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MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of the
Antidumping Duty Administrative Review and New
Shipper Review of Freshwater Crawfish Tail Meat from the
People's Republic of China; 2015-2016

I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review and new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The period of review (POR) for the administrative review and new shipper review is September 1, 2015, through August 31, 2016. The administrative review covers two mandatory respondent exporters of subject merchandise, Hubei Nature Agriculture Industry Co., Ltd. (Hubei Nature) and Yancheng Hi-King Agriculture Developing Co., Ltd. (Yancheng Hi-King). The new shipper review covers Jingzhou Tianhe Aquatic Products, Co., Ltd. (Jingzhou Tianhe). The Department preliminarily determines that sales of subject merchandise by Hubei Nature were made at prices below normal value (NV), and sales of subject merchandise by Yancheng Hi-King were not made at prices below NV. The Department also preliminarily determines that Jingzhou Tianhe's sale to the United States was not *bona fide* and, accordingly, the Department preliminarily intends to rescind the new shipper review with respect to Jingzhou Tianhe.

II. BACKGROUND

On September 15, 1997, the Department published an amended final determination and antidumping duty order on freshwater crawfish tail meat from the PRC.¹

¹ See *Notice of Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat from the People's Republic of China*, 62 FR 48218 (September 15, 1997).



On September 8, 2016, the Department published a notice of opportunity to request an administrative review of the order.² On September 29, 2016, Hubei Nature requested that the Department conduct an administrative review of the sales of subject merchandise made by Hubei Nature during the POR.³ On September 29, 2016, the Crawfish Processors Alliance (the CPA or the petitioners), requested that the Department conduct a review of eleven producers or exporters of subject merchandise.⁴ Also on September 30, 2015, Xuzhou Jinjiang Foodstuffs Co., Ltd. (Xuzhou Jinjiang) requested that the Department conduct an administrative review of its sales of subject merchandise during the POR.⁵

On November 9, 2016, based on timely requests for an administrative review, the Department initiated an administrative review of eleven exporters/producers.⁶ On December 8, 2016, the Department selected as mandatory respondents for individual examination in this review Hubei Nature, and Yancheng Hi-King.⁷

On January 19, 2017, the CPA withdrew its request for eight of the eleven companies for which it had requested a review: China Kingdom (Beijing) Import & Export Co., Ltd., Deyan Aquatic Products and Food Co., Ltd., Hubei Qianjiang Huashan Aquatic Food and Product Co., Ltd., Hubei Yuesheng Aquatic Products Co., Ltd., Nanjing Gensen International Co., Ltd., Shanghai Ocean Flavor International Trading Co., Ltd., Weishan Hongda, and Xuzhou Jinjiang.⁸ In addition, on November 30, 2016, Xuzhou Jinjiang and Weishan Hongda Aquatic Food Co., Ltd. (Weishan Hongda) each withdrew its request for an administrative review.⁹ As a result, the Department is rescinding the review with

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 81 FR 62096 (September 8, 2016).

³ See Letter from Hubei Nature to the Secretary of Commerce, “Re: Freshwater Crawfish Tailmeat from the People’s Republic of China: Request for Administrative Review,” dated September 29, 2016.

⁴ See Letter from the CPA to the Secretary of Commerce, “Re: Freshwater Crawfish Tail Meat from the People’s Republic of China: Request for 2015-16 Administrative Review,” dated September 30, 2016 (which listed the following companies: China Kingdom (Beijing) Import & Export Co., Ltd., Deyan Aquatic Products and Food Co., Ltd., Hubei Nature Agriculture Industry Co., Ltd., Hubei Qianjiang Huashan Aquatic Food and Product Co., Ltd., Hubei Yuesheng Aquatic Products Co., Ltd., Nanjing Gensen International Co., Ltd., Shanghai Ocean Flavor International Trading Co., Ltd., Weishan Hongda Aquatic Food Co., Ltd., Xiping Opeck Food Co., Ltd., Xuzhou Jinjiang Foodstuffs Co., Ltd., Yancheng Hi-King Agriculture Developing Co., Ltd.).

⁵ See Letter from Xuzhou Jinjiang to the Secretary of Commerce, “Re: Request for Review in the Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People’s Republic of China (09/01/15-8/31/16),” dated September 30, 2016.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 78778 (November 9, 2016) (*Initiation Notice*).

⁷ See Memorandum, “Freshwater Crawfish Tail Meat from the People’s Republic of China - Respondent Selection for the 2015-2016 Antidumping Duty Administrative Review,” dated December 8, 2016.

⁸ See Letter from the CPA to the Secretary of Commerce, “Re: Freshwater Crawfish Tail Meat from the People’s Republic of China: Withdrawal of Certain Requests for 2015-16 Administrative Review,” dated January 19, 2017.

⁹ See Letter from Xuzhou Jinjiang to the Secretary of Commerce, “Re: Withdrawal of Request for Review in the Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People’s Republic of China (09/01/15-8/31/16),” dated November 30, 2016; *see also* Letter from Weishan Hongda to the Secretary of Commerce, “Re: Withdrawal of Request for Review in the Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People’s Republic of

respect to these eight companies, which include Xuzhou Jinjiang and Weishan Hongda. See the “Rescission of Administrative Review in Part” section of this memorandum.

On October 31, 2016, in response to a request from Jingzhou Tianhe, we initiated a new shipper review of the order on freshwater crawfish tail meat from the PRC with respect to this company.¹⁰ On November 21, 2016, the Department aligned the new shipper review of freshwater crawfish tail meat from the PRC with the concurrent administrative review of freshwater crawfish tail meat from the PRC.¹¹

We are conducting these reviews in accordance with sections 751(a)(1), 751(a)(2)(B)(iv), 751(a)(3), 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213 and 351.214.

III. SCOPE OF THE ORDER

The product covered by the antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or un-purged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by U.S. Customs and Border Protection (CBP) in 2000, and HTSUS numbers 0306.19.00.10 and 0306.29.00.00, which are reserved for fish and crustaceans in general. On February 10, 2012, the Department added HTSUS classification number 0306.29.01.00 to the scope description pursuant to a request by CBP. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

IV. RESCISSION OF ADMINISTRATIVE REVIEW IN PART

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation.

As noted above, on January 19, 2017, the petitioners withdrew their request for review of eight out of the eleven companies for which it requested a review¹² and, on November 30,

China (09/01/15-8/31/16),” dated November 30, 2016 (Note: Weishan Hongda never submitted a request for review of its own sales, despite its mention of doing so in its withdrawal request.)

¹⁰ See *Freshwater Crawfish Tail Meat from the People’s Republic of China: Initiation of Antidumping Duty New Shipper Review*, 81 FR 75377 (October 31, 2016) (*New Shipper Initiation Notice*).

¹¹ See Memorandum, “Alignment of New Shipper Review of Freshwater Crawfish Tail Meat from the People’s Republic of China with the Concurrent Administrative Review of Freshwater Crawfish Tail Meat from the People’s Republic of China,” dated November 21, 2016.

¹² See Letter from the CPA to the Secretary of Commerce, “Re: Freshwater Crawfish Tail Meat from the People’s

2016, Xuzhou Jinjiang and Weishan Hongda each withdrew its request for review of its own sales.¹³ These withdrawals of review requests were submitted within the deadline set forth under 19 CFR 351.213(d)(1) and no other parties requested a review of these companies. Accordingly, the Department is rescinding this review, in part, with respect to China Kingdom (Beijing) Import & Export Co., Ltd., Deyan Aquatic Products and Food Co., Ltd., Hubei Qianjiang Huashan Aquatic Food and Product Co., Ltd., Hubei Yuesheng Aquatic Products Co., Ltd., Nanjing Gemsen International Co., Ltd., Shanghai Ocean Flavor International Trading Co., Ltd., Weishan Hongda, and Xuzhou Jinjiang, in accordance with 19 CFR 351.213(d)(1).

V. *BONA FIDES* ANALYSIS

Pursuant to section 751(a)(2)(B)(iv) of the Act, any weighted-average dumping margin determined in a new shipper review must be based solely on *bona fide* sales during the POR.¹⁴ Where a review is based on a single sale, exclusion of that sale as non *bona fide* necessarily must end the review.¹⁵ As such, and consistent with the Department's practice, we examined the *bona fides* of the sale in this new shipper review.¹⁶ In evaluating whether a sale in a new shipper review is commercially reasonable or typical of normal business practices and, therefore, *bona fide*, the Department considers, *inter alia*, such factors as: (a) the timing of the sale; (b) the price and quantity; (c) the expenses arising from the transaction; (d) whether the goods were resold at a profit; and (e) whether the transaction was made on an arm's-length basis.¹⁷ Accordingly, the Department considers a number of factors in its *bona fides* analysis, "all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise."¹⁸

In *TTPC*, the Court of International Trade (CIT) affirmed the Department's decision that any factor which indicates that the sale under consideration is not likely to be typical of

Republic of China: Withdrawal of Certain Requests for 2015-16 Administrative Review," dated January 19, 2017.

¹³ See Letter from Xuzhou Jinjiang to the Secretary of Commerce, "Re: Withdrawal of Request for Review in the Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China (09/01/15-8/31/16)," dated November 30, 2016; see also Letter from Weishan Hongda to the Secretary of Commerce, "Re: Withdrawal of Request for Review in the Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China (09/01/15-8/31/16)," dated November 30, 2016.

¹⁴ Trade Facilitation and Trade Enforcement Act of 2015, Pub. Law 114-125 (February 24, 2016) made amendments to section 751(a)(2)(B) of the Act. These amendments apply to this determination.

¹⁵ See *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1249-1250 (CIT 2005) (*TTPC*).

¹⁶ See, e.g., *Honey from the People's Republic of China: Rescission and Final Results of Antidumping Duty New Shipper Reviews*, 71 FR 58579 (October 4, 2006) and accompanying Issues and Decision Memorandum (I&D Memo) at comment 1b.

¹⁷ See *TTPC*, 366 F. Supp. 2d 1246, 1249-1250 (CIT 2005). See also section 751(a)(2)(B)(iv)(I) – (VII).

¹⁸ See *Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (*New Donghua*) (citing *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002), and accompanying I&D Memo at New Shipper Review of Clipper Manufacturing Ltd.).

those which the producer will make in the future is relevant,¹⁹ and found that the weight given to each factor investigated will depend on the circumstances surrounding the sale.²⁰

Finally, in *New Donghua*, the CIT affirmed the Department's practice of evaluating the circumstances surrounding a sale in a new shipper review so that a respondent does not unfairly benefit from an atypical sale and obtain a lower dumping margin than the producer's usual commercial practice would dictate.²¹ Where the Department finds that a sale is not *bona fide*, the Department will exclude the sale from its dumping margin calculations.²² However, when the respondent under review makes only one sale and the Department finds that transaction atypical, "exclusion of that sale as *non-bona fide* necessarily must end the review, as no data will remain on the export price side of {the Department's} antidumping duty calculation."²³ Moreover, the Department's practice makes clear that the Department will examine objective, verifiable factors to ensure that a sale is not being made to circumvent an order.²⁴ Thus, a respondent is on notice that it is unlikely to establish the *bona fides* of a sale merely by claiming to have sold in a manner representative of its future commercial practice.²⁵

We preliminarily find that Jingzhou Tianhe's reported U.S. sale during the POR, subject to the new shipper review, is not *bona fide* based on the facts on the record.²⁶ Namely, in reviewing record evidence, we found Jingzhou Tianhe's U.S. sales quantity and price to be atypical and not reflective of normal commercial reality; further, we found that the timing of Jingzhou Tianhe's U.S. sale, the severe tardiness in the receipt of payment, and certain atypical business practices are all additional factors that are at odds with normal business considerations.²⁷ In sum, the totality of the circumstances surrounding Jingzhou Tianhe's U.S. sale calls into question the legitimacy of the reported transaction. Because this non-*bona fide* U.S. sale was the only sale of subject merchandise that Jingzhou Tianhe made during the POR, we are unable to calculate a dumping margin and, accordingly, we are preliminarily rescinding the new shipper review of Jingzhou Tianhe.

VI. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country Status

The Department considers the PRC to be a non-market economy (NME) country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an

¹⁹ See *TTPC*, 366 F. Supp. 2d at 1250.

²⁰ *Id.* at 1263.

²¹ See *New Donghua*, 374 F. Supp. 2d at 1344.

²² See *TTPC*, 366 F. Supp. 2d at 1249.

²³ *Id.*

²⁴ See *New Donghua*, 374 F. Supp. 2d at 1339.

²⁵ *Id.*

²⁶ For further details regarding our *bona fides* analysis of Jingzhou Tianhe's U.S. sale, see Memorandum, "New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China – *Bona Fides* Analysis of Jingzhou Tianhe Aquatic Products Co., Ltd.'s Sale," dated concurrently with this memorandum (*Bona Fides* Memorandum).

²⁷ See *Bona Fides* Memorandum for a full discussion of these issues and the business proprietary information on which it relies.

NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding contested NME treatment for the PRC. Therefore, for these preliminary results of administrative review and new shipper review, we treated the PRC as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

B. Surrogate Country

In antidumping duty proceedings involving NME countries, pursuant to section 773(c)(1) of the Act, the Department generally bases NV on the value of the NME producer's factors of production (FOPs). In accordance with section 773(c)(4) of the Act, in valuing the FOPs the Department uses, to the extent possible, the prices or costs of the FOPs in one or more market-economy countries that are at the same level of economic development to that of the NME country and that are also significant producers of merchandise comparable to the subject merchandise. The Department has determined that Brazil, Mexico, Romania, Bulgaria, South Africa, and Thailand are countries that are at the same level of economic development to that of the PRC.²⁸ None of these countries is a significant producer of freshwater crawfish tail meat, but South Africa and Thailand are significant producers of comparable merchandise, that is processed seafood.²⁹

As stated in 19 CFR 351.408(c)(2), the Department's preference is to value FOPs in a single country. Thus, when there are multiple potential surrogate countries, the Department also looks to the availability of data in those countries.³⁰ In this instance, publicly available data for Thailand allows the valuation of more of the FOPs required to calculate NV than information on the record with respect to South African prices. Both South Africa and Thailand are significant producers of comparable merchandise, and they are both at the same economic level to the PRC; however, the ability to value more FOPs with Thai data leads us to select Thailand as the primary surrogate country.³¹

We have no financial statements on the record from the primary surrogate country. We have contemporaneous financial statements from a South African seafood processor on the record to calculate surrogate ratios for overhead, selling, general and administrative expenses (SG&A), and profit.³² Therefore, we find that, pursuant to section 773(c) of the Act, the South African seafood processor's 2016 Annual Report constitutes the "best available information" from a market-economy, at the same level of economic

²⁸ See Memorandum, "Request for a List of Surrogate Countries for a New Shipper Review and an Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China ("China")," dated November 23, 2016.

²⁹ See Memorandum, "Freshwater Crawfish Tail Meat from the People's Republic of China: Selection of Surrogate Country," dated concurrently with this memorandum (Surrogate Country Memorandum).

³⁰ See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process, (March 1, 2004) (*Policy Bulletin 04.1*).

³¹ See *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of 2007-2008 Deferred Antidumping Duty Administrative Review and Final Results of 2008-2009 Antidumping Duty Administrative Review*, 76 FR 2883 (January 18, 2011), and accompanying I&D Memo at comment 1(C).

³² See the CPA's March 17, 2017, surrogate value comments at Exhibit 3.

development to the PRC, which is also a significant producer of comparable merchandise, to value the financial ratios for these preliminary results.

We are unable to value the whole crawfish input in any of the potential surrogate countries. Instead, we valued whole crawfish using the only information available on the record with respect to that input, *i.e.*, imports of crawfish into Spain as reported by *Agencia Tributaria*, the Spanish government agency responsible for trade statistics. Spain is a significant producer of freshwater crawfish and we relied on Spanish values in previous reviews for this input.³³

With regard to crawfish shell, we find that the Thai tariff schedule 0508.00.20002 is a basket category that includes non-chitin containing echinoderms and decorative shells of various kinds and does not appear to include the shells comparable to the crawfish shell or scrap produced as a by-product from processing crawfish tail meat.³⁴ Thus, we preliminarily find that the 2001 Indonesian price quote placed on the record by the CPA is the best information available to value the crawfish by-product or scrap because it is public information taken from a seller from a country we find to be at the level of economic development to the PRC, and represents a price on a wet-weight basis, which is consistent with how Chinese exporters export their crawfish scrap.³⁵ Although in this review, Indonesia is no longer on the list of countries at the same level of economic development as China, per Policy Bulletin 04.1 at 4-5, we find that when data are not available from the preferred surrogate countries, as is the case in this review with respect

³³ See, *e.g.*, *Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review; 2011-2012*, 78 FR 61331 (October 3, 2013), and accompanying Preliminary Decision Memorandum at “Surrogate Country” (11/12 FCTM Prelim) (unchanged in *Freshwater Crawfish Tail Meat from the People’s Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Review; 2011-2012*, 79 FR 22947 (April 25, 2014), and accompanying I&D Memo (11/12 FCTM Final)); *Freshwater Crawfish Tail Meat from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review; 2012-2013*, 79 FR 60134 (October 6, 2014), and accompanying Preliminary Decision Memorandum at “Surrogate Country” (12/13 FCTM Prelim) (unchanged in *Freshwater Crawfish Tail Meat from the People’s Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Review; 2012-2013*, 79 FR 75535 (December 18, 2014) (12/13 FCTM Final)); *Freshwater Crawfish Tail Meat from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review; 2013-2014*, 80 FR 60624 (October 7, 2015), and accompanying Preliminary Decision Memorandum at “Surrogate Country” (13/14 FCTM Prelim) (unchanged in *Freshwater Crawfish Tail Meat from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2013-2014*, 81 FR 21840 (April 13, 2016), and accompanying I&D Memo (13/14 FCTM Final)); *Freshwater Crawfish Tail Meat from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review; 2014-2015*, 81 FR 70389 (October 12, 2016), and accompanying Preliminary Decision Memorandum at “Surrogate Country” (14/15 FCTM Prelim) (unchanged in *Freshwater Crawfish Tail Meat from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2014-2015*, 82 FR 17634 (April 12, 2017) and accompanying I&D Memo (14/15 FCTM Final)).

³⁴ See 12/13 FCTM Final.

³⁵ See *Crawfish from the PRC 2002*, 67 FR at 52446, unchanged in *Freshwater Crawfish Tail Meat from the People’s Republic of China: Notice of Final Results of Antidumping Duty New Shipper Review, and Final Rescission of Antidumping Duty New Shipper Review*, 68 FR 1439 (January 10, 2003).

to this input, the Department may look to other data sources.³⁶ As such, we have identified another data source that is on the record to value the scrap by-product input.

C. Separate Rates

In antidumping duty proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate.³⁷ Thus, the Department will assign all exporters this single rate unless an exporter can demonstrate that it is sufficiently independent from the government such that it is entitled to a separate rate. The Department assigns separate rates in NME proceedings only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities under a test developed by the Department.³⁸

In the *Initiation Notice* and the *New-Shipper Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.³⁹ The Department received complete responses to the antidumping duty questionnaire from all respondents selected for individual examination, which contained information pertaining to the companies' eligibility for a separate rate.⁴⁰ The Department also received information from the respondent not selected for individual examination, Xiping Opeck Food Co., Ltd. (Xiping Opeck), pertaining to its eligibility for a separate rate.⁴¹ However, as a result of our *bona fides* analysis of Jingzhou Tianhe's U.S. sale, we intend to rescind this review with respect to this company, and therefore, the question of whether Jingzhou Tianhe is entitled to a separate rate in this review is moot.

1. 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

³⁶ See Policy Bulletin 04.1.

³⁷ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, In Part*, 80 FR 34893 (June 18, 2015), and accompanying I&D Memo at Comment 35.

³⁸ 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*), and *Notice of Final Determination of Sales at Less Than Fair Value: Carbide from the People's Republic of China*, 59 FR 22585, 22586-87 (May 2, 1994) (*Silicon Carbide*).

³⁹ See *Initiation Notice*, 81 FR at 78779-80; *New-Shipper Initiation Notice*, 80 FR at 75378.

⁴⁰ See Hubei Nature's January 25, 2017, section A response (Hubei Nature AQR) at 3-10; see also Yancheng Hi-King's January 19, 2017, section A response (Yancheng Hi-King AQR) at 2-13.

⁴¹ See Xiping Opeck's Letter to the Secretary of Commerce, "Re: Freshwater Crawfish Tail Meat from the People's Republic of China Separate Rate Certification," dated December 8, 2016 (Xiping Opeck SRC).

legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.⁴²

The evidence provided by Hubei Nature, Yancheng Hi-King and Xiping Opeck support a preliminary finding of an absence of *de jure* government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) legislative enactments decentralizing control of the companies; and (3) formal measures by the government decentralizing control of the companies.⁴³

2. Absence of *De Facto* Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC.⁴⁴ Therefore, the Department determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The Department typically considers the following four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by, or subject to the approval of, a government agency; (2) whether the respondent has the 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 the disposition of profits or financing of losses.⁴⁵

Hubei Nature, Yancheng Hi-King and Xiping Opeck have each made the following assertions: (1) they establish their own export prices; (2) they negotiate contracts without guidance from any government entities or organizations; (3) they make their own personnel decisions; and (4) they retain the proceeds of their export sales, use profits according to their business needs, and have the authority to sell their assets and to obtain loans.⁴⁶ Therefore, based on the information on the record of these reviews, the Department preliminarily determines that there is an absence of *de facto* governmental control over the export activities of Hubei Nature, Yancheng Hi-King and Xiping Opeck.

Given that the Department found that Hubei Nature, Yancheng Hi-King and Xiping Opeck operate free of *de jure* and *de facto* governmental control, we preliminarily determine that they satisfy the criteria for a separate rate.⁴⁷

⁴² See *Sparklers*, 56 FR at 20589.

⁴³ See Hubei Nature AQR at 3-10; Yancheng Hi-King AQR at 2-13; and Xiping Opeck SRC at 5.

⁴⁴ See *Silicon Carbide*, 59 FR at 22587; see also 12/13 *FCTM Prelim*, and accompanying Preliminary Decision Memorandum at "Separate Rates" (unchanged in 12/13 *FCTM Final*, and accompanying I&D Memo).

⁴⁵ See *Silicon Carbide*, 59 FR at 22586-87; *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 n.3 (May 8, 1995).

⁴⁶ See Hubei Nature AQR at 3-10; Yancheng Hi-King AQR at 2-13; and Xiping Opeck SRC at 5-6.

⁴⁷ Since the 2010-2011 administrative review, the Department has treated the following companies as a single entity:

3. Separate Rate for Eligible Non-Selected Respondent

In accordance with section 777A(c)(2)(B) of the Act, we selected Hubei Nature and Yancheng Hi-King for individual examination because we did not have the resources to examine all companies for which a review was requested.⁴⁸

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual separate rate respondents not selected for 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 a market economy investigation, for guidance when calculating the rate for separate rate respondents which were not individually examined in an administrative review.

Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely {on the basis of facts available}." Accordingly, when only one weighted-average dumping margin for the individually investigated respondents is above *de minimis* and not based on total facts available, the separate rate will be equal to that single above *de minimis* rate.⁴⁹ For these preliminary results, the Department has calculated a rate for the mandatory respondent Yancheng Hi-King that is zero and a rate for mandatory respondent Hubei Nature that is not zero, *de minimis*, or based entirely on facts available. Therefore, in accordance with section 735(c)(5)(A) of the Act and its prior practice,⁵⁰ the Department has preliminarily assigned Hubei Nature's calculated rate (*i.e.*, 5.10 percent) as the separate rate for the non-examined separate rate exporter, Xiping Opeck.

Yancheng Hi-King, Yancheng Seastar Seafood Co., Ltd. (Seastar), Wuhan Hi-King Agriculture Development Co., Ltd. (Wuhan Hi-King), Jiangxi Hi-King Poyang Lake Seafood Co., Ltd. (Jiangxi Hi-King), Yancheng Hi-King Frozen Food Co., Ltd. (Hi-King Frozen), and Yancheng Hi-King Aquatic Growing Co., Ltd. (Hi-King Growing). See *Freshwater Crawfish Tail Meat From the People's Republic of China: Antidumping Duty Administrative Review; 2010–2011*, 77 FR 61383 (October 9, 2012), and accompanying Preliminary Decision Memorandum at 3 (Treatment of Affiliated Parties as a Single Entity) (unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission; 2010–2011*, 78 FR 22228 (April 15, 2013)). In this review, Yancheng Hi-King demonstrated that, as of January 2016, it divested its ownership interests in the following companies: Wuhan Hi-King, Jiangxi Hi-King, Hi-King Frozen, and Hi-King Growing. Thus, for these preliminary results, we are preliminarily treating the following companies as the single entity: Yancheng Hi-King and Seastar. Moreover, we are preliminarily treating the following companies as part of the PRC-wide entity, subject to the PRC-wide rate: Wuhan Hi-King, Jiangxi Hi-King, Hi-King Frozen, and Hi-King Growing.

⁴⁸ See Respondent Selection Memorandum.

⁴⁹ See *Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (Ct. Int'l Trade 2008); see also *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2014–2015*, 81 FR 62717 (September 12, 2016).

⁵⁰ See, *e.g.*, *Multilayered Wood Flooring From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Preliminary Partial Rescission of Antidumping Duty Administrative Review; 2014–2015*, 81 FR 95114 (December 27, 2016) and accompanying Decision Memorandum at 9.

D. Fair Value Comparisons

To determine whether sales of subject merchandise by Hubei Nature and Yancheng Hi-King were made at less than NV, we compared their export prices (EP) to NV, as described in the “Export Price” and “Normal Value” sections below.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department determines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, 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 and new shipper reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative and new shipper reviews is, in fact, analogous to the issue in less-than-fair-value investigations.

In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the A-T method is appropriate in a particular situation pursuant to section 777A(d)(1)(B) of the Act and 19 CFR 351.414(c)(1). The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs or CEPs 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 analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, 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 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

U.S. 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the 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 mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to 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 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, the Department examines whether using only the A-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative comparison 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 comparison 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 margins 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 margins between the A-A method and the appropriate alternative method move 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.

2. Results of the Differential Pricing Analysis

For Hubei Nature, based on the results of the differential pricing analysis, the Department preliminarily finds that 92.6 percent of the value of U.S. sales passes the Cohen's *d* test,⁵¹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences, because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, the Department is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Hubei Nature. For Yancheng Hi-King, based on the results of the differential pricing analysis, the Department preliminarily finds that 100 percent of the value of U.S. sales passes the Cohen's *d* test,⁵² and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Yancheng Hi-King.

E. U.S. Price

For Hubei Nature and Yancheng Hi-King, in accordance with section 772(a) of the Act, we based U.S. prices on EP because the record information indicates that the first sales to unaffiliated purchasers were made prior to importation and CEP was not otherwise warranted. For Hubei Nature and Yancheng Hi-King, we calculated EPs based on the

⁵¹ See Memorandum, “Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People’s Republic of China: Preliminary Results Analysis Memorandum for Hubei Nature Agriculture Industry Co., Ltd.,” dated concurrently with this memorandum (Hubei Nature Preliminary Analysis Memorandum).

⁵² See Memorandum, “Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People’s Republic of China: Preliminary Results Analysis Memorandum for Yancheng Hi-King Agriculture Developing Co., Ltd.,” dated concurrently with this memorandum (Yancheng Hi-King Preliminary Analysis Memorandum).

packed free-on-board (FOB)-PRC-port price to the first unaffiliated purchaser in the United States. In accordance with section 772(c) of the Act, we calculated net EPs by deducting foreign inland-freight expenses and foreign brokerage and handling expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States. With regard to Hubei Nature and Yancheng Hi-King, we based all movement expenses reported on surrogate values because a PRC-company provided the movement services.

The Department's recent practice in NME cases is to adjust EP and CEP for the amount of any un-refunded (herein, "irrecoverable") value-added tax (VAT), in accordance with section 772(c)(2)(B) of the Act.⁵³ In changing the practice, the Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated.⁵⁴ Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.⁵⁵

The Department's methodology, as explained above and applied in this review, 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. Information placed on the record of this review by certain respondents indicates that, according to the PRC VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is 15 percent.⁵⁶ For the purposes of these preliminary results, therefore, we removed from U.S. price for each company the appropriate amount related to VAT, which is the difference of these rates, two percent.⁵⁷

F. Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, we will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that we may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The

⁵³ See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481, 36483-84 (June 19, 2012) (*Methodological Change*).

⁵⁴ *Id.*; see also *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014) and accompanying I&D Memo at Comment 5.A.

⁵⁵ *Methodological Change*, 77 FR at 36483.

⁵⁶ See Hubei Nature's February 15, 2017, section C response (Hubei Nature CQR) at C-29-30; and Yancheng Hi-King's April 24, 2017, supplemental response at 2.

⁵⁷ For details on our price adjustments related to VAT, see the company-specific analysis memoranda, concurrently dated with this memorandum.

Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.⁵⁸

Hubei Nature

Hubei Nature reported the date of invoice as the date of sale for all U.S. sales.⁵⁹ Because, however, for certain sales transactions, Hubei Nature's reported date of shipment preceded the date of invoice,⁶⁰ consistent with our regulation and the Department practice, we used the earlier of Hubei Nature's shipment date or invoice date as the date of sale.⁶¹

Yancheng Hi-King

Yancheng Hi-King reported the date of invoice as the date of sale for all U.S. sales.⁶² Consistent with our regulatory presumption of invoice date as the date of sale and because the evidence does not demonstrate that the material terms of sale were established on another date,⁶³ we used Yancheng Hi-King's invoice date as the date of sale for U.S. sales.⁶⁴

G. Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine 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 uses an FOP methodology because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under its normal methodologies.⁶⁵

⁵⁸ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying I&D Memo at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying I&D Memo at Comment 2.

⁵⁹ See Hubei Nature AQR at 13; see also Hubei Nature CQR at C-8.

⁶⁰ See Hubei Nature AQR at Appendix A-5; and Hubei Nature's April 7, 2017, supplemental response at 4-5 and Appendices S1-6 and S1-10.

⁶¹ For more details on our calculation, see Hubei Nature Preliminary Analysis Memorandum.

⁶² See Yancheng Hi-King's section C response, dated February 13, 2017, at 8.

⁶³ See 19 CFR 351.401(i).

⁶⁴ For more details on our calculation, see Yancheng Hi-King Preliminary Analysis Memorandum.

⁶⁵ See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744, 39754 (July 11, 2005) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006)).

In accordance with section 773(c) of the Act, we relied on the FOP data reported by Hubei Nature and Yancheng Hi-King for the POR. We calculated NV by adding together values for the FOPs, general expenses, profit, and packing costs. Specifically, we valued materials, labor, and packing by multiplying the reported per-unit rates for the FOPs consumed in producing the subject merchandise by the average per-unit surrogate values described below. We added freight costs for the material inputs. We calculated the freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the decision by the United States Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-1408 (Fed. Cir. 1997). We increased the calculated costs of the FOPs by adding surrogate general expenses and profit.⁶⁶

H. Surrogate Values

In selecting surrogate values, we considered the quality, specificity, and contemporaneity of the data.⁶⁷ For these preliminary results, in selecting the best available data for valuing FOPs in accordance with section 773(c)(1) of the Act, we followed our practice of choosing publicly available values which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.⁶⁸ We also considered the quality of the source of surrogate information in selecting surrogate values.⁶⁹ For those surrogate values that are not contemporaneous with the POR, we adjusted for inflation using country-specific consumer prices (CPI), whole-sale prices (WPI), or purchase price indices (PPIs) as reported in the *International Financial Statistics* and published by the International Monetary Fund.⁷⁰

Furthermore, we disregarded import prices that we have reason to believe or suspect may be subsidized.⁷¹ In this regard, we previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we determined that

⁶⁶ See Memorandum, “Freshwater Crawfish Tail Meat from the People’s Republic of China: Surrogate-Value Memorandum,” (Surrogate Value Memorandum) dated concurrently with this memorandum.

⁶⁷ See, e.g., *Fresh Garlic from the People’s Republic of China: Final Results of antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying I&D Memo at Comment 6; *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms from the People’s Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying I&D Memo at Comment 5.

⁶⁸ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004) (unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004)).

⁶⁹ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the People’s Republic of China*, 59 FR 55625, 55633 (November 8, 1994).

⁷⁰ See Surrogate Value Memorandum.

⁷¹ See Section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (June 29, 2015); see also *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).

these countries maintain broadly available, non-industry specific export subsidies.⁷² 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, we find that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies.⁷³ Additionally, we disregarded prices from NME countries.⁷⁴

We used the following surrogate values in our margin calculations for these preliminary results of review.⁷⁵ We valued whole crawfish using the publicly available contemporaneous data for Spanish imports of whole crawfish from Portugal. We valued the crawfish shell by-product using a 2001 price quote from Indonesia for wet crab and shrimp shells and inflated this value using the Indonesian WPI to make it contemporaneous with the POR.

We used the *Global Trade Atlas* online data to value coal and packing materials.⁷⁶ We valued water using data published by the Metropolitan Waterworks Authority of Thailand as of May 2015 specific to prices charged to Commerce, Government Agency, State Enterprise and Industry.⁷⁷ We valued electricity using data published by the Provincial Electricity Authority of Thailand as of May 2015 specific to prices charged to Large General Service entities.⁷⁸

⁷² See, e.g., *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (July 14, 2014); *Certain Frozen Warmwater Shrimp from the Republic of Indonesia: Final Negative Countervailing Duty Determination*, 78 FR 50383 (August 19, 2013); *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*; 2011, 78 FR 55241 (September 10, 2013), unchanged in final *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*; 2011, 79 FR 5378 (January 31, 2014); *Large Residential Washers from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012); *Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 26, 2012); *Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013).

⁷³ See, e.g., *Small Diameter Graphite Electrodes from the People's Republic of China: Preliminary Results of the First Administrative Review of the Antidumping Duty Order; Partial Rescission of Administrative Review; and Intent To Rescind Administrative Review, in Part*, 76 FR 12324, 12334 (March 7, 2011) (unchanged in *Small Diameter Graphite Electrodes from the People's Republic of China: Final Results of the First Administrative Review of the Antidumping Duty Order and Final Rescission of the Administrative Review, in Part*, 76 FR 56397 (September 13, 2011)).

⁷⁴ See, e.g., *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 9591, 9600 (March 5, 2009) (unchanged in *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009) (unchanged in *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order*, 74 FR 46971 (September 14, 2009))).

⁷⁵ On March 17, 2017, the CPA and Hubei Nature timely placed on the record surrogate value information requesting that the Department consider such information for the preliminary results.

⁷⁶ See Surrogate Value Memorandum

⁷⁷ See Hubei Nature Surrogate Value Comments at Exhibit 5.

⁷⁸ *Id.*

We valued non-refrigerated truck freight using the World Bank's *Doing Business 2017 – Thailand*,⁷⁹ which we find to be contemporaneous, specific to the cost of shipping goods in Thailand, and representative of a broad market average.⁸⁰ Because we could not find any reliable information from Thailand, or any of the five other countries determined to be economically comparable to the PRC,⁸¹ we valued refrigerated truck freight based on price quotations from CTC Freight Carriers of Delhi, India, dated April 30, 2004, placed originally on the record of the 2009-2010 administrative review.⁸² To make it contemporaneous with the POR, we inflated this value using the Indian PPI.⁸³

We valued foreign brokerage and handling expenses using the information in the World Bank Group's *Doing Business 2015 – Thailand*. This source provides a price list based on a survey case study of the procedural requirements necessary to export a standardized cargo of goods by ocean transit from Thailand. Because data reported in this source were current and, thus, contemporaneous with the POR, no adjustment was necessary.

In *Labor Methodologies*, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook), as compared to Chapter 5B data of the ILO Yearbook, was the preferred source where another source was not more appropriate.⁸⁴

In these preliminary results, the Department calculated the labor input using data from the 2012 Industrial Census data published by Thailand's National Statistics Office (2012 NSO data).⁸⁵ Although the 2012 NSO data are not from the ILO, the Department finds that this fact does not preclude us from using this source for valuing labor. In *Labor Methodologies*, the Department decided to change the use of the ILO Chapter 6A data from the use of ILO Chapter 5B data, on the rebuttable presumption that Chapter 6A data better account for all direct and indirect labor costs.⁸⁶ The Department did not, however, preclude all other sources for evaluating labor costs in NME antidumping duty proceedings. Rather, we continue to follow our practice of selecting the "best information available" to determine SVs for inputs such as labor. Thus, we find that the 2012 NSO data are the best available information for valuing labor for this segment of the proceeding. Specifically, the 2012 NSO data are more contemporaneous than the ILO Chapter 6A data from Thailand. Additionally, the NSO data are publicly available,

⁷⁹ See Surrogate Value Memorandum at Attachment 8B.

⁸⁰ See Surrogate Value Memorandum.

⁸¹ *Id.*

⁸² See *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part*, 76 FR 62349, 62355 (October 7, 2011) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission of Review in Part*, 77 FR 21529 (April 10, 2012)).

⁸³ *Id.* See also Surrogate Value Memorandum.

⁸⁴ *Id.*

⁸⁵ See Surrogate Value Memorandum.

⁸⁶ See *Labor Methodologies*, 76 FR at 36093.

industry-specific, reflects all costs related to labor including: wages, benefits, housing, and training. A more detailed description of the wage rate calculation methodology is provided in the Surrogate Value Memorandum.⁸⁷

Finally, we valued factory overhead, SG&A, and profit by using a South Africa seafood processor's 2016 audited financial statements. For more specific information concerning our use of the 2016 financial statements of the South African producer of processed seafood, see the Surrogate Value Memorandum.

VII. CURRENCY CONVERSION

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

VIII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

6/1/2017

X *Ronald K. Lorentzen*

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

⁸⁷ See Surrogate Value Memorandum.