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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of the 2012-2013 Antidumping Duty Administrative Review: Chlorinated Isocyanurates from the People's Republic of China

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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, 2012, through May 31, 2013. This review covers five producers/exporters: 1) Arch Chemicals (China) Co. Ltd. (Arch China); 2) Hebei Jiheng Chemical Co., Ltd.(Jiheng); 3) Heze Huayi Chemical Co. Ltd. (Heze); 4) Juancheng Kangtai Chemical Co., Ltd. (Kangtai); and 5) Zhucheng Taisheng Chemical Co., Ltd. (Zhucheng). The Department preliminarily finds that the two mandatory respondents, Jiheng and Kangtai, sold subject merchandise to the United States at prices below normal value (NV).

If these preliminary results are adopted in our final results of review, the Department will instruct U.S. Customs and Border Protection (CBP) to assess duties on all appropriate entries of subject merchandise during the POR. In addition to the two mandatory respondents, the Department preliminarily grants a separate rate to Arch China, Heze and Zhucheng, all of which demonstrated eligibility for separate rate status. The rates assigned to each of these companies can be found in the "Preliminary Results of Review" section of the accompanying 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 1, 2013, the Department initiated the administrative review of the AD order on chlorinated isos from the PRC covering the period June 1, 2012, through May 31, 2013.[1] Between September 27 and September 30, 2013, Jiheng, Kangtai, Arch China, Heze and Zhucheng each submitted either a separate rate application or certification, as appropriate.[2] Due to the large number of review requests received, the Department limited the number of mandatory respondents selected for individual examination to the two largest exporters/producers, based on export volume as reported to CBP, for which a review was requested – Jiheng and Kangtai.[3]

On September 19, 2012, the Department issued its AD questionnaire to Jiheng and Kangtai, to which both companies responded in a timely manner. On January 7, 2014 and April 11, 2014, Clearon Corporation and Occidental Chemical Corporation (Petitioners), submitted deficiency comments regarding Jiheng's and Kangtai's section A, C and D questionnaire responses, respectively. The Department issued supplemental questionnaires to Jiheng and Kangtai on March 31, 2014, and May 22, 2014, respectively. Both respondents submitted responses in a timely manner.

On February 11, 2014, the Department extended the time limit for the preliminary results of review from March 19, 2014, until July 17, 2014.[4]

On February 12, 2014, the Department placed the Surrogate Country List on the record and solicited interested parties to submit comments regarding the selection of the surrogate country as well as provide surrogate value (SV) data.[5] Petitioners, Jiheng, Kangtai, and Arch China placed information on the record regarding the selection of the surrogate country and SVs between April 28, 2014 and June 18, 2014, including timely filed rebuttal comments.

[1] See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 78 FR 46566 (Augusu 1, 2013) (Initiation Notice).

[2] See Letter from Jiheng, "Chlorinated Isocyanurates from China (Eighth Administrative Review) - Hebei Jiheng Chemical Co., Ltd. Separate Rate Application," September 30, 2013; Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China: Separate Rate Application," September 30, 2013; Letter from Arch China, "Chlorinated Isocyanurates from China (Eighth Administrative Review) - Separate Rate Certification," September 30, 2013; Letter from Heze, "Chlorinated Isocyanurates from the People's Republic of China: Separate Rate Application," September 30, 2013; and, Letter from Zhucheng, "Separate Rate Certification for Zhucheng Taisheng Chemical Co., Ltd. in the Administrative Review of Chlorinated Isocyanurates from the People's Republic of China, Case No. A-570-898," September 27, 2013 (collectively, Separate Rate Applications and Certification).

[3] See Memorandum, "Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Selection of Respondents for Individual Examination," dated September 4, 2013 (Respondent Selection Memorandum).

[4] See Memorandum, "Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," February 11, 2014.

[5] See Letter to All Interested Parties regarding "2012-2013 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Informaton," dated February 12, 2014 (Surrogate Country List).

SCOPE OF THE ORDER

The products covered by the order are chlorinated isocyanurates, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) trichloroisocyanuric acid ($Cl_3(NCO)_3$), (2) sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3(2H_2O)$), and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isos are available in powder, granular, and tableted forms. The order covers all chlorinated isos. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isos and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country Status

In every AD case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (NME) country.[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

Designation of a country as an NME remains in effect until it is revoked by the Department.[7] Accordingly, in proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single AD duty rate.[8] 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

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[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 section 771(18)(C)(i) of the Act.

[8] 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).

exporting entity in an NME country under the test established in Sparklers[9] and further clarified in Silicon Carbide.[10] However, if the Department determines that a company is wholly foreign-owned or located in a market economy (ME), then a separate-rate analysis is not necessary to determine whether it is independent from government control.

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.[11] For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility, the Department requires a separate-rate application.[12]

In this review, Jiheng, Kangtai, Arch China, Heze and Zhucheng certified their eligibility for separate rate status through a separate rate certification or application. Arch China's separate rate certification provided evidence that it is wholly owned by individuals or companies located in an ME.[13] Therefore, because it is wholly foreign-owned, and the Department has no evidence indicating that it is under the control of the PRC, a separate rate analysis is not necessary to determine that Arch China is independent from the PRC. Accordingly, the Department has preliminarily granted Arch China a separate rate. Jiheng, Kangtai, Heze and Zhucheng reported that they are either a joint venture between Chinese and foreign companies or a wholly Chinese-owned company.[14] 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.[15]

The evidence Jiheng, Kangtai, Heze and Zhucheng provided in their separate rate certifications or applications supports a preliminary finding of absence of de jure government control based on the following factors: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) applicable legislative enactments decentralizing control of the companies; and (3) formal measures by the government decentralizing control of PRC companies.[16]

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[9] 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).
[10] 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).
[11] See Initiation Notice, 76 FR at 82269.
[12] Id.
[13] See Separate Rate Applications and Certification.
[14] Id.
[15] See Sparklers.
[16] See Separate Rate Applications and Certification.

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.[17] Therefore, the Department has determined that an analysis of de facto control is critical in determining whether Jiheng, Kangtai, Heze, and Zhucheng 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.[18]

The evidence Kangtai, Heze, and Zhucheng provided in their separate rate certifications, and the evidence Jiheng provided in its separate rate application,[19] supports a preliminary finding of absence of de facto government control based on the following factors: (1) an absence of restrictive government control on export prices; (2) a showing of authority to negotiate and sign contracts and other agreements; (3) a showing that Jiheng, Kangtai, Heze, and Zhucheng maintain autonomy from the government in making decisions regarding the selection of management; and (4) a showing that Jiheng, Kangtai, Heze, and Zhucheng retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

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

Separate Rate for Non-Selected Companies

In accordance with section 777A(c)(2)(B) of the Act, the Department employed a limited examination methodology, as it did not have the resources to examine all companies for which a review request was made. We selected Jiheng and Kangtai as the mandatory respondents in this review.[20] As discussed above, Heze and Zhucheng are exporters of subject merchandise from the PRC that have demonstrated their eligibility for a separate rate but which were not selected for individual examination in this review. The statute and the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not selected for individual examination where the Department limited its examination in an review pursuant to

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[17] See, e.g., Silicon Carbide, 59 FR at 22586-87.
[18] 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).
[19] See Separate Rate Applications and Certification.
[20] See Respondent Selection Memorandum.

section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate using any zero or de minimis margins or any margins based entirely on facts available. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero rates, de minimis rates, or rates based entirely on facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents. In this instance, we have calculated rates above de minimis for both Jiheng and Kangtai and neither rate is based entirely on facts available. Accordingly, for the preliminary results, consistent with the Department's practice, the Department has preliminarily determined that the separate rate margin to be assigned to Arch China, Heze, and Zhucheng should be a simple average of the two margins calculated for mandatory respondents Jiheng and Kangtai.[21]

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.[22]

Pursuant to section 773(c)(4) of the Act, the Department determined that Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand are countries comparable to the PRC in terms of economic development.[23] Section 773(c)(4)(A) of the Act is silent with respect to how the Department may determine that a country is economically comparable to the NME country. As such, the Department's long standing practice has been to identify those countries which are at a level of economic development similar to the PRC in terms of per capita gross national income (GNI) data available in the World Development Report provided by the World Bank.[24] The Department is satisfied that they are equally comparable in terms of economic development and serve as an adequate group to consider when gathering SV data.

Furthermore, providing parties with a range of countries with varying GNIs is reasonable given that any alternative would require a complicated analysis of factors affecting the relative GNI

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[21] See Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (October 18, 2011).
[22] See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin).
[23] See Surrogate Country List.
[24] 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.

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).[25] 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 February 12, 2014, the Department invited parties to comment on surrogate country selection and provide information regarding FOP valuation in the instant review.[26] On April 18, 2014, Petitioners filed their initial surrogate country comments stating the Department should expand the Surrogate Country List and consider the Philippines as the primary surrogate country, but that if the Department does not find the Philippines to be economically comparable to China, then the Department should select Thailand.[27] Petitioners later filed comments indicating that Thailand should be selected as the primary surrogate country because it is a significant producer whereas the Philippines per capita GNI has dropped since the last review and has failed to increase at the same rate as Thailand and the PRC.[28] Jiheng filed comments stating that Thailand is a significant producer of comparable merchandise and the best choice for surrogate country.[29]

Kangtai suggested in its initial surrogate country comments that the Philippines be used as the primary surrogate country, or, in the alternative, Thailand, noting that Thailand is economically comparable to the PRC and a significant producer of comparable merchandise.[30] Kangtai argued that the Philippines be selected as the primary surrogate country because it is a significant producer of comparable merchandise and has quality data to value all inputs as reflected in the use of the Philippines in the last two administrative reviews.[31] According to Kangtai, the Thai data is less superior, noting that we found Thai import data for chlorine to be aberrant in the last review.[32] Because we find at least one of the countries from the Surrogate Country List, Thailand, meets the selection criteria as explained below, we do not believe it would be appropriate to select Philippines, a country off the list that is compared to PRC at a less

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[25] See Fujian Lianfu Forestry Co., Ltd. v. United States, 638 F. Supp. 2d 1325 (CIT 2009).
[26] See Letter to All Interested Parties, Re: "201 2-201 3 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," February 12, 2014.
[27] See Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (2012-2013 Review): Petitioners' Comments on Primary Surrogate Country Selection," April 18, 2014.
[28] See Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (8th Antidumping Administrative Review): Preliminary Determination Comments and Submission of Factual Information," June 16, 2014.
[29] See Letter from Jiheng, "Chlorinated Isocyanurates from China (Eight Administrative Review) – Hebei Jiheng Chemical Co., Ltd., Initial Surrogate Value Information," at 2.
[30]; See Letter from Kangtai, "Certain Chlorinated Isocyanurates from the People's Republic of China Comments on Surrogate Country Selection," April 18, 2014, at 3-4.
[31] Id. at 3.
[32] See Letter from Kangtai, "Certain Chlorinated Isocyanurates from China Surrogate Value Rebuttal Comments," June 27, 2014.

comparable level of economic development than that represented by the six countries on the surrogate country candidate list.

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."[33] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[34] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[35] "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."[36] 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.[37]

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.[38] Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[39] it does not preclude reliance on additional or alternative metrics. In this case, the Department finds that calcium hypochlorite is comparable to subject merchandise because, as previously

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[33] See Policy Bulletin at 2.
[34] The Policy Bulletin also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." See id. at note 6.
[35] See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").
[36] See Policy Bulletin at 2.
[37] See id. at 3.
[38] See section 773(c) of the Act; see also Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1990).
[39] See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576 (1988), at 590.

determined, in prior segments of this proceeding, it has similar physical characteristics and end uses, and a similar production process, as the subject merchandise.[40]

The Department has production data on calcium hypochlorite, indicating that Colombia, Ecuador, Indonesia, South Africa, and Thailand are a significant producer of sodium hypochlorite.[41]

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.[42] Other than the comparison import data submitted by Petitioners for chlorine[43], there is no data on the record for any other FOP for Bulgaria, Colombia, Ecuador, Indonesia, and South Africa. With these countries disqualified, the Department is left with Thailand as a potential surrogate country. The Department finds Thailand to be a reliable source for SVs because Thailand is at a comparable level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data for all but two of the identified 52 inputs submitted by interested parties.[44] Given the above facts, the Department has selected Thailand as the primary surrogate country for this review. A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice.

Date of Sale

Pursuant to 19 CFR 351.401(i), the Department starts with a presumption that invoice date is the correct date of sale unless record evidence indicates that the material terms of sale such as price and quantity are established on another date. Jiheng and Kangtai reported that the date of sale should be the invoice date because the material terms of the sale are fixed at invoice date.[45] In this case, as the Department found no evidence contrary to Jiheng's and Kangtai's claims that the invoice date was the appropriate date of sale, the Department has used invoice date as the date of

[40] See 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 18-21.
[41] See Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (2012-2013 Review): Petitioners' Comments on Primary Surrogate Country Selection," April 18, 2014.
[42] See Policy Bulletin.
[43] See Letters from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (8th Antidumping Administrative Review): Preliminary Determination Comments and Submission of Factual Information," June 16, 2014, at Exhibit 2.
[44] See Memorandum to the File, "2012-2013 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).
[45] See Letter from Jiheng, "Chlorinated Isocyanurates from China (Eighth Administrative Review) - Hebei Jiheng Chemical Co., Ltd. Response to Section C & D," November 25, 2013 (Jiheng Section C and D response), at 13; see also Letter from Kangtai, "Certain Chlorinated Isocyanurates from the People's Republic of China Section C and D Questionnaire Response," December 5, 2013 (Kangtai Section C and D response), at 9.

sale for these preliminary results in accordance with 19 CFR 351.401(i).[46] Evidence on the record also demonstrates that, with respect to Jiheng's sales to the United States, for some sales the shipment date occurs prior to the invoice date.[47] In such cases, the Department has a practice of limiting the date of sale to no later than shipment date.[48]

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(l), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average export price (EP) or constructed export price (CEP) (the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to compare weighted-average NVs to the EPs or CEPs of individual transactions (the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(l)(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.[49] 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 351.4 14(c)(l) and consistent with section 777A(d)(1)(B) of the Act.[50] The Department finds the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs or CEPs for comparable merchandise that differs significantly among purchasers, regions, or time periods.[51] If such a pattern is found, then the differential pricing analysis evaluates

[46] 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.
[47] See Jiheng's November 29, 2011 questionnaire response at 13.
[48] See, e.g., Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 75 FR 7244, 7251 (February 18, 2010), unchanged in Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 41808 (July 19, 2010).
[49] 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).
[50] 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.
[51] 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, 20 13) and accompanying Decision Memorandum.

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

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

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

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

Results of the Differential Pricing Analysis

For Jiheng and Kangtai, based on the results of the differential pricing analysis, the Department finds that the value of their U.S. sales passing the Cohen's *d* test is substantial (i.e., between 33 percent and 66 percent) such that we should consider as an alternative comparison method applying the average-to-transaction method to a portion of U.S. sales.[52] However, the Department determines that the A-A method can appropriately account for such differences for Jiheng and Kangtai because there is no meaningful difference between their respective weighted-average dumping margins calculated using the A-A method and when using the alternative comparison method.[53] Accordingly, the Department has determined to use the A-A method in making comparisons of EP or CEP and NV for Jiheng and Kangtai.[54]

Fair Value Comparisons

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

[52] See Memorandum to the File, "Analysis for the Preliminary Results of the 2011-2012 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Juancheng Kangtai Chemical Co., Ltd.," July 17, 2014 (Kangtai Analysis Memorandum).
[53] See Jiheng Analysis Memorandum, see also Kangtai Analysis Memorandum.
[54] In these preliminary results for Jiheng and Kangtai, the Department applied the weighted-average dumping margin calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) (Final Modification for Reviews). In particular, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

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.

U.S. Price

In accordance with section 772(a) of the Act, EP is "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we used EP for the U.S. sales of the respondents because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation, and because CEP price was not otherwise warranted.

We calculated EPs for Jiheng and Kangtai based on the prices to their unaffiliated purchasers in the United States. To this price, we added amounts for components that were supplied free of charge (Jiheng and Kangtai) or for which the respondent was separately reimbursed by the customer (Jiheng), where applicable, pursuant to section 772(c)(1)(A) of the Act and consistent with our treatment of Jiheng's sales in prior reviews.[55] For free raw materials and packing materials, we added the SVs for these materials, multiplied by the reported FOPs for these items, to the U.S. price paid by Jiheng's or Kangtai's customer. The reimbursed raw materials were always listed separately on sales invoices, and were not included in the U.S. prices reported by Jiheng. Since these reimbursed items were raw materials, we added the amount paid by the U.S. customer for these materials to the U.S. price. In accordance with section 772(c) of the Act, where appropriate, we deducted from the starting prices to the unaffiliated purchasers, the expenses for: foreign inland freight; international freight; brokerage and handling; marine insurance; and U.S. customs duties.[56] For the expenses that were either provided by an NME vendor or paid for using an NME currency, we used SVs, as appropriate.[57]

Value-Added Tax

In 2012, the Department announced a change of methodology with respect to the calculation of the EP and CEP to include an adjustment of any un-refunded (herein irrecoverable) VAT in certain non-market economies in accordance with section 772(c)(2)(B) of the Act.[58] In this announcement, the Department stated that when a non-market economy government has imposed an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.[59] In a typical VAT system, companies do not incur any VAT expense; they receive on export a full rebate of the VAT they pay on purchases of inputs used in the production of

[55] See e.g., Chlorinated Isocyanurates from the People's Republic of China; 2011-2012: Final Results of Antidumping Duty Administrative Review, 79 FR 4875 (January 30, 2014) (2011-2012 Final Results) and accompanying Issues and Decision Memorandum.
[56] See Jiheng Analysis Memorandum; see also Kangtai Analysis Memorandum.
[57] See the "Factor Valuations" section below for details regarding the SVs for movement expenses.
[58] See Methodological Change for Implementation of Section 772(c)(2)(B).
[59] Id.; see also 2011-2012 Final Results and accompanying Issues and Decision Memorandum at Comment 5.

exports ("input VAT"), and, in the case of domestic sales, the company can credit the VAT they pay on input purchases for those sales against the VAT they collect from customers. That stands in contrast to China's VAT regime, where some portion of the input VAT that a company pays on purchases of inputs used in the production of exports is not refunded.[60] This amounts to a tax, duty or other charge imposed on exports that is not imposed on domestic sales. Where this irrecoverable VAT is a fixed percentage of export price, the Department explained that the final step in arriving at a tax-neutral dumping comparison is to reduce the U.S. export price downward by this same percentage.[61]

The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determine the irrecoverable VAT tax on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this review by respondents indicates that, according to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is nine percent.[62] For the purposes of these preliminary results, therefore, we reduced the U.S. price by this difference between the rates, i.e., eight percent, which is the irrecoverable VAT as defined under Chinese tax law and regulation.[63]

Normal Value

A. Methodology

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

[60] See e.g., Letter from Jiheng, "Chlorinated Isocyanurates from China (Eighth Administrative Review) - Hebei Jiheng Chemical Co., Ltd. Response to Supplemental Questionnaire," April 28, 2014 (Jiheng Supplemental response), at 16-19 and Exhibit 21.a, "Calculation of Non-refundable and non-deductible amount," of the "Notice of the Promotion of Tax Exemption, Deduction and Refund Policy for Export Products;" see also Methodological Change for Implementation of Section 772(c)(2)(B) at 36483.
[61] See Methodological Change for Implementation of Section 772(c)(2)(B).
[62] See e.g., Jiheng Supplemental response, at 16-19 and Exhibit 21.a, "Calculation of Non-refundable and non-deductible amount," of the "Notice of the Promotion of Tax Exemption, Deduction and Refund Policy for Export Products."
[63] See id.

B. Factor Valuations

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value the FOPs. However, when a producer sources an input from an ME country and pays for it in an ME currency, the Department may value the FOP using the actual price paid for the input.[64] In accordance with our practice outlined in Antidumping Methodologies: Market Economy Inputs,[65] when at least 33 percent of an input is sourced from ME suppliers and purchased in an ME currency, the Department will use actual ME purchase prices to value these inputs. Jiheng was the only respondent to report a raw material purchase sourced from and produced by ME suppliers and paid for in an ME currency during the POR for plastic bags. However, the percentage of plastic bags purchased from a market economy country accounted for only 1.74% of all purchases of plastic bags during the POR.[66] Therefore, the Department did not value this input using the ME purchase prices reported by Jiheng. Jiheng did report incurring ME movement expenses for international freight expenses, including ocean freight and brokerage and handling, for certain of its sales of subject merchandise to the United States. [67] For these movement expenses, we calculated the expense in the ME currency in which it was incurred.

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Jiheng and Kangtai for the POR. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available 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).[68]

Except as noted below, we valued raw material inputs using the weighted-average unit import values as reported by the National Statistical Office of Thailand in the Global Trade Atlas (GTA).[69] We have disregarded prices that we have reason to believe or suspect may be subsidized, such as those imports from India, Indonesia, and South Korea.[70] Additionally, we

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[64] See 19 CFR 351.408(c)(1) (2012); see also Shakeproof Assembly Components, Div. of Ill. Tool Works, Inc. v. United States, 268 F.3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs). Although the Department modified 19 CFR 351.408(c)(1) and published the final rule effective for segments of proceedings initiated on or after September 3, 2013, this rule does not apply to this proceeding which was initiated on August 1, 2013. See Use of Market Economy Input Prices in Nonmarket Economy Proceedings, 78 FR 46799 (August 2, 2013).

[65] See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61717-19 (October 19, 2006) (Antidumping Methodologies: Market Economy Inputs).

[66] See Jiheng Section C and D response at D-13.

[67] See Jiheng Section C and D response at C-26 to C-28 and Exhibits C-3 and C-4.

[68] For a detailed description of all SVs used for Jiheng and Kangtai, see Preliminary Surrogate Value Memorandum.

[69] Id.

[70] See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of

disregarded prices from NME countries.[71] Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies. Where we could not obtain publicly available information contemporaneous with the POR with which to value FOPs, we adjusted the SVs using, where appropriate, the Thai Consumer Price Index as published in the International Financial Statistics of the International Monetary Fund. We further adjusted these prices to account for freight expenses incurred between the input supplier and respondent.

Reimbursed and Free of Charge Raw Materials
As noted above, Jiheng and Kangtai reported that a U.S. customer(s) provided certain raw materials and packing materials free of charge.[72] Raw materials and packing materials that are provided free of charge to a respondent by its customer and materials for which a respondent is separately reimbursed by its customer are part of the cost of manufacturing, and must be included when calculating NV. Thus, for Jiheng's and Kangtai's products that included raw materials and packing materials provided free of charge, consistent with the Department's practice and section 773(c)(1)(B) of the Act, we used the built-up cost (i.e., the SV for these raw materials and packing materials multiplied by the reported FOPs for these items) in the NV calculation.[73] We also added the built-up costs for the raw materials for which Jiheng was reimbursed by a U.S. customer to NV. Where applicable, we also adjusted these values to account for freight expenses incurred between the nearest port of entry and Jiheng's plants.[74]

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 from Thailand using data from "The Metropolitan Waterworks Authority."[75]

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the Countervailing Duty Order, 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at 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 17, 19-20.

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

[72] See Jiheng Supplemental Response at 10-12 and Exhibit 13.b; see Letter from Kangtai, "Certain Chlorinated Isocyanurates from the People's Republic of China First Supplemental Questionnaire Response," June 17, 2014, at 10 and Exhibit SQ1-11.

[73] 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.

[74] See Preliminary Surrogate Value Memorandum.

[75] See Preliminary Surrogate Value Memorandum.

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 has commercial value.[76] The Department recently explained its practice as follows: "the by-product offset is limited to the total production quantity of the byproduct …produced during the POR, so long as it is shown that the byproduct has commercial value."[77]

We valued ammonium sulfate, hydrogen gas and chlorine using the GTA. Jiheng reported chlorine, hydrogen gas, ammonia gas, and sulfuric acid as by-products in the production of subject merchandise.[78] Consistent with the previous review, the Department finds that ammonia gas and sulfuric acid are used to produce a downstream by-product, ammonium sulfate. The Department considers ammonium sulfate to be the appropriate by-product to be used in offsetting Jiheng's sales.[79] We find in this administrative review that Jiheng has appropriately explained how by-products are produced during the manufacture of chlorinated isos and has appropriately supported its claim that a by-product offset to NV should be granted.[80] Since ammonium sulfate is a downstream by-product, we deducted the build-up costs used to produce the downstream by-product (i.e., labor, electricity).

Jiheng reported that it sells some of its hydrogen gas by-product and was able to tie these sales to its financial accounts.[81] Therefore, we granted Jiheng a direct by-product offset for hydrogen gas based on the total production of this by-product. However, Jiheng did not sell chlorine gas "as is" during the POR, nor did it provide the build-up costs to produce the downstream by-products that were sold during the POR, hydrochloric acid and sodium hypochlorite.[82] As such, Jiheng is has not provided sufficient evidence to support a direct by-product offset with respect to chlorine gas. Therefore consistent with 19 CFR 351.401(b)(1) the Department is denying Jiheng's request for the offset for chlorine gas.

Kangtai reported ammonium sulfate as a downstream by-product in the production of subject merchandise.[83] We find in this administrative review that Kangtai has not demonstrated its entitlement to a downstream by-product offset. Although Kangtai has explained how by-products are produced during the manufacture of chlorinated isos and established the sale of ammonium sulfate by tying it to the financial accounts, Kangtai has not properly allocated nor accounted for all the inputs used in the build-up costs to produce the downstream by-product. Although waste sulfuric acid is a by-product of the production of chlorinated isos, Kangtai attempted to allocate the sulfuric acid used to produce the subject merchandise as if it were a co-

[76] 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.
[77] 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.
[78] See Jiheng Section C and D response at D-28.
[79] See 2011-2012 Final Results and accompanying Issues and Decision Memorandum at Comment 5.B.
[80] See Jiheng Section C and D response at Exhibits D-12.5 and D-17.
[81] See Jiheng Supplemental response at 24.
[82] Id. at 26.
[83] See Kangtai Section C and D response at D-17 and Exhibit D-1; Kangtai Supplemental response at 14-16 and Exhibits SQ1-16.1.

product. However, 100 percent of the sulfuric acid Kangtai originally reported is required and used in the production of the subject merchandise.[84] As a result, there is no basis to reduce the subject merchandise FOP for sulfuric acid as Kangtai suggests. Waste sulfuric acid is a by-product resulting from the production of the subject merchandise and is of a lesser concentration than the original sulfuric acid input, thus it is not a co-product. In co-product cases, the cost of the inputs is allocated as appropriate to the production of each of the co-products and thus no by-product credit is necessary because the costs for inputs for each of the co-products are separate and accounted for. In order to obtain a by-product offset, in particular for a downstream product made from the direct by-products, a respondent must report all of the FOPs used in the production of the downstream product so that the Department can determine the value of the direct by-product for which an offset has been requested. Kangtai did not report all the FOPs used in the production of the downstream by-product (ammonium sulfate), specifically, the actual amount of the additional sulfuric acid and packing materials.[85] Therefore, we are preliminarily allocating all the sulfuric acid first introduced into the production process for subject merchandise as an FOP for the subject merchandise. Further, we are not granting Kangtai an offset to NV for its production of ammonium sulfate because Kangtai did not report the appropriate FOPs used in the production of the ammonium sulfate, preventing the Department from being able to calculate the value of the waste sulfuric acid by-product for offset purposes. Therefore consistent with 19 CFR 351.401(b)(1) the Department is denying Kangtai's request for the offset for ammonium sulfate.

Electricity

For electricity, we used the tariff rates applied by the Thailand Metropolitan Electricity Authority (MEA) for "large general service" companies, following the calculation methodology applied recently in Prestressed Concrete Tie Wire, citing to Drawn Sink and Sodium Hexametaphosphate.[86] We find that this methodology represents the "best available" information within the meaning of the statute because the MEA rates are from an approved surrogate country, are publicly available, specific to the input, contemporaneous, and exclusive of taxes.[87] The MEA electricity rates are composed of a base tariff consisting of a demand charge and a monthly service charge. [88]

[84] See Kangtai Section C and D response at D-9 and Exhibit D-3.
[85] See Kangtai Supplemental response at 14-16 and Exhibits SQ1-16.1.
[86] See Attachment 1 of Jiheng's "Rebuttal Surrogate Value Comments" submission, dated May 12, 2014, including the relevant pages from the Preliminary Surrogate Value Memorandum for Prestressed Concrete Steel Rail TieWire from the People's Republic of China: Preliminary Determinatin of Sales at Less Than Fair Value and Postponement of Final Determination, 78 FR 75545 (December 12, 2013), unchanged in Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire from the People's Republic of China, 79 FR 25572 (May 5, 2014) (Prestressed Concrete Tie Wire), citing to Drawn Stainless Steel Sinks From the People's Republic of China: Antidumping Duty Investigation, 77 FR 60673 (Oct. 4, 2012) (Drawn Sinks*)* and Sodium Hexametaphosphate From the People 's Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 59375 (Sep. 27, 2012) (Sodium Hexametaphoshphate*)*.
[87] See Preliminary Surrogate Value Memorandum.
[88] See Exhibit 7 of Petitioners' "Preliminary Determination Comments and Submission of Factual Information," dated June 16, 2014.

Truck Freight
We valued truck freight using data using the World Bank's "Doing Business 2014: Thailand."[89] This report gathers information concerning the cost to transport imported/exported products in a 20-foot container from the largest city in Thailand to the most commonly used import/export sea port. We calculated a contemporaneous per-unit inland freight costs using the information in the World Bank report for shipping a 20-foot standard container at a distance of 133 Km.

Brokerage and Handling
We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Thailand. This contemporaneous price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand found in "Doing Business 2014: Thailand," published by the World Bank.[90] We used the weight of a 20-foot standard container to determine our value.[91]

Marine Insurance
We valued marine insurance using a price quote from RJG Consultants for July 2010, which Petitioners and Jiheng submitted.[92] RJG Consultants is a market-economy provider of marine insurance. We inflated the rates to calculate a contemporaneous.

Labor
On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings. [93] In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A of the Yearbook of Labor Statistics (Yearbook).

The Department valued labor in this review using manufacturing-specific data from the quarterly-specific POR data (third quarter of 2012 and first quarter of 2013) in the Government of Thailand, National Statistical Office, Labor Force Survey of Whole Kingdom, http://web.nso.go.th/en/survey/lfs/lfs_main.htm. ("POR Manufacturing-specific NSO Data")[94] Although the POR Manufacturing-specific NSO data are not from the ILO, we find that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, we decided to change to the use of ILO Chapter 6A 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.[95] We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Rather, we continue to follow our practice of selecting the best available

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[89] See Petitioners' May 2, 2014 "Surrogate Values" submission at Exhibits 10 and 12; *see also* Excel Workbook data "Prelim Surrogate Values," at "Truck Freigh" tab.
[90] *Id.* at Exhibits 11 and 12; *see also* Excel Workbook data "Prelim Surrogate Values," at "B&H" tab.
[91] See Preliminary Surrogate Value Memorandum.
[92] *See* Petitioners' May 2, 2014 "Surrogate Values" submission at Exhibit 12 and 13.
[93] See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (Labor Methodologies).
[94] See Exhibits 10 and 11 of Petitioners' "Preliminary Determination Comments and Submission of Factual Information," dated June 16, 2014; see also Attachment 1, Excel Workbook data "Prelim Surrogate Values," at "Q3-2012 Labor" and "Q1-2013 Labor" tabs.
[95] See Labor Methodologies at 36092-36093.

information to determine SVs for inputs such as labor.[96] In this case, we find that the POR Manufacturing-specific NSO Data are the best available information to value the labor input because it is industry-specific and is contemporaneous with the POR.[97]

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.[98] Moreover, for valuing factory overhead, SG&A and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.[99] 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.[100]

To calculate surrogate values for factory overhead, SG&A, and profit for these preliminary results, we used financial information from Aditya Biryla Chemicals (Thailand) Co., Ltd., which was submitted by Petitioners and both respondents.[101] The annual statements on the record are contemporaneous with the POR and 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. This is the only usable financial statement from an economically comparable country on the record of this review with enough detail on cost categories for the Department to accurately calculate financial ratios.[102]

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.

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[96] See Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33354 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 6-C.

[97] See Preliminary Surrogate Value Memorandum.

[98] 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.

[99] 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.

[100] 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.

[101] See Petitioners' May 2, 2014 "Surrogate Values" submission at Exhibit 14

[102] See Preliminary Surrogate Value Memorandum.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓

__________ Agree

__________ Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

17 July 2014
Date