



A-570-848

AR: 09/01/2016-08/31/2017

NSR: 09/01/2016-08/31/2017

Public Document

AD/CVD I: BH

DATE: October 2, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Freshwater Crawfish Tail Meat from the People's Republic of
China: Decision Memorandum for the Preliminary Results of the
Antidumping Duty Administrative Review and New Shipper
Reviews; 2016-2017

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review and new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (China). The period of review (POR) for the administrative review and new shipper reviews is September 1, 2016, through August 31, 2017. The administrative review covers one mandatory respondent of subject merchandise, Hubei Nature Agriculture Industry Co., Ltd. (Hubei Nature). The new shipper reviews cover Anhui Luan Hongyuan Foodstuffs Co., Ltd. (Anhui Luan) and Kunshan Xinrui Trading Co., Ltd. (Kunshan Xinrui). Commerce preliminarily determines that sales of subject merchandise by companies subject to this review were not made at prices below normal value (NV).

II. BACKGROUND

On September 15, 1997, Commerce published an amended final determination and antidumping duty order on freshwater crawfish tail meat from China.¹

¹ See *Notice of Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat from the People's Republic of China*, 62 FR 48218 (September 15, 1997).

On September 1, 2017, Commerce published a notice of opportunity to request an administrative review of the order.² On November 13, 2017, based on timely requests for an administrative review, Commerce initiated an administrative review of 12 exporters/producers.³ On December 12, 2017, we selected Hubei Nature as a mandatory respondent for individual examination in this review.⁴

On February 12, 2018, the Crawfish Processors Alliance (the CPA or the petitioners) withdrew its request for six of the twelve companies for which it had requested a review: Deyan Aquatic Products and Food Co., Ltd. (Deyan Aquatic), Hubei Yuesheng Aquatic Products Co., Ltd. (Hubei Yuesheng), Jingzhou Tianhe Aquatic Products Co., Ltd. (Jingzhou Tianhe), Shanghai Ocean Flavor International Trading Co., Ltd. (Shanghai Ocean), Weishan Hongda Aquatic Food Co., Ltd. (Weishan Hongda), and Xiping Opeck Food Co., Ltd. (Xiping Opeck).⁵ Weishan Hongda and Xiping Opeck had independently requested a review of their own sales and neither withdrew its request for review. As a result, Commerce is rescinding the review with respect to Deyan Aquatic, Hubei Yuesheng, Jingzhou Tianhe, and Shanghai Ocean. *See* the “Rescission of Administrative Review in Part” section of this memorandum.

On October 18, 2017, in response to requests from Anhui Luan and Kunshan Xinrui, we initiated new shipper reviews of the order on freshwater crawfish tail meat from China with respect to these companies.⁶ On November 28, 2017, Commerce aligned the new shipper reviews of freshwater crawfish tail meat from China with the concurrent administrative review of freshwater crawfish tail meat from China.⁷

We are conducting these reviews in accordance with sections 751(a)(1), 751(a)(2)(B)(iv), 751(a)(3), 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213 and 351.214.

² *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 82 FR 41595 (September 1, 2017).

³ We initiated an administrative review on the following companies: China Kingdom (Beijing) Import & Export Co., Ltd., Deyan Aquatic Products and Food Co., Ltd., Hubei Nature Agriculture Industry Co., Ltd., Hubei Qianjiang Huashan Aquatic Food and Product Co., Ltd., Hubei Yuesheng Aquatic Products Co., Ltd., Jingzhou Tianhe Aquatic Products Co., Ltd., Nanjing Gensen International Co., Ltd., Shanghai Ocean Flavor International Trading Co., Ltd., Weishan Hongda Aquatic Food Co., Ltd., Xiping Opeck Food Co., Ltd., Xuzhou Jinjiang Foodstuffs Co., Ltd., Yancheng Hi-King Agriculture Developing Co., Ltd. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 52268 (November 13, 2017) (*Initiation Notice*).

⁴ *See* Memorandum, “Freshwater Crawfish Tail Meat from the People’s Republic of China - Respondent Selection for the 2016-2017 Antidumping Duty Administrative Review,” dated December 12, 2017 (Respondent Selection Memorandum).

⁵ *See* the CPA’s Letter, “Re: Freshwater Crawfish Tail Meat from the People’s Republic of China: Withdrawal of Certain Requests for 2016-17 Administrative Review,” dated February 12, 2018.

⁶ *See Freshwater Crawfish Tail Meat from the People’s Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 82 FR 48482 (October 8, 2017) (*New Shipper Initiation Notice*).

⁷ *See* Memorandum, “Alignment of New Shipper Reviews of Freshwater Crawfish Tail Meat from the People’s Republic of China with the Concurrent Administrative Review of Freshwater Crawfish Tail Meat from the People’s Republic of China,” dated November 28, 2017.

III. SCOPE OF THE ORDER

The product covered by the antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or un-purged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by U.S. Customs and Border Protection (CBP) in 2000, and HTSUS numbers 0306.19.00.10 and 0306.29.00.00, which are reserved for fish and crustaceans in general. On February 10, 2012, Commerce added HTSUS classification number 0306.29.01.00 to the scope description pursuant to a request by CBP. On September 21, 2018, Commerce added HTSUS classification numbers 0306.39.0000 and 0306.99.0000 to the scope description pursuant to a request by CBP. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

IV. RESCISSION OF ADMINISTRATIVE REVIEW IN PART

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation.

As noted above, parties withdrew their requests for four out of the twelve companies for which reviews were requested.⁸ These withdrawals of review requests were submitted within the deadline set forth under 19 CFR 351.213(d)(1) and no other parties requested a review of these companies. Accordingly, Commerce is rescinding this review, in part, with respect to Deyan Aquatic, Hubei Yuesheng, Jingzhou Tianhe, and Shanghai Ocean, in accordance with 19 CFR 351.213(d)(1).

V. *BONA FIDES* ANALYSIS

Pursuant to section 751(a)(2)(B)(iv) of the Act, any weighted-average dumping margin determined in a new shipper review must be based solely on *bona fide* sales during the POR.⁹ Where a review is based on a single sale, exclusion of that sale as non *bona fide* necessarily must end the review.¹⁰ As such, and consistent with Commerce's practice, we examined the *bona*

⁸ See the CPA's Letter, "Re: Freshwater Crawfish Tail Meat from the People's Republic of China: Withdrawal of Certain Requests for 2016-17 Administrative Review," dated February 12, 2018.

⁹ The Trade Facilitation and Trade Enforcement Act of 2015, Pub. Law 114-125 (February 24, 2016), made amendments to section 751(a)(2)(B) of the Act. These amendments apply to this determination.

¹⁰ See *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1249-1250 (CIT 2005) (*TTPC*).

fides of the sale in these new shipper reviews.¹¹ In evaluating whether a sale in a new shipper review is commercially reasonable or typical of normal business practices and, therefore, *bona fide*, Commerce considers, *inter alia*, such factors as: (a) the timing of the sale; (b) the price and quantity; (c) the expenses arising from the transaction; (d) whether the goods were resold at a profit; and (e) whether the transaction was made on an arm's-length basis.¹² Accordingly, Commerce considers a number of factors in its *bona fides* analysis, "all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise."¹³

In *TTPC*, the Court of International Trade (CIT) affirmed Commerce's decision that any factor which indicates that the sale under consideration is not likely to be typical of those which the producer will make in the future is relevant,¹⁴ and found that the weight given to each factor investigated will depend on the circumstances surrounding the sale.¹⁵ Finally, in *New Donghua*, the CIT affirmed Commerce's practice of evaluating the circumstances surrounding a sale in a new shipper review so that a respondent does not unfairly benefit from an atypical sale and obtain a lower dumping margin than the producer's usual commercial practice would dictate.¹⁶ Where Commerce finds that a sale is not *bona fide*, Commerce may exclude the sale from its export price calculations.¹⁷

Based on our analysis of the factors described above, we preliminarily find that Anhui Luan's U.S. sale is a *bona fide* transaction. Moreover, based on this finding, the company's responses to our questionnaires, and its eligibility for a separate rate (*see* the "Separate Rates" section below), we preliminarily determine that Anhui Luan qualifies as a new shipper company during this POR.¹⁸ We also preliminarily find that Kunshan Xinrui's U.S. sale is a *bona fide* transaction. Moreover, based on this finding, the company's responses to our questionnaires, and its eligibility for a separate rate (*see* the "Separate Rates" section below), we preliminarily determine that Kunshan Xinrui qualifies as a new shipper company during this POR.¹⁹

¹¹ *See, e.g., Honey from the People's Republic of China: Rescission and Final Results of Antidumping Duty New Shipper Reviews*, 71 FR 58579 (October 4, 2006), and accompanying Issues and Decision Memorandum (IDM) at comment 1b.

¹² *See TTPC*, 366 F. Supp. 2d 1246, 1249-1250. *See also* section 751(a)(2)(B)(iv)(I) – (VII).

¹³ *See Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (*New Donghua*) (citing *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002), and accompanying IDM: New Shipper Review of Clipper Manufacturing Ltd.).

¹⁴ *See TTPC*, 366 F. Supp. 2d at 1250.

¹⁵ *Id.* at 1263.

¹⁶ *See New Donghua*, 374 F. Supp. 2d at 1344.

¹⁷ *See TTPC*, 366 F. Supp. 2d at 1249.

¹⁸ *See* Memorandum, "New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China – *Bona Fides* Sales Analysis of Anhui Luan Hongyuan Foodstuffs Co., Ltd.," dated concurrently with this memorandum.

¹⁹ *See* Memorandum, "New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China – *Bona Fides* Sales Analysis of Kunshan Xinrui Trading Co., Ltd.," dated concurrently with this memorandum.

VI. VERIFICATION

As provided in section 782(i) of the Act, we verified the information provided by Hubei Nature in the administrative review and Kunshan Xinrui in the new shipper review of freshwater crawfish tail meat from China using standard verification procedures, including on-site inspection of the producer's and exporter's facilities, and examination of relevant sales and financial records. Our verification results are outlined in the verification reports for Hubei Nature and Kunshan Xinrui.²⁰

VII. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country Status

Commerce considers China to be a non-market economy (NME) country. 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. None of the parties to this proceeding contested NME treatment for China. Therefore, for these preliminary results of administrative review and new shipper reviews, we treated China as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

B. Surrogate Country

In antidumping duty proceedings involving NME countries, pursuant to section 773(c)(1) of the Act, Commerce determines NV based on the value of the NME producer's factors of production (FOPs). Also pursuant to section 773(c)(1), valuation of the factors of production is based on the best available information regarding such factors in an appropriate market economy country or countries. In accordance with section 773(c)(4) of the Act, in valuing the FOPs Commerce uses, to the extent possible, the prices or costs of the FOPs in one or more market-economy countries that are at the same level of economic development to that of the NME country and that are also significant producers of merchandise comparable to the subject merchandise. Commerce has determined that Romania, Mexico, Brazil, Bulgaria, Thailand and South Africa are countries that are at the same level of economic development to that of China.²¹ None of these countries is a significant producer of freshwater crawfish tail meat, but South Africa and Thailand are significant producers of comparable merchandise, that is processed seafood.²²

²⁰ See Memoranda, "Verification of the Questionnaire Responses of Hubei Nature Agriculture Industry Co., Ltd., in the Antidumping Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China" (Hubei Nature Verification Report), and "Verification of the Questionnaire Responses of Kunshan Xinrui Trading Co., Ltd., in the Antidumping New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China," both dated concurrently with this memorandum.

²¹ See Memorandum, "Request for a List of Surrogate Countries for Two New Shipper Reviews and an Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat ("FCTM") from the People's Republic of China ("China")," dated November 29, 2017.

²² See Memorandum, "Freshwater Crawfish Tail Meat from the People's Republic of China: Selection of Surrogate Country," dated concurrently with this memorandum.

As stated in 19 CFR 351.408(c)(2), Commerce’s preference is to value all FOPs in a single surrogate country. Thus, when there are multiple potential surrogate countries, Commerce also looks to the availability of data in those countries.²³ In this instance, publicly available data for Thailand allows the valuation of more of the FOPs required to calculate NV than information on the record with respect to South African prices. Both South Africa and Thailand are significant producers of comparable merchandise, and they are both at the same economic level to China; however, the ability to value more FOPs with Thai data leads us to select Thailand as the primary surrogate country.²⁴

We have on the record contemporaneous financial statements from a South African seafood processor²⁵ and contemporaneous financial statements from a Thai frozen seafood manufacturer.²⁶ Although it is possible to calculate surrogate ratios for overhead, selling, general and administrative expenses (SG&A), and profit using the financial information from either company, we preliminarily find that, pursuant to section 773(c)(1) of the Act, the Thai frozen seafood manufacturer’s 2017 Annual Report constitutes the “best available information.” The frozen seafood manufacturer is located in Thailand, which is a significant producer of comparable merchandise and is at the same level of economic development to China. In addition, it is the country we have selected as the primary surrogate country and, as discussed above, it is Commerce’s preference to value FOPs in a single country.

We are unable to value the whole crawfish input in any of the potential surrogate countries. Instead, we valued whole crawfish using the only information available on the record with respect to that input, *i.e.*, imports of crawfish into Spain from Portugal during the 2015-2016 POR as reported by *Global Trade Atlas* (Eurostat). Spain is a significant producer of freshwater

²³ See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process, (March 1, 2004) (*Policy Bulletin 04.1*).

²⁴ See *Folding Metal Tables and Chairs from the People’s Republic of China: Final Results of 2007-2008 Deferred Antidumping Duty Administrative Review and Final Results of 2008-2009 Antidumping Duty Administrative Review*, 76 FR 2883 (January 18, 2011), and accompanying IDM at comment 1(C).

²⁵ See the CPA’s Letter “Re: Freshwater Crawfish Tail Meat from the People’s Republic of China: 2016-17 AR/NSR: Surrogate Values,” dated April 2, 2018 (CPA Surrogate Value Comments) at Exhibit 2.

²⁶ See Hubei Nature’s Letter “Re: Freshwater Crawfish Tailmeat from the People’s Republic of China: Submission of Initial Surrogate Value Information,” dated April 2, 2018, (Hubei Nature Surrogate Value Comments) at Exhibit 6.

crawfish and we relied on Spanish values in previous reviews for this input.²⁷ Because there is a lack of consistent data on the record for Spanish imports of whole crawfish from Portugal from the POR, we preliminarily find that the Spanish import data Commerce used for the 2015-2016 POR are the best available information on the record to value whole crawfish.²⁸

With regard to crawfish shells, we find that the Thai tariff schedule 0508.00.20002 is a basket category that includes non-chitin containing echinoderms and decorative shells of various kinds and does not appear to include the shells comparable to the crawfish shell or scrap produced as a by-product from processing crawfish tail meat.²⁹ Thus, we preliminarily find that the 2001 Indonesian price quote placed on the record by the CPA is the best information available to value the crawfish by-product or scrap because it is public information, and represents a price on a wet-weight basis, which is consistent with how Chinese exporters export their crawfish scrap.³⁰ Although in this review, Indonesia is no longer on the list of countries at the same level of economic development as China, per *Policy Bulletin 04.1* at 4-5, we find that when data are not available from the preferred surrogate countries, as is the case in this review with respect to this

²⁷ See, e.g., *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review; 2011-2012*, 78 FR 61331 (October 3, 2013), and accompanying Preliminary Decision Memorandum (PDM) at "Surrogate Country" (*11/12 FCTM Prelim*) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2011-2012*, 79 FR 22947 (April 25, 2014), and accompanying IDM (*11/12 FCTM Final*)); *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review; 2012-2013*, 79 FR 60134 (October 6, 2014), and accompanying PDM at "Surrogate Country" (*12/13 FCTM Prelim*) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2012-2013*, 79 FR 75535 (December 18, 2014) (*12/13 FCTM Final*)); *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2013-2014*, 80 FR 60624 (October 7, 2015), and accompanying PDM at "Surrogate Country" (*13/14 FCTM Prelim*) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2013-2014*, 81 FR 21840 (April 13, 2016), and accompanying IDM (*13/14 FCTM Final*)); *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review; 2014-2015*, 81 FR 70389 (October 12, 2016), and accompanying PDM at "Surrogate Country" (*14/15 FCTM Prelim*) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2014-2015*, 82 FR 17634 (April 12, 2017), and accompanying IDM (*14/15 FCTM Final*)); *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Rescission of Review in Part, and Preliminary Intent To Rescind New Shipper Review; 2015-2016*, 82 FR 26435 (June 7, 2017), and accompanying PDM at "Surrogate Country" (*15/16 FCTM Prelim*) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission of New Shipper Review; 2015-2016*, 82 FR 47469 (October 12, 2017), and accompanying IDM (*15/16 FCTM Final*)).

²⁸ For more details, see Memorandum, "Freshwater Crawfish Tail Meat from the People's Republic of China: Surrogate-Value Memorandum," (Surrogate Value Memorandum) dated concurrently with this memorandum.

²⁹ See *12/13 FCTM Prelim* (unchanged in *12/13 FCTM Final*).

³⁰ See *Notice of Preliminary Results of Antidumping Duty New Shipper Reviews: Freshwater Crawfish Tail Meat from the People's Republic of China*, 67 FR 52442, 52446 (August 12, 2002) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty New Shipper Review, and Final Rescission of Antidumping Duty New Shipper Review*, 68 FR 1439 (January 10, 2003)).

input, Commerce may look to other data sources.³¹ As such, we have identified another data source that is on the record to value the scrap by-product.

C. Separate Rates

In antidumping duty proceedings involving NME countries, Commerce relies on a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate.³² Thus, Commerce will assign all exporters this single rate unless an exporter can demonstrate that it is sufficiently independent from the government such that it is entitled to a separate rate. Commerce assigns separate rates in NME proceedings only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities under a test developed by commerce.³³

In the *Initiation Notice* and the *New-Shipper Initiation Notice*, Commerce notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.³⁴ Commerce received from the respondent selected for individual examination in the administrative review and the respondents in the new shipper reviews information pertaining to each company's eligibility for a separate rate.³⁵ Commerce also received from four respondents not selected for individual examination in the administrative review information pertaining to each company's eligibility for a separate rate.³⁶

³¹ See *Policy Bulletin 04.1* at 4-5.

³² 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*, 71 FR 53079, 53082 (September 8, 2006); *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 FR 34893 (June 18, 2015), and accompanying IDM at Comment 35.

³³ 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*), and *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586-87 (May 2, 1994) (*Silicon Carbide*).

³⁴ See *Initiation Notice*, 82 FR at 52269; *New-Shipper Initiation Notice*, 82 FR at 48483.

³⁵ See Hubei Nature's Letter, "Re: Freshwater Crawfish Tailmeat from the People's Republic of China: Submission of Separate Rate Certification," dated December 12, 2017 (Hubei Nature SRC); Anhui Luan's Letter, "Re: Freshwater Crawfish Tail Meat from the PRC Refiling of Questionnaire Section A and Importer-Specific Questions Responses," dated December 8, 2017, at A-1 through A-9 (Anhui Luan SRA); Kunshan Xinrui's Letter, "Re: Freshwater Crawfish Tail Meat from People's Republic of China: Kunshan Xinrui Section A Questionnaire Response and Appendix X," dated November 29, 2017, at A-1 through A-8 (Kunshan Xinrui SRA).

³⁶ See Weishan Hongda's Letter, "Re: Weishan Hongda Separate Rate Certification in the Administrative Review of the Antidumping Order on Fresh Crawfish Tailmeat from the People's Republic of China," dated December 13, 2017 (Weishan Hongda SRC); Xiping Opeck's Letter to the Secretary of Commerce, "Re: Freshwater Crawfish Tail Meat from the People's Republic of China Separate Rate Certification," dated December 13, 2017 (Xiping Opeck SRC); Xuzhou Jinjiang Foodstuffs Co., Ltd.'s Letter, "Re: Freshwater Crawfish Tail Meat from the People's Republic of China Separate Rate Certification," dated December 13, 2017 (Xuzhou Jinjiang SRC); Yancheng Hi-King Agriculture Developing Co., Ltd.'s Letter, "Re: Freshwater Crawfish Tail Meat from The People's Republic of China: Separate Rate Certification," dated December 13, 2017 (Yancheng Hi-King SRC).

1. Absence of *De Jure* Control

Commerce 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.³⁷

The evidence provided by Hubei Nature, Weishan Hongda, Xiping Opeck, Xuzhou Jinjiang, Yancheng Hi-King, Anhui Luan and Kunshan Xinrui support a preliminary finding of an absence of *de jure* government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) legislative enactments decentralizing control of the companies; and (3) formal measures by the government decentralizing control of the companies.³⁸

2. Absence of *De Facto* Control

As stated in previous cases, there is some evidence that certain enactments of the Chinese central government have not been implemented uniformly among different sectors and/or jurisdictions in China.³⁹ Therefore, Commerce determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of government control which would preclude Commerce from assigning separate rates. Commerce typically considers the following four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by, or subject to the approval of, a government agency; (2) whether the respondent has the 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 the disposition of profits or financing of losses.⁴⁰

Hubei Nature, Weishan Hongda, Xiping Opeck, Xuzhou Jinjiang, Yancheng Hi-King, Anhui Luan and Kunshan Xinrui have each made the following assertions: (1) they establish their own export prices; (2) they negotiate contracts without guidance from any government entities or organizations; (3) they make their own personnel decisions; and (4) they retain the proceeds of their export sales, use profits according to their business needs, and have the authority to sell their assets and to obtain loans.⁴¹ Therefore, based on the information on the record of these

³⁷ See *Sparklers*, 56 FR at 20589; see also *15/16 FCTM Prelim* and accompanying PDM at 8-9 (unchanged in *15/16 FCTM Final*).

³⁸ See Hubei Nature SRC at 4-5; Weishan Hongda SRC at 4-5; Xiping Opeck SRC at 5; Xuzhou Jinjiang SRC at 5; Yancheng Hi-King SRC at 4-5; Anhui Luan SRA at A-1 through A-8; Kunshan Xinrui SRA at A-1 through A-8.

³⁹ See *Silicon Carbide*, 59 FR at 22586-87; see also *12/13 FCTM Prelim* and accompanying PDM at "Separate Rates" (unchanged in *12/13 FCTM Final*).

⁴⁰ See *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 n.3 (May 8, 1995); *Silicon Carbide*, 59 FR at 22586-87.

⁴¹ See Hubei Nature SRC at 5-6; Weishan Hongda SRC at 5-6; Xiping Opeck SRC at 5-6; Xuzhou Jinjiang SRC at 6; Yancheng Hi-King SRC at 5-6; Anhui Luan SRA at A-1 through A-8; Kunshan Xinrui SRA at A-1 through A-8.

reviews, Commerce preliminarily determines that there is an absence of *de facto* governmental control over the export activities of Hubei Nature, Weishan Hongda, Xiping Opeck, Xuzhou Jinjiang, Yancheng Hi-King, Anhui Luan and Kunshan Xinrui.

Given that Commerce found that Hubei Nature, Weishan Hongda, Xiping Opeck, Xuzhou Jinjiang, Yancheng Hi-King, Anhui Luan and Kunshan Xinrui operate free of *de jure* and *de facto* governmental control, we preliminarily determine that they satisfy the criteria for a separate rate.⁴²

3. Separate Rate for Eligible Non-Selected Respondent

In accordance with section 777A(c)(2)(B) of the Act, we selected Hubei Nature for individual examination because we did not have the resources to examine all companies for which a review was requested.⁴³

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual separate rate respondents not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for separate rate respondents which were not individually examined in an administrative review. Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis*, or determined entirely under section 776 of the Act, we may use "any reasonable method" for assigning the rate to all other respondents not individually examined. Consistent with the Court of Appeals for the Federal Circuit's decision in *Albemarle Corp. v. United States*,⁴⁴ in this review, we have preliminarily used the rate applied to the mandatory respondent as the rate for the non-selected companies.⁴⁵ In this administrative review, the preliminary rate for Hubei Nature is the only rate

⁴² Since the 2010-2011 administrative review, Commerce has treated the following companies as a single entity: Hi-King Agriculture, Yancheng Seastar Seafood Co., Ltd. (Seastar), Wuhan Hi-King Agriculture Development Co., Ltd. (Wuhan Hi-King), Jiangxi Hi-King Poyang Lake Seafood Co., Ltd. (Jiangxi Hi-King), Yancheng Hi-King Frozen Food Co., Ltd. (Hi-King Frozen), and Yancheng Hi-King Aquatic Growing Co., Ltd. (Hi-King Growing). See *Freshwater Crawfish Tail Meat from the People's Republic of China: Antidumping Duty Administrative Review; 2010-2011*, 77 FR 61383 (October 9, 2012), and accompanying PDM at 3 (Treatment of Affiliated Parties as a Single Entity) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission; 2010-2011*, 78 FR 22228 (April 15, 2013)). In *15/16 FCTM Prelim*, and accompanying PDM at 3-4 (unchanged in *15/16 FCTM Final*), Yancheng Hi-King demonstrated that, as of January 2016, it divested its ownership interests in the following companies: Wuhan Hi-King, Jiangxi Hi-King, Hi-King Frozen, and Hi-King Growing. Thus, we are treating the following companies as a single entity: Yancheng Hi-King and Seastar.

⁴³ See Respondent Selection Memorandum.

⁴⁴ See *Albemarle Corp. v. United States*, 821 F.3d 1345 (Fed. Cir. 2016).

⁴⁵ See, e.g., *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2015-2016*, 82 FR 26666 (June 8, 2017) and accompanying PDM at 7-8 (unchanged in *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments; 2015-2016*, 82 FR 44160 (September 21, 2017)); *Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4 1/2 Inches) from Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2014-2015*, 81 FR 45124 (July 12, 2016), and accompanying PDM at

determined for an individually examined respondent. Therefore, we assigned the preliminary rate for this company, *i.e.*, 0.00 percent, to the non-selected respondents eligible for a separate rate.⁴⁶

D. Fair Value Comparisons

To determine whether sales of subject merchandise by Hubei Nature, Anhui Luan and Kunshan Xinrui were made at less than NV, we compared their export prices (EP) to NV, as described in the “Export Price” and “Normal Value” sections below.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce determines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, 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 Commerce’s examination of this question in the context of administrative and new shipper reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative and new shipper reviews is, in fact, analogous to the issue in less-than-fair-value investigations.

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

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. 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

8 n.21 (unchanged in *Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4 ½ Inches) from Japan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014-2015*, 81 FR 80640, 80641 (November 16, 2016)).

⁴⁶ See *Albemarle*, 821 F.3d 1345. See also, *e.g.*, *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results, Preliminary Determination of No Shipments, and Partial Rescission of the Antidumping Duty Administrative Review; 2015-2016*, 82 FR 42785 (September 12, 2017), and accompanying PDM at 9-10 n.52.

analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip codes) 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 based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period 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 used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the 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 (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, 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, Commerce examines whether using only the A-A method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison 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 only. 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 comparison 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 margins 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 margins between the A-A method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications 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.

2. Results of the Differential Pricing Analysis

For Hubei Nature, based on the results of the differential pricing analysis, Commerce preliminarily finds that 53.8 percent of the value of U.S. sales pass the Cohen's *d* test,⁴⁷ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Hubei Nature.

With respect to Anhui Luan and Kunshan Xinrui, we do not have two or more sales to compare in order to test whether a pattern of prices that differ significantly exists. Accordingly, we have not conducted a differential pricing analysis. Thus, we determined whether Anhui Luan and Kunshan Xinrui sold subject merchandise at less than NV using the standard comparison method. Specifically, we compared the applicable month's weighted-average NV to the EP in our AD margin calculations.

E. U.S. Price

For Hubei Nature, Anhui Luan and Kunshan Xinrui, in accordance with section 772(a) of the Act, we based U.S. prices on EP because the record information indicates that the first sales to unaffiliated purchasers were made prior to importation and CEP was not otherwise warranted. For Hubei Nature Anhui Luan, and Kunshan Xinrui we calculated EPs based on the packed free-on-board (FOB)-China-port price to the first unaffiliated purchaser in the United States. In accordance with section 772(c) of the Act, we calculated net EPs by deducting foreign inland-

⁴⁷ See Memorandum, "Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results Analysis Memorandum for Hubei Nature Agriculture Industry Co., Ltd.," dated concurrently with this memorandum (Hubei Nature Preliminary Analysis Memorandum).

freight expenses and foreign brokerage and handling expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States. With regard to Hubei Nature, Anhui Luan and Kunshan Xinrui, we based all movement expenses reported on surrogate values because a Chinese company provided the movement services.

Commerce's practice in NME cases is to adjust EP and CEP for the amount of any un-refunded (herein, "irrecoverable") value-added tax (VAT), in accordance with section 772(c)(2)(B) of the Act.⁴⁸ In changing the practice, Commerce 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, Commerce will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.⁴⁹ Where the irrecoverable VAT is a fixed percentage of EP or CEP, Commerce explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.⁵⁰

Commerce's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the amount (or rate) of the irrecoverable VAT tax on subject merchandise; and (2) reducing U.S. price by the amount (or rate) determined in step one. Information placed on the record of this review by certain respondents indicates that, according to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is 15 percent.⁵¹ For the purposes of these preliminary results, therefore, we removed from U.S. price for each company the irrecoverable amount of VAT, which is two percent.⁵²

F. Date of Sale

Section 351.401(i) of Commerce's regulations states that, normally, we will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that we may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. Commerce has a long-

⁴⁸ 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*).

⁴⁹ *Id.*; see also *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014) and accompanying IDM at Comment 5.A.

⁵⁰ See *Methodological Change*, 77 FR at 36483.

⁵¹ See Hubei Nature's February 5, 2018, section C response (Hubei Nature CQR) at 28-29; Anhui Luan's December 15, 2017, section C response (Anhui Luan CQR) at C-1 and Anhui Luan's March 28, 2018, supplemental questionnaire response at 6-7; Kunshan Xinrui's April 30, 2018, second supplemental questionnaire response at 2-4.

⁵² For details on our price adjustments related to VAT, see the company-specific analysis memoranda, concurrently dated with this memorandum.

standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.⁵³

Hubei Nature

Hubei Nature reported the date of invoice as the date of sale for all U.S. sales.⁵⁴ Because, however, for certain sales transactions, Hubei Nature's reported date of shipment preceded the date of invoice,⁵⁵ consistent with our regulation and Commerce's practice, we used the earlier of Hubei Nature's shipment date or invoice date as the date of sale.⁵⁶

Anhui Luan

Anhui Luan reported the date of invoice as the date of sale for all U.S. sales.⁵⁷ Consistent with our regulatory presumption of invoice date as the date of sale and because the evidence does not demonstrate that the material terms of sale were established on another date,⁵⁸ we used Anhui Luan's invoice date as the date of sale for U.S. sales.⁵⁹

Kunshan Xinrui

Kunshan Xinrui reported the date of invoice as the date of sale for all U.S. sales.⁶⁰ Consistent with our regulatory presumption of invoice date as the date of sale and because the evidence does not demonstrate that the material terms of sale were established on another date,⁶¹ we used Kunshan Xinrui's invoice date as the date of sale for U.S. sales.⁶²

G. Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the available information

⁵³ See *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 IDM at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.

⁵⁴ See Hubei Nature's January 9, 2018, section A response (AQR) at A-15; see also Hubei Nature CQR at 8; Hubei Verification Report at 9.

⁵⁵ See Hubei Nature's March 27, 2018, supplemental response at 5-6 and Appendix S1-1; see also Hubei Nature Verification Report at 9 and Exhibits 4A and 4B.

⁵⁶ For more details on our calculation, see Hubei Nature Preliminary Analysis Memorandum.

⁵⁷ See Anhui Luan CQR at C-5.

⁵⁸ See 19 CFR 351.401(i).

⁵⁹ For more details on our calculation, see Memorandum, "New Shipper Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China; 2015-2016: Preliminary Results Analysis Memorandum for Anhui Luan Hongyuan Foodstuffs Co., Ltd.," dated concurrently with this memorandum.

⁶⁰ See Kunshan Xinrui's section C response, dated December 15, 2017, at C-7.

⁶¹ See 19 CFR 351.401(i).

⁶² For more details on our calculation, see Memorandum, "Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results Analysis Memorandum for Kunshan Xinrui Trading Co., Ltd.," dated concurrently with this memorandum.

does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Commerce uses an FOP methodology because the presence of government controls on various aspects of NMEs render price comparisons and the calculation of production costs invalid under its normal methodologies.⁶³

In accordance with section 773(c) of the Act, we relied on the FOP data reported by Hubei Nature, Anhui Luan and Kunshan Xinrui for the POR. We calculated NV by adding together values for the FOPs, general expenses, profit, and packing costs. Specifically, we valued materials, labor, and packing by multiplying the reported per-unit rates for the FOPs consumed in producing the subject merchandise by the average per-unit surrogate values described below. We added freight costs for the material inputs. We calculated the freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the decision by the United States Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-1408 (Fed. Cir. 1997), which held that Commerce has discretion to choose a methodology to determine freight components if it does not substantially overvalue total freight expenses. We increased the calculated costs of the FOPs by adding surrogate general expenses and profit.⁶⁴

H. Surrogate Values

In selecting surrogate values, we considered the quality, specificity, and contemporaneity of the data.⁶⁵ For these preliminary results, in selecting the best available data for valuing FOPs in accordance with section 773(c)(1) of the Act, we followed our practice of choosing publicly available values which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.⁶⁶ We also considered the quality of the source of surrogate information in selecting surrogate values.⁶⁷ For those surrogate values that are not

⁶³ See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744, 39754 (July 11, 2005) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006)).

⁶⁴ See Surrogate Value Memorandum.

⁶⁵ See, e.g., *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying IDM at Comment 6; *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms from the People's Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying IDM at Comment 5.

⁶⁶ 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)).

⁶⁷ See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Preliminary Results of the 2007-2008 Administrative Review of the Antidumping Duty Order*, 74 FR 32539, 32543 (July 8, 2009) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2007-2008 Administrative Review of the Antidumping Duty Order*, 75 FR 844 (January 6, 2010)).

contemporaneous with the POR, we adjusted for inflation using country-specific consumer prices (CPI) or purchase price indices (PPIs) as reported in the *International Financial Statistics* and published by the International Monetary Fund.⁶⁸

Furthermore, we disregarded import prices that we have reason to believe or suspect may be subsidized.⁶⁹ In this regard, we previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we determined that these countries maintain broadly available, non-industry specific export subsidies.⁷⁰ Additionally, we disregarded prices from NME countries.⁷¹

We used the following surrogate values in our margin calculations for these preliminary results of review:⁷²

We used the *Global Trade Atlas* online data to value whole crawfish using the publicly available data for Spanish imports of whole crawfish from Portugal for the 2015-2016 period of review⁷³ and inflated this value using the Spanish PPI to make it contemporaneous with the POR.⁷⁴ We valued the crawfish shell by-product using a 2001 price quote from Indonesia for wet crab and

⁶⁸ See Surrogate Value Memorandum.

⁶⁹ See Section 773(c)(5) of the Act; see also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).

⁷⁰ See, e.g., *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (July 14, 2014); *Certain Frozen Warmwater Shrimp from the Republic of Indonesia: Final Negative Countervailing Duty Determination*, 78 FR 50383 (August 19, 2013); *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; 2011*, 78 FR 55241 (September 10, 2013) (unchanged in *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 5378 (January 31, 2014)); *Large Residential Washers from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012); *Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 26, 2012); *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013).

⁷¹ See, e.g., *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 9591, 9600 (March 5, 2009) (unchanged in *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009) (unchanged in *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order*, 74 FR 46971 (September 14, 2009))).

⁷² On April 2, 2018, the CPA timely placed on the record surrogate value information. CPA Surrogate Value Comments. On April 2, 2018, Kunshan Xinrui timely placed on the record surrogate value information (Kunshan Xinrui Surrogate Value Comments) and, on April 2, 2018, April 5, 2018, and May 3, 2018, Hubei Nature timely placed on the record surrogate value information (Hubei Nature Surrogate Value Comments). Each party requested that Commerce consider such information for the preliminary results.

⁷³ See Kunshan Xinrui Surrogate Value Comments at 2 and Exhibit SV-3.

⁷⁴ See Surrogate Value Memorandum.

shrimp shells and inflated this value using the Indonesian CPI to make it contemporaneous with the POR.⁷⁵

We used the *Global Trade Atlas* online data to value coal and packing materials.⁷⁶ We valued water using data published by the Metropolitan Waterworks Authority of Thailand as of July 2016 specific to prices charged to Commerce, Government Agency, State Enterprise and Industry.⁷⁷ We valued electricity using data published by the Provincial Electricity Authority of Thailand as of July 2016 specific to prices charged to Medium General Service entities.⁷⁸

We valued non-refrigerated truck freight using the World Bank's *Doing Business 2018 – Thailand*,⁷⁹ which we find to be contemporaneous, specific to the cost of shipping goods in Thailand, and representative of a broad market average.⁸⁰ Because we could not find any reliable information from Thailand, or any of the five other countries determined to be economically comparable to China,⁸¹ we valued refrigerated truck freight based on price quotations from CTC Freight Carriers of Delhi, India, dated April 30, 2004, placed originally on the record of the 2009-2010 administrative review.⁸² To make it contemporaneous with the POR, we inflated this value using the Indian PPI.⁸³

We valued foreign brokerage and handling expenses using the information in the World Bank Group's *Doing Business 2018 – Thailand*.⁸⁴ This source provides a price list based on a survey case study of the procedural requirements necessary to export a standardized cargo of goods by ocean transit from Thailand. Because data reported in this source were current and, thus, contemporaneous with the POR, no adjustment was necessary.

In *Labor Methodologies*, Commerce determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, Commerce determined that Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook), as compared to Chapter 5B data of the ILO Yearbook, was the preferred source where another source was not more appropriate.⁸⁵

⁷⁵ See CPA Surrogate Value Comments at Exhibit 1.

⁷⁶ See Hubei Nature Surrogate Value Comments at Exhibit 1; see also Surrogate Value Memorandum.

⁷⁷ See Kunshan Xinrui Surrogate Value Comments at 3 and Exhibit SV-9.

⁷⁸ See Kunshan Xinrui Surrogate Value Comments at 3 and Exhibit SV-8.

⁷⁹ See Kunshan Xinrui Surrogate Value Comments at 5 and Exhibit SV-14.

⁸⁰ See Surrogate Value Memorandum.

⁸¹ *Id.*

⁸² See *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part*, 76 FR 62349, 62355 (October 7, 2011) (9/10 FCTM Prelim) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission of Review in Part*, 77 FR 21529 (April 10, 2012) (9/10 FCTM Final)).

⁸³ *Id.* See also Surrogate Value Memorandum.

⁸⁴ See Kunshan Xinrui Surrogate Value Comments at 5 and Exhibit SV-14.

⁸⁵ See 9/10 FCTM Prelim, 76 FR at 62355 (unchanged in 9/10 FCTM Final).

In these preliminary results, Commerce calculated the labor input using data from the 2012 Industrial Census data published by Thailand’s National Statistics Office (2012 NSO data) and inflated this value using the Thai CPI to make it contemporaneous with the POR.⁸⁶ Although the 2012 NSO data are not from the ILO, Commerce finds that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, Commerce decided to change the use of the ILO Chapter 6A data from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.⁸⁷ Commerce did not, however, preclude all other sources for evaluating labor costs in NME antidumping duty proceedings. Rather, we continue to follow our practice of selecting the “best information available” to determine SVs for inputs such as labor. Thus, we find that the 2012 NSO data are the best available information for valuing labor for this segment of the proceeding. Specifically, the 2012 NSO data are more contemporaneous than the ILO Chapter 6A data from Thailand. Additionally, the NSO data are publicly available, industry-specific, reflects all costs related to labor including: wages, benefits, housing, and training. A more detailed description of the wage rate calculation methodology is provided in the Surrogate Value Memorandum.⁸⁸

Finally, we valued factory overhead, SG&A, and profit by using a Thai frozen seafood manufacturer’s 2017 audited financial statements. For more specific information concerning our use of the 2017 financial statements of the Thai manufacturer of frozen seafood, *see* the Surrogate Value Memorandum.

VIII. CURRENCY CONVERSION

We 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>.

⁸⁶ See Surrogate Value Memorandum.

⁸⁷ See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092, 36093 (June 21, 2011) (*Labor Methodologies*).

⁸⁸ See Surrogate Value Memorandum.

IX. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

10/2/2018

X 

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance