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Administrative Review  
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January 4, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

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

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## SUMMARY

We analyzed the comments from interested parties in the 2013-2014 administrative review of the antidumping duty order on chlorinated isocyanurates (“chloro isos”) from the People’s Republic of China (“PRC”). As a result of our analysis, we made changes to the *Preliminary Results*.<sup>1</sup>

We recommend that you approve the positions described in the “Discussion of Issues” section of this memorandum. Below is the complete list of the issues in this review on which we received comments.

1. Surrogate Value for the Raw Material Input Chlorine
2. Surrogate Value for the Raw Material Input Urea
3. Surrogate Value for the By-Product Hydrogen
4. Surrogate Financial Ratios
5. By-Product Offset for Ammonium Sulfate
6. Calculation of Jiheng’s Indirect Selling Expenses
7. Calculation of Ocean Freight

## BACKGROUND

The Department published its *Preliminary Results* on July 8, 2015.<sup>2</sup> The Department verified the questionnaire responses of Heze Huayi Chemical Co., Ltd. (“Heze Huayi”) from September 14

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<sup>1</sup> 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) (“*Preliminary Results*”).

<sup>2</sup> *Id.*



through September 18, 2015.<sup>3</sup> On September 21 through September 25, 2015, the Department verified the questionnaire responses of Hebei Jiheng Chemical Co., Ltd. and Hebei Jiheng Baikang Chemical Industry Co., Ltd. (collectively, “Jiheng”).<sup>4</sup>

On September 30, 2015, the Department extended the deadline for the final results in this administrative review until December 7, 2015.<sup>5</sup> On November 10, 2015, we fully extended the deadline for the final results.<sup>6</sup> Because we miscalculated this extended deadline, we corrected the date to January 4, 2016, which is 180 days from the date of publication of the preliminary results and the maximum allowed under section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”).<sup>7</sup>

On November 13, 2015, Clearon Corp. and Occidental Chemical Corp. (collectively, “Petitioners”) and Jiheng submitted case briefs.<sup>8</sup> On November 18, 2015, Jiheng, and Heze Huayi and Juancheng Kangtai Chemical Co., Ltd. (“Kangtai”) submitted rebuttal briefs.<sup>9</sup>

On August 7, 2015, Kangtai submitted a hearing request to address issues raised in case and rebuttal briefs.<sup>10</sup> This request was withdrawn on November 23, 2015.<sup>11</sup>

## SCOPE OF THE ORDER

The products covered by the order are chloro isos, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) trichloroisocyanuric acid ( $\text{Cl}_3(\text{NCO})_3$ ), (2) sodium dichloroisocyanurate (dihydrate) ( $\text{NaCl}_2(\text{NCO})_3(2\text{H}_2\text{O})$ ), and (3) sodium dichloroisocyanurate (anhydrous) ( $\text{NaCl}_2(\text{NCO})_3$ ). Chloro isos are available in powder, granular, and tableted forms. The order

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<sup>3</sup> See Memorandum to the File, “Verification of the Sales Response of Heze Huayi Chemical Company, Ltd. in the Antidumping Administrative Review of Chlorinated Isocyanurates from the People’s Republic of China,” (October 20, 2015) (“Heze Huayi Verification Report”).

<sup>4</sup> See Memorandum to the File, “Verification of the Sales Response of Hebei Jiheng Chemical Company, Ltd. in the Antidumping Administrative Review of Chlorinated Isocyanurates from the People’s Republic of China,” (November 5, 2015) (“Jiheng Verification Report”).

<sup>5</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Chlorinated Isocyanurates from the People’s Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” (September 30, 2015).

<sup>6</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Chlorinated Isocyanurates from the People’s Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” (November 10, 2015).

<sup>7</sup> See Memorandum to the File, “Chlorinated Isocyanurates from the People’s Republic of China: Correction of Extension of Deadline for Final Results of Antidumping Duty Administrative Review” (November 20, 2015).

<sup>8</sup> See “The Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People’s Republic of China: Case Brief of Clearon Corp. and Occidental Chemical Corporation,” (November 13, 2015) (“Petitioners’ Case Brief”); and, “Chlorinated Isocyanurates from the People’s Republic of China: Case Brief,” (November 13, 2015) (“Jiheng’s Case Brief”).

<sup>9</sup> See “Chlorinated Isocyanurates from the People’s Republic of China: Rebuttal Brief,” (November 18, 2015) (“Jiheng’s Rebuttal Brief”); and, “Certain Chlorinated Isocyanurates from the People’s Republic of China Rebuttal Brief,” (November 18, 2015) (“Kangtai’s and Heze Huayi’s Rebuttal Brief”).

<sup>10</sup> See “Chlorinated Isocyanurates from the People’s Republic of China: Hearing Request,” (August 7, 2015).

<sup>11</sup> See “Chlorinated Isocyanurates from the People’s Republic of China: Withdrawal of Hearing Request,” (November 23, 2015).

covers all chloro isos. Chloro isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chloro isos and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

## CHANGES SINCE THE PRELIMINARY RESULTS

We calculated export price (EP) and normal value (NV) using the same methodology stated in the *Preliminary Results*, except as follows:<sup>12</sup>

- We corrected the typographical error in Jiheng’s margin calculation that included a duplicate calculation of the by-product offset for ammonium sulfate.
- We incorporated the minor corrections provided by Heze Huayi during verification.<sup>13</sup> We also accounted for the minor changes in the sigma distance and the reported distance to the nearest port that were found during verification.<sup>14</sup>
- We incorporated the minor corrections provided by Jiheng during verification which are reflected in the revised factors of production (FOP) database submitted at our request after verification.<sup>15</sup>
- Based on our findings at verification, we removed the TCCA solution that was included in the denominator of Jiheng’s per unit consumption of each raw material used to produce a metric ton of TCCA.<sup>16</sup>
- We have capped the surrogate value for hydrogen because the Global Trade Atlas (GTA) import data value for hydrogen is higher than the average value for the inputs for this by-product. *See* Comment 3.
- We revised the calculation of Jiheng’s indirect selling expenses. *See* Comment 6.
- We recalculated Jiheng’s ocean freight expense. *See* Comment 7.

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<sup>12</sup> *See also* Memorandum from Sean Carey, Senior International Trade Analyst, AD/CVD Operations, Office VII through Mark Haodley, Program Manager, AD/CVD Operations, Office VII, to The File, “Analysis of the Final Results Margin Calculation for Heze Huayi Chemical Co., Ltd.,” dated concurrently with this memorandum (“Heze Huayi Final Analysis Memorandum”); Memorandum from Sean Carey, Senior International Trade Analyst, AD/CVD Operations, Office VII through Mark Hoadley, Program Manager, AD/CVD Operations, Office VII, to The File, “Analysis of the Final Results Margin Calculation for Hebei Jiheng Chemical Co., Ltd.,” dated concurrently with this memorandum (“Jiheng Final Analysis Memorandum”); Memorandum from Sean Carey, Senior International Trade Analyst, AD/CVD Operations, Office VII through Mark Hoadley, Program Manager, AD/CVD Operations, Office VII, to The File, “Analysis of the Final Results Margin Calculation for Juancheng Kangtai Chemical Co., Ltd.,” dated concurrently with this memorandum (“Kangtai Final Analysis Memorandum”); and, the Excel Workbook “Final SVs 13-14” at “Hydrogen” worksheet tab for the calculation of the capped surrogate value for hydrogen which is separately disclosed with the SAS program and the associated data output and log.

<sup>13</sup> *See* Heze Huayi Verification Report at Exhibit 1.

<sup>14</sup> *Id.*, at 17.

<sup>15</sup> *See* Jiheng Verification Report at Exhibit 1; *see also* “Chlorinated Isocyanurates from the People’s Republic of China: Revised FOP Database,” (October 14, 2015).

<sup>16</sup> *See* Jiheng Verification Report at 10-11 and at Exhibit 12; *see also* Jiheng Final Analysis Memorandum.

## DISCUSSION OF THE ISSUES

### **Comment 1: Surrogate Value for the Raw Material Input Chlorine**

#### Petitioners' Argument

- Indonesian import data should be used as the surrogate value for chlorine because the Bulgarian import data is aberrational since it likely includes imports from an insolvent producer in Romania, where almost all Bulgarian imports originate. There were only two producers of chlorine in Romania during the POR, and the largest of the two has been insolvent since 2013. Since the Department does not normally use financial statements from unprofitable companies, it should likewise not use these import values.
- A substantial volume of Bulgarian import sales are below cost, which is evident in the chlorine import data where the average unit value (AUV) of all the other surrogate countries is more than twice the price level in Bulgaria.
- Indonesia is a significant producer of comparable merchandise and is economically comparable to the PRC. At the outset of this review, the Department considered Indonesia to be economically comparable and Indonesia was selected as the primary surrogate country in the *Glycine*<sup>17</sup> review for the 2013-2014 POR.
- Alternatively, if the Department rejects the Indonesian import data, the Department should use Thai domestic price quotes from the ISS study Petitioners placed on the record as the surrogate value for chlorine. A viable commercial market for chlorine exists in Thailand and these price quotes are more specific than the Bulgarian import statistics.
- The Department has relied on similar price quotes obtained by direct inquiry and these domestic prices are consistent with the AUVs from Ecuador, Colombia, and Indonesia.
- The Department should not rely on the Thai bid prices submitted by Kangtai from auctions held by Thai utilities. These prices do not represent a broad average of market prices since they represent prices obtained by very large purchasers (public utilities) for the supply of large quantities.

#### Heze Huayi and Kangtai's Rebuttal

- The Department should continue to use Bulgarian import data for chlorine as was done in the previous review because the import volumes are nearly identical and Bulgaria is still the largest importer of the other economically comparable surrogate countries.
- Indonesia is no longer at the same level of economic development as the PRC based on the most recent surrogate country list on the record that used 2013 GNI data.
- The Department's practice is to disregard small-quantity import data when the per-unit value is substantially different from the per-unit values of the larger quantity imports of that product from other countries.<sup>18</sup> Bulgarian imports of chlorine are almost twice the volume of Indonesian imports and follow normal commercial behavior where the largest quantities represent commercial quantities at lower commercial values.

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<sup>17</sup> See *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 62027 (October 15, 2015) ("*Glycine*").

<sup>18</sup> See *Shakeproof Assembly of Components Div. of Illinois Tool Works, Inc., v. United States*, 59 F. Supp. 2d 1354, 1360 (CIT 1999).

- The ISS domestic price quotes for Thai chlorine are not reliable based on the Department's preference not to rely on price quotes but rather, to use public, published prices of actual transaction prices that represent a broad market average to value inputs, as explained in *Steel Nails*.<sup>19</sup>
- The ISS price quotes are after the POR and represent only a two month period.
- The ex-factory ISS price quotes are not reliable because under transportation requirements in Thailand, chlorine must be delivered to a registered warehouse.
- If the Department decides to rely on a domestic Thai price for chlorine, it should use the chlorine auction prices submitted by Kangtai which are the winning bids for chlorine sold to the Electricity Generating Authority of Thailand ("EGAT") and the Metropolitan Waterworks Authority.
- If the Department decides to rely on any domestic value for chlorine, the Indian values submitted by Kangtai are the best available information.

Department's Position: In the *Preliminary Results*, the Department found that the updated Surrogate Country List submitted by Kangtai and based on 2013 per capita GNI data, was the most appropriate one to use for identifying countries that are comparable to the PRC in terms of level of economic development because it contains the Department's most recent analyses of GNI data that is also contemporaneous with the POR.<sup>20</sup> This updated list was filed timely and early in the proceeding during the rebuttal comment period regarding surrogate country selection which allowed all parties ample opportunity to argue the merits of its use. The Department continues to rely on the updated Surrogate Country List for these final results in selecting Thailand as the appropriate primary surrogate country.<sup>21</sup> Furthermore, all parties have argued that Thailand be used as the primary surrogate country.

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<sup>19</sup> See *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) ("*Steel Nails*"), and accompanying Issues and Decisions Memorandum at 17.

<sup>20</sup> See Letter from Kangtai, "Certain Chlorinated Isocyanurates from the People's Republic of China Comments on Surrogate Country Selection" ("Kangtai's Rebuttal Surrogate Country Comments"), January 12, 2015, at Exhibit 2.

<sup>21</sup> See *Preliminary Results*, and accompanying Preliminary Decision Memorandum at 9; see also Memorandum to the File, through Edward Yang, Senior Director, Office VII, Enforcement & Compliance, from Sean Carey, Senior International Trade Analyst, Office VII, Enforcement & Compliance, entitled "Preliminary Results Surrogate Value Memorandum," ("Preliminary SV Memorandum") dated July 17, 2014, at 2.

Section 773(c)(1) of the Act instructs the Department to value the factors of production (“FOPs”) based upon the best available information from an appropriate market-economy (“ME”) country or countries that the Department considers appropriate. When considering what constitutes the best available information, the Department considers several criteria, including whether the surrogate value (“SV”) is: publicly available, contemporaneous with the POR, representative of a broad-market average, from an approved surrogate country, tax- and duty-exclusive, and specific to the input.<sup>22</sup> The Department’s preference is to satisfy the breadth of the aforementioned selection criteria.<sup>23</sup>

As there is no hierarchy for applying the above-mentioned principles, the Department must weigh available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the “best” available SV for each input.<sup>24</sup>

Pursuant to section 773(c)(1) of the Act, we continue to find that the value derived from the GTA import data represents the best available information for valuing liquid chlorine. These data represent information that is product-specific, is representative of a broad-market average, is publicly available, is contemporaneous with the POR, and is free of taxes and duties. Furthermore, the GTA data for chlorine imports demonstrates that it is being traded in significant quantities (*i.e.*, quantities indicative of commercial transactions).

The record evidence in the instant review includes contemporaneous GTA import data for chlorine for the four remaining countries on the Updated Surrogate Country List (Bulgaria, Colombia, Ecuador, and South Africa) that imported chlorine. These countries are at the same level of economic development as the PRC and are significant producers of comparable merchandise.<sup>25</sup> We have given all four countries equal weight with respect to the standards noted above, as the source in all four instances is the same – GTA import data. In selecting the surrogate value for chlorine, we relied on these data to identify which of these four countries had the largest imports of chlorine during the POR, following the same methodology used in the prior review.<sup>26</sup> This is consistent with our practice of ensuring that the surrogate value is not aberrational when we have to rely on a country other than our primary surrogate country as the source of the surrogate value.<sup>27</sup> In the instant case, Bulgaria satisfies this requirement as the largest importer of chlorine during the POR.<sup>28</sup> Moreover, we find that the record evidence does

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<sup>22</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China*, 71 FR 53079 (September 8, 2006) (“*Lined Paper from the PRC*”) and accompanying Issues and Decision Memorandum at Comment 3.

<sup>23</sup> See, e.g., *Administrative Review of Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940, 51943 (August 19, 2011) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>24</sup> See *Mushrooms from the PRC* and accompanying Issues and Decision Memorandum at Comment 1.

<sup>25</sup> See Letter from Petitioners, “Chlorinated Isocyanurates from the People’s Republic of China (9<sup>th</sup> Antidumping Administrative Review): Comments Concerning the Preliminary Determination and Submission of Factual Information Regarding Surrogate Values,” June 1, 2015, at Exhibit 9.

<sup>26</sup> See *Chlorinated Isocyanurates From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 4539, January 28, 2015 (*2012-2013 Final Results*) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>27</sup> See *Trust Chem*, 791 F. Supp. 2d at 1264-65.

<sup>28</sup> See Letter from Kangtai and Heze Huayi, “Certain Chlorinated Isocyanurates from the People’s Republic of China Surrogate Value Submission,” February 18, 2015, at Exhibit SV-3.

not support a finding that the AUV of any of the other remaining countries, when compared with that of Bulgaria, is more specific to the input.<sup>29</sup> Therefore, consistent with our practice in this proceeding, we find the Bulgarian GTA value to be the best available information to value chlorine.

Petitioners' arguments concerning the reliability of the Bulgarian GTA import data for chlorine rest on speculative notions concerning the pricing behavior of one of the two main Romanian producers of chlorine, both of which supply almost all the imports of chlorine into Bulgaria. As Petitioners correctly noted, the Department is not in a position of determining the portion of the imports from this alleged insolvent company that are represented within the total Bulgarian GTA import data. Furthermore, the Department cannot simply conclude that this company is not attempting to maximize its profits simply based on arguments that the Romanian government appears to have undertaken efforts to privatize this company.

We also do not find the Bulgarian GTA import value to be aberrational based on its average unit value ("AUV"). Petitioners include Indonesian GTA import data for chlorine as part of their analysis even though this country is not economically comparable to the PRC in the instant review. If we were to include Indonesia as part of such an analysis, we would also have to consider the GTA import data on the record for the Philippines, which is also a country that produces comparable merchandise. The Philippine import volume for chlorine is similar to the import volume for Indonesia during the POR, but the AUV for the Philippines is almost identical to that of Bulgaria (\$0.22 per kilogram for imports of chlorine to the Philippines and \$0.23 per kilogram for imports to Bulgaria).<sup>30</sup> Furthermore, while the Bulgarian GTA data may be the lowest value from among the data on the record from those countries on the updated Surrogate Country List, this comparison does not render them necessarily aberrational, particularly in light of the other information on the record (*e.g.*, the Philippine import data). Therefore, we do not find the Bulgarian GTA import data for chlorine to be aberrational. Rather, it represents the best available information on the record from an economically-comparable country. As such, there is no need to consider using Indonesian import data for chlorine since the Department does not find Indonesia to be economically comparably in the instant review.

Neither the Thai domestic price quotes from the ISS study nor the Thai public auction prices submitted by Kangtai represent the best available information to value chlorine. The Thai domestic price quotes, while arguably more specific, are not contemporaneous with the POR and do not represent actual prices paid for chlorine. In addition, the Department's preference favors the use of published prices that are more widely available rather than price quotes from a limited number of suppliers that can only be obtained through direct enquiry. Although one of the public auction prices are contemporaneous with the POR, we likewise do not find this one sale to a large utility to be representative of a broad-market average. As such, the Bulgarian GTA import data for chlorine represents the best available information for valuing liquid chlorine because it meets the criteria of being product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and free of taxes and duties.

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

## **Comment 2: Surrogate Value for the Raw Material Urea**

### **Petitioners' Argument**

- The Department should use Thai domestic price quotes from the ISS study provided by Petitioners in their preliminary comments as the surrogate value for urea. These price quotes are more specific than the Thai import statistics relied on in the Preliminary Determination. This is because the domestic price quotes cover solid urea, which both Heze Huayi and Kangtai reported using, while the Thai import data includes imports of other forms of urea.
- These Thai domestic price quotes are reliable and consistent with the AUV for imports of urea into Thailand from the GTA data.

### **Heze Huayi and Kangtai's Rebuttal**

- The Thai domestic price is a non-contemporaneous price quote.
- These price quotes are not representative of actual transactions, and the Department has a practice of not relying on price quotes.
- No party has argued that the Thai import prices for urea are unreliable. Additionally, they are country-wide, public, contemporaneous, and tax and duty free.

Department's Position: As noted above regarding the surrogate value for chlorine, the Thai domestic price quotes for urea from the ISS study are not contemporaneous with the POR and do not represent actual prices paid for urea (*i.e.*, these are quotes/offers, not the results of consummated transactions). The Department's preference, also stated above, is to use published prices that are widely available, rather than price quotes from a limited number of suppliers that can only be obtained through direct enquiry. Publicly available, published prices generally do not suffer from potential biases compared to those price quotes obtained through research by private firms. Furthermore, the GTA data for urea includes imports into the primary surrogate country, Thailand. No party has argued that this import data is unreliable. Additionally, while the ISS price for urea is arguably more specific, the aforementioned considerations lead to the conclusion that it is not the best available information on the record. For these final results, we continue to find the Thai GTA import data to be the best available information for valuing urea because it meets the criteria of being product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and free of taxes and duties.

## **Comment 3: Surrogate Value for the By-Product Hydrogen**

### **Petitioners' Argument**

- Hydrogen should be valued using import data from Indonesia because it is the only country on the record with imports of hydrogen in commercial quantities.
- The total volume of imports of hydrogen into Thailand is only 0.016 percent of the volume imported into Indonesia.
- The use of Thai GTA import data for hydrogen produces absurd results when applying the Department's test in *Glycine*.<sup>31</sup> That test shows that the simple average of all the

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<sup>31</sup> See *Glycine*, at Comment 3.



surrogate values of the inputs used in the electrolysis process which generates the by-product hydrogen is less than the Thai GTA import data value for hydrogen.

- If the Department does not use the Indonesian import data for hydrogen, it should cap the value of the hydrogen by-product using the surrogate value of the largest volume input consumed in the electrolysis process.

#### Jiheng's Rebuttal

- The Department should continue to value hydrogen using import data from Thailand.
- Indonesia is not an economically comparable country to the PRC based on the Updated Surrogate Country List.
- The Indonesian import data is aberrational when compared to the average of the AUVs for hydrogen from all the economically-comparable countries on the record with the exception of South Africa, which has an aberrational AUV.

Department's Position: The Department continues to find that Jiheng has provided sufficient information regarding the production and sale of its hydrogen by-product, consistent with prior reviews. For these final results, the Department has granted Jiheng's claim for a by-product offset for hydrogen generated during the POR.

The Department has noted that "it is unreasonable to assign a higher value to a waste product than to its input product."<sup>32</sup> Additionally, the Department has a practice of capping by-product surrogate values in instances where "it is of a higher price than the {surrogate value} for the input which created the scrap by-product in question."<sup>33</sup> In the instant case, Jiheng reported that by-products are unavoidably generated during the production process of intermediate products that are used to produce subject merchandise and that Jiheng distinguishes by-products from co-products based on their treatment in the normal course of business.<sup>34</sup> Jiheng "does not assign costs to the hydrogen gas or discharged chlorine gas in its normal records and it records the income from the sale of hydrogen (the only by-product it sells as is) separately from the sales of the products or co-products."<sup>35</sup> Since the surrogate value for hydrogen, the by-product in question, is higher than the average of the surrogate values for the inputs used in the electrolysis process for this by-product, we have determined that the hydrogen surrogate value should be capped, as it is higher than the average for the inputs for this by-product.<sup>36</sup> Therefore, we are

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<sup>32</sup> See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 20197 (April 15, 2015) and accompanying Issues and Decision Memorandum at Comment 20.

<sup>33</sup> *Id.*, citing *Monosodium Glutamate From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 58326 (September 29, 2014) at Comment 11, and *Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) at Comment 24, where the Department valued by-products using a simple average of the surrogate values for the inputs used to generate the by-products.

<sup>34</sup> See Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Response to Section C & D Response," December 16, 2014 (Jiheng Section C and D response), at D-27.

<sup>35</sup> *Id.*

<sup>36</sup> See Jiheng Final Analysis Memorandum. Because Jiheng does not track the input costs specific to its hydrogen by-product and has not identified the specific input quantities within the electrolysis process that can be tied solely to its hydrogen production, the Department has relied on a simple average rather than a weighted-average of all the inputs used in the electrolysis process to calculate the surrogate value cap for hydrogen.

changing the surrogate value for the by-product hydrogen to reflect the capped value for these final results.

The Department does not find the Indonesian GTA import value for hydrogen to be the best available information for the surrogate value for hydrogen. In the instant review, Indonesia is not considered an economically-comparable country to the PRC based on the Updated Surrogate Country List. As such, we find that the capping practice as explained above provides a reasonable estimation for the hydrogen byproduct surrogate value and also benefits from the use of surrogate values from the primary surrogate country for the inputs that are specific to the electrolysis process, reflecting Jiheng's production experience.

#### **Comment 4: Surrogate Financial Ratios**

##### **Petitioners' Argument**

- The Thai financial ratios that the Department calculated in the *Preliminary Results*, understates the overhead ratio and the actual overhead costs incurred by Aditya Birla because it assigns all unidentified cost of sales to energy costs which inherently reduces overhead costs.
- The actual cost experience of each respondent should be used to allocate the unidentified cost of sales in Aditya Birla's financial statement, based on the ratio of direct to indirect labor hours reported by all respondents. This approach incorporates the actual experience of the foreign producers.
- The Department should consider using more than one surrogate company's financial statements, in line with its preference for using multiple financial statements. The financial statement of Siam PVS Chemical Co., Ltd. ("Siam PVS") includes sufficient detail to calculate the financial ratios. The financial statement of Chemex Industry Company, Ltd. ("Chemex") is adequately translated to permit the calculation of financial ratios.

##### **Heze Huayi and Kangtai's Rebuttal**

- The Department does not look to the NME respondents' financial ratios to determine the reliability of surrogate financial ratios. This undermines the whole reason for using surrogate values in NME country cases.
- The Department does not analyze the ratios themselves to determine whether the surrogate company is comparable or reliable. Rather, the Department looks to the comparability of production, a lack of subsidies, the health of the company, and the detail of the statement to determine whether the company and its financial statement is a reliable surrogate.
- The Department found that the other Thai financial statements were unusable. Specifically, the Department correctly found that the Chemex financial statement is not translated fully to calculate reliable ratios, and that the Siam PVS financial statement is not detailed enough to appropriately calculate ratios.

- In the previous review, the Department found that Siam PVS' financial statement lacked adequate detail and solely relied on Aditya Birla's financial statement because it had adequate detail to calculate the financial ratios.<sup>37</sup>
- The Department's preference to use multiple financial statements presupposes that the statements are usable and of equal quality. An unusable, un-detailed, or subsidized financial statement does not become usable when it is combined with a usable, more detailed statement.
- In another chemical case, the Department chose Aditya Birla to the exclusion of other record Thai financial statements because the Aditya Birla statement had the best data.<sup>38</sup>

Department's Position: As correctly noted by both petitioners and respondents, the Department's preference is to use multiple financial statements when they are usable. In the instant case, Aditya Birla's financial statement is the only usable one on the record – it is the only financial statement that is fully translated, shows no evidence of countervailable subsidies, and provides sufficient detail for valuing factory overhead, selling, general and administrative expenses (SG&A), and profit. Consistent with our findings in *2012-13 Final Results*, we continue to find that Siam PVS' financial statement lacks the necessary information to allow for an accurate calculation of financial ratios because it does not provide an adequate level of detail. Aditya Birla's financial statement represents the best available information on the record because it is the only usable financial statement and offers a detailed information concerning the allocation of cost of goods sold to specific raw material, labor, and energy costs.

The Department continues to find the Chemex financial statements to be unusable because they are not fully translated. We cannot rely on the information contained in the general headings, which are the only portions of Chemex's financial statements that are translated, to accurately calculate the financial ratios. The narrative sections of financial statements often include specific detailed information regarding inventory, depreciation, government incentives, and employee benefits that the Department must review in order to reliably determine whether financial statements are usable and if they offer the best available information on the record to use in the calculation of the surrogate financial ratios. Failure to provide a complete translation of this information renders financial statements unusable, as is the case with the Chemex financial statements.

#### **Comment 5: By-Product Offset for Ammonium Sulfate**

##### **Petitioners' Argument**

- Heze Huayi and Kangtai should not receive a by-product offset for sales of ammonium sulfate because they are not able to identify the electricity or indirect labor consumed in the conversion of ammonia gas and sulfuric acid into ammonium sulfate. Only if the respondent can trace those costs specifically to the production of the by-product should any adjustment be permitted at all.

<sup>37</sup> See *2012-2013 Final Results*, and accompanying Issues and Decision Memorandum, at 12.

<sup>38</sup> See *Sodium Hexametaphosphate From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 59375 (September 27, 2012) and accompanying Issues and Decision Memorandum, at Comment 1.

- A volume-based allocation is fundamentally at odds with generally accepted accounting principles regarding by-products. It would be better to assign all of the untracked costs to the primary product.
- Kangtai, in particular, did not identify actual consumption of fresh sulfuric acid and direct labor during the entire POR. Instead, it calculated ratios of sulfuric acid and direct labor used for cyanuric acid and ammonium sulfate, and used these ratios to calculate the POR consumptions.

#### Heze Huayi and Kangtai's Rebuttal

- Although Kangtai did not trace fresh sulfuric acid and direct labor consumption in the first several months of the POR, it is appropriate to apply the ratio calculated from the last four months of the POR to the entire POR as reasonable facts available.
- Kangtai and Heze Huayi explained to the Department that both cyanuric acid and ammonium sulfate production have only one step that requires significant electricity, so it is appropriate to allocate electricity according to the production quantity.

Department's Position: For these final results, the Department is continuing to grant Heze Huayi and Kangtai a downstream by-product offset for ammonium sulfate. Both companies have provided a reasonable allocation for electricity and indirect labor based on the production quantity of cyanuric acid and ammonium sulfate which reflects their production experience and accounting records. Petitioners themselves, in arguing that volume-based allocation is fundamentally at odds with generally accepted accounting principles regarding by-products, fail to acknowledge that the reason Heze Huayi and Kangtai do not record these actual costs for ammonium sulfate is because the value of the primary product, cyanuric acid, is far greater than the value of the by-product, ammonium sulfate. Therefore, we would not normally expect actual production costs to be recorded with respect to this by-product, since the production process is focused on the primary product, cyanuric acid, and not ammonium sulfate. Furthermore, the Department does not limit the use of by-product offsets to cases where a company can trace those costs specifically to the production of the by-product, as Petitioners suggest. In the absence of actual production costs in these circumstances, we find the allocation methodology used by Heze Huayi and Kangtai to be reasonable.

In the previous review (AR8), we denied Kangtai this offset because Kangtai could not identify the amount of additional sulfuric acid it purchased and used for the production of ammonium sulfate.<sup>39</sup> Also in AR8, we put Kangtai on notice that “[i]n future reviews, consideration for a downstream by-product offset will be dependent upon a more accurate reporting of all the inputs used in the production of ammonium sulfate. As such, Kangtai must separately track the quantity of sulfuric acid input into the ammonium sulfate production process.”<sup>40</sup> Although we would prefer to have complete costs for fresh sulfuric acid and labor for the entire POR, we find that Kangtai has acted to the best of its ability by complying with the Department's request made in the last review to record and report these costs one month after the request was made. Therefore, for purposes of these final results, we will continue to apply this ratio calculated from the last four months to the entire POR as facts available.

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<sup>39</sup> See 2012-2013 Final Results, and accompanying Issues and Decision Memorandum, at 19.

<sup>40</sup> *Id.*, at 20.

## Comment 6: Calculation of Jiheng's Indirect Selling Expenses

### Petitioners' Argument

- Jiheng's indirect selling expenses should be adjusted to reflect the results of verification.
- At verification, the Department found that Jiheng paid its reported marketing fee directly to a company other than Sagax. The Department reviewed the contract between this company and Jiheng for these marketing services and found additional payments.
- The Department found that the denominator used in the calculation of per-unit indirect selling expenses included the sales of both EP and CEP sales, and had Jiheng revise the calculation reported in its response to remove the EP sales from the denominator.
- Whether or not CEP sales occurred in each month, indirect selling expenses are allocable to all sales on a period basis.

### Jiheng's Rebuttal

- The marketing payments found at verification were not indirect selling expenses because the contract under which these payments were made does not stipulate any work regarding sales of subject merchandise.
- These expenses were reported as indirect selling expenses only out of an abundance of caution, lest their exclusion be deemed more than a "minor correction" if found at verification. Nowhere in this contract is there any discussion of making U.S. sales of subject merchandise on behalf of Jiheng.
- There is no evidence on the record to support petitioners' conclusions that the money paid was applicable to indirect selling expenses related to any U.S. sales of subject merchandise. Even if they were somehow associated with U.S. sales, the Department has to consider that these expenses would also be associated with sales of non-subject merchandise.
- If the Department decides to include these expenses, the payments verified by the Department should be applied equally among each of the nine work tasks identified in the contract for which substantial evidence on the record supports a conclusion that they are indirect selling expenses applicable to sales of subject merchandise.

Department's Position: In the course of verifying Jiheng's reported indirect selling expenses, the Department discovered at verification the contract that governed the marketing fees that were included as part of Jiheng's reported indirect selling expenses.<sup>41</sup> Initially, Jiheng had reported expenses by Sagax, a company Jiheng purchased in March, 2014. However, the contract discovered was between Jiheng and a U.S. company other than Sagax.<sup>42</sup> This contract had not been reported in any of Jiheng's questionnaire responses. Also during verification, the Department found one additional unreported payment for marketing services made by Jiheng to this company.<sup>43</sup>

Following the Department's discovery of this contract and the additional unreported payment at verification, Jiheng argues that these expenses are unrelated to the sale of subject merchandise

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<sup>41</sup> See Jiheng Verification Report, at 18.

<sup>42</sup> *Id.*, at 17 and Verification Exhibit 20.

<sup>43</sup> *Id.*, at 18 and Verification Exhibit 20.

and should not be considered indirect selling expenses, even though Jiheng initially reported its marketing expenses as such.<sup>44</sup> We find Jiheng’s argument to be unavailing. Because Jiheng did not fully disclose the details of its indirect selling expenses, including the contract between itself and the company discovered at verification, and all the payments for the marketing services made under this contract during the POR, we find the use of facts available warranted.<sup>45</sup> As such, we have treated Jiheng’s marketing fees as indirect selling expenses, attributable to all of Jiheng’s CEP sales made during the POR. Although the contract itself does not identify any specific product, our review of Jiheng’s sales module during verification demonstrated that all of Jiheng’s EP and CEP sales involving Sagax, as either a U.S. customer or a wholly-owned U.S. affiliate, only included subject merchandise.<sup>46</sup> Furthermore, Jiheng initially reported these marketing service fees as indirect selling expenses and has not cited to any evidence on the record to support its claim that the money paid to the company discovered at verification was not related to any U.S. sales of subject merchandise. These are, accordingly, facts available to the Department in concluding that Jiheng’s marketing fees are attributable to all of its CEP sales during the POR. Therefore, the Department has modified Jiheng’s original calculation of its indirect selling expenses to include the additional payment discovered at verification and has allocated it to all CEP sales made during the POR.<sup>47</sup>

### **Comment 7: Calculation of Ocean Freight**

#### **Jiheng’s Argument**

- The surrogate value for ocean freight was reported in kilograms. However, Jiheng reported its sales price in metric tons. Thus, the value for ocean freight should have been the surrogate value for ocean freight multiplied by a thousand, to achieve an ocean freight expense per metric ton.

#### **Petitioners’ Rebuttal**

- Petitioners did not rebut.

Department’s Position: The Department agrees with Jiheng and has corrected the calculation by converting the surrogate value for ocean freight to a per metric ton basis.

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<sup>44</sup> See Letter from Jiheng, “Chlorinated Isocyanurates from the People’s Republic of China: Response to Supplemental Section A & C Response,” May 8, 2015, at 13 and Exhibit SC-8.2.


<sup>45</sup> Jiheng failed to provide necessary information by the deadline for submission of the information. See section 776(a)(2)(B) of the Act; section 782(c)-(e) of the Act; and 19 CFR 351.308.

<sup>46</sup> See Jiheng Verification Report, at 14 and Exhibit 8.a.


<sup>47</sup> See Jiheng Final Analysis Memorandum.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of the review and the final dumping margin in the *Federal Register*.

  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

  
\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

4 JANUARY 2016  
Date