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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of the 2013-2014 Antidumping Duty Administrative Review: Chlorinated Isocyanurates from the People's Republic of China

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SUMMARY

In response to requests from interested parties, the Department of Commerce (Department) is conducting an administrative review of the antidumping duty (AD) order on chlorinated isocyanurates (chlorinated isos) from the People's Republic of China (PRC) covering the period of review (POR) of June 1, 2013, through May 31, 2014. This review covers three producers/exporters: 1) Heze Huayi Chemical Co. Ltd. (Heze Huayi); 2) Hebei Jiheng Chemical Co., Ltd.(Jiheng); and 3) Juancheng Kangtai Chemical Co., Ltd. (Kangtai). The Department preliminarily determines that Jiheng made sales in the United States at prices below normal value (NV), and Heze Huayi and Kangtai did not.

If these preliminary results are adopted in our final results of review, the Department will instruct U.S. Customs and Border Protection (CBP) to assess duties on all appropriate entries of subject merchandise during the POR. The rates assigned to each of these companies can be found in the "Preliminary Results of Review" section of the accompanying Federal Register notice.

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

BACKGROUND

On July 31, 2014, the Department initiated the administrative review of the AD order on chlorinated isos from the PRC covering the period June 1, 2013, through May 31, 2014.[1]

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[1] See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 44390 (July 31, 2014) (Initiation Notice).

Between September 17 and September 29, 2014, Heze Huayi, Jiheng, and Kangtai each submitted a separate rate certification.[2]

On October 24, 2014, the Department issued its AD questionnaire to Heze Huayi, Jiheng and Kangtai, to which all companies responded in a timely manner. Between February 9 and April 16, 2015, the Department issued supplemental questionnaires to Heze Huayi, Jiheng and Kangtai. All respondents submitted responses in a timely manner. Between December 24, 2014 and May 18, 2015, Clearon Corporation and Occidental Chemical Corporation (Petitioners), submitted deficiency comments regarding Heze Huayi's, Jiheng's and Kangtai's section A, C and D questionnaire and supplemental questionnaire responses.

On November 14, 2014, the Department placed the Surrogate Country List on the record and solicited interested parties to submit comments regarding the selection of the surrogate country as well as provide surrogate value (SV) data.[3] Petitioners, Heze Huayi, Jiheng and Kangtai placed information on the record regarding the selection of the surrogate country and SVs between January 2, 2015 and February 27, 2015, including timely filed rebuttal comments.

On February 24, 2015, the Department extended the time limit for the preliminary results of review from March 2, 2015, until June 30, 2015.[4]

SCOPE OF THE ORDER

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

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[2] See Letter from Heze, "Chlorinated Isocyanurates from the People's Republic of China: Separate Rate Certification," September 17, 2014; Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China: Separate Rate Certification," September 17, 2014; and, Letter from Jiheng, "Chlorinated Isocyanurates from China (Ninth Administrative Review) – Hebei Jiheng Chemical Co., Ltd. – Separate Rate Certification," September 29, 2013 (collectively, Separate Rate Certifications).

[3] See Letter to All Interested Parties regarding "2013-2014 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," November 14, 2014, at Attachment I.

[4] See Memorandum, "Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," February 24, 2015.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country Status

In every AD case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (NME) country.[5] In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single AD rate.[6] It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to its exports. To establish whether a company is sufficiently independent to be eligible for a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers[7] and further clarified in Silicon Carbide.[8] However, if the Department determines that a company is wholly foreign-owned or located in a market economy (ME) country, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

In order to demonstrate separate rate status eligibility, the Department normally requires entities, for whom a review was requested, and who were assigned a separate rate in a previous segment of this proceeding, to submit a separate-rate certification stating that they continue to meet the criteria for obtaining a separate rate.[9] For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility, the Department requires a separate-rate application.[10]

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[5] See, e.g., Fresh Garlic From the People's Republic of China: Preliminary Results of the 2009–2010 Antidumping Duty Administrative Review, 76 FR 76375 (December 7, 2011), unchanged in Fresh Garlic from the People's Republic of China: Final Results of the 2009–2010 Administrative Review of the Antidumping Duty Order, 77 FR 34346 (June 11, 2012).

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

[7] 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).

[8] 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).

[9] See Initiation Notice, 76 FR at 82269.

[10] Id.

In this review, Heze Huayi, Jiheng, and Kangtai certified their eligibility for separate rate status through a separate rate certification.[11] Heze Huayi, Jiheng, and Kangtai reported that they are wholly Chinese-owned companies.[12] Therefore, the Department must analyze whether each company can demonstrate the absence of both de jure and de facto government control over export activities.

A. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[13]

The evidence Heze Huayi, Jiheng, and Kangtai provided in their separate rate certifications supports a preliminary finding of absence of de jure government control based on the following factors: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) applicable legislative enactments decentralizing control of the companies; and (3) formal measures by the government decentralizing control of PRC companies.[14]

B. Absence of De Facto Control

As stated in previous cases, there is evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC.[15] Therefore, the Department has determined that an analysis of de facto control is critical in determining whether Heze Huayi, Jiheng, and Kangtai are, in fact, subject to a degree of government control over export activities which would preclude the Department from assigning separate rates. The Department considers four factors in evaluating whether each respondent is subject to de facto government control of its export functions: (1) whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[16]

The evidence Heze Huayi, Jiheng, and Kangtai provided in their separate rate certifications[17] supports a preliminary finding of absence of de facto government control based on the following factors: (1) an absence of restrictive government control on export prices; (2) a showing of

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[11] See Separate Rate Certifications.
[12] Id.
[13] See Sparklers.
[14] See Separate Rate Certifications.
[15] See, e.g., Silicon Carbide, 59 FR at 22586-87.
[16] Id.; see also Sparklers, 56 FR at 20589; Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).
[17] See Separate Rate Certifications.

authority to negotiate and sign contracts and other agreements; (3) a showing that Heze Huayi, Jiheng, and Kangtai maintain autonomy from the government in making decisions regarding the selection of management; and (4) a showing that Heze Huayi, Jiheng, and Kangtai retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

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

Surrogate Country

A. Level of Economic Development

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOP), valued in a surrogate ME country, or countries, considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are (a) at a level of economic development comparable to that of the NME country and (b) significant producers of comparable merchandise. Moreover, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data from the countries.[18]

Pursuant to section 773(c)(4) of the Act, the Department initially listed Bulgaria, Colombia, Ecuador, Indonesia, South Africa, and Thailand as countries that are comparable to the PRC in terms of economic development based on 2012 per capita gross national income (GNI) data available in the World Development Report provided by the World Bank and the Department provided parties an opportunity to comment on this list.[19] Kangtai timely filed a comment that the Surrogate Country List provided by the Department in this case has been surpassed by a more recent one. Kangtai submitted this Updated Surrogate Country list with its surrogate country rebuttal comments which identified Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine as countries that are comparable to the PRC in terms of economic development based on 2013 per capita GNI data.[20] The Department preliminarily determines that the Updated

[18] See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin).
[19] See Letter to All Interested Parties, "2013-2014 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," November 14, 2014 (Request for Surrogate Country and Value Comments), and attached Memorandum to Mark Hoadley, Program Manager, Office VII, from Carole Showers, Director, Office of Policy, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China" (Surrogate Country List), November 10, 2014.
[20] See Letter from Kangtai, "Certain Chlorinated Isocyanurates from the People's Republic of China Comments on Surrogate Country Selection" (Kangtai's Rebuttal Surrogate Country Comments), January 12, 2012, at Exhibit 2, containing the Department's Letter to All Interested Parties, "2013-2014 Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," January 9, 2015, and attached Memorandum to Robert

Surrogate Country List is the most appropriate one to use for identifying countries that are comparable to the PRC because it contains the Department's most recent analyses of GNI data that is also contemporaneous with the POR. The updated list was filed timely and early in the proceeding during the rebuttal comment period regarding the selection of the surrogate country which allowed all parties ample opportunity to argue the merits of its use.

Section 773(c)(4)(A) of the Act is silent with respect to how the Department may determine that a country is economically comparable to the NME country. As such, the Department's long standing practice has been to identify those countries which are at a level of economic development similar to the PRC in terms of per capita GNI data available in the World Development Report provided by the World Bank.[21] The Department is satisfied that the countries on the Updated Surrogate Country List are equally comparable in terms of economic development and serve as an adequate group to consider when gathering SV data.

Furthermore, providing parties with a range of countries with varying GNIs is reasonable given that any alternative would require a complicated analysis of factors affecting the relative GNI differences between the PRC and other countries, which is not required by the statute. In contrast, by identifying countries that are economically comparable to the PRC based on GNI, the Department provides parties with a predictable practice which is reasonable and consistent with the statutory requirements. We note that identifying potential surrogate countries based on GNI data has been affirmed by the U.S. Court of International Trade (CIT), which found the use of per capita GNI to be a "consistent, transparent, and objective metric to identify and compare a country's level of economic development" and "a reasonable interpretation of the statute."[22] As the Department's policy is to consider all countries on the Surrogate Country List (or, in this review, the Updated Surrogate Country List) to be equally comparable economically to the PRC, we did not use GNI alone as the rationale for selecting among these six countries. Instead, as further discussed below, we evaluated which of these countries is also a significant producer of comparable merchandise and has reliable data.

On November 14, 2014, the Department invited parties to comment on surrogate country selection and provide information regarding FOP valuation in the instant review.[23] On February 18, 2015, Petitioners stated in their comments that "the primary surrogate for purposes of this review should be selected from one of the six countries listed in the Department's surrogate country selection memorandum and should be based in part on whether a sufficient number of reliable surrogate values can be identified from a single market on that list."[24] Petitioners'

Bolling, Program Manager, Office IV, from Carole Showers, Director, Office of Policy, "Request for a List of Surrogate Countries for a New Shipper Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China" (Updated Surrogate Country List), January 8, 2015.

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

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

[23] See Request for Surrogate Country and Value Comments.

[24] See Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (2013-2014 Review): Surrogate Value Data," February 18, 2015, citing Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (2013-2014 Review): Petitioners' Comments on Primary Surrogate Country Selection" (Petitioners' Surrogate Country Comments), January 2, 2015.

comments referred to the Department's initial Surrogate Country List that included Indonesia as one of the six economically comparable countries to the PRC. As noted above, Kangtai submitted rebuttal comments on surrogate country selection that included the Updated Surrogate Country List based on 2013 per capita GNI data that no longer includes Indonesia.[25] Based on this new data, Kangtai argues that Thailand is the only suitable surrogate country because the Department no longer considers Indonesia to be at the same level of economic development and Petitioners failed to provide or argue any information on data availability and quality in regard to other potential surrogate countries with the exception of Thailand and Indonesia.[26] Finally, Petitioners modified their earlier arguments stating that Thailand should now be used as the primary surrogate country since it was selected in the most recently completed administrative review.[27] Because we find at least one of the countries from the Updated Surrogate Country List, Thailand, meets the selection criteria as explained below, we do not believe it would be appropriate to select Indonesia, a country no longer on the list of countries that is compared to the PRC, because it is at a less comparable level of economic development than that represented by the six countries on the updated surrogate country candidate list.

B. Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[28] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[29] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[30] "In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced. How the Department does this depends on the subject merchandise."[31] In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

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[25] See Kangtai's Rebuttal Surrogate Country Comments at 2 and Exhibit 2.
[26] Id. at 3-4.
[27] See Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (9th Antidumping Administrative Review): Comments Concerning the Preliminary Determination and Submission of Factual Information Regarding Surrogate Values," June 1, 2012 (Petitioners' Pre-Preliminary Comments), at 3.
[28] See Policy Bulletin at 2.
[29] The Policy Bulletin also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." Id. at note 6.
[30] See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").
[31] See Policy Bulletin 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.[32]

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.[33] Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[34] it does not preclude reliance on additional or alternative metrics. In this case, the Department finds that calcium hypochlorite and sodium hypochlorite are comparable to subject merchandise because, as previously determined, in prior segments of this proceeding, it has similar physical characteristics and end uses, and a similar production process, as the subject merchandise.[35]

The Department has production data indicating that Bulgaria, South Africa, Thailand, and Ukraine are significant producers of calcium hypochlorite; and, that Bulgaria, Ecuador, South Africa, Thailand, and Ukraine are significant producers of sodium hypochlorite.[36]

C. Data Availability

When evaluating SV data, the Department considers several factors including whether the SVs are publicly available, contemporaneous with the POR, represent a broad-market average, from an approved surrogate country, tax and duty-exclusive, and specific to the inputs. There is no hierarchy among these criteria. It is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[37] Other than the comparison import data submitted by Jiheng and Kangtai for chlorine,[38] there is no data on the record for any other FOP for Bulgaria, Ecuador, Romania, South Africa and Ukraine. With these countries disqualified, the Department is left with Thailand as a potential surrogate

[32] Id. at 3.
[33] See section 773(c) of the Act; see also Nation Ford Chem. Co. v. United States, 166 F.3d 1373, 1377 (Fed. Cir.1990).
[34] See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576 (1988), at 590.
[35] See Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 80 FR 4539, January 28, 2015 (2012-2013 Final Results) and accompanying Issues and Decision Memorandum at Comment 2.
[36] See Petitioners' Surrogate Country Comments at Exhibits 3 and 4; also, Letter from Heze Huayi and Kangtai, "Certain Chlorinated Isocyanurates from the People's Republic of China Comments on Surrogate Country Selection," December 31, 2014, at Exhibits 2 and 3.
[37] See Policy Bulletin.
[38] See Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Surrogate Values Submission," February 18, 2015, at Exhibit 2; also Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China Surrogate Value Submission," February 18, 2015, at Exhibits 3-4.

country. The Department has available to it on the record of this administrative review FOP information for Thailand, including viable surrogate financial statements.[39]

The Department finds Thailand to be a reliable source for SVs because Thailand is at a comparable level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data for all but one (chlorine) of the identified inputs submitted by interested parties. Given the above facts, the Department has selected Thailand as the primary surrogate country for this review. A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice.

Date of Sale

Pursuant to 19 CFR 351.401(i), the Department starts with a presumption that invoice date is the correct date of sale unless record evidence indicates that the material terms of sale such as price and quantity are established on another date. Heze Huayi and Kangtai reported that the date of sale should be the invoice date because the material terms of the sale are fixed at invoice date.[40] In this case, as the Department found no evidence contrary to Heze Huayi's and Kangtai's claims that the invoice date was the appropriate date of sale, the Department has used invoice date as the date of sale for these preliminary results in accordance with 19 CFR 351.401(i).[41]

Jiheng reported that the date of sale for its export price (EP) sales to the United States should be the invoice date with the exception of some sales where the shipment date occurs prior to the invoice date.[42] In such cases, the Department has a practice of limiting the date of sale to no later than shipment date,[43] and Jiheng has correctly reported the shipment date as the date of sale for these EP sales where shipment occurred prior to the invoice date.[44] For its constructed export price (CEP) sales, Jiheng reported and the Department used the order confirmation date because the invoice is not issued until the goods are received by the U.S. customer[45] and order confirmation occurs before shipment date.[46]

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[39] See Memorandum to the File, "2013-2014 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results Surrogate Value Memorandum," dated concurrently with this memorandum (Preliminary Surrogate Value Memorandum).
[40] See Letter from Heze Huayi, "Chlorinated Isocyanurates from the People's Republic of China: Section C & D Response," December 15, 2014 (Heze Huayi Section C and D response), at 10; also Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China: Section C and D Response," December 15, 2014 (Kangtai Section C and D response), at 9.
[41] See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.
[42] See Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Response to Section C and D" (Jiheng Section C and D response), December 16, 2015, at 11.
[43] See, e.g., Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 75 FR 7244, 7251 (February 18, 2010), unchanged in Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 41808 (July 19, 2010).
[44] See Jiheng Section C and D response, at 11.
[45] Id., at 11-12.
[46] See Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Response to Supplemental Section A and C Response" (Jiheng Section A and C supplemental response), May 8, 2015, at 9.

Normal Value Comparisons

In accordance with section 773(a) of the Act, the Department compared the EP or CEP of the U.S. sales of the merchandise under consideration to the weighted-average NV to determine whether the individually-examined respondents sold merchandise under consideration to the United States at less than normal value during the POR.

A. Export Price

In accordance with section 772(a) of the Act, "the term 'export price' means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." The Department defined the U.S. price of merchandise under consideration based on the EP for all sales reported by Heze Huayi and Kangtai, and some sales reported by Jiheng.

Petitioners argue that the Department should further inquire about Kangtai's reporting of its EP sales during the POR and explore the nature of its relationship and affiliation with the reported parties involved in these U.S. sales.[47] We preliminarily find that such an inquiry is not warranted based on the evidence already on the record. Kangtai reported that its only affiliated company is Ouya[48] and provided relevant financial statements to support its claim. Kangtai also submitted an importer's affidavit[49] demonstrating that the prices set during the POR were through independent negotiation, and noted that "{t}here is no selling agent or intermediary between Kangtai and its U.S. customer."[50] In addition, Kangtai stated that it does not determine the reseller's ultimate customer or market, noting it "does not provide customers lists to, or make joint sales calls with, the reseller's customer."[51] The Department reviewed Kangtai's sales documentation which included a sample sales contract, invoice, packing list, bill of lading, entry summary, and payment documentation,[52] and found these documents to be consistent with Kangtai's reported terms of sale, delivery and payment.[53] Therefore, the Department preliminary finds no basis for any further inquiries regarding the accuracy of the reporting of these EP sales.

The Department calculated the EP based on the prices at which merchandise under consideration was sold to unaffiliated purchasers in the United States. To this price, we added amounts for components that were supplied free of charge (Heze Huayi and Kangtai), where applicable, pursuant to section 772(c)(1)(A) of the Act and consistent with our treatment of sales in prior

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[47] See Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (9th Antidumping Administrative Review): Comments Concerning the Supplemental Section A & C Response of Kangtai," June 3, 2015, at 2-3.
[48] See Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China: Section A Response," November 14, 2014 (Kangtai Section A Response), at 12.
[49] Id. at Exhibit A-4.
[50] See Kangtai Section C and D Response, Section C at 22.
[51] Id. at 15.
[52] Id. at Exhibit A-8.
[53] See Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China: Second Supplemental Questionnaire Response," April 20, 2015 (Kangtai Section A and C supplemental response) at 4.

reviews.[54] For free raw materials and packing materials, we added the SVs for these materials, multiplied by the reported FOPs for these items, to the U.S. price paid by Heze Huayi's or Kangtai's customer. In accordance with section 772(c) of the Act, where appropriate, we deducted from the starting prices to the unaffiliated purchasers, the expenses for: foreign inland freight; international freight; brokerage and handling; marine insurance; and U.S. customs duties.[55] For the expenses that were either provided by an NME vendor or paid for using an NME currency, we used SVs, as appropriate.[56]

B. Constructed Export Price

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

We calculated CEP based on delivered prices to unaffiliated purchasers in the United States. We made adjustments, where applicable, to the reported gross unit prices for billing adjustments and early payment discounts, to arrive at the price at which the subject merchandise is first sold in the United States to an unaffiliated customer. We made deductions from the U.S. sales price for movement expenses in accordance with section 772(c)(2) of the Act. These included, where applicable, foreign inland freight from plant to the port of exportation, foreign brokerage and handling, ocean freight, marine insurance, U.S. inland freight from port of importation to the warehouse, U.S. freight from warehouse to customer, U.S. warehousing, U.S. customs duty, and U.S. brokerage and handling. In accordance with section 772(d)(1) of the Act, the Department deducted, where applicable, commissions, credit expenses, inventory carrying costs, and indirect selling expenses, all of which relate to commercial activity in the United States. In accordance with section 772(d) of the Act, we calculated Jiheng's credit expenses and inventory carrying costs based on its short-term interest rate. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.[57]

C. Value-Added Tax

The Department's practice in NME cases is to adjust EP or CEP for the amount of any un-refunded value-added tax (VAT), in accordance with section 772(c)(2)(B) of the Act.[58] The

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[54] See e.g., Chlorinated Isocyanurates from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 43391 (July 25, 2014) (2012-2013 Preliminary Results) and accompanying Decision Memorandum, at 13, unchanged in 2012-2013 Final Results.
[55] See Heze Huayi Preliminary Analysis Memorandum, also Jiheng Preliminary Analysis Memorandum and Kangtai Preliminary Analysis Memorandum.
[56] See the "Factor Valuations" section below for details regarding the SVs for movement expenses.
[57] For a detailed description of all adjustments, see Jiheng Preliminary Analysis Memorandum.
[58] See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481, 36483-84 (June 19, 2012) (Methodological Change).

Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.[59] Where the irrecoverable VAT is a fixed percentage of CEP or EP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. CEP or EP downward by this same percentage.[60] The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount determined in step one.

The Department requested that Heze Huyai, Jiheng, and Kangtai report net un-refunded VAT for the subject merchandise. All respondent companies reported that the official VAT rate for exports of subject merchandise is 17 percent and the refund rate is nine percent, under the applicable PRC regulations.[61]

Thus, Heze Huyai, Jiheng, and Kangtai incurred an effective VAT rate of eight percent on exports of domestically produced chloro isos. Because Heze Huyai, Jiheng, and Kangtai reported that they pay VAT associated with subject merchandise that is not refunded at a rate of eight percent, the Department adjusted each company's net price for the un-refunded VAT, in order to calculate EP or CEP net of VAT. We note that this is consistent with the Department's policy and the intent of the statute, that dumping comparisons be tax-neutral.[62]

D. Normal Value

Section 773(c)(1) of the Act provides that, in an NME proceeding, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs in NMEs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). Under section 773(c)(3) of the Act, FOPs include: (1) hours of labor required; (2) quantities of raw materials consumed; (3) amounts of

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[59] Id.; see also 2011-2012 Final Results and accompanying Issues and Decision Memorandum at Comment 5.A.
[60] Id.
[61] See Letter from Heze Huayi, "Chlorinated Isocyanurates from the People's Republic of China: Second Supplemental Section A and C Response," April 2, 2015 (Heze Huayi Section A and C supplemental response), at 8-9; Jiheng Section A and C supplemental response at 15-16; and, Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China: Second Supplemental Questionnaire Response," April 20, 2015 (Kangtai Section A and C supplemental response) at 7-8.
[62] See Methodological Change, (citing Antidumping Duties; Countervailing Duties, 62 FR27296, 27369 (May 19, 1997) and Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. I 03-316, vol. I, 827, reprinted in 1994 U.S.C.C.A.N. 3773, 4172); see also Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2011-2012, 78 FR 78333 (December 26, 2013) and accompanying Preliminary Decision Memorandum at Issue 9, unchanged in Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 37715 (July 2, 2014).

energy and other utilities consumed; (4) representative capital costs; and (5) transportation costs. We used the FOPs reported by the respondent for materials, energy, labor, by-products, packing and freight. These reported FOPs included FOPs for various materials provided free of charge by the customer as discussed in the "Export Price" and "Constructed Export Price" sections, above.

Factor Valuation Methodology

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

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

Surrogate Values

Except as noted below, we valued raw material inputs using the weighted-average unit import values as reported by the National Statistical Office of Thailand in the Global Trade Atlas (GTA).[63] The record shows that data in the Thai import statistics, as well as those from several other Thai sources, are contemporaneous with the POR, product-specific, and tax-exclusive.[64] In those instances where the Department was unable to obtain publicly-available information contemporaneous to the POR with which to value factors, we adjusted the SVs using, where appropriate, the Thai Producer Price Index (PPI) or Consumer Price Index (CPI) (e.g., in the case of labor), as published in the International Monetary Fund's International Financial Statistics.[65]

When calculating Thai import-based SVs, we disregarded import data on inputs that we have reason to believe or suspect may be dumped or subsidized. It is the Department's practice, guided by the legislative history, not to conduct a formal investigation to ensure that such prices

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[63] Id.

[64] See Preliminary Surrogate Value Memorandum.

[65] See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 74 FR 9600 (March 5, 2009), unchanged in Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less than Fair Value, 74 FR 36656 (July 24, 2009).

are not dumped or subsidized.[66] Rather, the Department bases its decision on information that is available to it at the time it makes its determination.

In this case, the Department has reason to believe or suspect that prices of inputs from India, Indonesia, and the Republic of Korea may have been subsidized. The Department found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies.[67] Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.[68] Therefore, the Department has not used data from these countries in calculating Thai import-based SVs.

Additionally, consistent with our practice, the Department disregarded data from NME countries when calculating Thai import-based SVs. The Department also excluded from the calculation of Thai import-based SVs imports labeled as originating from an "unspecified" country because it could not be certain that these imports were not from either an NME country or a country with general available export subsidies.[69]

Free of Charge Raw Materials

As noted above, Heze Huayi and Kangtai reported that a U.S. customer(s) provided certain packing materials free of charge.[70] Packing materials that are provided free of charge to a respondent by its customer and materials for which a respondent is separately reimbursed by its customer are part of the cost of manufacturing, and must be included when calculating NV. Thus, for Heze Huayi's and Kangtai's products that included packing materials provided free of charge, consistent with the Department's practice and section 773(c)(1)(B) of the Act, we used the built-up cost (i.e., the SV for these packing materials multiplied by the reported FOPs for

[66] See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988); see also Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China, 72 FR 30758, 30763 (June 4, 2007), unchanged in Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China, 72 FR 60632 (October 25, 2007).
[67] See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012, 78 FR 42492 (July 16, 2013), and accompanying Issues and Decision Memorandum at 7-19; Certain Lined Paper Products From Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order, 76 FR 73592 (November 29, 2011), and accompanying Issues and Decision Memorandum at 1; Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012, 79 FR 46770 (August 11, 2014), and accompanying Issues and Decision Memorandum at 4.
[68] See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China, 69 FR 20594 (April 16, 2004), and accompanying Issues and Decision Memorandum at Comment 7.
[69] See, e.g., Frontseating Service Valves from the People's Republic of China; Preliminary Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, and Postponement of Final Determination, 73 FR 62952, 62957 (October 22, 2008), unchanged in Frontseating Service Valves From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances, 74 FR 10886 (March 13, 2009); and China National Machinery Import & Export Corporation v. United States, 293 F. Supp. 2d 1334, 1339 (CIT 2003), affirmed 104 Fed. Appx. 183 (Fed. Cir. 2004).
[70] See Heze Huayi Section C and D response at D-5; and, Kangtai Section C and D at D-6.

these items) in the NV calculation.[71] Where applicable, we also adjusted these values to account for freight expenses incurred between the nearest port of entry and each company's respective plants.[72]

Water

Because water was used by the respondents in the production of chlorinated isos, the Department considers water to be a direct material input rather than part of overhead. We valued water from Thailand using data from "The Metropolitan Waterworks Authority."[73]

By-products

The Department's practice is to grant respondents an offset to the reported FOPs for by-products generated during the production of the merchandise under consideration if evidence is provided that such by-product was produced during the POR and has commercial value.[74] The Department recently explained its practice as follows: "the by-product offset is limited to the total production quantity of the by-product …produced during the POR, so long as it is shown that the by-product has commercial value."[75] We valued waste ammonia gas and waste sulfuric acid by subtracting the costs and expenses used to make ammonium sulfate from these two by-products from the ammonium sulfate GTA surrogate value and hydrogen gas using the GTA.

1. Heze Huayi

Heze Huayi's cyanuric acid workshop has two production lines. In the main production line, the raw material inputs are urea, sulfuric acid, and water. The joint products produced at the main production line are cyanuric acid, ammonia gas, and discharged sulfuric acid solution.[76] Cyanuric acid is transferred to the chlorinated isocyanurates workshops and used as an input in the production of subject merchandise.[77] The ammonia gas and sulfuric acid solution are by-products of the main production line and are inputs into the second production line. In the second production line, ammonia gas, discharged sulfuric acid solution (i.e., the outputs of the main production line) and purchased fresh sulfuric acid are added to the production process and the output is ammonium sulfate[78] which is sold by Heze Huayi.[79]

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[71] See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, and accompanying Issues and Decision Memorandum at Comment 17.
[72] See Preliminary Surrogate Value Memorandum.
[73] Id.
[74] See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 35245 (June 12, 2013) and accompanying Issues and Decision Memorandum at Issue 10.
[75] See Frontseating Service Valves From the People's Republic of China: Final Results of the 2008-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order, 76 FR 70706 (November 15, 2011), and accompanying Issues and Decision Memorandum at Comment 18.
[76] See Heze Huayi Section C and D response at D-16 and Exhibit 3.
[77] Id. at D-5.
[78] Id. at D-16 and Exhibit 7.
[79] Id. at Exhibit 11.

Heze Huayi does not track the amount of ammonia gas produced at the cyanuric acid workshop or the amount consumed in the production of ammonium sulfate.[80] The purity level of ammonia gas is unknown.[81] Moreover, Heze Huayi is not in a position to sell ammonia gas because it does not have a facility to liquefy and containerize ammonia gas. Ammonia gas can only be sold after it is transformed into a liquid form. It cannot be sold in gaseous form.[82] Similar to ammonia gas, Heze Huayi does not track the amount of discharged sulfuric acid solution produced at the cyanuric acid workshop or the amount consumed in the production of ammonium sulfate.[83] The purity or the concentration level of the discharged sulfuric acid solution is not measured by Heze Huayi and is unknown.[84] As such, the Department is unable to determine the value of the by-products generated at the split-off point (i.e., ammonia gas and the discharged sulfuric acid solution) using surrogate values in accordance with the Department's normal practice. Therefore, we calculated the by-product values for the ammonia gas and sulfuric acid solution generated during production using the quantity and surrogate value for ammonium sulfate, the downstream product produced, and deducted the further manufacturing costs necessary to produce ammonium sulfate.

2. Kangtai

Kangtai's cyanuric acid workshop has two production lines. In the main production line, the company uses urea, sulfuric acid and water as inputs to produce cyanuric acid. The joint products produced at the main production line are cyanuric acid, ammonia gas, and discharged sulfuric acid solution.[85] Cyanuric acid is transferred to the chlorinated isocyanurates workshops as an input into the production of the subject merchandise. The ammonia gas and sulfuric acid solution are by-products of the main production line and are inputs into the second production line. In the second production line, ammonia gas, discharged sulfuric acid solution (i.e., the outputs of the first production line) and purchased fresh sulfuric acid are added to the production process, and the output is ammonium sulfate which is sold by Kangtai.

The discharged ammonia gas and sulfuric acid solution are not stored in an intermediate container before entering the second production line, but are fed directly into the reaction tank to produce ammonium sulfate. Consequently, Kangtai does not track the quantity of the discharged ammonia gas and sulfuric acid solution, nor does it know the purity level of these products. Kangtai claims that in order to sell the discharged ammonia gas, it would need to make significant investments in order to acquire facilities capable of extracting and liquefying the ammonia gas produced. The liquid ammonia solution would also need special containers and vehicles for storage and transportation. Further, it is dangerous to process, store and transport high pressure liquid ammonia gas, therefore, according to Kangtai, it is not currently economically feasible for the company to sell ammonia gas.[86] As such, the Department is unable

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[80] See Letter from Heze Huayi, "Chlorinated Isocyanurates from the People's Republic of China Second Supplemental Section D Questionnaire Response," April 20, 2015, at 1.
[81] Id. at 2.
[82] Id. at 3.
[83] Id. at 2.
[84] Id.
[85] See Kangtai Section C and D response at D-17 and Exhibit 3.
[86] See Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China Second Supplemental Section D Questionnaire Response," April 20, 2015, at 5.

to determine the value of the specific by-products generated at the split-off point (i.e., ammonia gas and the discharged sulfuric acid solution) using surrogate values in accordance with the Department's normal practice. Therefore, we calculated the by-product values for the ammonia gas and sulfuric acid solution generated during production using the quantity and surrogate value for ammonium sulfate, the downstream product produced, and deducted the further manufacturing costs necessary to produce ammonium sulfate.

3. Jiheng

Jiheng reported chlorine, hydrogen gas, ammonia gas, and sulfuric acid as by-products in the production of subject merchandise.[87] Consistent with the previous review, the Department finds that ammonia gas and sulfuric acid are used to produce a downstream by-product, ammonium sulfate. The Department considers ammonium sulfate to be the appropriate by-product to be used in offsetting Jiheng's NV.[88] Similar to Heze Huayi and Kangtai, Jiheng recovers both sulfuric acid and ammonia gas that are generated in the main production line in its cyanuric acid plant.[89] The joint products produced at the main production line are cyanuric acid, ammonia gas, and discharged sulfuric acid solution. The cyanuric acid is then transferred as an input into the production of the subject merchandise.[90] The ammonia gas and sulfuric acid solution are by-products of the main production line and are inputs into the second production line. In the second production line, ammonia gas, discharged sulfuric acid solution (i.e., the outputs of the first production line) and purchased fresh sulfuric acid are added to the production process, and the output is ammonium sulfate which is sold by Jiheng.[91] Consistent with our previous review of Jiheng, and consistent with our calculation of the value of these same by-products for Heze Huayi and Kangtai discussed above, we calculated the by-product values for the ammonia gas and sulfuric acid solution generated during production using the quantity and surrogate value for ammonium sulfate, the downstream product produced, and deducted the further manufacturing costs necessary to produce ammonium sulfate.

Jiheng reported that it produces hydrochloric acid and sodium hypochlorite from the chlorine gas and hydrogen gas discharged during the process of producing the subject merchandise.[92] Chlorine gas is discharged in the Chlor-Alkali Plant and Disinfectant Plant, and hydrogen gas was generated in the electrolysis process in the Chlor-Alkali Plant.[93] After electrolysis, the discharged chlorine gas generated from the purification and liquefaction process is piped and mixed with hydrogen gas to produce hydrochloric acid.[94] Jiheng calculated the quantity of discharged chlorine gas and hydrogen gas by applying the conversion ratio that is derived from the chemical formula for hydrochloric acid.[95] The hydrochloric acid produced from hydrogen gas and chlorine gas is used in the production process and also sold to unaffiliated customers.

[87] See Jiheng Section C and D response at D-30 to D-31, and Exhibit D-4.
[88] See 2012-2013 Final Results and accompanying Issues and Decision Memorandum at Comment 4.B.
[89] See Jiheng Section C and D response at D-31.
[90] Id. at Exhibit D-4.
[91] See Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Response to Supplemental Section D Response," May 12, 2015 (Jiheng Section D supplemental response), at 10-11.
[92] See Jiheng Section C and D response at D-17.
[93] Id. at D-29 to D-30 and Exhibit D-4.
[94] Id. at D-30 and Exhibit D-4.
[95] See Jiheng Section D supplemental response at 7.

Unlike the by-products used to produce ammonium sulfate, Jiheng does record the quantity of chlorine gas and hydrogen gas that is discharged in the production process for subject merchandise.[96] As such, we preliminarily continue to treat these as direct by-products for purposes of determining whether the respondent is entitled to an offset to NV, consistent with prior administrative reviews.[97] Jiheng reported that it sells some of its hydrogen gas by-product "as-is" and was able to tie these sales to its financial accounts. [98] Therefore, we granted Jiheng a direct by-product offset for hydrogen gas based on the total production of this by-product. However, Jiheng did not sell chlorine gas during the POR.[99] In addition, we have preliminarily determined that Jiheng has not provided sufficient evidence to warrant an offset with respect to the chlorine gas used in the production of its intermediate products, hydrochloric acid and sodium hypochlorite. Therefore, consistent with 19 CFR 351.401(b)(1), the Department is denying Jiheng's request for the offset for chlorine gas.

Electricity

For electricity, we used the tariff rates applied by the Thailand Metropolitan Electricity Authority (MEA) for "large general service" companies, following the calculation methodology used in the previous administrative review and applied recently in Prestressed Concrete Tie Wire, citing to Drawn Sinks and Sodium Hexametaphosphate.[100] We find that this methodology represents the "best available" information within the meaning of the statute because the MEA rates are from an approved surrogate country, are publicly available, specific to the input, contemporaneous, and exclusive of taxes.[101] The MEA electricity rates are composed of a base tariff consisting of a demand charge and a monthly service charge.

Truck Freight

We valued truck freight using data using the World Bank's "Doing Business 2015: Thailand."[102] This report gathers information concerning the cost to transport imported/exported products in a 20-foot container from the largest city in Thailand to the most commonly used import/export sea

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[96] See Jiheng Section C and D response at Exhibit D-12.4.
[97] See e.g., 2012-2013 Preliminary Results, and accompanying Decision Memorandum, at 17, unchanged in 2012-2013 Final Results.
[98] See Jiheng Section C and D response at D-27.
[99] Id. at Exhibit D-12.1.
[100] See 2012-2013 Preliminary Results, and accompanying Decision Memorandum, at 18, unchanged in 2012-2013 Final Results, citing to the Preliminary Surrogate Value Memorandum for Prestressed Concrete Steel Rail Tie Wire from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 78 FR 75545 (December 12, 2013), unchanged in Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire from the People's Republic of China, 79 FR 25572 (May 5, 2014) (Prestressed Concrete Tie Wire), citing to Drawn Stainless Steel Sinks From the People's Republic of China: Antidumping Duty Investigation, 77 FR 60673 (Oct. 4, 2012) (Drawn Sinks) and Sodium Hexametaphosphate From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 59375 (Sep. 27, 2012) (Sodium Hexametaphoshphate).
[101] See Preliminary Surrogate Value Memorandum.
[102] Id. and Excel Workbook data "Prelim Surrogate Values," at "Truck Freight" tab; also Petitioners' February 18, 2015 "Surrogate Values" submission at Exhibit 7A.

port. We calculated contemporaneous per-unit inland freight costs using the information in the World Bank report for shipping a 20-foot standard container at a distance of 133 Km.

Brokerage and Handling

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Thailand. This contemporaneous price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand found in "Doing Business 2015: Thailand," published by the World Bank.[103] We used the weight of a 20-foot standard container to determine our value.[104]

Ocean Freight

We valued ocean freight charges using two price quotes from "Descartes Rate Builder" that are based on the cost of transporting imported/exported products in 20-foot and 40-foot containers from Qingdao to Long Beach California.[105] We first calculated the per-unit ocean freight cost using the weight capacity of each of the respective containers and then averaging these two per-unit values that resulted in a contemporaneous AUV of 0.27 USD/kg. Because this is a POR value, no inflation was necessary. Moreover, because the value was denominated in USD, no currency conversion was required.

Marine Insurance

We valued marine insurance using a price quote from RJG Consultants for July 2010, which Petitioners and Jiheng submitted.[106] RJG Consultants is a market-economy provider of marine insurance. We inflated the rates to calculate a contemporaneous value.

Labor

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.[107] In Labor Methodologies, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A of the Yearbook of Labor Statistics (Yearbook).

The Department valued labor in this review using contemporaneous manufacturing-specific data from the Government of Thailand, National Statistical Office, Labor Force Survey of Whole

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[103] Id. at Exhibit 7A; also Excel Workbook data "Prelim Surrogate Values," at "B&H" tab.
[104] See Preliminary Surrogate Value Memorandum.
[105] See Petitioners' Pre-Prelim Comments at Exhibit 15; *see also* Excel Workbook data "Prelim Surrogate Values," at "Ocean" tab.
[106] Id. and Petitioners' February 18, 2015 "Surrogate Values" submission at Exhibit 8.
[107] See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (Labor Methodologies).

Kingdom, http://web.nso.go.th/en/survey/lfs/lfs_main.htm. ("Manufacturing-specific NSO Data").[108]

Although the Manufacturing-specific NSO data is not from the ILO, we find that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies,* we decided to change to the use of ILO Chapter 6A from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.[109] We did not, however, preclude all other sources for evaluating labor costs in NME AD proceedings. Rather, we continue to follow our practice of selecting the best available information to determine SVs for inputs such as labor.[110] In this case, we find that the Manufacturing-specific NSO Data is the best available information to value the labor input because it is industry-specific.[111]

Financial Ratios

The Department's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.[112] Moreover, for valuing factory overhead, selling, general and administrative expenses (SG&A), and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.[113] In addition, the CIT has held that in the selection of surrogate producers, the Department may consider how closely the surrogate producers approximate the NME producer's experience.[114]

To calculate surrogate values for factory overhead, SG&A, and profit for these preliminary results, we used financial information from Aditya Biryla Chemicals (Thailand) Co., Ltd., which was submitted by Petitioners and respondents.[115] The annual statements on the record are contemporaneous with the POR and publicly available. From this information, we were able to determine average factory overhead as a percentage of the total raw materials, labor, and energy (ML&E), average SG&A as a percentage of ML&E plus overhead (i.e., cost of manufacture), and an average profit rate as a percentage of the cost of manufacture plus SG&A. This is the

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[108] See Petitioners' Pre-Preliminary Comments, at Exhibit 12; see also Attachment 1, Excel Workbook data "Prelim Surrogate Values," at "Labor" tab.
[109] See Labor Methodologies at 36092-36093.
[110] See Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33354 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 6-C.
[111] See Preliminary Surrogate Value Memorandum.
[112] See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China, 70 FR 24502 (May 10, 2005) and accompanying Issues and Decision Memorandum at Comment 3.
[113] See, e.g., Diamond Sawblades and Parts Thereof from the People's Republic of China, Final Determination in the Antidumping Duty Investigation, 71 FR 29303 (May 22, 2006) and accompanying Issues and Decision Memorandum at Comment 2; see also 19 CFR 351.408(c)(4); section 773(c)(4) of the Act.
[114] See Rhodia, Inc. v. United States, 240 F. Supp. 2d 1247, 1253-1254 (CIT 2002); see also Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 70 FR 6836 (February 9, 2005) and accompanying Issues and Decision Memorandum at Comment 1.
[115] See Petitioners' February 18, 2015 "Surrogate Values" submission at Exhibit 9; see also Heze Huayi and Kangtai's February 18, 2015 "Surrogate Values" submission at Exhibit SV-8.

only usable financial statement from Thailand on the record of this review for the Department to accurately calculate financial ratios.[116]

Comparisons to Normal Value

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

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(l), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average EP or CEP (the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to compare weighted-average NVs to the EPs or CEPs of individual transactions (the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(l)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.[117] In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.4 14(c)(l) and consistent with section 777A(d)(1)(B) of the Act.[118] The Department finds the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs or CEPs for comparable merchandise that differs significantly among purchasers, regions, or time periods.[119] If such a pattern is found, then the differential pricing analysis evaluates

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[116] See Preliminary Surrogate Value Memorandum.

[117] 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).

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

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

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

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

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

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

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

B. Results of the Differential Pricing Analysis

For Jiheng, the Department finds that 96.5 percent of Jiheng's U.S. sales pass the Cohen's *d* test, which confirms the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods. Further, the Department determines that the average-to-average method cannot appropriately account for such differences because there is a meaningful difference in the weighted-average dumping margins calculated using the average-to-average method and an alternative method based on the average-to-transaction method applied to all U.S. sales. Specifically, the Department determines that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margin moves across the de minimis threshold. Accordingly, the Department preliminarily determines to use the average-to-transaction method for all U.S. sales to calculate the weighted-average dumping margin for Jiheng.

For Heze Huayi and Kangtai, based on the results of the differential pricing analysis, the Department finds that the value of their U.S. sales passing the Cohen's *d* test is 97.4 percent and 100 percent, respectively, such that we should consider as an alternative comparison method applying the average-to-transaction method to a portion of U.S. sales.[120] However, the Department determines that the A-A method can appropriately account for such differences for Heze Huayi and Kangtai because there is no meaningful difference between their respective weighted-average dumping margins which are unchanged when calculated using the A-A

[120] See Memorandum to the File, "Analysis for the Preliminary Results of the 2013-2014 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Heze Huayi Chemical Co. Ltd.," June 30, 2015 (Heze Huayi Preliminary Analysis Memorandum); Memorandum to the File, "Analysis for the Preliminary Results of the 2013-2014 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Co., Ltd.," June 30, 2015 (Jiheng Preliminary Analysis Memorandum); and, Memorandum to the File, "Analysis for the Preliminary Results of the 2013-2014 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Juancheng Kangtai Chemical Co., Ltd.," June 30, 2015 (Kangtai Preliminary Analysis Memorandum).

method and the alternative comparison method.[121] Accordingly, the Department has determined to use the A-A method to calculate the weighted-average dumping margin each for Heze Huayi and Kangtai.[122]

Adjustments for Countervailable Subsidies

In determining whether to make an adjustment under section 777A(f) of the Act, the Department considers (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise; (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period; and (3) whether the Department can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted average dumping margin for the class or kind of merchandise.[123] For a subsidy meeting these criteria, the statute requires the Department to reduce the antidumping duty by the estimated amount of the increase in the weighted average dumping margin subject to a specified cap.[124] In this case, none of the mandatory respondents established eligibility for the adjustment. Therefore, for each respondent in these preliminary results, the Department did not make an adjustment pursuant to section 777A(f) of the Act for countervailable domestic subsidies.

Pursuant to section 772(c)(1)(C) of the Act, the Department made an adjustment for countervailable export subsidies. For Jiheng, Kangtai and Heze Huayi, an adjustment has been made to its reported U.S. price based on its countervailable export subsidies in the final results of the completed countervailing duty (CVD) investigation.[125] The adjustment for Kangtai is zero because no countervailable export subsidies were found in the final determination of the CVD investigation. Because Heze Huayi was not examined in the CVD investigation, its adjustment for export subsidies is based on the simple average of the countervailable export subsidies for both Jiheng and Kangtai, following the methodology used to calculate the "all others" rate in the CVD investigation which included these export subsidies.[126] For the PRC-wide entity, since the entity is not currently under review, its rate is not subject to change.[127]

[121] See Heze Huayi Preliminary Analysis Memorandum, Jiheng Preliminary Analysis Memorandum, and Kangtai Preliminary Analysis Memorandum.
[122] In these preliminary results for Heze Huayi, Jiheng, and Kangtai, the Department applied the weighted-average dumping margin calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) (Final Modification for Reviews). In particular, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.
[123] See section 777A(f)(1)(A)-(C) of the Act.
[124] See section 777A(f)(1)-(2) of the Act.
[125] See Chlorinated Isocyanurates From the People's Republic of China: Final Affirmative Countervailing Duty Determination; 2012, 79 FR 56560 (September 22, 2014) (Chloro Isos CVD Final), and accompanying Issues and Decision Memorandum, at "Analysis of Programs" section; also Jiheng Preliminary Analysis Memorandum.
[126] See Chloro Isos CVD Final, at "Analysis of Programs" section; also Heze Huayi Preliminary Analysis Memorandum.
[127] See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963, 65969-70 (November 4, 2013).

Currency Conversion

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

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

30 JUNE 2015
Date