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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

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

SUBJECT: Decision Memorandum for the Preliminary Results of the 2011-
2012 Antidumping Duty Administrative Review: Chlorinated
Isocyanurates from the People's Republic of China

SUMMARY

In response to requests from interested parties, the Department of Commerce (Department) is conducting an administrative review of the antidumping (AD) duty order on chlorinated isocyanurates (chlorinated isos) from the People's Republic of China (PRC) covering the period of review (POR) of June 1, 2011, through May 31, 2012. This review covers six producers/exporters: 1) Arch Chemicals (China) Co. Ltd. (Arch China); 2) Hebei Jiheng Chemical Co., Ltd. and Hebei Jiheng Baikang Chemical Industry Co., Ltd. (collectively, Jiheng); 3) Heze Huayi Chemical Co. Ltd. (Heze); 4) Juancheng Kangtai Chemical Co., Ltd. and Juancheng Ouya Chemical Co., Ltd. (collectively, Kangtai); 5) Sinoacarbon International Trading Co., Ltd. (Sinoacarbon); and 6) Zhucheng Taisheng Chemical Co., Ltd. (Zhucheng). The Department preliminarily finds that the two mandatory respondents, Jiheng and Kangtai, sold subject merchandise to the United States at prices below normal value (NV).

If these preliminary results are adopted in our final results of review, the Department will instruct U.S. Customs and Border Protection (CBP) to assess AD duties on all appropriate entries of subject merchandise during the POR. In addition to the two mandatory respondents, the Department preliminarily grants a separate rate to Arch China, Sinoacarbon and Zhucheng, all of which demonstrated eligibility for separate rate status. The rates assigned to each of these companies can be found in the "Preliminary Results of Review" section of the accompanying preliminary results Federal Register notice. The Department also preliminarily determines that Heze made no shipments.

Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).



BACKGROUND

On July 31, 2012, the Department initiated the administrative review of the AD order on chlorinated isos from the PRC covering the period June 1, 2011, through May 31, 2012.¹ Between August 21 and September 28, 2012, Jiheng, Kangtai, Sinoacarbon, and Zhucheng each submitted either a separate rate application or certification, as appropriate.² Due to the large number of review requests received, the Department limited the number of mandatory respondents selected for individual examination to the two largest exporters/producers, based on export volume as reported to CBP, for which a review was requested – Jiheng and Kangtai.³

On September 19, 2012, the Department issued its AD questionnaire to Jiheng and Kangtai, to which both companies responded in a timely manner. On November 8, 2012, Clearon Corporation and Occidental Chemical Corporation (Petitioners) requested that the Department conduct a verification of Jiheng and Kangtai. On February 8, 2013, and February 22, 2013, Petitioners submitted deficiency comments regarding Kangtai's and Jiheng's section A, C and D questionnaire responses. The Department issued supplemental questionnaires to Jiheng and Kangtai on March 15, 2013, and both respondents submitted responses in a timely manner.

On January 24, 2013, the Department extended the time limit for the preliminary results of review from March 4, 2013, until July 2, 2013.⁴

On September 14, 2012, Arch China certified that it had no sales, shipments, or entries of the subject merchandise during the POR and requested that the Department rescind its review. However, on January 9, 2013, Arch China withdrew its no shipment certification and request to rescind its review. The Department granted Arch China additional time to file a separate rate application or certification for the reasons discussed below. Arch China timely submitted its separate rate certification on June 3, 2013.⁵ Heze submitted a no shipment certification for the POR on September 18, 2012.

On February 7, 2013, the Department placed the Surrogate Country List on the record and solicited interested parties to submit comments regarding the selection of the surrogate country

¹ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocations in Part, 77 FR 45338 (July 31, 2012) (Initiation Notice).

² See Letter from Jiheng, "Chlorinated Isocyanurates from China (Seventh Administrative Review) - Hebei Jiheng Chemical Co., Ltd. Separate Rate Application," September 28, 2012; Letter from Kangtai, "Certain Chlorinated Isocyanurates from the People's Republic of China Separate Rate Certification," September 18, 2012; Letter from Sinoacarbon, "Chlorinated Isocyanurates From the People's Republic of China: Separate Rate Application - Sinoacarbon International Trading Co., Ltd.," August 21, 2012 (collectively, Separate Rate Applications and Certification).

³ See Memorandum, "Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Selection of Respondents for Individual Examination," dated September 17, 2012 (Respondent Selection Memorandum).

⁴ See Memorandum, "Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," January 24, 2013.

⁵ See Letter from Arch China, "Chlorinated Isocyanurates from China (Seventh Administrative Review) – Arch Chemicals (China) Co., Ltd. – Separate Rate Certification Response," June 3, 2013 (Arch China SRC).

as well as provide surrogate value (SV) data.⁶ Petitioners, Jiheng and Kangtai placed information on the record regarding the selection of SVs on March 15, 2013. Subsequently, Petitioners timely filed rebuttal comments on Jiheng's and Kangtai's SV comments on March 29, 2013.

SCOPE OF THE ORDER

The products covered by the order are chlorinated isocyanurates, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) trichloroisocyanuric acid ($\text{Cl}_3(\text{NCO})_3$), (2) sodium dichloroisocyanurate (dihydrate) ($\text{NaCl}_2(\text{NCO})_3(2\text{H}_2\text{O})$), and (3) sodium dichloroisocyanurate (anhydrous) ($\text{NaCl}_2(\text{NCO})_3$). Chlorinated isos are available in powder, granular, and tableted forms. The order covers all chlorinated isos. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isos and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country Status

In every AD case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (NME) country.⁷ In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Preliminary Determination of No Shipments

Heze timely filed a certification indicating that it did not have any exports of subject merchandise during the POR.⁸ On October 12, 2012, the Department transmitted a "no shipment" inquiry to CBP for Heze. CBP did not respond to this "no shipment" inquiry with any evidence that is contradictory to Heze's claim of no shipments. Based on the certification filed by Heze and our analysis of the CBP information, we preliminarily determine that Heze did not have any reviewable transactions during the POR. In addition, the Department finds

⁶ See Letter to All Interested Parties regarding "2011-2012 Antidumping Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China," dated February 7, 2013 (Surrogate Country List).

⁷ See, e.g., Fresh Garlic From the People's Republic of China: Preliminary Results of the 2009-2010 Antidumping Duty Administrative Review, 76 FR 76375 (December 7, 2011), unchanged in 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).

⁸ See Letter from Heze, "Chlorinated Isocyanurates from the People's Republic of China: No Sales Certification," September 18, 2012.

that, consistent with its recently announced refinement to its assessment practice in NME cases, it is appropriate not to rescind the review, in part, in these circumstances but, rather, to complete the review with respect to Heze and issue appropriate instructions to CBP based on the final results of the review.⁹

Arch China also timely filed a no shipment certification, but subsequently withdrew its certification.¹⁰ Because it was not determined until after the original deadline for the submission of separate rate applications or certifications that Arch China had a few entries during the POR, we permitted Arch China additional time to file a separate rate application or certification.¹¹ The Department does not generally permit the late submission of separate rate applications or certifications. However, under the specific factual circumstances in this case, in particular the fact that the volume of each entry was so small, the Department believes that it was appropriate to provide Arch China with an additional opportunity to submit a separate rate application or certification. Arch China timely submitted its separate rate certification on June 3, 2013.¹²

Separate Rates

Designation of a country as an NME remains in effect until it is revoked by the Department.¹³ Accordingly, in proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single AD duty rate.¹⁴ It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to its exports. To establish whether a company is sufficiently independent to be eligible for a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers¹⁵ and further clarified in Silicon Carbide.¹⁶ However, if the Department determines that a company is wholly foreign-owned or located in a market economy (ME), then a separate-rate analysis is not necessary to determine whether it is independent from government control.

⁹ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

¹⁰ See Letter from Arch China, "Chlorinated Isocyanurates from China (Seventh Administrative Review) – Arch Chemicals (China), Ltd. Withdrawal of Request for Rescission of Review," January 9, 2013.

¹¹ See Letter to Arch China, "2011-2012 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China," May 24, 2013.

¹² See Arch China SRC.

¹³ See section 771(18)(C)(i) of the Act.

¹⁴ See, e.g., Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 75 FR 24892, 24899 (May 6, 2010), unchanged in Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 59217 (September 27, 2010).

¹⁵ See Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers).

¹⁶ See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (Silicon Carbide).

In order to demonstrate separate rate status eligibility, the Department normally requires entities, for whom a review was requested, and who were assigned a separate rate in a previous segment of this proceeding, to submit a separate-rate certification stating that they continue to meet the criteria for obtaining a separate rate.¹⁷ For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility, the Department requires a separate-rate application.¹⁸

In this review, Arch China, Jiheng, Kangtai, Sinoacarbon and Zhucheng certified their eligibility for separate rate status through a separate rate certification or application. Arch China's separate rate certification provided evidence that it is wholly owned by individuals or companies located in an ME. Therefore, because it is wholly foreign-owned, and the Department has no evidence indicating that it is under the control of the PRC, a separate rate analysis is not necessary to determine that Arch China is independent from the PRC. Accordingly, the Department has preliminarily granted Arch China a separate rate. Jiheng, Kangtai, Sinoacarbon and Zhucheng reported that they are either a joint venture between Chinese and foreign companies or a wholly Chinese-owned company. Therefore, the Department must analyze whether each company can demonstrate the absence of both de jure and de facto government control over export activities.

A. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.¹⁹

The evidence Jiheng, Kangtai, Sinoacarbon and Zhucheng provided in their separate rate certifications and separate rate applications supports a preliminary finding of absence of de jure government control based on the following factors: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) applicable legislative enactments decentralizing control of the companies; and (3) formal measures by the government decentralizing control of PRC companies.²⁰

B. Absence of De Facto Control

As stated in previous cases, there is evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC.²¹ Therefore, the Department has determined that an analysis of de facto control is critical in determining whether Jiheng, Kangtai, Sinoacarbon, and Zhucheng are, in fact, subject to a degree of government control over export activities which would preclude the Department from assigning separate rates.

¹⁷ See Initiation Notice, 76 FR at 82269.

¹⁸ Id.

¹⁹ See Sparklers.

²⁰ See Separate Rate Applications and Certification.

²¹ See, e.g., Silicon Carbide, 59 FR at 22586-87.

The Department considers four factors in evaluating whether each respondent is subject to de facto government control of its export functions: (1) whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.²²

The evidence Kangtai and Zhucheng provided in their separate rate certifications, and the evidence Jiheng and Sinoacarbon provided in their separate rate applications,²³ supports a preliminary finding of absence of de facto government control based on the following factors: (1) an absence of restrictive government control on export prices; (2) a showing of authority to negotiate and sign contracts and other agreements; (3) a showing that Jiheng, Kangtai, Sinoacarbon, and Zhucheng maintain autonomy from the government in making decisions regarding the selection of management; and (4) a showing that Jiheng, Kangtai, Sinoacarbon, and Zhucheng retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

Ultimately, the evidence placed on the record of this administrative review by Jiheng, Kangtai, Sinoacarbon, and Zhucheng demonstrates an absence of de jure and de facto government control, in accordance with the criteria identified in Sparklers and Silicon Carbide. Therefore, the Department has preliminarily granted Jiheng, Kangtai, Sinoacarbon, and Zhucheng a separate rate.

Separate Rate for Non-Selected Companies

In accordance with section 777A(c)(2)(B) of the Act, the Department employed a limited examination methodology, as it did not have the resources to examine all companies for which a review request was made. We selected Jiheng and Kangtai as the mandatory respondents in this review.²⁴ As discussed above, Sinoacarbon and Zhucheng are exporters of subject merchandise from the PRC that have demonstrated their eligibility for a separate rate but which were not selected for individual examination in this review. The statute and the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not selected for individual examination where the Department limited its examination in a review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate using any zero or de minimis margins or any margins based entirely on facts available. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero rates, de minimis rates, or rates based entirely on facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents. In this instance, we have calculated rates above de minimis for both Jiheng and Kangtai.

²² Id.; see also Sparklers, 56 FR at 20589; Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).

²³ See Separate Rate Applications and Certification.

²⁴ See Respondent Selection Memorandum.

Accordingly, for the preliminary results, consistent with the Department's practice, the Department has preliminarily determined that the margin to be assigned to the separate rate recipients should be a simple average of the two margins calculated for mandatory respondents Jiheng and Kangtai.²⁵

Surrogate Country

A. Level of Economic Development

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOP), valued in a surrogate ME country, or countries, considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are (a) at a level of economic development comparable to that of the NME country and (b) significant producers of comparable merchandise. Moreover, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data from the countries.²⁶

Pursuant to section 773(c)(4) of the Act, the Department determined that Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are countries comparable to the PRC in terms of economic development.²⁷ Section 773(c)(4)(A) of the Act is silent with respect to how the Department may determine that a country is economically comparable to the NME country. As such, the Department's long standing practice has been to identify those countries which are at a level of economic development similar to the PRC in terms of per capita gross national income (GNI) data available in the World Development Report provided by the World Bank.²⁸ The Department is satisfied that they are equally comparable in terms of economic development and serve as an adequate group to consider when gathering SV data.

Furthermore, providing parties with a range of countries with varying GNIs is reasonable given that any alternative would require a complicated analysis of factors affecting the relative GNI differences between the PRC and other countries, which is not required by the statute. In contrast, by identifying countries that are economically comparable to the PRC based on GNI, the Department provides parties with a predictable practice which is reasonable and consistent with the statutory requirements. We note that identifying potential surrogate countries based on GNI data has been affirmed by the U.S. Court of International Trade (CIT).²⁹ As the Department's policy is to consider all countries on the Surrogate Country List to be equally comparable economically to the PRC, we did not use GNI alone as the rationale for selecting

²⁵ See Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (October 18, 2011).

²⁶ See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin).

²⁷ See Surrogate Country List.

²⁸ See, e.g., Pure Magnesium from the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order, 75 FR 80791 (December 23, 2010) and accompanying Issues and Decision Memorandum at Comment 4.

²⁹ See Fujian Lianfu Forestry Co., Ltd. v. United States, 638 F. Supp. 2d 1325 (CIT 2009).

among these six countries. Instead, as further discussed below, we evaluated which of these countries is also a significant producer of comparable merchandise and has reliable data.

Kangtai suggested that India be used as the surrogate country in this review.³⁰ The Department has previously determined that India is less economically comparable to the PRC than the six identified countries.³¹ Consequently, we will not consider India as an appropriate surrogate country because the Department finds that one of the countries from the Surrogate Country List meets the selection criteria, as explained below.

B. Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."³² Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.³³ Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.³⁴ "In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced. How the Department does this depends on the subject merchandise."³⁵ In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.³⁶

³⁰ See Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China Surrogate Values for Preliminary Determination," March 15, 2013.

³¹ See Hand Trucks and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Administrative Review, 77 FR 1464, 1466 (January 10, 2012), unchanged in Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 41744 (July 16, 2012).

³² See Policy Bulletin at 2.

³³ The Policy Bulletin also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." See *id.* at note 6.

³⁴ See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

³⁵ See Policy Bulletin at 2.

³⁶ See *id.* at 3.

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.³⁷ Moreover, while the legislative history provides that the term “significant producer” includes any country that is a significant “net exporter,”³⁸ it does not preclude reliance on additional or alternative metrics. In this case, the Department finds that sodium hypochlorite is comparable to subject merchandise because, as previously determined, in prior segments of this proceeding, it has similar physical characteristics and end uses, and a similar production process, as the subject merchandise.³⁹

The Department has production data on sodium hypochlorite, indicating that the Philippines is a significant producer of sodium hypochlorite.⁴⁰ The Department, therefore, finds that the Philippines is a significant producer of comparable merchandise. There is no other information on the record indicating that the other countries on the Surrogate Country List are significant producers of comparable merchandise. Jiheng placed data on the record indicating that Thailand has exports of comparable merchandise under HTS 2828.90 and 2828.10, the HTS for comparable merchandise calcium hypochlorite and sodium hypochlorite, respectively, and argued it should therefore be considered as a significant producer of comparable merchandise.

C. Data Availability

When evaluating SV data, the Department considers several factors including whether the SVs are publicly available, contemporaneous with the POR, represent a broad-market average, from an approved surrogate country, tax and duty-exclusive, and specific to the inputs. There is no hierarchy among these criteria. It is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.⁴¹ The SV data submitted by interested parties only contains usable financial statements for one country identified in the Surrogate Country List, the Philippines. Although Jiheng argued that financial statements from Thailand may be usable, the Department finds that none of the Thai financial statements are sufficient to calculate financial ratios. The Thai financial statements indicate that the companies either received subsidies under programs the Department has previously found to be countervailable, or the financial statements did not include sufficient details (*i.e.*, line items for selling, general and administrative expenses (SG&A) or cost of goods sold) that are necessary to calculate the financial ratios.⁴² In this case, because there is either no data on the record for any FOP or usable surrogate financial statements for Colombia, Costa Rica, Indonesia,

³⁷ See section 773(c) of the Act; see also Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

³⁸ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576 (1988), at 590.

³⁹ See Chlorinated Isocyanurates From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011, 78 FR 4386 (January 22, 2013) (2010-2011 Final Results) and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁰ See Letter from Petitioner, “Chlorinated Isocyanurates from the People’s Republic of China (7th Antidumping Administrative Review): Petitioners’ Comments on Surrogate Country Selection,” March 1, 2013; see also 2010-2011 Final Results and accompanying Issues and Decision Memorandum at Comment 1 (where the Department explained that we found “that sodium hypochlorite is comparable to the subject merchandise because it has similar physical characteristics and end uses, and a similar production process, as the subject merchandise”).

⁴¹ See Policy Bulletin.

⁴² See Letter from Jiheng, “Chlorinated Isocyanurates from China (Seventh Administrative Review) – Hebei Jiheng Chemical Co., Ltd. Pre-Preliminary Surrogate Value Information,” March 15, 2013, at attachment 9-11.

South Africa, and Thailand, these countries will not be considered for primary surrogate country selection purposes at this time.

With Colombia, Costa Rica, Indonesia, South Africa, and Thailand disqualified, the Department is left with the Philippines as a potential surrogate country. The Department finds the Philippines to be a reliable source for SVs because the Philippines is at a comparable level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data, especially for important inputs. Given the above facts, the Department has selected the Philippines as the primary surrogate country for this review. A detailed explanation of the SVs is provided below in the “Normal Value” section of this notice.

Date of Sale

Pursuant to 19 CFR 351.401(i), the Department starts with a presumption that invoice date is the correct date of sale unless record evidence indicates that the material terms of sale such as price and quantity are established on another date. Jiheng and Kangtai reported that the date of sale should be the invoice date because the material terms of the sale are fixed at invoice date.⁴³ In this case, as the Department found no evidence contrary to Jiheng’s and Kangtai’s claims that the invoice date was the appropriate date of sale, the Department has used invoice date as the date of sale for these preliminary results in accordance with 19 CFR 351.401(i).⁴⁴ Evidence on the record also demonstrates that, with respect to Jiheng’s sales to the United States, for some sales the shipment date occurs prior to the invoice date.⁴⁵ In such cases, we limit the date of sale to no later than shipment date.⁴⁶

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average export price (EP) or constructed export price (CEP) (the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to compare weighted-average NVs to the EPs or CEPs of individual transactions (the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department’s examination of this question in the context of

⁴³ See Letter from Jiheng, “Chlorinated Isocyanurates from China (Seventh Administrative Review) - Hebei Jiheng Chemical Co., Ltd. Response to Section C & D,” November 26, 2012 (Jiheng Section C and D response), at 12; see also Letter from Kangtai, “Certain Chlorinated Isocyanurates from the People’s Republic of China Section C and D Questionnaire Response,” November 21, 2012 (Kangtai Section C and D response), at 9.

⁴⁴ See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

⁴⁵ See Jiheng’s November 29, 2011 questionnaire response at 13.

⁴⁶ See, e.g., Narrow Woven Ribbons with Woven Selvedge from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 75 FR 7244, 7251 (February 18, 2010), unchanged in Narrow Woven Ribbons With Woven Selvedge From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 41808 (July 19, 2010).

administrative reviews, the Department finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.⁴⁷ In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.⁴⁸ The Department finds the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs or CEPs for comparable merchandise that differs significantly among purchasers, regions, or time periods.⁴⁹ If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer code for both Jiheng and Kangtai. Regions are defined using the reported destination code (i.e., zip codes) for both Jiheng and Kangtai, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the

⁴⁷ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011, 77 FR 73415 (December 10, 2012).

⁴⁸ See Memoranda to Paul Piquado, “Less Than Fair Value Investigation of Xanthan Gum from Austria: Post-Preliminary Analysis and Calculation Memorandum”, “Less Than Fair Value Investigation of Xanthan Gum from the People’s Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., T Jd.) and Shandong Fufeng Fermentation Co., Ltd.,” and “Less Than Fair Value Investigation of Xanthan Gum from the People’s Republic of China: Post-Preliminary Analysis and Calculation Memorandum for Deosen Biochemical Ltd.,” all dated March 4, 2013.

⁴⁹ As noted above, differential pricing was used in recent investigations. It was also used in the recent AD administrative review of polyester staple fiber from Taiwan. See Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 17637 (March 22, 2013) and accompanying Decision Memorandum.

Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold. Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly, such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted average dumping margin as compared to that resulting from the use of the A-A method. If the difference between the two calculations is meaningful, this demonstrates that the A-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted average dumping margin between the A-A method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

Results of the Differential Pricing Analysis

For Jiheng, based on the results of the differential pricing analysis, the Department finds that the value of U.S. sales passing the Cohen's *d* test is insignificant (*i.e.*, below 33 percent) such that we should not consider applying an alternative comparison method to calculate the weighted-

average dumping margin for Jiheng.⁵⁰ Accordingly, the Department has determined to use the A-A method in making comparisons of EP or CEP and NV for Jiheng.

For Kangtai, based on the results of the differential pricing analysis, the Department finds that the value of U.S. sales passing the Cohen's *d* test is substantial (*i.e.*, between 33 percent and 66 percent) such that we should consider as an alternative comparison method applying the average-to-transaction method to a portion of U.S. sales.⁵¹ However, the Department determines that the A-A method can appropriately account for such differences for Kangtai because there is no meaningful difference between the weighted-average dumping margin calculated using the A-A method and when using the alternative comparison method.⁵² Accordingly, the Department has determined to use the A-A method in making comparisons of EP or CEP and NV for Kangtai.⁵³

Fair Value Comparisons

To determine whether the respondent's sales of subject merchandise were made at less than NV, we compared the NV to individual EP transactions in accordance with section 777A(d)(2) of the Act as explained in the "Export Price" and "Normal Value" sections below. To determine whether sales of subject merchandise were made at less than NV, the Department compared the EP transactions in accordance with section 777A(d)(2) of the Act as explained in the "Export Price" and "Normal Value" sections below. In these preliminary results, the Department applied the average-to-average comparison methodology adopted in the Final Modification for Reviews. In particular, the Department compared monthly, weighted-average EPs with monthly, weighted-average NVs, and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

Export Price

In accordance with section 772(a) of the Act, EP is "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. For the respondents, we applied the EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States.

⁵⁰ See Memorandum to the File, "Analysis for the Preliminary Results of the 2011-2012 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Company Ltd.," July 2, 2013 (Jiheng Analysis Memorandum).

⁵¹ See Memorandum to the File, "Analysis for the Preliminary Results of the 2011-2012 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Juancheng Kangtai Chemical Co., Ltd.," July 2, 2013 (Kangtai Analysis Memorandum).

⁵² See Jiheng Analysis Memorandum, *see also* Kangtai Analysis Memorandum.

⁵³ In these preliminary results for Jiheng and Kangtai, the Department applied the weighted-average dumping margin calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) (Final Modification for Reviews). In particular, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

We calculated EPs for Jiheng and Kangtai based on the prices to their unaffiliated purchasers in the United States. To this price, we added amounts for components that were supplied free of charge (Jiheng and Kangtai) or for which the respondent was separately reimbursed by the customer (Jiheng), where applicable, pursuant to section 772(c)(1)(A) of the Act and consistent with our treatment of Jiheng's sales in prior reviews. For free raw materials and packing materials, we added the SVs for these materials, multiplied by the reported FOPs for these items, to the U.S. price paid by Jiheng's or Kangtai's customer. The reimbursed raw materials were always listed separately on sales invoices, and were not included in the U.S. prices reported by Jiheng. Since these reimbursed items were raw materials, we added the amount paid by the U.S. customer for these materials to the U.S. price. In accordance with section 772(c) of the Act, where appropriate, we deducted from the starting prices to the unaffiliated purchasers, the expenses for: foreign inland freight; international freight; brokerage and handling; marine insurance; and U.S. customs duties.⁵⁴ For the expenses that were either provided by an NME vendor or paid for using an NME currency, we used SVs, as appropriate.⁵⁵

Normal Value

A. Methodology

Section 773(c)(1) of the Act provides that, in an NME proceeding, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs in NMEs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include: (1) hours of labor required; (2) quantities of raw materials consumed; (3) amounts of energy and other utilities consumed; (4) representative capital costs; and (5) transportation costs. We used the FOPs reported by the respondent for materials, energy, labor, by-products, packing and freight. These reported FOPs included FOPs for various materials provided free of charge or reimbursed by the customer as discussed in the "Export Price" section, above.

B. Factor Valuations

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value the FOPs. However, when a producer sources an input from an ME country and pays for it in an ME currency, the Department may value the FOP using the actual price paid for the input. In this case, Jiheng reported incurring ME inputs for international freight expenses, including ocean freight and brokerage and handling, for certain of its sales of subject merchandise to the United States. Kangtai also reported incurring ME input for ocean freight.⁵⁶

⁵⁴ See Jiheng Analysis Memorandum; see also Kangtai Analysis Memorandum.

⁵⁵ See the "Factor Valuations" section below for details regarding the SVs for movement expenses.

⁵⁶ See Jiheng Section C and D response at D-12; Kangtai Section C and D response at C-19.

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Jiheng and Kangtai for the POR. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available Philippine SVs. In selecting the SVs, we selected, where possible, publicly available data, which represent an average non-export value and are contemporaneous with the POR, product-specific, and tax-exclusive. As appropriate, we adjusted input prices by including freight costs to render them delivered prices. Specifically, we added to the import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit in Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997).⁵⁷

Except as noted below, we valued raw material inputs using the weighted-average unit import values as reported by the Philippines National Statistics Office in the Global Trade Atlas (GTA).⁵⁸ We have disregarded prices that we have reason to believe or suspect may be subsidized, such as those imports from India, Indonesia, South Korea, and Thailand.⁵⁹ Additionally, we disregarded prices from NME countries.⁶⁰ Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies. Where we could not obtain publicly available information contemporaneous with the POR with which to value FOPs, we adjusted the SVs using, where appropriate, the Philippines Consumer Price Index as published in the International Financial Statistics of the International Monetary Fund.⁶¹ We further adjusted these prices to account for freight expenses incurred between the input supplier and respondent.

Reimbursed and Free of Charge Raw Materials

As noted above, Jiheng and Kangtai reported that a U.S. customer(s) provided certain raw materials and packing materials free of charge.⁶² Raw materials and packing materials that are provided free of charge to a respondent by its customer and materials for which a respondent is separately reimbursed by its customer are part of the cost of manufacturing, and must be

⁵⁷ For a detailed description of all SVs used for Jiheng and Kangtai, see Memorandum to the File, “2011-2012 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People’s Republic of China: Preliminary Results Surrogate Value Memorandum,” dated concurrently with this notice (Preliminary Surrogate Value Memorandum).

⁵⁸ See Preliminary Surrogate Value Memorandum

⁵⁹ We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. We are also guided by the statute’s legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized. Rather, the Department bases its decision on information that is available to it at the time it is making its determination. Therefore, we have not used prices from these countries in calculating the Philippine import-based SVs.

⁶⁰ See, e.g., Frontseating Service Valves from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, and Postponement of Final Determination, 73 FR 62952, 62957 (October 22, 2008), unchanged in Frontseating Service Valves From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances, 74 FR 10886 (March 13, 2009); and China National Machinery Import & Export Corporation v. United States, 293 F. Supp. 2d 1334, 1339 (CIT 2003), affirmed 104 Fed. Appx. 183 (Fed. Cir. 2004).

⁶¹ A wholesale price index was not available for the Philippines.

⁶² See Jiheng Section C and D response at D-11; Kangtai Section C and D response at D-6.

included when calculating NV. Thus, for Jiheng's and Kangtai's products that included raw materials and packing materials provided free of charge, consistent with the Department's practice and section 773(c)(1)(B) of the Act, we used the built-up cost (*i.e.*, the SV for these raw materials and packing materials multiplied by the reported FOPs for these items) in the NV calculation.⁶³ We also added the built-up costs for the raw materials for which Jiheng was reimbursed by a U.S. customer to NV. Where applicable, we also adjusted these values to account for freight expenses incurred between the nearest port of entry and Jiheng's plants.⁶⁴

Water

Because water was used by the respondents in the production of chlorinated isos, the Department considers water to be a direct material input rather than part of overhead. We valued water using data from the "Doing Business in Camarines a Sur" publication with rates effective in the beginning of 2009.⁶⁵

By-products

Jiheng reported chlorine, hydrogen gas, ammonia gas, and sulfuric acid as by-products in the production of subject merchandise.⁶⁶ Consistent with the previous review, the Department finds that ammonia gas and sulfuric acid are used to produce a downstream by-product, ammonium sulfate. The Department considers ammonium sulfate to be the appropriate by-product to be used in offsetting Jiheng's sales.⁶⁷ We find in this administrative review that Jiheng has appropriately explained how by-products are produced during the manufacture of chlorinated isos and has appropriately supported its claim that a by-product offset to NV should be granted.⁶⁸ We valued ammonium sulfate, hydrogen gas and chlorine using the GTA. Since ammonium sulfate is a downstream by-product, we deducted the build-up costs used to produce the by-product (*i.e.*, labor, electricity).

Kangtai reported ammonium sulfate as a by-product in the production of subject merchandise.⁶⁹ We find in this administrative review that Kangtai has appropriately explained how by-products are produced during the manufacture of chlorinated isos and has appropriately supported its claim that a by-product offset to NV should be granted.⁷⁰ We valued the by-products using the GTA.

⁶³ See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, and accompanying Issues and Decision Memorandum at Comment 17.

⁶⁴ See Preliminary Surrogate Value Memorandum.

⁶⁵ See Preliminary Surrogate Value Memorandum.

⁶⁶ See Jiheng Section C and D response at D-28.

⁶⁷ See 2010-2011 Final Results and accompanying Issues and Decision Memorandum at Comment 14.

⁶⁸ See Jiheng Section C and D response at D-11.

⁶⁹ See Kangtai Section C and D response at D-17.

⁷⁰ See Kangtai Section C and D response at exhibit 9 and exhibit 10.

Electricity

For electricity, we used data from the “Doing Business in Camarines a Sur” report.⁷¹ The report included industrial rates (in PHP/KwH) for two locations in the Philippines, which the Department averaged to calculate a contemporaneous rate.

Truck Freight

We valued truck freight using data from the Confederation of Truckers Association of the Philippines, Inc., which includes the costs associated with transporting containers from Manila South Harbor to 92 locations in the Philippines in 2011. We calculated an average contemporaneous truck freight rate (using a 40 foot container).⁷²

Labor

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.⁷³ In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A of the Yearbook of Labor Statistics (Yearbook).

The Department valued labor in this review using the methodology described in Labor Methodologies. Specifically, to value the respondents’ labor, the Department relied on data reported by the Philippines to the International Labor Organization (ILO) in Chapter 6A of the Yearbook. The Department further finds the two-digit description under ISIC-Revision 3 (Manufacture of Chemicals and Chemical Products) to be the best available information on the record because it is specific to the industry being examined, and is therefore derived from industries that produce comparable merchandise. This is the same classification used in the prior review of this case.⁷⁴ Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using labor data reported by the Philippines to the ILO under Sub-Classification 24 of the ISIC-Revision 3 standard, in accordance with section 773(c)(4) of the Act. Because these rates were in effect before the POR, we are adjusting the average value for inflation.⁷⁵

As stated above, the Department used the Philippines ILO data reported under Chapter 6A of the Yearbook, which reflects all costs related to labor, including wages, benefits, housing, training, etc. Because the financial statements used to calculate the surrogate financial ratios include itemized detail of indirect labor costs, the Department made adjustments to the surrogate financial ratios.⁷⁶

⁷¹ See Letter from Petitioners, “Chlorinated Isocyanurates from the People’s Republic of China (7th Antidumping Administrative Review): Petitioners’ Submission of Information Regarding Surrogate Values for Factors of Production,” March 15, 2013, at exhibit 5.

⁷² See Preliminary Surrogate Value Memorandum.

⁷³ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (Labor Methodologies).

⁷⁴ See Chlorinated Isocyanurates From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 77 FR 41746, 41753 (July 16, 2012); see also Preliminary Surrogate Value Memorandum.

⁷⁵ See Preliminary Surrogate Value Memorandum.

⁷⁶ See Labor Methodologies and Preliminary Surrogate Value Memorandum for details of adjustments.

Financial Ratios

The Department's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.⁷⁷ Moreover, for valuing factory overhead, SG&A and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.⁷⁸ In addition, the CIT has held that in the selection of surrogate producers, the Department may consider how closely the surrogate producers approximate the NME producer's experience.⁷⁹

To calculate surrogate values for factory overhead, SG&A, and profit for these preliminary results, we used financial information from Mabuhay Vinyl Corporation, a Philippine producer of sodium hypochlorite, for the fiscal year ending December 31, 2011.⁸⁰ From this information, we were able to determine average factory overhead as a percentage of the total raw materials, labor, and energy (ML&E), average SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture), and an average profit rate as a percentage of the cost of manufacture plus SG&A.⁸¹

Currency Conversion

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank. These exchange rates are available on the IA website at <http://ia.ita.doc.gov/exchange/index.html>.

⁷⁷ See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China, 70 FR 24502 (May 10, 2005) and accompanying Issues and Decision Memorandum at Comment 3.

⁷⁸ See, e.g., Diamond Sawblades and Parts Thereof from the People's Republic of China, Final Determination in the Antidumping Duty Investigation, 71 FR 29303 (May 22, 2006) and accompanying Issues and Decision Memorandum at Comment 2; see also 19 CFR 351.408(c)(4); section 773(c)(4) of the Act.

⁷⁹ See Rhodia, Inc. v. United States, 240 F. Supp. 2d 1247, 1253-1254 (CIT 2002); see also Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 70 FR 6836 (February 9, 2005) and accompanying Issues and Decision Memorandum at Comment 1.

⁸⁰ See Preliminary Surrogate Value Memorandum for a discussion on the selection of financial statements to value financial ratios.

⁸¹ See Preliminary Surrogate Value Memorandum.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Import Administration

2 July 2013
Date