



A-570-898

POR: 06/01/2014-05/31/2015

Public Document

E&C/OVII: SC

July 5, 2016

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
2014-2015 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 duty (AD) order on chlorinated isocyanurates (chlorinated isos) from the People's Republic of China (PRC) covering the period of review (POR) of June 1, 2014, through May 31, 2015. This review covers three producers/exporters: 1) Heze Huayi Chemical Co. Ltd. (Heze Huayi); 2) Hebei Jiheng Chemical Co., Ltd. (Jiheng); and 3) Juancheng Kangtai Chemical Co., Ltd. (Kangtai). The Department preliminarily determines that Heze Huayi, Jiheng, and Kangtai made sales in 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 duties on all appropriate entries of subject merchandise during the POR. The rates assigned to each of these companies can be found in the "Preliminary Results of Review" section of the accompanying Federal Register notice.

Interested parties are invited to comment on these preliminary results. We intend to 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 August 3, 2015, the Department initiated the administrative review of the AD order on chlorinated isos from the PRC covering the period June 1, 2014, through May 31, 2015.¹

¹ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 80 FR 45947 (August 3, 2015) (Initiation Notice).



Between August 26, 2015 and August 28, 2015, Heze Huayi, Jiheng, and Kangtai each submitted a separate rate certification.²

On October 8, 2015, the Department issued its AD questionnaire to Heze Huayi, Jiheng, and Kangtai, to which all companies responded in a timely manner. Between March 31 and April 29, 2016, the Department issued supplemental questionnaires to Heze Huayi, Jiheng, and Kangtai. All respondents submitted responses in a timely manner. On February 8, 2016, Clearon Corporation and Occidental Chemical Corporation (Petitioners), submitted comments regarding Heze Huayi's, Jiheng's, and Kangtai's section A, C, and D questionnaire and supplemental questionnaire responses. On November 10, 2015, the Department issued its double remedy questionnaire to Heze Huayi, Jiheng, and Kangtai, to which all companies responded in a timely manner.

On August 14, 2015, the Department placed the Surrogate Country List on the record and solicited interested party comments regarding the selection of the surrogate country and offered an opportunity to provide surrogate value (SV) data.³ Petitioners, Heze Huayi, Jiheng, and Kangtai placed information on the record and provided argument regarding the selection of the surrogate country and SVs between December 1, 2015 and June 11, 2016.

The Department tolled all administrative deadlines on January 27, 2016⁴, and extended the time limit for the preliminary results of review on February 4, 2016, from March 7, 2016, until July 5, 2016.⁵

SCOPE OF THE ORDER

The products covered by the order are chlorinated isocyanurates (chlorinated isos), 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

² See Letter from Heze Huayi, "Chlorinated Isocyanurates from the People's Republic of China: Separate Rate Certification," August 26, 2015; Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China: Separate Rate Certification," August 26, 2015; and, Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Separate Rate Certification," August 28, 2015 (collectively, Separate Rate Certifications).

³ See Letter to All Interested Parties regarding "2014-2015 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," August 14, 2015, at Attachment I.

⁴ See Memorandum for The Record, "Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm 'Jones,'" dated January 27, 2016.

⁵ See Memorandum, "Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," February 4, 2016.

(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.⁶ 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.

Separate Rates

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 rate.⁷ 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 Sparklers⁸ and further clarified in Silicon Carbide.⁹ However, if the Department determines that a company is wholly foreign-owned or located in a market economy (ME) country, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

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.¹⁰ For entities that were not assigned a separate rate in the

⁶ 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).

⁷ 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).

⁸ 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*).

⁹ 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*).

¹⁰ See Initiation Notice, 80 FR at 45948.

previous segment of a proceeding, to demonstrate eligibility, the Department requires a separate-rate application.¹¹

In this review, Heze Huayi, Jiheng, and Kangtai certified their eligibility for separate rate status through a separate rate certification.¹² Heze Huayi, Jiheng, and Kangtai reported that they are wholly Chinese-owned companies.¹³ 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.¹⁴

The evidence Heze Huayi, Jiheng, and Kangtai provided in their separate rate certifications 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.¹⁵

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.¹⁶ Therefore, the Department has determined that an analysis of de facto control is critical in determining whether Heze Huayi, Jiheng, and Kangtai are, in fact, subject to a degree of government control over export activities which would preclude the Department from assigning separate rates. 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.¹⁷

¹¹ Id.

¹² See Separate Rate Certifications.

¹³ Id.

¹⁴ See Sparklers.

¹⁵ See Separate Rate Certifications.

¹⁶ See, e.g., Silicon Carbide, 59 FR at 22586-87.

¹⁷ 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).

The evidence Heze Huayi, Jiheng, and Kangtai provided in their separate rate certifications¹⁸ 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 Heze Huayi, Jiheng, and Kangtai maintain autonomy from the government in making decisions regarding the selection of management; and (4) a showing that Heze Huayi, Jiheng, and Kangtai retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

The evidence placed on the record of this administrative review by Heze Huayi, Jiheng, and Kangtai 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 Heze Huayi, Jiheng, and Kangtai a separate rate.

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.¹⁹

Pursuant to section 773(c)(4) of the Act, the Department listed Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand as countries that are comparable to the PRC in terms of economic development based on 2014 per capita gross national income (GNI) data available in the World Development Report provided by the World Bank and the Department provided parties an opportunity to comment on this list.²⁰

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

¹⁸ See Separate Rate Certifications.

¹⁹ See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin).

²⁰ See Letter to All Interested Parties, "2014-2015 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," August 14, 2015 (Request for Surrogate Country and Value Comments), and attached Memorandum to Mark Hoadley, Program Manager, Office VII, from Carole Showers, Director, Office of Policy, "Request for a List of Surrogate Countries for the 2014-2015 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China ('China')," August 7, 2015 (Surrogate Country List).

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 GNI data available in the World Development Report provided by the World Bank.²¹ The Department is satisfied that the countries on the Surrogate Country List 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), which found the use of per capita GNI to be a “consistent, transparent, and objective metric to identify and compare a country's level of economic development” and “a reasonable interpretation of the statute.”²² 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 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.

On August 14, 2015, the Department invited parties to comment on surrogate country selection and provide information regarding FOP valuation in the instant review.²³ On December 1, 2015, Petitioners stated in their surrogate country comments that comparable merchandise is produced in all of the six economically comparable countries, but that two of the six countries, South Africa and Thailand, have in previous administrative reviews lacked surrogate value data for several key inputs or did not have reliable or usable financial statements.²⁴ For the remaining countries, Petitioners stated that the Department should defer selection of a primary surrogate country until after the submission of factor surrogate values.²⁵

On December 17, 2015, Petitioners submitted surrogate value data from Mexico, Romania, and Thailand, noting that Petitioners “{...} believe Mexico and Romania to be more appropriate as both countries have actual production of comparable merchandise, have import values for the most important inputs used in the production of chlorinated isos, and the financial statements of Mexico and Romania have not previously encountered the documented difficulty in their usage as has Thailand.”²⁶ Petitioners narrowed their argument to the selection of Mexico as the primary surrogate country in their June 6, 2016 submission, noting that Mexico is both

²¹ 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.

²² See Jiaying Brother Fastener Co. v. United States, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

²³ See Request for Surrogate Country and Value Comments.

²⁴ See Letter from Petitioners, “Chlorinated Isocyanurates from the People’s Republic of China (2014-2015 Review): Petitioners’ Comments on Primary Surrogate Country Selection,” December 1, 2015 (Petitioners’ SC Comments), at 6.

²⁵ Id.

²⁶ See Letter from Petitioners, “Chlorinated Isocyanurates from the People’s Republic of China (2014-2015 Review): Surrogate Value Data,” December 17, 2015 (Petitioners’ SV Submission), footnote 2 at 2.

economically comparable to China and the only country on the Surrogate Country List that produces substantial quantities of chlorinated isos. This latter assertion was based primarily on PIERS data, which shows the Mexican firm Aqua Chlor to be a producer and major exporter of chlorinated isos during the POR.²⁷ Moreover, Petitioners argued that Mexican surrogate values are available for virtually all of the major inputs and by-products reported by respondents, and were recently used by the Department in its investigation of Hydrofluorocarbon Blends.²⁸

On June 10, 2016, Petitioners submitted rebuttal comments to further corroborate the information on the record that Aqua Chlor was a major producer and exporter of chlorinated isos during the POR, as evidenced by a joint venture agreement and declaration.²⁹ Petitioners argued that since Mexico is the only country that is economically comparable and a producer of identical merchandise, it should be selected as the primary surrogate country based on the Department's preference for using such information as stated in the Department's Policy Bulletin 04.1.³⁰ In addition, Petitioners noted that there is no Thai value for chlorine and that at least one of the Thai financial statements reflected receipt of Thai Board of Investment (BOI) subsidies related to duty-exemptions for raw materials used in the production of exports.³¹

On June 16, 2016, Petitioners submitted additional rebuttal comments regarding the quality of certain surrogate values based on imports from Thailand and Romania. Specifically, Petitioners again noted that Thailand does not have a usable chlorine value and also that Romania lacks a factor value for steam.³² In addition, Petitioners reiterated their argument that Mexico provides comprehensive GTA import data for virtually all of the direct materials used by respondents, including steam coal; reliable labor data and financial statements used in the recent investigation of Hydrofluorocarbon Blends; and, a contemporaneous nation-wide water tariff surrogate value.³³

Kangtai and Heze Huayi provided joint surrogate country comments on December 1, 2015, showing that all six economically comparable countries produce comparable merchandise, but that based on data availability and quality, Thailand, and potentially Mexico, are the most

²⁷ See Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (10th Antidumping Administrative Review): Comments Concerning the Preliminary Determination and Submission of Factual Information Regarding Surrogate Values," June 6, 2016 (Petitioners' Prelim and SV Comments), at 3 and Exhibits 1-3.

²⁸ Id. at 10; see also Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination, 81 FR 5098 (February 1, 2016), and the accompanying Preliminary Decision Memorandum (Hydrofluorocarbon Blends), at 19.

²⁹ See Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (10th Antidumping Administrative Review): Rebuttal to Preliminary Determination Comments," June 10, 2016 (Petitioners' Rebuttal Comments), at 2 and Exhibit 1.

³⁰ Id. at 5.

³¹ Id. at 6 and footnote 13.

³² See Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (10th Antidumping Administrative Review): Additional Rebuttal to Preliminary Determination Comments," June 16, 2016 (Petitioners' Additional Rebuttal Comments), at 3.

³³ Id. at 3-12.

suitable choices for the surrogate country in the instant review.³⁴ Jiheng also filed separate surrogate country comments in support of Kangtai's and Heze Huayi's comments on December 1, 2015.³⁵

On December 17, 2015, Jiheng, Kangtai, and Heze submitted surrogate value data from Thailand, arguing that the Department should select Thailand as the primary surrogate country since it had found Thai surrogate values reliable in the previous review.³⁶ Furthermore, Kangtai and Heze stated that the Department should follow its practice from the previous review of using the largest importer of chlorine among the listed economically comparable countries (here, Mexico) to value chlorine since Thailand does not have a usable import value of chlorine.³⁷ Kangtai and Heze Huayi submitted factual information on January 11, 2016, to rebut, clarify, or correct Petitioners' SV Submission regarding Mexican coal and labor values; information on the Mexican company used by Petitioners to calculate the financial ratios; definitions of Romanian labor costs and additional labor values; and, unit conversions for certain Romanian GTA data.³⁸

Kangtai and Heze Huayi submitted final surrogate values and comments for the preliminary results, arguing that the Department should select Thailand or, in the alternative, Romania as the primary surrogate country.³⁹ Respondents argue that both countries produce comparable merchandise and that Thailand specifically, was chosen as the primary surrogate country in the two previous administrative reviews. In addition, Thailand provides the highest quality of data including two contemporaneous financial statements.⁴⁰ If the Department does not rely on Thailand, respondents state that the Department should rely on Romania which has data to value all inputs and a reliable financial statement from a major chemical producer that produces comparable merchandise.⁴¹

The information that Petitioners rely on to support finding Mexico a producer of subject merchandise, according to Kangtai and Heze Huayi, relies on a HTS subheading that is a basket category and other sources of information that fail to demonstrate that Aqua Chlor produced comparable merchandise in any significant amount during the POR. Moreover, the record shows that Mexico is neither a significant producer nor a net exporter of comparable merchandise.⁴²

³⁴ See Letter from Kangtai and Heze Huayi, "Certain Chlorinated Isocyanurates from the People's Republic of China Comments on Surrogate Country Selection," December 1, 2015 (Kangtai and Heze Huayi SC Comments), at 2-3.

³⁵ See Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Comments on Surrogate Country Selection," December 1, 2015, at 2.

³⁶ See Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Preliminary Surrogate Values," December 17, 2015 (Jiheng SV Submission), at 1; see also Letter from Kangtai and Heze Huayi, "Certain Chlorinated Isocyanurates from the People's Republic of China Surrogate Values for the Preliminary Results," December 17, 2015 (Kangtai and Heze Huayi SV Submission), at 1.

³⁷ *Id.* at 2.

³⁸ See Letter from Kangtai and Heze Huayi, "Certain Chlorinated Isocyanurates from the People's Republic of China Rebuttal Surrogate Values for the Preliminary Results," January 11, 2016 (Kangtai and Heze Huayi SV Rebuttal Submission), at 1-3.

³⁹ See Letter from Kangtai and Heze Huayi, "Certain Chlorinated Isocyanurates from the People's Republic of China Final SV Submission and Pre-Preliminary Comments," June 6, 2016 (Kangtai and Heze Huayi Final SV Submission), at 1.

⁴⁰ *Id.* at 4-5.

⁴¹ *Id.* at 6.

⁴² *Id.* at 3-4.

Kangtai and Heze Huayi add that the Mexican surrogate value data is not the same quality as the Thai or Romanian data, noting that the one Mexican financial statement is from a large corporation that has three main business segments, two of which are vastly different from the one that produces comparable merchandise.⁴³ In addition, the Mexican labor rate and water value is less contemporaneous, and the Mexican steam coal import value is a small, non-commercial quantity that is aberrant when compared to the other usable import values.⁴⁴

Kangtai and Heze Huayi submitted their final comments on June 16, 2016, arguing that the statute and the Department's policy do not establish a hierarchy that provides a preference for being a producer of identical merchandise over a producer of comparable merchandise.⁴⁵ Respondents cite to Dupont Teijin Films and Foshan Shunde Yongjian Housewares as support for the proposition that the Department does not limit its analysis to identical merchandise and makes no distinction between identical and comparable merchandise.⁴⁶ Moreover, a comparison of Mexican exports of identical merchandise to exports of comparable merchandise from Thailand and Romania shows that Thailand had a comparable export quantity to Mexico and that Romania had a much larger export quantity than Mexico.⁴⁷ Kangtai and Heze Huayi state that the Department should determine "at a minimum," that Thailand, Romania, and Mexico are all significant producers of comparable merchandise, and rely on data quality as the basis of its surrogate country selection.⁴⁸

Kangtai and Heze Huayi reiterated their earlier comments that Thailand has reliable financial statements from two Thai producers of comparable merchandise and noted the Department's preference to rely on countries with multiple financial statements when possible.⁴⁹ They also argued that the Mexican financial statement is not detailed enough to calculate financial ratios because of the lack of detail for energy and labor, noting that even the Romanian financial statements have more detail with respect to labor, energy, and materials.⁵⁰ Finally, respondents again noted the lack of a reliable surrogate value for Mexican coal and the less contemporaneous labor rate for Mexico that also make Thailand a better source for surrogate values.⁵¹ They stated that no party has challenged the reliability and availability of the Romanian surrogate values, which include some more precise units of measure than the Mexican data, suggesting that the high price of the Mexican sodium hydroxide import price could reflect a high concentration or converted pure sodium hydroxide.⁵² For all the reasons noted above, Kangtai and Heze Huayi conclude that the Department should rely on Thailand or in the alternative, Romania, as the primary surrogate country.

⁴³ Id. at 6-7.

⁴⁴ Id. at 7.

⁴⁵ See Letter from Kangtai and Heze Huayi, "Certain Chlorinated Isocyanurates from the People's Republic of China Rebuttal Final SVs and Rebuttal Pre-Preliminary Comments," June 16, 2016 (Kangtai and Heze Huayi Rebuttal Final SV Submission), at 2.

⁴⁶ Id. at 2, citing to Dupont Teijin Films v. United States, 997F. Supp. 2d 1338 (CIT 2014) (Dupont Teijin Films); also Foshan Shunde Yongjian Housewares & Hardwares Co. v. United States, 896 F. Supp. 2d 1313 (CIT 2013) (Foshan Shunde Yongjian Housewares).

⁴⁷ Id. at 4.

⁴⁸ Id., at 5.

⁴⁹ Id. at 6.

⁵⁰ Id., at 7.

⁵¹ Id., at 8.

⁵² Id., at 9.

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."⁵³ Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.⁵⁴ Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.⁵⁵ "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."⁵⁶ 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.⁵⁷

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.⁵⁸ Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"⁵⁹ it does not preclude reliance on additional or alternative metrics. In this case, the Department finds that calcium hypochlorite and sodium hypochlorite are 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.⁶⁰

⁵³ See Policy Bulletin at 2.

⁵⁴ 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." Id. at note 6.

⁵⁵ 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) ("To 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.").

⁵⁶ See Policy Bulletin at 2.

⁵⁷ Id. at 3.

⁵⁸ See section 773(c) of the Act; see also Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir.1990).

⁵⁹ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576 (1988), at 590.

⁶⁰ See Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 80 FR 4539, January 28, 2015 (2012-2013 Final Results) and accompanying Issues and Decision Memorandum at Comment 2.

The Department has production data indicating that five countries on the Surrogate Country List (Bulgaria, Ecuador, Romania, South Africa, and Thailand) are significant producers of comparable merchandise (calcium hypochlorite or sodium hypochlorite), and that Mexico is a significant producer of both identical and comparable merchandise.⁶¹ Petitioners provided sufficient evidence which includes an affidavit and attached joint venture agreement that demonstrates Mexican production of chlorinated isos and corroborates the extensive PIERS cross-border trade data identifying shipments of subject merchandise during the POR.⁶²

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.⁶³ Other than the comparison import data for chlorine and steam coal submitted by Kangtai and Heze Huayi,⁶⁴ there is no data on the record for any other FOP for Bulgaria, Ecuador, and South Africa. With these countries disqualified, the Department is left with Mexico, Romania, and Thailand as options for potential surrogate country.

The Department has available to it on the record of this administrative review FOP information for Mexico, Romania, and Thailand. Of these, only Mexico and Romania have useable surrogate financial statements and surrogate values for a key input, chlorine, and an important by-product, hydrogen. As noted by Petitioners, the financial statement for Thai Asahi (Thasco) was not used in the previous administrative review because of evidence of countervailable subsidies which noted receipt of several Thai Board of Investment promotions.⁶⁵ In the instant review, respondents submitted the same 2013 financial statement for Thasco, which again shows receipt of countervailable subsidies as a BOI-promoted company under the Investment and Promotion Act (IPA).⁶⁶ The Department has previously found that IPA benefits to promoted companies constitute export subsidies.⁶⁷ Evidence on the record shows that AGC Chemicals and Aditya Birla are promoted companies that also received these benefits.⁶⁸

⁶¹ See Petitioners' SC Comments at 3-4 and Exhibit 3; also Petitioners' Prelim and SV Comments at 3 and Exhibits 1-3; Petitioners' Rebuttal Comments at 2 and Exhibit 1; and, Kangtai and Heze Huayi SC Comments at 2-3.

⁶²

⁶³ See Policy Bulletin.

⁶⁴ See Kangtai and Heze Huayi SV Submission at Exhibits SV-28 and SV-29; and Kangtai and Heze Huayi SV Rebuttal Submission at Exhibit SV2-8.

⁶⁵ See Petitioners' Prelim and SV Comments at 12, footnote 33.

⁶⁶ See Kangtai and Heze Huayi SV Submission at Exhibits SV-27, 2013 Thasco Financial Statement at Note 23.

⁶⁷ See Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum at 7-12, Section IV.A.2, "Tax Exemptions, Duty Exemptions, and Other Benefits under the Investment Promotion Act (IPA), and at 15-22, Section V. Comment 1.

⁶⁸ See Kangtai and Heze Huayi Final SV Submission at Exhibit SV3-2, AGC Chemicals Financial Statement 2014 at Note 23; and at Exhibit SV3-4, Aditya Birla Financial Statement 2014 at Note 25; see also Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Antidumping Duty Administrative Review;

The Department finds Mexico and Romania to have a higher quality for surrogate values than Thailand. Both are at a comparable level of economic development pursuant to 773(c)(4) of the Act; both are significant producers of comparable, and in the case of Mexico, identical and comparable, merchandise; and, both have publicly available and reliable data for all the identified inputs submitted by interested parties. However, in weighing the quality of data of both countries, the Department finds Mexico to have better surrogate value data than Romania. We preliminarily find that Mexico has usable surrogate values for all inputs with the exception of steam coal, which is aberrant when compared to the AUVs from the other economically comparable countries that had commercial imports of steam coal.⁶⁹ Likewise, Romania has complete surrogate values for all inputs with the exception of steam, which was not imported into Romania during the POR. However, when examining the quality of SV data from sources other than the GTA, we concluded that the surrogate values for Mexico were superior to those for Romania, with the one exception being less contemporaneous 2008 labor data from the International Labor Organization (ILO). For example, Mexico has contemporaneous data for electricity and water for the POR, whereas Romania's data for these two critical inputs are from 2013 and 2011, respectively.

Kangtai and Heze Huayi primarily argue that the financial statements of CYDSA, S.A.B. de C.V. (CYDSA) are not usable because they do not provide enough detail to calculate financial ratios and the company itself is a large company that does not represent a producer of comparable merchandise. Based upon our review of CYDSA's financial statements on the record of this review, and accounting for the Department's recent use of these same financial statements in the investigation of Hydrofluorocarbon Blends⁷⁰ that identified many of the same material and energy inputs, we preliminarily find them to be reliable. Additionally, CYDSA's financial statements are as detailed as the Romanian financial statements of Chimcomplex S.A. (Chimcomplex). Contrary to respondents' claims, the CYDSA financial statements do identify the amount of "raw materials and consumables" used, and also contain an additional line item on "spare parts and accessories" that is not present in the Chimcomplex statements.⁷¹ In total, all the line items related to CYDSA's use of raw materials account for over 30 percent of the total cost of goods sold. In addition, the CYDSA income statement clearly identifies specific line items for selling and administrative expenses, whereas the Chimcomplex financial statements rely on a single line item identified only as "External Supplies." Based on these findings, we preliminarily find CYDSA's 2015 financial statements to contain significantly more detail than Chimcomplex's less contemporaneous 2014 statements.

Finally, we reviewed the nature and scope of CYDSA's business. According to its financial statements, it operates in two business segments, Chemical Products and Specialties, and Yarns.⁷² Sales by the Chemical Products and Specialties segment under which comparable

2013-2014, 80 FR 77323 (December 14, 2015), and accompanying Issues and Decision Memorandum at Comment 3, finding Aditya Birla's financial statements unreliable.

⁶⁹ See Kangtai and Heze Huayi SV Rebuttal Submission at Exhibit SV2-8.

⁷⁰ See Hydrofluorocarbon Blends, at 19.

⁷¹ See Petitioners' Prelim and SV Comments at Exhibit 8, Note 9 of CYDSA's financial statements.

⁷² Id. at Exhibit 8, Note 23 of CYDSA's financial statements.

merchandise is produced, accounted for 99 percent of CYDSA's total consolidated sales.⁷³ Within the Chemical Products and Specialties segment, the "Chlorine – Caustic Soda" product category accounted for nearly half (44 percent) of the sales within that segment, with "Salt" and "Refrigerant gases" as the other primary products.⁷⁴ Accordingly, we find CYDSA to be representative of chemical producers of comparable merchandise, particularly in light of the overwhelming sales it made within its Chemical Products and Specialties segment.

Based on examination of all record evidence, as discussed above, we find Mexico to have the highest quality surrogate value data on the record, and to be the best choice for the primary surrogate country. A detailed explanation of the surrogate values is provided below in the "Normal Value" section of this notice and in the Preliminary Surrogate Value Memorandum.⁷⁵

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. Heze Huayi 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.⁷⁶ In this case, as the Department has found no evidence contrary to Heze Huayi'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).⁷⁷

Jiheng reported that the date of sale for its constructed export price (CEP) sales to the United States should be the order confirmation date because the invoice is not issued until the goods are received by the U.S. customer and order confirmation occurs before shipment date.⁷⁸ The Department has found no evidence to the contrary and has preliminarily used order confirmation date as the date of sale.

Normal Value Comparisons

In accordance with section 773(a) of the Act, the Department compared the EP or CEP of the U.S. sales of the merchandise under consideration to the weighted-average NV to determine

⁷³ Id. at Exhibit 8, "Management's Discussion and Analysis of Results of Operations and Financial Condition" section, Chapter 4 "Results," subsection "Sales by Business Segment," of CYDSA's financial statements.

⁷⁴ Id. at Exhibit 8, "Information of principal products," Note 23 of CYDSA's financial statements.

⁷⁵ See Memorandum to the File, "2013-2014 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 memorandum (Preliminary Surrogate Value Memorandum).

⁷⁶ See Letter from Heze Huayi, "Chlorinated Isocyanurates from the People's Republic of China: Section C and D Response," dated November 23, 2015 (Heze Huayi Section C&D Response), Section C response at 9; also Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China: Section C and D Response," dated November 23, 2015 (Kangtai Section C&D Response), Section C response at 9

⁷⁷ 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.

⁷⁸ See Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Response to Supplemental Sections A, C & D Questionnaire," dated May 25, 2016 (Jiheng Section A, C & D supplemental response), at 4.

whether the individually-examined respondents sold merchandise under consideration to the United States at less than normal value during the POR.

A. Export Price

In accordance with section 772(a) of the Act, “the term ‘export price’ means the price at which the 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 subsection (c).” The Department defined the U.S. price of merchandise under consideration based on the EP for all sales reported by Heze Huayi and Kangtai.

The Department calculated the EP based on the prices at which merchandise under consideration was sold to unaffiliated purchasers in the United States. To this price, we added amounts for components that were supplied free of charge (Heze Huayi⁷⁹ and Kangtai⁸⁰), where applicable, pursuant to section 772(c)(1)(A) of the Act and consistent with our treatment of sales in prior reviews.⁸¹ 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 Heze Huayi’s or Kangtai’s customer. 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.⁸² For the expenses that were either provided by an NME vendor or paid for using an NME currency, we used SVs, as appropriate.⁸³

B. Constructed Export Price

In accordance with section 772(b) of the Act, the CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d) of the Act. In accordance with section 772(b) of the Act, we used CEP for Jiheng’s sales because the sales were made by a U.S. affiliate in the United States.

We calculated CEP based on delivered prices to unaffiliated purchasers in the United States. We made adjustments, where applicable, to the reported gross unit prices for billing adjustments and early payment discounts, to arrive at the price at which the subject merchandise is first sold in the

⁷⁹ See Letter from Heze Huayi, “Chlorinated Isocyanurates from the People’s Republic of China: First Supplemental Questionnaire Response,” dated April 25, 2016 (Heze Huayi Section A, C & D supplemental response), at 5.

⁸⁰ See Letter from Kangtai, “Chlorinated Isocyanurates from the People’s Republic of China: First Supplemental Questionnaire Response,” dated May 2, 2016 (Kangtai Section A, C & D supplemental response), at 8.

⁸¹ See e.g., Chlorinated Isocyanurates from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 43391 (July 25, 2014) (2012-2013 Preliminary Results) and accompanying Decision Memorandum, at 13, unchanged in 2012-2013 Final Results.

⁸² See Heze Huayi Preliminary Analysis Memorandum, also Kangtai Preliminary Analysis Memorandum.

⁸³ See the “Factor Valuations” section below for details regarding the surrogate values for movement expenses.

United States to an unaffiliated customer. We made deductions from the U.S. sales price for movement expenses in accordance with section 772(c)(2) of the Act. These included, where applicable, foreign inland freight from plant to the port of exportation, foreign brokerage and handling, ocean freight, marine insurance, U.S. inland freight from port of importation to the warehouse, U.S. freight from warehouse to customer, U.S. warehousing, U.S. customs duty, and U.S. brokerage and handling. In accordance with section 772(d)(1) of the Act, the Department deducted, where applicable, commissions, credit expenses, inventory carrying costs, and indirect selling expenses, all of which relate to commercial activity in the United States. In accordance with section 772(d) of the Act, we calculated Jiheng's credit expenses and inventory carrying costs based on its short-term interest rate. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.⁸⁴

C. Value-Added Tax

The Department's practice in NME cases is to adjust EP or CEP for the amount of any un-refunded value-added tax (VAT), in accordance with section 772(c)(2)(B) of the Act.⁸⁵ The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.⁸⁶ Where the irrecoverable VAT is a fixed percentage of CEP or EP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. CEP or EP downward by this same percentage.⁸⁷ The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount determined in step one.

The Department requested that Heze Huyai, Jiheng, and Kangtai report net un-refunded VAT for the subject merchandise. All respondent companies reported that the official VAT rate for exports of subject merchandise is 17 percent and the refund rate is nine percent, under the applicable PRC regulations.⁸⁸ Thus, Heze Huyai, Jiheng, and Kangtai incurred an effective VAT rate of eight percent on exports of domestically produced chloro isos. Because Heze Huyai, Jiheng, and Kangtai reported that they pay VAT associated with subject merchandise that is not refunded at a rate of eight percent, the Department adjusted each company's net price for the un-refunded VAT, in order to calculate EP or CEP net of VAT. We note that this is consistent with the Department's policy and the intent of the statute, that dumping comparisons be tax-neutral.⁸⁹

⁸⁴ For a detailed description of all adjustments, see Jiheng Preliminary Analysis Memorandum.

⁸⁵ See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481, 36483-84 (June 19, 2012) (Methodological Change).

⁸⁶ Id.; see also 2011-2012 Final Results and accompanying Issues and Decision Memorandum at Comment 5.A.

⁸⁷ Id.

⁸⁸ See Heze Huayi Section C&D Response, Section C response at 29 and Exhibit C-2; also Kangtai Section C&D Response, Section C response at 30 and Exhibit C-2; and, Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Response to Section C&D Questionnaire," dated November 24, 2015 (Jiheng Section C&D Response), at C-37 to C-38 and Exhibit C-12.

⁸⁹ See Methodological Change, (citing Antidumping Duties; Countervailing Duties, 62 FR27296, 27369 (May 19,

D. Normal Value

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). Under section 773(c)(3) of the Act, 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 by the customer as discussed in the "Export Price" and "Constructed Export Price" sections, above.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Heze Huayi, Jiheng, and Kangtai for the POR. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available Thai 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). Additionally, where necessary, the Department adjusted SVs for exchange rates and converted all applicable FOPs data to a per-kilogram basis.

A detailed description of all SVs used to calculate the weighted-average dumping margins for the mandatory respondents can be found in the Preliminary Surrogate Value Memorandum. An overview of the SVs used to calculate weighted-average dumping margins for Heze Huayi, Jiheng, and Kangtai are below.

1997) and Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. I 03-316, vol. I, 827, reprinted in 1994 U.S.C.A.N. 3773, 4172); see also Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2011-2012, 78 FR 78333 (December 26, 2013) and accompanying Preliminary Decision Memorandum at Issue 9, unchanged in Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 37715 (July 2, 2014).

Surrogate Values

For the preliminary determination, the Department used Mexican import data, as published by GTA, and other publicly available sources from Mexico to calculate surrogate values for respondents' FOPs. In accordance with section 773(c)(1) of the Act, the Department applied the best available information for valuing FOPs by selecting, to the extent practicable, surrogate values which are (1) non-export average values, (2) contemporaneous with or closest in time to the POR, (3) product-specific, and (4) tax-exclusive.⁹⁰ The record shows that that Mexico import data obtained through GTA, as well as data from other Mexican sources, are broad market averages, product-specific, tax-exclusive, and generally contemporaneous with the POR.⁹¹ In those instances where the Department could not obtain information contemporaneous with the POR with which to value FOPs, the Department adjusted the surrogate values using, where appropriate, Mexico's producer price index, as published in the International Monetary Fund's (IMF's) International Financial Statistics.

In accordance with the legislative history of the Omnibus Trade and Competitiveness Act of 1988,⁹² the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may include subsidies.⁹³ In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, the Republic of Korea (Korea), and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies. Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, the Department finds it is reasonable to infer that all exporters from India, Indonesia, Korea, and Thailand may have benefitted from these subsidies.⁹⁴

Additionally, the Department disregarded data from NME countries when calculating Mexican import-based per-unit surrogate values.⁹⁵ The Department also excluded from the calculation of Mexican import-based per-unit surrogate values imports labeled as originating from an

⁹⁰ See e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).

⁹¹ See Preliminary Surrogate Value Memorandum.

⁹² See Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

⁹³ See China Nat'l Mach. Import & Export Corp. v. United States, CIT 01-1114, 293 F. Supp. 2d at 1334 (CIT 2003), aff'd 104 Fed. Appx. 183 (CAFC 2004).

⁹⁴ See, e.g., Expedited Sunset Review of the Countervailing Duty Order on Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at page 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at Comment 1, pages 17, 19-20; and Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Countervailing Duty Determination, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at Comment 1.

⁹⁵ See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China, 69 FR 75294, 75301 (December 16, 2004), unchanged in 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).

“unidentified” country because the Department could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.⁹⁶

The Department used Mexican import statistics from GTA to value raw materials, by-products, packing materials, and certain energy inputs, except as listed below.

Free of Charge Raw Materials

As noted above, Heze Huayi and Kangtai reported that a U.S. customer(s) provided certain packing materials free of charge.⁹⁷ 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 included when calculating NV. Thus, for Heze Huayi’s and Kangtai’s products that included 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 packing materials multiplied by the reported FOPs for these items) in the NV calculation.⁹⁸ Where applicable, we also adjusted these values to account for freight expenses incurred between the nearest port of entry and each company’s respective plants.⁹⁹

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 Mexico’s National Commission for Water published in Water Statistics in Mexico 2014. The rates are for water for industrial users in select cities in Mexico.¹⁰⁰

By-products

The Department’s practice is to grant respondents an offset to the reported FOPs for by-products generated during the production of the merchandise under consideration if evidence is provided that such by-product was produced during the POR and has commercial value.¹⁰¹ The Department recently explained its practice as follows: “the by-product offset is limited to the total production quantity of the by-product ... produced during the POR, so long as it is shown that the by-product has commercial value.”¹⁰² Heze Huayi, Jiheng, and Kangtai claimed an

⁹⁶ *Id.*

⁹⁷ See Heze Huayi Section A, C & D supplemental response, at 5; and, Kangtai Section A, C & D supplemental response), at 8.

⁹⁸ 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.

⁹⁹ See Preliminary Surrogate Value Memorandum.

¹⁰⁰ *Id.*

¹⁰¹ See Polyethylene Terephthalate Film, Sheet, and Strip From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 35245 (June 12, 2013) and accompanying Issues and Decision Memorandum at Issue 10.

¹⁰² See Frontseating Service Valves From the People’s Republic of China: Final Results of the 2008-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order, 76 FR 70706 (November 15, 2011), and accompanying Issues and Decision Memorandum at Comment 18.

offset for ammonium sulfate during the POR.¹⁰³ The Department is unable to determine the value of the specific by-products generated at the split-off point (i.e., ammonia gas and the discharged sulfuric acid solution) using surrogate values in accordance with the Department's normal practice. Therefore, consistent with our methodology in the previous review, we valued waste ammonia gas and waste sulfuric acid by subtracting the further manufacturing costs and expenses used to make ammonium sulfate from these two by-products from the ammonium sulfate GTA surrogate value.¹⁰⁴

Jiheng reported that hydrogen gas is generated during the electrolysis process in the Chlor-Alkali Plant.¹⁰⁵ Unlike the by-products used to produce ammonium sulfate, Jiheng does record the quantity of hydrogen gas that is discharged in the production process for subject merchandise and sells "as-is" some of its hydrogen gas by-product.¹⁰⁶ As such, we preliminarily continue to treat hydrogen as a direct by-product for purposes of determining whether the respondent is entitled to an offset to NV, consistent with prior administrative reviews.¹⁰⁷ Therefore, we granted Jiheng a direct by-product offset for hydrogen gas based on the total production of this by-product.

Electricity

For electricity, we used data from the website of the International Energy Agency, which contains pricing data contemporaneous with the POR for electricity rates in Mexico. We used the published electricity usage rate identified as "Electricity for industry" in the first quarter of 2015.¹⁰⁸ These electricity rates represent publicly available, broad-market averages. Moreover, because the value was denominated in USD, no currency conversion was required.

Truck Freight and Brokerage and Handling

We valued truck freight expenses using data from the World Bank's "Doing Business 2016: Mexico" publication. We also valued brokerage and handling expenses using this data source, which provided a price list of export procedures necessary to export a standardized cargo of goods in Mexico. We did not inflate these prices because they are contemporaneous with the POR.¹⁰⁹ Moreover, because the value was denominated in USD, no currency conversion was required.

¹⁰³ See Heze Huayi Section C&D Response, at D-16 and Exhibit D-7; Jiheng Section C&D Response, at D-30 and Exhibit D-12.6; and, Kangtai Section C&D Response, at D-16 to D-17 and Exhibit D-6.

¹⁰⁴ See Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014, 81FR 1167 (January 11, 2016)(2013-2014 Final Results) and accompanying Issues and Decision Memorandum at Comment 5.

¹⁰⁵ See Jiheng Section C&D Response, at D-29 to D-30 and Exhibit D-12.6

¹⁰⁶ See Jiheng Section C and D response at D-27.

¹⁰⁷ See Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014, 80 FR 39060 (July 8, 2015)(2013-2014 Prelim Results) at 17-18, unchanged in 2013-2014 Final Results.

¹⁰⁸ See Petitioners' SV Submission at Exhibit 13; see also Preliminary Surrogate Value Memo.

¹⁰⁹ Id. at Exhibit 15; see also Preliminary Surrogate Value Memo.

Ocean Freight

We valued ocean freight charges using two price quotes from “Descartes Rate Builder” that are based on the cost of transporting imported/exported products in 20-foot and 40-foot containers from Qingdao to Long Beach California.¹¹⁰ Because this is a POR value, no inflation was necessary. Moreover, because the value was denominated in USD, no currency conversion was required.

Marine Insurance

We valued marine insurance using a price quote from RJG Consultants for May 2010.¹¹¹ RJG Consultants is a market-economy provider of marine insurance. We inflated the rates to calculate a contemporaneous value. Moreover, because the value was denominated in USD, no currency conversion was required.

Labor

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.¹¹² 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).¹¹³ We used this source in this administrative review.

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.¹¹⁴ Moreover, for valuing factory overhead, selling, general and administrative expenses (SG&A), and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.¹¹⁵ 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.¹¹⁶

¹¹⁰ See Petitioners’ Prelim and SV Comments at Exhibits 13-18; see also Preliminary Surrogate Value Memo.

¹¹¹ See Jiheng SV Submission at Exhibit SV-1; see also Preliminary Surrogate Value Memo.

¹¹² See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (Labor Methodologies).

¹¹³ See Petitioners’ SV Submission at Exhibit 12; see also Preliminary Surrogate Value Memo.

¹¹⁴ 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.

¹¹⁵ 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.

¹¹⁶ 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.

To calculate surrogate values for factory overhead, SG&A, and profit for these preliminary results, we used financial information from CYDSA, which was submitted by Petitioners.¹¹⁷ CYDSA's 2015 annual financial statements are the most contemporaneous ones on the record and are publicly available. 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.

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Heze Huayi's, Jiheng's, and Kangtai's sales of the subject merchandise to the United States were made at less than NV, the Department compared the EP and CEP, respectively, to the NV as described above in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this memorandum.

A. 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 EP or 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 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.¹¹⁸ 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.¹¹⁹ 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.

¹¹⁷ See Petitioners' Prelim and SV Comments at Exhibit 8.

¹¹⁸ 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).

¹¹⁹ See Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013), and the accompanying Issues and Decision Memorandum at Comment 3; and Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013), and the accompanying Issues and Decision Memorandum at Comment 3.

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.¹²⁰ 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 codes for Heze Huayi, Jiheng, and Kangtai. Regions are defined using the reported destination codes (i.e., zip codes) for Heze Huayi, 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 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*

¹²⁰ As noted above, differential pricing was used in recent investigations. We also have used it in AD administrative reviews. See, e.g., Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 17637 (March 22, 2013) and accompanying Decision Memorandum.

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.

B. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, the Department finds that the value of Heze Huayi's and Jiehng's U.S. sales passing the Cohen's *d* test (Heze Huayi at 85 percent and Jiheng at 54 percent) is such that we should consider as an alternative comparison method applying the average-to-transaction method to a portion of U.S. sales.¹²¹ However, the Department determines that the A-A method can appropriately account for such differences for these two companies because there is no meaningful difference between their respective weighted-average dumping margins which are unchanged when calculated using the A-A method and the alternative comparison method.¹²² Accordingly, the Department has determined to use the A-A method to calculate the weighted-average dumping margin for each company.¹²³

¹²¹ See Memorandum to the File, "Analysis for the Preliminary Results of the 2014-2015 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Heze Huayi Chemical Co. Ltd.," July 5, 2016 (Heze Huayi Preliminary Analysis Memorandum); and, Memorandum to the File, "Analysis for the Preliminary Results of the 2014-2015 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Co., Ltd.," July 5, 2016 (Jiheng Preliminary Analysis Memorandum).

¹²² See Heze Huayi Preliminary Analysis Memorandum and Jiheng Preliminary Analysis Memorandum.

¹²³ In these preliminary results for Heze Huayi, 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.

For Kangtai, based on the results of the differential pricing analysis, the Department preliminarily finds that 4.92 percent of the value of U.S. sales pass the Cohen's *d* test, and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods.¹²⁴ Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the A-to-A method. Accordingly, the Department preliminarily determines to apply the A-to-A method for all U.S. sales to calculate the weighted-average dumping margin for Kangtai.

Adjustments for Countervailable Subsidies

In determining whether to make an adjustment under section 777A(f) of the Act, the Department considers (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise; (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period; and (3) whether the Department can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted average dumping margin for the class or kind of merchandise.¹²⁵ For a subsidy meeting these criteria, the statute requires the Department to reduce the antidumping duty by the estimated amount of the increase in the weighted average dumping margin subject to a specified cap.¹²⁶ In this case, none of the mandatory respondents established eligibility for the adjustment. Therefore, for each respondent in these preliminary results, the Department did not make an adjustment pursuant to section 777A(f) of the Act for countervailable domestic subsidies.

Pursuant to section 772(c)(1)(C) of the Act, the Department made an adjustment for countervailable export subsidies. For Jiheng, Kangtai and Heze Huayi, an adjustment has been made to its reported U.S. price based on its countervailable export subsidies in the final results of the completed countervailing duty (CVD) investigation.¹²⁷ The adjustment for Kangtai is zero because no countervailable export subsidies were found in the final determination of the CVD investigation. Because Heze Huayi was not examined in the CVD investigation, its adjustment for export subsidies is based on the simple average of the countervailable export subsidies for both Jiheng and Kangtai, following the methodology used to calculate the "all others" rate in the CVD investigation which included these export subsidies.¹²⁸ For the PRC-wide entity, since the entity is not currently under review, its rate is not subject to change.¹²⁹

¹²⁴ See Memorandum to the File, "Analysis for the Preliminary Results of the 2014-2015 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Juancheng Kangtai Chemical Co., Ltd.," July 5, 2016.

¹²⁵ See section 777A(f)(1)(A)-(C) of the Act.

¹²⁶ See section 777A(f)(1)-(2) of the Act.

¹²⁷ See Chlorinated Isocyanurates From the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012, 79 FR 56560 (September 22, 2014) (Chloro Isos CVD Final), and accompanying Issues and Decision Memorandum, at "Analysis of Programs" section; also Jiheng Preliminary Analysis Memorandum.

¹²⁸ See Chloro Isos CVD Final, at "Analysis of Programs" section; also Heze Huayi Preliminary Analysis Memorandum.

¹²⁹ See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963, 65969-70 (November 4, 2013).

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 Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree

Ronald K. Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

July 5, 2016

(Date)