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MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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

I. SUMMARY

We analyzed the case and rebuttal briefs submitted by interested parties in the administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) covering the period September 1, 2015, through August 31, 2016 (POR). We made changes in the margin calculations as a result of our analysis. We recommend that you approve the positions we developed in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues for which we have received comments and rebuttal comments from interested parties:

Comment 1: Calculation of Surrogate Value for Non-Refrigerated Inland Freight Expenses

Comment 2: Selection of Financial Information to Value Factory Overhead, Selling, General & Administrative Expenses, and Profit

II. BACKGROUND

On November 21, 2016, we aligned the new shipper review with the administrative review.[1] On

[1] On November 21, 2016, in accordance with 19 CFR 351.214(j)(3), the Department aligned the new shipper

June 7, 2017, we published the preliminary results of these reviews and invited interested parties to comment.[2] On July 14, 2017, Hubei Nature timely submitted its case brief in the administrative review and, on July 19, 2017, the Crawfish Processors Alliance[3] (the petitioners) timely submitted its rebuttal brief.[4] No party submitted comments concerning the Department's preliminary intent to rescind the new shipper review.

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. SURROGATE COUNTRY

In the *Preliminary Results*, we treated the PRC as a non-market economy (NME) country and, therefore, we calculated normal value in accordance with section 773(c) of the Tariff Act of 1930, as amended (the Act). We selected Thailand as the primary surrogate country, pursuant to section 773(c)(4) of the Act, because it is a significant producer of merchandise comparable to

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review with the administrative review. *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.

[2] *See Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Rescission of Review in Part, and Preliminary Intent to Rescind New Shipper Review; 2015–2016*, 82 FR 26435 (June 7, 2017), and accompanying Decision Memorandum (Preliminary Decision Memorandum) (collectively, *Preliminary Results*).

[3] The Crawfish Processors Alliance consists of the following firms: A&S Crawfish; Acadiana Fishermen's Cooperative; Arnaudville Seafood Plant; Atchafalaya Crawfish Processors; Atchafalaya Crawfish Processing, L.L.C.; Bayou Land Seafood, LLC; Bieber Farms Crawfish, Inc.; Blanchard's Seafood, Inc.; Bonanza Crawfish Farm, Inc.; CJL Enterprise, Inc. d/b/a C.J.'s; Cajun Central, Inc.; Cajun Seafood Distributor, Inc.; Catahoula Crawfish, Inc.; Choplin Seafood; Clearwater Crawfish; Crawfish Enterprises, Inc.; Dugas Seafood aka Carl's Seafood; Toups Crawfish, L.L.C.; Harvestime Seafood; Harvey's Seafood; Louisiana Seafood Co.; Louisiana Premium Seafood; L.T. West, Inc.; Phillips Seafood, L.L.C.; Prairie Cajun Wholesale Distributors; Randol, Inc. aka Randol's Seafood and Restaurant; Riceland Crawfish, Inc. aka Beaucoup Crawfish; Seafood International, Inc.; Sylvester's Crawfish; and Teche Valley Seafood.

[4] *See* Letter from Hubei Nature Agriculture Co., Ltd. (Hubei Nature), "Re: Freshwater Crawfish Tailmeat from the People's Republic of China; Submission of Administrative Case Brief," dated July 14, 2017 (Hubei Nature Case Brief); and the Letter from the Crawfish Processors Alliance (the CPA, or the petitioners), "Re: Freshwater Crawfish Tail Meat from the People's Republic of China: CPA Rebuttal Brief," dated July 19, 2017 (CPA Rebuttal Brief).

subject Merchandise and is at the same level of economic development as the PRC.[5]

For these final results, we continue to treat the PRC as an NME country and used the same primary surrogate country, Thailand. For the valuation of crawfish shell or scrap for these final results, we continue to use the 2001 Indonesian price quote.[6] For the valuation of the major input (freshwater crawfish tail meat or whole crawfish), we continue to find Spain to be a significant producer of whole processed crawfish, which we consider comparable to processed crawfish tail meat and, thus, we valued this input using Spanish import statistics.[7] We also continue to find that, pursuant to section 773(c) of the Act, the South African seafood processor's 2016 Annual Report[8] constitutes the "best available information" from a market-economy, at the same level of economic development to the PRC, which is also a significant producer of comparable merchandise, to value the financial ratios for these final results.[9]

V. SEPARATE RATES

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate.[10] It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the *Preliminary Results*, we found that, in addition to two of the companies we selected for individual examination, Xiping Opeck Food Co., Ltd. (Xiping Opeck) demonstrated its eligibility for separate rate status by demonstrating that it operated free of *de jure* and *de facto* government control.[11] Based on the information on the record of this review, we continue to find that this company is eligible for a separate rate. 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.[12] Therefore, Xiping Opeck is the only exporter of crawfish tail meat from the PRC that

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[5] *See* Preliminary Decision Memorandum, at 6.
[6] On March 17, 2017, the CPA placed on the record surrogate value information concerning the 2001 Indonesian price quote, which we have relied on to value crawfish shell or scrap in the instant case. *See* Letter from the CPA, "Re: Freshwater Crawfish Tail Meat from the People's Republic of China: 2015-16 AR/NSR: Surrogate Values," dated March 17, 2017 (CPA Surrogate Value Comments), at Exhibit 2.
[7] *See* Memorandum, "Freshwater Crawfish Tail Meat from the People's Republic of China: Selection of a Surrogate Country," dated June 1, 2017 (Surrogate Country Memorandum).
[8] On March 17, 2017, the CPA placed on the record the 2016 Annual Report for Oceana Group, a South African seafood processor, which we have relied on to value financial ratios. *See* CPA Surrogate Value Comments, at Exhibit 3.
[9] For further discussion of the Department's decision, *see* Comment 2 below.
[10] *See, e.g., Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China,* 71 FR 29303 at 29307 (May 22, 2006); *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006).
[11] *See* Preliminary Decision Memorandum, at 8-10.
[12] *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.

demonstrated its eligibility for a separate rate which was not selected for individual examination in this review.

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies 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 for guidance, which provides instructions for calculating the all-others rate in an investigation,[13] when calculating the rate for respondents we did not individually examine 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.[14] For these final 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,[15] the Department has assigned Hubei Nature's calculated rate (*i.e.*, 3.81 percent) as the separate rate for the non-examined separate rate exporter, Xiping Opeck, for these final results.

VI. DISCUSSION OF THE ISSUES

Comment 1: Calculation of Surrogate Value for Non-Refrigerated Inland Freight Expenses

Hubei Nature argues that the Department correctly used *Doing Business in Thailand — 2017* (2017 Report) for its calculation of the surrogate non-refrigerated truck freight ratio in the preliminary results to calculate both the inland freight to be deducted from the U.S. price and the inland freight added to reported purchase costs to account for the transport of non-market economy inputs trucked to Hubei Nature's processing plant. However, Hubei Nature argues that the Department's calculation of this ratio contains two errors which result in a vastly overstated truck freight factor by a factor of 21 and should be corrected for the final results.[16]

The first error, Hubei Nature argues, is in the identification of the cost of the truck freight. Specifically, Hubei Nature explains that the Department used as a basis for its calculation of inland freight an amount of $223 in the 2017 Report pertaining to "Border compliance," rather

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[13] *See* section 735(c)(5) of the Act. *See also Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012- 2013*, 79 FR 57872 (September 26, 2014).
[14] *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).
[15] *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.
[16] *See* Hubei Nature Case Brief, at 2.

than the "Domestic transport cost" of $147, and in so doing double counted the amount for "documentary compliance" which was already included in the Department's calculation of the brokerage and handling factor.

The second error, Hubei Nature argues, is in the identification of the Thai port used to determine the distance from Bangkok to the Thai port of exit in its calculation of inland freight. Specifically, Hubei Nature argues that the Department incorrectly used in its calculation the 9.2 kilometer distance between the Bangkok train station and the port of Bangkok, instead of the 129 kilometer distance between Bangkok and Thailand's principle international seaport, Laem Chabang port. Hubei Nature explains that the Laem Chabang port is the most widely used seaport referred to in the 2017 Report,[17] while the port of Bangkok is a river port located upstream from the ocean. In addition, Hubei Nature argues that the $147 amount for "Domestic transport cost" in the surrogate country represents the cost of truck freight for shipping merchandise from "the largest business city of the exporting economy" (in this case Bangkok) to "the most widely used seaport, airport or land border crossing" (in this case Laem Chabang port).[18] Therefore, Hubei Nature argues, the proper distance to use in the calculation is the distance between Bangkok, and Laem Chabang port, *i.e.*, 129 kilometers. Hubei Nature notes that in all recent determinations made by the Department in which Thailand was the primary surrogate country and in which the 2017 Report (or previous editions) was used as the source for the calculation of the surrogate inland freight factor, the Department used the 129 kilometer distance, not the 9.2 kilometer distance. Hubei Nature argues that, if the Department uses the "Domestic transport cost" of $147 and the 129 kilometer distance from Bangkok to Laem Chabang port from the 2017 Report in its calculation of the surrogate non-refrigerated truck freight, the resulting ratio will be $0.000076 kilogram/kilometer.

Hubei Nature further argues that if the Department insists on using the 9.2 kilometer distance as a denominator in the truck freight factor in the final results, the Department would have to place on the record a measurement of the costs associated with that 9.2 kilometers. Hubei Nature explains that the Google map referred to by the Department in the preliminary results is not part of the administrative record and would, therefore, have to be put on the record.

The petitioners note that the Department has a long history of relying on the World Bank's *Doing Business* reports to derive unit values for Thai truck freight rates with the approval of the U.S. Court of International Trade. The petitioners argue that, while Hubei Nature used as a basis for its calculations dollar values from *Doing Business in Thailand — 2015* (2015 Report) for truck freight and from the 2017 Report for brokerage and handling, it also uses without explanation the maximum weight capacity of 20,200 kilograms for a 20-foot shipping container, rather than the "typical" weight.[19]

The petitioners further argue that both Hubei Nature and the Department mistakenly assumed in their calculations that the *Doing Business* series uses the same underlying assumptions and data collection methods, year after year. The petitioners argue that the *Doing Business* methodology

[17] Hubei Nature cites to page 78 of the 2017 Report.
[18] *Id.* at 80.
[19] *See* CPA Rebuttal Brief, at 2.

changed markedly from 2015 to 2017. The petitioners explain that, in 2015, the *Doing Business* report identifies the originating city as "Bangkok" and the port name as "Bangkok"[20] but does not specify the distance in kilometers between the two, which is why the Department has looked to Google Maps for assistance in its calculations.[21] Furthermore, the petitioners argue, the 2015 Report states in its "Stages to Export" that the cost of "Inland transportation and handling" for export transactions was $210 and that this step of the process typically took two days.[22] The petitioners further note that, while the Department refers to "a 20-foot container of dry goods weighing 15 metric tons,"[23] the type and quantity of merchandise is not indicated in the 2015 Report.

In contrast, the petitioners argue, the 2017 Report treats "Inland transportation and handling" differently than in the 2015 Report and provides a "Domestic transport cost" of $147 without reference to a cost for "handling." The petitioners further argue that, while the originating city remains as Bangkok for 2017, the port is identified as "Laem Chabang port" at 129 kilometers away, which is in stark contrast to the Department's use of 9.2 kilometers. Notwithstanding the greater distance, the petitioners argue that it appears efficiency has greatly improved, as indicated by the "Domestic transport time" which has changed from 2 days in 2015 to 2 hours in 2017. The petitioners also note that the 2017 Report identifies the merchandise as "HS 84," *i.e.*, Chapter 84 of the Harmonized Tariff System, which encompasses a broad array of mechanical equipment, made mostly of very dense, heavy material such as steel, including industrial boilers, steam turbine engines, car engines, forklift trucks, bulldozers, stone-crushers, *etc.* The petitioners argue that, because the 2017 Report states the mode of transport in its study is the one most widely used for the chosen export or import product, and it is known that the chosen export product is merchandise under HTS Chapter 84, the freight mode used in the 2017 Report is most likely rail. In contrast, the petitioners argue, the inputs of crawfish, packing materials and coal are relatively lightweight and are all specifically said to be shipped by truck in Hubei Nature's responses, which suggests that the calculations in the 2017 Report would not pertain to crawfish inputs. The petitioners argue that it is hard to imagine any change in the physical, regulatory, or economic environment in Thailand that could have caused local unit costs for truck freight to plummet from $1.60 metric ton per kilometer in 2015 to a mere 7.6 cents per metric ton per kilometer in 2017, except a change in the type of exported goods and the mode of transportation used for the 2017 Report. The petitioners also suggest that the greatly increased distance of 129 kilometers is also consistent with the use of rail transport, as railways are less likely than paved roads to travel the shortest distance between two points.

Furthermore, the petitioners argue that given the evidence of significant change from 2015 to 2017, and that the POR runs from September 2015 to August 2016, the Department's long-

[20] The petitioners cite to page 64 of the 2015 Report, provided as Exhibit 4 to Hubei Nature's Surrogate Value Comments.
[21] The petitioners cite to *Golden Dragon Precise Copper Tube Group, Inc. v. United States*, Slip Op. 16-73 (CIT, July 21, 2016).
[22] The petitioners cite to page 64 of the 2015 Report, provided as Exhibit 4 to Hubei Nature's Surrogate Value Comments.
[23] The petitioners cite to pages 7-8 of the Department's Memorandum, "Freshwater Crawfish Tail Meat from the People's Republic of China: Surrogate-Value Memorandum," dated June 1, 2017 (Preliminary Surrogate Value Memorandum).

established preference for contemporaneity in selecting surrogate values should be considered.

For these reasons, the petitioners argue that the 2015 Report provides more pertinent and reliable surrogate data than the 2017 Report.[24]

Finally, the petitioners argue that Hubei Nature errs in claiming that the Google map referred to by the Department in the preliminary results is not part of the administrative record, because the "administrative record" and the official file are two distinct concepts. The petitioners argue that a document upon which the Department has relied in reaching its decision is, by definition, part of the administrative record.[25] The petitioners argue that if the Department inadvertently omitted it from the Surrogate Value Memo or another part of the official file, the Department may correct the error by placing a copy in the file for this case and making it available to parties.[26] For this reason, the petitioners argue, it is also appropriate for the official file to include all relevant pages of the 2015 Report describing the "old" methodology, as it is obvious that the Department actually relied on it in preparing the Surrogate Value Memo.

The petitioners further note that, after having argued its point, Hubei Nature then goes on to assert that "Bangkok port is a river port located upstream from the ocean and is not an ocean seaport,"[27] an alleged fact that has not been placed on the record by any interested party nor relied upon by the Department in reaching its decision, and which, accordingly, is clearly not part of the record in this proceeding. The petitioners argue that the Department should either disregard Hubei Nature's assertion or direct Hubei Nature to refile its case brief with the untimely factual information stricken.

<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, SVs which are publicly available, product-specific, representative of a broad market average, tax-exclusive, and contemporaneous with the POR.[28]

For the preliminary results, as in past reviews,[29] the Department looked to information provided by the World Bank's *Doing Business* series of reports for its calculation of the surrogate non-refrigerated truck freight ratio to calculate both the inland freight to be deducted from U.S. price and the inland freight added to reported purchase costs to account for the transport of non-market

[24] *See* CPA Rebuttal Brief, at 6.
[25] The petitioners cite to 19 U.S.C. § 1516a(b)(2)(A)(i) (the administrative record consists of "all information presented to or obtained by the Secretary . . . during the course of the administrative proceeding").
[26] The petitioners cite to 19 C.F.R. § 351.104 (official file to include "all factual information, written argument, or other material developed by, presented to, or obtained by the Secretary during the course of a proceeding").
[27] The petitioners cite to Hubei Nature Case Brief, at 4.
[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), and accompanying Issues and Decision Memorandum, at Comment 28.
[29] *See, e.g., 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 Issues and Decision Memorandum (Crawfish 2014-15 IDM); and *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 Issues and Decision Memorandum.

economy inputs trucked to Hubei Nature's processing plant.

Hubei Nature timely placed on the record an excerpt of the 2015 Report, "Trading Across Borders in Thailand," and requested that the Department consider using the information provided in the report to value inland freight charges for the preliminary results. Hubei Nature used information in this report, along with an unsourced 20-foot shipping container weight capacity of 20,200 kilograms, to derive a surrogate value for inland freight.

For the preliminary results, the Department calculated freight costs, not based on information from the 2015 Report, but rather the 2017 Report, which the Department placed on the record[30] because the Department found the 2017 Report to be contemporaneous, specific to the cost of shipping goods in Thailand, and representative of a broad market average. The data contained in the "Trading Across Borders" section of the 2017 Report provides estimated values for the time and cost associated with exporting goods[31] from Thailand,"[32] given a set of specific predefined procedures for trading a shipment of goods by the most widely used mode of transport (whether sea or land or some combination of these)."[33] These values are calculated based upon certain assumptions of the World Bank's case study, including travel "from a warehouse in the largest business city" to "the most widely used seaport, airport or land border crossing," and a standard shipping container capacity of 15 metric tons.[34]

The Department intended to use the export rates provided in the 2017 Report to calculate per-unit inland freight costs (as well as per-unit brokerage and handling costs), accepting all the assumptions in the World Bank's case study (including a standard 20-foot shipping container capacity of 15 metric tons) and the values in the report overall as the best information available for valuing inland freight. However, despite this intention, and as Hubei Nature correctly noted in its case brief, the Department made two errors in its calculations for inland freight.

The first error is that the Department used a transport distance inconsistent with the assumptions of the case study in the 2017 Report and, therefore, inconsistent with the corresponding export-related transportation costs in the 2017 Report used in the Department's calculations. Specifically, the Department used the 9.2 kilometer distance from Bangkok's Hua Lamphong Main Train Station to the Port of Bangkok, sourced from a search on Google Maps, rather than the distance specified in and used in the 2017 Report's calculations for inland freight and other export-related expenses, *i.e.*, the 129 kilometer distance from "the largest business city of the exporting economy," which the 2017 Report lists in its case study as Bangkok, "to the most widely used seaport, airport or land border crossing," which the 2017 Report lists in its case study as Laem Chabang port.

[30] The Department placed the entire 2017 Report on the record as Attachment 8B to Preliminary Surrogate Value Memorandum.
[31] Page 78 of the 2017 Report states that "{i}t is assumed that each economy exports the product of its comparative advantage (defined by the largest export value) to its natural export partner – the economy that is the largest purchaser of this product."
[32] *See* 2017 Report, at 77.
[33] *Id.* at 80.
[34] *Id.* at 78.

In addition to using the 9.2 kilometer distance in its calculations for inland freight, the Department inadvertently used as a value for the cost of inland freight the $223 amount for "Cost to export: Border compliance (USD)" rather than the $147 amount for "Domestic transport cost (USD)" in the 2017 Report. The value for "Domestic transport" more appropriately represents the cost for inland freight the Department intended to capture in its calculations for inland freight, because it reflects only freight costs and does not include documentary or customs costs.[35] Furthermore, because the Department already used the $223 amount for "Cost to export: Border compliance (USD)" in its calculation of the per-unit surrogate value for brokerage and handling, the Department inadvertently double-counted this cost when it used the $223 amount again in the calculation for inland freight. Accordingly, for these final results, the Department has corrected the above-referenced errors.[36]

In addition, the Department's determination to correct the above-referenced errors in the Department's calculation of inland freight using the 2017 Report in its entirety, including use of the 129 kilometer distance between the city of Bangkok and Laem Chabang port, effectively renders moot a discussion regarding the Department's reference to and use of the 9.2 km distance from Bangkok's Hua Lamphong Main Train Station to the Port of Bangkok and whether the remaining portion of the 2015 Report should be placed on the record.

The petitioners make several assertions in their case brief to support the claim that the 2015 Report is a better source for surrogate inland freight data than the 2017 Report. Specifically, the petitioners claim that the cost reported as $210 for "Inland transportation and handling" in the "Stages to Export" of the 2015 Report, requiring a travel time of two days, was reported differently as $147 for "Domestic transport cost" in the 2017 Report (inland transportation without the "handling"), requiring only 2 hours of travel time. However, without having the full 2015 Report on the record to explain what exactly is included in the $210 cost, it is impossible to ascertain whether this cost can be properly compared to the $147 cost in the 2017 Report, or whether the transport time of 2 days or 2 hours associated with each cost better reflects the transport portion of the export process which should be captured in the Department's calculations for inland freight.

The petitioners claim that, while neither report specifies the mode of inland transportation considered in its freight costs and given the improvement in transport efficiency from 2 days to 2 hours despite the merchandise in the 2017 Report being much heavier than the inputs for crawfish, the mode of transportation in the 2017 Report must have been rail, rather than truck. The petitioners claim, given that the data in the 2017 Report likely reflects freight costs for shipment by rail and that the inputs of crawfish are all specifically said to be shipped by truck in Hubei Nature's responses, the data in the 2017 Report would not pertain to the transport of

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[35] *Id.* at 77.

[36] *See* Memorandum, "Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results Surrogate-Value Memorandum ," dated concurrently with and hereby incorporated by this memorandum (Final Surrogate Value Memorandum); *see also* Memoranda, "Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China; 2015-2016: Final Results Analysis Memorandum for Hubei Nature Agriculture Co., Ltd.," and "Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China; 2015-2016: Final Results Analysis Memorandum for Yancheng Hi-King Agriculture Developing Co., Ltd.," dated concurrently with and hereby incorporated by this memorandum (Final Results Analysis Memoranda for Hubei Nature and Yancheng Hi-King).

crawfish inputs and, therefore, the data in the 2015 Report are preferable. However, while the type of merchandise in reality may very well dictate the mode of transportation, the information on the record does not support this conclusion as the petitioners suggest. Contrary to the petitioners' assertion that neither report specifies the mode of inland transportation considered in its freight costs, the 2017 Report *does* indicate the mode of transportation. At page 77, where in its explanation of the assumptions of the case study under "Domestic transport," the 2017 Report considers "Traffic delays and road police checks while shipment is *en route*," despite the fact that the assumptions of the study involve HS 84 (*i.e.*, "heavy") merchandise. Moreover, the Department notes that its preference to find a surrogate value for *truck* freight, as opposed to a freight value derived from another form of transportation, is one reason why the Department viewed the 2017 Report as a good source of surrogate data for inland freight due to its consideration for "{t}raffic delays and road police checks while shipment is *en route*."

Furthermore, even though the case study in the 2017 Report does involve merchandise that is significantly different (heavier) than the crawfish inputs in this review, which could (as the petitioners claim) suggest that the mode of transportation in the 2017 Report was rail, the Department does not find that this information alone, if it were true, would disqualify the data contained in the 2017 Report. The excerpt of the 2015 Report does not provide information indicating the type of merchandise shipped, whether the merchandise is more similar to or representative of the crawfish inputs than the merchandise in the 2017 Report, or whether the freight costs are merchandise-specific requiring a particular mode of transportation. Therefore, without these details from both reports on the record to compare, it would be impossible to conclude that the 2015 data are more applicable to or representative of crawfish inputs than the 2017 data, as the petitioners claim.

The petitioners also claim that, given the importance the Department places on the contemporaneity of surrogate data, 2015 data is preferable over data from 2017, apparently suggesting that the date of each report indicates contemporaneity with the POR of the data contained therein. However, it is the Department's analysis of the contemporaneity of the data within each report that resulted in the Department's finding that the data in the 2017 report were more contemporaneous with the POR. Specifically, page 4 of the 2017 Report states that the data is "current as of June 1, 2016," a date which falls within the POR. In contrast, the excerpt of the 2015 Report does not specify the time period in which the report's data were collected. The Department notes that if the Department were to assume a similar time table for data collection in the *Doing Business* reports, the data in the 2015 Report were likely collected during a time period leading up to June 2014, which is prior to the POR.

While the Department agrees with the petitioners that it is evident that the *Doing Business* methodology changed from 2015 to 2017, the Department does not find there is sufficient information on the record from the 2015 Report to fully understand the change in this methodology to the extent that the change and resulting data better reflect the freights costs the Department intends to capture in its calculations, or that the data contained therein is more contemporaneous with the POR, which might warrant the Department selecting the 2015 Report over the 2017 Report for information to calculate surrogate inland freight costs.

Accordingly, for these final results, the Department continues to find that the World Bank's

Doing Business 2017 – Thailand report constitutes the best available information on the record pursuant to section 773(c)(4) of the Act, to value inland freight. It is contemporaneous, and provides the best information on the record to calculate a surrogate value for inland truck freight. Thus, for these final results, we continue to use the *Doing Business 2017 – Thailand* report to value truck freight and made corrections to the Department's calculation of the surrogate value for inland truck freight where appropriate.[37]

Comment 2: Selection of Financial Information Used to Value Factory Overhead, Selling, General & Administrative Expenses, and Profit

Hubei Nature notes that the Department selected the financial statement for a South African seafood processor because it constituted the best available information to value the financial ratios for the preliminary results.[38] Hubei Nature further notes that it was also the only viable option on the record and there were no financial statements from Thai seafood processors on the record.[39] Hubei Nature argues that, because the Department stated in the preliminary results that it "normally will value all factors in a single surrogate country,"[40] and that it is the Department's preference to value all surrogate values from a single country,[41] Hubei Nature requests that the Department open the record and either: (1) permit the parties to place on the record Thai annual reports from seafood processors that are contemporaneous with the period of review; or (2) the Department place such information on the record on its own initiative.[42] Hubei Nature notes that in the 2014-15 review, the Department initially used South African financial statements for the preliminary results, but then used Thai financial statements for the final results after it determined they were more suitable.[43] Hubei Nature argues that if the Department reopens the record to allow Thai financial statements to be put on the record, and determines for the final results that the Thai financial statements are suitable, Thai surrogate financial ratios could be calculated and incorporated into the final results. Hubei Nature argues that only this result would further both the strong regulatory and administrative preferences for utilizing surrogate values from the primary surrogate country source designated by the Department.

The petitioners argue that the Department should reject Hubei Nature's request that the Department open the record and either: (1) permit the parties to place on the record Thai annual reports from seafood processors that are contemporaneous with the period of review; or (2) the Department place such information on the record on its own initiative.[44] The petitioners argue that if Hubei Nature wished to have Thai financial statements on the record, it was up to Hubei Nature to submit them in a timely fashion so that other interested parties would have a full and fair opportunity to evaluate them and to submit comments and other data in rebuttal. The

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[37] *Id.*
[38] Hubei Nature cites to Preliminary Surrogate Value Memorandum, at 5.
[39] Hubei Nature cites to Surrogate Country Memorandum, at 7.
[40] Hubei Nature cites to 19 C.F.R. § 351.408(c)(2).
[41] Hubei Nature cites to Preliminary Decision Memorandum, at 6.
[42] *See* Hubei Nature Case Brief at 7. Hubei Nature also notes in footnote 1 of its case brief that in the preliminary results of this administrative review, the Department, on its own initiative, placed the entire publication *Doing Business in Thailand - 2017* on the administrative record, citing to Preliminary Surrogate Value Memorandum at Attachment 8B.
[43] *See* Crawfish 2014-15 IDM, at 13-14.
[44] *See* CPA Rebuttal Brief, at 7.

petitioners further argue that Hubei Nature failed to identify any extraordinary circumstances that would warrant a departure from the Department's firmly established practice of closing the factual record prior to briefing.

Department's Position: In accordance with section 773(c)(4) of the Act, the Department will value the factors of production using, "to the extent possible, the prices or costs of factors of production in one or more market economy countries that are (A) at a level of economic development comparable to that of the nonmarket economy country, and (B) significant producers of comparable merchandise." In the *Preliminary Results*, the Department determined that, pursuant to the Department's Policy Bulletin regarding the selection of surrogate market-economy countries in NME cases,[45] Thailand and South Africa met the requirements of section 773(c)(4) of the Act.

The Department's practice when selecting the best available information for valuing factors of production, 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, contemporaneous with the POR, and exclusive of taxes and duties.[46] In the *Preliminary Results*, the Department selected Thailand as the surrogate country with the best available information for valuing the NME respondents' factors of production, because the Department was able to find the surrogate values for most of the factors of production from Thailand.[47] However, despite the preference to value all surrogate values from a single country, and in accordance with section 773(c)(1) of the Act, the Department determined that the financial statements on the record from a South African seafood processor were the best available information for valuing the financial ratios.[48] There were no Thai financial statements on the record for the Department to consider.

We disagree with Hubei Nature that the Department should reopen the record and either permit the parties to place on the record Thai annual reports from seafood processors that are contemporaneous with the period of review, or that the Department should place such information on the record on its own initiative. In the *Preliminary Results*, surrogate financial information for a South African seafood processor was timely placed on the record and provided sufficient and acceptable information enabling the Department to calculate surrogate financial ratios.[49] In accordance with the statute, the Department's regulations and consistent with the Department's practice, the Department provided interested parties sufficient time to place surrogate financial information on the record so that interested parties would have a full and fair opportunity to evaluate them and to submit comments and other data in rebuttal. As correctly noted by the petitioners, Hubei Nature failed in its request to identify any extraordinary

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[45] *See* Policy Bulletin No. 04.1, "Non-Market Economy Surrogate Country Selection Process" (March 1, 2004), available at http://enforcement.trade.gov/policy/bull04-1.html (Policy Bulletin).
[46] *See, e.g., Electrolytic Manganese Dioxide from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum, at Comment 2.
[47] *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), at Comment 1(C).
[48] *See* Preliminary Decision Memorandum at 6-7; *see also* Preliminary Surrogate Value Memorandum, at 5.
[49] *Id.*

circumstances that would warrant a departure from the Department's firmly established practice of closing the factual record prior to briefing.

Accordingly, for these final results, the Department will not reopen the record for interested parties or itself supplement the record with additional surrogate financial information, and will continue to use the financial statement for a South African seafood processor to calculate surrogate financial values.

VII. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of these reviews and the final dumping margins for all of the reviewed companies in the *Federal Register*.

☒	☐
Agree	Disagree

10/5/2017

X 

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance