A-570-898
Administrative Review
POR: 6/01/14-5/31/15
Public Document
Office VII: SC

January 9, 2017

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Chlorinated Isocyanurates from the People's Republic of China; 2014-2015

SUMMARY

We analyzed the comments from interested parties in the 2014-2015 administrative review of the antidumping duty order on chlorinated isocyanurates ("chloro isos") from the People's Republic of China ("PRC"). As a result of our analysis, we made changes to our calculations of the Mexican surrogate values used for the financial ratios and the material input for steam coal since the *Preliminary Results*.[1]

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

1. Selection of the Primary Surrogate Country
2. Selection of Mexican Surrogate Value Record over the Romanian Surrogate Value Record

    A. Surrogate Financial Ratios
    B. Surrogate Values for Other Critical Inputs

[1] *See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 45128 (July 12, 2016) ("*Preliminary Results*"), and accompanying Preliminary Decision Memorandum.

BACKGROUND

The Department published its *Preliminary Results* on July 8, 2015.[2] On October 21, 2016, the Department fully extended the deadline for the final results until January 9, 2017.[3] On August 25, 2016, respondents Heze Huayi Chemical Co., Ltd. ("Heze Huayi"), Juancheng Kangtai Chemical Co., Ltd. ("Kangtai"), and Hebei Jiheng Chemical Co., Ltd. ("Jiheng"), collectively submitted a case brief.[4] On September 6, 2016, petitioners Biolab, Inc., Clearon Corp. and Occidental Chemical Corp. collectively submitted a rebuttal brief.[5] We held a public hearing on December 14, 2016, to address issues raised in the case and rebuttal briefs.[6]

SCOPE OF THE ORDER

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

CHANGES SINCE THE PRELIMINARY RESULTS

We calculated export price ("EP") and normal value ("NV") using the same methodology stated in the *Preliminary Results*, but have revised our calculations of the Mexican surrogate values used for the financial ratios and the material input, chlorine, as discussed below in the relevant portion of the "Comments" section.[7]

---

[2] *Id.*

[3] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," (October 21, 2016).

[4] *See* "Chlorinated Isocyanurates from the People's Republic of China: Case Brief," (August 25, 2016) ("Respondents' Case Brief").

[5] *See* "The Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Rebuttal Brief of Biolab, Inc., Clearon Corp. and Occidental Chemical Corporation," (September 6, 2016).

[6] *See* Hearing Transcript, "Public Hearing in the Matter of: Administrative Review under the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China," (December 20, 2016).

[7] *See also* Memorandum from Sean Carey, Senior International Trade Analyst, AD/CVD Operations, Office VII through Mark Haodley, Program Manager, AD/CVD Operations, Office VII, to The File, "Analysis of the Final Results Margin Calculation for Heze Huayi Chemical Co., Ltd.," dated concurrently with this memorandum ("Heze Huayi Final Analysis Memorandum"); Memorandum from Sean Carey, Senior International Trade Analyst, AD/CVD Operations, Office VII through Mark Hoadley, Program Manager, AD/CVD Operations, Office VII, to The File, "Analysis of the Final Results Margin Calculation for Hebei Jiheng Chemical Co., Ltd.," dated concurrently with this memorandum ("Jiheng Final Analysis Memorandum"); Memorandum from Sean Carey, Senior International Trade Analyst, AD/CVD Operations, Office VII

DISCUSSION OF THE ISSUES

Comment 1: Selection of the Primary Surrogate Country

Respondents' Comments

- The Department should rely on Romania as the primary surrogate country because Romania is the most significant producer of comparable merchandise. Mexico, although a producer of subject merchandise, is neither a significant producer nor net exporter of subject merchandise.
- Romania has the highest quality data with respect to the surrogate producer's financial statements: for example, a usable surrogate value for steam coal; a more contemporaneous surrogate value for labor; and, more precise units of measure for sodium hydroxide, ammonium sulfate, and urea.
- The Department's *Policy Bulletin* notes that comparable merchandise is not defined in the statute or the regulations, and is best determined on a case-by-case basis.[8]
- Alternatively, the Department should rely on Thailand as the primary surrogate country, because Thailand was selected in the most recent administrative reviews.

Petitioners' Rebuttal

- Pursuant to section 773(c)(4) of the Tariff Act of 1930, as amended (the Act), and the *Policy Bulletin*, there is no reason to select a surrogate country that does not produce chlorinated isos when there is one on the record that does.
- The Department's policy is to consider countries producing comparable merchandise only if there are no countries producing identical merchandise. Therefore, it is not necessary to search among other surrogate countries, because Mexico is the only producer of chlorinated isos.
- Respondents' arguments that other surrogate countries export greater quantities of comparable merchandise does not change the undisputed fact that Mexico is the only producer of identical merchandise.
- The selection of Thailand as the primary surrogate country in prior segments of the proceeding has no bearing on the current selection, because the Department makes this determination on a case-by-case basis.

Department's Position: The Department selects the primary surrogate country for each segment of a proceeding based on the record facts of that individual segment. In other words, each segment of an antidumping duty proceeding is an independent segment with separate records which lead to independent determinations.[9] As a result, decisions in past segments, specifically, selecting Thailand as

---

through Mark Hoadley, Program Manager, AD/CVD Operations, Office VII, to The File, "Analysis of the Final Results Margin Calculation for Juancheng Kangtai Chemical Co., Ltd.," dated concurrently with this memorandum ("Kangtai Final Analysis Memorandum"); and, the Excel Workbook "Final SVs 14-15" at "Chlorine" worksheet tab for the calculation of the surrogate value for chlorine and the revised financial ratios.

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

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

the surrogate, did not affect the selection of the primary surrogate country in this segment. Based on the record evidence in this segment of the proceeding and discussed in detail in the *Preliminary Results*, we continue to find that Thailand does not have usable financial statements, because each of the three financial statements shows receipt of countervailable subsidies.[10]

The Department continues to determine that Mexico is the appropriate primary surrogate country after considering the facts and arguments on the record. Based upon our examination, respondents have not demonstrated that the selection of Mexico is inappropriate, or that Romania represents a more suitable alternative primary surrogate country. In the *Preliminary Results*, the Department found that five countries on the Surrogate Country List (Bulgaria, Ecuador, Romania, South Africa, and Thailand) are significant producers of comparable merchandise (calcium hypochlorite or sodium hypochlorite), and that Mexico is a significant producer of both identical and comparable merchandise.[11] The Department found that while only Mexico and Romania have useable surrogate financial statements and surrogate values for chlorine and hydrogen, Mexico is the appropriate surrogate country based on the fact the Mexican surrogate values were superior to those for Romania, with the one exception being a less contemporaneous labor data.[12] Not only does the record continue to support the selection of Mexico as the primary surrogate country based on better quality of data as discussed under Comment 2, but we also find this selection is supported by Departmental policy, which indicates a preference to select a surrogate country that produces identical merchandise over one that only produces comparable merchandise. All parties recognize Mexico as the only surrogate country on record that produces chlorinated isos.

Section 773(c)(4)(B) of the Act requires the Department to value, to the extent possible, factors of production ("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 constitutes comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that "{i}n all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[13] Therefore, if the record contains a producer of identical merchandise, the requirement of comparable merchandise under section 773(c)(4) of the Act is satisfied. There is no need to look further at countries with only comparable merchandise. Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[14]

Petitioners submitted an affidavit and joint venture agreement that demonstrated significant Mexican production of chloro isos by Aqua-Clor S.A. de C.V. ("Aqua-Clor).[15] This information corroborated extensive PIERS cross-border trade data on shipments of subject merchandise during the POR.[16] In

---

[10] *See* Preliminary Decision Memorandum, at 11.
[11] *Id.*
[12] *Id.*, at 12-13.
[13] *See Policy Bulletin*, at 2.
[14] *Id.*, at note 6.
[15] *See* Petitioners' Rebuttal to Preliminary Comments, at 2-3 and Exhibit 1.
[16] *See* Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (10th Antidumping Administrative Review): Rebuttal to Preliminary Determination Comments," (June 10, 2016) ("Petitioners' Rebuttal to Preliminay Comments"), at 2 and Exhibit 1; *see, also,* Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (10th Antidumping Administrative Review): Additional Rebuttal to Preliminary Determination

addition, they placed on the record a publication from the International Trade Commission ("ITC") that found Mexico to be a source of U.S. imports of chlorinated isos in 2014.[17] This record evidence demonstrates that the production of subject merchandise in Mexico by Aqua-Clor itself, is significant. The corroborating information reflected in the PIERS data and the ITC report further supports this finding. In addition, petitioners have correctly noted that respondents base their argument upon a comparison between subject merchandise produced in Mexico and comparable merchandise based in Romania. The fact that substantially more comparable merchandise is produced in Romania than subject merchandise produced in Mexico does not address the issue of whether significant production is present in Mexico.

The Department is not required to consider whether a country is a net exporter in order to make a determination that the production is significant. While the Department has used net exports as a means to determine whether a country is a significant producer in the past, it is only one of many criteria the Department may use to determine whether a country is a significant producer.[18] Additionally, we find that the Conference Report to the 1988 Omnibus Trade and Competitiveness Act, H.R. Conf. Rep. No. 100-576 at 590 (1988), does not require that the surrogate country be a net exporter. Furthermore, we find that record evidence, as noted above from multiple sources, indicates that the production is significant. The fact that Mexico is a larger consumer of comparable merchandise than Romania and, therefore, does not have large export volumes does not negate the fact that Mexico is a significant producer.

The *Policy Bulletin* takes into account a situation where a producer of identical merchandise may not provide sufficient factor valuations by providing: "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise."[19] Here, because the record evidence contains information and data on the production of identical merchandise in Mexico, and selecting Mexican has not led to factor valuation difficulties, we are not required to consider parties' arguments for comparable merchandise.[20] We further note that no other surrogate country at the same level of economic development had any exports of chloro isos during the period of review. Notwithstanding that Romania is only a producer of comparable merchandise as noted in Comment 2 below, we have addressed respondents' arguments about surrogate value record, concerning the quality of the surrogate value data between Mexico and Romania.

Comments," (June 16, 2016), at 3.

[17] *See* Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (2014-2015 Review): Petitioners' Comments on Primary Surrogate Country Selection," (December 1, 2015), at 2 and Exhibit 1, citing to *Chlorinated Isocyanurates from China*, Inv. No. 701-TA-501, 73 l-TA-1226, USITC Pub. 4494 at 23, I-3, IV-4, VII-6 (November 2014).

18 *See Final Determination of Sales at Less Than Fair Value: Wooden Bedroom Furniture From the People's Republic of China*, 69 FR 67313 (November 17, 2004), and accompanying Issues and Decision Memorandum, at Comment 2.

[19] *See Policy Bulletin*, at 5.

[20] *See Potassium Permanganate from the People's Republic of China: Preliminary Results of the 2014 Antidumping Duty Administrative Review*, 81 FR 7751 (February 16, 2016), and accompanying Preliminary Decision Memorandum, at 6 (February 5, 2016), unchanged in *Potassium Permanganate From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014,* 81 FR 58476 (August 25, 2016), and accompanying Issues and Decision Memorandum, at Comment I.

Comment 2: Selection of Mexican Surrogate Value Information over the Romanian Surrogate Value Information

A. Surrogate Financial Ratios

Respondents' Comments

- The Romanian Chimcomplex financial statement is superior to the Mexican CYDSA financial statement because it covers more months of the POR and is more similar to the respondents' production costs because CYDSA's sole business is chemicals.
- CYDSA's production and products are not similar to the respondents' production processes and products, and the comparable product, sodium hypochlorite, does not appear to be a significant or primary product of the company. Because CYDSA is producing and consuming its own steam and electricity, it is critically different in its production and purchasing needs from non-integrated companies like respondents.
- The consolidated sales section of CYDSA's financial statement does not give a full picture of the company's overall nature of production because it does not account for the energy division, which will be able to participate in the domestic electricity market.
- The financial ratios derived from CYDSA's financial statement are not comparable to the surrogate financial ratios of previous administrative reviews.
- Citing to OCTG from the PRC,[21] CYDSA is not a reasonable surrogate for the respondents' production experience. CYDSA's processes and range of products are too dissimilar and do not reasonably approximate the ratios of a chlorinated isos producer. For this reason alone, the Department should rely on the financial statements of either the comparable Romanian producer Chimcomplex or the comparable Thai companies.
- The wages and salaries identified by the Department in its calculation of CYDSA's financial ratios improperly included "other payables" and "direct benefits (executives)."
- CYDSA's financial statements are not significantly more detailed than Chimcomplex's statements. In addition, there are no line items for the factors energy and labor, and this lack of detail to account for energy and labor do not allow for an accurate calculation of CYDSA's financial ratios.
- Chimcomplex's financial statements provide adequate detail. The absence of a line item for "spare parts and accessories" only shows it was not significant. Moreover, the Department did not account for two other line items reported under "other operating expenses" and assigned them to selling, general, and administrative expenses.
- The Department's decision to derive the percentage of CYDSA's raw materials to cost of goods sold, using the figure included in the narrative of note 9 of its financial statement, may already be net of the beginning and ending inventory values.
- Alternatively, if the Department continues to rely on Mexico as the primary surrogate country, it should rely on the best information available and select either the financial statements from Romania or Thailand.

[21] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum ("OCTG IDM"), at Comment 13.

Petitioners' Rebuttal

- Respondents overstate the impact of CYDSA's product mix, ignoring that its income statements for 2014 and 2015 include operations of only two business units, because its cogeneration activities do not provide revenue or profit.
- Of CYDSA's three business units, chlorine and caustic, from which the comparable product sodium hypochlorite is made, is the largest and account for 44 percent of its total sales.
- CYDSA's size or level of integration does make it unsuitable as a surrogate producer because there is no evidence that these factors are incomparable to those of respondents, noting that CYDSA's level of integration and production processes are equivalent to Jiheng and not significantly different from Heze Huayi and Kangtai.
- CYDSA is similar to Jiheng, which also produces chlorine and caustic soda as upstream products used in the production of subject merchandise, as well as downstream salts. Chlorine and caustic soda are energy-intensive products, and CYDSA and Chimcomplex both have high-energy costs and produce electricity through cogeneration.
- Chimcomplex's seven business groups show that it is no less a multi-product producer than is CYDSA. Moreover, Chimcomplex's financial statements do not include any information regarding the size of Chimcomplex's chloralkali business, thereby providing no basis for finding its financial statements to be better than CYDSA's.
- There is no evidence of actual distortion in CYDSA's selling, general, and administrative ("SG&A") expenses, noting that differences in these expenses reflected in the different financial statements from different surrogate countries does not alone mean that they are distortive.
- Chimcomplex's seven business groups show that it is no less a multi-product producer than is CYDSA. Moreover, Chimcomplex's financial statements do not include any information regarding the size of Chimcomplex's chloralkali business, thereby providing no basis for finding its financial statements to be better than CYDSA's.
- CYDSA's financial statements are superior to the financial statements of the other producers on the record because they are more detailed, and the information needed to calculate material, labor, and energy ("MLE") expenses are only used for purposes of determining the denominator in the financial ratios calculations.
- Chimcomplex benefitted from countervailable subsidies, with the result that its financial statements are unsuitable to use.

<u>Department's Position</u>: The Department's criteria for choosing financial statements for the calculation of surrogate financial ratios is based on the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.[22] Moreover, for valuing overhead, SG&A expenses, and profit, the Department uses non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.[23] Further, the courts have recognized the Department's discretion when choosing appropriate companies' financial statements to calculate surrogate financial ratios.[24]

---

[22] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005), and accompanying Issues and Decision Memorandum, at Comment 3.
[23] *See* 19 CFR 351.408(c)(4).
[24] *See, e.g., FMC Corp.* v. *United States,* 27 CIT 240, 251 (2003) (finding that the Department "has wide discretion in choosing among various surrogate sources"), *aff'd FMC Corp.* v. *United States,* 87 Fed. Appx. 753 (CAFC 2004).

As an initial matter, we find that both the Mexican and Romanian financial statements have sufficient detail for use in calculating surrogate value financial ratios. In addition, and as discussed below, there is ample information in CYDSA's financial statements to determine that its major chloro product, sodium hypochlorite, is a significant or primary product of the company. No such detail is contained in Chimcomplex's financial statements that would allow us to analyze the revenue it generates from each of its products lines in order to make any determination regarding the significance of its sodium hypochlorite production.

We find neither CYDSA's financial statements to be less detailed than Chimcomplex's, nor its production processes and level of integration to be meaningfully dissimilar to those of the respondents. The Department prefers to use financial statements that list costs by function rather than by type of transaction, because expenses such as personnel costs can relate to manufacturing, administration, and selling. CYDSA's income statement does list costs by functions (*e.g.*, cost of goods sold, selling, administration, etc.). The Department's preference is to use a financial statement that includes a line item for the cost of goods sold, because we know that the cost of goods sold include all the manufacturing costs and changes in the finished goods inventory. From the cost of goods sold amount, we can calculate the cost of manufacturing by accounting for the change in the finished goods inventory from the inventory amounts reported in the corresponding comparative balance sheets. From the cost of manufacturing, we deduct the depreciation costs reflected in the notes to the financial statements, with the residual classified as MLE.

We do not agree with respondents that the MLE amounts have to be separate items in the income statement or in the notes to the financial statements. This is not required, because the sum of MLE is being used to calculate only the denominator of the financial ratios, in order to determine the surrogate manufacturing overhead ratio and, subsequently, the SG&A and profit ratios. In the FOPs build-up for MLE, the MLE costs are separate, because each factor is reported in different units of measure, thereby making them incapable of being added. Normally, the FOPs for various materials are reported in weight; the FOPs for labor are expressed in hours; and, the FOPs of energy are expressed in kilowatt-hours. We cannot add the FOP of materials to the FOP of labor and the FOP of energy to get a combined FOP for MLE. However, MLE are inclusive in the cost of goods sold amount because they are expressed in value amounts rather than different units of measure. Therefore, the combined MLE value from the surrogate financial statements is in harmony, and not in conflict with, the separate MLE FOPs in the FOP build-up.

Contrary to respondents' allegation, we did not rely on petitioners' financial ratio calculations that respondents cite to as the basis of their claim that raw materials represent only two percent of cost of goods sold. Petitioners' raw material figure is based on the balance of inventories reflected in Note 9 of CYDSA's financial statement, and are not indicative of "the cost of consumption of raw material inventories."[25] In the Department's calculation of these financial ratios, we have no risk of double counting material costs, because the denominator is an aggregate number for MLE calculated from the line item for cost of goods sold. However, we do agree with respondents that the line items for "other

[25] *See* Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (10th Antidumping Administrative Review): Comments Concerning the Preliminary Determination and Submission of Factual Information Regarding Surrogate Values," (June 6, 2016) ("Petitioners Final SV Submission"), CYDSA Statement, at Exhibit 8, Note 9 Inventories, and at Exhibit 12.

payables" and "direct benefits (executives)" were incorrectly included as part of CYDSA's labor costs and have omitted these items from our calculation of CYDSA's financial ratios, because they do not reflect manufacturing costs.

Respondents' arguments stating that CYDSA's production processes and products are dissimilar to those of respondents is not accurate and does not reflect the information on the record. First, respondents claim that the comparable product, sodium hypochlorite produced by CYDSA, is not a significant or primary product. CYDSA reported its operating segments following International Financial Reporting Standards ("IFRS") 8, the international accounting standard used to disclose information involving operating segments. CYDSA's financial statements identified only two operating segments in the company; the Chemical Products and Specialties segment that accounted for 96.5 percent of its total sales; and, the Yarns segment that accounted for the remaining sales.[26] Within the Chemical Products and Specialties segment, chlorine and caustic soda products accounted for 45 percent, representing 43.4 percent of all of CYDSA's sales: the next biggest product group, salt, had sales in 2014 that were 42.8 percent smaller than the chlorine and caustic soda product group.[27] The Department relied on CYDSA's financial statements in *Hydrofluorocarbons from the PRC*[28] even though refrigerants represented only 23.5 percent of CYDSA's total sales in 2014.

Respondents' argument contending that CYDSA's energy division represents a separate operating unit is not supported by information on the record. CYDSA's financial statement reflects only one electricity cogeneration plant operating at the end of 2015 and this plant was not handling all of CYDSA's electrical needs.[29] Moreover, the company singled out gas and electricity as key inputs used in the production of chlorine and caustic soda, noting that they were subject to "price risk" because the public company in Mexico that produces and distributes electricity using natural gas is vulnerable to the volatility of the natural gas market.[30] This demonstrates that CYDSA is not energy independent but still relies on outside purchases of electricity to support its production processes, and that these costs can reasonably be considered substantial, given its reported vulnerability to "price risk."

The information contained in Chimcomplex's financial statement does not indicate that it is any less integrated or a more significant producer of comparable merchandise than CYDSA. Rather, the information on the record from Chimcomplex's website shows that it has two major segments for inorganic and organic products identified as "Chloralkali and Inorganic Chlorides" and "Solvents, Alkylamines, and Pesticides," respectively.[31] The product range identified in this website includes: (1) chloralkali (2) organic solvents; (3) inorganic chlorides; (4) pesticides; (5) synthesis intermediaries; (6) alkylamines; and, (7) compressed gases.[32] Within Chimcomplex's seven product groups, it has 24 separate products including the comparable product sodium hypochlorite, some of which are equally or more dissimilar than those products produced by respondents. Based on this information, the

---

[26] *See* Petitioners Final SV Submission, CYDSA Statement, at Exhibit 8, Note 23 Operating Segments.
[27] *Id.*
[28] *See Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 42314 (June 29, 2016) (*Hydrofluorocarbons from the PRC*), and accompanying Issues and Decision Memorandum, at Comment 30.
[29] *Id., see also* CYDSA Statement, at 36.
[30] *See* CYDSA Statement, at 81.
[31] *See* Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (2014- 2015 Review): Surrogate Value Data," (December 17, 2015) ("Petitioners' SV Submission), at Exhibit 24B.
[32] *Id.*

Department finds the number of Chimcomplex's product lines to be as varied as CYDSA's. Moreover, given the absence of information regarding the income generated by Chimcomplex for each product group, the Department has no way to evaluate whether its sodium hypochlorite business represents a significant or primary product of the company.

Respondents' arguments concerning the different levels of integration between CYDSA and Chimcomplex are not supported by the information on the record. As discussed above, both companies have two main operating segments that produce a number of products that are dissimilar to the one comparable product, sodium hypochlorite. Moreover, we do not find the level of integration to be a meaningful factor, given that respondents themselves are vastly different in their own levels of integration (*i.e.*, Jiheng is much more integrated than Heze Huayi and Kangtai through its own production of intermediate products that the latter two respondents purchase as inputs).

Finally, with respect to the issue of subsidies, the Department's practice is not to rely on financial statements where there is evidence that the company received countervailable subsidies and there are other, more reliable and representative data on the record for purposes of calculating the surrogate financial ratios.[33] Petitioners argue that Chimcomplex benefitted from countervailable subsidies, with the result that its financial statements are unsuitable to use. Our review of Chimcomplex's financial statements leads us to conclude that the alleged subsidies do not contain any reference to any of the specific programs that the Department has previously found to be countervailable.[34]

B. Surrogate Values for Certain Other Inputs

Respondents' Comments

- Romania had complete surrogate values for all inputs with the exception of steam, but only Jiheng consumed steam and it is a significantly smaller percentage of the normal value than electricity and steam coal. The Department correctly found the Mexican import value for steam coal to be aberrational.
- The Department must take into consideration the level of contemporaneity and its implications in determining that the Romanian 2013 electricity and 2011 water rates, compared with the Mexican 2008 labor rate, make the Romanian financial statement less contemporaneous.
- Respondents contend that they consumed water free of charge, so water should be valued at zero, therefore making immaterial the contemporaneity of the water figure. Further, electricity rates remain stable over periods of time where labor rates are constantly changing. Therefore, contemporaneity of the labor rate is more critical than the contemporaneity of other inputs, and adjusting for inflation does not address any significant changes in the labor market.
- Romania has more precise surrogate value data for ammonium sulfate, urea, and sodium hydroxide.

---

[33] *See* Omnibus Trade and Competitiveness Act of 1988, H.R. Rep. No. 576, 100th Cong., 2d Sess., at 590-91 (1988).
[34] *See* Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (7th Antidumping Administrative Review): Petitioners' Submission of Rebuttal Information Regarding Surrogate Values for Factors of Production for Final Results," (September 30).

Petitioners' Rebuttal

- Steam and steam coal both represent minor inputs, and, therefore, the absence of a valid steam coal value cannot disqualify Mexico as the primary surrogate country.
- The more appropriate analysis should focus on the major inputs (chlorine, caustic soda, urea) and the by-product ammonium sulfate. Mexico had the largest volume of imports of each of these factors when compared to Romania.
- Respondents cite to no record evidence indicating that the inflated Mexican labor rates the Department used in the *Preliminary Results* are inaccurate.
- There is no evidence that the Romanian electricity and water rates are stable and less affected by non-contemporaneity than the Mexican labor rate. Without actual evidence of distortion or inaccuracy, there is no support for finding the Mexican labor rates unusable.
- There is no evidence that there is any conversion error in the Mexican date, including the inputs ammonium sulfate, urea, and sodium hydroxide, which are reported in the Romanian import data under different units of measure. With regard to sodium hydroxide, the Mexican average unit value is within the range of the Romanian value which shows it is not distortive.

<u>Department's Position</u>: The Department's practice when selecting the best available information for valuing FOPs, in accordance with section 773(c)(1) of the Act, is to select, to the extent practicable, surrogate values which are product-specific, representative of a broad market average, publicly available, tax exclusive, and contemporaneous with the period of review.[35] While there is no hierarchy for applying the surrogate value selection criteria, "the Department must weigh available information with respect to each input value and make a product-specific and case-specific decision as to what the 'best' surrogate value is for each input."[36]

Respondents argue that Romania has superior surrogate values than Mexico, even though both have usable surrogate values for all but one input. Respondents contend that steam, which was not imported into Romania during the POR, is insignificant when compared to other energy inputs, such as steam coal, which the Department found to be aberrant in the Mexican import data. According to respondents, they all use significant amounts of steam coal, but only Jiheng uses steam, and even then, steam is an insignificant purchased energy input for Jiheng. The Department does not find this reason alone to be sufficient to elevate the importance of steam coal over steam or any other surrogate value in determining the primary surrogate country.

Moreover, the Department does not have a practice of weighing the quality of a particular surrogate value based solely on the number of shared inputs used by each respondent. Such a practice would assign lesser importance to those surrogate values that are unique to a particular company. For example, Jiheng is a more integrated producer than Heze Huayi and Kangtai, and as such, consumes more material and energy inputs. Following such a practice would penalize a more integrated company like

---

[35] *See, e.g., First Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010), and accompanying Issues and Decision memorandum, at Comment 1.
[36] *See 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), and accompany Issues and Decision Memorandum, at Comment 2.

Jiheng, which relies on many additional material and energy inputs to produce key intermediate products such as chlorine and sodium hydroxide, two material inputs the Heze Huayi and Kangtai must purchase. Rather, the significance of steam as an energy input should be determined within the context of Jiheng's consumption of all three energy inputs. The information on the record shows that of the three energy inputs, electricity accounts for the largest portion of Jiheng's energy costs, followed by steam, and then slightly smaller amounts of steam coal.[37] Based on this analysis, steam is as meaningful as steam coal as a surrogate value in this case.

In the *Preliminary Results*, we incorrectly calculated the surrogate value for steam coal by averaging the average unit of values for steam coal from four other economically-comparable countries that had imports of steam coal during the period of review.[38] For these final results, we followed our practice as described in *Glycine*,[39] and selected the South African surrogate value because it had the highest import volume for steam coal during the period of review that was not aberrational in comparison to the other economically-comparable countries.[40] Moreover, like *Glycine*, we find that the record evidence does not support a finding that the average unit value of any of the other remaining countries, when compared with that of South Africa, is either more specific to the input or a more reasonable value, because they rely on import data from the same data source.[41] Therefore, consistent with our practice, we find the South African surrogate value to be the best information available to value steam coal.

Respondents argue that the Department take into consideration the level of contemporaneity and its implications in selecting the appropriate surrogate value. This argument is raised in the context of Mexico having a less contemporaneous surrogate value for labor as compared to Romania, whereas Romania has less contemporaneous surrogate values for electricity and water as compared to Mexico. When choosing the best available information to use as surrogate values, the Department considered the level of specificity, contemporaneity, and quality of the data. In the instant case, contemporaneity is the only factor that differs among the surrogate values in question for labor, electricity, and water. The Department correctly found that Mexico was superior to Romania in this regard because it had two more contemporaneous values for electricity and water, and only one less contemporaneous value for labor.

We find respondents' argument regarding the older Mexican labor value to be less reliable, to be unsupported by the record evidence. Respondents contend that inflation alone does not properly account for the trends in labor prices over time, because the labor rate is subject to significant changes, noting specific historical changes from 2000 to 2008 in the Mexican labor rate, and changes from 2000 to 2003 in the Thai labor rate.[42] We disagree that this demonstrates trends in labor prices that are explained simply by contemporaneity. In this regard, there is no basis to conclude that the Department's normal

---

[37] *See* Letter from Jiheng, "Chlorinated Isocyanurates from the People's Republic of China: Response to Supplemental Sections A, C & D Questionnaire" (May 25, 2016) ("Jiheng's Response to Suppl. Sections A, C & D Questionnaire"), at Exhibits SD-9 and SD-10b.

[38] *See* Memorandum to the File, "2013-2014 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results Surrogate Value Memorandum," (July 5, 2016), at 3, footnote 7.

[39] *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 64100 (October 18, 2012) (*Glycine*), and accompanying Issues and Decision Memorandum (Glycine IDM), at Comment 1.

[40] *See* "Steam Coal" tab from the Excel Workbook "Final SVs 14-15" for the calculation of steam coal using UN COMTRADE data on the record from South Africa.

[41] *See* Glycine IDM, at Comment 1.

[42] *See* Respondents' Case Brief, at 19.

method of adjusting the surrogate values using the Consumer Price Index rate for Mexico, as published by the International Monetary Fund, fails to account properly for inflation or changes in the labor rate over this time period. Additionally, respondents provide no evidence of any significant changes or events that occurred in Mexico to affect the labor rate since 2008, the year in which the Mexican labor rate is based. For all these reasons, the record does not support respondents' argument that the Mexican labor values should not be used as a surrogate value.

In weighing the evidence on the record, we do not agree with respondents' argument that different units of measurements found in the Romanian import data for urea, ammonium sulfate, and sodium hydroxide provide more accurate pricing. As an initial matter, respondents have reported the consumption of all of these inputs on a per kilogram basis. This is consistent with the per unit weights found in the Mexican import data, thereby requiring no adjustment.[43] The fact that urea and ammonium sulfate are reported on a kilograms of nitrogen per unit basis, by itself, does not make it more accurate, because nitrogen represents only a fraction of the chemical composition of these two inputs. Rather, respondents needed to provide the ratio of the chemical weight of nitrogen within each of these two inputs in order to convert these weights to a usable per kilogram unit basis. Both urea and ammonium sulfate were already provided in the Mexican import data on a per kilogram unit basis, which is preferable because it requires no adjustment.

With respect to sodium hydroxide, respondents assume that the unit designation of "KSH" in the Romanian import data already represents a 100 percent concentration, and converts this price using the proprietary concentration of each respondent. While this may be the case, there is no conclusive evidence on the record that defines the actual concentrations of sodium hydroxide in either the Romanian or Mexican import data. Accordingly, the Department cannot find the Romanian price to be the only reliable price based merely on this assumption. Moreover, the Mexican surrogate value for sodium hydroxide is already reported in the same per unit measurement as the amounts included in respondents' factors of production (kilograms), and there is no evidence on the record suggesting that the Mexican surrogate value for sodium hydroxide does not reflect the normal commercial grade and concentration that is commonly traded and used by chemical companies like respondents.

Finally, respondents also raise the argument that choosing a surrogate value for water is immaterial, because respondents consumed water free of charge. The Department has previously addressed this issue and assigned a surrogate value for water consumption without adjusting electricity usage related to pumping the water, because there is no tracking of the specific electricity usage for pumping and/or purifying the water.[44]

[43] *See* Final SVs 14-15 at "Summary" worksheet tab.
[44] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014) (*2011-2012 Final Results*), and accompanying Issues and Decision Memorandum, at Comment 5.E, *citing e.g.*, *Third Administrative Review of Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 10026, 10028 (March 9, 2009).

RECOMMENDATION

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

☑ ☐

____________ ____________

Agree Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

9 JANUARY 2017

Date