



A-570-985
New Shipper Review POR: 07/19/13-12/31/13
Public Document
E&C/OIV: BF

May 18, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

RE: Issues and Decision Memorandum for the Final Results of the
Antidumping Duty New Shipper Review of Xanthan Gum from
the People's Republic of China

I. Summary

We analyzed the case brief and rebuttal brief of interested parties in this antidumping duty (AD) new shipper review of xanthan gum from the People's Republic of China ("PRC"). As a result of our analysis, we made changes to the margin calculation¹ from the *Preliminary Results*.² The Department of Commerce (the "Department") finds that the single entity Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Bio-Technology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd. (collectively, "Meihua") has not made sales of subject merchandise at less than normal value ("NV"). We recommend that you approve the positions described in the "Discussion of Issues" section of this memorandum.

¹ See Memorandum from Brandon Farlander, International Trade Analyst, to Howard Smith, Program Manager for Office IV, Antidumping and Countervailing Duty Operations, entitled "Antidumping Duty New Shipper Review of Xanthan Gum from the People's Republic of China: Final Analysis Memorandum" dated March 18, 2015 ("Final Analysis Memorandum").

² See *Xanthan Gum From the People's Republic of China: Preliminary Results of 2013 Antidumping Duty New Shipper Review*, 79 FR 78797 (December 31, 2014) ("*Preliminary Results*") and accompanying Preliminary Decision Memorandum.



II. Background

On July 19, 2013, the Department published in the *Federal Register* the AD order on xanthan gum from the PRC.³ On December 31, 2014, the Department published the *Preliminary Results* of this new shipper review in the *Federal Register*,⁴ covering Meihua. Petitioner in this proceeding is CP Kelco U.S., Inc.

On January 30, 2015, Petitioner filed a case brief,⁵ and on February 9, 2015, Meihua filed a rebuttal brief.⁶ The issues for which we received comments are discussed below. The Department held a closed hearing on February 12, 2015.

III. Period of review

The period of the new shipper review (“POR”) is July 19, 2013, through December 31, 2013.

IV. Scope of the order

The scope of the order covers dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in the order regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber.

Xanthan gum that has been blended with other product(s) is included in the scope when the resulting mix contains 15 percent or more of xanthan gum by dry weight. Other products with which xanthan gum may be blended include, but are not limited to, sugars, minerals, and salts.

Xanthan gum is a polysaccharide produced by aerobic fermentation of *Xanthomonas campestris*. The chemical structure of the repeating pentasaccharide monomer unit consists of a backbone of two P-1,4-D-Glucose monosaccharide units, the second with a trisaccharide side chain consisting of P-D-Mannose-(1,4)- P-DGlucuronic acid-(1,2) - a-D-Mannose monosaccharide units. The terminal mannose may be pyruvylated and the internal mannose unit may be acetylated.

Merchandise covered by the scope of this order is classified in the Harmonized Tariff Schedule (“HTS”) of the United States at subheading 3913.90.20. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope is dispositive.

V. Single company treatment

As explained in the *Preliminary Results*, the Department determines that Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Bio-Technology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd. are affiliated pursuant to section 771(33)(F) of the Tariff

³ See *Xanthan Gum From the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 43143 (July 19, 2013).

⁴ See *Preliminary Results*.

⁵ See Letter from Petitioner to the Secretary of Commerce, dated January 31, 2015 (“Petitioner’s Case Brief”).

⁶ See Letter from Meihua to the Secretary of Commerce, dated February 9, 2015 (“Meihua’s Rebuttal Brief”).

Act of 1930, as amended (the “Act”) and that these companies should be treated as a single company for antidumping purposes pursuant to 19 CFR 351.401(f).⁷

VI. Bona fide analysis

As explained in the *Preliminary Results*, the Department determines that Meihua’s sale is a *bona fide* sale.⁸

VII. Discussion of Issues

Comment 1: Corn starch intermediate input

Petitioner’s Comments

- Meihua cannot, and did not, accurately report the quantity of corn that it purchased and then consumed in the production of the corn starch that was used in the production of subject merchandise during the POR.⁹ Meihua does not keep the records of the scaled (*i.e.*, actual) weight of its corn purchases and cannot provide the actual quantity of corn as purchased and entered into inventory. Rather, Meihua records a recalculated weight of corn in its inventory records in which it revises the scaled weight to reflect the quantity of corn which meets corn quality metrics that it purchased.¹⁰
- Published sources establish that corn, on a theoretical dry basis, is composed of a certain amount of corn starch. Scientific literature on the record also indicates that a certain amount of corn and corn starch (derived from the corn) are needed to produce one kilogram of xanthan gum.¹¹ This scientific literature and the factors of production (“FOP”) reported for corn and corn starch by the mandatory respondents from the investigation in this proceeding demonstrate that Meihua’s practice of recalculating the scaled weight of its corn purchases has led to an inaccurate, distorted normal value calculation.¹²
- The Department should value Meihua’s intermediate input, corn starch, rather than the individual inputs/FOPs, such as corn, used to produce the intermediate input because Meihua is unable to accurately report the actual scaled weight of the corn consumed in its production of subject merchandise.¹³ The Department applied the intermediate input methodology in

⁷ See the memorandum from Brandon Farlander, International Trade Analyst, AD/CVD Operations Office IV to Abdelali Elouaradia, Director, AD/CVD Operations Office IV regarding “Xanthan Gum from the People’s Republic of China: Affiliation and Single Company Status,” dated December 18, 2014.

⁸ See the memorandum from Brandon Farlander and Erin Kearney, International Trade Analysts, AD/CVD Operations Office IV to Abdelali Elouaradia, Director, AD/CVD Operations Office IV regarding “New Shipper Review of Xanthan Gum from the People’s Republic of China: *Bona Fide* Sales Analysis for Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Bio-Technology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd.,” dated December 18, 2014.

⁹ See Petitioner’s Case Brief at 3-6.

¹⁰ *Id.* at 6.

¹¹ *Id.* at 7-8; *see also*, Letter from Petitioner, “Re: New Shipper Review for Xanthan Gum from the Peoples’ Republic of China: Petitioner’s Comments on Meihua Group’s Response to Second Section A and First Section C and D Supplemental Questionnaire,” dated June 26, 2014, at 3-5, and Exhibits 1-7.

¹² See Petitioner’s Case Brief at 7-8.

¹³ *Id.* at 9-12.

Frozen Fish Fillets from Vietnam 2003,¹⁴ *Honey from China*,¹⁵ and *Fresh Garlic from China*.¹⁶

- Even if Meihua’s corn FOP data were accurate, the Department should still not rely on the data as Meihua’s corn FOP data are impossible to verify.¹⁷ If a submission contains information that is not verifiable, the Department must decline to consider the information.¹⁸
- In the preliminary results, the Department valued Meihua’s FOPs using a direct input, corn, instead of an intermediate product (corn starch), and used Ajinomoto (Thailand) Co., Ltd.’s (“Ajinomoto”) financial statements to calculate surrogate financial ratios.¹⁹ Because Ajinomoto does not operate a wet-milling facility,²⁰ where corn is processed into corn starch, the Department’s normal value calculation did not capture the significant capital costs associated with Meihua’s processing of corn into corn starch. Thus, if the Department accepts Meihua’s reported corn consumption, it should still value Meihua’s intermediate product corn starch, rather than valuing corn, because doing so is the only way to capture the significant capital costs of Meihua’s wet-mill.²¹
- The Department examined this issue in the investigation with respect to the respondent Fufeng Biotechnology Co., Ltd. (“Fufeng”) and compared Fufeng’s starch-making production process, capital equipment, overhead costs, and energy consumption with its xanthan gum facility and concluded that its costs were not sufficient to justify using the intermediate input methodology.²² However, each segment is different and the Department should perform a similar analysis for Meihua and find that, unlike Fufeng, Meihua produces

¹⁴ See *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003) (“*Frozen Fish Fillets from Vietnam 2003*”), and accompanying Issues and Decision Memorandum at Comment 3. In *Frozen Fish Fillets from Vietnam 2003*, Petitioner contends that the Department applied a SV to an intermediate input that accounted for an insignificant share of the total output.

¹⁵ See *Final Results and Final Rescission of Antidumping Duty Administrative Review: Honey from the People’s Republic of China*, 71 FR 34893 (June 16, 2006) (“*Honey from China*”), and accompanying Issues and Decision Memorandum at Comment 9. In *Honey from China*, Petitioner contends that the Department valued the raw honey consumed by the respondent using a SV for the raw honey itself, rather than valuing the FOPs used to make the raw honey because the Department determined that there were numerous errors in the respondent’s reported FOP data for raw honey and because of respondent’s assertions in its case brief that it was unable to report accurate beekeeping inputs, the Department determined that valuing the intermediate input for the production of honey would lead to a more accurate result than having the individual beekeeping FOPs.

¹⁶ See *Final Results and Partial Rescission of Antidumping Duty Administrative Review and Final Results of New Shipper Reviews: Fresh Garlic from the People’s Republic of China*, 71 FR 26329 (May 4, 2006) (“*Fresh Garlic from China*”), and accompanying Issues and Decision Memorandum at Comment 1. In *Fresh Garlic from China*, Petitioner contends that the Department determined that the books and records maintained by the respondents did not report or account for all of the relevant information and did not allow the respondents to identify all of the FOPs necessary to grow and harvest garlic. Therefore, in order to eliminate distortions in the calculation of normal value, the Department valued the intermediate input product for raw garlic bulb, rather than valuing all of the inputs/FOPs (e.g., garlic seed, pesticides, herbicides, fertilizer, plastic film, water and growing/harvesting labor hours) used to produce the bulb.

¹⁷ See Petitioner’s Case Brief at 12-16.

¹⁸ See Section 782(e)(2) of the Act.

¹⁹ See Petitioner’s Case Brief at 17.

²⁰ *Id.*, where Petitioner notes that the Department determined in the investigation that Ajinomoto’s production process for its products, lysine and monosodium glutamate (“MSG”), begins with tapioca starch.

²¹ *Id.*

²² *Id.* at 18.

essentially the same intermediate input, dry corn starch, as Ajinomoto's purchased input, dry tapioca starch.²³

- Meihua's wet-milling production process requires significant amounts of labor and energy. A comparison of the consumption of labor and energy for the wet-milling facility to those of the xanthan gum facility demonstrates that Meihua's wet-milling facility requires significant capital costs.²⁴
- Meihua's by-product offsets from the wet-milling operation further distort normal value because none of the associated capital costs are being captured.²⁵ The Department has previously adopted the intermediate input methodology to account for significant unaccounted costs in financial ratios, like Meihua's situation.²⁶

Meihua's Rebuttal Comments

- Petitioner incorrectly claims that: 1) Meihua cannot, and did not, accurately report its corn purchases; and 2) Meihua's reported corn FOP cannot be accurate because it is physically impossible to produce one kilogram of xanthan gum with the amount of corn that Meihua reported consuming to produce a kilogram of xanthan gum during the POR.²⁷
- The Department should continue to value Meihua's reported inputs that were used to make corn starch, such as corn, and not value the intermediate input, corn starch, because Meihua accurately reported its corn purchases. The Department already examined Petitioner's arguments on this issue at the preliminary results and found no evidence that Meihua reported its corn consumption inaccurately.²⁸
- With respect to Petitioner's comment regarding accurately reporting corn purchases, the purchase process for corn is as follows. When Meihua purchases corn, it examines the corn that it plans to purchase and if the corn meets certain quality metrics, it purchases the corn and records the scaled weight of the purchased corn in its records. However, if some of the corn does not meet the quality metrics, Meihua only purchases the corn which passes the quality metrics and then records the purchased corn weight (*i.e.*, recalculated weight) in its records.²⁹ Because Meihua's recorded corn weight is based on the purchased quantity (whether scaled or recalculated weights), it properly reported as its corn FOP the actual quantity of corn purchased.³⁰
- The articles placed on the record by Petitioner to support its contention that Meihua could not possibly have produced the reported amount of corn starch from its reported corn consumption are unavailing because they show a large range of corn starch yields based on

²³ *Id.*

²⁴ *Id.* at 18-21, and Exhibit 2.

²⁵ *Id.* at 21-22.

²⁶ *Id.* at 22, citing *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Wooden Bedroom Furniture From the People's Republic of China*, 69 FR 35312, 35326 (June 24, 2004) ("*Wooden Bedroom Furniture from China 2004*") affirmed in *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); see also *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Ukraine*, 67 FR 55785 (August 30, 2002) ("*Steel Wire Rod from Ukraine*"), and accompanying Issues and Decision Memorandum at Comment 4.

²⁷ See Meihua's Rebuttal Brief at 2.

²⁸ *Id.* at 2-3.

²⁹ *Id.* at 3-5.

³⁰ *Id.* at 5.

the specific starch content of corn (moreover Petitioner's math is not exact, as even a small difference of two percent in its calculations would put the estimated corn starch yield needed from Meihua for its corn within the realm of these statistics), do not primarily address the starch content of corn, are based on primarily American (not Chinese) sources, and are based on a variety of corn moisture levels.³¹ Therefore, these articles do not demonstrate that Meihua failed to report its corn FOP accurately, especially since Petitioner's calculations are based on adjusting Meihua's corn moisture content from 14 percent to 15 percent even though Meihua's corn had a variety of different moisture levels under 14 percent.³²

- Also, Petitioner placed an article on the record which it used to estimate the amount of corn starch needed to produce one kilogram of xanthan gum.³³ Then, Petitioner extrapolated the amount of corn required to produce that amount of corn starch and alleged that Meihua did not report high enough corn consumption.³⁴ However, Petitioner's estimated xanthan gum yields are based on the entire culture used to produce xanthan gum, not just the corn starch input, as there are many other inputs used to produce xanthan gum.³⁵ These estimates are flawed because they are from external sources based on various production scenarios (inputs) not necessarily related to the actual experience of Chinese xanthan gum producers.³⁶
- Concerning the capital costs, Petitioner vastly overstates the capital costs involved in Meihua's production of corn starch.³⁷ In addition, Petitioner overstated the number of stages at Meihua's corn starch production facility. Also, the procedures at these stages do not require complicated factory equipment when compared to the equipment needed to produce xanthan gum from corn starch.³⁸ While more labor is involved in the corn starch making stage of production compared to the xanthan gum stage of production, under the Department's labor and energy methodologies, labor and energy costs would not be accounted for in the financial ratios but in the labor and energy FOPs.³⁹
- The main issue is whether Ajinomoto's production process (which includes l-lysine and MSG) captures high enough capital costs despite not having corn starch production.⁴⁰ Ajinomoto may not engage in corn starch production, but its other operations more than adequately cover any overhead costs not included because of not producing corn starch.⁴¹ Ajinomoto engages in business operations that Meihua does not, such as the retail packaging of numerous downstream MSG seasoning products.⁴² Moreover, case law is clear that the Department does not have to find an exact match with respect to the surrogate financial company's overhead.⁴³ In Petitioner's cited cases, *Steel Wire Rod from Ukraine* (with iron ore mining operations) and *Wooden Bedroom Furniture from China 2004* (with log sawing and milling operations), the Department was concerned with an absence of capital costs from

³¹ *Id.* at 6.

³² *Id.* at 6-7.

³³ *Id.* at 7.

³⁴ *Id.*

³⁵ *Id.* at 7-8.

³⁶ *Id.*

³⁷ *Id.* at 8.

³⁸ *Id.* at 8-9.

³⁹ *Id.* at 9-10.

⁴⁰ *Id.* at 10.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* at 10-11, with cases cited as support.

operations which required significant amounts of investment in heavy machinery, maintenance, and labor. This is different from Meihua’s starch making facility which has far more basic capital costs.⁴⁴

- In the xanthan gum investigation, the Department used Ajinomoto’s financial statements to calculate financial ratios and determined that it adequately captured the overhead costs for the production of xanthan gum.⁴⁵
- The intermediate input methodology requested by Petitioner is a limited exception to the general rule of valuing a respondent’s FOPs. This exception should only be applied if: 1) the intermediate input is a proxy for FOPs of a self-produced input that is insignificant or 2) using FOPs may yield a less accurate result because a significant element of cost would not be captured.⁴⁶ The cases cited by Petitioner as support are not similar to the instant case.⁴⁷ Meihua reported all of its costs associated with its starch making operations, the Department found no discrepancies, and it verified Meihua in another recent investigation.⁴⁸

Department’s Position: We disagree with Petitioner’s position that it is more accurate to value Meihua’s intermediate input (corn starch), than to value Meihua’s reported FOPs in its starch-making facility, which is one stage of the production process for making xanthan gum.

Our policy, consistent with section 773(c)(1)(B) of the Act, is to value the FOPs that a respondent uses to produce the subject merchandise. Accordingly, our standard non-market economy (“NME”) questionnaire asks respondents to report the FOPs used in the various stages of production. There are, however, in general, two limited exceptions to this general rule.⁴⁹ First, in some cases a respondent may not be required to report FOPs used to produce an intermediate input that accounts for a small or insignificant share of total output. The Department recognizes that, in those cases, the increased accuracy in our overall calculations that would result from valuing (separately) each of those FOPs may be so small so as to not justify the burden of doing so. Therefore, in those situations, the Department might value the intermediate input directly.⁵⁰ Second, in certain situations, attempting to value 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 NV buildup when surrogate values (“SVs”) are applied to the FOPs.⁵¹ For example, the Department addressed whether to value a respondent’s FOPs used in extracting iron ore – an input to wire

⁴⁴ *Id.*

⁴⁵ *Id.* at 12.

⁴⁶ *Id.* at 12-13.

⁴⁷ *Id.* at 13.

⁴⁸ *Id.*

⁴⁹ See *Drill Pipe from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances*, 76 FR 1966 (January 11, 2011) (“*Drill Pipe from China*”), and accompanying IDM at Comment 12. Additionally, in limited situations, the Department has used the intermediate input where there were problems with respondent’s reporting accurate FOP data, such as in *Honey from China*, where the Department determined that the respondent was unable to accurately record and substantiate the complete costs associated with producing raw honey and, therefore, the Department continued to value the raw honey consumed rather the FOPs to produce the raw honey. See also *Fresh Garlic from China* and *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People’s Republic of China*, 62 FR 61964 (November 20, 1997) (“*CTL Steel Plate from China*”) at Comment 11, which are explained below.

⁵⁰ See *Drill Pipe from China*.

⁵¹ *Id.*

rod – in *Steel Wire Rod from Ukraine*.⁵² The Department determined that, if it were to use those FOPs, it would not sufficiently account for the capital costs associated with the iron ore mining operation given that the surrogate financial ratios used for valuing production overhead did not reflect mining operations. Therefore, because ignoring this important cost element would distort the NV calculation, the Department declined to value the FOPs used in mining iron ore and instead valued the intermediate input, which was iron ore.⁵³

In this new shipper review, the Department has determined that the exceptions described above do not apply for the following reasons. First, the intermediate input, corn starch, is not a small or insignificant share of total output. Thus, there is no issue as to whether the intermediate input, corn starch, is so insignificant as to not justify the burden of valuing the FOPs used to produce corn starch separately.⁵⁴ Also, the SVs for the corn starch FOPs are on the record so there is not a burden in valuing these FOPs.

Second, we do not believe that corn starch, rather than the inputs used to make corn starch (*e.g.*, corn), must be valued because of accuracy concerns. We disagree that Meihua cannot, and did not, accurately report its quantity of corn purchased and consumed during the POR. Meihua reported that before it purchases corn, the corn must meet certain quality metrics, including moisture content.⁵⁵ Meihua stated that it generally uses the scaled corn weight in its records (if the corn passes certain quality metrics).⁵⁶ However, if some of the corn does not meet the quality metrics, then Meihua will recalculate the quantity of purchased corn by deducting the quantity of unqualified corn,⁵⁷ and this recalculated quantity is the same quantity on Meihua's purchase invoice.⁵⁸ Meihua stated that its inventory-in slips and VAT invoices are issued based on either the scaled weight (if the corn meets quality metrics) or, if the corn does not meet quality metrics, the recalculated quantity.⁵⁹ Therefore, the Department determines that Meihua's inventory-in slips and VAT invoices are based on the correct weight (either scaled or

⁵² See *Steel Wire Rod from Ukraine*.

⁵³ See *id.*; see also *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 49632 (September 28, 2001) ("*Hot-Rolled Carbon Steel from China*") and Issues and Decision Memorandum at Comment 2; *CTL Steel Plate from China; Notice of Final Determination of Sales at Less Than Fair Value; Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22547 (May 8, 1995) ("*Furfuryl Alcohol from China*") at Comment 4.

⁵⁴ Petitioner filed comments on June 26, 2014, which indicated that, according to published sources, corn which has a 15 percent moisture content is composed of approximately 73 percent corn starch. Corn is the major input in the production of xanthan gum. Thus, this indicates that similarly, corn starch is not a small input in producing xanthan gum.

⁵⁵ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Third Supplemental Questionnaire Response," dated July 30, 2014, at 3; see also Meihua's Rebuttal Brief at 3-5.

⁵⁶ *Id.* at 8.

⁵⁷ *Id.* at 3.

⁵⁸ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Fourth Supplemental Questionnaire Response," dated October 28, 2014, at 8.

⁵⁹ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Fifth Supplemental Questionnaire Response," dated November 14, 2014, at 3 and Exhibit S4-5, where Meihua stated that both the inventory-in slip and the VAT invoice are issued based on the recalculated quantity rather than the scaled quantity; see also, Letter from Meihua, "Xanthan Gum from the People's Republic of China Fourth Supplemental Questionnaire Response," dated October 28, 2014, at 8, where Meihua stated that Xinjiang Meihua only kept the recalculated weight in its cost ledger because Xinjiang Meihua only records the quantity after the recalculation which is the same as reported in its warehouse ledgers as the actual purchase quantity and also in the purchase invoice.

recalculated) of corn that Meihua purchased and we confirmed that Meihua's reported corn consumption is accurate because we reconciled its corn consumption records to its reported corn FOP.⁶⁰ During our review of Meihua's responses, we tied Meihua's corn consumption quantities for each month of the POR, as identified in its inventory movement worksheet,⁶¹ to its workshop FOP consumption quantities.⁶² Because Meihua's corn consumption reported in its inventory movement worksheet reconciled with consumption reported in its FOP database, we find no evidence that Meihua reported its corn FOP inaccurately. Also, because Meihua's corn consumption figures are in its records, we believe that these data could be verified. Thus, we do not find it appropriate to value corn starch, the intermediate input, instead of corn.

Third, Petitioner cites published reports and articles regarding the amount of corn starch in corn which has a 15 to 15.5 percent moisture content and then attempts to extrapolate from these data the amount of corn needed to produce a kilogram of xanthan gum.⁶³ Then, Petitioner compares these data with Meihua's corn moisture content of 14 percent⁶⁴ to estimate the amount of corn Meihua would need to produce a kilogram of xanthan gum.⁶⁵ We have examined these reports and articles, which are based on a 15 to 15.5 percent corn moisture content, and determined that while Petitioner's corn-to-corn starch yields may be supported by record evidence, the moisture content of the corn that Meihua purchased during the POR differed from the 15 to 15.5 percent moisture levels of the corn in the articles and reports submitted by Petitioner and was sometimes less than 14 percent, as demonstrated by Meihua's corn tests.⁶⁶ Thus, when Petitioner calculated the amount of corn needed to produce one kilogram of xanthan gum, its assumptions were based on adjusting Meihua's corn moisture content from 14 percent to 15 percent.⁶⁷ Since the moisture content of the corn that Meihua purchased can vary, we have determined that Petitioner's corn-to-corn starch yield is not an accurate comparison methodology to determine whether Meihua has underreported its corn FOP.⁶⁸ In addition, Petitioner's use of an article to estimate Meihua's

⁶⁰ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Third Supplemental Questionnaire Response," dated July 30, 2014, at 10.

⁶¹ See Letter from Meihua, "Re: Xanthan Gum from the People's Republic of China Second Supplemental Questionnaire Response," dated June 10, 2014, at Exhibit S2-10.

⁶² See Letter from Meihua, "Re: Xanthan Gum from the People's Republic of China Supplemental Questionnaire Response," dated December 10, 2014, at Exhibit S7-2.

⁶³ See Letter from Petitioner, "Re: New Shipper Review for Xanthan Gum from the People's Republic of China: Petitioner's Comments on Meihua Group's Response to Second Section A and First Section C and D Supplemental Questionnaire," dated June 26, 2014, at 3-5, and Exhibits 1-7.

⁶⁴ See Meihua's Rebuttal Brief at 7.

⁶⁵ See Letter from Petitioner, "Re: New Shipper Review for Xanthan Gum from the Peoples' Republic of China: Petitioner's Comments on Meihua Group's Response to Second Section A and First Section C and D Supplemental Questionnaire," dated June 26, 2014, at 4-5.

⁶⁶ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Third Supplemental Questionnaire Response," dated July 30, 2014, at Exhibit 3-3 (sample tests of several corn purchases in August 2013). While the results of these corn tests are business proprietary, Meihua publicly stated at page 7 of its rebuttal brief that Meihua's corn had a variety of different moisture contents under 14 percent so that the Department is now treating this under 14 percent data as public information.

⁶⁷ See Letter from Petitioner, "Re: New Shipper Review for Xanthan Gum from the People's Republic of China: Petitioner's Comments on Meihua Group's Response to Second Section A and First Section C and D Supplemental Questionnaire," dated June 26, 2014, at 5.

⁶⁸ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Third Supplemental Questionnaire Response," dated July 30, 2014, at Exhibit 3-3 (sample tests of several corn purchases in August 2013). While the results of these corn tests are business proprietary, Meihua publicly stated at page 7 of its rebuttal brief that Meihua's corn had a variety of different moisture contents under 14 percent so that the Department is now treating

consumption of corn starch per kilogram of xanthan gum produced is not compelling because the article does not directly address the amount of corn needed to produce one kilogram of xanthan gum.⁶⁹ Also, as noted by Meihua, corn starch is not the only input in the xanthan gum stage of production.⁷⁰ Since the culture or broth consists of many inputs, not just corn starch, the xanthan gum yield would be based on the entire culture or the combination of all of the inputs from the xanthan gum stage of production and not only dependent on corn starch; yet it is not clear that Petitioner's estimations account for this fact.⁷¹ Therefore, we have determined that the record does not support finding that Meihua underreported its corn FOP.

Also, the Department determines that Petitioner's comparisons⁷² between Meihua's corn and corn starch FOPs and Fufeng's⁷³ corn FOP and Deosen's⁷⁴ corn starch FOP are not persuasive evidence that Meihua is underreporting its corn and corn starch FOPs. Each company's experience is unique and we would expect their FOPs might differ.

With regard to Petitioner's argument that significant capital costs are excluded from the NV build up, we disagree that using Ajinomoto's financial statements results in a significant underreporting of Meihua's overhead costs because Ajinomoto begins its production process for MSG and l-lysine with tapioca starch – a product which has already been processed from a raw agricultural commodity.⁷⁵ As an initial matter, we note that Petitioner raised the same argument in the less than fair value investigation and the Department rejected it.⁷⁶ Although we agree with Petitioner that Ajinomoto begins its production process with tapioca starch, we disagree that this

this under 14 percent data as public information.

⁶⁹ See Letter from Petitioner, "Re: New Shipper Review for Xanthan Gum from the People's Republic of China: Petitioner's Comments on Meihua Group's Response to Second Section A and First Section C and D Supplemental Questionnaire," dated June 26, 2014, at Exhibit 8, Garcia-Ochoa F., Santos V.E., J.A. Casas, and E. Gomez, "Xanthan gum: production, recovery, and properties," *Biotechnology Advances* 18 (2000) 549-579 (Table 5 at 561).

⁷⁰ See Letter from Meihua, "Re: Xanthan Gum from the People's Republic of China Section C and D Questionnaire Response," dated March 31, 2014, at D-14 and Exhibit D-2, which lists the inputs used during the xanthan gum stage of production.

⁷¹ See Letter from Petitioner, "Re: New Shipper Review for Xanthan Gum from the People's Republic of China: Petitioner's Comments on Meihua Group's Response to Second Section A and First Section C and D Supplemental Questionnaire," dated June 26, 2014, at Exhibit 8, Garcia-Ochoa F., Santos V.E., J.A. Casas, and E. Gomez, "Xanthan gum: production, recovery, and properties," *Biotechnology Advances* 18 (2000) 549-579 at 574, where the concluding remarks state that the yield and properties of the product are influenced by the microbial strain used, the growth medium, and other environmental factors. Continuing, the concluding remarks state that the properties of xanthan solutions are affected by the dissolution temperature, the measurement temperature, and the presence of other non-xanthan polymers and that, despite advances, considerable scope exists for further improving the production and recovery of xanthan, particularly through modeling of the fermentation behavior. The fermentation broth is also noted in Figure 2 at 552, and an outline of the xanthan gum production process is provided.

⁷² See Petitioner's Case Brief at 8.

⁷³ Neimenggu Fufeng Biotechnologies Co., Ltd (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd. ("Fufeng") was a mandatory respondent in the investigation of xanthan gum.

⁷⁴ Deosen Biochemical Ltd. ("Deosen") was a mandatory respondent in the investigation of xanthan gum.

⁷⁵ See *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) ("*Xanthan Gum Final Determination*"), and accompanying Issues and Decision Memorandum at Comment 8.

⁷⁶ See *Xanthan Gum Final Determination*; see also *CP Kelco US v. United States*, 2015 Ct. Intl. Trade LEXIS 31, Slip Op. 15-27 (March 31, 2015) (sustaining Commerce's determination not to use the intermediate input methodology).

results in a distortion to Meihua's financial overhead ratio. We have examined Meihua's production process for making starch and, as explained below, determined that the factory equipment costs are not significant enough to justify using the intermediate input methodology rather than using Meihua's actual FOPs. Meihua reported that it performs the following steps to produce corn starch: cleaning and soaking corn, crushing and grinding corn, separating corn parts, starch refining, dehydrating, drying, weighing, and packing.⁷⁷ The Department determines that the equipment used in these steps is basic cleaning equipment, soaking tanks, grinding machines, filters, and dryers and that this machinery is not as complicated and the processes not as capital intensive when compared to the equipment used to produce xanthan gum (e.g., the equipment includes centrifuges).⁷⁸ Therefore, because the Department has determined that using Ajinomoto's financial statements does not result in a significant underreporting of Meihua's overhead costs, we are using Meihua's corn FOP in the corn starch stage of production. Also, we disagree with Petitioner that Meihua's corn by-products from the corn starch stage of production are distorting NV given that we found that Meihua's overhead (capital) costs are not being underreported.

In the cases Petitioner cites as support for applying the intermediate input methodology, (*Frozen Fish Fillets from Vietnam 2003*, *Honey from China*, *Fresh Garlic from China*) the facts are distinguishable from the instant review. In *Frozen Fish Fillets from Vietnam 2003*, the Department determined that there were a number of problems with the upstream data from respondents, such as misreported or unreported FOPs, and that it was not possible to remediate all of these issues due to the lack of data on usage rates or the unavailability of SVs.⁷⁹ In *Honey from China*, the Department determined that the respondent was unable to accurately record and substantiate the complete costs associated with producing raw honey and, therefore, the Department continued to value the raw honey consumed rather the FOPs used to produce the raw honey.⁸⁰ In *Fresh Garlic from China*, the Department determined that the respondents were unable to accurately record and substantiate the complete costs of growing garlic and therefore applied the intermediate input methodology.⁸¹

Other cases that prove instructive in which the Department applied the intermediate input methodology include *Hot-Rolled Carbon Steel from China*, *CTL Steel Plate from China*, *Furfuryl Alcohol from China*, *Wooden Bedroom Furniture from China 2004*, and *Steel Wire Rod from Ukraine*. In *Hot-Rolled Carbon Steel from China*, the Department applied the intermediate input methodology because the self-generation of the energy inputs in question (i.e., electricity, argon, oxygen, and nitrogen) was a heavily capital intensive process and TATA, the company whose financial statements were used by the Department for the surrogate financial ratios,

⁷⁷ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Section C and D Questionnaire Response," dated March 31, 2014 at D-4, with these additional steps to produce the by-products: separated, washed, dewatered, dried, metered, and packed.

⁷⁸ See Meihua's Rebuttal Brief at 9, citing Letter from Meihua, "Re: Xanthan Gum from the People's Republic of China Second Supplemental Questionnaire Response," dated June 10, 2014 at Exhibit S2-8, stages of xanthan gum production.

⁷⁹ See *Frozen Fish Fillets from Vietnam 2003* and accompanying Issues and Decision Memorandum at Comment 3 at 44-45.

⁸⁰ See *Honey from China* and accompanying Issues and Decision Memorandum at Comment 9 at 36.

⁸¹ See *Fresh Garlic from China* and accompanying Issues and Decision Memorandum at Comment 1 at 11.

purchased (rather than produced) a large portion of these energy inputs.⁸² Therefore, the Department determined that TATA did not incur the capital costs associated with the substantial plant and machinery needed to self-produce these energy inputs. Since the capital costs did not appear on TATA's financial statements, the Department determined not to value the FOPs used to generate the energy inputs.⁸³ In *CTL Steel Plate from China*, for certain companies, the Department did not value the FOPs/inputs used to make some self-produced inputs (such as oxygen, nitrogen, argon and similar gases) because their production data were rejected by the Department due to untimeliness and lack of consistency.⁸⁴ In *Furfuryl Alcohol from China*, the Department valued the inputs/FOPs used to make furfuryl when the factory produced furfuryl and valued furfuryl for those factories which purchased furfuryl.⁸⁵ In *Wooden Bedroom Furniture from China 2004*, where the Department valued the intermediate inputs, the Department determined that if it were to value the logs (instead of the intermediate input lumber), it would not account for the capital costs associated with processing the logs into lumber due to the fact that the overhead costs (*i.e.*, overhead ratios) of the surrogate companies did not indicate that these surrogate companies process logs into lumber.⁸⁶ In *Steel Wire Rod from Ukraine*, the Department also valued the intermediate inputs, because valuing the FOPs used to make iron ore (instead of valuing the intermediate input iron ore) would not sufficiently account for the capital costs associated with the iron ore mining operations. This was because the surrogate financial ratios used for valuing production overhead were from companies that did not have a production stage such as mining operations and ignoring this important cost element would distort the calculation.⁸⁷ As noted, when the Department determines that the respondent incurred significant capital costs for a production step and those costs are not reflected in the financial overhead ratio calculated from the surrogate producer, it may use the intermediate input methodology.

In contrast, in *Drill Pipe from China*, the Department determined that the exceptions leading to valuing an intermediate input did not apply because the respondent Baoshan produced a significant amount of each of its self-produced intermediate inputs and valuing Baoshan's FOPs for self-produced intermediate inputs adequately accounted for all of the costs in the overall factors buildup for Baoshan's self-produced inputs.⁸⁸ In this case, as noted above, we determine that Meihua's capital costs for its starch-making facility, which processes corn into corn starch, are not at the same level of significance as those in *Wooden Bedroom Furniture from China 2004* and *Steel Wire Rod from Ukraine*. Meihua's starch-making facility's equipment is less complicated, less capital intensive, and uses much less electricity (per kilogram of xanthan gum)⁸⁹ to operate than does the rest of the xanthan gum production process. Therefore, the

⁸² See *Hot-Rolled Carbon Steel from China* and Issues and Decision Memorandum at Comment 2.

⁸³ *Id.*

⁸⁴ See *CTL Steel Plate from China* at Comment 11.

⁸⁵ See *Furfuryl Alcohol from China* at 22547.

⁸⁶ See *Wooden Bedroom Furniture from China*, at 35326.

⁸⁷ See *Steel Wire Rod from Ukraine* and accompanying Issues and Decision Memorandum at Comment 4.

⁸⁸ See *Drill Pipe from China*.

⁸⁹ See Letter from Meihua, "Re: Xanthan Gum from the People's Republic of China Supplemental Questionnaire Response," dated December 10, 2014, at Exhibit S7-2 (while electricity, like labor, is valued as a separate FOP, the significantly higher amount of electricity (on a per kilogram of xanthan gum basis) used in the xanthan gum facility stage of production when compared to the electricity, on a per kilogram of xanthan gum basis, used in the starch-making facility stage of production, is an indication that the equipment in the xanthan gum facility is more complicated and capital intensive when compared to the starch-making facility's equipment).

starch-making facility is not a significant contributor to the overhead costs in comparison to the other production steps required to make xanthan gum, such as the xanthan gum stage of production. Also, while Ajinomoto does not have a starch-making facility, it has other facilities which Meihua does not have, such as operations for retail packing of MSG seasoning products.⁹⁰ Lastly, the Department's practice does not require an exact match between the production experience of the respondent, and that of the surrogate producer, in order for a surrogate financial statement to be usable.⁹¹

Because the labor FOP is valued separately in the NV calculations and Petitioner has not provided any evidence that the amount of labor consumed in the starch-making and xanthan gum stages of production is a good measure of whether the equipment is capital intensive, we determine that it is not appropriate to consider labor in our analysis of whether Meihua's capital costs are being captured by using Ajinomoto's financial statements for Meihua's financial ratios. For the reasons provided, we decline to use an intermediate input methodology in this case and continue to value Meihua's corn FOP.

Comment 2: Corn SV

Petitioner's Comments

- The following five quality standards for classifying Meihua's corn are on the record: 1) Thai animal feed standard;⁹² 2) Chinese corn standard;⁹³ 3) Chinese corn feed standard/Chinese animal feed standard;⁹⁴ 4) Chinese human consumption standard;⁹⁵ and 5) Maize for starch

⁹⁰ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Re-filing Rebuttal Surrogate Value Submission," dated December 8, 2014, at Exhibit SV-2.

⁹¹ 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), and accompanying IDM at Comment 20-D.

⁹² See Letter from Petitioner, "Re: New Shipper Review for Xanthan Gum from the People's Republic of China: Preliminary Rebuttal Surrogate Value Information," dated May 19, 2014 at Exhibit 4 from the Office of Council of State, Thai Ministry of Agriculture and Cooperatives, "*Re Determination of name, characteristics, category and appearance of quality animal feed or standard of animal feed by name, character and category or age of animal, quality or standard of container and use of container B.E.2545 [2002]*," ("Thai animal feed standard").

⁹³ See Letter from Meihua, "Re: Xanthan Gum from the People's Republic of China Second Supplemental Questionnaire Response," dated June 10, 2014 at Exhibit S2-6, National Standard of the People's Republic of China, GB 1353-2009, "Maize," issued by the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) and the Standardization Administration (SAC) of the People's Republic of China on March 28, 2009 ("Chinese corn standard"). The Chinese corn standard specifies the terms and definitions, classification, quality and hygienic requirements for corn as well as the standard for the purchase, storage, transport, processing and sale of commercial corn.

⁹⁴ See Letter from Petitioner, "Re: New Shipper Review for Xanthan Gum from the Peoples' Republic of China: Petitioner's Comments on Meihua Group's Third Supplemental Questionnaire Response," dated August 11, 2014 at Exhibit 2, National Standard of the People's Republic of China, GB/T 17890-2008, "Maize for feedstuffs," issued by the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China on February 1, 2008 ("Chinese corn feed standard" or "Chinese animal feed standard") (the GB 13886-2007 standard (Chinese food grade xanthan gum standard) establishes testing methods as well as physic-chemical, such as lead (Pb) and pyruvic acid, and microbiological standards, such as total plate count (to determine bacteria count), E. coli, salmonella, yeast and molds).

⁹⁵ *Id.* at Exhibit 1, which is an unofficial translation from the United States Department of Agriculture's Foreign Agricultural Service, dated October 28, 2005, for the People's Republic of China's "GB2715-2005 Hygienic Standard for Grains," which was issued by the Ministry of Health of the People's Republic of China and the

fermentation industry standard.⁹⁶ All five standards demonstrate that Meihua's corn is not fit for animal feed yet Meihua relies on one factor from one standard to argue that the Department should value its corn using the SV for corn fit for animal feed.⁹⁷

- The Thai Harmonized Tariff Schedule (“HTS”) subheadings for corn are: 1) fit for human consumption; 2) fit for animal feed; and 3) other.⁹⁸ To value Meihua's corn, the Department should use values from one of the following: 1) the HTS subheading for corn fit for human consumption; 2) the HTS subheading for corn other; or 3) a simple average of the value from each of the following three HTS subheading: corn fit for human consumption, corn fit for animal feed, and corn other.⁹⁹
- Meihua's corn satisfies the fit for human consumption standard but fails the fit for animal feed standard.¹⁰⁰ Meihua's corn does not have enough protein to be used as animal feed.¹⁰¹ Based on the Thai animal feed standard, under Thai law, Meihua's corn is not fit for animal feed due to its protein content.¹⁰² Also, in describing the quality of its corn, Meihua stated that its corn is devoid of any mycotoxins, which is another indication that its corn is not animal feed corn.¹⁰³ In addition, the protein content of Meihua's corn also fails the Chinese corn feed standard¹⁰⁴ yet passes the food standard requirements (Chinese human consumption standard) for Chinese corn.¹⁰⁵
- Meihua's argument that its corn is fit for animal feed relies on the test weight/density requirement of the Chinese corn standard but Meihua does not know how density/test weight can bear on quality.¹⁰⁶ Rather, the test weight/density is a measure of the number of corn kernels that can fit into a confined space (usually a liter).¹⁰⁷ Also, density is considered an indication of kernel hardness, which is not an indicator of corn fit for animal feed.¹⁰⁸ In addition, Meihua states that test weight/density matters in rendering corn off-grade within the

Standardization Administration of China (“Chinese human consumption standard”). The Chinese human consumption standard (which is also the Chinese hygienic grain standard) is for the hygienic treatment and maintenance of grains and the scope covers raw grain and products of grain, including cereals, beans and potato, which are for human consumption). After reviewing the Chinese human consumption standard, we also determine that this standard applies to raw grain in finished product form (*i.e.*, the raw grain that is itself intended for human consumption) and not for grain used as an input for further processing in products such as xanthan gum because there already exists a standard for corn/maize used in the starch fermentation industry, which is Maize for starch fermentation industry standard.

⁹⁶ See Petitioner's Case Brief at 23; *see also* Letter from Petitioner, “New Shipper Review for Xanthan Gum from the People's Republic of China: Final Surrogate Value Submission,” dated November 18, 2014 at Exhibit 4, People's Republic of China National Standard, GB/T 8613-1999 Maize for starch fermentation industry, issued by the National Quality & Technology Supervision Bureau approved on November 1, 1999 (“Maize for starch fermentation industry standard”).

⁹⁷ See Petitioner's Case Brief at 23.

⁹⁸ *Id.* at 24.

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 24-25.

¹⁰¹ *Id.* at 25-26.

¹⁰² *Id.* at 27.

¹⁰³ *Id.* at 26.

¹⁰⁴ *Id.* at 28.

¹⁰⁵ *Id.* at 28-29.

¹⁰⁶ *Id.* at 29.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 30.

Chinese corn standard but that it does not matter when it comes to disqualifying the corn as animal feed under the Chinese animal feed standard.¹⁰⁹

- While the Chinese corn standard may be the starting point for evaluating corn, China has also adopted a more specific standard exclusively for animal feed, which is the Chinese corn feed standard.¹¹⁰ Also, the Chinese corn standard lists different standards for corn used for food and corn used for foodstuff.¹¹¹ Contrary to statements by Meihua that the Chinese human consumption standard is an additional regulation with which edible maize must comply, the Chinese human consumption standard is the binding standard used to determine whether corn is fit for human consumption just as Section 5.2.1 of the Chinese corn standard states (edible maize shall comply with GB 2715 (the Chinese human consumption standard)).¹¹²
- If the Department determines that there is not enough evidence to select a single SV to value Meihua's corn FOP, it should use an average of the three Thai HTS subheadings for corn noted above.¹¹³

Meihua's Rebuttal Comments

- Meihua uses the Chinese corn standard to classify its corn. Meihua's corn tests and documents all demonstrate that its corn does not meet the Chinese corn standard (grade numbers 1-5) and thereby is correctly classified as off-grade/overgauge.¹¹⁴ Since Meihua's corn is classified as off-grade using the Chinese corn standard, it cannot be further classified under the Chinese human consumption standard because the grade of corn is not fit for human consumption, but must be further processed or used in a different way, such as for animal feed.¹¹⁵ Also, Petitioner's statement that Meihua's corn meets the Chinese human consumption standard is misleading because Meihua's corn is not tested for the very specific fungi, toxin, residue, and other specific requirements under the Chinese human consumption standard.¹¹⁶
- Petitioner's statements that Meihua's corn does not meet the protein or fat requirements under the Thai animal feed standard and that it does not meet the protein requirement under the Chinese corn feed standard is misleading because Meihua has not reported protein or fat content for its corn.¹¹⁷ Rather, Petitioner derived protein and fat contents for Meihua's corn using faulty estimates based on Meihua's dry basis corn weight and the protein and fat contents reported in an article from the Minnesota Nutrition Conference in 2001 concerning yellow dent corn.¹¹⁸ Also, two of Meihua's suppliers stated that the corn supplied to Meihua was purchased from farmers who use the same corn to feed their livestock.¹¹⁹
- Because Meihua presented evidence that its corn is fit for animal feed and not fit for human consumption, the Department should not base the corn SV on a simple average of the import

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 30-31.

¹¹¹ *Id.* at 31.

¹¹² *Id.*

¹¹³ *Id.* at 32-33.

¹¹⁴ *See* Meihua's Rebuttal Brief at 14.

¹¹⁵ *Id.*

¹¹⁶ *Id.* at 15.

¹¹⁷ *Id.* at 15-16.

¹¹⁸ *Id.* at 16.

¹¹⁹ *Id.*

values for these corn HTS categories, as suggested by Petitioner.¹²⁰ Using an average of these values would result in a less specific SV and a less accurate dumping margin.¹²¹ The Department determined not to average corn SVs in the xanthan gum investigation because it would be a less specific SV for the corn input consumed.¹²²

Department's Position: We determine, for the reasons explained below, that it is appropriate to value Meihua's corn using a weighted average of three import values for corn, namely the value of imports classified as corn fit for human consumption, the value of imports of corn fit for animal feed, and the value of corn imports classified as other (*i.e.*, corn which is not otherwise included in the categories for corn fit for human consumption or corn fit for animal feed). All three of these HTS subheadings are under Thai HTS code 1005.9090.

Both parties rely on various corn standards to support their positions. Meihua argues that the results of corn tests under the Chinese corn standard¹²³ indicate that its corn does not meet the standards required in order to be labeled as a particular grade of corn (the possible grades are grades 1-5) and is therefore classified as off-grade corn. Meihua contends that this off-grade classification means that its corn is not fit for human consumption. Meihua also cites statements from its corn suppliers that the same corn that it purchased was fed to animals by farmers.¹²⁴ Thus, Meihua argues that the Department should rely on the animal feed HTS category to value its corn. In contrast, Petitioner uses Meihua's corn test results to argue that the corn meets the Chinese human consumption standard, but does not meet the Chinese animal feed standard (*i.e.*, the protein and fat content requirements).¹²⁵ Petitioner claims that because Meihua's corn is high quality and meets the human consumption standard, the Department should use the corn fit for human consumption HTS category to value the corn.

As the parties note, the record contains various standards by which to measure and judge corn quality. Absent from the record, however, is clear evidence demonstrating how the various standards interrelate or whether a particular standard controls. We agree with Meihua that the results of the tests of its corn demonstrate that under the Chinese corn standard its corn is off-grade corn because the corn's test weight does not meet the standards for grades 1-5.¹²⁶ Under the Chinese corn standard, the off-grade corn category contains no standard for moldy kernels.¹²⁷

¹²⁰ *Id.* at 17.

¹²¹ *Id.*

¹²² *Id.*

¹²³ See Letter from Meihua, "Re: Xanthan Gum from the People's Republic of China Second Supplemental Questionnaire Response," dated June 10, 2014, at Exhibit S2-9 (corn test report); see also, Letter from Meihua, "Xanthan Gum from the People's Republic of China Third Supplemental Questionnaire Response," dated July 30, 2014, at Exhibit 3-3 (sample tests of several corn purchases in August 2013), and Exhibit 3-4 (corn test report for mycotoxins).

¹²⁴ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Fifth Supplemental Questionnaire Response," dated November 14, 2014, at 5 and Exhibit S5-8, where Meihua provided statements from two of its corn suppliers that the corn which was supplied to Xinjiang Meihua was purchased directly from farmers who also use this same corn to feed their livestock and that this corn cannot be consumed by humans.

¹²⁵ See Petitioner's Case Brief at Exhibit 3, where Petitioner's conducted a corn component analysis of Meihua's corn and by-products from its starch-making facility and, based on these data, determined that Meihua's corn does not have enough protein or fat content to be used as animal feed.

¹²⁶ See Meihua's Rebuttal Brief at 14.

¹²⁷ See Chinese corn standard, where the standard under overgauge/off-grade for unsound kernel percentages, which

In contrast, the Chinese human consumption and Chinese animal feed standards have a limit of no more than 2 percent moldy kernels.¹²⁸ This indicates that because Meihua's corn is off-grade, it cannot be certified or qualified to be tested under the Chinese human consumption or Chinese animal feed standards which have limits for moldy kernels. However, as noted above, the record does not clearly indicate how the various standards interrelate. For example, we acknowledge that the results of Meihua's corn tests, when compared solely to the Chinese human consumption standard, and not to the Chinese corn standard, indicate the corn satisfies the requirements under the Chinese human consumption standard; yet there is no indication that, based on these test results, the corn was certified as meeting the Chinese human consumption standard. Thus, the record presents varying results under the different standards.

Given the different results yielded by these three standards, and because record information does not indicate which standard controls, or clearly explain how the standards interrelate, we find valuing corn using import data under Thai HTS code 1005.9090¹²⁹ (corn fit for human consumption, fit for animal, and other) is appropriate because record evidence does not clearly point to one subcategory under Thai HTS code 1005.9090 as being the best available information with which to value Meihua's corn. Evaluating Meihua's corn test results against the requirements under the Chinese human consumption and animal feed standards appears to show that the corn is fit for human consumption but does not meet certain requirements for animal feed.¹³⁰ Yet record evidence indicates the corn is used for animal feed. In contrast to both of these results, when evaluated under the Chinese corn standard, the record indicates Meihua's corn could not be labeled as meeting a particular corn grade and thus it appears that the corn could not be certified or sold as fit for human consumption or fit for animal feed. While this may point to using the other category under Thai HTS code 1005.9090 to value Meihua's corn, the record has no information as to exactly what types of corn would be imported under the "other" corn Thai HTS category. Moreover, it is not clear that corn which cannot meet the quality requirements under the human consumption or animal feed standards would be classified under the "other" category particularly given the fact that the value of imports under this category are significantly higher than the value of imports under the fit for human consumption and fit for animal feed HTS categories. In addition, we note that no party has argued that we should use only the "other" category, to value Meihua's corn. Given the foregoing we have valued Meihua's corn as noted above.

includes moldy kernels, is listed as "—". The Chinese corn standard then notes that "—" means not required.

¹²⁸ See Chinese corn standard and Chinese human consumption standard.

¹²⁹ See Memorandum from Brandon Farlander, "Antidumping Duty New Shipper Review of Xanthan Gum from the People's Republic of China: Final Analysis Memorandum for Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Bio-Technology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd. (collectively, "Meihua")," dated May 18, 2015, see "corn SV" in the Meihua final SV Sheet Excel file, where the Department added the quantity and value data from the three Thai HTS codes which comprise Thai HTS code 1005.9090, which are Thai HTS codes 1005.9090.001, 1005.9090.002, and 1005.9090.090, and calculated a weighted-average SV for corn based on these three Thai HTS codes, which is the Department's practice when using multiple categories under an HTS code for a SV.

¹³⁰ As noted above, under the Chinese corn standard, because Meihua's corn does not meet the test weight requirement there is no requirement for it to meet the moldy kernel requirement, which is a requirement of the Chinese animal standard. In addition, while we agree with Meihua that its corn was not tested for protein and fat contents, Petitioner's derived estimates of the protein and fat content percentages in Meihua's corn, which are based on Meihua's inputs and by-products, indicate the corn does not meet the Chinese animal feed standard.

Comment 3: Surrogate Financial Statements

Petitioner's Comments

- In the preliminary results, the Department found that Thai Meiji Pharmaceutical Co., Ltd.'s ("Meiji"¹³¹) financial statements were not the best available information on the record for calculating financial ratios because: 1) the record shows that Meiji made other products (*i.e.*, gastrointestinal products and bone and joint medication) and there was no information on the record concerning the inputs and production processes for these products nor was there information regarding the portion of Meiji's products that were manufactured using a fermentation process similar to that of xanthan gum; and 2) Meiji manufacturers products in both powder form (similar to xanthan gum) and capsule, tablet, syrup, and injection form (dissimilar to xanthan gum).¹³²
- Instead, the Department should average data from Meiji and Ajinomoto's financial statements to calculate surrogate financial ratios for the final results.¹³³
- The Department has exercised its discretion to use financial statements of companies that make both comparable and non-comparable merchandise, like Meiji¹³⁴ (*i.e.*, *Wooden Bedroom Furniture 2009*¹³⁵ and *Certain Oil Country Tubular Goods*¹³⁶).
- Record evidence shows that all of Meiji's products are produced using fermentation. Specifically, in Meiji's financial statements it is noted that the company, "initiate{s} fermentation in its manufacturing process."¹³⁷ Also, the end uses for Meiji's products are very similar to Meihua's products and on par with the end-uses of MSG and l-lysine.¹³⁸
- Many of the products sold by Meiji take the form of powder sold in Kraft paper bags almost identical to those used by Meihua for subject merchandise.¹³⁹

¹³¹ Meiji is a producer of certain penicillin-based medicines (penicillin is produced through a bacterial fermentation process) but also makes other products, such as gastrointestinal products and bone and joint medication.

¹³² See Petitioner's Case Brief at 33-34.

¹³³ *Id.* at 34.

¹³⁴ *Id.* at 35-36.

¹³⁵ See *Final Results of Antidumping Duty Administrative and New Shipper Reviews: Wooden Bedroom Furniture from the People's Republic of China*, 74 FR 41374 (August 17, 2009) ("*Wooden Bedroom Furniture 2009*") and accompanying Issues and Decision Memorandum at Comment 14, where the Department used financial statements from a surrogate producer that also made customized furniture interior furnishings, even though this aspect of the company's business might incur costs not incurred in the mass production of wooden furniture.

¹³⁶ See *Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping: Certain Oil Country Tubular Goods from the People's Republic of China*, 75 FR 20335 (April 19, 2010) ("*Certain Oil Country Tubular Goods*") and accompanying Issues and Decision Memorandum at Comment 13, where one company produced "construction equipment or automotive air bag canisters" and another surrogate producer manufactured "bearing rings and agricultural implements."

¹³⁷ See Petitioner's Case Brief at 35-36; see also Letter from Petitioner, "New Shipper Review for Xanthan Gum from the People's Republic of China: Final Surrogate Value Submission," dated November 18, 2014 at Exhibit 2, quote is from a print out from Meiji's website; see also, Letter from Petitioner, "New Shipper Review for Xanthan Gum from the People's Republic of China: Petitioner's Comments on Surrogate Country Selection; Petitioner's Submission of Surrogate Value Information," dated May 7, 2014, at Exhibit 41.

¹³⁸ See Petitioner's Case Brief at 37.

¹³⁹ *Id.* at 38; see also Letter from Petitioner, "New Shipper Review for Xanthan Gum from the People's Republic of China: Final Surrogate Value Submission," dated November 18, 2014 at Exhibit 2, see also, Letter from Petitioner, "New Shipper Review for Xanthan Gum from the People's Republic of China: Petitioner's Comments on Surrogate Country Selection; Petitioner's Submission of Surrogate Value Information," dated May 7, 2014, at Exhibit 41, 6:20-7:20.

Meihua Rebuttal

- Petitioner provided no new information to alter the Department's decision to rely solely on Ajinomoto's financial statements.¹⁴⁰ The cases cited by Petitioner (*i.e.*, *Wooden Bedroom Furniture 2009* and *Certain Oil Country Tubular Goods*) merely allow the Department the discretion to use financial ratios from surrogate companies that manufacture both comparable and non-comparable merchandise, where that is the best information on the record.¹⁴¹ However, the Department has the discretion to exclude such data where it is not the best information available.¹⁴²
- While the Department can use surrogate financial statements that do not exactly mirror the production process of respondent companies, it is certainly the Department's preference to mirror the respondent industry as closely as possible.¹⁴³
- Contrary to Petitioner's claim, the record is unclear as to whether Meiji uses fermentation in all of its manufacturing.¹⁴⁴ Furthermore, the ranges of pharmaceutical products made by Meiji are dissimilar to the food additives made by Meihua.¹⁴⁵ Also dissimilar are the marketing and distribution of Meiji's and Meihua's products.¹⁴⁶
- Meiji's and Meihua's products do not have similar end uses as medical standards for Meiji's products are not synonymous with food additive standards for Meihua's products.¹⁴⁷ Just because medicines and food additives are consumed by humans and animals does not make them similar, because medications are subject to rigorous licensing, testing, safety monitoring, and advertising restrictions.¹⁴⁸

Department's Position: The Department is using Meiji's financial statements as that information is the best available information on the record. In *Wooden Bedroom Furniture 2009* and *Certain Oil Country Tubular Goods*, the Department used financial ratios from surrogate companies that manufactured both comparable and non-comparable merchandise, as that was the best information on the record. However, the statute directs the Department to use the best available information on the record, which in this case, as explained below, is Ajinomoto's financial statements. Ajinomoto is solely a producer of comparable merchandise, namely food additives. Like Meihua, Ajinomoto makes food additives and uses fermentation in its manufacturing process for all of its products. In contrast, Meiji produces pharmaceutical products. Moreover, Petitioner has not cited record evidence to support its conclusion that Meiji uses fermentation for all of its products, nor is there any record evidence indicating the extent of any fermentation it may use. While Petitioner cites Meiji's financial statements indicating that it initiates fermentation in its manufacturing process, there is no mention of whether the fermentation process is used for all products or only some products. Also, Petitioner's video relating to Meiji, in Exhibit 41 of its May 7, 2014, submission at 6:25 to 6:50, states that Meiji initiates fermentation in its manufacturing process but there are no additional details about which products use fermentation or the percentage of products which use fermentation. We note that

¹⁴⁰ See Meihua's Rebuttal Brief at 18.

¹⁴¹ *Id.* at 19.

¹⁴² *Id.* at 18.

¹⁴³ *Id.*

¹⁴⁴ *Id.* at 20.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* at 20-21.

¹⁴⁷ *Id.* at 21.

¹⁴⁸ *Id.*

the Department relied on Ajinomoto's financial statements to calculate financial ratios in the less than fair value investigation of xanthan gum.¹⁴⁹ Additionally, given that we find Ajinomoto's financial statements to be the best available information for calculating surrogate financial ratios, we do not find it appropriate to base the ratios on an average of financial data from both Ajinomoto and Meiji. In light of the above, the Department will continue to rely only on Ajinomoto's financial statements for Meihua's financial ratios as the best available information on the record of this proceeding.¹⁵⁰

Comment 4: Whether Meihua's energy allocation methodology is distortive

Petitioner's Comments

- Meihua used coal and other inputs in its steam workshop to produce steam, electricity, and generate wind (*i.e.*, air used in the xanthan gum fermentation process).¹⁵¹ In Meihua's Section D response, it allocated the upstream steam workshop FOPs to xanthan gum based on the steam consumption allocated to various workshops/production processes rather than the total energy consumption allocated to various workshops/production processes inclusive of steam, electricity, and wind.¹⁵² In the *Xanthan Gum Final Determination*¹⁵³ and *MSG from China* investigations,¹⁵⁴ the Department recognized the distortive nature of allocating inputs used in the production of steam and electricity based on a single type of energy rather than the combined total energy consumption and re-allocated the inputs consumed at the energy-generating workshops.¹⁵⁵ The facts for Meihua are identical to the facts for MSG respondent Tongliao Meihua.¹⁵⁶
- The Department asked Meihua, in multiple supplemental questionnaires, to provide the necessary information to report producer Xinjiang Meihua's energy workshop FOPs based on total energy consumption rather than just steam consumption (to avoid any distortions in the energy FOPs) but Meihua did not provide the requested information.¹⁵⁷ However, the information necessary for reporting in this manner, by restating Meihua's energy production and consumption on an equivalent unit of measure, was readily available to Meihua. Yet in response to Department's supplemental questionnaires, Meihua provided certain energy worksheets in Chinese with no English translation, making the worksheets unusable.¹⁵⁸

¹⁴⁹ See *Xanthan Gum Final Determination*, and accompanying Issues and Decision Memorandum at Comment 2.

¹⁵⁰ See Memorandum from Brandon Farlander and Erin Kearney, International Trade Analysts, "RE: New Shipper Review of Xanthan Gum from the People's Republic of China Preliminary Surrogate Value Memorandum," dated December 18, 2014, at 7-9 (explaining the Department's reasons for using Ajinomoto's financial statements and why they are a better selection than Meihua's statements).

¹⁵¹ See Petitioner's Case Brief at 39.

¹⁵² *Id.*

¹⁵³ See *Xanthan Gum Final Determination*, and accompanying Issues and Decision Memorandum at Comment 9.

¹⁵⁴ See Petitioner's Case Brief at 39, citing *Notice of Final Determination of Sales at Less than Fair Value and the Final Affirmative Determination of Critical Circumstances: Monosodium Glutamate from the People's Republic of China*, 79 FR 58326 (September 22, 2014) ("*MSG from China*"), and accompanying Issues and Decision Memorandum at Comment 3, where Petitioner states that an affiliate of Meihua (*i.e.*, Tongliao Meihua) also failed to provide the necessary information to reallocate the power plant inputs based on total energy consumption rather than the reported allocation basis of just steam consumption and the Department determined that it could not use the distorted upstream power plant FOPs and instead valued Tongliao Meihua's FOPs for steam and electricity.

¹⁵⁵ See Petitioner's Case Brief at 39-40.

¹⁵⁶ *Id.* at 40.

¹⁵⁷ *Id.* at 40-43.

¹⁵⁸ *Id.* at 41-42.

- The Department must now rely on adverse facts available to value Meihua’s energy FOPs.¹⁵⁹ In *Foshan Shunde*¹⁶⁰ and *Honey from Argentina*,¹⁶¹ the Department applied adverse facts available when a translation was missing or inadequate.¹⁶² Because Meihua has not acted to the best of its ability, the Department should use an adverse inference when selecting from among the facts available to value Meihua’s energy FOPs.¹⁶³ Specifically, the Department should use in its calculations, as adverse facts available, the highest monthly FOPs for steam, electricity, and wind.
- In addition, the Department must value Meihua’s wind because it uses wind to generate oxygen for the fermentation process.¹⁶⁴

Meihua’s Rebuttal Comments

- Meihua reported that producer Xinjiang Meihua treats electricity and wind as by-products of steam production and that it reported all of the FOPs used to produce steam, electricity and wind consumed in producing one metric ton of xanthan gum.¹⁶⁵
- Contrary to Petitioner’s allegation, Meihua fully responded to the Department’s steam and energy-related questions.¹⁶⁶ While Meihua provided its monthly consumption and production for the steam workshop, some of the material was not translated.¹⁶⁷ If the Department needed Meihua’s steam data, it could have requested that the information be fully translated. Yet, in subsequent supplemental questionnaires, no additional translations were requested.¹⁶⁸ It would not be appropriate to penalize Meihua given that it responded to all of the Department’s questions.¹⁶⁹
- The cases cited by Petitioner, *Foshan Shunde* and *Honey from Argentina*, do not support resorting to adverse facts available solely based on a translation deficiency.¹⁷⁰ *Foshan Shunde* involved incomplete and omitted information in addition to the translation deficiency.¹⁷¹ Likewise, in *Honey from Argentina*, the missing translation was part of an overall Department finding that the party was withholding information.¹⁷²
- Petitioner has not provided any new information for the Department to change its finding to not value Meihua’s wind input.¹⁷³

Department’s Position: We disagree with Petitioner that Meihua’s energy FOP allocation is distorted. Meihua burns coal which, together with other inputs, produces steam that pushes

¹⁵⁹ *Id.* at 43-44.

¹⁶⁰ See *Foshan Shunde Yongjian Housewares & Hardware Co., Ltd. and Polder, Inc. v. United States and Home Products International, Inc.*, 2011 WL 4829947 (October 12, 2011) (“*Foshan Shunde*”).

¹⁶¹ See *Honey from Argentina: Final Results of Countervailing Duty Administrative Review*, 69 FR 29518 (May 24, 2004) (“*Honey from Argentina*”), and accompanying Issues and Decision Memorandum.

¹⁶² See Petitioner’s Case Brief at 44.

¹⁶³ *Id.*

¹⁶⁴ *Id.* at 45.

¹⁶⁵ See Meihua’s Rebuttal Brief at 24.

¹⁶⁶ *Id.* at 23-24.

¹⁶⁷ *Id.* at 24.

¹⁶⁸ *Id.* at 25.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.* at 26.

¹⁷¹ *Id.*

¹⁷² *Id.* at 27.

¹⁷³ *Id.*

turbines to produce electricity and generate air flow (wind).¹⁷⁴ Meihua explained that it can provide the total consumption of all of the inputs used to produce steam, electricity, and wind but that it cannot provide one output quantity that includes all three types of energy generated in order to allocate those inputs. According to Meihua, it is very difficult to measure all three types of energy in the same unit of measure,¹⁷⁵ such as on a kilowatt hour basis, because they are different forms of energy. Meihua stated that it could not convert electricity or wind to steam or *vice versa*; therefore it allocated coal used to produce all three type of energy based on steam consumption allocated to the various workshops/production processes. Meihua provided a sample energy report for November 2013 showing the volumes of the three types of energy used by each workshop that were traced by the producer and kept by the accounting department. Petitioner has not explained why the methodology used in those records to allocate steam to various workshops/production processes is distortive nor is it clear that this allocation methodology does not take the consumption of other forms of energy, such as electricity, into account.

In the *Xanthan Gum Final Determination*, the respondent, Fufeng, allocated energy inputs based on electricity consumption. The Department found this distortive because: 1) both electricity and steam are main products of the energy generating process and the inputs consumed in their production should be allocated based on total energy consumption; and 2) there was a by-product offset claimed by Fufeng for steam which was consumed at non-subject merchandise production workshops.¹⁷⁶ Thus, the Department revised Fufeng's methodology for allocating energy inputs between xanthan gum and non-subject merchandise by using the total energy consumed (both steam and electricity) at each production workshop, expressed in equivalent units.¹⁷⁷ By allocating the total raw material inputs consumed at the energy-generating workshops to the total steam and electricity output consumed at all workshops (subject and non-subject merchandise), and then allocating a proportionate share of these inputs to xanthan gum, based on the specific consumption of steam and electricity at the xanthan gum workshops, the Department captured only the inputs attributable to the production of xanthan gum in the revised energy FOPs. Therefore, it was not necessary to include an offset for energy consumed at other workshops which produced non-subject merchandise (*i.e.*, it was not necessary to include Fufeng's reported offset for steam consumed at workshops producing non-subject merchandise). In contrast, here we determine that Meihua's reported energy FOPs are not misallocated and because Meihua is not claiming electricity and wind by-product credits, there is no need to adjust the allocation methodology as suggested by Petitioner.

In the *MSG from China* investigation which Petitioner cites, the Department found that the allocation of costs (*i.e.*, inputs) between steam and electricity was flawed and that the costs (inputs) for both steam and electricity production were understated, making the power plant FOPs unreliable without adjustment. Thus, the Department valued steam and electricity rather

¹⁷⁴ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Second Supplemental Questionnaire Response," dated June 10, 2014, at 10.

¹⁷⁵ *Id.* at 10, where Meihua reports that while it can provide all of the FOPs to produce steam, electricity, and wind, it cannot then convert electricity or wind to steam or vice versa to then have all of these energy inputs on the same unit of measure; *see also*, Submission from Meihua, "Xanthan Gum from the People's Republic of China Fourth Supplemental Questionnaire Response," dated October 28, 2014, at 11-12.

¹⁷⁶ See *Xanthan Gum Final Determination*, and accompanying Issues and Decision Memorandum at Comment 9.

¹⁷⁷ *Id.*

than the respondent's submitted upstream energy inputs, which were the inputs/FOPs used to produce the intermediate products electricity and steam.¹⁷⁸ Here, there is no evidence that the energy FOPs are understated. In addition, we find there is no need to apply facts available, such as in *Foshan Shunde* and *Honey from Argentina*, because all necessary information regarding Meihua's FOPs is on the record.

When asked if it was able to report its energy FOPs based on total energy consumption (on an equivalent unit basis) rather than just steam consumption, Meihua reported that, based on its records, it was not able to report energy FOPs on an equivalent unit basis.¹⁷⁹ After examining Meihua's energy FOPs, we determine that the reported energy FOPs are not distorted because Meihua withdrew its request for by-product credits for the electricity and wind that it produced in addition to steam.¹⁸⁰ Thus, we did not grant Meihua a by-product credit for its electricity and wind production. Because we are including in NV the amount of coal that Meihua consumed in producing steam, electricity and wind associated with xanthan gum production, there is no need to separately value electricity or wind consumption by various workshops/production processes used for xanthan gum or provide any by-product credits for electricity or wind. Creating an equivalent unit energy basis from Meihua's monthly steam workshop consumption and production data is not necessary because, as explained above, we do not find Meihua's energy FOPs misallocated or otherwise distorted by virtue of energy by-product credits, as was the case in the underlying investigation. Also, there is no evidence that Meihua's reported energy FOPs, such as coal, which was used to produce the electricity, steam, and wind, are distorted or inaccurate. In addition, the Department determines that Meihua acted to the best of its ability in reporting its energy FOPs because all energy FOPs to produce xanthan gum were reported in its FOP database.

Finally, the Department disagrees with Petitioner that Meihua's wind¹⁸¹ FOP should be valued as an input in Meihua's NV. As noted above, the wind is from steam, which was generated by burning coal. Meihua reported its coal and other energy FOPs and these energy FOPs were valued by the Department in Meihua's NV; hence it is not necessary to value wind as an intermediate input because the energy FOPs used to make the wind have been valued and are already included in normal value. Therefore, the Department continues to use Meihua's reported energy FOPs, such as coal, and has not based these FOPs on adverse facts available.

¹⁷⁸ See *MSG from China* and accompanying Issues and Decision Memorandum at Comment 3.

¹⁷⁹ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Second Supplemental Questionnaire Response," dated June 10, 2014, at 10; see also, Submission from Meihua, "Xanthan Gum from the People's Republic of China Fourth Supplemental Questionnaire Response," dated October 28, 2014, at 11-12.

¹⁸⁰ See Letter from Meihua, "Xanthan Gum from the People's Republic of China Second Supplemental Questionnaire Response," dated June 10, 2014, at 10-11.

¹⁸¹ *Id.* at 10, where Meihua reports that the wind is used to generate oxygen during the xanthan gum making/fermentation process.

RECOMMENDATION:

Based on our analysis of the comments received, we recommend adopting all of the above positions. If accepted, we will publish the final results of this new shipper review and the final dumping margins in the *Federal Register*.

Agree Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

18 MAY 2015
Date