A-570-937
POR: 05/01/2013 – 04/30/2014
Public Document
E&C/OIV: KH/MC/AN

DATE: December 7, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Citric Acid from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Fifth Antidumping Duty Administrative Review

SUMMARY

We analyzed the case and rebuttal briefs submitted by interested parties in the 2013-2014 administrative review of the antidumping duty order on citric acid and certain citrate salts ("citric acid") from the People's Republic of China ("PRC"). As a result of our analysis, we made changes from the Post-Preliminary Results[1] to the margin calculation for the final results. The issues for which we received comments are discussed below.

LIST OF ISSUES

[1] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding "Decision Memorandum for the Post-Preliminary Results of Antidumping Duty Administrative Review: Citric Acid and Certain Citrate Salts from the People's Republic of China; 2013-14," dated October 27, 2015 ("Post-Preliminary Results").

Comment 5: Whether the Department Should Assign Surrogate Values to Respondents' Energy Factors of Production Values
Comment 6: The Weight Denominator for Brokerage & Handling and Inland Freight
Comment 7: Whether to Deduct Letter of Credit Cost from the Brokerage and Handling Surrogate Value Calculation
Comment 8: Whether the Department Should Value Corn Using Indonesian Import Prices or, Alternatively, Recalculate the Thai Import Prices to Exclude Aberrational Data
Comment 9: Distance to Calculate Inland Freight

Company Specific Issues - RZBC
Comment 10: Whether the Department Should Make Certain Revisions to its Surrogate Value for Sludge
Comment 11: Whether to Value RZBC's High Protein Scrap as a Co-Product
Comment 12: Whether the Department Used Incorrect Rates to Calculate RZBC I&E's Export Subsidy Adjustment

Company Specific Issues - Taihe
Comment 13: Whether the Department Should Treat Taihe's Corn Feed as a By-Product
Comment 14: Whether the Department Should Make Certain Revisions to Taihe's Co-Product Calculation
Comment 15: Whether the Application of Differential Pricing Methodology to Taihe's Sales is Contrary to Law and Otherwise Unsupported by Substantial Evidence on the Record

BACKGROUND

On June 8, 2015, the Department of Commerce (the "Department") published the *Preliminary Results* for the fifth administrative review of the antidumping duty order on citric acid from the PRC, in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended ("the Act").[2] The period of review ("POR") for this review is May 1, 2013, through April 30, 2014. At the *Preliminary Results*, the Department re-opened the record and solicited additional surrogate value data and comments from parties.[3] We also placed surrogate value data from Thailand, a country listed on our Surrogate Country List, on the record and invited rebuttal or clarification data from parties.

On July 8, 2015, RZBC,[4] Laiwu Taihe Biochemistry Co., Ltd. ("Taihe"), and Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas, Inc. (collectively, "Petitioners") submitted requests for a hearing.[5]

---

[2] *See Citric Acid and Certain Citrate Salts From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014*, 80 FR 32353 (June 8, 2015) ("*Preliminary Results*").
[3] *Id.*
[4] The Department initiated the fifth administrative review on RZBC Co., Ltd., RZBC Import & Export Co., Ltd. ("RZBC I&E"), and RZBC (Juxian) Co., Ltd. (collectively "RZBC"). Only RZBC I&E exported subject merchandise to the United States during the POR.
[5] *See* Letter from RZBC to the Department regarding, "*Citric Acid and Citrate Salts from the People's Republic of China: Hearing Request*," dated July 8, 2015; *see also* Letter from Taihe to the Department regarding, "Citric Acid

The Department published its Post-Preliminary Results on October 27, 2015, selecting Thailand as a surrogate country.[6] We invited parties to comment on our Post-Preliminary Results. On November 6, 2015, Petitioners and Taihe submitted their case briefs.[7] Additionally, Taihe submitted a case brief earlier on July 8, 2015 after the *Preliminary Results*.[8] On November 12, 2015, we received rebuttal case briefs from RZBC, Taihe, and Petitioners.[9] On November 16, 2015 and November 18, 2015, RZBC and Petitioners withdrew their hearing requests, respectively.[10] On November 24, 2015, Taihe withdrew its hearing request.[11]

SCOPE OF THE ORDER

The scope of the order includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. The scope of the order also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope of the order does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product. The scope of the order includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States

---

and Citrate Salts from the People's Republic of China: Request for Hearing," dated July 8, 2015; *see also* Letter from Petitioners to the Department, regarding "Citric Acid and Citrate Salts from the People's Republic of China: Petitioners' Hearing Request," dated July 8, 2015.

[6] *See* Post-Preliminary Results.

[7] *See* Letter from Petitioners to the Department, regarding "Citric Acid and Certain Citrate Salts From The People's Republic Of China /Petitioners' Case Brief," dated November 6, 2015; *see also* Letter from Taihe to the Department, regarding "Citric Acid and Citrate Salt from the People's Republic of China: Case Brief," dated November 6, 2015.

[8] *See* Letter from Taihe to the Department regarding, "Citric Acid and Citrate Salt from the People's Republic of China: Case Brief," dated July 8, 2015 ("Taihe's July 8, 2015, Case Brief").

[9] *See* Letter from RZBC to the Department regarding, "Citric Acid and Citrate Salt from People's Republic of China: Rebuttal Case Brief," dated November 12, 2015; *see also* Letter from Taihe to the Department regarding, "Citric Acid and Citrate Salt from the People's Republic of China: Rebuttal Brief," dated November 12, 2015; *see also* Letter from Petitioners to the Department, regarding "Citric Acid and Certain Citrate Salts From The People's Republic Of China /Petitioners' Rebuttal Brief," dated November 12, 2015.

[10] *See* Letter from Petitioners to the Department regarding, "Citric Acid And Certain Citrate Salts From The People's Republic Of China: Petitioners' Withdrawal Of Hearing Request," dated November 16, 2015; *see also* Letter from RZBC to the Department regarding, "Citric Acid and Citrate Salts from the People's Republic of China: Withdrawal of Hearing Request," dated November 18, 2015.

[11] *See* Letter from Taihe to the Department regarding, "Citric Acid and Citrate Salts from the People's Republic of China: Withdrawal of Hearing Request," dated November 24, 2015.

("HTSUS"), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

DISCUSSION OF THE ISSUES

Comment 1: Whether the Department Should Select Indonesia as the Primary Surrogate Country

Taihe's Case Brief:

- Record evidence demonstrates that Indonesia is better suited as the primary surrogate country than the countries identified in the Surrogate Country Memo.
- All parties independently researched SVs, determined Indonesia provided the best available information, and placed Indonesian data on the record. The information that the listed surrogate countries had available were not a reliable source of data.
- The SVs parties submitted were from reliable Indonesian sources which the Department has previously relied on. These sources include contemporaneous financial statements from a producer of comparable merchandise.
- In the Preliminary Results, the Department argued that parties provided no evidence to demonstrate that Indonesia is better suited to value FOPs for citric acid than the countries identified in the Surrogate Country Memo.[12] Record evidence and comments from parties show exactly what the Department claims it requires. Specifically, there is information for Indonesia and there is no information for the listed countries on the record. Parties cannot reasonably provide visible evidence of an invisible fact, *i.e.*, there is no evidence of a lack of evidence except that there is no evidence.
- The Department has selected Indonesia as the primary surrogate country in every proceeding since the investigation because Indonesia provides the best source of information for all inputs.
- The only change that has occurred is that Indonesia's *per capita* GNI has dropped slightly in comparison to China. The disparity between *per capita* GNI does not change the fact that Indonesia has the highest quality available data.

No other interested party commented on this issue.

Department's Position: We disagree with Taihe's assertion that all parties submitting Indonesian SVs is an indication that Indonesian SVs present the best available information. We have since placed Thai SVs on the record, and we find that the Thai data satisfies our surrogate value criteria – it is publicly-available, broadly representative, specific, and contemporaneous with the POR. Moreover, as we noted in the *Preliminary Results*, Thailand, which is on the Surrogate Country List, is economically comparable to the PRC, while Indonesia is not as economically comparable. Although all parties recommended Indonesia, a country economically

[12] *See Preliminary Decision Memo*, at 9.

less comparable to the PRC, and placed Indonesian SVs on the record, we continue to find that they failed to adequately explain why Indonesia was better suited than Thailand or the other countries on the Surrogate Country List. Therefore, we have continued to select Thailand as the primary surrogate country for these final results.

Additionally, we disagree with Taihe's argument that Indonesia is an appropriate choice because its 2013 GNI is only slightly below the band established by the other countries on the list. Because the 2013 GNI data resulted in a revised list of potential surrogate countries at the same level of economic development to the PRC, the relative economic comparability of Indonesia would only be relevant if the record did not contain any useable or reliable data from a country at the same level of economic development. Our consistent practice is to consider countries on the surrogate country list as being at the same level of economic development. 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 level-of-economic-development differences or significant producer considerations. Because we have determined that Thailand satisfies our surrogate country selection criteria, and we have suitable Thai SVs on the record, we have continued to select Thailand as the primary surrogate country.

Furthermore, we disagree with Taihe's assumption that because the Department selected Indonesia as surrogate country in every prior proceeding since the investigation, Indonesia continues to provide the best available information in this review. The Department selects the primary surrogate country for each segment of a proceeding based on the record facts of that individual segment, regardless of whether the potential surrogate countries under consideration have been previously selected as the primary surrogate country. In other words, each segment of an antidumping duty proceeding is an independent segment with separate records which lead to independent determinations.[13] As a result, we have not considered decisions in past segments of this case in considering whether Indonesia should be selected as a surrogate country. Rather, we have applied our surrogate country criteria and selected a country on the Surrogate Country List.

Comment 2: Whether the Department's Approach to the Surrogate Country Selection Process Is Counter to its Policy, Practice, and Statutory Obligations

Taihe's Case Brief:

- The Department's preliminary decision in this review was irregular, unnecessary, and unfair. The Department's surrogate country list is not exhaustive and parties are free to identify other countries.
- Every party argued that Indonesia should be on the list and still be considered at the same level of economic development. However, the Department gave no response to these requests.
- Even if Indonesia is less economically comparable to the PRC, the superior available quality data in Indonesia warranted selection as the primary surrogate country. The

[13] *See Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 61172 (October 9, 2015) and corresponding Issues and Decision Memorandum ("IDM") at Comment 1.

Department did not accept this even though its policy bulletin and surrogate country letter specifically state this possibility. The Department unnecessarily demanded information demonstrating Indonesia as superior to the listed countries.

- The Department can and does rely on countries outside the GNI band.[14] The parties argued the facts of this case warranted the selection of Indonesia according to the Department's policies and practice. The Department did not give proper weight to these arguments or its practice. As a result, the parties have been greatly disadvantaged by the lack of a substantive preliminary result.
- The Department treated the economic comparability criteria of its surrogate country analysis as a threshold and did not consider the relative quality of data or the relative significant productions of countries outside the GNI band. After determining Indonesia was not at the same level of economic comparability, the Department stopped any further analysis. This approach cannot be reconciled with the relevant statutory mandate.
- Section 773(c)(4) of the Act does not state that economic comparability is more critical than significant production or more critical than the mandate to use the "best available information" pursuant to Section 1677b(c)(l)(B) of the Act.
- The Court of International Trade (CIT) has found that "Commerce's own policy suggests that none of the three surrogate country eligibility criteria – economic comparability, significant production of comparable merchandise, and quality data- is preeminent."[15] *Ad Hoc Shrimp* held that all three criteria must be weighed together in the evaluation of surrogate countries and that there is no statutory preference assigning.
- The CIT also ruled that the Department must focus upon and justify each element of the statutory criteria.[16]
- *Ad Hoc Shrimp* and *Amanda Foods* found that the Department should weigh all three criteria rather than creating a threshold out of one measure of economic comparability. Although these cases dealt with countries on the surrogate country list, neither case contemplates an economic comparability threshold but rather an equal weighing of the facts.
- In other cases, the Department engaged in analysis of all potential surrogates both on the surrogate country list and below the GNI band.[17] In *Fish Fillets from Vietnam,* the Department relied on Indonesia despite it being excluded from the Department's initial surrogate country list because it's *per capita* GNI was outside the most comparable range.
- The Department's surrogate country list changes from year to year and these changes are not consistent, predictable, or explained. The GNI rankings used are often several years out of date and the surrogate country lists developed from these rankings are released by the Department after the period sales have been concluded. Also, the *per capita* GNI range presented by the surrogate country list changes from review to review, so, even if

[14] *See 1-Hydroxyethylidene-I, I -Diphosphonic Acid from China Preliminary Results of antidumping Duty Administrative Review*; 2012-2013, 79 FR 16280 (March 25, 2014) ("*HEDP from the PRC*").
[15] *See Ad Hoc Shrimp Trade Action Comm. v. United States*, 882 F. Supp. 2d 1366, 1374 (CIT 2012) ("*Ad Hoc Shrimp*").
[16] *See Amanda Foods (Vietnam) Ltd. v. United States*, 647 F. Supp. 2d 1368 (CIT 2009) ("*Amanda Foods*").
[17] *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2011-2012*, 79 FR 19053 (April 7, 2014) ("*Fish Fillets*").

parties knew the GNI rankings they would be unable to predict the Department's surrogate country list or even what GNI range will be adopted from review to review.

- The surrogate country list states that the Office of Policy considers the availability and quality of data, however the information the office looks at for this decision has never been provided or explained.
- The Department issues one surrogate country list when the World Bank Development Report is published. This list is used for the entire year regardless of the product under review. The data quality and availability must vary on an industry basis.
- The Department has failed to offer a reasoned and predictable method to the selection of the surrogate country, even when directly remanded to do so.[18]

No other interested party commented on this issue.

Department's Position: We first note that Taihe submitted the above issue regarding selecting Indonesia as the primary surrogate country in its July 10, 2015, case brief prior to the Department's placement of Thai surrogate values on the record on August 6, 2015. Furthermore, the Department placed additional Thai SVs on the record in the Post-Preliminary Results, and afterwards, all interested parties were able to comment on the Department's surrogate country selection. As a result, the record now contains SVs from Thailand, a country identified in the surrogate country list and economically comparable to the PRC. We disagree with Taihe that the Department has not properly analyzed all surrogate country eligibility criteria (*i.e.*, economic comparability, significant production of comparable merchandise, and quality data). The Department has properly analyzed these three criteria in selecting Thailand as the primary surrogate country, consistent with the findings made in *Ad Hoc Shrimp* and *Amanda Foods*. Critically, both *Ad Hoc Shrimp* and *Amanda Foods* related to the Department's analysis of economic comparability and other criteria among countries already on the Surrogate Country List.[19] The CIT made this key distinction in *Juancheng Kangtai Chemical*, noting also that the Department's policy of considering a list of countries within a narrow GNI band of economic comparability is not in violation of the statute.[20]

Accordingly, in the Post-Preliminary Results, we analyzed GTA export statistics and noted that Thailand, among other countries on the surrogate country list, is economically comparable with the PRC, as well as being a significant producer of citric acid.[21] Additionally, after analyzing both Thai and Indonesian SVs submitted on the record by interested parties we find that while Indonesia is not as economically comparable to the PRC as Thailand, both countries offer quality data, which is one reason why we are relying on Indonesian financial statements for these final results.

---

[18] *See Clearon Corp. v. United States*, 2014 CIT LEXIS 88, 55 (CIT July 24, 2014).
[19] *See Ad Hoc Shrimp*, 882 F. Supp. 2d at 1374 and *Amanda Foods*, 647 F. Supp. 2d at 1407.
[20] *See Juangcheng Kangtai Chemical Co., Ltd. v. United States*, 2015 WL 4999476 at *7-8 (CIT Aug. 21, 2015) ({I}t was not inappropriate, contrary to Kangtai's contentions, for Commerce to (1) "narrow" a list of countries within a band for administrative feasibility, (2) take an "expansive" view of which of those countries should be considered "significant producers" for purposes of further comparison, and then (3) not engage in further analysis when no countries but one were left to compare, due to a lack of quality data among those countries on the OP List.").
[21] *See* Post-Preliminary Results at 2-5.

Taihe points to *HEDP* and *Fish Fillets* in asserting that the Department has previously selected surrogate countries outside of the GNI band. However, we note that the circumstances *HEDP* and *Fish Fillets* are not present in this case. In *HEDP*, the Department did not find any of the countries on the list of potential surrogate countries to be a significant producer of comparable merchandise.[22] In *Fish Fillets*, the Department selected Indonesia as the primary surrogate country because of unique data concerns related to the primary input, *i.e.*, whole, live fish input.[23] In the instant case, none of these circumstances apply because Thailand is listed as one of the potential primary surrogate countries on the surrogate country list, is a significant producer of comparable merchandise, and the record contains publicly-available, contemporaneous, and broadly representative Thai SV data for all but two inputs.

Furthermore, Taihe asserts that the Department's surrogate country selection process for the surrogate country list is unexplained and inconsistent. Because the PRC was treated as an NME, when calculating NV, section 773(c)(4) of the Act requires the Department to value FOPs, to the extent possible, in a surrogate country that is (a) at a level of economic development comparable to the PRC, and (b) a significant producer of comparable merchandise. 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 the latest GNI data available in the *World Development Report* provided by the World Bank.[24]

The Department considers the countries on the Surrogate Country List to satisfy the statutory requirement that they are equally comparable in terms of economic development and serve as an adequate group to consider when gathering SV data. Further, providing parties with a range of countries with varying GNIs is reasonable and practicable. While the Surrogate Country List is intended to be a practical and reliable starting point for all proceedings involving the same NME country, in this case the PRC, the Department provides parties an opportunity to comment on the list early in every proceeding and to provide relevant data for countries on the list or for alternative countries if they satisfy the criteria.

Taihe argues that the GNI rankings used by the Department lack predictability and reason. The Department disagrees. The Department's methodology satisfies the statute's requirement that the Department value FOPs, to the extent possible, using data from one or more market economies that are at a level of economic development comparable to that of the NME country. The Department first examines *per capita* GNI data, based on the latest annual release of the *World Bank Development Report*, for the NME country, in this case the PRC, and the change in

[22] *See HEDP* and corresponding Decision Memorandum at "Economic Comparability" section.
[23] *See Fish Fillets* and corresponding IDM at Comment I.
[24] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value: Steel Wire Garment Hangers from the People's Republic of China*, 73 FR 15726, 15728 (March 25, 2008), unchanged in *Steel Wire Garment Hangers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 47587 (August 14, 2008); *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 56158 (September 12, 2011) and corresponding IDM at Comment 1; *Fresh Garlic from the People's Republic of China, Final Results and Partial Rescission of the 18th Antidumping Duty Administrative Review; 2011-2012*, 79 FR 36721 (June 30, 2014) and corresponding IDM at Comment 1.

per capita GNI from the previous year, and compares the change in the PRC's *per capita* GNI to the respective changes in *per capita* GNIs of the existing set of surrogate countries. Next, we determine whether it is necessary to re-establish the GNI range in light of the year-to-year GNI changes. Once the *per capita* GNI range is determined using the latest data, the Department then searches for countries within that range which are suitable candidates for inclusion on the new Surrogate Country List. Consistent with judicial guidance, the Department places an emphasis on achieving a degree of "balance" in the GNI range represented by the list.[25] We also try to preserve the same number of surrogate countries above and below the PRC. In this case, parties have questioned why Indonesia was removed from the surrogate country list for this administrative review, particularly when Indonesia has been selected as a surrogate country in every proceeding since the investigation. As noted above, the Department compares the change in the PRC's *per capita* GNI from the prior year to the respective changes in *per capita* GNIs of the existing set of surrogate countries. Based on this comparison, the GNI range is assessed and revised if necessary so that all the surrogate countries are on the same level of economic development as the PRC. In the instant case, Indonesia did not fall into the parameters for inclusion on the List.

It is often the case that several of the existing surrogate countries sufficiently track the PRC's *per capita* GNI and are found to be actively used – and advocated for by interested parties – in ongoing proceedings. For countries such as these, there is a strong inclination to continue relying on them, so long as the *per capita* GNIs are within the Surrogate Country List's income range. In other instances, however, countries on the list are periodically evaluated if they are not selected over time and sometimes replaced. When changes in the NME's GNI warrant consideration of adding or removing countries from the list, the Department considers a range of factors, including the SV requirements for the existing products under investigation, the data quality and availability of alternative surrogate countries, and the degree of specificity in the import data relied on to value the FOP.

As noted above, the Department also considers surrogate countries on the record that are outside the *per capita* GNI range of the list, but selection of such a country as the primary surrogate requires that data or significant producer considerations outweigh *per capita* GNI proximity concerns. The statute does not require further analysis of the many complex factors that can affect the relative GNI differences between the PRC and other countries. In this case, Thailand is more economically comparable to the PRC than Indonesia, and there are not data considerations that would cause the Department to choose Indonesia over Thailand.

[25] For example, the CAFC invalidated the regression methodology used for labor values, in part, because the Department relied on countries that were not at a level of economic development comparable to the PRC. In that context, the CAFC noted that the Department could rely on market economy countries on the case record that were between half of the PRC's GNI and between one to two times the PRC's GNI. *See Dorbest CAFC*, 604 F. 3d 1363, 1372 (Fed. Cir. 2010). This Court noted that in creating such lists, the Department "does not have to achieve mathematical perfection" when selecting the upper and lower GNI range. *See Dorbest Ltd. v. United States*, 755 F. Supp. 2d 1291, *1297-98, fn 17 (CIT 2011).

Comment 3: Whether the Department Should Rely on the Aditya Birla Financial Statements to Calculate the Financial Ratios

Taihe's Case Brief:

- The Department's use of financial statements from an Indonesian company, PT Budi Starch & Sweetener Tbk, ("PT Budi") is in contrast to the Department's insistence that it cannot rely on Indonesia as a surrogate country because it is not economically comparable to the PRC. The Department's refusal to rely on Thai statements is unreasonable.
- The Department itself placed the Thai financial statement of Aditya Birla Chemicals (Thailand) Co., Ltd. ("Aditya Birla") on the record. Petitioners alleged that Aditya Birla benefitted from countervailing duty ("CVD") subsidies; however the Department has relied on Aditya Birla in numerous cases and has not found that the company received CVD subsidies.[26]
- Additionally, whether a company has received CVD subsidies does not automatically negate the usability of the statement;[27] it is only one factor the Department considers.
- Regarding Aditya Birla, the Department has not specifically shown which CVD programs Aditya Birla allegedly benefited from. The Department has rejected similar arguments when a statement did not specifically reference a CVD program and relied on statements from companies that listed benefits and promoted activities similar to that of Aditya Birla.[28]
- The Department has no reason to believe or suspect that Aditya Birla received CVD subsidies under its current standards; and even if the Department did determine Aditya Birla may have received subsidies it should have still determined that it was the best available information to value the financial ratios because the statements are from a comparable Thai producer.
- The Department's practice to value FOPs from a single country is one of its most established. NME methodology seeks to find the normal value for a product if produced by a manufacturer in the surrogate country. A Thai producer would not have financial costs from an Indonesian company; surrogate values work together (*i.e.*, Thai labor rate or energy rate would more accurately correspond to Thai financial ratios than that of an Indonesian producer).
- Surrogate values do not stand alone, but are used together to create a normal value based on the experience of a comparable producer in a market economy. There is now dissymmetry because Thai labor, materials and energy are in the FOP database, but Indonesian labor, materials, and energy are in the denominator of the financial ratios.

---

[26] *See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 39060 (July 8, 2015) (relying on Aditya Birla), *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 4539 (January 28, 2015) (relying on Aditya Birla); *Sodium Hexametaphosphate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 59375 (September 27, 2012) (relying on Aditya Birla).

[27] *See Juancheng Kangtai Chem. Co. v. United States*, 2015 CIT LEXIS 94, *38 (CIT August 21, 2015).

[28] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014) and corresponding IDM at 8.

- The CIT and the U.S. Court of Appeals for the Federal Circuit (CAFC) have repeatedly confirmed the reasonableness of the preference to restrict selected surrogate values to a single surrogate country.[29]
- The Department insisted it could not rely on Indonesian data, and then determined to value one of the most critical inputs based on Indonesian data. The decision to select Thailand as the primary surrogate country, but to rely on Indonesia for the financial ratios is unreasonable.
- The Department should rely on the statement of Aditya Birla, in keeping with its standards of proof with respect to the specificity of subsidies on Thai financial statements and its established practice of gathering all factors from a single surrogate country.

Petitioners' Rebuttal Brief:

- Throughout this proceeding, all interested parties, including Taihe, argued that Indonesia should be the primary surrogate country. Furthermore, Taihe argued in its July 8, 2015, case brief that the Department should select PT Budi's financial statements, consistent with previous administrative reviews."[30]
- The Department has never concluded that Indonesia is not at a comparable level of economic development to the PRC, but rather that Indonesia is less economically comparable to the PRC than other countries on the Office of Policy list.[31]
- The Department will normally value all factors from a single surrogate country,[32] however it has the statutory authority to use multiple surrogate countries[33] in instances where the primary surrogate country does not provide the best available information for a particular FOP.[34] In this case, there are no usable Thai financial statements.
- Taihe argues that Aditya Birla did not receive any countervailable subsidies and observes that Aditya Birla was used as a surrogate in previous cases. However, none of those cases addressed whether or not Aditya Birla received subsidies. The Department[35] has found that Aditya Birla benefited from Thailand's investment promotion scheme, which has been determined as a countervailable subsidy.[36]
- Regulations require using financial statements "from producers of identical or comparable merchandise."[37] Aditya Birla produces synthetic chemicals and there is no evidence that Aditya Birla produces citric acid or has the manufacturing facilities and capital costs in resemblance to citric acid producers such as RZBC and Taihe.[38]

---

[29] *See, e.g.*, *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1367-68 (Fed. Cir. 2010).
[30] *See* Taihe's July 8, 2015, Case Brief at 12.
[31] *See* Post-Preliminary Results at 1-2 and 4.
[32] *See* 19 CFR 351.408(c)(2).
[33] *See Camau Frozen Seafood Processing Imp. Exp. Corp. v. United States*, 929 F. Supp. 2d 1352, 1355 (CIT 2013).
[34] *Id.*
[35] *See* Post-Preliminary Results at 13, citing note 24 of Aditya's financial statements.
[36] *See Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013) ("*Warmwater Shrimp*") and corresponding IDM at 7-12.
[37] *See* Section 773(c)(5) of the Act.
[38] *See, e.g.*, RZBC's Section D Response (September 22, 2014) at Appendix X, page 6; Taihe's Section D Response (September 5, 2014) at Appendix X, page X-1.

- Aditya Birla's financial statements are unusable because they reflect production operations in the PRC, the very NME country for which it is to serve as a surrogate.[39] The statements reflect costs incurred in a NME country and as such they cannot be used to calculate the surrogate financial ratios.[40]

Department's Position: The record contains two audited financial statements from Thai producers of comparable merchandise, Thai-Japan Gas Co., Ltd. ("Thai-Japan") and Aditya Birla, and one audited financial statements from an Indonesian surrogate producer of comparable merchandise, PT Budi. In the Post-Preliminary Results, we stated that Thai-Japan's statements were not contemporaneous with the POR, and that Aditya Birla benefited from countervailable subsidies. As such, both were disregarded.[41] Instead, we selected the other only available statement on the record, PT Budi's financial statements, to calculate surrogate financial ratios because the statements are contemporaneous and there is no evidence that PT Budi benefited from countervailable subsidies. In its case brief, Taihe argued that we should rely on Aditya Birla's financial statements for these final results. No party argued for the use of Thai-Japan's financial statements. Based upon careful review of record information and parties' arguments, for the final results, we continue to find that PT Budi's financial statements constitute the best information to calculate surrogate financial ratios.

We acknowledge Taihe's argument that it is the Department's practice, consistent with 19 CFR 351.408(c)(2), to value the FOPs in a single surrogate country, when possible. In this regard, we agree with Taihe that the primary surrogate methodology enables the Department to capture the complete interrelationship of factor costs that a producer in the primary surrogate country faces. The Department only resorts to other surrogate country information if the record does not contain a value for a factor from the primary surrogate, or if a primary surrogate country value on the record is determined, based on record evidence, to be aberrational or unreliable. The CIT has upheld the Department's preference for deriving surrogate data from a single country.

It is the Department's practice to reject the financial statements of a company that it has reason to believe or suspect may have benefited from countervailable subsidies, particularly when other sufficient, reliable, and representative data are available for calculating surrogate financial ratios.[42] In this instance, we find that Aditya Birla's financial statements are unreliable because they reflect evidence of countervailable subsidies. Specifically, footnote 24 of Aditya Birla's financial statements show that Aditya Birla used programs we countervailed in *Warmwater Shrimp* under the Tax Exemption, Duty Exemptions, and Other Benefits under the Investment Promotion Act ("IPA").[43] A reading of footnote 24 indicates that Aditya Birla received investment promotion privileges from the Thai Board of Investment for the manufacture of

[39] *See* Petitioners' Rebuttal Surrogate Values Submission (August 12, 2015) at 5-6.
[40] *See* Section 773 (c)(4) of the Act and 19 CFR 351.408(c)(4) (requiring that overhead and general expenses be valued based on the experience of a producer of comparable merchandise in the surrogate market economy country).
[41] *See* Post-Preliminary Results at 13-14.
[42] This is also explained in the legislative history of the Omnibus Trade and Competitiveness Act of 1988. *See Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 76970 (December 23, 2014) ("*Solar Cells/PRC 2014 Final Determination*") and corresponding IDM at 35; *see also* Omnibus Trade and Competitiveness Act of 1988, at 590.
[43] *See Warmwater Shrimp* and corresponding IDM at Comment 2.

chemical products.[44] We have determined that these investment promotion privileges fall under the IPA.[45] In *Warmwater Shrimp*, we found that benefits provided under the IPA were export contingent under sections 771(5A)(A) and (B) of the Act.[46] Taihe argues that the Department has not specifically shown which countervailable programs from which Aditya Birla benefited. We note that footnote 24 identifies the investment promotion certificate numbers from which Aditya Birla benefited. Although Aditya Birla's financial statements only identify investment promotion certificate numbers and not the names of the programs, in the event that such promotion certificate numbers do have corresponding names, this detail is not relevant in this case as we have already determined that the financial statements reveal that Aditya Birla benefited from countervailable subsidies related to export.

Although it is our practice to use a single surrogate country for all data, it is also our practice to rely on a secondary surrogate country in instances where the primary surrogate country does not offer reliable data. Consistent with the amendments to section 773(c)(5) of the Act, effective as of August 6, 2015, the Department may disregard prices or costs without further investigation if the Department has determined that broadly available export subsidies existed or particular instances of subsidization occurred with respect to those prices or costs.[47] In the instant proceeding, as noted above, we find Aditya Birla's financial statements unreliable. PT Budi's financial statements are superior to the Thai statements on the record because they are contemporaneous and do not show evidence of countervailable subsidies.

Comment 4: Whether the Surrogate Financial Ratios Should be Based on PT Budi's Segment Financial Information

Petitioners' Case Brief:

- The Department's surrogate financial ratio calculations are based on PT Budi's consolidated income statement; however, in this case it is more appropriate to calculate the ratios using the segment results that are specific to PT Budi's citric acid division.
- PT Budi has a number of "main products" unrelated to citric acid, including "tapioca starch," "glucose," "fructose," "polypropylene woven bags," "monosodium glutamate," and "modified tapioca starch."[48]

---

[44] *See* Memorandum to the File from Krisha Hill and Maisha Cryor through Robert Bolling regarding, "Post-Preliminary Results of the Fifth Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Value Memorandum," ("Post-Prelim SV Memo") dated October 27, 2015 at Exhibit VI.
[45] *Id.*
[46] *See Warmwater Shrimp* and corresponding IDM at 7-8.
[47] On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 773(c) of the Act. The relevant amendment to the Act is applicable to all determinations made on or after August 6, 2015, and, therefore, applies to this review. New section 773(c)(5) of the Act states that "[i]n valuing the factors of production under paragraph (1) for the subject merchandise, the administering authority may disregard price or cost values without further investigation if the administering authority has determined that broadly available export subsidies existed or particular instances of subsidization occurred with respect to those price or cost values or if those price or cost values were subject to an antidumping duty order."
[48] *See* Petitioners' Submission Of Surrogate Value Information (January 2, 2015) at Exhibit 3.

- In its normal financial accounting systems, PT Budi treats each of these products as separate operating segments and publishes segment-specific income statements. The Department's practice has been to use that specific information which most closely corresponds to the subject merchandise.[49]
- PT Budi's segment-specific data are obviously more specific to citric acid than the consolidation company-wide data, and thus represent the best available information to calculate the surrogate financial ratios.
- Furthermore, the company-wide financial data is problematic, because energy costs are included in factory overhead, which require that the Department to disregard RZBC's and Taihe's reported FOPs for energy inputs (as not to double count). Using PT Budi's segment-specific data avoids this problem. Because the factory overhead expenses are limited to depreciation, energy costs necessarily are included in the cost of sales denominator.[50]
- Using the segment-specific approach, the Department will be able to use the best available information and value energy inputs using its normal methodology.

Taihe's Rebuttal Brief:

- The Department should not rely on PT Budi's financial statements, but rather on Aditya Birla's financial statements. If the Department continues to use PT Budi's statements, it should rely on the full company's financial information and not segmented information as suggested by Petitioners.
- The use of segment information is not the ordinary practice of the Department. In the rare example cited by Petitioners, the statements sufficiently distinguished the costs associated with the relevant division that the Department could derive accurate ratios based on the segment information. In this case, the Department does not have sufficient detail to do so in this case.
- In Petitioners' own attempted ratio calculations, the information is not detailed enough to calculate reliable ratios. The materials, labor, and energy columns are combined into one column that only contains the full cost of sales net depreciation. The only disaggregated item assigned to manufacturing overhead is depreciation.
- Petitioners' concern that most of PT Budi's business is not representative of citric acid productions contributes to the reasons the Department should rely on Aditya Birla's statements.

[49] *See 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) ("*EMD from the PRC*") at Comment 3; *See also Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 71 FR 34893 (June 16, 2006) (final results) at Comment 2; *See also Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 70 FR 38873 (July 6, 2005) (final results) at Comment 2.
[50] *See* Petitioners' Submission Of Surrogate Value Information (Jan. 2, 2015) at Exhibit 2, PT Budi Financial Statements at page 75, note 35.

RZBC's Rebuttal Brief:

- Petitioners' argument to use segment information has been rejected by the Department during the investigation. Specifically, parties argued that the Department should reject PT Budi's financial statements because the segment information from the citric acid and chemical segment had a negative value.[51]
- The Department rejected several financial statements from Thailand due to negative profit.[52] The Department correctly rejected segment information that showed the negative profit and instead utilized the consolidated numbers of PT Budi; this has been the case for all four proceeding reviews.
- Furthermore, Petitioners are incorrect that the other "main products" such as "tapioca," "starch," "glucose," and/or "fructose" are not relevant to RZBC. As RZBC is an integrated producer of citric acid it must also produce the starches and sugars necessary to produce citric acid.[53]
- Petitioners' argument should also be rejected because they fail to include the eliminations reported in the segment data. It is not possible to determine how much of the elimination should be applied to each segment in order to eliminate the distortions created by Petitioners' calculations.
- The consolidated information is more accurate as it reports raw material costs, labor costs, and overhead costs, while the segment data does not provide this information. The cost information is based on a calculation that relies on information with no basis of knowing its accuracy given the eliminations. Petitioners are asking the Department to calculate inaccurate ratios inconsistent with the Department's long-stand practice.[54]
- The Department should also reject the Petitioners' calculation because it produces aberrational results. PT Budi's profit in the "citric acid and chemical segment" was up more than 546 percent, other segments reporting profits were starch (2400 percent), glucose (2000 percent), and bags (550 percent). In comparison, consolidated profit was only up 209 percent, nowhere near the segment figures that failed to include eliminations.
- The Department should also reject Petitioners' arguments and treat them as new factual information, pursuant to 19 CFR 351.301. Petitioners failed to provide the factual information it now submits, thus depriving RZBC of any opportunity to submit additional factual information to rebut Petitioners' aberrational allocations. Petitioners did not explain the purpose or use of the information they submitted, thereby denying RZBC the ability to file rebuttal factual information.
- If the Department uses segment information, it must account for eliminations reported in Note 35 of the PT Budi's financial statements. This could be done by calculating ratios based on the reported tax-differed segment allocations with the total tax deferred amount in Note 35. Tax deferred values are untainted by the elimination figure because they are based on a near constant .99 percent value across all segments.

[51] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 16838 (April 13, 2009) and corresponding IDM at Comment 1.
[52] *Id.*
[53] *See, e.g.*, RZBC Section D Response, dated September 19, 2014, at Appendix X.
[54] *See, e.g., Certain Polyester Staple Fiber Final Results of the Antidumping Duty Administrative Review; 2012-2013*, 80 FR 4542 (January 28, 2015) and accompany IDM at Comment 1.

- If the Department plans to make any changes to the financial ratios, it should rely on the Aditya Birla's financial statements argued in Taihe's case brief.

Department's Position: In the Post-Preliminary Results, we used the income statements from PT Budi's consolidated financial statements to calculate the surrogate financial ratios. While under different circumstances we might agree that the more specific segment information would be preferable, we disagree with Petitioners in this case that the financial information pertaining to the "citric acid and other chemical product" segment is more appropriate to calculate surrogate financial ratios. We find that the segment specific information lacks critical detail. Specifically, the segment specific information does not provide the breakdown amounts for materials, labor, energy, manufacturing overhead, and change in traded/finished goods.[55]

We reviewed Petitioners' calculation of the financial ratios using the segment specific information. We observed that Petitioners categorized the total cost of sales amount, other than depreciation, entirely under total materials, labor, and energy expenses, which is the denominator used to calculate the manufacturing overhead ratio. However, we find that it is possible that a portion of this cost of sales amount, other than depreciation, may pertain to manufacturing overhead or change in traded/finished goods. We note that the income statement from the consolidated financial statements provides information on the change in finished goods and factory overhead, although we note that the factory overhead amount includes energy. The Department classifies manufacturing overhead and change in traded/finished goods in the denominator used to calculate the SG&A ratio. By using the segment specific information, however, the manufacturing overhead and change in finished goods amounts that would otherwise be included in the denominator to calculate the SG&A ratio are instead being assigned to the denominator to calculate the overhead ratio. We find that this approach creates distortive financial ratios. Additionally, Petitioners point out that if we use the segment specific financial information, we would be able to use the respondents' reported FOP for energy inputs. While it is true that we are unable to use the respondents' energy FOPs when using the consolidated statements, we are nonetheless valuing energy consumption since energy is included in PT Budi's factory overhead amount. Further, we agree with RZBC that the segment specific financial information does not account for the eliminations. There is no information regarding how much elimination pertains to each operating division (*e.g.*, tapioca, glucose and fructose, citric acid, etc.). As a result, a profit ratio without accounting for eliminations would result in a distorted profit ratio. Therefore, for the final results, we will continue to use PT Budi's consolidated statements due to the aforementioned reasons.

Petitioners citied to *EMD from the PRC* and *Honey from the PRC* in arguing that the Department has relied on segment specific financial information in previous cases. We note that that the circumstances for these cases differ from our case. In *EMD from the PRC*, the Department based the overhead and profit on the segment specific information, and the selling, general and administrative expenses ratio on the consolidated statements. In that case, the Department was able to isolate the overhead experienced by the surrogate producer's EMD division and, to a

[55] See Letter from Petitioners to the Department regarding, "Citric Acid And Certain Citrate Salt from the People's Republic of China: Submission Of Surrogate Value Information," dated January 2, 2015 ("Petitioners' SV Comments") at Exhibit 2.

large extent, isolate the profit from the EMD division.[56] In contrast, in this instant proceeding, we are unable to isolate manufacturing overhead as explained above, and find that a profit ratio based on segment information is unreliable without accounting for eliminations. Similarly, in *Honey from the PRC*, we found that the segment information provided detailed costs, which is not the case in the instant review. Lastly, we disagree with RZBC that Petitioners' arguments are new factual information. Petitioners have not placed new factual information on the record. They are simply making arguments regarding information already on the record of this proceeding.

Comment 5: Whether the Department Should Assign Surrogate Values to Respondents' Energy Factors of Production Values

Petitioners' Case Brief:

- If the Department calculates financial ratios based on the segment reporting of PT Budi it should also assign surrogate values to the energy inputs (electricity, coal, and steam) consumed by the respondents.
- For electricity, the Department should use prices published by the Thai Board of Investment for Schedule 3, *i.e.*, "Medium General Services."[57]
- For coal, the Department should use import prices (either into Thailand or Indonesia) within subheading 2701.19.[58]
- For steam, the Department should use conversion information provided with respect to natural gas;[59] or the Department may value steam using "the 2014 annual report of Glow Energy Public Company Limited, a Thai company that supplies electricity, steam, and water for industrial use."[60]

RZBC's Rebuttal Brief:

- The PT Budi financial statement fails to breakout the costs associated with energy; this would be inconsistent with the investigation and every prior review. Petitioners fail to provide a well-reasoned rational basis or cite to record evidence to make such a change.
- The Department rejected the Thai information submitted by RZBC and never placed energy data on the record, leaving a hole from which to calculate the energy costs. Any change would not be supported by evidence on the record.
- If the Department is going to make a change without any rational basis, at a minimum it should use the surrogate value information provided by RZBC, and moreover use the Thai financial ratio data.

---

[56] *See EMD from the PRC* at and corresponding IDM at Comment 3
[57] *See* Deadline to Submit Surrogate Country and Surrogate Value Comments (Aug. 6, 2015) at Attachment VI. *See also Aluminum Extrusions from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 32347 (June 8, 2015).
[58] *See* Petitioners' Surrogate Value Submission (Jan. 2, 2015) at Exhibit 1.
[59] *Id*. at Exhibits 1 and 7.
[60] *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 61166 (Oct. 9, 2015).

Department's Position: The Department has continued to use the consolidated financial statements of PT Budi to calculate financial ratios for the final results, and will not be segmenting the statements for this review, *see* Comment 4. Therefore, given that the consolidated statement does not break out the costs associated with energy, and to avoid double counting energy costs that have necessarily been captured in the surrogate financial ratios, the Department will continue to disregard energy inputs in the calculation of NV.[61]

Comment 6: The Weight Denominator for Brokerage & Handling and Inland Freight

Taihe's Case Brief:

- Taihe exported subject merchandise in 20-foot containers, weighing an average of approximately 17,000 kg.[62] However, in the previous review, the Department relied on the *Doing Business Indonesia* report to value trucking and B&H; in its calculation, it used a 10,000 kg denominator. The Department should adjust these calculations to accurately reflect shipping by using the maximum cargo load of the container.
- Additionally, the World Bank does not suggest that 10,000 kg is the average weight. In order to compare across multiple economies certain parameters for the report were set. This includes assumptions that the provided information is for a 20-foot container weighing 10,000 kg. The report never explains why 10,000 kg was selected nor does it suggest that the cost of transportation is dependent on the weight of the container.
- Taihe provided rates from a well-known international freight forwarder, Hapag-Lloyd, to demonstrate that the pricing of brokerage and handling is not dependent on kilograms or volume loaded in a container. The hypothetical weight of 10,000 kg was not relevant to the costs provided to the World Bank for its study.
- The CIT has examined this issue and found that Commerce cannot presume that the per-container World Bank costs bears some relationship to the weight of the product inside.[63]
- The calculation of B&H surrogate value requires two separate inquiries: (1) the absolute cost, or numerator; and (2) the proper weight or volume (*i.e.*, the denominator) to divide in the cost in order to derive per unit cost.
- The calculation of inland freight surrogate value requires one additional inquiry, the distance covered in the quotation. Any quotation offered to the World Bank was dependent on the container size and not kilograms. Again the 10,000 kg denominator is irrelevant to the cost; cost would be the same for a 20-foot container with a maximum weight or a 20-foot container with a lesser-weight.
- If the Department relies upon *Doing Business in Indonesia:2014* for the final results, it should only use the actual reported cost of the numerator and then use other record information reasonably assign the denominator weight or volume to derive the unit cost (namely the maximum weight of a 20-foot container).

[61] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 74 FR 16838 (April 13, 2009) and corresponding IDM at Comment 2; *see also* RZBC Final Results Analysis Memorandum, dated concurrently with this notice.
[62] *See* Taihe Sec. A Response at Ex. 3.
[63] *See Since Hardware (Guangzhou) Co. v. United States,* 2014 Ct. Intl. Trade LEXIS 43, 34-36 (CIT April 15, 2014).

No other interested party commented on this issue.

Department's Position: At the outset, we note that Taihe's argument is contingent upon the Department selecting Indonesia as a surrogate country. For these final results, the Department is continuing to select Thailand, as explained in Comment 1. Nonetheless, we address Taihe's arguments regarding the validity of the *Doing Business* denominator, as it applies to Thai values.

For the final results, we have continued to use the 10,000 kg denominator established in *Doing Business,* consistent with the Department's practice.[64] We note that the *Doing Business* report constitutes the best information on the record for valuing B&H costs, reflects values from the primary surrogate country selected by the Department, is contemporaneous with the POR, and is data of an official nature, in that it represents statistical analysis by the World Bank, an international organization. The *Doing Business* country reports have been relied upon by the Department in numerous previous investigations and reviews.[65]

Taihe recommends that we use the average of Taihe's actual weight for a 20-foot container, rather than the 10,000 kg amount provided in the Methodology section for Trading Across Borders on the *Doing Business* website. Taihe maintains that B&H pricing is not dependent on specific kilograms inside a container, and that many of the B&H costs are the same for 20-ft and 40-ft containers. Citing to *Since Hardware,* Taihe notes that no evidence exists that container costs presented by *Doing Business* are dependent on the kilograms inside the container, and that the CIT remanded the case to request that the Department use the respondent's actual container weight. Taihe put on information on the record regarding ocean freight and pricing estimates related to containers. However, these sources are not conclusive and contradictory in showing the effect of weight on pricing. The submission states "if you self-deliver your boxed, crated or palletized goods directly to International Ocean Freight Carrier's Terminal (in LCL ocean freight named CFS. Container Freight Station), the weight of your cargo most likely will not be a pricing factor in your international shipping" and "In general, in international shipping using LCL ocean freight service, weight of cargo is not a pricing factor."[66] As the evidence is inconsistent we will continue with our practice of using the 10,000 kg standard weight for calculating B&H expenses, which avoids introducing inaccuracies in calculating the B&H SV.

The Methodology section for Trading Across Borders provides certain assumptions for Trading Across Borders data, including the following: "{t}he traded product travels in a dry-cargo, 20-foot, full container load. It weighs 10,000 kg and is valued at $20,000." If the Department were to use an alternate weight, it would be using a weight not related to the costs reported in the *Doing Business* survey which would, in turn, result in a distortive per-unit cost. We have determined to continue to use 10,000 kg to calculate the B&H SV because this is the weight upon which participants in the *Doing Business* survey reported B&H costs. Specifically, the

---

[64] *See Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2013-2014*, 80 FR 69942 (November 12, 2015) and corresponding IDM at Comment 5.
[65] *See Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam: Notice of Final Determination of Sales at Less Than Fair Value*, 77 FR 64483 (October 22, 2012) and corresponding IDM at Comment 6; *see also Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results of Administrative Review; 2011-2012*, 78 FR 15696 (March 12, 2013) and corresponding Decision Memo at 21; *and Steel Wire Garment Hangers.*
[66] *See* Taihe Final SVs at Ex. 1 at 13-14 (emphasis added).

B&H costs used to calculate the SV were based upon the assumption that a 20-foot container contained 10,000 kg of product. Using 10,000 kg in the per-unit calculation maintains the relationship between costs and quantity from the survey (which is important because the numerator and the denominator of the calculation are dependent upon one another), and makes use of data from the same source.[67] Accordingly, we made no changes from the *Preliminary Results* and continued to use *Doing Business* for the final results.

Comment 7: Whether to Deduct Letter of Credit Cost from the Brokerage and Handling Surrogate Value Calculation

Taihe's Case Brief:

- If the Department continues to use the *Doing Business in Thailand* Report, it must deduct export letter of credit fees embedded in the brokerage fees reported.*in Doing Business*.
- Respondents provided unrefuted and irrefutable proof from World Bank staff responsible for the *Doing Business* Series that: (1) all *Doing Business* reports include the cost of the time and expense for procuring an export letter of credit embedded in the brokerage and handling fees and (2) that cost for Thailand is $60.[68]
- The Department has a practice of removing the letter of credit expenses when a party demonstrates that the World Bank source includes this cost.[69]

Petitioners' Rebuttal Brief:

- The Department has calculated brokerage and handling ("B&H") costs based on the *Doing Business* report; specifically, the B&H cost is $385 per 20 foot (10 MT) container, or $38.50/MT.
- Taihe cites no record evidence showing whether or not it incurs letter of credit costs. There is no basis to conclude that the expenses incurred by Taihe are any different from those reflected in the $385 amount.
- The Department explained in the Post-Preliminary Results, "Taihe provided supplemental information from sources responsible for the publication of Doing Business reports that the cost to obtain a letter of credit in Thailand is $50. However, Taihe did not state or demonstrate that it incurred letter of credit costs. Therefore, we did not deduct $50 from Taihe's brokerage and handling costs."[70]
- Taihe continues to make no representation regarding its own experience with respect to incurring letter of credit expenses. There is no reason to depart from the methodology used in the Post-Preliminary Results.

Department's Position: The Department agrees with Taihe that the cost of obtaining letters of credit should be excluded from the total B&H costs reported in the *Doing Business Thailand:*

[67] *See Silicon Metal from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 54563 (September 5, 2012) and corresponding IDM at Issue 5.
[68] Taihe Rebuttal SVs (January 12, 2015) at Ex. 7.
[69] *See, e.g.*, *Certain Steel Nails Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 18816 (April 8, 2015) at 22.
[70] *See Surrogate Value Memorandum* (Oct. 27, 2015) at 6.

2014 report. There is record evidence that such expenses are included in the B&H costs from *Doing Business Thailand: 2014* report.[71] We note that in the Post-Preliminary Results, the Department stated that it would not deduct the letter of credit expenses from the brokerage and handling calculation because there was no evidence that Taihe incurred such costs. However, the Department's recent practice has been to deduct these expenses even where, in fact, there is no record evidence that the respondent incurred such expenses.[72] Therefore, for the final results, in accordance with the Department's practice, we have removed this expense from the B&H calculation.[73]

Comment 8: Whether the Department Should Value Corn Using Indonesian Import Prices or, Alternatively, Recalculate the Thai Import Prices to Exclude Aberrational Data

Petitioners' Case Brief:

- The Department should value corn using the Indonesian import price of $0.27 per kilogram.[74] As the surrogate financial ratios are based on that of an Indonesian producer, they should reflect the ratio of overhead, SG&A, and profit to a COGS denominator based on corn prices in Indonesia.
- Furthermore, the Thai surrogate value ($0.17 per kilogram) for corn is distorted by aberrational data. Import prices from most partner countries fall in the range of 20 - 40 baht per kilogram. However, imports from Laos and Cambodia are extreme outliers as their unit values are only one-fourth the unit value of imports from the next lowest-priced partner (South Africa).
- If the Department continues to use Thai import prices, it should recalculate the AUV excluding these aberrational imports from Laos and Cambodia.

Taihe's Rebuttal Brief:

- Petitioners argue the use of an Indonesian corn value would be would be more appropriate because the surrogate financial ratios are based on the experience of an Indonesian producer; this is the exact reason why the Department should rely on a Thai surrogate financial statement and a Thai surrogate value for corn. Thailand is the primary surrogate country in this review.
- Petitioners provide no information to show how the Thai import value is aberrant. The Department does not have a practice looking behind the import statistics to exclude specific country imports for aberrancy; rather it generally only excludes specific country imports because of dumping orders or export subsidies.

---

[71] *See* Taihe's Rebuttal SVs (January 12, 2015) at Exhibit 7.
[72] *See Drawn Stainless Steel Sinks From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2012-2014*, 80 FR 69644 (November 10, 2015) and corresponding IDM at Comment 14; *see also Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 18816 (April 8, 2015) and corresponding IDM at Comment 6.
[73] *See* RZBC Final Results Analysis Memorandum, dated concurrently with this notice.
[74] *See* Petitioners' Surrogate Value Submission (January 2, 2015) at Exhibit 1.

- Ninety-five percent of the corn imports into Thailand are from Laos and Cambodia; Petitioners argue that since they have a lower unit value than the other five percent of corn imports it is aberrant.
- The imports into Thailand follow the normal commercial behavior that larger quantities represent commercial quantities and lower commercial values. The value of the imports from these countries is actually the normal average value of imports into Thailand. There is no reason to alter the surrogate value for corn.

RZBC's Rebuttal Brief:

- Petitioners' argument that the Department should use the corn value from Indonesia has been rejected numerous times in the Preliminary results and Post Preliminary Results. The Department clearly indicated that Indonesia could not be used as a surrogate country because it was not at the same level of economic development as China.
- No matter which corn SV the Department selects its value has no impact on PT Budi's "production experience." PT Budi 2013 Annual Report states Cassava roots are the main ingredient in producing tapioca starch and the Cassava fiber namely "onggok" is one of the main materials for making citric acid; PT Budi does not "utilize" corn.
- Laos and Cambodia account for 95 percent of the total imports into Thailand, whereas the remaining nine countries account for only five percent. The extreme outliers in this case are not from Laos and Cambodia but rather the small quantity values that account for an insignificant amount of imports at substantially higher prices.
- Other than stating that the prices are low, Petitioners have provided no evidence that indicates that the corn surrogate value is inadequate. The burden is on the party to provide evidence demonstrating the inadequacy of the surrogate value when the party claims that a particular surrogate value is not appropriate to value the FOP in question.

Department's Position: The Department disagrees with Petitioners that the surrogate value of corn should be derived using Indonesian import prices and that the Thai import prices are aberrational. Petitioners have provided no record evidence that the Thai surrogate value for corn is being distorted by aberrational data. As stated above, the Department has continued to select Thailand as the surrogate country.

The existence of lower price points is not sufficient reason for the Department to disregard surrogate value data. The party claiming that the values are aberrant must provide evidence to show why said surrogate value is inadequate, beyond citing to lower price points.[75] Furthermore, the Department has stated "… country-specific export data, and import values from countries at different levels of economic development from the PRC are not suitable comparative price benchmarks to test the validity of selected SVs."[76] The practice for determining whether an SV for an input is aberrational is to compare it with the data from other countries found by the

[75] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review*, 76 FR 3086 (January 19, 2011) and corresponding IDM at comment 14-B.
[76] *Id.*

Department to be equally economically comparable to the PRC.[77] As noted in the *Preliminary Results*, the Department identified Bulgaria, Ecuador, Romania, South Africa, Thailand, and Ukraine as comparable to the PRC in terms of economic development for the purposes of this review. The values pointed to by Petitioners are from Indonesia, which is not on the Surrogate Country List and was determined by the Department to be less comparable to the PRC in the *Preliminary Results.* Petitioners argue that the imports from Laos and Cambodia are extreme outliers that are distorting the data by their low unit price. As stated above, lower price points alone are not adequate to conclude aberration. Furthermore, the corn imports from Laos and Cambodia make up 95 percent of the total corn imports into Thailand; Petitioners' request to amend the Thai import price of corn by excluding Laos and Cambodia will exclude the vast majority of corn imports. Petitioners have shown no evidence that the Thai import prices are aberrational, other than stating that the lower prices of Laos and Cambodia (which again, make up 95 percent of total corn imports) are producing aberrational results. Therefore, for the final results, the Department will not augment the data and continue to use the Thai surrogate value for corn import prices.[78]

Comment 9: Distance to Calculate Inland Freight

Taihe's Case Brief:

- In the Preliminary Results, the Department used Trading Across Borders of the World Bank's *Doing Business Thailand: 2014* report to determine inland moving expenses. The Department calculated the truck freight rate using an average distance of 76.67 kilometers. This is an average distance from the industrial parks to the Bangkok port terminal (43.33 kilometers) and the distance to Laem Chabang Port (110 kilometers).
- However, the source specifically indicates that cost is based on transporting a container from Bangkok to the main commercial port. Laem Chabang is the largest commercial port in Thailand and is on the actual seaport on the coast. Port of Bangkok is located inland on the banks of the Chao Phraya River.
- In several cases, the Department has relied solely on the distance from Bangkok to Laem Chabang (133 KM) to determine inland freight cost.[79] The most accurate truck freight rate must be calculated using the distance to the main commercial seaport as indicated in the source, which is Laem Chabang.

---

[77] *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 77 FR 64100 (October 18, 2012) and corresponding IDM at comment 1 (citing *Trust Chem. Co., v. United States*, 791 F. Supp. 2d 1257, 1264 (CIT 2011)).

[78] *See* Post-Preliminary Results of the Fifth Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Value Memorandum (October 27, 2015).

[79] *See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 43391 (July 25, 2014) ("*Chlorinated Isocyanurates*") and corresponding Decision Memo at 19; *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Affirmative Preliminary Determination of Critical Circumstances*,77 FR 31309 (May 25, 2012) ("*Photovoltaic Cells"*) and corresponding Decision Memo at 7 *See also Certain Steel Nails from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 2012-2013*, 79 FR 58744 (September 30, 2014) ("*Steel Nails*") and corresponding Decision Memo at 10.

- This is routine Department practice, when verifying sigma distances on the actual truck routes and not crude estimates based upon the "way the crow flies."

Petitioners' Case Brief:

- The Department calculated inland freight costs of $210 per 20 foot container using *Doing Business* at an average distance of 76.67 kilometers. The Department has recently discovered that the *Doing Business* freight amount relates only to the Bangkok port, not the Laem Chabang port, and that the appropriate freight distance is 8.3 kilometers.[80]
- The "transport cost (*i.e.*, $210 per container) did not change from *Doing Business 2014* to *Doing Business 2015*. Therefore, the $210 freight amount relates solely to the Bangkok port, and the more specific 8.3 kilometers distances should be used here.

Taihe's Rebuttal Brief:

- Petitioners mischaracterize the Department's practice regarding the Thai inland freight calculation. While petitioners cite to *Passenger Tires from China* as the most accurate, the Department has not followed this practice in subsequent decisions.[81]
- At the very least, the Department is uncertain of the distance the Thai Trading Across Borders price is based on; as the Department has used a variety of distances.
- The report itself contained on this record does not explicitly indicate which port is used in the data, and while the report is based on the city of Bangkok that does not infer that the primary port used by businesses is the port of Bangkok. For more obvious cases, the *Doing Business Romania* report cannot be based on the distance to the port of Bucharest or the *Doing Business France* report cannot be based on the distance to the port of Paris.[82]
- The report's methodology states that the seaport in the report is the most-widely used port; a commercial entity would widely use the most economic port, which is often not the closest port especially, as is the case with Thailand, when the closest port is not a major commercial ocean port.
- The distance to the port of Laem Chabang is the most reliable distance because when the Department conducted its own research and analysis it as has found that the port of Laem Chabang is the main commercial port of Thailand. Furthermore, the World Bank has now clarified this matter on its webpage stating both the port relied on in the Trading Across Borders report and also the distance to the port.[83] The most accurate inland freight calculation will use the actual distance and actual port relied on, as found on the World Bank's webpage. If the Department cannot look to the source webpage, it can

---

[80] *See Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 80 FR 34893 (June 18, 2015) ("*Passenger Tires from China*").
[81] *See, e.g.*, *Certain Activated Carbon Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 61172, (October 9, 2015) and corresponding IDM; *see also Steel Wire Garment Hangers Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 41480 (July 15, 2015) (unchanged in November 5, 2015 Final Results) and corresponding SV Memo at 9.
[82] *See* Taihe Rebuttal SVs (January 12, 2015) at Exhibit 5 (list of doing business country reports and the city covered by the report).
[83] *See* http://www.doingbusiness.org/data/exploreeconomies/thailand/trading-across-borders/.

look to the information it has placed on the record of other segments and determine that Laem Chabang is the more widely used port. Or, at a minimum use the average used in the Post-Preliminary Results.

RZBC's Rebuttal Brief:

- The Department must reject Petitioners' distance information as untimely new factual information. Petitioners had numerous opportunities to submit the distance information and choose not to. Petitioners cannot now be allowed to assert such distances from a different case as evidence on this record.
- Furthermore, the distance data may not be used because "information submitted to rebut, clarify, or correct factual information submitted pursuant to §351.408(c) will not be used to value factors under§ 351.408(c)."
- Petitioners admit that the distance information is not on the record of this review; and that the source utilized in *Passenger Tires from China* is also not on the record of this review. Given these facts Commerce must reject Petitioners' arguments.
- Petitioners' reported distance also results in aberrational data and the unreasonable double counting of RZBC's freight. The *Doing Business* "transport" value includes the cost of "handling."[84] Handling charges are a fixed one-time fee that does not vary based on distance. If Commerce were to rely on Petitioners' faulty new factual information, the resulting calculation would "double count" the handling of RZBC's shipments by more than 20 times.
- If Commerce makes any change to the surrogate freight value it should do so based on Taihe's case brief, dated November 6, 2014 at 11-13.

Petitioners' Rebuttal Brief:

- Petitioners have demonstrated that the *Doing Business* freight amount relates exclusively to the Bangkok port, which is at a distance of 8.3 kilometers.[85] *Doing Business 2014* explicitly states that the freight information is being collected in Bangkok and not Laem Chabang.[86]
- Not a single one of the cases cited by Taihe contain any reference to "Laem Chabang," or found that *Doing Business* relates solely to Laem Chabang port. Furthermore all the cases cited by Taihe are more than a year old, and as Petitioners have explained it has been in the last year that the Department has discover that *Doing Business* freight amount relates only to the Bangkok port at a distance of 8.3 kilometers and not the Laem Chabang.

Department's Position: *Doing Business Thailand: 2014* represents the only Thai data on the record to value inland freight; it satisfies each of the criteria the Department considers in selecting a SV. Specifically, the freight information contained in this source is "current as of June 2013" (thus published inside the POR). Further, *Doing Business Thailand: 2014* provides a

---

[84] *See Commerce Surrogate Value Comments*, dated Aug. 6, 2015 at Attachment VII.
[85] *See* Petitioners' Case Brief (November 6, 2015) at 5-6.
[86] *See* Deadline to Submit Surrogate Country and Surrogate Value Comments (Aug. 6, 2015) at Attachment VII (*Doing Business 2014* at page 78).

publicly available, broad market average freight rate, and we have consistently found it to provide the best available information in other prior cases to value truck freight.[87] We prefer valuing FOPs using prices that are broad market averages because "a single input price reported by a surrogate producer may be less representative of the cost of that input in the surrogate country."[88] *Doing Business Thailand: 2014* contains data collected from local freight forwarders, shipping lines, customs brokers, port officials and banks; thus, it reflects the freight costs of multiple venders and users and it is a broad market average.[89] Based on these facts, we find the *Doing Business Thailand: 2014* (a World Bank publication) data is reliable, contemporaneous, and consistent with our decisions.[90]

The Department disagrees with both Petitioners and Taihe that the distances used in the calculation of these SVs are not representative of *Doing Business Thailand: 2014. Doing Business Thailand: 2014* does not specify which major port(s) in Thailand serve as the basis for its reporting rates. However, in other proceedings the Department has determined that there are two major ports in Thailand (Bangkok Port and Laem Chabang Port) and, that it is reasonable to base calculations on an average of those two distances.[91] Moreover, the Department finds that the distances it used to calculate the SVs are consistent with the methodology employed by *Doing Business* in constructing its indicators given that distances are calculated to Thailand's two major ports.[92]

Additionally, we reject Petitioners claim that the distance should be calculated at 8.3 km. Specifically, the distance information source in *Passenger Tires from China* cited by Petitioners is not on the record of this proceeding. As there is no record evidence in this proceeding indicating a distance of 8.3 km, it is inappropriate to presume that such a distance applies in this review. Furthermore, we disagree with Taihe that the distance should be calculated at 110 km or 133 km. Taihe cites three proceedings in which a distance of 133 km was used; *Chlorinated Isocyanurates, Photovoltaic Cells,* and *Steel Nails.* However, in more recent proceedings where inland distances were at issue, the Department has consistently averaged the distances from Bangkok and Laem Chabang.[93] In both *MLWF* and *TRBs* the Department concluded that it was

[87] *See 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) and corresponding IDM at comment 20; and *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 corresponding IDM at comment 6-a.
[88] *See Honey from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Order Administrative Review*, 71 FR 34893 (June 16, 2006).
[89] *See Certain Polyester Staple Fiber from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 2366 (January 11, 2013), and the corresponding IDM at Comment 3.
[90] *Id.*
[91] *See 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), and corresponding IDM at Comment 4
[92] *See Monosodium Glutamate From the People's Republic of China Final Determination of Sales at Less Than Fair Value and the Final Affirmative Determination of Critical Circumstances*, 79 FR 58326 (September 29, 2014) ("*Monosodium Glutamate*") and corresponding IDM at Comment 1.
[93] *Id.*; *see also Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Results of New Shipper Review; 2012-2013*, 80 FR 41476 (July 15, 2015) ("*MLWF*") and the corresponding IDM at Comment 9; and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review*, 76 FR 3086 (January 19, 2015) ("*TRBs*") and the corresponding IDM at Comment 1.

reasonable and consistent with record evidence to base the calculations on an average of those distances.

As the only information found on the record in this proceeding is *Doing Business Thailand: 2014*, we have determined that rather than relying on the distance to either the Bangkok Port or the Laem Chabang port exclusively, the best available information on the record to value inland freight is averaging the distance to both ports (*i.e.*, 76.67 km). The average distance between the two major ports, Bangkok Port and Laem Chabang, is consistent with Department methodology and practice to calculate SV, in proceedings based upon the same record information for inland freight.[94] Therefore, for the final results, consistent with our practice and record evidence to calculate inland freight, we used the simple average of the distances from Bangkok Port and Laem Chabang.[95]

Lastly, we agree with RZBC that Petitioners' arguments include new factual information. Petitioners are citing to distance source data not on the record for this proceeding; accordingly we are rejecting their claim that the 8.3 km distance is correct.

Comment 10: Whether the Department Should Make Certain Revisions to its Surrogate Value for Sludge

Petitioners' Case Brief:

- RZBC received substantial by-product offset for "sludge," which was valued using imports under the HTS subheading for "Premixes, Feed Supplements Or Feed Activities."[96] The SV for this recovery is extremely high, 40,497 baht per MT; nearly four times the value for corn feed and nearly twice the value for high protein scrap.
- Only the dry content of RZBC's sludge would have any value as a feed additive. RZBC reported that its sludge is comprised of a certain percentage of water.[97] This percentage should be valued as water and the remaining percent should be valued using the feed additive subheading. The weighted-average SV for one MT of "sludge" should reflect this revised value.

RZBC's Rebuttal Brief:

- The Department should reject this argument as untimely; Petitioners are making new factual statements that are not on the record. Petitioners fail to cite any record information that "only the dry content of RZBC's sludge would have any value as a feed additive."
- Furthermore, this statement is untimely given that the deadline for such factual information was May 1, 2015, and/or 10 days after RZBC submitted its by-product information. Petitioners never chose to submit any factual information concerning the relevancy of water content for the HTS heading or in relation to RZBC's information.

[94] *See MLWF* and corresponding IDM at Comment 9; and *TRBs* and corresponding IDM at Comment 1.
[95] *See* Final Surrogate Value Memo.
[96] *See Surrogate Value Memorandum* (Oct. 27, 2015) at Attachment II, page 1.
[97] *See* RZBC's First Supplemental Questionnaire Response (March 9, 2015) at Exhibit S-ACD-31, pages 1-2.

- Petitioners never rebutted, corrected, or clarified that the HTS sub-heading used by the Department is incorrect in any way or does not match RZBC's by-product. The Department has consistently rejected making such allocations in prior reviews.
- The Department should continue to use the sludge value as provided in the Post-Preliminary Results; as Petitioners have failed to provide any evidence that the surrogate value used for the sludge is not consistent with RZBC's by-product.

Department's Position: The Department disagrees that the by-product for sludge should be recalculated. First, Petitioners have not demonstrated that the chosen surrogate value does not meet our surrogate value criteria. Second, Petitioners' argument that the surrogate value for sludge is high is based solely on comparing the sludge surrogate value to the surrogate values of other by-products. However, the Department has found that the existence of higher prices alone does not necessarily indicate that price data is distorted or misrepresented.[98] Thus, the existence of a higher price is not sufficient to exclude a particular surrogate value, absent specific evidence that the value is otherwise abnormal or unreliable.[99] Petitioners have not pointed to any specific record evidence that the value for sludge is high due to an abnormality or unreliability. In addition, the Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, surrogate values which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.[100] Petitioners have not demonstrated that the chosen surrogate value for sludge does not meet these criteria.

Further, the Department disagrees with Petitioners that the Department should segregate the calculation of the surrogate value for sludge by valuing the dry and wet contents of sludge separately. Petitioners have provided no evidence to demonstrate that the market value of sludge has a direct relationship to its moisture content. In addition, as its proposed calculation suggests, Petitioners have provided no record evidence to demonstrate that only the dry portion of the sludge by-product has significant commercial value. Outside of arguing that the surrogate value for sludge is high, Petitioners have provided no record evidence to support deviating from the Department's standard practice of valuing material inputs and by-products in their entirety by using a single surrogate value per material input/by-product. As noted in a prior proceeding, it is not the Department's practice to adjust surrogate values.[101] In this case, no adjustment to the sludge surrogate value is warranted because Petitioners have not demonstrated that the record shows that only the dry portion of RZBC's sludge by-product would have commercial value. Moreover, absent other or more specific surrogate values for sludge based upon moisture content, we would have concerns about inaccuracies resulting from adjusting the Thai surrogate

---

[98] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47191 (September 15, 2009) and corresponding IDM at Comment 7(C).
[99] *Id.*
[100] *See Certain Steel Threaded Rod From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 69938 (November 12, 2015) and corresponding IDM.
[101] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of the First Administrative Review of the Antidumping Duty Order*, 76 FR 77772 (December 14, 2011) and corresponding IDM at Comment 17.

value for sludge, as Petitioners proposed.[102] Accordingly, it is inappropriate to segregate the valuation of this by-product. The Department properly found that sludge has commercial value and valued it with the best available information for valuing this by-product. Accordingly, we find no basis to adjust the surrogate value for sludge to account for moisture content. Therefore, for the final results, the Department will continue to use the HTS subheading for "Premixes, Feed Supplements Or Feed Activities" to value the sludge by-product because it is the best Thai HTS match to RZBC's sludge by-product.

Lastly, the Department disagrees with RZBC that Petitioners' arguments contain new factual information. Petitioners have not placed any new factual information on the record; it is simply making arguments regarding information already on the record of the proceeding.

Comment 11: Whether to Value RZBC's High Protein Scrap as a Co-Product

Petitioners' Case Brief:

- In the preliminary results, the Department treated RZBC's high protein scrap recoveries as by-products, rather than as co-products. This is inconsistent with the Department's established practice. In the third administrative review, the Department used its co-product methodology.
- The Department found that high protein scrap is more appropriately considered co-product because "the relative value at the split-off point is significant," "in its normal books and records RZBC tracks productions quantities, assigns a cost, and records high protein scrap in inventory," and "management does intentionally further process the wet high protein scrap."[103] There have been no changes with respect to any of these factors.
- The value of RZBC's high protein scrap recoveries in this review is comparable to Taihe's corn feed recoveries; for which the Department is applying the co-product methodology.

RZBC's Rebuttal Brief:

- Petitioners fail to provide any evidence showing that the Department should depart from its decision in the Post-Preliminary Results. The record of this review is significantly different from that of the third review and Petitioners do not provide reasoned analysis to the facts of this case.
- Petitioners cite data concerning Taihe's offset, which used Thai data and RZBC's offset, which used Indonesia data, so the results do not represent an apples-to-apples comparison.
- Additionally, Petitioners' statements are untimely pursuant to 19 CFR 351.301(c)(1)(v). Petitioners had 10 days to submit new factual information to rebut, correct, or clarify RZBC's exhibit, but choose not to.

---

[102] *Id.* (the Department made a similar finding regarding a decision not to adjust another byproduct based upon moisture content).
[103] *See Citric Acid and Certain Citrate Salts from the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 101 (January 2, 2014) ("*AR3 Final Results*") and corresponding IDM at Comment 5. *See also Analysis Memorandum for RZBC* (Oct. 27, 2015) at Attachment IV, pages 6-7.

- Petitioners have not provided any basis for the Department to change its approach in treating high protein scrap as a by-product in this review.

Department's Position: We disagree with Petitioners that high protein scrap should be treated as a co-product in this administrative review. In determining whether a reported by-product is more appropriately classified as a co-product the Department generally considers the following: 1) how the company records and allocates costs in the ordinary course of business, in accordance with its home country GAAP; 2) the significance of each product relative to the other joint products; 3) whether the product is an unavoidable consequence of producing another product; 4) whether management intentionally controls production of the product; and 5) whether the product requires significant further processing after the split-off point. No single factor is dispositive in our determination. Rather, we consider each factor in light of all of the facts and circumstances surrounding the case.[104]

The first factor is how the company allocates costs in the ordinary course of business. RZBC reported that it tracks the quantities of high protein scrap produced and records the quantities in inventory.[105] RZBC also records the sale of the high protein scrap in its main operating income and main operating cost accounts.[106]

The second factor is the significance of each product relative to the other products produced during the POR. The significance of the various joint products produced impact the necessity of more detailed tracking of production activity, thus, resulting in the company-wide decision of whether to treat certain products as by-products versus co-products. In past cases, in assessing the significance of each product generated from a joint process, we have looked at the relative value for each of the products produced from the joint process stream.[107] While the relative value of the end products is important for financial reporting purposes, the relative values of the joint products at the split-off point are more meaningful for assessing the significance of each product generated from the joint production process.[108] For purposes of this case, we analyzed the relative value of each product generated from the joint production based on the relative values for the products output from the joint process (*i.e.*, at the split-off point for high protein scrap).

In assessing the significance of each product output from the split-off point, we attempted to obtain a reasonable market value for products produced, as close to the split-off point as possible. As citric acid and high protein scrap are the saleable products that result closest to the split-off point, we started with SVs from the selected surrogate country, for these products, then reduced the values by the cost of further processing each product after the split-off point. The further processing costs were calculated based on RZBC's reported FOPs after the split-off point

---

[104] *See AR3 Final Results and corresponding IDM* and corresponding at Comment 5.
[105] *See* Letter from RZBC to the Department regarding, "Citric Acid and Citrate Salt from the People's Republic of China: 3rd Supplemental Questionnaire Response," dated May 14, 2015 at 7 (RZBC 3rd Supplemental).
[106] *Id.* at 6.
[107] *See Final Results of Antidumping Finding Administrative Review: Elemental Sulphur From Canada*, 61 FR 8239, 8241-42 (March 4, 1996) ("*Elemental Sulphur From Canada*").
[108] *See Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 73 FR 52642 (September 10, 2008) ("Magnesium Metal from Russia") and corresponding IDM at Comment 1.B.

and the respective SVs from the selected surrogate country for each FOP.[109] This analysis demonstrated that the net realizable value ("NRV") of high protein scrap at the split-off point is not significant as compared to that of the interim citric acid product.[110] We note that the value of RZBC's high protein scrap is significantly lower than the value of Taihe's corn feed and is significantly lower than the value of RZBC's high protein scrap in the third administrative review of this proceeding.[111] Petitioners argue that the value of RZBC's high protein scrap is comparable to the value of Taihe's corn feed scrap. However, we note that Petitioners are comparing a value for RZBC's high protein scrap based on Indonesian GTA data and a value for Taihe's corn feed based on Thai GTA data.[112] As discussed above, the Department has selected Thailand as the surrogate country for this administrative review. Therefore, unlike Petitioners' comparison, we find it appropriate to compare the value of RZBC's high protein scrap and Taihe's corn feed using Thai GTA data for both values.

The third and fourth factors that we use in determining whether joint products are main products or by-products are whether the product is an unavoidable consequence of producing another product and whether management intentionally controls the production of the products. If a product in question is avoidable, but is intentionally produced, it supports the notion that the product is a main product. If a product in question is not avoidable, it neither supports nor refutes a decision to treat a product as a main product or a by-product.[113] As such, these factors look at whether management takes steps to minimize or maximize the output quantities of certain outputs. In this case, RZBC cannot avoid or necessarily control the ratio of high protein scrap coming out from the production process; thus, the output of the product is unavoidable.[114] That being said, these two factors neither support nor refute a decision to treat high protein scrap as a main product or a by-product.

Finally, the last factor considers whether the products require significant further processing. This factor can have conflicting implications. For financial reporting purposes, this factor is relevant in that if there is significant further processing required, presumably the end product's value will increase to the point where its value may be significant in relation to the other end products produced. On the other hand, however, the fact that a product output requires significant further processing may indicate that the value of the output product is minimal, with the bulk of its value being added by the further processing. As such, if a product in question undergoes significant further processing, it may support the notion that the product is a main product.[115] Although, if a product in question is not significantly further processed, it neither supports nor refutes a decision to treat a product as a main product or a by-product. In the instant

---

[109] This analysis is consistent with the Department's past practice. *See AR3 Final Results* and corresponding IDM at Comment 5.
[110] *See* Memorandum from the Department to the File, regarding "Fifth Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China: Analysis of the Final Results Margin Calculation for RZBC Import & Export Co., Ltd.," dated December 7, 2015 ("RZBC I&E Final Analysis Memo") at Attachment IV.
[111] *Id.*
[112] *See* Petitioners' Case Brief at 13.
[113] *See AR3 Final Results and corresponding IDM* at Comment 5.
[114] *See* RZBC 3rd Supplemental at 6.
[115] *See AR3 Final Results and corresponding IDM* at Comment 5.

case, RZBC's high protein scrap is packaged for sale after production.[116] We find that the high protein scrap does not require much additional processing after production. As such, in the instant case, we do not consider that this factor supports treatment of the high protein scrap as either a by-product or co-product. We note, however, that management does intentionally undertake further action (*i.e*, package and prepare for sale) rather than dispose of the product after production.[117]

In summary, based on our analysis of the five factors above, we consider high protein scrap to be a by-product. Specifically, the relative NRV of high protein scrap is not significant, it is an unavoidable consequence of producing another product, and management does not intentionally control production of high protein scrap. Accordingly, consistent with the preliminary results, for all the reasons stated above, the Department will treat continue to treat RZBC's claimed by-product, high protein scrap, as a by-product.

Comment 12: Whether the Department Used Incorrect Rates to Calculate RZBC I&E's Export Subsidy Adjustment

RZBC's Case Brief:

- The Department used the 2011 CVD administrative review for the basis of obtaining the 1.10 percent export subsidy off-set to the U.S. Price. However, the 2011 CVD administrative review as not the most recently completed CVD review of RZBC.
- The Department should have used the 2012 CVD administrative review issued on December 22, 2014 as this is the most recently completed CVD review of RZBC.
- The 2012 CVD review countervailed two export programs: the Export-Import Bank of China: Seller's Credit for High- and New- Technology products ("Seller's credit") at .64 percent and the Export-Import Bank of China: Buyer's Credit ('Buyer's credit") at 10.54 percent.
- The Department should make an adjustment of 11.18 percent to the reported U.S. price based on countervailable export subsidies referenced above. The SAS language should read: CVDU = 0.1118 * ENTVALUE

Petitioners' Rebuttal Brief:

- RZBC presents no evidence that the "Buyer's Credit" was countervailed as an "export subsidy" as required by Section 772(c)(l)(C). The "Buyer's Credit" was based on adverse facts available ("AFA"), and there is no record information indicating this was countervailed as an export subsidy.
- The "seller's credit" clearly was an export subsidy; the Department stated that the .64 percent rate was calculated as the benefit divided by the value of RZBC's "export sales." If the Department were to rely on the 2012 review, the export subsidies adjustment should be limited to only the .64 percent "Seller's Credit."

---

[116] *See* RZBC's 3rd Supplemental at 2.
[117] *Id.*

- Even if the “Buyer’s Credit” had been countervailed as an export subsidy in the 2012 review, it was a new program that had not been investigated prior to the 2011 review.[118] Cash Deposits were not increased to reflect this new subsidy until after the final results of the 2012 review was published on December 31, 2014; entries made during the period of review for the instant fifth antidumping review- May 2013 – April 2014 (“POR5”) are entirely unaffected.
- The statue requires that an adjustment be made for “the amount of any countervailing duty imposed on the subject merchandise.”[119] As no CVDs related to the “Buyer’s Credit” program imposed on subject entries during POR5, either in the form of assessments or cash deposits there is no basis under the statute to increase the POR5 export prices by the amount of this subsidy.
- RZBC’s position in this review is inconsistent with its position in the CVD case. RZBC appealed the 2012 countervailing duty review to the Court of International Trade, arguing that the 10.54 percent AFA subsidy rate related to the “Buyer’s Credit” program was uncorroborated and should be significantly reduced.[120] If RZBC were to prevail in that appeal, it would mean the 10.54 percent increase to export price requested in this review would be incorrect.
- In order to avoid inconsistent results, and for the additional reasons provided, the Department should make no adjustment for this program.

Department’s Position: The Department agrees with RZBC that the Department should use the results of the 2012 CVD administrative review as the basis of the export subsidy adjustment. In addition, the Department agrees that both the “Seller’s credit” and the “Buyer’s credit” should form the basis of the adjustment.[121] Section 772(c)(1)(C) of the Act directs the Department to increase EP or CEP by the amount of the countervailing duty “imposed” on the subject merchandise “to offset an export subsidy.” The basic theory underlying this provision is that in parallel AD and CVD proceedings, if the Department finds that a respondent received the benefits of an export subsidy program, it is presumed the subsidy contributed to lower-priced sales of subject merchandise in the United States market. Thus, the subsidy and dumping are presumed to be related, and the imposition of duties against both would in effect be “double-application“ – or imposing two duties against the same situation. Section 772(c)(1)(C) of the Act therefore requires that the Department factor the affirmative export subsidy determination into the AD calculations to prevent this “double-application” of duties.[122]

The Department is continuing to follow that practice here, where there are AD and CVD reviews of the merchandise under consideration, pursuant to section 772(c)(1)(C) of the Act. The Department’s practice is to make an export subsidy adjustment regardless of whether the export

[118] *See Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 108 (January 2, 2014).
[119] *See* 19 U.S.C. § 1677a(c)(l)(C)
[120] *RZBC Group Shareholding Co. Ltd v. United States*, Ct. No. 15-00022.
[121] *See Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review: 2012*, 79 FR 78799 (December 31, 2014) and corresponding IDM at Comment 6, page 16.
[122] *See Certain Crystalline Silicon Photovoltaic Products From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 76970 (December 23, 2014) and accompanying IDM at Comment 3.

subsidy rate is based on AFA.[123] Such an offset ensures that the adverse inference used to calculate the export subsidy rate is applied to the respondents only once (*i.e.*, as a CVD and not through potentially higher AD duties). In this instance, although the timing of the AD and CVD proceedings are technically not parallel, as noted by Petitioner, the Department finds that the 2012 CVD proceeding is the most appropriate proceeding upon which to base the export subsidy adjustment because it is the most recent data. Furthermore, it would be inappropriate, as Petitioners argue, for the Department to not apply this adjustment based upon a pending appeal of this rate by RZBC, because the Department's determination with regard to this rate has not changed. Therefore, for the final results, the Department will offset the AD cash deposit rate by the export subsidy rate calculated in the 2012 CVD investigation.

Comment 13: Whether the Department Should Treat Taihe's Corn Feed as a By-Product

Taihe's Case Brief:

- The Department erroneously changed its position from the previous review and treated Taihe's corn-feed as a co-product instead of a by-product.
- The Department failed to consider all five factors required under its co-product/by-product analysis, which are: 1) the relative sales value of the product compared to that of all other products produced during the same period; 2) whether the product is an unavoidable consequence of producing another product; 3) whether management intentionally controls production of the product; 4) whether the product requires significant further processing after the split-off point; and 5) how the company has historically accounted for the product. The relative sales value of the by/co-product and how the company treats the by/co-product in its normal books are significant factors.
- The Department has stated, "No single factor is dispositive in our determination. Rather, we consider each factor in light of all of the facts and circumstances surrounding the case."[124] In properly considering all of the factors, Taihe's corn-feed scrap should be considered a by-product.
- Corn-feed is an unavoidable consequence in the production of subject merchandise. Corn-feed is the natural result of citric acid production, and Taihe does not produce corn-feed separately from the subject merchandise.
- Taihe's management does not intentionally control the production of corn-feed.
- The further processing of corn-feed is not significant. Taihe only dries the corn feed and then packs it. It is placed on conveyer belt through a drying machine and then placed into a machine that automatically packs it.
- Taihe has always accounted for corn-feed as a by-product in its normal business. Sales revenue for corn feed is always recorded in its other business revenue sub-ledger, the normal treatment for a by-product.

---

[123] *See, e.g., Id., see also Pre-Stressed Concrete Steel Wire Strand From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 28560, 28563 (May 21, 2010); *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and corresponding IDM at "Grant Programs Treated as Export Subsidies Pursuant to AFA"; *Solar I AD Final Determination*, 77 FR 63791, 63796 (October 17, 2012); *Solar I CVD Final Determination*, and corresponding IDM at Comment 18.
[124] *See AR3 Final Results* and corresponding IDM at 11.

- Of the five criteria for determining whether by-product is better allocated as a co-product, at least four suggest Taihe's corn feed must be considered a by-product. Furthermore, the one criteria relied on, the net realizable value ("NRV") of corn feed is significant in relation to the NRV of all products that result from the joint production process, was not adequately justified or explained. Taihe has demonstrated that the actual sales value of the corn-feed is not significant compared to other finished products.
- The Department has not demonstrated why it believes the value of corn-feed is significant in relation to citric acid or why it was reasonable to make this determination on an NRV basis. The CAFC determined that it was not appropriate to use a value-based methodology to allocate costs between co-products in the calculation of production costs and constructed value in either market or non-market economy cases.[125]
- The Department did not perform this analysis for RZBC's corn feed, so treatment of Taihe's corn feed as a co-product was quintessentially arbitrary and capricious.

Petitioners' Rebuttal Brief:

- Contrary to Taihe's statements, the Department has provided detailed calculations showing a significant net NRV for Taihe's corn feed. The Department has used the same NRV methodology in prior segments of this proceeding.
- Regarding the second and third factors, the Department explained in the prior segment of this proceeding, that "these two factors neither support nor refute a decision" to apply a co-product methodology.[126]
- There is significant further processing, specifically substantial drying processes, of corn feed after the split-off point. The corn feed must be pit into a "breaking machine for further crushing" to produce appropriate granule sizes, and then placed "back into the drying machine to dry further."[127] Taihe then inspects the corn feed to ensure that it conforms to industry standards and regulation[128] and then packed into woven bags.[129]
- The fact that "management does intentionally undertake further processing rather than dispose of the product at the split-off point" supports a co product methodology.[130]
- In its normal cost accounting system, Taihe treats corn feed as a co-product. Taihe departed from its normal books in preparing its dumping response. Specifically, Taihe stated the following, "Even though Taihe, in its normal business, separately assigned materials and labor consumption for corn feeds, in the FOP consumption database reporting to the Department, Taihe has included the factors consumed in the production of corn feeds in the consumption for citric and calcium citrate."[131]

[125] *See IPSCO Inc. v. United States*, 965 F.2d 1056, 1061 (Fed. Cir. 1992).
[126] *See AR3 Final Results*) and corresponding IDM at Comment 5.
[127] Taihe's Second Supp. Response (Apr. 13, 2015) at 11.
[128] Taihe's Section D Response (Sep. 5, 2014) at Exhibit D-10.
[129] Taihe's First Supp. Response (Dec. 16, 2014) at 20; Taihe's Second Supp. Response (Apr. 13, 2015) at 11.
[130] *See AR3 Final Results* and corresponding IDM at Comment 5.
[131] *See* Taihe's First Supp. Response (Dec. 16, 2014) at 21.

- Taihe tracks production of corn feed and treats it as a finished good in its financial accounting system.[132] These factors weigh strongly in favor of a co-product methodology.
- The Department fully explained its reasoning in the Post-Preliminary Results, and granted Taihe's requested extension in full to submit comments. Taihe's procedural objections are totally meritless and there is no basis to claim the Department failed to provide the company with an opportunity to meaningfully comment on the issue.

Department's Position: We disagree with Taihe that corn feed should be treated as a by-product in this administrative review. As explained in detail before, we have continued to treat citric acid and corn feed as co-products for these final results.

The National Association of Accountants ("NAA") defines a joint product as two or more products so related that one cannot be produced without producing the other(s), each having relatively substantial value and being produced simultaneously by the same process up to a split-off point.[133] The NAA defines a by-product as a secondary product recovered in the course of manufacturing a primary product, whose total sales value is relatively minor in comparison with the sales value of the primary product(s).[134] In a similar vein, it has been noted that the products in a jointly produced group often vary in importance.[135] Products of greater importance are termed major products and products of minor importance are termed by-products. When two or more major products appear in the same group, they are called co-products.[136] The term joint product includes major products, by-products, and co-products because all are jointly produced.[137]

As noted by Taihe, the Department looks to several factors in order to determine which joint products are to be considered co-products and which are to be considered by-products.[138] Among these factors are the following: 1) how the company records and allocates costs in the ordinary course of business, in accordance with its home country GAAP; 2) the significance of each product relative to the other joint products; 3) whether the product is an unavoidable consequence of producing another product; 4) whether management intentionally controls production of the product; and 5) whether the product requires significant further processing after the split-off point. No single factor is dispositive in our determination. Rather, we consider each factor in light of all of the facts and circumstances surrounding the case.

The first factor is how the company allocates costs in the ordinary course of business. In Taihe's December 16, 2014, response, Taihe explained that in the normal course of business the

---

[132] *See* Taihe's Second Supp. Response (Apr. 13, 2015) at 13 and Exhibits S2-1 l and S2-12. *See also* Taihe's Section D Response (Sep. 5, 2014) at Exhibit D-7, Tables 3 and 4.
[133] *See Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011*, 78 FR 36168 (June 17, 2013) and corresponding IDM at Comment 14.
[134] *Id*.
[135] *Id*.
[136] *Id*.
[137] *Id*.
[138] *See Elemental Sulphur From Canada*, 61 FR 8241-42.

company separately assigns material and labor consumption for corn feed.[139] Moreover, in its September 21, 2015 response, Taihe provided a monthly cost calculation worksheet used in the normal course of business to calculate its cost of manufacturing. An examination of this worksheet indicates that Taihe tracks the quantities of corn feed produced, and calculates material, labor, energy, and manufacturing costs related to corn feed on a monthly basis.[140] Additionally, in its normal accounting system, Taihe treats production quantities of corn feed as a finished good by recording corn feed in the finished goods sub-ledger.[141] We tied the account number in the finished goods sub-ledger to Taihe's chart of accounts, and noted that corn feed is grouped in the same section as Taihe's main products.[142]

The second factor is the significance of each product relative to the other joint products. The significance of the various joint products produced impact the necessity of more detailed tracking of production activity, thus, resulting in the company-wide decision of whether to treat certain products as by-products versus co-products. In past cases, in assessing the significance of each product generated from a joint process, we have looked at the relative value for each of the products produced from the joint process stream.[143] While the relative value of the end products is important for financial reporting purposes, the relative values of the joint products at the split off point are more meaningful for assessing the significance of each product generated from the joint production process.[144] For purposes of this case, we analyzed the relative value of each product generated from the joint production based on the relative values for the products output from the joint process (*i.e.*, at the split-off point).

In assessing the significance of each product output from the split-off point, we attempted to obtain a reasonable market value for products produced, as close to the split off point as possible. As citric acid and corn feed are the saleable products that result closest to the split-off point, we started with SVs from the selected surrogate country, for these products, then reduced the values by the cost of further processing each product after the split-off point. The output from a particular production stage (*i.e.*, split-off point) is wet corn feed (*i.e.*, the corn feed prior to drying) and an interim citric acid product. The interim citric acid product is processed further to produce citric acid. The wet corn feed also undergoes further processing, which consists of drying and packing before being sold to third parties. The other products generated by Taihe (*i.e.*, calcium citrate, sodium citrate, etc.) are produced subsequent to the split-off point. The further processing costs were calculated based on Taihe's reported FOPs after the split-off point

[139] *See* Letter from Taihe to the Department regarding, "Citric Acid and Citrate Salts from the People's Republic of China: Supplemental Questionnaire Response," dated December 16, 2014 ("Taihe's First Supplemental Response") at 4.
[140] *See* Letter from Taihe to the Department regarding, "Citric Acid and Citrate Salts from the People's Republic of China: Double Remedy Questionnaire Response," dated April 27, 2015at Exhibit 2; *see also* Letter from Taihe to the Department regarding, "Citric Acid and Citrate Salt from the People's Republic of China Double Remedies 2nd Supplemental Questionnaire Response," dated September 21, 2015 ("Taihe's Second Supplemental Response") at Exhibit 1.
[141] *See* Letter from Taihe to the Department regarding, "Citric Acid and Citrate Salts from the People's Republic of China: Second Supplemental Questionnaire Response," dated April 13, 2015, at 13 and Exhibit SE-11.
[142] *See* Taihe's First Supplemental Response at Exhibit S-4.
[143] *See Elemental Sulphur From Canada*.
[144] *See Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 73 FR 52642 (September 10, 2008) ("Magnesium Metal from Russia") and corresponding IDM at Comments 2 and 3.

and the respective SVs from the selected surrogate country for each FOP. This analysis demonstrated that the net realizable value ("NRV") of wet corn feed is significant when compared to the intermediate citric acid product at the split-off point.

The third and fourth factors that we use in determining whether joint products are main products or by-products are whether the product is an unavoidable consequence of producing another product and whether management intentionally controls the production of the joint products. If a product in question is avoidable, but is intentionally produced, it supports the notion that the product is a main product. If a product in question is not avoidable, it neither supports nor refutes a decision to treat a product as a main product or a by-product. As such, these factors look at whether management takes steps to minimize or maximize the output quantities of certain outputs. In this case, Taihe cannot avoid or necessarily control the ratio of the interim citric acid product and wet corn feed coming out from the split-off point; thus, the output of each joint product is unavoidable.[145] That being said, these two factors neither support nor refute a decision to treat corn feed as a main product or a by-product.

Finally, the last factor considers whether corn feed requires significant further processing after the split-off point. This factor can have conflicting implications. For financial reporting purposes, this factor is relevant in that if there is significant further processing required, presumably the end product's value will increase to the point where its value may be significant in relation to the other end products produced. On the other hand, however, the fact that a product output from the split-off point requires significant further processing may indicate that the value of the output product is minimal, with the bulk of its value being added by the further processing. As such, if a product in question undergoes significant further processing, it may support the notion that the product is a main product. Although, if a product in question is not significantly further processed, it neither supports nor refutes a decision to treat a product as a main product or a by-product. In the instant case, Taihe's corn feed is dried and packaged for sale after the split-off point.[146] We find that the corn feed does not require much additional processing after the split-off point. While there is further processing required to produce the corn feed, which management intentionally undertakes (which may support treating the product as a co-product), the further processing required does not appear to be significant.[147] As such, in the instant case, we do not consider that this factor supports treatment of the corn feed as either a by-product or co-product. We note, however, that management does intentionally undertake further processing rather than dispose of the product at the split-off point.

Taihe argues that, according to the CAFC's decision in *IPSCO Inc.*, it is not appropriate to use a value-based methodology to allocate costs between co-products in the calculation of production costs and constructed value in either market or non-market economy cases. We first note that two common approaches for allocating joint production costs to co-products are value based and

---

[145] *See* Taihe's Second Supplemental Response at 10.
[146] *See* Taihe's Section D response at D-15; see also Taihe's case brief at 3.
[147] *See* Memorandum to the File from Krisha Hill through Robert Bolling regarding, "Fifth Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China: Analysis of the Final Results Margin Calculation for Laiwu Taihe Biochemistry Co., Ltd.," dated December 7, 2015 ("Taihe Final Analysis Memo").

physical measure (*e.g.*, volume or weight based, etc.).[148] The Department's current practice, of using a value based allocation methodology, is normally considered reasonable when a volume-based allocation methodology generates an unreasonable result. Here, because at the split-off point each product produced is radically different in composition and is not convertible to the same basis, using a volume based allocation methodology generates an unreasonable result.[149] As such, the NRV allocation methodology adopted at the Post-Preliminary Results, and normally used by the Department in cases with similar fact patterns, is a reasonable allocation basis for joint products.

In summary, based on our analysis of the five factors above, we consider wet corn feed to be a co-product at the split-off point. Specifically, the relative value at the split-off point is significant, and in its normal books and records Taihe tracks production quantities, calculates a cost, and records corn feed in inventory. While the significance of further processing on its own does not refute or support a co-product or by-product treatment, management does intentionally further process the wet corn feed. Thus, taking all the factors into account, we consider it appropriate to allocate a portion of the FOPs through the split-off point to both the interim citric acid product and wet corn feed. Taihe argues that we have performed the co-product analysis for RZBC. We note that we have performed the co-product analysis for RZBC for these final results.[150] Accordingly, consistent with the post- preliminary results, for all the reasons stated above, the Department will continue to treat Taihe's claimed by-product, corn feed, as a co-product.[151]

Comment 14: Whether the Department Should Make Certain Revisions to Taihe's Co-Product Calculation

Petitioners' Case Brief:

- Limestone consumption is incorrectly treated and should be reallocated.
- The Department's calculation of pre-split labor is incorrect. Moreover, labor should be allocated on the basis of head count, as it is more accurate to use the ratio of the number of workers involved in pre-split production processes to those involved in all production processes.

Taihe's and RZBC's Rebuttal Briefs:

- Corn feed should be treated as a by-product and not as a co-product.

---

[148] *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada*, 67 FR 15539 (April 2, 2002) ("Lumber from Canada") and corresponding IDM at Comment 4.
[149] *See Lumber from Canada* and corresponding IDM at Comment 4.
[150] *See* RZBC I&E Final Analysis Memo.
[151] *See* Memorandum to the File from Krisha Hill through Robert Bolling regarding, "Fifth Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China: Analysis of the Post-Preliminary Results Margin Calculation for Laiwu Taihe Biochemistry Co., Ltd.," dated October 27, 2015.

Department's Position: We agree with Petitioners, and have revised the limestone and labor consumption allocations for Taihe's co-product calculation. Due to the proprietary nature of these calculations, *see* Taihe's final analysis memo for a more detailed discussion.[152]

Comment 15: Whether the Application of Differential Pricing Methodology to Taihe's Sales is Contrary to Law and Otherwise Unsupported by Substantial Evidence on the Record

Department's Position: We received comments from Taihe regarding differential pricing that are moot because the Department applied the average-to-average method for both respondents for these final results.

RECOMMENDATION:

Based on our analysis of the comments received, we recommend adopting all of the above positions. If accepted, we will publish the final results of this review and the final weighted-average dumping margins in the *Federal Register*.

AGREE ✓ DISAGREE __________

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

7 DECEMBER 2015
Date

[152] *See* Taihe Final Analysis Memo.