.78.00, 2103.90.80.00, and 2103.90.90.91. The tariff classifications, CAS registry numbers, and UNII numbers are provided for convenience and customs purposes; however, the written description of the scope is dispositive.

We recommend adopting this revised scope language for the final determination.

IV. USE OF ADVERSE FACTS AVAILABLE

In the *Preliminary Determination*, we determined that Shandong Linghua Monosodium Glutamate Incorporated Company (Shandong Linghua) was part of the PRC-wide entity because this company failed to respond to the Department's questionnaires. Further, we found that the PRC-wide entity, which includes Shandong Linghua, withheld necessary information within the meaning of section 776(a) of the Act, and failed to act to the best of its ability to comply with the Department's requests for information within the meaning of section 776(b) of the Act. As the PRC-wide entity did not provide the Department with requested information, pursuant to section 776(a)(2)(A) of the Act, the Department found it appropriate to base the PRC-wide rate on adverse facts available (AFA). As AFA, we assigned the PRC-wide entity (including Shandong Linghua) a dumping margin equal to the highest transaction-specific dumping margin calculated for Meihua, as we were unable to corroborate, pursuant to section 776(c) of the Act, the highest weighted-average margin on the record of the proceeding, the AD margin in the petition.¹³

We received no comments on our *Preliminary Determination* with respect to Shandong Linghua and the PRC-wide entity. Therefore, we continued to assign to the PRC-wide entity (including Shandong Linghua) an AD margin equal to the highest transaction-specific dumping margin calculated for Meihua in the final determination. While we made certain changes to the margin calculation for Meihua since the *Preliminary Determination*, as outlined in the Issues and Decision Memorandum, these changes did not alter our preliminary corroboration analysis.¹⁴

¹³ See Memorandum to the File, "Antidumping Duty Investigation of Monosodium Glutamate from the People's Republic of China: Corroboration of Margin Based on Adverse Facts Available," dated May 1, 2014.

¹⁴ See Memorandum to the File, "Antidumping Duty Investigation of Monosodium Glutamate from the People's Republic of China: Corroboration of Margin Based on Adverse Facts Available for the Final Determination," dated September 22, 2014.

V. MARGIN CALCULATIONS

We calculated export price (EP) and normal value (NV) using the same methodology stated in the *Preliminary Determination* and *Amended Preliminary Determination*, except as follows:

- We adjusted the Meihua Group's inland freight surrogate value (SV) calculation. *See* Comment 1.
- We made an adjustment to the Meihua Group's U.S. prices for irrecoverable value added tax (VAT). *See* Comment 12.
- We limited one by-product's offset by capping the value of the by-product. *See* Comment 11.
- We adjusted the Meihua Group's certain co-product allocation, and changed one by-product to co-product. *See* Comment 4.

See also Memorandum to the File, through Ed Yang, Director, Office VII, Enforcement and Compliance, from Milton Koch, International Trade Compliance Analyst, Office VII, AD/CVD Operations, "Antidumping Duty Investigation of Monosodium Glutamate from the People's Republic of China: Meihua Analysis Memorandum for the Final Determination" (Final Analysis Memorandum).

VI. DISCUSSION OF THE ISSUES

1. The Department's Inland Freight Calculation

The Meihua Group's Comments:

- The US\$1.11/MT/KM freight SV is unreasonable when compared to the NV and other record information.
- The \$1.11/MT/KM freight SV is aberrational compared to other record information.
- The US\$1.11/MT/KM freight SV is punitive.
- The Department failed to account for all of the Doing Business Indonesia (DBI) assumptions and otherwise used an SV that is not representative of Meihua shipments.
- The use of 14.42 KM is not supported by record evidence and results in a distorted handling expense, and is otherwise not representative of Meihua's inland freight.
- There is no record evidence that the 14.42 KM distance reported by Petitioner is the "average" distance or a representative distance for the DBI information.
- The SV used by the Department fails to account for distortions created by the handling expense.
- The best available surrogate freight value is PT Mantap Abiah Abadi.

Petitioner's Rebuttal Comments:

- The Department calculated inland freight in the *Preliminary Determination* using information from DBI, which meets all of the Department's criteria for SVs and is the best information available on the record.

- Meihua’s suggested values to replace this calculation are significantly flawed and do not meet the criteria for use as SVs because they do not represent broad ranges of prices, are not contemporaneous with the POI and/or are not from Indonesia, the surrogate country selected for this investigation.
- Meihua’s suggested values should be rejected and the Department should continue to value inland freight based on DBI information as it did in the *Preliminary Determination*.
- DBI is the best available information, while Meihua’s suggested Indonesia truck freight rates have significant flaws.
- Meihua’s comparison between DBI and Doing Business Thailand 2014 is not a valid comparison.
- The Department used the correct distance in the *Preliminary Determination*.

The Department’s Position:

We agree with Meihua in part regarding valuing inland freight. First, we continue to find that DBI is the best available information.¹⁵ In selecting the best available information for valuing factors of production (FOPs), in accordance with section 773(c)(1) of the Act, it is the Department’s practice to consider the following five factors: (1) broad market average; (2) public availability; (3) product specificity; (4) tax and duty exclusivity; and (5) contemporaneity of the data.¹⁶ The DBI rate is from Indonesia, the surrogate country selected by the Department and it meets all of the Department’s criteria for SVs. DBI information is contemporaneous with the POI, is a broad-based survey of costs in the Indonesian market, and thus, constitutes a more representative source than the data that are limited to the experiences of individual companies.¹⁷ We also note that this data is of an official nature, in that it represents statistical analysis by the World Bank, an international organization.¹⁸ In past cases, we found international organization publications to be reliable and credible sources of information.¹⁹ Finally it has been relied upon by the Department in numerous previous investigations and reviews.²⁰

The freight cost information from PT Mantap Abiah Abadi for December 2011, suggested by Meihua in its case brief, is not an average value that is representative of a broad range of prices because it is reported by only a single producer. The Department favors broad market averages rather than single producer prices because they are more representative of costs in the surrogate country. We also prefer to value factors using prices that are broad market averages because “a single input price reported by a surrogate producer may be less representative of the cost of that

¹⁵ See Petitioner’s Surrogate Value submission, at Exhibit II-17; *see also*, Meihua’s Surrogate Value submission, at Exhibit 5.

¹⁶ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the People’s Republic of China*, 69 FR 70997 (December 8, 2004), and accompanying Issues and Decision Memorandum (“IDM”) at Comment 1.

¹⁷ See, e.g., *Certain Polyester Staple Fiber from the People’s Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 76 FR 2886 (January 18, 2011) (*PSF Final*), and accompanying IDM at Comment 1.

¹⁸ *Id.*

¹⁹ See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2011-2012*, 79 FR 19053 (April 7, 2014) (*Fish Fillets from Vietnam Final*), and accompanying IDM at Comment 13.

²⁰ *Id.*; *see also PSF Final*, and accompanying IDM at Comment 1.

input in the surrogate country.”²¹ In addition, as the PT Mantap Abiah Abadi data was from December 2011,²² it is not contemporaneous with the POI of this investigation.

Second, for the distance used in calculating the SV of the freight, in the *Preliminary Determination*, the Department used a distance of 14.42 KM (8.96 miles) in order to calculate the per KM “inland freight and handling” expense from the *DBI* information.²³ This distance represents a single distance from downtown Jakarta (*i.e.*, Jakarta city center) to a port. After the *Preliminary Determination*, the Department placed on the record of this investigation the distances of several Indonesian periurban districts to the port of Jakarta.²⁴ The Department finds that compared to the single distance from downtown Jakarta, the use of these distances is consistent with the methodology employed by *DBI* in constructing its indicators. In its section “What do the indicators cover?” *DBI* specifically stated that the business is located “in the periurban areas of the economy’s largest business city.”²⁵ The average distance based on the distances of the Indonesian periurban districts to the port of Jakarta is 65.08 KM. This average distance results in a new SV of \$0.24595 KM/MT for inland freight. The same calculation of the distance was used in the final results of the 2011-2012 Administrative Review of *Fish Fillets from Vietnam Final*.²⁶

Meihua argued against the assumption that the traded goods are transported in a dry-cargo, 20-foot full container load weighing 10 MT. Regarding this issue the Department has the practice of not adjusting the weight of the container used by *DBI* in many previous determinations.²⁷ The Department disagrees that the denominator for this SV should be based on the experience of Meihua because this 10 MT weight is integral to the methodology used by *DBI* in calculating the freight cost. The cost of the shipments obtained by *DBI* reflects the cost of a 10 MT container.²⁸ Changing only the weight of the container in the calculation of an SV results in a meaningless unit value. The Department has noted in past proceedings that mixing different sources of data within the ratio calculation would add inconsistency to the calculation, which would yield a distorted result.²⁹

The Department disagrees with Meihua’s argument that the Department must fix the distortion caused by counting handling expense in the per unit (KM and MT) surrogate inland freight value

²¹ See *Diamond Sawblades and Parts Thereof From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying IDM at Comment 11.

²² See Petition at Exhibit II-11.

²³ See *Preliminary Determination*, and accompanying Preliminary Decision Memorandum at 21.

²⁴ See Memorandum to the File, “Antidumping Duty Investigation of Monosodium Glutamate from the People’s Republic of China, RE: Indonesian Periurban District to Port of Jakarta,” dated August 2, 2014. (Department’s Freight Distance Memo).

²⁵ *Id.*

²⁶ See *Fish Fillets from Vietnam Final*, and accompanying IDM at Comment 13.

²⁷ See *Certain Steel Threaded Rod From the People’s Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013) (*Steel Rod*), and accompanying IDM at Comment 6; see also *Certain Steel Nails from the People’s Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2010-2011*, 78 FR 16651 (March 18, 2013) (*Steel Nails*) and accompanying IDM at Comment 3.R.

²⁸ See Petitioner’s Surrogate Value Submission, at Exhibit 16.

²⁹ See *Steel Rod*, and accompanying IDM at Comment 6; see also *Steel Nails*, and accompanying IDM at Comment 3.R.

because handling includes “loading and unloading” which should occur only once in the transport of the merchandise. The per unit surrogate freight value is calculated based on the average distance between the periurban areas and the port of export. This calculation includes a single “loading and unloading” cost distributed to the average distance on a per unit basis. This does not lead to a multiple counting of the handling cost. Furthermore, “loading and unloading” is part of the handling cost, and Meihua presented no information as to how to separate the cost associated with “loading and unloading” part of the freight cost from the other part of the freight cost.

The Department also disagrees with Meihua that because Meihua’s 10 MT shipments of MSG do not reach US\$20,000, the resulting SV of inland freight is distortive. The shipment value of one container of goods is a key assumption in the DBI data.³⁰ DBI’s broad-market survey is based on numerous observations of varying container shipments. Specifically, the inland freight costs used to calculate the SV were based upon the assumption that a 20-foot container contained 10 MT of product. Using 10 MT in the per-unit calculation maintains the relationship between costs and quantity from the survey (which is important because the numerator and the denominator of the calculation are dependent upon one another), makes use of data from the same source, and is consistent with the Department’s past practice.³¹ Meihua has also failed to present any evidence that freight is directly related to the value of the merchandise in a shipment.

The Department disagrees with Petitioner’s argument that the distance information the Department placed on the record on August 21, 2014 is flawed because the Department should use the distance from within the city of Jakarta to the city’s main port, instead of from the periurban area of Jakarta. Petitioner argues that while the *Doing Business* study states, as one assumption, that the studied business is “located in the periurban area of the economy’s largest business city,” the report does not define this term and does not specify whether the businesses assumed to be located in the “periurban area” were located within or outside of the Jakarta city limits. Petitioner contends that the *Trading Across Borders Survey* (“TAB Survey”) upon which the *Doing Business* data are based expressly on requests information only for a business that is “located in” or that “operates in” the survey city.³² The destination line in the TAB Survey lists the destination as: “Company ‘ABC’ located in «Survey_City».” Finally, Petitioner notes that the methodology section following this generic survey includes an assumption that the business in the survey “is located in the economy’s largest city.”³³

Petitioner’s argument is based on an incorrect reading of the evidence on the record. The TAB Survey Petitioner placed on the record is a generic survey not specific to any country. The Department’s information is specific to Indonesia. The assumptions used in the DBI are on the record and it specifies that the business is “located in the periurban area of economy’s largest business city.”³⁴ The evidence on the record leads the Department to conclude that the information on which Petitioner based its argument pertains to a set generic survey and its

³⁰ See Petitioner’s Surrogate Value Submission, at Exhibit 16.

³¹ See *Hardwood and Decorative Plywood From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying IDM at Comment 11.

³² See Petitioner’s September 10, 2014 submission, “Re: Monosodium Glutamate from China: Resubmission of Comments on Distance to Port Information”, Exhibit 1.

³³ *Id.*, at Exhibit I.b.

³⁴ See Petitioner’s Surrogate Value Submission, at Exhibit 17.

accompanying methodology section the World Bank provides to the public. The location specified in the generic survey is the survey city. However, DBI uses a survey that defines location as the periurban area of Jakarta.³⁵

2. Letter of Credit Costs from the Brokerage and Handling Surrogate Value

The Meihua Group's Comments:

- The Department's practice is to exclude fees that are not incurred by respondents. Meihua did not use export letters of credit during the POI. Meihua's SV submission included information which indicates that Doing Business Indonesia includes a \$50 letter of credit fee. The Department should exclude the costs associated with the letter of credit charges included in the brokerage and handling expense.

The Department's Position:

Meihua's SV submission of April 7, 2014 included the World Bank's Doing Business Indonesia (DBI) 2013 study and an email from the World Bank stating that DBI 2013 included the cost to obtain the export letter of credit for Indonesia 2013.³⁶ DBI 2013 states that "{t}he data for all sets of indicators in Doing Business 2013 are for June 2012."³⁷

In selecting SVs for inputs, section 773(c)(1) of the Act directs us to use the "best available information." In determining the "best available information," it is the Department's practice to consider the following five factors: (1) broad market average; (2) public availability; (3) product specificity; (4) tax and duty exclusivity; and (5) contemporaneity of the data.³⁸

In the *Preliminary Determination*, the Department used DBI 2014 for brokerage and handling calculations because it was more contemporaneous to the POI of this investigation, January – June 2013.³⁹ For the final determination, we continue to find that DBI 2014 represents the best available information for the brokerage and handling SV.

In *Wood Flooring*, the Department analyzed whether an adjustment should be made for letter of credit costs and found that while Doing Business Philippines (DBP) 2013 does not list a letter of credit as one of the documents for export, an email from the World Bank revealed that DBP 2013 included \$50 as the cost for a letter of credit in 2013 for the Philippines.⁴⁰ The Department explained it was removing the cost of the letter of credit because there was no evidence to

³⁵ *Id.*

³⁶ See Meihua's submission of April 7, 2014 at Exhibit 5.

³⁷ *Id.*, at 112.

³⁸ See *Fresh Garlic from the People's Republic of China: Final Results of the 2009-2010 Administrative Review of the Antidumping Duty Order*, 77 FR 34346 (June 11, 2012), and accompanying IDM at Comment 4.

³⁹ See Memorandum to the File through Gene Calvert, Acting Program Manager, from Milton Koch, International Trade Analyst, "Antidumping Duty Investigation of Monosodium Glutamate from the People's Republic of China: Factor Valuation Memorandum," dated May 1, 2014 (Preliminary FOP Memo).

⁴⁰ See *Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 26712 (May 9, 2014) (*Wood Flooring*) and accompanying IDM at Comment 4.

suggest that respondents obtained letters of credit in the process of exporting merchandise under consideration and an email was placed on the record listing the cost of a letter of credit included in DBP for the relevant period.⁴¹

The email placed on the record of this investigation by Meihua states:

“The cost to obtain the export letter of credit for the countries requested are:

- 1) The Philippines 2013 = \$50
- 2) Indonesia 2013 = \$50
- 3) Thailand 2013 = \$60”⁴²

The Department notes that the email provides only the cost of a letter of credit for Indonesia DBI 2013. In this final determination, the Department used DBI 2014 because it is contemporaneous to the POI. However, the cost of a letter of credit for DBI 2014 is not listed in the email provided by Meihua and therefore, unlike *Wood Flooring*, the information in the email is not specific to the DBI used in this final determination. Therefore, for this final determination, the Department is not making a letter of credit adjustment to the brokerage and handling SV.

3. Meihua’s Steam and Other Energy Inputs

The Meihua Group’s Comments:

- Meihua’s self-produced energy production was produced by the “actual producer of subject merchandise,” and both Tongliao Meihua’s and Tongliao Meihua 1st Branch’s steam power plants are fully integrated into the MSG production process.
- At verification the Department reviewed the steam production process and found that all the self-produced steam, electricity and wind produced by Meihua were internally consumed and were not sold to any outside parties.
- Meihua fully responded to the Department’s question and there has not been a single indication by the Department that it failed to comply with the Department’s request.
- Meihua fully accounted for the FOPs that were used to produce its self-produced steam the self-produced by-products of electricity and wind.
- Department must include Meihua’s steam FOPs in its NV calculation because the Department separated PT Budi’s depreciation costs in order to account for PT Budi’s energy costs.
- If the Department determines that it can’t use the FOPs used by Meihua to produce its steam, and electricity and wind by-products, then the Department should not separate PT Budi’s depreciation expenses from its overhead costs to calculate the Energy expenses.

⁴¹ *Id.*

⁴² See Meihua’s April 7, 2014 submission at Exhibit 5.

Petitioner's Rebuttal Comments:

- The Department correctly valued Meihua's self-produced energy in the *Preliminary Determination*, rather than valuing the FOPs reported for Meihua's upstream power plants as Meihua claims to be correct.
- Meihua reported its energy FOPs based on a flawed allocation methodology, and Meihua's suggestion that the Department should instead value the FOPs therefore is inconsistent with the Department's approach in previous cases involving similar facts and would result in a distorted calculation that would understate Meihua's energy consumption.
- The Department should continue to value all energy FOPs and not change the overhead financial ratio.

The Department's Position:

While it is the Department's practice, consistent with section 773(c)(1)(B) of the Act, to value the FOPs that a respondent uses to produce the subject merchandise, there are two limited exceptions.⁴³ First, where a respondent may report FOPs used to produce an input that accounts for a small or insignificant share of total output, the Department may value the intermediate input directly if the increased accuracy in the calculations does not justify the burden of doing so. Second, the Department values intermediate inputs directly in instances where valuing the FOPs used in a production process yielding an intermediate product would lead to an inaccurate result because a significant element of cost would not be adequately accounted for in the overall buildup when SVs are applied to the intermediate input.

Meihua reported in its March 10, 2014 submission that it produces steam in house and that the process results in electricity and wind as by-products.⁴⁴ It also reported that groundwater was pumped rather than purchased from the water company and thus it was reporting the cost of the electricity used to pump groundwater, instead of the amount of water consumed.⁴⁵ In a supplemental questionnaire, the Department requested that Meihua report water consumed in the production of merchandise under consideration and other ancillary production operations.⁴⁶

We discuss our analysis of Meihua's response, which contains business proprietary information, in Meihua's Analysis Memo.⁴⁷ Although the Department verified the accuracy of the inputs into steam and electricity reported by Meihua, the Department's verification report did not draw conclusions regarding the methodology used by Meihua. We find that the allocation of cost between steam and electricity is flawed and that the cost of both steam and electricity is understated, making the power plant FOPs unreliable without adjustment.⁴⁸ Thus for the final

⁴³ See *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013) (*Xanthan Gum Final*) and accompanying IDM at Comment 8.

⁴⁴ See Meihua's March 10, 2014 submission, at 19-20.

⁴⁵ *Id.*, at 19.

⁴⁶ See Department's Supplemental Questionnaire of March 27, 2014 at 27.

⁴⁷ See Final Analysis Memo.

⁴⁸ See *Xanthan Gum Final*, and accompanying IDM at Comment 13 ("mistaken assumptions and mathematical errors therein that make the resulting power plant FOPs unreliable without adjustment").

determination, we are not valuing Meihua's submitted upstream energy inputs and continue to apply SVs to the steam and electricity reported as direct FOPs for MSG production.

Meihua proposed that if the Department did not use Meihua's steam FOPs, then it should include PT Budi's energy costs as part of overhead ratio rather than value Meihua's steam and electricity with SVs to avoid double counting. We disagree with Meihua's argument that we should not value respondent's energy FOPs if we use PT Budi's financial statements to calculate the surrogate financial ratios. While PT Budi's financial statements may not provide the level of detail the Department prefers, we note that unlike the Citric Acid reviews cited by Meihua,⁴⁹ the Department included only depreciation in the calculation of the overhead ratio; therefore, we explicitly excluded all energy costs from the surrogate overhead ratio and thereby avoided double counting. In this way, Meihua's energy FOPs may be included in NV in accordance with section 773(c)(3) of the Act, which states that NV for non-market economy countries shall be determined on the basis of the FOPs utilized in producing the merchandise, including the amounts of energy and other utilities consumed. Consequently, consistent with *Sodium Hexametaphosphate 2010-2011*⁵⁰ and *Xanthan Gum Final*,⁵¹ the respondent's energy FOPs may be included in NV because there is no double-counting of energy costs. Further, the production of MSG is an energy-intensive process, and the Department's stated preference when faced with an energy-intensive process is to use the respondent's own energy FOPs in the calculation of NV.⁵² Thus, we made no changes to the SV financial ratios for the final determination.

4. The Department's Co-Product Allocation

The Meihua Group's Comments:

- The Department should recalculate its corn co-product allocation to use a value based methodology instead of the weight based method used in the *Preliminary Determination*. A weight based method does not account for the differences in the values of each co-product.

Petitioner's Comments:

- The Department should recalculate its co-product allocation for labor and energy to account for downstream MSG production use of additional labor and energy.

⁴⁹ See e.g., *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 74 FR 16838 (April 13, 2009) (*Citric Acid*), and accompanying IDM at Comment 2.

⁵⁰ *Id.*, and accompanying IDM at Comment 1 (where the Department found that including water as an FOP did not double-count water costs because there was no evidence that water was captured in overhead); *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 4386 (January 22, 2013) ("*Chlorinated Isos 2010-2011*"), and accompanying IDM at Comment 13 (where the Department specifically excluded certain overhead costs from the calculation of the surrogate financial ratios in order to avoid the double-counting of electricity costs).

⁵¹ *Xanthan Gum Final*, and accompanying IDM at Comment 2 where the Department specifically excluded certain overhead costs from the calculation of the surrogate financial ratios in order to avoid the double-counting of electricity costs.

⁵² See, e.g., *Chlorinated Isos 2010-2011*, and accompanying IDM at Comment 13 and *Xanthan Gum Final*, and accompanying IDM at Comment 2.

The Meihua Group’s Rebuttal Comments:

- The Department correctly applied co-product factor to labor and energy consistent with its practice in the *Preliminary Determination*. There is no evidence that Petitioner’s method would accurately account for the full allocation of the co-product offset required.

Petitioner’s Rebuttal Comments:

- The Department’s use of a quantity based methodology for valuing corn co-products is appropriate given that Meihua did not report further processing costs for the corn co-products. Using a value based method would understate the costs of MSG production.

The Department’s Position:

The Department recalculated the FOPs for corn and its derivative components using a value based methodology for the Final Determination. Using a value based methodology allows the Department to account for the inherent price differences between corn and the co-products, which is not taken into consideration with a weight based method. A value based calculation of co-products is also consistent with the Department’s practice.⁵³ Each factor (*i.e.*, the amounts of corn and its derivative components consumed in MSG production) was valued using SVs in order to account for the differences in value of each factor. The Department then analyzed whether each factor was a co-product or a by-product.

We are valuing corn gluten, corn germ, corn bran, and crushed corn using Indonesian HTS 2302.10.00.00 – “Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants - Of maize (corn).” Because we are valuing corn gluten, corn germ, corn bran, and crushed corn with the same SV, we are treating them as one combined corn product for the final determination. The extended SV of the combined corn products is significant compared to the extended SV of input in the production of MSG in the subsequent process. Thus we determine the corn products are co-products for the final determination.

Because corn feed uses HTS 2303.30.0000 – “Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets,” we did not include it with the other corn products. The extended SV of corn feed is not significant compared to the extended SV of all inputs consumed in the production of MSG in the subsequent process. Thus we determine corn feed is a by-product for the final determination.

The Department determines that the amount of each input factor (*i.e.*, energy and labor) used at each step of MSG production varies. For example, the amount of labor used to process corn into MSG varies at each workshop.⁵⁴ For the final determination, we recalculated the FOPs for several inputs to adjust for the effects of the corn co-product allocation both to the initial

⁵³ See *Polyvinyl Alcohol From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 27991 (May 15, 2006), and accompanying IDM at Comment 1.

⁵⁴ Analysis Memo at Attachment 4

workshop and to downstream workshops. For details of the Department's calculations, *see* Final Analysis Memo at Attachment 4.

5. Meihua's Sulfuric Acid and Sulfur Dioxide Inputs

The Meihua Group's Comments:

- Given the significant potential for manipulation of production, pricing, or cost of the subject merchandise or foreign like product between the two companies, the Department should use Tongliao Jianlong Acid Produce Co., Ltd. (Tongliao Jianlong's) reported FOPs to value the self-produced sulfuric acid and sulfur dioxide.
- Furthermore, the Department reviewed Meihua's self-produced sulfur dioxide and sulfuric acid information at verification and found the information to be reported accurately.
- The inclusion of the self-produced sulfur dioxide and sulfuric acid FOPs results in a more accurate margin calculation because of the vertical integration of Meihua.

Petitioner's Rebuttal Comments:

- The Department properly rejected the FOPs reported by Tongliao Jianlong for producing sulfuric acid and sulfur dioxide that Meihua purchased from its affiliate, Tongliao Jianlong, and instead valued the sulfuric acid and sulfur dioxide purchased from Tongliao Jianlong.
- Tongliao Jianlong is not a producer of products similar or identical to those produced by Tongliao Meihua (*i.e.*, MSG), and also could not produce such products without substantial retooling. Tongliao Jianlong therefore does not meet a required condition of 19 CFR 351.401(f), and there is no basis for the Department to treat the companies as a single entity.

The Department's Position:

We agree with Petitioner, and continue to use SVs for the sulfuric acid and sulfur dioxide that the Meihua Group purchased from Tongliao Jianlong for purposes of the margin calculation, rather than using FOPs of these inputs.

Where inputs are produced by an affiliated company, the Department typically will not treat the inputs as being self-produced by the respondent unless it determines that the two entities should

be collapsed and treated as a single entity pursuant to 19 CFR 351.401(f).⁵⁵ Pursuant to 19 CFR 351.401(f)(1), the Department usually treats two or more affiliated producers as a single entity where: (1) those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and (2) there is a significant potential for manipulation of price or production. 19 CFR 351.401(f)(2) further states that in identifying a significant potential for manipulation, the Department may consider factors including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. While 19 CFR 351.401(f) applies only to producers, the Department finds it to be instructive in determining whether non-producers should be collapsed and used the criteria in the regulation in its analysis.⁵⁶

We find that Tongliao Jianlong is only an input producer and does not produce identical or similar products to those produced by Tongliao Meihua, and Tongliao Jianlong cannot produce subject merchandise without substantial retooling, in accordance with 19 CFR 351.401(f)(1). Therefore, we determined to not include Tongliao Jianlong as part of the Meihua Group single entity, and therefore we continue to use SVs for the inputs that Tongliao Meihua purchased from Tongliao Jianlong.

We disagree with Meihua's arguments that the Department should use Tongliao Jianlong's reported FOPs to value the self-produced sulfuric acid and sulfur dioxide. As stated above, the Department may consider factors such as common ownership, shared board members or managerial employees, and intertwined operations between two affiliated companies in determining whether a significant potential for manipulation exists, but in order for the Department to consider treating the companies as a single entity, they must also meet the other criterion within 19 CFR 351.401(f)(1) (*i.e.*, having production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities). As Tongliao Jianlong produces sulfuric acid and sulfur dioxide, rather than products similar or identical to the subject merchandise, we do not agree with Meihua that

⁵⁵ See, e.g., *First Administrative Review of Sodium Hexametaphosphate From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review*, 75 FR 64695 (October 20, 2010), and accompanying IDM at Comment 1 (where the Department declined to use the FOPs of the respondent's affiliated energy supplier because the Department's collapsing criteria were not met); *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 75 FR 12726 (March 17, 2010), and accompanying IDM at Comment 4A (where the Department declined to collapse the respondent with its affiliated supplier and use the supplier's FOPs because substantial retooling would be required to produce similar or identical products); *Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China: Final Results of the 2007-2008 Administrative Review of the Antidumping Order*, 75 FR 8301 (February 24, 2010), and accompanying IDM at Comment 3 (where the Department declined to collapse two affiliates because one did not produce or export similar or identical merchandise); *Lightweight Thermal Paper from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 57329 (October 2, 2008) (*Thermal Paper*), and accompanying IDM at Comment 8 (where the Department declined to collapse the respondent with an affiliated supplier).

⁵⁶ See, e.g., *Honey From Argentina: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review*, 77 FR 1458, 1461-62 (January 10, 2012), unchanged in *Honey From Argentina: Final Results of Antidumping Duty Administrative Review*, 77 FR 36253 (June 18, 2012).

the vertical integration of Meihua on its own is sufficient to treat Tongliao Meihua and Tongliao Jianlong as a single entity for the purposes of determining the margin of dumping.⁵⁷ Absent a finding that Tongliao Meihua and Tongliao Jianlong are a single entity, we find it inappropriate to value upstream inputs that were not used by the actual producer of subject merchandise (*i.e.*, Tongliao Meihua) because such valuation would not reflect the producer's own production experience.⁵⁸

Accordingly, for the final determination, we continue to value Tongliao Jianlong's inputs sulfuric acid and sulfur dioxide rather than the FOPs consumed by Tongliao Meihua.

6. Meihua's Organic Bacterial Protein (OBP) By-Product Valuation

The Meihua Group's Comments:

- The Department should use Indonesia HTS 3504.00.0000 as the SV for OBP. Meihua exported the organic bacterial protein under this HTS during the POI, making it the best available information.
- There is no evidence that US classification ruling provided by Petitioner applies to Indonesian HTS classifications or to Meihua's OBP by-product.

Petitioner's Rebuttal Comments:

- The Department should continue to use the Indonesia HTS 2309.90.2000 as the SV for organic bacterial protein. This HTS is supported by a U.S. Customs ruling and Meihua's product brochure, while HTS 3504.00.0000 is only supported by an export document created by Meihua.

The Department's Position:

The Department continues to find HTS 2309.90.2000 more accurately fits the description of Meihua's OBP by-product versus HTS 3504.00.0000 suggested by Meihua. As previously noted in the *Amended Preliminary Determination*,⁵⁹ the descriptions for each HTS are as follows: HTS 2309.90.2000 pertains to preparations of a kind used in animal feeding – other – premixes, feed supplements or feed additives; HTS 3504.00.0000 pertains to Peptones and their derivatives; other protein substances and their derivatives, not elsewhere specified or included; hide powder, whether or not chromed.⁶⁰

Meihua's product catalog describes OBP as "feed grade mycoprotein" with an end use as an additive to animal feed.⁶¹ We note that Meihua's product brochure also states that "Mycoprotein

⁵⁷ See, e.g., *Thermal Paper*, and accompanying IDM at Comment 8.

⁵⁸ *Id.*; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008), and accompanying IDM at Comment 5C.

⁵⁹ See Calculation Memorandum for Amended Preliminary Determination at 3.

⁶⁰ See Petitioner's April 7, 2014 submission at Exhibit 4.

⁶¹ See Meihua's February 18, 2014 submission at Exhibit 11.

is the processed cellular mass derived from Glutamic Acid fermented liquid.”⁶² The U.S. Customs tariff ruling for Bio-cell Mass from Glutamic Acid analyzed the chemical content and determined that the end use of the product is “a protein nutrient...in the production of animal feeds” and is classified under HTS 2309.90.9500.⁶³ The Department finds that the Customs ruling on the record of this investigation is applicable to the OBP by-product because it classifies bio-cell mass from glutamic acid fermentation as “animal feed protein nutrient” similar to Meihua’s product catalog description. Thus, we find that the appropriate Indonesian HTS under the same subheading to be 2309.90.2000, preparations of a kind used in animal feeding – other – premixes, feed supplements or feed additives, which matches the U.S. HTS 2309.90.9500, preparations of a kind used in animal feeding – other.

We disagree with Meihua that, because the Custom’s ruling pertains to U.S. classification, it is not applicable to the Indonesian tariff code. In *Crawfish from the PRC*,⁶⁴ the Department stated:

With regard to Xiping Opeck’s argument that the CBP classification rulings cited by CPA are not relevant to Thai customs because they were determined by U.S. customs, we disagree. In reviewing Thai HTS number 5080020002 for chapter 5 (“Other Shells of Molluscs, Crustaceans or Echinoderms”), and comparing it to the U.S. HTS number of the same category, we find that the article descriptions in both HTS schedules are identical. Thus, we find no evidence that the Thai HTS category includes the crawfish by-product or scrap whereas the U.S. HTS category would not.

Thus, the Department has relied on Customs rulings in prior cases and, in the instant investigation we find that the Indonesian HTS 2309.90.2000 is the most appropriate classification under the 2309.90 subheading because the article description in both HTS schedules contains the term “feed additives.”

Further, we disagree with Meihua that because it reported OBP under HTS 3504.00.0000 in its export declaration, this document should be the basis in deciding the appropriate HTS number. We note that the export declaration form describes OBP as a “feed additives,” and thus matches the description of the selected HTS 2309.90.2000.⁶⁵ Moreover, HTS 3504.00.0000 narrative description specifies that it is for “...other protein substances and their derivatives, not elsewhere specified or included...” making it inappropriate for feed additive which is classified under Indonesian HTS 2309 “Preparations of a kind used in animal feeding.” Therefore, we determine Indonesian HTS 2309.90.2000 is the appropriate classification in valuing Meihua’s OBP by-product and continue to use it for the final determination.

⁶² *Id.*

⁶³ See Petitioner’s April 14, 2014 submission at Exhibit 1.

⁶⁴ See *Fresh Water Crawfish Tail Meat From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2011-12*, 79 FR 22947 (April 25, 2014) (*Crawfish from PRC*) and accompany IDM at 8.

⁶⁵ See Meihua’s April 16, 2014 submission at Exhibit 1.

7. Whether to Allow Offsets when Aggregating the A-A and A-T Margins for the Department’s Mixed Methodology to Calculate Meihua’s Margin

The Meihua Group’s Comments:

- The Department in *Final Modification* stated that it “will no longer make average to average comparisons in investigation without providing offset for non-dumped comparisons.” If the Department uses a mixed methodology to calculate Meihua’s margin, the margin program should be revised to include offsets.

Petitioner’s Rebuttal Comments:

- If the Department uses a mixed methodology to calculate Meihua’s margin, the Department should use the Cohen’s *d* methodology which does not allow offsets for average to transaction methods, but does grant offsets for average to average comparisons.

The Department’s Position:

For the final determination, the Department finds that the average-to-average method, applied to all U.S. sales, is the appropriate comparison to use to calculate the weighted-average dumping margin for Meihua.⁶⁶ Accordingly, this issue is moot.

8. Meihua’s Reported Tape Distance

The Meihua Group’s Comments:

- Meihua inadvertently flipped the two values for the tape distance, (*i.e.*, the sigma distance was reported in the TAPE AD variable and the actual distance was reported in the TAPE SD variable).
- Meihua requests that the Department correct the calculation by use the sigma distance of 385 KM for the tape freight calculation, if the Department determines to use a KM based SV in the final determination.

Petitioner’s Rebuttal Comments:

- Meihua’s argument that the Department should correct the two TAPE distances that Meihua now claims it reported incorrectly amounts to an untimely submission of factual information that the Department must reject at this last stage in its investigation.

The Department’s Position:

We agree with Petitioner. Meihua did not make a correction for the reported tape distance prior to the Department’s verification, which was the last opportunity for Meihua to correct its factual

⁶⁶ See Final Analysis Memorandum at Attachment 3.

information submitted in the company's questionnaire response.⁶⁷ Therefore, the Department is treating this new tape distance information as untimely submitted new factual information, and we will not be using the new tape freight calculation proposed by Meihua for the final determination.

9. The Valuation of Wind Power

Petitioner's Comments:

- In the *Preliminary Determination*, the Department did not value the wind power consumed by Meihua in certain workshop in its production of MSG. In its final determination, the Department should value wind power with the Indonesian SV for electricity.

The Meihua Group's Rebuttal Comments:

- Wind was generated as a by-product of Meihua's fully integrated steam production, and the Department should not value wind using the electricity SV.
- Wind is also already accounted for in Meihua's reported steam FOPs as a by-product, and any valuation would result in double counting.
- If the Department determines that it is unable to use the actual steam FOPs used by Meihua to produce its steam, electricity and wind by-products, then the Department should not separate PT Budi's depreciation expenses from its overhead costs to calculate the energy expense.

The Department's Position:

Similar to the compressed air input reported in the *Xanthan Gum Final* investigation,⁶⁸ the Department was unable to locate a reliable SV for wind power. In addition, no party has placed on the record additional reliable SVs for wind power.⁶⁹ Accordingly, we continue to be unable to value Meihua's consumption of wind power for the final determination.

⁶⁷ See 19 CFR 351.301(c)(5); see Letter to Meihua Group from Jun Jack Zhao, International Trade Compliance Analyst, AD/CVD Operations, Office VII, entitled "Antidumping Duty Investigation of Monosodium Glutamate from the People's Republic of China: Verification Agenda," dated June 5, 2014 (Verification Agenda) (informing Meihua of the ability to submit new factual information that makes minor corrections to information on the record).

⁶⁸ See *Xanthan Gum Final*, and accompanying IDM at Comment 14.

⁶⁹ In addition, Petitioner argued to value Meihua's wind power with the Indonesian surrogate value for electricity. See Petitioner's Case Brief, at 4. However, Meihua reported wind consumption with the unit of measure in Cubic Kilometers, not in Kilowatts Hour ("KWH"), the unit of measurement for electricity provided by Petitioner. Therefore, because there is no readily available conversion factor between the two units of measurement, the Department found that it cannot use the electricity surrogate value to value wind, which is not reported in the same unit of measure.

10. The Valuation of Water

Petitioner's Comments:

- The Department should value the water FOPs reported by Tongliao Meihua and the 1st Branch in the final determination.
- The Department's required conditions outlined in *Chloro Isos 2011-2012 Review Final* to disregard an SV for water consumption have not been met by Meihua in this investigation.

The Meihua Group's Rebuttal Comments:

- Meihua reported that it consumed only ground water and that it included the reported cost in its reported electricity consumption. As such, the inclusion of an SV for water would result in double counting.
- Furthermore, the record evidence shows that Indonesia, the surrogate country, does not charge a tariff on ground water consumption.

The Department's Position:

We agree with Meihua and continue not to value water FOPs reported by Meihua. Record evidence indicates that Meihua used electricity to pump ground water, and Meihua has reported the electricity used to obtain the ground water in its FOPs.⁷⁰ In addition, there is no evidence that Meihua is charged for ground water, and the surrogate country Indonesia does not have a tariff for ground water consumption.⁷¹ Therefore, the Department is valuing only the electricity FOP and not an FOP for the valuation of ground water.⁷²

11. Limiting A By-Product Offset

Petitioner's Comments:

- The Department granted by-product offsets for byproducts of MSG production. One specific by-product's output exceeds the FOP input (*i.e.*, the quantity of the by-product generated is greater than the quantity of the primary input consumed in the production of the by-product). For the final determination, the Department should limit the offset to the FOP input amount.

⁷⁰ See Meihua's Resubmitted Rebuttal SV Comments, at 7-8, dated April 30, 2014. See, also, Meihua's SV Submission, at Exhibit 3.

⁷¹ See Petitioner's SV Comments, at Exhibit 14, dated April 7, 2014.

⁷² See *Taian Ziyang Food Co. v. United States*, 783 F.Supp.2d 1292, 1307-8 (Ct. Int'l Trade 2011), where the Department has determined that "valuing the pumping cost of water, rather than valuing the water itself, yields to the most accurate {dumping} margins..." when it matches the practice of the producer with the producers in the surrogate country.

The Meihua Group’s Rebuttal Comments:

- There is no evidence that Meihua incorrectly reported the by-product or the related FOP and no basis for the Department to change the methodology. The Department should continue to use the same methodology for the final determination.

The Department’s Position:

The Department notes it has a long-standing practice of rejecting or capping the by-product SV in instances where the by-product SV exceeds the SV of the product from which it was derived.

In *Frozen Fish Fillets from Vietnam Final*,⁷³ the Department stated:

Because Vinh Hoan’s “unrefined” fish oil is one of the types of items listed in the Indonesian GTA import data under HTS 1504.20.90.00, the Department finds that it is specific to Vinh Hoan’s “unrefined” fish oil. However, the Department finds that it has concerns valuing Vinh Hoan’s “unrefined” fish oil using the Indonesian GTA import data under HTS 1504.20.90.00 because this HTS category also includes “refined” fish oil, which as described above, requires more production cost (*i.e.*, packaging costs and additional additives in the fish oil) to produce than “unrefined” fish oil. The Department notes that the value for fish oil (one of two byproducts derived from fish waste, the other being fish meal) derived from Indonesian GTA import data under HTS 1504.20.90.00 is \$1.73/kg, whereas the SV for the whole, live fish is \$1.63. The Department finds that it has concerns valuing Vinh Hoan’s fish oil using the SV for Indonesian GTA import data under HTS 1504.20.90.00. The Department finds it unreasonable that the SV for Vinh Hoan’s fish oil by-product derived from whole fish would be higher than its main input (*i.e.*, whole fish).

In *Steel Nails from the PRC*,⁷⁴ the Department determined that the per-unit scrap value produced from an input cannot be higher than the per-unit value of the input itself. Similarly, in *Pure Magnesium from the PRC*,⁷⁵ although the Department noted some differences with the above referenced cases, it agreed that the scrap value should not exceed the value of finished magnesium ingots, the main output. A by-product by definition is less valuable than the input from which it is derived. Where there is no evidence that the by-product is a value-added by-product, assigning a by-product a value that is higher than the value of the input from which it is derived is unreasonable. In this investigation, the quantity of the by-product reported exceeds the quantity of the primary input consumed in the production of that by-product. Thus the extended value of the by-product exceeds the extended value of the primary input. Therefore, in the instant investigation, the Department finds it appropriate and reasonable to cap the specific by-product quantity at the specific FOP input amount. Because information on the record for

⁷³ See *Fish Fillets from Vietnam Final*, and accompanying IDM Comment XXIII, at page 82.

⁷⁴ See *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) (*Steel Nails from the PRC*), and accompanying IDM at Comment 12.

⁷⁵ See *Pure Magnesium From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*; 2011-12, 79 FR 94 (January 2, 2014) (*Pure Magnesium from PRC*), and accompanying IDM at Comment 2.

this issue is proprietary, we provided further details in the Final Analysis Memorandum. Finally, because the Department has a consistent practice of rejecting or capping the by-product offset, we disagree with Meihua's argument that the Department should exclude the input, rather than cap the by-product offset.

12. Meihua's Irrecoverable Value Added Taxes

Petitioner's Comments:

- The use of Meihua's calculated VAT ratio rather than its actual irrecoverable VAT ratio of 17 percent is inconsistent with the Department's current practice.
- In the final determination, the Department should modify its calculation of the VAT deduction to reflect the full 17 percent of Meihua's irrecoverable VAT.

The Meihua Group's Rebuttal Comments:

- There is no basis for modifying the Department's past practice and Meihua's VAT deduction.
- Meihua reported its total irrecoverable VAT as requested by the Department's questionnaire.
- There is no evidence that Meihua inaccurately calculated the irrecoverable VAT, which is based on the VAT actually paid on inputs and is the only potential VAT applicable to a producer that exports.
- There is no evidence that Meihua has not fully cooperated with the Department or did act to the best of its ability in reporting the VAT offset.

The Department's Position:

In 2012, the Department announced a change of methodology with respect to the calculation of the export price (EP) and constructed export price (CEP) to include an adjustment of any un-refunded (herein irrecoverable) VAT in certain non-market economy countries in accordance with section 772(c)(2)(B) of the Act.⁷⁶ In this announcement, the Department stated that when a non-market economy country's government has imposed an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.⁷⁷ In a typical VAT system, companies do not incur any VAT expense; they receive on export a full rebate of the VAT they pay on purchases of inputs used in the production of exports ("input VAT"), and, in the case of domestic sales, the company can credit the VAT they pay on input purchases for those sales against the VAT they collect from customers. That stands in contrast to the PRC's

⁷⁶ See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481 (June 19, 2012) (VAT Methodological Change).

⁷⁷ *Id.*, 77 FR at 36483; see also *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014), and accompanying IDM (*Chloro Isos 2011-2012 Review Final*), at Comment 5.

VAT regime, where some portion of the input VAT that a company pays on purchases of inputs used in the production of exports is not refunded.⁷⁸ This amounts to a tax, duty or other charge imposed on exports that is not imposed on domestic sales. Where this irrecoverable VAT is a fixed percentage of EP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP downward by this same percentage.⁷⁹

The Department's methodology, as explained above and applied in this investigation, essentially amounts to performing two basic steps: (1) determine the irrecoverable VAT tax on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this investigation by Meihua indicates that, according to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for the export of subject merchandise is zero.⁸⁰ Further, Meihua's accounting vouchers for U.S. sales showed 17 percent VAT liability and payment on export sales.⁸¹ Therefore, for the purposes of this final determination, we removed from U.S. price the difference between the rates (17 percent), which is the irrecoverable VAT as defined under Chinese tax law and regulation.⁸²

19 CFR 351.401(c) requires that the Department rely on price adjustments that are "reasonably attributable to the subject merchandise." The PRC's VAT regime is product-specific, with VAT schedules that vary by industry and even across products within the same industry. These are product-specific export taxes, duties, or other charges that are incurred on the exportation of subject merchandise. Meihua's calculation for a "net" VAT position company-wide⁸³ significantly reduces the impact of this product-specific tax by spreading it across products with potentially different VAT schedules.

The Department's methodology is based on removing irrecoverable VAT as explicitly defined under Chinese regulation. The Department's methodology is also precisely tied to Meihua's books and records since it relies on the prices in Meihua's U.S. sales database. Finally, the Department's deduction of product-specific VAT from subject merchandise is a more reasonable and accurate methodology since the export tax, duty, or other charge is a product-specific expense that is directly linked with exportation of subject merchandise. Meihua's methodology, in contrast, effectively ignores this direct link and dilutes the product-specific tax effect. Meihua's irrecoverable VAT calculation and adjustment would introduce distortion into the dumping margin calculation and obfuscate the true "apples-to-apples" comparison of U.S. price with NV on a product-specific, tax exclusive basis.

For the reasons noted above, for the final determination, we deducted from U.S. price the irrecoverable VAT rate of 17 percent.

⁷⁸ See, e.g., Meihua's Verification Report, at 17, and Verification Exhibit 9, dated July 17, 2014; see also Article III.3.4 of *Circular 7*, Meihua's February 20, 2014 Section C questionnaire response, at 68; *Methodological Change* 77 FR at 36483.

⁷⁹ See *Methodological Change*, 77 FR at 36483.

⁸⁰ See Meihua's Verification Report, at 17, and Verification Exhibit 9, dated July 17, 2014; see also Applicable VAT Laws of the PRC, Meihua's February 20, 2014 Section C questionnaire response, at Exhibit C-4.

⁸¹ See Meihua's U.S. sales accounting vouchers in Meihua's Verification Report, Verification Exhibits 8 and 10.

⁸² *Id.*

⁸³ See Meihua's Verification Report Exhibit 9, "Worksheet of Non-refundable VAT Ratio Calculation".

13. Meihua's Weighted-Average Factors of Production

Petitioner's Comments:

- Meihua has not followed the Department's reporting requirements and limited its FOP databases to those produced and sold to the United States by factory.
- Meihua's reported FOPs are weighted in favor of Tongliao Meihua's 1st Branch as demonstrated by the cost of goods sold analysis.
- The Department should recalculate Meihua's weighted-average FOPs based on total production of MSG produced for all markets, as required by the Department's Policy Bulletin 10.3.

The Meihua Group's Rebuttal Comments:

- Meihua reported its weighted-average factors from all of its facilities for the CONNUMs requested by the Department's questionnaire and consistent with Policy Bulletin 10.3.
- Petitioner's proposed recalculation would be use of facts available and is unwarranted given that there is no evidence Meihua did not cooperate to the best of its ability. Further, the Department never indicated Meihua did not respond properly to its questionnaires.

The Department's Position:

Policy Bulletin 10.3 requires non-market economy country's respondents to report their FOPs, regardless of destination, for total production of subject merchandise.⁸⁴ The Policy Bulletin requires respondents to "report total production costs from all facilities and not just the more efficient facilities or the facilities that produce only for export." Petitioner has not provided evidence indicating that Meihua improperly reported its information or limited it by market destination. The cost of goods sold analysis provided by Petitioner is flawed in its reliance on non-market economy values, which we do not consider appropriate.⁸⁵ The Department's AD proceedings use SVs for non-market economy countries.

In this investigation, Meihua reported CONNUMs for total production of subject merchandise as required in the original questionnaire.⁸⁶ Petitioner highlights the greater number of product codes compared to the number of CONNUMs.⁸⁷ The Department's classification standards differ from the system Meihua uses in its normal course of business. It is not unusual for the majority of the product codes to reduce to a small number of CONNUMs and does not indicate that Meihua improperly reported information. The Department verified Meihua reported information and found no discrepancies.⁸⁸ There is no inconsistency between the quantity

⁸⁴ Policy Bulletin 10.3 "Factor of Production Reporting Requirements for Non-Market Economy Companies with Multiple Facilities and/or Production Processes/Lines" (11/26/2010) (<http://enforcement.trade.gov/policy/PB-10.3.pdf>).

⁸⁵ See Petitioner's Case Brief at 9-12; *see also* 19 CFR 351.408(c)(1).

⁸⁶ See Meihua's February 20, 2014 and March 10, 2014 submissions.

⁸⁷ See Petitioner's Case Brief at 11-12.

⁸⁸ See Meihua's Verification Report at 19.

reported sold in the United States and the amount produced during the POI. Petitioner has not presented evidence warranting the use of facts available. For the final determination, we determine that Meihua properly reported its information.

14. Whether the Department Should Use Indonesian Import Statistics To Value Lignite Coal

Petitioner's Comments:

- The SVs for lignite coal that the Department used in the *Preliminary Determination* as reported by coalspot.com have numerous problems, as they are estimated prices, reference prices, EPs, and it is unclear whether they exclude taxes.
- Petitioner placed on the record import data for HS code 2702.10 in Indonesia, which should be used to value Tongliao Meihua's lignite coal in the final determination.
- In its final determination, the Department should follow its established precedent and value Meihua's lignite coal based on Indonesian import data rather than estimated EPs purportedly based on Indonesian coal reference prices.

The Meihua Group's Rebuttal Comments:

- The SV recommend by Petitioner is not contemporaneous and is based on insignificant quantity; the Indonesian import value does not represent the best available information on the record.
- Use of the import data is particularly inappropriate when the information on record for the other comparable economic countries provided by Petitioner also proves that lignite coal is not traded extensively because of its volatile nature.

The Department's Position:

In determining the "best available information," in accordance with section 773(c)(1) of the Act, it is the Department's practice to consider the following five factors: (1) broad market average; (2) public availability; (3) product specificity; (4) tax and duty exclusivity; and (5) contemporaneity of the data.⁸⁹ The Department undertakes its analysis of valuing the FOPs on a case-by-case basis, carefully considering available record evidence regarding the particular facts of each industry.⁹⁰ Although there is no hierarchy for applying the surrogate-value selection criteria, "the Department must weigh available information with respect to each input value and make a product-specific and case-specific decision as to what the 'best' surrogate value is for each input."⁹¹

⁸⁹ See, e.g., *First Administrative Review of Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010), and accompanying IDM at Comment 1.

⁹⁰ See *Glycine from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 70 FR 47176 (August 12, 2005), and accompanying IDM at Comment 1.

⁹¹ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039 (September 24, 2008), and accompanying IDM at Comment 2.

We disagree with Petitioner’s argument that the Department should use the 2012 import statistics of HTS code 2702.10 to value Meihua’s lignite coal in the final determination. First, this value is not contemporaneous with the POI. In fact, for the 2013 import statistics HTS code 2702.10 shows no import of lignite coal.⁹² Second, the quantity of the 2012 import of lignite coal under HTS code 2702.10 is based on a 3.28 MT shipment.⁹³ Therefore, the Indonesian import statistics does not represent a broad-market average and compared to alternative sources on the record of this segment is not the best available information on the record to be used as the SV for lignite coal.

Pursuant to section 773(c)(1) of the Act, we continue to find that the value sourced from the coalspot.com data for Indonesian lignite coal price represents “the best information available” for valuing lignite coal. This data represents information that is product-specific, is representative of a broad-market average, is publicly available, is contemporaneous with the period of investigation, and is free of duties. Information on the record from coalspot.com represents the specific type of coal used by Meihua based on its reported moisture and calorific value,⁹⁴ has significant quantity with a broad-market average,⁹⁵ is publicly available based on the Indonesian Coal Price Reference (HPB) sourced from the Director General of Mineral and Coal of Indonesia,⁹⁶ is contemporaneous with the POI,⁹⁷ and is the FOB spot contract price of Indonesia,⁹⁸ the surrogate country selected in this investigation. Therefore, even though it is unclear that whether this data from coalspot.com exclude taxes, it represents the best available information on the record to value lignite coal.

15. Whether the Department Should Use Domestic Prices in Indonesia to Value Corn

Petitioner’s Comments:

- In its final determination, the Department should use domestic prices in Indonesia to value corn because it is the Department’s stated preference to use domestic prices, and domestic producers likely would use domestic corn, which dominates the market in Indonesia.
- The domestic prices furthermore are more accurate in that they account for the significant price differences at different levels of trade.

The Meihua Group’s Rebuttal Comments:

- Petitioner failed to provide the complete detail and supporting information on the record from the Ministry of Agriculture Republic of Indonesia (MOA) for its reported domestic corn prices.

⁹² See Petitioner’s surrogate value comments, at Exhibit 3.

⁹³ *Id.*

⁹⁴ See Meihua’s surrogate value comments, at Exhibit 9.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

- Petitioner provides no explanation of how the domestic prices were obtained or are reported by MOA.
- If the Department were to use the domestic prices reported by MOA it must use the reported average monthly prices reported.
- For the final determination the Department should continue to use the SV obtained from HS 1005.90.9000, which is the only reliable value for corn on the record.

The Department's Position:

We agree with Meihua that the SV for corn obtained from HS 1005.90.9000 is the most reliable value for corn on the record, and we continue to use this SV for corn in the final determination.

The Department agrees with Petitioner that it is the Department's stated preference to use domestic prices for a specific FOP when it is unlikely that a domestic producer in the surrogate country would use the imported FOP.⁹⁹ However, in this case, Petitioner submitted incomplete information on Indonesian corn prices sold in the domestic market during the POI. Specifically, Petitioner failed to place the complete printouts for the domestic corn prices from the Ministry of Agricultural of the Republic of Indonesia website on the record.¹⁰⁰ Further, the subsequent Excel data sheets provided by Petitioner, that list Indonesia domestic corn prices for retail, wholesale, and at farm gate could not be tied to the website printouts of the domestic corn prices, because there are data in the Excel data sheets that do not appear in the website printouts which were used as source data for the Excel data sheets.¹⁰¹

Therefore, in the absence of the complete information on the record, the Department was unable to consider these domestic prices for corn as the most reliable SV.

16. The Valuation of High Protein Scrap

Petitioner's Comments:

- High protein scrap is a byproduct of a specific workshop, making "Waste of sugar manufacture," therefore, HTS 2303.20.000, is more accurate than the current Indonesian SV HTS 2303.10.9000 of "Beet-pulp, bagasse, and other waste of sugar manufacture" which is not specific to the workshop producing sugar.
- The Department should use the Thai HTS classification for 2303.20.0000 "waste of sugar manufacture" for high protein scrap because there were no imports of this product into Indonesia during the POI.

The Meihua Group's Rebuttal Comments:

- There is no evidence that the Thai SV more accurately reflects high protein scrap than the Indonesian SV HTS 2303.10.9000. Glucose as defined by petitioner could be either

⁹⁹ See *Chloro Isos 2011-2012 Review Final*, and accompanying IDM at Comment 2.C.

¹⁰⁰ See Petitioner's Case Brief at Exhibit 5.

¹⁰¹ *Id.* at Exhibits 6 through 8.

starch or sugar. The Department used this HTS previously to value high protein scrap in *Citric Acid* and *Xanthan Gum Final*.

The Department's Position:

In the *Preliminary Determination*, the Department used Indonesian HTS 2303.10.9000, “Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets.”¹⁰² In determining the “best available information,” it is the Department’s practice to consider the following five factors: (1) broad market average; (2) public availability; (3) product specificity; (4) tax and duty exclusivity; and (5) contemporaneity of the data.¹⁰³ Petitioner’s argument focuses on product specificity and the fact that high protein scrap is a byproduct of a specific stage of MSG production. The Department has analyzed SVs for high protein scrap in the context of its role in the entire MSG production. We analyzed the material inputs and outputs in the workshop where high protein scrap is produced as a byproduct and found that the specific workshop in question does not use the input advocated by Petitioner.¹⁰⁴ Based on this analysis, HTS 2303.10.9000 more accurately reflects the product specificity of high protein scrap as a byproduct of MSG than HTS 2303.20.0000 because one of the inputs for MSG is corn, which is a starch. High protein scraps emerges downstream and therefore is based on starch, not sugar. Therefore, for the final determination continue to use Indonesian HS 2303.10.9000, residues of starch manufacture, to value High Protein Scrap.

¹⁰² See Preliminary FOP Memo.

¹⁰³ See *Fresh Garlic from the People’s Republic of China: Final Results of the 2009-2010 Administrative Review of the Antidumping Duty Order*, 77 FR 34346 (June 11, 2012), and accompanying IDM at Comment 4.

¹⁰⁴ See Meihua’s Analysis Memo at Attachment 4 Co-By Product Analysis, which contains BPI information regarding the primary inputs and outputs of each workshop.

VII. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions. If this recommendation is accepted, we will publish the final determination of this investigation and the final weighted-average dumping margins in the *Federal Register*.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

22 SEPTEMBER 2014
Date