



A-570-904

ARP: 4/1/2014 - 3/31/2015

Public Document
E&C/V: RJP/FMV

February 26, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of
Antidumping Duty Administrative Review: Certain Activated
Carbon from the People's Republic of China; 2014-2015

SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China ("PRC") for the period of review ("POR") April 1, 2014, through March 31, 2015. The Department preliminarily determines that sales of the subject merchandise in the United States were at prices below normal value ("NV"). In accordance with the final results of this administrative review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of these preliminary results pursuant to section 751 (a)(3)(A) of the Tariff Act of 1930, as amended (the "Act"), unless extended.

BACKGROUND

Initiation

On May 26, 2015, the Department published the notice of initiation of the eighth administrative review of certain activated carbon from the PRC for the POR, April 1, 2014, to March 31, 2015.¹ The Department initiated an administrative review of 202 exporters of subject merchandise.² On

¹ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 80 FR 30041 (May 26, 2015) ("Initiation Notice").

² Id. at 80 FR 30043-46.



January 15, 2016, the Department extended the period for issuing the preliminary results until February 22, 2016.³ Additionally, as explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines as a result of the closure of the Federal Government.⁴ Therefore, the revised deadline for the preliminary results has been tolled by 4 business days to February 26, 2016.

Respondent Selection

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

On May 26, 2015, the Department placed CBP data for the Harmonized Tariff Schedule of the United States (“HTSUS”) numbers listed in the scope of the order on the record of the review and requested comments on the data for use in respondent selection.⁵ On June 2, 2015, we received comments from Petitioners⁶ and Jacobi Carbons AB and its affiliates (collectively, “Jacobi”).⁷ No other party submitted comments and no party submitted rebuttal comments.

On June 17, 2015, the Department issued the respondent selection memorandum, in which it explained that, because of the large numbers of exporters or producers involved in the review (202 companies at the time of initiation) and the Department’s resource constraints, it would not

³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Ryan Mullen, International Trade Compliance Analyst, Office V, re: “Certain Activated Carbon from the People’s Republic of China: Second Extension of Deadline for Preliminary Results of the Eighth Antidumping Duty Administrative Review,” dated January 15, 2016.

⁴ See Memorandum for the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, “Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm ‘Jonas,’” (January 27, 2016).

⁵ See Memo to All Interested Parties, re: “Administrative Review of the Antidumping Duty Order of Certain Activated Carbon from the People’s Republic of China: CBP Data for Respondent Selection,” dated May 26, 2015.

⁶ Petitioners are Calgon Carbon Corporation and Cabot Norit Americas.

⁷ In the third administrative review, the Department found Jacobi Carbons AB, Tianjin Jacobi International Trading Co. Ltd., and Jacobi Carbons Industry (Tianjin) are a single entity and, because there were no changes to the facts which supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. See Certain Activated Carbon From the People’s Republic of China: Final Results and Partial Rescission of Third Antidumping Duty Administrative Review, 76 FR 67142 (October 31, 2011); Certain Activated Carbon From the People’s Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review, 77 FR 67337, 67338 (November 9, 2012); Certain Activated Carbon From the People’s Republic of China; 2011–2012; Final Results of Antidumping Duty Administrative Review, 78 FR 70533, 70535 (November 26, 2013) (“AR5 PRC Carbon Final”); Certain Activated Carbon From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 70163, 70165 (November 25, 2014) at footnote 30; 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).

be practicable to examine all companies individually.⁸ Rather, the Department determined that it could only reasonably examine two exporters in this review.⁹ Pursuant to section 777A(c)(2)(B) of the Act, the Department selected Datong Juqiang Activated Carbon Co., Ltd. (“Datong Juqiang”) and Jacobi for individual examination because they were the two largest exporters/producers of the subject merchandise, by volume, during the POR.¹⁰

Scope of the Order

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

The scope of the order covers all forms of activated carbon that are activated by steam or CO₂, regardless of the raw material, grade, mixture, additives, further washing or post-activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of the order covers all physical forms of certain activated carbon, including powdered activated carbon (“PAC”), granular activated carbon (“GAC”), and pelletized activated carbon.

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

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO₂ gas) activated carbons are within the scope, and those containing more than 50 percent chemically activated carbons are

⁸ See Memorandum to James C. Doyle, Director, Office V, from Ryan Mullen, International Trade Compliance Analyst, Office V, “Eighth Antidumping Duty Administrative Review of Certain Activated Carbon from the People’s Republic of China: Selection of Respondents for Individual Review,” dated June 17, 2015 (“Respondent Selection Memo”). In the Respondent Selection Memo, the Department inadvertently stated it initiated a review for 201 companies. A recount of the names in the Initiation Notice shows it initiated on 202 companies.

⁹ Respondent Selection Memo, at 4-5.

¹⁰ *Id.* at Attachment. Additionally, Datong and Jacobi represent three of the 202 companies for which a review was initiated.

outside the scope. This exclusion language regarding blended material applies only to mixtures of steam and chemically activated carbons.

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

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

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

DISCUSSION OF THE METHODOLOGY

Preliminary Determination of No Shipments

On June 25, 2015, Carbon Activated Tianjin Co., Ltd. (“Carbon Activated”) filed a no shipment certification indicating that it did not export subject merchandise to the United States during the POR.¹¹ In order to examine Carbon Activated’s claim, we sent an inquiry to CBP requesting that any CBP office alert the Department if it had information contrary to the no-shipments claim. To date, the Department has received no information contrary to Carbon Activated’s claim.

Based on the no-shipment claim submitted by Carbon Activated and our analysis of the CBP information on the record, we preliminarily determine that Carbon Activated had no shipments during the POR. In addition, the Department finds that, consistent with its practice in non-market economy (“NME”) cases, it is appropriate not to rescind the review, in part, for Carbon Activated in this circumstance, but, rather, to complete the review.¹²

¹¹ See Carbon Activated’s June 25, 2015, submission regarding “Activated Carbon from the PRC: No Sales Certification.”

¹² See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694, 65695 (October 24, 2011).

Non-Market Economy Country

The Department considers the PRC to be an NME country.¹³ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Separate Rates

The Department has the rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.¹⁴ In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in NME proceedings.¹⁵ It is the Department's policy to assign all exporters of the merchandise subject to review in an NME proceeding a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME proceeding under the test established in Sparklers,¹⁶ as amplified by Silicon Carbide.¹⁷ However, if the Department determines that a company is wholly foreign-owned, then an analysis of the de jure and de facto criteria is not necessary to determine whether it is independent from government control.¹⁸

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the Diamond Sawblades from the PRC antidumping duty proceeding, and the

¹³ See, e.g., Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014, 80 FR 25669 (May 5, 2015) and accompanying Decision Memorandum at 5, unchanged in the final results. See Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014, 80 FR at 61172 (October 9, 2015).

¹⁴ See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079, 53082 (September 8, 2006); Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China, 71 FR 29303, 29307 (May 22, 2006).

¹⁵ See Initiation Notice, 80 FR at 30042-43.

¹⁶ See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) ("Sparklers").

¹⁷ See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China, 59 FR 22585 (May 2, 1994) ("Silicon Carbide").

¹⁸ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews, 79 FR 4327 (January 27, 2014), and Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007).

Department's determinations therein.¹⁹ In particular, in litigation involving the Diamond Sawblades from the PRC proceeding, the U.S. Court of International Trade ("CIT") found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the exporter under examination.²⁰

As discussed below, of the 202 companies for which we initiated a review, 179 companies did not file a separate rate application ("SRA") or separate rate certification ("SRC"), 18 companies filed a timely SRA or SRC, three are mandatory respondents (Datong Juqiang and two companies for Jacobi), one company filed an untimely SRA, and one is a U.S. company.²¹

The Department received completed responses to the section A portion of the NME questionnaire from the mandatory respondents, Datong Juqiang and Jacobi, which contained information pertaining to the companies' eligibility for a separate rate. In addition, the Department received either a SRA or SRC from the following 18 companies ("Separate-Rate Applicants"):

1. Beijing Embrace Technology Co. Ltd. ("Beijing Embrace"),
2. Beijing Pacific Activated Carbon Products Co., Ltd. ("Pacific Activated"),
3. Calgon Carbon (Tianjin) Co. Ltd. ("Calgon"),
4. Datong Municipal Yunguang Activated Carbon Co., Ltd. ("Yunguang"),

¹⁹ See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China (May 6, 2013) in Advanced Technology & Materials Co., Ltd. v. United States, 885 F. Supp. 2d 1343 (CIT 2012) ("Advanced Technology I"), sustained, Advanced Technology & Materials Co. v. United States, 938 F. Supp. 2d 1342 (CIT 2013), aff'd, Case No. 2014-1154 (Fed. Cir. 2014) ("Advanced Technology II"). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memo at 7, unchanged in Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 35723 (June 24, 2014) ("Diamond Sawblades") and accompanying Issues and Decision Memorandum at Comment 1.

²⁰ See, e.g., Advanced Technology I, 885 F. Supp. 2d at 1349 ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); id., at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor de jure 'separation' that Commerce concludes.") (footnotes omitted); id., at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); id., at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (Footnotes omitted).

²¹ We are rescinding this review with respect to Cherishmet, Inc. The Department has previously determined Cherishmet, Inc. is a U.S. shareholder of Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. and the record of this review supports that determination. See Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results, 74 FR 21317, 21319-21320 (May 7, 2009), unchanged in AR1 Carbon and accompanying Issues and Decisions Memorandum at Comment 21 footnote 210. See also Cherishmet's SRC, dated June 19, 2015, at 5 and Exhibit 3.

5. Jilin Bright Future Chemicals Co., Ltd. (“Jilin Bright Future”),
6. Ningxia Guanghua Activated Carbon Co., Ltd. (“GH”),
7. Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. (“Cherishmet”),²²
8. Ningxia Huahui Activated Carbon Co., Ltd. (“Huahui”),
9. Ningxia Mineral & Chemical Limited (“M&C Limited”),
10. Shanxi DMD Corporation (“DMD Corporation”),
11. Shanxi Dapu International Trade Co., Ltd. (“Dapu International”),
12. Shanxi Industry Technology Trading Co., Ltd. (“Shanxi ITT”),
13. Shanxi Sincere Industrial Co., Ltd. (“Sincere Industrial”),
14. Shanxi Tianxi Purification Filter Co., Ltd. (“Tianxi Purification”),
15. Sinoacarbon International Trading Co., Ltd. (“Sinoacarbon”),
16. Tancarb Activated Carbon Co., Ltd. (“Tancarb”),
17. Tianjin Channel Filters Co., Ltd. (“Channel Filters”), and
18. Tianjin Maijin Industries Co., Ltd. (“Maijin Industries”).

a. Wholly Foreign-Owned Applicants

Jacobi reported that it is wholly-owned by a company located in a market-economy (“ME”) country, Japan.²³ Calgon, and M&C Limited also demonstrated in their separate-rate certifications that they are wholly owned by a company located in a ME country (i.e., United States, and Hong Kong, respectively).²⁴ Therefore, as there is no PRC ownership of these three companies, and because the Department has no evidence indicating that these companies are under the control of the PRC government, further analyses of the de jure and de facto criteria are not necessary to determine whether they are independent from government control of their export activities.²⁵ Therefore, we preliminarily determine that Jacobi, Calgon, and M&C Limited are preliminarily eligible for separate rates.

b. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter’s business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.²⁶ The evidence provided by Datong Juqiang and fifteen

²² In the first administrative review, the Department found that Pacific Activated, Cherishmet and GH are a single entity and, because there were no changes to the facts which supported that decision since that determination, we continue to find that these companies are part of a single entity for this administrative review. See Certain Activated Carbon From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014, 80 FR 61172 (October 9, 2015).

²³ See Jacobi’s section A questionnaire response, dated July 15, 2015, at A-2.

²⁴ See Calgon’s SRC, dated June 25, 2015, at 2; see also M&C Limited’s SRC, dated June 25, 2015, at 2.

²⁵ See, e.g., Brake Rotors From the People’s Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review, 66 FR 1303, 1306 (January 8, 2001), unchanged in Brake Rotors From the People’s Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review, 66 FR 27063 (May 16, 2001); Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People’s Republic of China, 64 FR 71104, 71104-05 (December 20, 1999).

²⁶ See Sparklers, 56 FR at 20589.

other Separate-Rate Applicants²⁷ supports a preliminary finding of the absence of de jure government control of export activities based on the following: (1) there is an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of the companies.²⁸

c. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to de facto government control of its export functions: (1) whether the export prices ("EPs") are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.²⁹ The Department determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.³⁰ The evidence provided by Datong Juqiang and ten of the Separate-Rate Applicants supports a preliminary finding of the absence of de facto government control based on the following: (1) the companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.³¹ Therefore, the Department preliminarily finds that Datong Juqiang, Channel Filters, Cherishmet, Dapu International, DMD Corporation, GH, Huahui, Jilin Bright Future, Maijin Industries, Pacific Activated, Shanxi ITT, Sincere Industrial, Sinoacarbon, Tancarb, Tianxi Purification, Yunguang, have established that they qualify for a separate rate under the criteria established by Silicon Carbide and Sparklers.

²⁷ These companies are: (1) Channel Filters, (2) Cherishmet, (3) Dapu International, (4) DMD Corporation, (5) GH, (6) Huahui, (7) Jilin Bright Future, (8) Maijin Industries, (9) Pacific Activated, (10) Shanxi ITT, (11) Sincere Industrial, (12) Sinoacarbon, (13) Tancarb, (14) Tianxi Purification, and (15) Yunguang.

²⁸ See Datong Juqiang's section A response, dated July 20, 2015, at 2-10 and Exhibit A-9; Channel Filters SRC, dated June 25, 2015, at 7-9 and Exhibits 1 and 2; Cherishmet SRC, dated June 19, 2015, at 5-6 and Exhibits 3 and 4; Dapu International SRA, dated June 25, 2015; DMD Corporation SRA, dated June 25, 2015; GH SRC, June 19, 2015, at 5-7 and Exhibit 3; Huahui SRA dated September 8, 2015, and its SRC dated June 25, 2015; Jilin Bright Future SRC, dated June 25, 2015, at 4-6 and Exhibits 1 and 2; Maijin Industries SRC, June 22, 2015, at 4-6 and Exhibits 2 and 3; Pacific Activated SRC, June 19, 2015, at 5-6 and Exhibits 3 and 4; Shanxi ITT SRA, dated June 25, 2015; Sincere Industrial SRA, dated June 14, 2015; Sinoacarbon SRC, dated June 22, 2015, at 4-6 and Exhibits 2 and 3; Tancarb SRC, dated June 22, 2015, at 4-6 and Exhibits 2 and 3; Tianxi Purification SRA, dated June 12, 2015; and Yunguang SRC, June 19, 2015, at 5-6 and Exhibits 3 and 4.

²⁹ See Silicon Carbide, 59 FR at 22586-87; see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).

³⁰ Id.

³¹ See generally Separate Rate Applicants.

Companies that did not Establish Their Eligibility for a Separate Rate

The two companies listed below failed to provide a timely response to a separate rate application or to a supplemental questionnaire to establish their eligibility for a separate rate. Hence, the Department preliminarily determines to treat the following companies as part of the PRC-wide entity:

- 1) Beijing Embrace
- 2) Shanxi Carbon Industry Co., Ltd. (“Shanxi Carbon”)

With respect to Beijing Embrace, on August 12, 2015, we issued a supplemental questionnaire pertaining to its SRA submission, with a response deadline of August 19, 2015.³² Beijing Embrace did not file a response by the stated deadline, nor did it timely file a request for an extension. On August 31, 2015, Beijing Embrace withdrew from participation and stated that it would not respond further to the Department’s requests for information in this administrative review.³³

Shanxi Carbon filed its SRA with the Department 21 days after the 30-day deadline of June 25, 2015. Therefore, pursuant to 19 CFR 351.302(d) and 19 CFR 351.104(2)(iii), we rejected Shanxi Carbon’s SRA as untimely and did not retain a copy of the submission in the official record of this proceeding.³⁴

The remaining 179 companies³⁵ failed to establish their eligibility for a separate rate because they did not file an SRA or an SRC with the Department. Hence, the Department preliminarily determines to treat these companies as part of the PRC-wide entity.³⁶

Because no party requested a review of the PRC-wide entity and the Department no longer considers the PRC-wide entity as an exporter conditionally subject to administrative reviews,³⁷ we did not conduct a review of the PRC-wide entity. Thus, the rate for the-NME entity is not subject to change because of this review. Therefore, if our determination regarding these two companies is unchanged in the final results, entries for the two companies identified above will be assessed antidumping duties at the cash deposit rate previously established for the PRC-wide entity (*i.e.*, 2.42 U.S. dollars/kilogram (“USD/kg”)).

³² See the Department’s letter to Beijing Embrace regarding, “2014-2015 Antidumping Duty Administrative Review of Certain Activated Carbon from the People’s Republic of China: Separate Rate Application Supplemental,” dated August 12, 2015.

³³ See Beijing Embrace’s Letter to the Department regarding, “Activated Carbon from China; Withdrawal of Participation,” dated August 31, 2015.

³⁴ See the Department’s letter to Shanxi Carbon regarding, “2014-2015 Antidumping Duty Administrative Review of Certain Activated Carbon from the People’s Republic of China: Rejection of Separate Rate Application Submitted July 16, 2015,” dated July 16, 2015.

³⁵ See Attachment I for a complete listing of these companies.

³⁶ *Id.*

³⁷ See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963, 65969-70 (November 4, 2013).

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

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

The statute and the Department’s regulations do not address the establishment of a rate to be applied to individual respondents not selected for individual examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate-rate respondents which we did not examine individually in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using rates for individually examined respondents which are zero, de minimis, or based entirely on facts available (“FA”). Accordingly, the Department’s usual practice in determining the rate for separate-rate respondents not selected for individual examination has been to average the weighted-average dumping margins for the selected companies, excluding rates that are zero, de minimis, or based entirely on FA.³⁸

In these preliminary results, the two mandatory respondents, Datong Juqiang and Jacobi, have weighted-average dumping margins which are not zero, de minimis, or based entirely on FA. Additionally, because using the weighted-average margin based on the calculated net U.S. sales quantities for Datong Juqiang and Jacobi would allow these two respondents to deduce each other’s business-proprietary information and thus cause an unwarranted release of such information, we cannot assign to the separate rate companies the weighted-average margin based on the calculated net U.S. sales values from these two respondents.³⁹

For these preliminary results, and consistent with our practice,⁴⁰ we determine that using the ranged total sales quantities reported by Datong Juqiang and Jacobi from the public versions of their submissions to calculate a weighted-average margin is more appropriate than calculating a simple average margin.⁴¹ These publicly available figures provide the basis upon which we can calculate a margin which is the best proxy for the weighted-average margin based on the calculated net U.S. sales values of Datong Juqiang and Jacobi without the possibility of disclosing any business proprietary information. We find that this approach is more consistent

³⁸ See Longkou Haimeng Mach. Co. v. United States, 581 F. Supp. 2d 1344, 1357-60 (CIT 2008) (affirming the Department’s determination to assign a 4.22 percent dumping margin to the separate rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively); see also Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 36656, 36660 (July 24, 2009).

³⁹ See, e.g., AR5 PRC Carbon Final, 78 FR at 70534-35.

⁴⁰ Id.

⁴¹ See Jacobi’s public version of its supplemental section A questionnaire response, dated July 27, 2015, at Exhibit 1; see also Datong Juqiang’s Public Version of Exhibit A-1 for the section A response, dated July 20, 2015.

with the intent of section 735(c)(5)(A) of the Act and our use of that statutory provision as guidance when we establish the rate for respondents not examined individually in an administrative review.⁴²

Because the calculated net U.S. sales values for Datong Juqiang and Jacobi are business proprietary, we find that 2.22 U.S. dollars/kilogram (“USD/kg”), which we calculated using the publicly available figures of U.S. sales quantities for these two firms, is the best reasonable proxy for the weighted-average margin based on the calculated U.S. sales quantities of Datong Juqiang and Jacobi.⁴³ The Separate-Rate Applicants receiving this rate are identified by name in the “Preliminary Results of the Review” section of the Federal Register notice.

Surrogate Country and Surrogate Value Data

On July 6, 2015, the Department sent interested parties a letter inviting comments on: (1) the non-exhaustive list of countries that the Department determined are at the same level of economic development as the PRC based on annual per capita gross national income (“GNI”), (2) surrogate country selection, and (3) surrogate value (“SV”) data.⁴⁴ On July 20, 2015, Petitioners, Jacobi and Datong Juqiang submitted comments on the list of countries.⁴⁵ On August 7, 2015, the Department issued a revised letter inviting comments on: (1) the revised non-exhaustive list of countries that the Department determined is at the same level of economic development as the PRC, (2) surrogate country selection, and (3) SV data.⁴⁶ On August 17, 2015, Petitioners and Jacobi submitted comments on the surrogate country list.⁴⁷ On August 31, 2015, Petitioners and Datong Juqiang submitted comments on surrogate country selection.⁴⁸ On September 17, 2015, the Department extended the deadline for SV comments and rebuttal SV

⁴² See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 56158, 56160 (September 12, 2011); see also Galvanized Steel Wire From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 76 FR 68407, 68415 (November 4, 2011) unchanged in the final determination, see Galvanized Steel Wire From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 17430 (March 26, 2012).

⁴³ For further discussion regarding this issue, see the “Memorandum to the File from Bob Palmer, International Trade Specialist, Office V Re: Calculation of Separate Rate,” dated concurrently with this memorandum.

⁴⁴ See Department’s Letter to All Interested Parties, Re: “Eighth Administrative Review of the Antidumping Duty Order on Certain Activated Carbon from the People’s Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information,” dated July 6, 2015 (“Surrogate Country Memo”).

⁴⁵ See Petitioners’ Comments on Economic Comparability, dated July 20, 2015 (“Petitioners’ SC/EC Comments”); Datong Juqiang’s Comments on Economic Comparability, dated July 20, 2015 (“Datong’s SC/EC Comments”); and Jacobi’s Comments on Economic Comparability, dated July 20, 2015 (“Jacobi’s SC/EC Comments”).

⁴⁶ See Letter to All Interested Parties, titled “Eighth Administrative Review of the Antidumping Duty Order on Certain Activated Carbon from the People’s Republic of China: Request for Economic Development. Surrogate Country and Surrogate Value Comments and Information,” dated August 7, 2015 (“Revised Surrogate Country Memo”).

⁴⁷ See Petitioners’ Comments on Surrogate Country List, dated August 17, 2015 (“Petitioners’ 2nd SC/EC Comments”), and see Jacobi’s Comments on Surrogate Country List, dated August 17, 2015 (“Jacobi’s 2nd SC/EC Comments”).

⁴⁸ See Petitioners’ comments on surrogate country selection, dated August 31, 2015 (“Petitioners’ SC Comments”), and see Datong’s comments on surrogate country selection, dated August 31, 2015 (“Datong’s SC Comments”).

comments to September 24, 2015 and October 1, 2015, respectively.⁴⁹ On September 24, 2015, Petitioners, Datong Juqiang and Jacobi submitted SV comments.⁵⁰ On October 1, 2015, Petitioners and Jacobi submitted rebuttal SV comments.⁵¹ On January 4, 2016, Petitioners, Datong Juqiang, Jacobi, and Shanxi DMD submitted SV comments.⁵² On January 19, 2016, Petitioners and Jacobi submitted rebuttal SV comments.⁵³ On January 25, 2016, Jacobi submitted SV comments.⁵⁴

Surrogate Country Selection

When the Department investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOPs"), valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.⁵⁵ As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons.⁵⁶ Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.⁵⁷ To determine which countries are at the same level of economic development, the Department generally relies on per capita gross national income ("GNI") data from the World Bank's World Development Report.⁵⁸ Further, the Department has stated that it prefers to value all FOPs from a single surrogate country.⁵⁹

⁴⁹ See Memorandum to the File, from Ryan Mullen, International Trade Compliance Analyst, Office V, Enforcement and Compliance, "Extension of Deadline for Submission of Rebuttal Surrogate Value Comments," dated September 17, 2015.

⁵⁰ See Petitioners' Surrogate Value Comments, dated September 24, 2015 ("Petitioners' SV Comments"); Datong's Surrogate Value Comments, dated September 24, 2015 ("Datong's SV Comments"); and Jacobi's Surrogate Value Comments, dated September 24, 2015 ("Jacobi's SV Comments").

⁵¹ See Petitioners' Rebuttal SV Comments, dated October 1, 2015; Jacobi's Rebuttal SV Comments, dated October 1, 2015.

⁵² See Petitioners' Surrogate Value Comments, dated January 4, 2016; Datong Juqiang's Surrogate Value Comments, dated January 4, 2016; Jacobi's Surrogate Value Comments, dated January 4, 2016; and Shanxi DMD's Surrogate Value Comments, dated January 4, 2016.

⁵³ See Petitioners' Rebuttal SV Comments, dated January 19, 2016; Jacobi's Rebuttal SV Comments, dated January 19, 2016.

⁵⁴ See Jacobi's SV Comments, dated January 25, 2016.

⁵⁵ See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin 04.1").

⁵⁶ *Id.*

⁵⁷ See Revised Surrogate Country Memo.

⁵⁸ *Id.*

⁵⁹ See 19 CFR 351.408(c)(2).

On August 7, 2015, the Department identified Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand as countries that are at the same level of economic development as the PRC based on per capita 2014 GNI data. Petitioners recommend that the Department select Mexico as the primary surrogate country and as an alternative, Malaysia.⁶⁰ Petitioners also submitted data to value FOPs from Mexico and Malaysia.⁶¹ Petitioners argue that the Department should not rely on SV data from the Philippines or the U.S. because neither of these countries is at the same level of economic development as the PRC.⁶² Datong Juqiang recommends that the Department select Thailand for the primary surrogate country but states that it may not offer multiple useable and contemporaneous financial statements. It offers the Philippines as an alternative choice and Datong Juqiang and Jacobi have submitted data to value FOPs from that country.⁶³ The Petitioners claim, however, that the Department cannot rely on SV information from the Philippines to value FOP's as the respondents did not place Philippine SV data for bituminous coal, a main input for the subject merchandise, and Jacobi did not place Philippine SV data for anthracite coal, a significant input for the subject merchandise, as well as information on how to adjust Philippine import values, on the record. Additionally, Datong Juqiang, Jacobi and Shanxi DMD submitted data to value FOPs from Thailand⁶⁴ and Jacobi submitted data to value FOPs from South Africa.⁶⁵ Datong Juqiang further submits that the Philippines provide the most accurate and representative SVs given its status as the largest producer of activated carbon and data availability (including multiple useable financial statements).

Economic Comparability

As explained in the Revised Surrogate Country Memo, consistent with its practice, and section 773(c)(4) of the Act, the Department considers Bulgaria, Ecuador, Mexico, Romania, South Africa, and Thailand to be at the same level of economic development comparable to the PRC.⁶⁶ The Department treats each of these countries as equally comparable.⁶⁷ Therefore, we consider all six countries identified in the Revised Surrogate Country Memo as having met this prong of the surrogate country selection criteria. Unless we find that none of these countries is a significant producer of comparable merchandise, does not provide a reliable source of publicly available surrogate data, or is unsuitable for use for other reasons, or we find that another equally comparable country is an appropriate surrogate within the GNI range, we will rely on data from

⁶⁰ See Petitioner's SC Comments and Petitioner's SV Comments.

⁶¹ Id.

⁶² See Petitioners' Rebuttal SV Comments, dated October 1, 2015

⁶³ See Datong's SC Comments and Jacobi's SV Comments.

⁶⁴ See Datong SV submission, dated January 4, 2016, ("Datong Jan4 SVs"), Jacobi SV submission, dated January 4, 2016, ("Jacobi Jan4 SVs"), and Shanxi DMD SV submission, dated January 4, 2016, ("Shanxi Jan4 SVs").

⁶⁵ See Jacobi's SV Comments.

⁶⁶ See Revised Surrogate Country Memo.

⁶⁷ See, e.g., Certain Steel Wheels From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination, 76 FR 67703, 67708 (November 2, 2011), unchanged in Certain Steel Wheels From the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances, 77 FR 17021 (March 23, 2012).

one of these countries.⁶⁸ Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development. As discussed below, we have preliminarily determined that one or more of these countries are viable options, and as such, we will not rely on data from Malaysia or the Philippines, whose 2014 GNI do not fall within the range of GNI represented by the countries included on the surrogate country list issued by the Department.⁶⁹

Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as Policy Bulletin 04.1 for guidance on defining comparable merchandise. Policy Bulletin 04.1 states "the terms 'comparable level of economic development,' 'comparable merchandise,' and 'significant producer' are not defined in the statute."⁷⁰ Policy Bulletin 04.1 further states, "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."⁷¹ Conversely, if the country does not produce identical merchandise, then a country producing comparable merchandise is sufficient in selecting a surrogate country.⁷² Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.⁷³ "In cases where the identical merchandise is not produced, the team must determine if other merchandise that is comparable is produced. How the team does this depends on the subject merchandise."⁷⁴ In this regard, the Department recognizes that it must do an analysis of comparable merchandise on a case-by-case basis:

In other cases, however, where there are major inputs, i.e., inputs that are specialized, dedicated, or used intensively, in the production of the subject merchandise, e.g., processed agricultural, aquatic and mineral products,

⁶⁸ Id.; see also, e.g., Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 78 FR 36168 (June 17, 2013), and accompanying Issues and Decision Memorandum at Comment 5; and Silica Bricks and Shapes From the People's Republic of China: Preliminary Determination of Antidumping Duty Investigation and Postponement of Final Determination, 78 FR 37203 (June 20, 2013), unchanged in Final Determination of Sales at Less Than Fair Value: Silica Bricks and Shapes From the People's Republic of China, 78 FR 70918 (November 27, 2013).

⁶⁹ See Revised Surrogate Country Memo.

⁷⁰ See Policy Bulletin 04.1.

⁷¹ Id.

⁷² Policy Bulletin 04.1 also states that "{i}f considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." Id. at note 6.

⁷³ See Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 65674 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

⁷⁴ See Policy Bulletin 04.1 at 2.

comparable merchandise should be identified narrowly, based on a comparison of the major inputs, including energy, where appropriate.⁷⁵

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.⁷⁶ Moreover, while the legislative history provides that the term “significant producer” include any country that is a significant “net exporter,”⁷⁷ it does not preclude reliance on additional or alternative metrics.

In this review, we examined export data published by the Global Trade Atlas (“GTA”) to determine which countries included on the surrogate country lists based on 2014 GNI data were producers of comparable merchandise. GTA export data indicate that Ecuador, Mexico, Romania, South Africa, and Thailand had significant exports during the POR of the primary Harmonized Tariff Schedule (“HTS”) heading included in the scope, *i.e.*, exports of HTS number 3802.10.⁷⁸ Because multiple potential surrogate countries have been identified as significant producers of identical or comparable merchandise through the above analysis, the Department looks to the availability of SV data to determine the most appropriate surrogate country.

Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, the Department selects the primary surrogate country based on data availability and reliability.⁷⁹ When evaluating SV data, the Department considers several factors, including whether the SVs are publicly available, contemporaneous with the POR, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being valued.⁸⁰

Petitioners placed SV data on the record for Malaysia and Mexico. Datong Juqiang placed SV data on the record for the Philippines and Thailand, while Jacobi placed SV data on the record from the Philippines, South Africa, and Thailand. We preliminarily determine not to rely on data from Malaysia or the Philippines because the Department does not consider these countries to be at the same level of economic development as the PRC and we have sufficiently reliable and useable SV data from a country at the same level of economic development.

The Department finds, pursuant to section 773(c)(4) of the Act, that it is appropriate to select Thailand as the primary surrogate country because Thailand is at the same level of economic development and is a significant producer of identical or comparable merchandise. Furthermore, as noted above, the record contains Thai SV data for all FOPs reported by Jacobi and Datong Juqiang.⁸¹ The Department finds Thailand to be a reliable source for SVs, with the exception of

⁷⁵ *Id.*, at 3.

⁷⁶ See section 773(c)(1) of the Act; see also *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

⁷⁷ See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576, at 590 (1988) (“OTCA 1988”).

⁷⁸ See Petitioners’ SC Comments, dated October 31, 2015 at, Attachment 4.

⁷⁹ See Policy Bulletin 04.1.

⁸⁰ *Id.*

⁸¹ See Jacobi’s Jan4 SVs and Datong Juqiang’s Jan4 SVs.

anthracite coal as noted below, because Thailand is at a comparable level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has publicly available and reliable data. Given the above facts, the Department has selected Thailand as the primary surrogate country for this review. A detailed explanation of the SVs is provided below in the “Normal Value” section of this memorandum.

Facts Available for Normal Value

Jacobi’s Exclusion Request

On July 1, 2015, Jacobi requested to be excused from reporting FOP data for certain PRC producers and to be excused from reporting FOP data for suppliers to producers.⁸² On July 6, 2015, the Department notified Jacobi that due to the large number of producers that supplied Jacobi during the POR, we excused Jacobi from reporting certain FOP data.⁸³ Specifically, the Department did not require Jacobi to report FOP data for its smallest producers or require FOP data from suppliers of its producers.⁸⁴

In accordance with section 776(a)(1) of the Act, the Department is applying facts available to determine the NV for the sales corresponding to the FOP data Jacobi was excused from reporting. Consistent with our treatment of this issue in other segments of this proceeding, as facts available, the Department is applying the calculated average NV of Jacobi’s reported sales to the sales of merchandise produced by their excluded producers.⁸⁵ The Department addressed these issues in separate company-specific memoranda, which include a detailed explanation of the facts available calculation.⁸⁶

Date of Sale

Pursuant to 19 CFR 351.401(i), we normally will use the invoice date as the date of sale unless we are satisfied that a different date better reflects the date on which the material terms of the sale are established. Datong Juqiang and Jacobi reported the invoice date as the date of sale because it claimed that for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established based on the invoice date.⁸⁷ Therefore, in accordance with 19 CFR 351.401(i) and the Department’s long-standing practice of determining the date of

⁸² See Jacobi’s Request for Exclusions, dated July 1, 2015.

⁸³ See the Department’s Letters to Jacobi, dated July 6, 2015.

⁸⁴ Id.

⁸⁵ See, e.g., Certain Activated Carbon from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 2011-2012, 78 FR 26748 (May 8, 2013) and accompanying Preliminary Decision Memorandum at “Facts Available for NV,” unchanged in AR5 PRC Carbon Final.

⁸⁶ See Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office V, from Frances Veith, Senior International Trade Analyst, AD/CVD Operations, Office V: Preliminary Results Analysis Memorandum for Jacobi Carbons AB in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People’s Republic of China, dated concurrently with this memorandum (“Jacobi’s Prelim Analysis Memo”), see also Datong Juqiang’s Prelim Analysis Memo.

⁸⁷ See Jacobi’s section A questionnaire response, dated July 15, 2015, at A-15; see also, Datong Juqiang’s section A questionnaire response, dated July 20, 2015, at 13.

sale,⁸⁸ the Department preliminarily determines that the invoice date is the most appropriate date to use as Datong Juqiang's and Jacobi's date of sale.

Comparisons to Normal Value

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

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (the average-to-average ("A-A") method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping duty investigations, the Department examines whether to compare weighted-average NVs to the EPs or CEPs of individual sales (the average-to-transaction ("A-T") method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping duty investigations.⁸⁹

In recent investigations, the Department applied a "differential pricing" analysis to determine whether application of the A-T method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.⁹⁰ The Department finds that the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with

⁸⁸ See, e.g., Certain Polyester Staple Fiber From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review, and Intent To Revoke Order in Part, 76 FR 40329 (July 8, 2011) unchanged in Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, and Revocation of an Order in Part, 76 FR 69702 (November 9, 2011); see also Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review, 75 FR 68758 (November 9, 2010) unchanged in First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 27994, 27996 (May 13, 2011).

⁸⁹ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011, 77 FR 73415 (December 10, 2012).

⁹⁰ See, e.g., Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013). Differential pricing was also used in a recent antidumping duty administrative review of certain activated carbon from the People's Republic of China: Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 26748 (May 8, 2013), unchanged in AR5 PRC Carbon Final and accompanying Issues and Decisions Memo Comment 2-4.

addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.⁹¹

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

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. The Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region, or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

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

⁹¹ See AR5 PRC Carbon Final and accompanying Issues and Decisions Memo Comment 2-4.

alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

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

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

B. Results of the Differential Pricing Analysis

For Jacobi, based on the results of the differential pricing analysis, the Department preliminarily finds that 58.8 percent of the value of Jacobi's U.S. sales pass the Cohen's *d* test, and confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods.⁹² Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the A-A method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the A-T method to those U.S. sales which passed the Cohen's *d* test and the A-A method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, the Department is applying the A-A method for all U.S. sales to calculate the weighted-average dumping margin for Jacobi.⁹³

For Datong Juqiang, based on the results of the differential pricing analysis, the Department preliminarily finds that none of Datong Juqiang's U.S. sales pass the Cohen's *d* test, confirming that a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods does not exist.⁹⁴ Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the A-A method. Accordingly, the Department

⁹² See Jacobi's Prelim Analysis Memo at Attachment 3.

⁹³ Id.

⁹⁴ See Datong Prelim Analysis Memo at Attachment III.

preliminarily determines to apply the A-A method for all U.S. sales to calculate Datong Juqiang's weighted-average dumping margins for these preliminary results.

U.S. Price

Export Price

In accordance with section 772(a) of the Act, EP is "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. The Department calculated EP for the majority of sales to the United States for Datong Juqiang because the first sale to an unaffiliated party was made before the dates of importation and the use of CEP was not otherwise warranted.⁹⁵ In accordance with section 772(c)(2)(A) of the Act, where appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight, foreign brokerage and handling, customs duties, domestic brokerage and handling and other movement expenses incurred in the PRC and the United States. For those expenses that were provided by an ME provider and paid for in an ME currency, the Department used the reported expense. For the expenses that were either provided by an NME vendor or paid for using an NME currency, we used SVs as appropriate.⁹⁶ Additionally, in accordance with section 772(c)(2)(B) of the Act, we also deducted any un-refunded (i.e., irrecoverable) value added tax ("VAT") from the starting price as explained below. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for Datong Juqiang, see Datong Juqiang's Prelim Analysis Memo.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)." For all of Jacobi's sales and a portion of Datong Juqiang's sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act because sales of subject merchandise were made in the United States on behalf of the companies located in the PRC by their respective U.S. affiliates to unaffiliated purchasers in the United States.⁹⁷

⁹⁵ See Datong Juqiang's section A response, dated July 20, 2015, at 8.

⁹⁶ See Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Bob Palmer, Senior Trade Analyst, re: "Eighth Administrative Review of Certain Activated Carbon from the People's Republic of China: Surrogate Values for the Preliminary Results," dated concurrently with this decision memo ("Prelim SV Memo").

⁹⁷ See, e.g., Jacobi's section A response, dated July 15, 2015, at A-1 and Exhibit A1.

Datong Juqiang contends that for sales where DJAC USA⁹⁸ was involved, Datong Juqiang established the material terms of sale with the final U.S. customer prior to importation, and these sales should therefore be considered EP sales.⁹⁹ We note, however, that the evidence on the record of this administrative review demonstrates that DJAC USA paid warehousing expenses¹⁰⁰ and DJAC USA undertook procedures necessary to import the subject merchandise, issued invoices to the unaffiliated U.S. customer, received payment from the U.S. customer, and issued payment to Datong Juqiang.¹⁰¹ The CIT has affirmed in Zara, that such sales arrangements are properly considered CEP transactions.¹⁰² Therefore, we preliminarily determine that Datong Juqiang's sales made through DJAC USA are CEP sales.

For these sales, the Department based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, the Department made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and appropriate selling adjustments, in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, the Department also deducted those selling expenses associated with economic activities occurring in the United States. Specifically, the Department deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty expenses, and indirect selling expenses. For those expenses that were provided by an ME provider and paid for in an ME currency, if applicable the Department used the reported expense. Additionally, in accordance with section 772(c)(2)(B) of the Act, we also deducted any un-refunded (*i.e.*, irrecoverable) VAT from the starting price as explained below. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for Jacobi, *see* Jacobi's Prelim Analysis Memo and Datong Juqiang's Prelim Analysis Memo.

Further Manufactured Sales

In its original section A questionnaire response, Jacobi stated that it conducted some additional processing of the subject merchandise in the United States.¹⁰³ On August 14, 2015, Jacobi provided its section E response.¹⁰⁴ We deducted Jacobi's further manufacturing costs from its U.S. selling prices in accordance with section 772(d)(2) of the Act.

Value Added Tax

The Department's practice, in NME cases, is to subtract from EP or the CEP the amount of any un-refunded (*i.e.*, irrecoverable) VAT, in accordance with section 772(c)(2)(B) of the Act.

⁹⁸ In the seventh administrative review, the Department determined DJAC USA and Datong Juqiang are affiliated. See Certain Activated Carbon from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014, 80 FR 25669 (May 5, 2015) and accompanying Decisions Memorandum, unchanged in 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).

⁹⁹ See Datong Juqiang's supplemental section C questionnaire response, dated October 21, 2015, at 2.

¹⁰⁰ See Datong Juqiang's section C response, dated August 17, 2015, at .pdf page 32 and Datong Juqiang's supplemental section C questionnaire response, dated October 21, 2015, at 7.

¹⁰¹ See Datong Juqiang's supplemental section C questionnaire response, dated October 21, 2015, at 2.

¹⁰² See *Pasta Zara S.p.A. v United States*, 703 F. Supp. 2d 1317, 1320-1323 (CIT 2010) ("Zara")

¹⁰³ See Jacobi's section A questionnaire response, submitted on July 15, 2015, at A-21.

¹⁰⁴ See Jacobi's section E questionnaire response, submitted on August 14, 2015.

Where the irrecoverable VAT is a fixed percentage of EP, the Department makes a tax-neutral dumping comparison by reducing the U.S. price by this percentage.¹⁰⁵ Thus, the Department's methodology essentially amounts to performing two basic steps: (1) determining the amount (or rate) of the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount (or rate) determined in step one.

The PRC VAT schedule placed on the record of this review demonstrates that, the VAT rate for activated carbon is 17 percent.¹⁰⁶ Datong Juqiang and Jacobi also reported that activated carbon's input VAT rebate rate is zero.¹⁰⁷ Thus, for the purposes of these preliminary results of review, for Datong Juqiang's and Jacobi's CEP sales, we reduced each sale's U.S. price by the irrecoverable VAT rate of 17 percent of entered value¹⁰⁸ and for Datong Juqiang's EP sales, we reduced each sale's U.S. price by the irrecoverable VAT rate of 17 percent.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME country and the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by the respondents for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value a particular FOP. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.¹⁰⁹

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities (i.e., not insignificant quantities) and pays in an ME currency, the

¹⁰⁵ See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481, 36483-84 (June 19, 2012).

¹⁰⁶ See Jacobi's section C response, dated August 14, 2015, at C-39-40 and Exhibit C-18.

¹⁰⁷ Id. and Datong's section C response, dated August 17, 2015 at Exhibit C-4.

¹⁰⁸ See Jacobi's Prelim Analysis Memo, dated concurrently with this memorandum.

¹⁰⁹ See, e.g., Fuwei Films (Shandong) Co. v. United States, 837 F. Supp. 2d 1347, 1350-51 (CIT 2012) (citing Certain Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum at Comment 10; Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

Department uses the actual price paid by the respondent to value those inputs, except when prices may have been distorted by findings of dumping and/or subsidization.¹¹⁰ Where the Department finds ME purchases to be of significant quantities (i.e., 85 percent or more), in accordance with our statement of policy as outlined in Antidumping Methodologies: Market Economy Inputs,¹¹¹ the Department uses the actual purchase prices to value the inputs. Alternatively, when the volume of an NME firm's purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the ME purchase price with an appropriate SV, according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.¹¹² When a firm has made ME input purchases that may have been dumped or subsidized, are not bona fide, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 85 percent threshold.¹¹³ Jacobi provided evidence that it had ME purchases of bags.¹¹⁴ The Department addresses Jacobi's reported ME purchases of this input during the POR that were paid for in ME currency within the Prelim SV Memo and in its preliminary analysis memoranda.¹¹⁵ Where appropriate, we added freight expenses to the market economy prices for this input.¹¹⁶

The Department used Thai import statistics as reported by the Global Trade Atlas ("GTA") to value the raw material, energy, and packing material inputs that Datong Juqiang and Jacobi used to produce the subject merchandise under review during the POR, except where otherwise stated below. These data are generally contemporaneous with the POR, publicly available, product-specific, tax-exclusive, and represent a broad market average. In accordance with section 773(c)(5) of the Act and the legislative history of the OTCA 1988, the Department continues to apply its long-standing practice of disregarding certain prices as SVs if it has a reason to believe or suspect that these prices may have been dumped or subsidized.¹¹⁷ In this regard, the Department previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we determined that these countries maintain broadly

¹¹⁰ See, e.g., Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27366 (May 19, 1997).

¹¹¹ See Use of Market Economy Input Prices in Nonmarket Economy Proceedings, 78 FR 46799 (August 2, 2013) ("Antidumping Methodologies: Market Economy Inputs").

¹¹² Id.

¹¹³ Id.

¹¹⁴ See Jacobi's section D questionnaire response, dated August 14, 2015, JCC at 6; see also Jacobi's Analysis Memo.

¹¹⁵ See Jacobi's Analysis Memo.

¹¹⁶ Id.

¹¹⁷ See section 773(c) of the Act, as amended in section 505 of the Trade Preferences Extension Act of 2015, and Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793, 46795 (August 6, 2015); see also OTCA 1988, H.R. Rep. No. 100-576, at 590-91.

available, non-industry specific export subsidies.¹¹⁸ Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from these countries in calculating the Thai import-based SVs. Additionally, the Department disregarded prices from NME countries.¹¹⁹ Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, as the Department could not be certain that they were not from either an NME country or a country with general export subsidies.¹²⁰

In accordance with section 773(c) of the Act, for subject merchandise produced by Datong Juqiang and Jacobi, the Department calculated NV based on the FOPs reported by Datong Juqiang and Jacobi for the POR. The Department used data from Thai import statistics and other publicly available Thai sources in order to calculate SVs for Datong Juqiang’s and Jacobi’s FOPs (direct materials, energy, and packing materials) and certain movement expenses.¹²¹ To calculate NV, unless otherwise noted, the Department multiplied the reported per-unit factor quantities by publicly available Thai SVs.

As appropriate, the Department adjusted input prices by including freight costs to render the prices delivered prices.¹²² Specifically, the Department added to the Thai import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the Federal Circuit in Sigma Corp. v. United States.¹²³ Where necessary, the Department adjusted SVs for exchange rates, and converted all applicable items to a per-metric ton basis. For a detailed description of all SVs used for Datong Juqiang and Jacobi, see the Prelim SV Memo.

¹¹⁸ See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23; Certain Hot-Rolled Carbon Steel Flat Products From India, Indonesia, and Thailand, 78 FR 16525 (March 14, 2013), and accompanying Issues and Decision Memorandum at 5-7.

¹¹⁹ See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value, 73 FR 24552, 24559 (May 5, 2008), unchanged in Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (September 24, 2008).

¹²⁰ Id.

¹²¹ See Prelim SV Memo.

¹²² See section 772(c)(1)(A) of the Act.

¹²³ See Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997).

Parties placed three different contemporaneous surrogate values on the record for anthracite coal. Petitioners placed GTA-Mexican import data on the record,¹²⁴ and Jacobi placed GTA-South African import data and GTA-Thai import data on the record.¹²⁵ Petitioners allege that the Thai anthracite coal value is unreliable and inappropriate to use.¹²⁶ In order to determine the appropriate surrogate value for anthracite coal, we first examined the value from Thailand as it is the primary surrogate country. We compared the Thai surrogate value for anthracite coal to the surrogate values from the countries determined to be at the same level of economic comparability as the PRC as listed on the Surrogate Country List for the most recent four years.¹²⁷ We used the same HTS category and time periods for each country. The Thai data for anthracite coal imports over the periods and countries examined demonstrate that the Thai data contain significant volatility (in this case there is significant price fluctuation between the Thai prices and the prices of the other countries) when compared to the other countries for the same periods.¹²⁸

While it is the Department's preference to value all FOPs in a single surrogate country, when possible, consistent with section 351.408(c)(2) of the Department's regulations,¹²⁹ where no suitable SV is available from the primary surrogate country, the Department will value FOPs in other countries that have been found to be significant producers of comparable merchandise and economically comparable to the NME country in question.¹³⁰ As such, because the contemporaneous Thai data for valuing anthracite coal are unreliably volatile when compared to the data of the other countries at the same level of economic comparability as the PRC we have not used the Thai value for anthracite coal. Because the alternate surrogate values for anthracite coal are all equally contemporaneous, specific, tax and duty exclusive and are broad market averages, we need to determine what surrogate value to use in lieu of the Thai surrogate value. Because Mexico is the second largest exporter of comparable merchandise, we have used the Mexican import data to value anthracite coal. This value is also contemporaneous, a broad-

¹²⁴ See Petitioners' SV Submission, "Petitioners' Submission of Mexican Surrogate Values," dated September 24, 2015, ("Petitioners' Mexican SVs") at Exhibit MEX-1-A.

¹²⁵ See Jacobi's SV Submission, dated September 24, 2015, ("Jacobi's Sept SV submission") at Exhibit SV-6 and Jacobi's Jan 4 SVs at Exhibit SV2-9.

¹²⁶ See Petitioners' Rebuttal SV Comments, dated January 19, 2016.

¹²⁷ See, e.g., Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Administrative Review, 75 FR 36630 (June 28, 2010) and accompanying Issues and Decision Memorandum at Comment 4, and 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) and accompanying Issues and Decision Memorandum at Comment 5.

¹²⁸ See, e.g., 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 accompanying Issues and Decision Memorandum at Comment 7B.

¹²⁹ See 19 CFR 351.408(c)(2).

¹³⁰ See Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results, Partial Rescission, Extension of Time Limits for the Final Results, and Intent to Revoke in Part, of the Sixth Antidumping Duty Administrative Review, 77 FR 12801, 12808 (March 2, 2012), unchanged in Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results, Partial Rescission of Sixth Antidumping Duty Administrative Review and Determination Not to Revoke in Part, 77 FR 53856 (September 4, 2012), and accompanying Issues and Decisions Memorandum at Comment 10; see also Tapered Roller Bearings and accompanying Issues and Decision Memorandum at Comment 3 and Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 70 FR 12651 (March 15, 2005), and accompanying Issues and Decision Memorandum at Comment 3.

market average, specific to the input, and tax and duty exclusive. For a further discussion of this issue, see Prelim SV Memo.

The Department valued electricity using data from the Electrical Generating Authority of Thailand, Annual Report 2014: Key Statistical Data. We calculated an average of the price of energy sales to various customers.¹³¹ We did not inflate/deflate this rate since it is contemporaneous with the POR.

We valued inland truck freight based on the results of a Thailand's Office of Transport and Traffic Policy and Planning report entitled "Strategic Development of Transport Infrastructure in Thailand Year 2015-2022."¹³² Because this information is based on 2013 data, we inflated to the POR.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods from Thailand.¹³³ The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand that is published in Doing Business 2016: Measuring Regulatory Quality and Efficiency, published by the World Bank.¹³⁴ We did not inflate/deflate this rate since it is contemporaneous with the POR.

We valued water using price data based on Thai water tariffs as published at <http://www.mwa.co.th>) by the Metropolitan Waterworks Authority ("MWA") of Thailand.¹³⁵ We did not inflate/deflate this price data because it is contemporaneous with the POR.

We valued purchased steam using price data based on the 2014 Annual Report of Glow Energy Public Company Limited, see <http://glow.listedcompany.com/ar.html>. We did not inflate/deflate this price data because it is contemporaneous with the POR.

To value factory overhead, selling, general, and administrative ("SG&A") expenses, and profit, the Department used the 2011 audited financial statement of a Thai activated carbon company, Carbokarn Co., Ltd. ("Carbokarn"). While the Department notes these financial statements are not contemporaneous with the POR, Carbokarn's 2011 financial statements are otherwise complete, publicly available, contain sufficient information to calculate surrogate financial ratios, and contain no evidence of countervailable subsidies. As such, the Department has preliminarily determined that these financial statements are the best available information on the record regarding the valuation of factory overhead, SG&A, and profit. Furthermore, using Thai financial statements is consistent with our regulatory preference for valuing all FOPs in a single surrogate country.¹³⁶

¹³¹ See Jacobi's Jan4 SVs at Exhibit SV2-13; see also Prelim SV Memo.

¹³² See Prelim SV Memo.

¹³³ Id.

¹³⁴ Id.

¹³⁵ Id.

¹³⁶ See 19 CFR 351.408(c)(2).

In NME antidumping duty proceedings, the Department prefers to value labor solely based on data from the primary surrogate country.¹³⁷ In Labor Methodologies, the Department determined that the best methodology to value labor is to use industry-specific labor rates from the primary surrogate country. Additionally, we determined that best data source for industry-specific labor rate is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (“ILO”) Yearbook of Labor Statistics.¹³⁸ We did not, however, preclude all other sources from evaluation labor costs. Rather, we continue to follow our practice of selecting the best available information on the record to determine SVs for inputs such as labor. In this case, ILO data is not on the record of this review. Therefore, we valued labor consumption based on Thailand’s National Statistical Office (“NSO”) Labor Force Survey of Whole Kingdom, which were based on data from surveys taken during the POR. We valued labor using a single-country labor cost based on compensation data consistent with the International Standard Classification of Occupation, 2008 (ISCO-08) of the ILO.¹³⁹ The data cover the last three quarters of 2014 and the first quarter of 2015 for all manufacturing sectors. Because these rates were in effect during the POR, we have not adjusted the calculated rate for inflation/deflation.

Currency Conversion

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

 _____
Agree Disagree

 _____
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

26 FEBRUARY 2016
(Date)

¹³⁷ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (“Labor Methodologies”).

¹³⁸ Id.

¹³⁹ See Prelim SV Memo.

ATTACHMENT I

Companies Not Establishing Eligibility for a Separate Rate to Be Treated as Part of PRC-Wide Entity

Company Name

- 1 AmeriAsia Advanced Activated Carbon Products Co., Ltd.
- 2 Anhui Handfull International Trading (Group) Co., Ltd.
- 3 Anhui Hengyuan Trade Co. Ltd.
- 4 Anyang Sino-Shon International Trading Co., Ltd.
- 5 Baoding Activated Carbon Factory
- 6 Beijing Broad Activated Carbon Co., Ltd.
- 7 Beijing Haijian Jiechang Environmental Protection Chemicals
- 8 Beijing Hibridge Trading Co., Ltd.
- 9 Bengbu Jiuton Trade Co. Ltd.
- 10 Carbon Activated Tianjin Co., Ltd.
- 11 Changji Hongke Activated Carbon Co., Ltd.
- 12 Chengde Jiayu Activated Carbon Factory
- 13 China National Building Materials and Equipment Import and Export Corp.
- 14 China National Nuclear General Company Ningxia Activated Carbon Factory
- 15 China Nuclear Ningxia Activated Carbon Plant
- 16 China SDIC International Trade Co., Ltd.
- 17 Da Neng Zheng Da Activated Carbon Co., Ltd.
- 18 Datong Carbon Corporation
- 19 Datong Changtai Activated Carbon Co., Ltd.
- 20 Datong City Zuoyun County Activated Carbon Co., Ltd.
- 21 Datong Fenghua Activated Carbon
- 22 Datong Forward Activated Carbon Co., Ltd.
- 23 Datong Fuping Activated Carbon Co. Ltd.
- 24 Datong Guanghua Activated Co., Ltd.
- 25 Datong Hongtai Activated Carbon Co., Ltd.
- 26 Datong Huanqing Activated Carbon Co., Ltd.
- 27 Datong Huaxin Activated Carbon
- 28 Datong Huibao Activated Carbon Co., Ltd.
- 29 Datong Huibao Active Carbon Co., Ltd.
- 30 Datong Huiyuan Cooperative Activated Carbon Plant
- 31 Datong Kaneng Carbon Co. Ltd.
- 32 Datong Locomotive Coal & Chemicals Co., Ltd.
- 33 Datong Tianzhao Activated Carbon Co., Ltd.
- 34 DaTong Tri-Star & Power Carbon Plant
- 35 Datong Weidu Activated Carbon Co., Ltd.
- 36 Datong Xuanyang Activated Carbon Co., Ltd.
- 37 Datong Zuoyun Biyun Activated Carbon Co., Ltd.
- 38 Datong Zuoyun Fu Ping Activated Carbon Co., Ltd.
- 39 Dongguan Baofu Activated Carbon

Company Name

- 40 Dongguan SYS Hitek Co., Ltd.
- 41 Dushanzi Chemical Factory
- 42 Fijian Zhixing Activated Carbon Co., Ltd.
- 43 Fu Yuan Activated Carbon Co., Ltd.
- 44 Fujian Jianyang Carbon Plant
- 45 Fujian Nanping Yuanli Activated Carbon Co., Ltd.
- 46 Fujian Xinsen Carbon Co., Ltd.
- 47 Fujian Yuanli Active Carbon Co., Ltd.
- 48 Fuzhou Taking Chemical
- 49 Fuzhou Yihuan Carbon
- 50 Great Bright Industrial
- 51 Hangzhou Hengxing Activated Carbon
- 52 Hangzhou Hengxing Activated Carbon Co., Ltd.
- 53 Hangzhou Linan Tianbo Material (HSLATB)
- 54 Hangzhou Nature Technology
- 55 Hangzhou Waterland Environment Technologies Co., Ltd.
- 56 Hebei Foreign Trade and Advertising Corporation
- 57 Hebei Shenglun Import & Export Group Company
- 58 Hegongye Ninxia Activated Carbon Factory
- 59 Heilongjiang Provincial Hechang Import & Export Co., Ltd.
- 60 Hongke Activated Carbon Co., Ltd.
- 61 Huaibei Environment Protection Material Plant
- 62 Huaiaren Huanyu Purification Material Co., Ltd.
- 63 Huaiaren Jinbei Chemical Co., Ltd.
- 64 Huaiyushan Activated Carbon Group
- 65 Huatai Activated Carbon
- 66 Huzhou Zhonglin Activated Carbon
- 67 Inner Mongolia Taixi Coal Chemical Industry Limited Company
- 68 Itigi Corp. Ltd.
- 69 J&D Activated Carbon Filter Co. Ltd.
- 70 Jiangle County Xinhua Activated Carbon Co., Ltd.
- 71 Jiangsu Taixing Yixin Activated Carbon Technology Co., Ltd.
- 72 Jiangxi Hanson Import Export Co.
- 73 Jiangxi Huaiyushan Activated Carbon
- 74 Jiangxi Huaiyushan Activated Carbon Group Co.
- 75 Jiangxi Huaiyushan Suntar Active Carbon Co., Ltd.
- 76 Jiangxi Jinma Carbon
- 77 Jiangxi Yuanli Huaiyushan Active Carbon Co., Ltd.
- 78 Jianou Zhixing Activated Carbon
- 79 Jiaocheng Xinxin Purification Material Co., Ltd.
- 80 Jilin Province Bright Future Industry and Commerce Co., Ltd.
- 81 Jing Mao (Dongguan) Activated Carbon Co., Ltd.
- 82 Kaihua Xingda Chemical Co., Ltd.

Company Name

- 83 Kemflo (Nanjing) Environmental Tech
- 84 Keyun Shipping (Tianjin) Agency Co., Ltd.
- 85 Kunshan Actview Carbon Technology Co., Ltd.
- 86 Langfang Winfield Filtration Co.
- 87 Link Shipping Limited
- 88 Longyan Wanan Activated Carbon
- 89 Meadwestvaco (China) Holding Co., Ltd.
- 90 Mindong Lianyi Group
- 91 Nanjing Mulinsen Charcoal
- 92 Nantong Ameriasia Advanced Activated Carbon Product Co., Ltd.
- 93 Ningxi Baiyun Carbon Co., Ltd.
- 94 Ningxia Baota Activated Carbon Co., Ltd.
- 95 Ningxia Baota Active Carbon Plant
- 96 Ningxia Blue-White-Black Activated Carbon (BWB)
- 97 Ningxia Fengyuan Activated Carbon Co., Ltd.
- 98 Ningxia Guanghua Chemical Activated Carbon Co., Ltd.
- 99 Ningxia Haoqing Activated Carbon Co., Ltd.
- 100 Ningxia Henghui Activated Carbon
- 101 Ningxia Honghua Carbon Industrial Corporation
- 102 Ningxia Huinong Xingsheng Activated Carbon Co., Ltd.
- 103 Ningxia Jirui Activated Carbon
- 104 Ningxia Lingzhou Foreign Trade Co., Ltd.
- 105 Ningxia Luyuangheng Activated Carbon Co., Ltd.
- 106 Ningxia Pingluo County Yaofu Activated Carbon Plant
- 107 Ningxia Pingluo Xuanzhong Activated Carbon Co., Ltd.
- 108 Ningxia Pingluo Yaofu Activated Carbon Factory
- 109 Ningxia Taixi Activated Carbon
- 110 Ningxia Tianfu Activated Carbon Co., Ltd.
- 111 Ningxia Weining Active Carbon Co., Ltd.
- 112 Ningxia Xingsheng Coal and Active Carbon Co., Ltd.
- 113 Ningxia Xingsheng Coke & Activated Carbon Co., Ltd.
- 114 Ningxia Yinchuan Lanqiya Activated Carbon Co., Ltd.
- 115 Ningxia Yirong Alloy Iron Co., Ltd.
- 116 Ningxia Zhengyuan Activated
- 117 Ningzxia Guanghua A/C Co., Ltd.
- 118 Ninxia Tongfu Coking Co., Ltd.
- 119 Nuclear Ningxia Activated Carbon Co., Ltd.
- 120 OEC Logistic Qingdao Co., Ltd.
- 121 OEC Logistics Co., Ltd. (Tianjin)
- 122 Panshan Import and Export Corporation
- 123 Pingluo Xuanzhong Activated Carbon Co., Ltd.
- 124 Pingluo Yu Yang Activated Carbon Co., Ltd.
- 125 Shanghai Activated Carbon Co., Ltd.

Company Name

- 126 Shanghai Astronautical Science Technology Development Corporation
- 127 Shanghai Coking and Chemical Corporation
- 128 Shanghai Goldenbridge International
- 129 Shanghai Jiayu International Trading (Dezhou Jiayu and Chengde Jiayu)
- 130 Shanghai Jinhua Activated Carbon (Xingan Shenxin and Jiangle Xinhua)
- 131 Shanghai Light Industry and Textile Import & Export Co., Ltd.
- 132 Shanghai Mebao Activated Carbon
- 133 Shanghai Xingchang Activated Carbon
- 134 Shanxi Blue Sky Purification Material Co., Ltd.
- 135 Shanxi Newtime Co., Ltd.
- 136 Shanxi Qixian Foreign Trade Corporation
- 137 Shanxi Qixian Hongkai Active Carbon Goods
- 138 Shanxi Supply and Marketing Cooperative
- 139 Shanxi Tianli Ruihai Enterprise Co.
- 140 Shanxi U Rely International Trade
- 141 Shanxi Xiaoyi Huanyu Chemicals Co., Ltd.
- 142 Shanxi Xinhua Activated Carbon Co., Ltd.
- 143 Shanxi Xinhua Chemical Co., Ltd. (formerly Shanxi Xinhua Chemical
Factory)
- 144 Shanxi Xinhua Protective Equipment
- 145 Shanxi Xinshidai Import Export Co., Ltd.
- 146 Shanxi Xuanzhong Chemical Industry Co., Ltd.
- 147 Shanxi Zuoyun Yunpeng Coal Chemistry
- 148 Shenzhen Sihaiweilong Technology Co.
- 149 Shijiazhuang Xinshuang Trade Co., Ltd.
- 150 Sincere Carbon Industrial Co. Ltd.
- 151 Taining Jinhua Carbon
- 152 Taiyuan Hengxinda Trade Co., Ltd.
- 153 Tangshan Solid Carbon Co., Ltd.
- 154 Tianchang (Tianjin) Activated Carbon
- 155 Tianjin Century Promote International Trade Co., Ltd.
- 156 Tonghua Bright Future Activated Carbon Plant
- 157 Tonghua Xinpeng Activated Carbon Factory
- 158 Top One International Trading Co., Ltd.
- 159 Triple Eagle Container Line
- 160 Uniclear New-Material Co., Ltd.
- 161 United Manufacturing International (Beijing) Ltd.
- 162 Valqua Seal Products (Shanghai) Co.
- 163 VitaPac (HK) Industrial Ltd.
- 164 Wellink Chemical Industry
- 165 Xi Li Activated Carbon Co., Ltd.
- 166 Xi'an Shuntong International Trade & Industrials Co., Ltd.
- 167 Xiamen All Carbon Corporation

Company Name

- 168 Xingan County Shenxin Activated Carbon Factory
- 169 Xinhua Chemical Company Ltd.
- 170 Xuanzhong Chemical Industry
- 171 Yangyuan Hengchang Active Carbon
- 172 Yicheng Logistics
- 173 Yinchuan Lanqiya Activated Carbon Co., Ltd.
- 174 Zhejiang Quizhou Zhongsen Carbon
- 175 Zhejiang Topc Chemical Industry Co.
- 176 Zhejiang Xingda Activated Carbon Co., Ltd.
- 177 Zhejiang Yun He Tang Co., Ltd.
- 178 Zhuxi Activated Carbon
- 179 Zuoyun Bright Future Activated Carbon Plant