UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-904
ARP: 4/1/2013 - 3/31/2014
Public Document
E&C/V: RJP/FMV

April 29, 2015

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 Antidumping Duty Administrative Review: Certain Activated Carbon from the People's Republic of China; 2013-14

SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China ("PRC") for the period of review ("POR") April 1, 2013, through March 31, 2014. The Department preliminarily determines that sales of the subject merchandise in the United States were at prices below normal value ("NV").

In accordance with the final results of this administrative review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties 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

Initiation

On May 29, 2014, the Department published the notice of initiation of the seventh administrative review of certain activated carbon from the PRC for the POR, April 1, 2013, to March 31, 2014.[1] The Department initiated an administrative review of 189 exporters of subject merchandise.[2] On August 27, 2014, Petitioners[3] timely withdrew their request for review with respect to 166

[1] See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 30809, 30810-13 (May 29, 2014) ("Initiation Notice").
[2] Id.
[3] Cabot Norit Americas Inc. and Calgon Carbon Corporation (collectively, "Petitioners").

companies, including Calgon Carbon (Tianjin) Co., Ltd. ("Calgon Tianjin").[4] However, because Calgon Tianjin also requested an administrative review of itself in the current segment, it remains part of this review.[5] On September 16, 2014, the Department rescinded the review with respect to the other 165 companies.[6] Twenty-four of the 189 exporters remain under review.[7] On October 14, 2014, the Department extended the time period for issuing the preliminary results by 120 days.[8]

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter or producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted average dumping margin determinations because of the large number of exporters or producers involved in the review.

On May 29, 2014, the Department placed CBP data for the Harmonized Tariff Schedule of the United States ("HTSUS") numbers listed in the scope of the order on the record of the review and requested comments on the data for use in respondent selection.[9] On June 6, 2014, we

[4] See Letter from Petitioners to the Department, "Petitioners' Withdrawal of Certain Requests for Administrative Review," dated August 27, 2014.
[5] See Letter from Calgon Tianjin, "Request for Administrative Review (2013-2014)," dated April 25, 2014.
[6] See Certain Activated Carbon From the People's Republic of China; 2013-2014; Partial Rescission of the Seventh Antidumping Duty Administrative Review, 79 FR 55428 (September 16, 2014) ("Partial Rescission").
[7] These companies are: 1) Beijing Pacific Activated Carbon Products Co., Ltd., 2) Calgon Carbon (Tianjin) Co., Ltd., 3) Carbon Activated Tianjin Co., Ltd., 4) Cherishmet Incorporated, 5) Datong Juqiang Activated Carbon Co., Ltd., 6) Datong Municipal Yunguang Activated Carbon Co., Ltd., 7) Jacobi Carbons AB, 8) Jilin Bright Future Chemical Company, Ltd., 9) Ningxia Guanghua A/C Co., Ltd., 10) Ningxia Guanghua Activated Carbon Co., Ltd., 11) Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd., 12) Ningxia Huahui Activated Carbon Co., Ltd., 13) Ningxia Mineral & Chemical Limited, 14) Shanghai Astronautical Science Technology Development Corporation, 15) Shanxi DMD Corporation, 16) Shanxi Industry Technology Trading Co., Ltd., 17) Shanxi Sincere Industrial Co., Ltd., 18) Sinoacarbon International Trading Co, Ltd., 19) Tancarb Activated Carbon Co., Ltd., 20) Tangshan Solid Carbon Co., Ltd., 21) Tianjin Channel Filters Co., Ltd., 22) Tianjin Jacobi International Trading Co. Ltd., 23) Tianjin Maijin Industries Co., Ltd., and 24) Zhejiang Xingda Activated Carbon Co., Ltd.
[8] See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Emeka Chukwudebe, International Trade Compliance Analyst, Office V, re: "Certain Activated Carbon from the People's Republic of China: Extension of Deadline for the Preliminary Results of the Seventh Antidumping Duty Administrative Review," dated October 14, 2014.
[9] See Memo to All Interested Parties, re: "Administrative Review of the Antidumping Duty Order of Certain Activated Carbon from the People's Republic of China: CBP Data for Respondent Selection," dated May 29, 2014.

received comments from Petitioners and Jacobi Carbons AB and its affiliates (collectively, "Jacobi").[10]

On June 26, 2014, the Department issued the respondent selection memorandum, in which it explained that, because of the large numbers of exporters or producers involved in the review (189 companies at the time of initiation), it would not be practicable to individually examine all companies.[11] Rather, the Department determined that it could only reasonably examine two exporters in this review.[12] Pursuant to section 777A(c)(2)(B) of the Act, the Department selected Datong Juqiang Activated Carbon Co., Ltd. ("Datong") and Jacobi for individual examination because they were the two largest exporters/producers of the subject merchandise, by volume, during the POR.[13]

Questionnaires

On June 26, 2014, the Department issued its non-market economy ("NME") antidumping questionnaire to Datong and Jacobi. Datong and Jacobi timely responded to the Department's initial and subsequent supplemental questionnaires between September 2014 and March 2015.

Scope of the Order

The merchandise subject to the order is certain activated carbon. Certain activated carbon is a powdered, granular, or pelletized carbon product obtained by "activating" with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite, and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas ("CO2") in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO2 gas) activated process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.

The scope of the order covers all forms of activated carbon that are activated by steam or CO2, regardless of the raw material, grade, mixture, additives, further washing or post-activation

[10] In the third administrative review, the Department found Jacobi Carbons AB, Tianjin Jacobi International Trading Co. Ltd., and Jacobi Carbons Industry (Tianjin) are a single entity and, because there were no changes to the facts which supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. See Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Third Antidumping Duty Administrative Review, 76 FR 67142 (October 31, 2011); Certain Activated Carbon From the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review, 77 FR 67337, 67338 (November 9, 2012); Certain Activated Carbon From the People's Republic of China; 2011–2012; Final Results of Antidumping Duty Administrative Review, 78 FR 70533, 70535 (November 26, 2013) ("AR5 PRC Carbon Final"); Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 70163, 70165 (November 25, 2014) at footnote 30.

[11] See Memorandum to James Doyle, Director, Office 9, AD/CVD Operations, from Carolyn Bethea, Case Analyst, Office V, "7th Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Selection of Respondents for Individual Review," dated June 26, 2014, at 3-4.

[12] Id., at 4-5.

[13] Id.

chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of the order covers all physical forms of certain activated carbon, including powdered activated carbon ("PAC"), granular activated carbon ("GAC"), and pelletized activated carbon.

Excluded from the scope of the order are chemically activated carbons. The carbon-based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc chloride, sulfuric acid, or potassium hydroxide that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO2 gas) activated carbons are within the scope, and those containing more than 50 percent chemically activated carbons are outside the scope. This exclusion language regarding blended material applies only to mixtures of steam and chemically activated carbons.

Also excluded from the scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals.

Also excluded from the scope is activated carbon cloth. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from the scope is included within the scope. The products subject to the order are currently classifiable under the HTSUS subheading 3802.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Preliminary Determination of No Shipments

On June 4, 2014, Sinoacarbon International Trading Co., Ltd. ("Sinoacarbon") filed a no shipment certification indicating that it did not export subject merchandise to the United States during the POR.[14] On July 25, 2014, Ningxia Guanghua Activated Carbon Co., Ltd. ("Guanghua") claimed that it did not export subject merchandise to the United States during the

[14] See Sinoacarbon's June 4, 2014, submission regarding "Activated Carbon from the People's Republic of China: No Shipment Certification."

POR.[15] In order to examine these claims, we sent an inquiry to CBP requesting that any CBP office alert the Department if it had information contrary to the no-shipments claims. On November 7, 2014, CBP provided the Department a response to one of the above-mentioned inquiries.[16]

Based on the no-shipment claim submitted by Sinoacarbon and our analysis of the CBP information, we preliminarily determine that Sinoacarbon had no shipments during the POR. In addition, the Department finds that, consistent with its practice in NME cases, it is appropriate not to rescind the review, in part, for Sinoacarbon in this circumstance, but, rather, to complete the review.[17]

Finally, with respect to Guanghua, we preliminarily determine not to consider its statement of no shipments because we have previously determined that Guanghua is part of a single entity with Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. ("Cherishmet") and continue to find it part of the single entity in this review.[18] Accordingly, if our determination remains the same in the final results of this review, Guanghua's exports will be subject to the cash deposit rate established for the single entity in this review.

Non-Market Economy Country

The Department considers the PRC to be an NME country.[19] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

[15] See Guanghua's Separate Rate Certification, dated July 25, 2014, at 5.
[16] See Memorandum to the File, from Frances Veith, International Trade Compliance Analyst, Office V, re: "No Shipment Inquiry," dated November 25, 2014, at Attachment 3.
[17] See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694, 65695 (October 24, 2011).
[18] In the first administrative review, the Department found Beijing Pacific Activated Carbon Products Co., Ltd., Cherishmet, and Guanghua are a single entity and, because there were no changes to the facts which supported that decision, we continued to find these companies to be part of a single entity in subsequent reviews. See Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results, 74 FR 21317 (May 7, 2009), unchanged in First Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 57995 (November 10, 2009) ("AR1 Carbon"); AR5 PRC Carbon Final, 78 FR at 70535; Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 70163, 70165 (November 26, 2013) at footnote 33.
[19] See, e.g., Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 2011-2012, 78 FR 26748 (May 8, 2013) and accompanying Decision Memorandum at 6, unchanged in AR5 PRC Carbon Final, 78 FR at 70533.

Separate Rates

The Department has the rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.[20] In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in NME proceedings.[21] It is the Department's policy to assign all exporters of the merchandise subject to review in an NME proceeding 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 exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME proceeding under the test established in Sparklers,[22] as amplified by Silicon Carbide.[23] However, if the Department determines that a company is wholly foreign-owned, then an analysis of the de jure and de facto criteria is not necessary to determine whether it is independent from government control.[24]

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the Diamond Sawblades from the PRC antidumping duty proceeding, and the Department's determinations therein.[25] In particular, in litigation involving the Diamond Sawblades from the PRC proceeding, the U.S. Court of International Trade ("CIT") found the Department's existing separate rates analysis deficient in the circumstances of that case, in which

[20] See 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); Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China, 71 FR 29303, 29307 (May 22, 2006).

[21] See Initiation Notice, 79 FR at 30809-10.

[22] 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").

[23] 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").

[24] See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews, 79 FR 4327 (January 27, 2014, and Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007).

[25] See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China (May 6, 2013) in Advanced Technology & Materials Co., Ltd. v. United States, 885 F. Supp. 2d 1343 (CIT 2012) ("Advanced Technology I"), sustained, Advanced Technology & Materials Co. v. United States, 938 F. Supp. 2d 1342 (CIT 2013), aff'd, Case No. 2014-1154 (Fed. Cir. 2014) ("Advanced Technology II"). This remand redetermination is on the Enforcement and Compliance website at http://enforcement.trade.gov/remands/12-147.pdf; see also Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memo at 7, unchanged in Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 35723 (June 24, 2014) ("Diamond Sawblades") and accompanying Issues and Decision Memorandum at Comment 1.

a government-owned and controlled entity had significant ownership in the exporter under examination.[26]

The Department received completed responses to the Section A portion of the NME questionnaire from the mandatory respondents, Datong and Jacobi, which contained information pertaining to the companies' eligibility for a separate rate. In addition, the Department received either a separate rate application ("SRA") or separate rate certification ("SRC") from the following 14 companies ("Separate-Rate Applicants"):

1. Calgon Tianjin
2. Carbon Activated Tianjin Co., Ltd.
3. Datong Municipal Yunguang Activated Carbon Co., Ltd. ("Yunguang")
4. Jilin Bright Future Chemicals Company, Ltd. ("Jilin")[27]
5. Cherishmet[28]
6. Ningxia Huahui Activated Carbon Co., Ltd. ("Huahui")
7. Ningxia Mineral & Chemical Limited
8. Shanghai Astronautical Science Technology Development Corporation ("Astronautical")
9. Shanxi DMD Corporation ("DMD")
10. Shanxi Industry Technology Trading Co., Ltd. ("Shanxi Industry")
11. Shanxi Sincere Industrial Co., Ltd. ("Sincere")
12. Tancarb Activated Carbon Co., Ltd. ("Tancarb")
13. Tianjin Channel Filters Co., Ltd. ("Tianjin Channel")
14. Tianjin Maijin Industries Co., Ltd. ("Tianjin Maijin")

[26] See, e.g., Advanced Technology I, 885 F. Supp. 2d at 1349 ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); id., at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor de jure 'separation' that Commerce concludes.") (footnotes omitted); id., at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); id., at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

[27] In the Initiation Notice, Jilin is identified as Jilin Bright Future Chemical Company, Ltd. The Department confirmed with Petitioners they intended to request Jilin Bright Future Chemicals Company, Ltd., see Memorandum to the File, from Bob Palmer, Senior International Trade Analyst, re: "Clarification of Company Name Within Review Request," dated April 15, 2015.

[28] As noted above, the Cherishmet single entity is comprised of Beijing Pacific Activated Carbon Products Co., Ltd. ("Beijing Pacific"), Cherishmet, and Guanghua. See Beijing Pacific SRC, dated July 25, 2014, Cherishmet SRC, dated July 25, 2014, and Guanghua SRC, dated July 25, 2014. Additionally, we are rescinding this review with respect to Cherishmet, Inc. The Department has previously determined Cherishmet, Inc. is a U.S. shareholder of Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. and the record of this review supports that determination. See Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results, 74 FR 21317, 21319-21320 (May 7, 2009), unchanged in AR1 Carbon and accompanying Issues and Decisions Memorandum at Comment 21 footnote 210. See also Cherishmet SRC, dated July 25, 2014, at 7 and Exhibit 5.

a. Wholly Foreign-Owned Applicants

Jacobi reported that it is wholly-owned by a company located in a market-economy ("ME") country, Japan.[29] Calgon Tianjin, Carbon Activated Tianjin Co., Ltd., and Ningxia Mineral & Chemical Limited demonstrated in their separate-rate certifications that they are also wholly-owned by a company located in a ME country (i.e., United States, United States, and Hong Kong, respectively).[30] Therefore, as there is no PRC ownership of these four companies, and because the Department has no evidence indicating that these companies are under the control of the PRC government, further analyses of the de jure and de facto criteria are not necessary to determine whether they are independent from government control of their export activities.[31] Therefore, we preliminarily determine that Calgon Tianjin, Carbon Activated Tianjin Co., Ltd., Jacobi and Ningxia Mineral & Chemical Limited are preliminarily eligible for separate rates.

b. 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) any other formal measures by the government decentralizing control of companies.[32] The evidence provided by Datong and eleven other Separate-Rate Applicants[33] supports a preliminary finding of the absence of de jure government control of export activities based on the following: (1) there is an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of the companies.[34]

c. Absence of De Facto Control

Typically 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 ("EPs") are

[29] See Jacobi's Section A Questionnaire Response, dated July 24, 2014, at 2.
[30] See Calgon Tianjin's SRC, dated July 18, 2014, at 2; see also Ningxia Mineral & Chemical Limited's SRC, dated July 28, 2014, at Exhibit 1 and Carbon Activated's SRC, dated July 28, 2014, at Exhibit 4.
[31] See, e.g., Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review, 66 FR 1303, 1306 (January 8, 2001), unchanged in Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review, 66 FR 27063 (May 16, 2001); Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China, 64 FR 71104, 71104-05 (December 20, 1999).
[32] See Sparklers, 56 FR at 20589.
[33] These companies are: Cherishmet, Jilin, Huahui, DMD, Shanxi Industry, Sincere, Tancarb, Tianjin Channel, Tianjin Maijin, Yunguang, and Astronautical.
[34] See Datong Section A Response, dated August 1, 2014, at 3-5 and Exhibit A-8; Cherishmet SRC, dated July 25, 2014, at 2 and Exhibit A-4a; Jilin SRC, dated July 28, 2014, at Exhibit 1; Huahui SRA, dated July 28, 2014, at 22-24 and Exhibit 2; DMD SRA, dated December 22, 2014, at Exhibit 10; Shanxi Industry SRC, dated July 28, 2014, at Exhibit 1; Sincere SRA, dated July 17, 2014, at Exhibit 1; Tancarb SRC, dated July 15, 2014, at Exhibit 1; Tianjin Channel SRA, dated July 16, 2014 at 12 and Exhibit 2; Tianjin Maijin SRC, dated July 15, 2014, at Exhibit 1; Yunguang SRC, dated July 23, 2014, at Exhibit 1; Astronautical SRA, dated August 1, 2014, at 8-12.

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.[35] The Department determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.[36] The evidence provided by Datong and ten of the Separate-Rate Applicants supports a preliminary finding of the absence of de facto government control based on the following: (1) the companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.[37] Therefore, the Department preliminarily finds that Datong, Cherishmet, Jilin, Huahui, DMD, Shanxi Industry, Sincere, Tancarb, Tianjin Channel, Tianjin Maijin, and Yunguang have established that they qualify for a separate rate under the criteria established by Silicon Carbide and Sparklers.

Companies that did not Establish Their Eligibility for a Separate Rate

i) Astronautical

The Department preliminarily denied separate rate status to Astronautical because it failed to demonstrate an absence of de facto PRC government control. As a result, the Department is preliminarily treating Astronautical as part of the PRC-wide entity. Certain information regarding the PRC government's control over Astronautical is business proprietary; therefore, a complete discussion of control and ownership of Astronautical is provided in a separate memorandum.[38]

ii) Companies that did not Provide Separate Rate Applications or Separate Rate Certifications

In addition, the three companies listed below, failed to provide separate rate applications or certifications necessary to establish their eligibility for a separate rate. Hence, the Department preliminarily determines to treat the following companies as part of the PRC-wide entity:

1) Ningxia Guanghua A/C Co., Ltd.
2) Tangshan Solid Carbon Co., Ltd.
3) Zhejiang Xingda Activated Carbon Co., Ltd.

[35] See Silicon Carbide, 59 FR at 22586-87; see also 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).
[36] Id.
[37] See generally Separate Rate Applicants.
[38] See Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Bob Palmer, Senior International Trade Analyst, re: "Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Shanghai Astronautical Science Technology Development Corporation Separate Rate Status," dated concurrently with this memorandum.

Because no party requested a review of the PRC-wide entity and the Department no longer considers the PRC-wide entity as an exporter conditionally subject to administrative reviews,[39] we did not conduct a review of the PRC-wide entity. Thus, the rate for the-NME entity is not subject to change as a result of this review. Therefore, if our determination regarding these four companies is unchanged in the final results, entries for the four companies identified above will be assessed antidumping duties at the cash deposit rate previously established for the PRC-wide entity (i.e., 2.42 U.S. dollars/kilogram ("USD/kg")).

Affiliation and Collapsing

Section 771(33) of the Act provides that:

> The following persons shall be considered to be 'affiliated' or 'affiliated persons':
> (A) Members of a family, including brothers and sisters (whether by the whole or half-blood), spouse, ancestors, and lineal descendants.
> (B) Any officer of director of an organization and such organization.
> (C) Partners.
> (D) Employer and employee.
> (E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
> (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
> (G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act stipulates that: "For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person."

Datong

Section 771(33)(G) of the Act defines affiliated persons to include "Any person who controls any other person and such other person." Section 771(33) further provides that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person. For reasons explained in Datong's Preliminary Analysis Memo, the Department preliminarily determines that Datong controls

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

Datong Juqiang Activated Carbon USA, LLC ("Datong USA"), and that the companies are thus affiliated in accordance with section 771(33)(G) of the Act.[40]

Weighted-Average Dumping Margin for Non-Examined Separate Rate Companies

As stated above in the "Respondent Selection" section, the Department employed a limited examination methodology in this review, as it did not have the resources to examine all companies for which a review request was made, and selected the two largest exporters by volume as mandatory respondents in this review, Datong and Jacobi. Datong and Jacobi are mandatory respondents in this review. Thirteen additional companies (identified in the "Separate Rates" section above) remain subject to review as non-examined, separate rate respondents.

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual respondents not selected for individual examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate-rate respondents which we did not examine individually in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using rates for individually examined respondents which are zero, de minimis, or based entirely on facts available ("FA"). Accordingly, the Department's usual practice in determining the rate for separate-rate respondents not selected for individual examination has been to average the weighted-average dumping margins for the selected companies, excluding rates that are zero, de minimis, or based entirely on FA.[41] In these preliminary results, only Jacobi has an estimated weighted-average dumping margin which is not zero, de minimis or based entirely on FA. Therefore, because there is only one relevant weight-averaged dumping margin in these preliminary results, we will use the rate calculated for Jacobi, which is 0.53 USD/kg, as the rate for those companies which were not examined and which are eligible for a separate rate. The Separate-Rate Applicants receiving this rate are identified by name in the "Preliminary Results of the Review" section of the Federal Register notice.

[40] Certain facts regarding Datong and Datong USA's ownership are business proprietary information. See Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office V, from Bob Palmer, Senior International Trade Analyst, AD/CVD Operations, Office V: Preliminary Results Analysis Memorandum for Datong Juqiang Activated Carbon Co., Ltd. in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated concurrently with this notice ("Datong Prelim Analysis Memo") for the specific business proprietary facts pertaining to Datong and Datong USA's ownership.

[41] See Longkou Haimeng Mach. Co. v. United States, 581 F. Supp. 2d 1344, 1357-60 (Ct. Int'l Trade 2008) (affirming the Department's determination to assign a 4.22 percent dumping margin to the separate rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively); see also 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, 36660 (July 24, 2009).

Surrogate Country and Surrogate Value Data

On July 25, 2014, the Department sent interested parties a letter inviting comments on surrogate country selection and surrogate value ("SV") data.[42] Following a series of extensions, on November 6, 2014, the Department extended the deadline one last time for surrogate country and SV comments to November 12, 2014 and November 18, 2014, respectively. On November 12, 2014, Petitioners, Datong and Jacobi submitted surrogate country comments.[43] On November 18, 2014, Petitioners, Datong and Jacobi submitted SV comments.[44] On November 25, 2014, the Department extended the deadline for rebuttal SV comments to December 9, 2014.[45] On December 9, 2014, Petitioners, Datong and Jacobi submitted rebuttal SV comments.[46] On March 31, 2015, Datong and Petitioners provided SV comments pursuant to 19 CFR 351.301(c)(3)(ii).[47]

Surrogate Country Selection

When the Department investigates 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 ("FOPs"), 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 the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[48] As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons.[49] Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic

[42] See Department's Letter to All Interested Parties, Re: "Certain Activated Carbon from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," dated July 25, 2014 ("Surrogate Country Memo").
[43] See Petitioners' Surrogate Country Selection Comments, dated November 12, 2014 ("Petitioners' SC Comments"); Datong' s Surrogate Country Selection Comments, dated November 12, 2014 ("Datong's SC Comments"); and Jacobi's Surrogate Country Selection Comments, dated November 12, 2014 ("Jacobi's SC Comments").
[44] See Petitioners' Surrogate Value Comments, dated November 18, 2014 ("Petitioners' SV Comments"); Datong' s Surrogate Value Comments, dated November 18, 2014 ("Datong's SV Comments"); and Jacobi's Surrogate Value Comments, dated November 18, 2014 ("Jacobi's SV Comments").
[45] See Memorandum to the File, from Bob Palmer, International Trade Compliance Analyst, Office V, Enforcement and Compliance, "Extension of Deadline for Submission of Rebuttal Surrogate Value Comments," dated November 25, 2014.
[46] See Petitioners' Rebuttal SV Comments, dated December 9, 2014; Datong's Rebuttal SV Comments, dated December 9, 2014; and Jacobi's Rebuttal SV Comments, dated December 9, 2014.
[47] See Petitioners' Supplemental Surrogate Value Submission, dated March 31, 2015 and Datong's Second Surrogate Value Submission, dated March 31, 2015.
[48] See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin 04.1").
[49] Id.

development.[50] To determine which countries are at the same level of economic development, the Department generally relies on per capita gross national income ("GNI") data from the World Bank's World Development Report.[51] Further, the Department normally values all FOPs in a single surrogate country.[52]

On June 27, 2014, the Department identified Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand as countries that are at the same level of economic development as the PRC based on per capita 2012 GNI data.[53] On July 25, 2014, the Department issued a letter to interested parties soliciting comments on the list of countries that the Department determined, based on per capita 2012 GNI, to be at the same level of economic development as the PRC, the selection of the primary surrogate country, as well as provided deadlines for the consideration of any submitted surrogate value information for the preliminary determination.[54] On November 12, 2014, Jacobi submitted 2013 World Bank GNI data in connection with its arguments related to surrogate country selection.[55] The Department also received timely comments on the surrogate country list and surrogate country selection from Petitioners and Datong.[56]

In particular, Petitioners recommend that the Department select Indonesia as the primary surrogate country and submitted data to value FOPs from that country.[57] Petitioners argue that the Philippines, which the Department selected as a surrogate country in recently completed reviews, should no longer be considered economically comparable because it is no longer identified on the Department's surrogate country list. Additionally, Petitioners contend that Indonesia provides the most accurate and representative SVs.[58] Datong and Jacobi recommend that the Department select the Philippines as the primary surrogate country and have submitted data to value FOPs from that country.[59] Datong argues that the Philippines is at a comparable level of economic development to the PRC, and recent GNI data from a period contemporaneous with the POR suggest that the Philippines is even more comparable to the PRC than it was in 2012. Jacobi argues that the Department must rely on 2013 GNI data given its contemporaneity with the POR, and when comparing 2013 World Bank GNI data to the Department's surrogate country lists from the previous administrative reviews where the Philippines was selected as primary surrogate country, the Philippines remains economically comparable to the PRC in this administrative review.[60] Both Jacobi and Datong further submit that the Philippines provides the most accurate and representative SVs given its status as the largest producer of activated carbon and data availability (including multiple useable financial statements).

In light of the 2013 GNI data on our record, and the fact that such data encapsulate a portion of the POR, the Department is placing the surrogate country lists from other proceedings that

[50] See Surrogate Country Memo.
[51] Id.
[52] See 19 CFR 351.408(c)(2).
[53] See Surrogate Country Memo at Attachment I.
[54] See Surrogate Country Memo.
[55] See Jacobi's SC Comments at Attachment B.
[56] See Petitioner's SC Comments and Datong's SC Comments.
[57] See Petitioner's SC Comments and Petitioner's SV Comments.
[58] See Petitioner's SC Comments at 5-7.
[59] See Datong's SC Comments and Jacobi's SC Comments.
[60] See Jacobi's SC Comments at 3-4.

utilized 2013 per capita GNI data on the record.[61] Parties have ten days from the date on which these preliminary results are released to provide comments on the surrogate country lists and comments relating to surrogate country selection. Parties have 20 days from the date on which these preliminary results are released to provide new SV information for consideration in the final results.

Economic Comparability

Consistent with its practice, and section 773(c)(4) of the Act,[62] the Department originally identified Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand as countries at the same level of economic development as the PRC based on the most current annual issue of the World Development Report (The World Bank), which used 2012 per capita GNI data.[63] However, as noted above, Jacobi placed 2013 per capita GNI data on the record.[64] Additionally, we placed surrogate country lists based upon 2013 per capita GNI data on the record.[65] We note that none of the surrogate country lists issued by the Department based on 2013 GNI data list Indonesia or the Philippines as being at the same level of economic development as the PRC. Rather, the countries listed are Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine.[66]

Section 773(c)(4) of the Act states that the Department "shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are . . . at a level of economic development comparable to that of the {NME} country." However, the applicable statute does not expressly define the phrase "level of economic development comparable" or what methodology the Department must use in evaluating the criterion. 19 CFR 351.408(b) states that in determining whether a country is at a level of economic development comparable to the NME country, the Department will place primary emphasis on per capita gross national income ("GNI") as the measure of economic comparability.[67] The CIT has found the use of per capita GNI to be a "consistent, transparent, and objective metric to identify and compare a country's level of economic development" and "a reasonable interpretation of the statute."[68]

In Dupont Teijin, the CIT emphasized the importance placed on economic comparability in NME proceedings when it held that the Department's decision to forego consideration of 2009 GNI data that suggested India was no longer economically comparable to the PRC was not supported by substantial evidence.[69] Accordingly, in light of the CIT's holding in Dupont Teijin

[61] See Prelim SV Memo.
[62] See Surrogate Country Memo.
[63] Id.
[64] See Jacobi's SC Letter at Attachment B.
[65] See Prelim SV Memo.
[66] Id.
[67] The Department uses per capita GNI as a proxy for per capita GDP. GNI is GDP plus net receipt of primary income (compensation of employees and property income) from nonresident sources. See Policy Bulletin 04.1.
[68] See Jiaxing Brother Fastener Co. v. United States, 961 F. Supp. 2d 1323, 1329 (CIT 2014).
[69] See Dupont Teijin Films v. United States, 931 F. Supp. 2d 1297, 1300 (CIT 2013) ("Dupont Teijin") ("Because Commerce did not provide a reasoned explanation for disregarding the 2009 GNI data and because the 2009 GNI data indicated that India and the PRC were not economically comparable during the POR, the court concluded that Commerce's selection of India as the surrogate country was not supported by substantial evidence." (citing Dupont Teijin Films v. United States, 896 F. Supp. 2d 1302, 1309 (CIT 2013))).

and the evidence of more contemporaneous GNI data on the record, the Department preliminarily determines that Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine are countries that are at the same level of economic development as the PRC based on 2013 GNI data. Unless it is determined that none of these countries that are at the same level of economic development are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons, we will rely on data from one of these countries. Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. As discussed below, we have preliminarily determined that one or more of these countries are viable options, and as such, we will not rely on data from Indonesia or the Philippines, whose 2013 GNI do not fall within the range of GNI represented by the countries included on the surrogate country lists issued by the Department in other proceedings based upon 2013 per capita GNI data.[70]

Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department, to the extent possible, 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 Policy Bulletin 04.1 for guidance on defining comparable merchandise. Policy Bulletin 04.1 states that "the terms 'comparable level of economic development,' 'comparable merchandise,' and 'significant producer' are not defined in the statute."[71] Policy Bulletin 04.1 further states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[72] Conversely, if the country does not produce identical merchandise, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[73] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[74] "In cases where the identical merchandise is not produced, the team must determine if other merchandise that is comparable is produced. How the team does this depends on the subject merchandise."[75] In this regard, the Department recognizes that it must do an analysis of comparable merchandise on a case-by-case basis:

[70] See Prelim SV Memo.
[71] See Policy Bulletin 04.1.
[72] Id.
[73] Policy Bulletin 04.1 also states that "{i}f considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." Id. at note 6.
[74] See Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 65674 (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.").
[75] See Policy Bulletin 04.1 at 2.

> 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.[76]

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.[77] Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[78] it does not preclude reliance on additional or alternative metrics.

In this review, we examined export data published by the Global Trade Atlas ("GTA") to determine which countries included on the surrogate country lists based on 2013 GNI data were producers of comparable merchandise. GTA export data indicate that Ecuador, Thailand, and South Africa had significant exports during the POR of the primary Harmonized Tariff Schedule ("HTS") heading included in the scope, i.e., exports of HTS number 3802.10.[79] Because multiple potential surrogate countries have been identified as significant producers of identical or comparable merchandise through the above analysis, the Department looks to the availability of SV data to determine the most appropriate surrogate country.

Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, the Department selects the primary surrogate country based on data availability and reliability.[80] When evaluating SV data, the Department considers several factors, including whether the SVs are publicly available, contemporaneous with the POR, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.[81]

Petitioners placed SV data on the record for Indonesia and the financial statements of a Thai manufacturer of activated carbon. Datong and Jacobi placed SV data on the record for the Philippines. Additionally, Datong placed SV data on the record from Thailand, including bituminous coal data, a primary input, from Thailand and Ukraine. We preliminary determine not to rely on data from Indonesia or the Philippines because the Department no longer considers these countries to be at the same level of economic development as the PRC and we have sufficiently reliable and useable SV data from a country at the same level of economic development.

[76] Id., at 3.
[77] See section 773(c)(1) of the Act; Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir. 1990).
[78] See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988) ("OTCA 1988").
[79] See Letter from Petitioners, dated November 12, 2014, at page 3; see also, Letter from Datong, dated November 12, 2014, at Exhibit 1.
[80] See Policy Bulletin 04.1.
[81] Id.

Specifically, the Department finds, pursuant to section 773(c)(4) of the Act, that it is appropriate to select Thailand as the primary surrogate country because Thailand is at the same level of economic development and is a significant producer of identical or comparable merchandise. Furthermore, as noted above, the record contains Thai SV data for all FOPs reported by the Jacobi and Datong, including Thai financial statements of producers of identical merchandise.[82] Therefore, the Department has preliminarily calculated NV using Thai SV data to value respondents' FOPs.[83] A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice.

Facts Available for Normal Value

Jacobi's Exclusion Request

On July 15, 2014, and August 28, 2014, Jacobi requested to be excused from reporting FOP data for certain PRC producers and to be excused from reporting FOP data for suppliers to producers.[84] On July 16, 2014 and September 2, 2014, the Department notified Jacobi that due to the large number of producers that supplied Jacobi during the POR, Jacobi is excused from reporting certain FOP data.[85] Specifically, the Department did not require Jacobi to report FOP data for its smallest producers or require FOP data from suppliers of its producers.[86]

Datong's Exclusion Request

On July 15, 2014, Datong requested to be excused from reporting FOP data for activated carbon purchased by one of its producers.[87] On July 16, 2014, the Department notified Datong that, due to the small quantity of activated carbon purchased by Datong's supplier, which is then resold to Datong during the POR, Datong is excused from reporting certain FOP data.[88] Specifically, the Department did not require Datong's supplier to report FOP data for this limited quantity which it purchased from an upstream source and resold to Datong.[89]

In accordance with section 776(a)(1) of the Act, the Department is applying facts available to determine the NV for the sales corresponding to the FOP data Jacobi was excused from reporting. Consistent with our treatment of this issue in other segments of this proceeding, as facts available, the Department is applying the calculated average NV of Jacobi's reported sales to the sales of merchandise produced by their excluded producers.[90] The Department addressed

[82] See Datong's SV Submission, dated March 31, 2015.
[83] Id.
[84] See Jacobi's Request for Exclusions, dated July 15, 2014 and August 28, 2014.
[85] See the Department's Letters to Jacobi, dated July 16, 2014 and September 2, 2014.
[86] Id.
[87] See Datong's Request for Exclusions, dated July 15, 2014.
[88] See the Department's Letter to Datong, dated July 16, 2014.
[89] Id.; see also Datong Prelim Analysis Memo.
[90] See e.g., Certain Activated Carbon from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 2011-2012, 78 FR 26748 (May 8, 2013) and accompanying Preliminary Decision Memorandum at "Facts Available for NV," unchanged in AR5 PRC Carbon Final.

these issues in separate company-specific memoranda which include a detailed explanation of the facts available calculation.[91]

Date of Sale

Pursuant to 19 CFR 351.401(i), we normally will use the invoice date as the date of sale unless we are satisfied that a different date better reflects the date on which the material terms of the sale are established. Jacobi reported the invoice date as the date of sale because it claimed that for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established based on the invoice date.[92] Therefore, in accordance with 19 CFR 351.401(i) and the Department's long-standing practice of determining the date of sale,[93] the Department preliminarily determines that the invoice date is the most appropriate date to use as Jacobi's date of sale.

Datong reported that the shipping date from the PRC should be used as the date of sale because the material terms of sale could theoretically change up to the date the merchandise is shipped to the United States.[94] However, upon request, Datong did not provide any evidence that the material terms of sale changed after the invoice date.[95] Accordingly, because the evidence on the record indicates that Datong's material terms of sale are established on the invoice date, we preliminarily find that Datong's date of sale is the invoice date between Datong and its first unaffiliated customer in accordance with 19 CFR 351.401(i).

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Datong's and Jacobi's sales of the subject merchandise to the United States were made at less than NV, the Department compared the EP (or constructed export price ("CEP")) to the NV as described in the "Export Price," "Constructed Export Price" and "Normal Value" sections of this memorandum.

[91] See Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office V, from Frances Veith, Senior International Trade Analyst, AD/CVD Operations, Office V: Preliminary Results Analysis Memorandum for Jacobi Carbons AB in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated concurrently with this notice ("Jacobi's Prelim Analysis Memo"), see also Datong Prelim Analysis Memo.

[92] See Jacobi's Section A Questionnaire Response, dated July 24, 2014, at 14.

[93] See, e.g., Certain Polyester Staple Fiber From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review, and Intent To Revoke Order in Part, 76 FR 40329 (July 8, 2011) unchanged in Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, and Revocation of an Order in Part, 76 FR 69702 (November 9, 2011); see also Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review, 75 FR 68758 (November 9, 2010) unchanged in First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 27994, 27996 (May 13, 2011).

[94] See Datong section A response, dated August 1, 2014 at 15; see also Datong supplemental section A response, dated October 17, 2014 at 10.

[95] See Datong supplemental section A response, dated October 17, 2014 at 10.

A. *Determination of Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (the average-to-average ("A-A") method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping duty 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)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping duty investigations.[96]

In recent investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of the A-T method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[97] The Department finds that the differential pricing analysis used in those recent investigations and reviews 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.[98]

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. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer code. Regions are defined using the reported destination code (e.g., zip codes or cities) 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

[96] 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).

[97] See, e.g., 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). Differential pricing was also used in a recent antidumping duty administrative review of certain activated carbon from the People's Republic of China: Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 26748 (May 8, 2013), unchanged in AR5 PRC Carbon Final and accompanying Issues and Decisions Memo Comment 2-4.

[98] See AR5 PRC Carbon Final and accompanying Issues and Decisions Memo Comment 2-4.

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* coefficient is calculated 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. The Cohen's *d* coefficient is used 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, and the sales in the test group 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, 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 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 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.

B. *Results of the Differential Pricing Analysis*

For Jacobi, based on the results of the differential pricing analysis, the Department finds that 52.2 percent of Jacobi's export sales confirm the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods, which supports consideration of an alternative to the A-A method.[99] Further, the Department determines that the A-A method cannot appropriately account for such differences because there is a meaningful difference in the weighted-average dumping margin when calculated using the A-A method and the alternative method. Specifically, 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.[100] Accordingly, the Department has determined to use the mixed A-T and A-A method in making comparisons of CEP and NV for Jacobi.

For Datong, the Department finds that 25.00 percent of Datong's export sales confirm the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods.[101] Accordingly, the Department has not considered an alternative comparison methodology and has preliminarily determined to use the A-to-A method to calculate Datong's weighted-average dumping margin for these preliminary results.

U.S. Price

Export Price

In accordance with section 772(a) of the Act, EP is "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. Datong reports that all material terms of sale (including the price of the subject merchandise to its unaffiliated customers) are set before the date of importation.[102] Therefore, in accordance with section 772(a) of the Act, we calculated the EP for sales to the United States for Datong, because the first sale to an unaffiliated purchaser was made before the date of importation and the use of CEP was not otherwise warranted. We calculated EPs for Datong based on the prices to its unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, where appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight, foreign brokerage and handling, customs duties, domestic brokerage and handling and other movement expenses incurred in the PRC and the United States. For those expenses that were provided by an ME provider and paid for in an ME currency, the Department used the reported expense. We made no adjustments for imputed credit or indirect selling expenses reported by Datong, because in EP situations for an NME proceeding, the "Department does not make circumstance-of-sale adjustments as the offsetting

[99] See Jacobi's Prelim Analysis Memo at Attachment 3.
[100] Id.
[101] See Datong Prelim Analysis Memo at Attachment III.
[102] See, e.g., Supplemental Section A Response of Datong, dated October 17, 2014, at 7.

adjustments to the normal value are not normally possible."[103] For the expenses that were either provided by an NME vendor or paid for using an NME currency, we used SVs as appropriate.[104] Additionally, in accordance with section 772(c)(2)(B) of the Act, we also deducted any un-refunded (i.e., irrecoverable) value added tax ("VAT") from the starting price as explained below. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for Datong, see Datong's Prelim Analysis Memo.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)." For all of Jacobi's sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act because sales of subject merchandise were made in the United States on behalf of the companies located in the PRC by their respective U.S. affiliates to unaffiliated purchasers in the United States.[105] For these sales, the Department based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, the Department made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and appropriate selling adjustments, in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, the Department also deducted those selling expenses associated with economic activities occurring in the United States. Specifically, the Department deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty expenses, and indirect selling expenses. For those expenses that were provided by an ME provider and paid for in an ME currency, the Department used the reported expense. Additionally, in accordance with section 772(c)(2)(B) of the Act, we also deducted any un-refunded (i.e., irrecoverable) VAT from the starting price as explained below. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for Jacobi, see Jacobi's Prelim Analysis Memo.

Further Manufactured Sales

In its original Section A Questionnaire response, Jacobi stated that it conducted some additional processing of the subject merchandise in the United States.[106] On August 18, 2014, Jacobi

[103] See, e.g., Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews, Final Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not To Revoke in Part, 69 FR 55581 (September 15, 2004) and accompanying Issues and Decision Memorandum at Comment 15.
[104] See Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Frances Veith, Senior Trade Analyst, re: "Seventh Administrative Review of Certain Activated Carbon from the People's Republic of China: Surrogate Values for the Preliminary Results," dated concurrently with this decision memo ("Prelim SV Memo").
[105] See, e.g., Section A Response of Jacobi, dated July 24, 2014, at 7 and Exhibit A1. Section C Response of Jacobi, dated August 18, 2014, at 9.
[106] See Jacobi's Section A Questionnaire Response, submitted July 24, 2014, at 4, 19, and 20.

provided its Section E response.[107] We deducted Jacobi's further manufacturing costs from its U.S. selling prices in accordance with section 772(d)(2) of the Act.

Value Added Tax

The Department's practice, in NME cases, is to subtract from EP or the CEP the amount of any un-refunded (i.e., irrecoverable) VAT, in accordance with section 772(c)(2)(B) of the Act. Where the irrecoverable VAT is a fixed percentage of EP, the Department makes a tax-neutral dumping comparison by reducing the U.S. price by this percentage.[108] Thus, the Department's methodology 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.

The Chinese VAT schedule placed on the record of this review demonstrates that, the VAT rate for activated carbon is 17 percent.[109] Datong and Jacobi also reported that activated carbon's export VAT rebate rate is zero.[110] Thus, for the purposes of these preliminary results of review, for Jacobi's CEP sales, we reduced each sale's U.S. price by the irrecoverable VAT rate of 17 percent of entered value[111] and for Datong EP sales, we reduced each sale's U.S. price by the irrecoverable VAT rate of 17 percent.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME country and the available 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 the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by the respondents for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value a particular FOP. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are

[107] See Jacobi's Response to the Department's Section E Questionnaire, submitted on August 18, 2014.
[108] 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).
[109] See Jacobi's supplemental section C response, dated October 21, 2014, at 29 and Exhibits SC-54 and SC-55.
[110] Id. and Datong's supplemental questionnaire response, dated March 24, 2015 at Exhibit 15.
[111] See Jacobi's preliminary results analysis memo, dated concurrently with this memorandum.

product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.[112]

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities (i.e., not insignificant quantities) and pays in an ME currency, the Department uses the actual price paid by the respondent to value those inputs, except when prices may have been distorted by findings of dumping and/or subsidization.[113] Where the Department finds ME purchases to be of significant quantities (i.e., 85 percent or more), in accordance with our statement of policy as outlined in Antidumping Methodologies: Market Economy Inputs,[114] the Department uses the actual purchase prices to value the inputs. Alternatively, when the volume of an NME firm's purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the ME purchase price with an appropriate SV, according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.[115] When a firm has made ME input purchases that may have been dumped or subsidized, are not bona fide, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold.[116] Jacobi provided evidence that it had ME purchases of bags.[117] The Department addresses Jacobi's reported ME purchases of this input during the POR that were paid for in ME currency within the Prelim SV Memo and in its preliminary analysis memoranda.[118] Where appropriate, we added freight expenses to the market economy prices for this input.[119]

The Department used Thai import statistics as reported by the Global Trade Atlas ("GTA") to value the raw material, energy, and packing material inputs that Datong and Jacobi used to produce the subject merchandise under review during the POR, except where otherwise stated below. These data are generally contemporaneous with the POR, publicly available, product-specific, tax-exclusive, and represent a broad market average. In accordance with the legislative history of the OTCA 1988, the Department continues to apply its long-standing practice of disregarding certain prices as SVs if it has a reason to believe or suspect that these prices may have been dumped or subsidized.[120] In this regard, the Department previously found that it is

[112] See, e.g., Fuwei Films (Shandong) Co. v. United States, 837 F. Supp. 2d 1347, 1350-51 (CIT 2012) (citing Certain Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum at Comment 10); Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.
[113] See, e.g., Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27366 (May 19, 1997).
[114] See Use of Market Economy Input Prices in Nonmarket Economy Proceedings, 78 FR 46799 (August 2, 2013) ("Antidumping Methodologies: Market Economy Inputs").
[115] Id.
[116] Id.
[117] See Jacobi's Section D Questionnaire Response, dated September 8, 2014, JCC at 7.
[118] See Jacobi's Analysis Memo.
[119] Id.
[120] See OTCA 1988, H.R. Rep. No. 100-576, at 590-91.

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.[121] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from these countries in calculating the Thai import-based SVs. Additionally, the Department disregarded prices from NME countries.[122] Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, as the Department could not be certain that they were not from either an NME country or a country with general export subsidies.[123]

In accordance with section 773(c) of the Act, for subject merchandise produced by Datong and Jacobi, the Department calculated NV based on the FOPs reported by Datong and Jacobi for the POR. The Department used data from Thai import statistics and other publicly available Thai sources in order to calculate SVs for Datong's and Jacobi's FOPs (direct materials, energy, and packing materials) and certain movement expenses.[124] To calculate NV, unless otherwise noted, the Department multiplied the reported per-unit factor quantities by publicly available Thai SVs.

As appropriate, the Department adjusted input prices by including freight costs to render the prices delivered prices.[125] Specifically, the Department added to the Thai 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 Federal Circuit in Sigma Corp. v. United States.[126] Where necessary, the Department adjusted SVs for exchange rates, and converted all applicable items to a per-metric ton basis. For a detailed description of all SVs used for Datong and Jacobi, see the Prelim SV Memo.

The Department valued electricity using data from the Electrical Generating Authority of Thailand, Annual Report 2013: Key Statistical Data. We calculated an average of the price of

[121] See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of 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; Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23; Certain Hot-Rolled Carbon Steel Flat Products From India, Indonesia, and Thailand, 78 FR 16525 (March 14, 2013), and accompanying Issues and Decision Memorandum at 5-7.

[122] See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 73 FR 24552, 24559 (May 5, 2008), unchanged in Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (September 24, 2008).

[123] Id.

[124] See Prelim SV Memo.

[125] See section 772(c)(1)(A) of the Act.

[126] See Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997).

energy sales to various customers.[127] We did not inflate/deflate this rate since it is contemporaneous with the POR.

We valued inland truck freight using an average price as reported in the World Bank's "2015 Doing Business in Thailand" "Trading Across Borders" survey and report, which was published in 2014. The data in the report is current as of June 1, 2014. This World Bank report gathers information concerning the distance and cost to transport products in a 20-foot container containing 10 metric tons of goods from the peri-urban area (i.e., Bangkok's Industrial Park Areas) of the economy's largest business city (Bangkok) to the country's ports. We did not inflate/deflate this rate since it is contemporaneous with the POR.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods from Thailand.[128] The 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 that is published in Doing Business in Thailand, published by the World Bank.[129] We did not inflate/deflate this rate since it is contemporaneous with the POR.

We valued water using price data based on Thai water tariffs as published at http://www.mwa.co.th) by the Metropolitan Waterworks Authority ("MWA") of Thailand.[130] We did not inflate/deflate this price data because it is contemporaneous with the POR.

We valued purchased steam using price data based on the 2013 Annual Report of Glow Energy Public Company Limited, see http://glow.listedcompany.com/ar.html. We did not inflate/deflate this price data because it is contemporaneous with the POR.

To value factory overhead, selling, general, and administrative ("SG&A") expenses, and profit, the Department used the 2010 audited financial statement of a Thai activated carbon company, Carbokarn Co., Ltd. ("Carbokarn"). While, the Department notes these financial statements are not contemporaneous with the POR, Carbokarn's 2010 financial statements are otherwise complete, publicly available, contain sufficient information to calculate surrogate financial ratios, and contain no evidence of countervailable subsidies. As such, the Department has preliminarily determined that these financial statements are the best available information on the record regarding the valuation of factory overhead, SG&A, and profit.

Though the record also contains the 2013 financial statements for Carbokarn, we have preliminarily determined not to use these financial statements because we find them unusable as they do not provide sufficient detail on expenses to allow the Department to calculate accurate surrogate financial ratios.[131] For example, the statements do not detail the company's cost of goods sold, SG&A expenses, or labor expense. The record also contains the 2013 financial statements of another Thai activated carbon company, C. Gigantic Carbon Co., Ltd.

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[127] Id.
[128] Id.
[129] Id.
[130] Id.
[131] See Aluminum Extrusions From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission, in Part, 2010/12, 79 FR 96 (January 2, 2014) and accompanying Issues and Decisions Memo at Comment 1.

("Gigantic").[132] However, the Department notes that this financial statement indicates that Gigantic received benefits from subsidies that the Department has previously found countervailable. Specifically, Gigantic received an exemption from corporate income tax under the Investment Promotion Act ("IPA") of B.E. 2520 (IPA Sec. 31), that the Department previously determined to constitute a countervailable subsidy.[133] The Department's usual practice is not to rely on financial statements where there is evidence that the company received countervailable subsidies and (as the Department finds here) there are other, more reliable and representative data on the record for purposes of calculating surrogate financial ratios.[134] Finally, the record also contains financial statements from companies within Indonesia and the Philippines. However, these financial statements come from companies operating in countries that have not been found to be at the same level of economic development based on 2013 GNI data. As a result, the Department does not consider them to be better surrogate value sources than the 2010 Thai financial statements from Carbokarn. Furthermore, using Thai financial statements is consistent with our regulatory preference for valuing all FOPs in a single surrogate country.[135]

In NME antidumping duty proceedings, the Department prefers to value labor solely based on data from the primary surrogate country.[136] In Labor Methodologies, the Department determined that the best methodology to value labor is to use industry-specific labor rates from the primary surrogate country. Additionally, we determined that best data source for industry-specific labor rate is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization ("ILO") Yearbook of Labor Statistics.[137] We did not, however, preclude all other sources from evaluation labor costs. Rather, we continue to follow our practice of selecting the best available information on the record to determine SVs for inputs such as labor. In this case, ILO data is not on the record of this review. Therefore, we valued labor consumption based on Thailand's National Statistical Office ("NSO") Labor Force Survey of Whole Kingdom, which were based on data from surveys taken during the POR. We valued labor using a single-country labor cost based on compensation data consistent with the International Standard Classification of Occupation, 2008 (ISCO-08) of the ILO.[138] The data cover the last three quarters of 2013 and the first quarter of 2014 for all manufacturing sectors. Because these rates were in effect during the POR, we have not adjusted the calculated rate for inflation/deflation.

[132] See Petitioner's SV Submission, dated March 31, 2015 at Attachment 3.
[133] See Final Negative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Thailand, 70 FR 13462 (March 21, 2005); see also Ball Bearings and Parts Thereof From Thailand: Final Results of Countervailing Duty Administrative Review, 61 FR 728, 729 (January 6, 1997).
[134] See, e.g., Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2009-2010, 78 FR 11143 (February 15, 2013) and accompanying Issues and Decision Memorandum at Comment 14.
[135] 19 CFR 351.408(c)(2).
[136] See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) ("Labor Methodologies").
[137] Id.
[138] See Prelim SV Memo.

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.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

29 APRIL 2015
(Date)