A-570-898
Administrative Review
POR: 6/01/15-5/31/16
Public Document
Office VII: SC

January 29, 2018

MEMORANDUM TO: Christian Marsh
Acting 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: Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Chlorinated Isocyanurates from China; 2015-2016

SUMMARY

We analyzed the comments from interested parties in the 2015-2016 administrative review of the antidumping duty order on chlorinated isocyanurates ("chloro isos") from the People's Republic of China (China). As a result of our analysis, we made no changes to our calculations since the *Preliminary Results*.[1]

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

1. Use of Kangtai's U.S. Export Sales to Customer X Operating in a Third Country
2. Changes in Heze Huayi's Labor Usage
3. By-Product Offset for Ammonium Sulfate
4. Adjustment to Export Price for Free-of-Charge Packing Materials
5. Alternative Mexican Surrogate Values
   A. Alternative Mexican Financial Statements
   B. Mexican Surrogate Value for Caustic Soda
   C. Whether to Use the EMIM Mexican Labor Data Instead of ILO Labor Rate
6. Assigning the NME-Entity Rate to Jiheng

[1] *See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 35183 (July 28, 2017) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

BACKGROUND

Commerce published its *Preliminary Results* on July 28, 2017.[2] From September 26 through September 29, 2017, Commerce verified the questionnaire responses of Juancheng Kangtai Chemical Co., Ltd. (Kangtai).[3] On November 21, 2017, Commerce fully extended the deadline for the final results until January 24, 2018.[4] On November 29, 2017, Bio-lab, Inc., Clearon Corp. and Occidental Chemical Corp. (collectively, the petitioners), and the respondents Heze Huayi Chemical Co., Ltd. (Heze Huayi) and Kangtai, submitted case briefs.[5] On December 6, 2017, the petitioners and the respondents both submitted rebuttal briefs.[6] We met with the petitioners on December 14, 2017, and the respondents on January 8, 2018, to address issues raised in the case and rebuttal briefs.[7] Commerce has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary results is now January 9, 2018.[8]

SCOPE OF THE ORDER

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

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[2] *Id.*

[3] *See* Memorandum, "Verification of the Questionnaire Responses of Juancheng Kangtai Chemical Co., Ltd. in the Antidumping Review of Chlorinated Isocyanurates from the People's Republic of China," dated November 17, 2017 (Kangtai Verification Report).

[4] *See* Memorandum, "Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated November 21, 2017.

[5] *See* Petitioners' Case Brief, "Case Brief of Bio-lab, Inc., Clearon Corp. and Occidental Chemical Corporation," dated November 30, 2017 (Petitioners' Case Brief); Respondents' Case Brief, "C Case Brief of Juancheng Kangtai Chemical Co., Ltd. ("Kangtai), Heze Huayi Chemical Co., Ltd. ("Heze Huayi")," dated November 29, 2017 (Respondents' Case Brief).

[6] *See* Petitioners' Rebuttal Brief, "Rebuttal Brief of Biolab, Inc., Clearon Corp. and Occidental Chemical Corporation," dated December 6, 2017 (Petitioners' Rebuttal Brief); Respondents' Rebuttal Brief, "Chlorinated Isocyanurates from the People's Republic of China: Rebuttal Brief," dated December 6, 2017 (Respondents' Rebuttal Brief).

[7] *See* Memorandum, "Ex-Parte Meeting with Counsel for Bio-Lab, Inc., Clearon Corp. and Occidental Chemical Corporation," dated December 22, 2016; Memorandum, "Ex-Parte Meeting with Counsel for Heze Huayi Chemical Co. Ltd. and Juancheng Kangtai Chemical Co., Ltd.," dated January 8, 2018.

8 *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 24, 2018. All deadlines in this segment of the proceeding have been extended by 3 days. Because this deadline falls on the weekend, the next business day is Monday, January 29, 2018.

purposes, the written description of the scope of the order is dispositive.

DISCUSSION OF THE ISSUES

Comment 1: Use of Kangtai's U.S. Export Sales to Customer X Operating in a Third Country

Petitioners' Case Brief

- Commerce was unable to verify various factors to determine whether a principal-agent relationship exists between Kangtai and the U.S. customer, operating in a third country (Customer X).
- Kangtai reported at verification that it was no longer in contact with this customer, thereby preventing any verification of even minimal facts regarding this customer's role with respect to its U.S. sales, whether it was serving as an agent for Kangtai, or other indicia of control or affiliation between Kangtai and the customer.[9]
- Kangtai failed to act to the best of its ability by not contacting this customer during verification to obtain the necessary information, and Commerce should apply an adverse inference and the China-wide rate to Kangtai's reported U.S. sales.

Respondents' Rebuttal Brief

- Kangtai's export sales prices to Customer X should continue to be used as U.S. prices because Commerce was able to verify the requested information and did not suggest during verification that there was information it could not verify.
- Commerce had no concerns regarding this customer's affiliation with Kangtai because Kangtai fully addressed all questions regarding affiliation in its supplemental questionnaire response,[10] establishing that it has no affiliation with this customer through common owners or managers, or by family or any shared financial relationship.
- Kangtai notes that there is nothing unusual for a trading company such as Company X to not keep inventory but rather instructs producers to ship goods directly to the ultimate customers. Kangtai explained that it plays no role in communicating with these ultimate downstream customers in the United States.[11] Thus, these facts indicate that there is no evidence of a principal-agent relationship.
- Kangtai acted to the best of its ability to provide all the information requested by Commerce in its original and supplemental questionnaires, and during the verification of these questionnaire responses. Therefore, Commerce has no basis to apply facts available or an adverse inference.[12]

Commerce's Position: We disagree with the petitioners. As discussed below, the record evidence demonstrates that Customer X is a reseller of Kangtai's products in the United States. While it purchases products from Kangtai and takes title to the goods, Kangtai ships directly to Customer X's downstream customers in the United States. Thus, Customer X does not ever physically take custody of

[9] *See* Petitioners' Case Brief at 6-7 (citing *Notice of Final Determination of Sales at Less Than Fair Value: Engineered Gas Turbo-Compressor Systems, Whether Assembled or Unassembled, and Whether Complete or Incomplete, from Japan*, 62 FR 24403 (May 5, 1997), and accompanying Issues and Decision Memorandum at Comment 2.
[10] *See* Kangtai's April 14, 2017 Supplemental Section A, C, and D Questionnaire Response (Kangtai SQR), at 2-3.
[11] *Id.*
[12] *See* Respondents' Rebuttal Brief at 3 (citing *Nippon Steel Corp v. United States*, 337 F.3d 1373, 1382 (CAFC 2003)).

the goods or maintain an inventory of Kangtai's products, nor does it further process the products. Kangtai claims that it has no involvement in Customer X's resales in the United States (beyond shipment) and can only infer information about such customers from the bill of lading documents it prepares for each shipment. Because this record evidence supports the conclusion that the sale from Kangtai to Customer X is the first sale to an unaffiliated party outside the United States, we relied on such sales as export price (EP) sales in our preliminary margin calculation, as was done without comment in the prior review. In particular, in the preliminary results, we treated Kangtai's sales to Customer X as export price (EP) sales because Kangtai, in addressing our questions regarding this customer, stated that it was not affiliated with Customer X pursuant to section 771(33) of the Act and provided record evidence supporting this statement. For the reasons discussed below, we continue to reach this finding for purposes of these final results.

In the prior review, the petitioners did not allege affiliation through a principal-agent relationship between Kangtai and Customer X, and according to our normal practice, we treated these sales as EP sales.[13] In this review, the petitioners first alleged a principal-agent relationship between Kangtai and Customer X in its pre-verification comments a few days before verification was scheduled to begin and after preliminary results had already been issued.[14] In its pre-verification comments, the petitioners requested that Commerce obtain sales documentation directly from Customer X during verification regarding the reselling of subject merchandise to the ultimate U.S. customer. However, given the timing of the proceeding, *i.e.*, days before verification, Commerce was not in a position to seek additional information from Kangtai, nor Customer X, concerning this issue. Furthermore, during verification, Commerce was able to verify statements made by Kangtai concerning its relationship with Customer X. Although during verification Kangtai stated that it was no longer in contact with Customer X because this customer had stopped purchasing subject merchandise from Kangtai in December 2016,[15] and therefore Kangtai could not seek any further information from this company, we find that Kangtai has cooperated to the best of its ability to respond to questions concerning its relationship with Customer X, and provide record documentation to support its contention that the parties are not affiliated. Therefore, we disagree with the petitioners that Kangtai failed to act to the best of its ability by not contacting Customer X during the verification to obtain additional information that was not already on the record.

In its case brief, the petitioners identified certain factors based on Commerce practice (*i.e.*, *Steel Threaded Rod from India*[16]) which they believe indicate that Customer X is acting as an agent of Kangtai and primarily for the benefit of Kangtai, not for itself. The petitioners pointed to the fact that Customer X maintains no inventory of the product, that the product was shipped directly from Kangtai to Customer X's ultimate U.S. customers, and that the sales documentation identifies Kangtai as the supplier, not Customer X.

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[13] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR (Jan. 17, 2017) and accompanying Issues and Decision Memorandum (*2014-2015 Final Results*).
[14] *See* Petitioners' "Comments on Verification Agenda for Juancheng Kangtai Chemical Co., Ltd.," dated September 21, 2017.
[15] *See* Kangtai Verification Report at 2.
[16] *See Steel Threaded Rod from India: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination*, 79 FR 9164 (February 18, 2014) (*India Threaded Rod Prelim*), and accompanying Decision Memorandum at 14-15, unchanged in *Steel Threaded Rod from India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part; 2012-2013*, 79 FR 40714 (July 14, 2014) .

Commerce has historically examined several factors in determining the existence of a principal-agent relationship: whether the foreign producer (*e.g.*, Kangtai) negotiates prices with the "ultimate" U.S. customers (*i.e.*, the companies purchasing from Customer X), whether the foreign producer otherwise interacts with such customers, whether the reseller takes title to the shipments and accepts the risk of loss, whether the reseller maintains an inventory of the product, and whether the reseller further processes the goods or adds value.[17] Furthermore, in determining a principal agent relationship, Commerce considers the totality of circumstances surrounding the parties involved. Pursuant to this past practice, the petitioners point to certain factors that suggest a principal-agent relationship exists, such as Customer X not maintaining inventory and having subject merchandise shipped directly to its ultimate U.S. customers. In addition, the bill of lading does identify Kangtai as the supplier and there is no evidence of further processing of this merchandise.

However, as discussed above, Kangtai states that it is not affiliated with this company and provides record evidence in support of this statement that includes Kangtai's accounting records and sales documentation.[18] Next, Kangtai notes that it plays no role in the negotiation between Customer X and its ultimate customers in the United States.[19] In addition, our examination of the Kangtai's financial statements, sales contract, bill of lading, and payment records during verification, confirmed that Kangtai played no role in communicating with the ultimate downstream customers of Customer X. Rather, our examination during verification of Kangtai's sales traces and accounting and sales records all identified Customer X as the importer of record that took title to the products upon importation and made payments to Kangtai for these U.S. sales. Further, there is no evidence showing that Kangtai exercises any control over the terms of resale to Customer X's ultimate U.S. customer. We also note that Kangtai provided an affidavit from a company official of Customer X that supports these statements,[20] although this information could not be further verified for the reasons stated above. Finally, we note that a very similar sales arrangement existed between Kangtai and another reseller during the POR, in which the reseller was a U.S. company and Kangtai's first unaffiliated customer, and the products were similarly delivered straight to the ultimate customer from Kangtai, with the reseller never taking inventory (and petitioner has raised no similar concern of a potential principal-agent relationship). In weighing the totality of the circumstances, we find that there is insufficient evidence to demonstrate in the instant review the existence of a principal-agent relationship between Kangtai and Customer X. Given the gravity of the petitioners' allegation, however, where Kangtai is selected as a mandatory respondent in future reviews, Commerce intends to further examine potential principal-agent relationships.

Regarding the petitioners' argument for an adverse inference, for the reasons discussed above, Commerce finds that application of an adverse inference is not warranted in this case because Kangtai was cooperative and responsive in providing the requested information in our questionnaires and demonstrating through its accounting records and sales documentation at verification that it had properly identified its U.S. sales.

[17] *See India Threaded Rod Prelim* and accompanying Decision Memorandum, at 17.
[18] *See* Kangtai Verification Report at 3-4 and 6-7.
[19] *See* Kangtai's November 16, 2016 Section A response at 2.
[20] *Id.* at Exhibit A-4.

Comment 2: Changes in Heze Huayi's Labor Usage Rates

Petitioners' Case Brief

- Heze Huayi's direct and indirect labor data are different than the two previous reviews, including the verified data in the 2013-14 review period.
- Based on Kangtai's production flowchart in the instant review and that of the 2010-11 review period, the petitioners claim that the production process is mature and well-established, thereby providing no rational basis to explain the changes in direct and indirect labor costs.
- Respondents should be held accountable for the differences in Heze Huayi's labor data from segment to segment, noting that Commerce has rejected information that appeared to be unrealistic when reviewed in light of record information, including other reported factor input levels.[21]
- Alternatively, Commerce should use the labor usage rates submitted in the 2014-15 segment of this proceeding.

Respondents' Rebuttal Brief

- Heze Huayi's labor usage rates are reasonable and explained on the record, and Commerce did not seek any additional clarification of the information submitted by Heze Huayi. The petitioners have submitted no evidence to substantiate their presumption that Heze Huayi's production process is mature and well-established. Rather, record evidence shows that both Heze Huayi and Kangtai, a competitor in the same industry, endeavor to use the most updated machinery or modernize their production lines to enhance the production efficiency, eliminate material waste and cut labor cost.
- At verification, Commerce verified that Kangtai continues to improve its production process by replacing coal with natural gas, and upgrading its production lines to reduce material waste and cut labor costs.[22] These changes also reasonably explain the changes in Heze Huayi's labor usage rates.

Commerce's Position: The petitioners first raised this issue specific to Heze Huayi's labor usage rate in their case brief.[23] Moreover, we received no deficiency comments from the petitioners regarding Heze Huayi's questionnaire responses and the petitioners' pre-preliminary results comments also did not raise this issue. Rather, at the onset of this review, the petitioners placed on the record data for all of Heze Huayi's factors of production (FOPs) from the last two reviews, and broadly compared the last review to the instant review to show the changes in usage for all the FOPs reported by Heze Huayi and Kangtai.[24] It was not until the briefing stage that the petitioners specifically raised Heze Huayi's labor usage rates as an issue. In support of its argument, the petitioners allege that Heze Huayi's production process is mature and well-established but there is nothing on the record that supports that allegation.

[21] *See* Petitioners' Case Brief at 11-12 (citing *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 34082 (June 13, 2005), and accompanying Issues and Decision Memorandum (*Fresh Garlic*) at 59.
[22] *See* Kangtai Verification Report at 3, 8, and Exhibit VE-3.
[23] *Supra*, note 21
[24] See Petitioners' Letter, "Petitioners' Submission of Factual Information Concerning the Questionnaire Responses to Section C and D," dated December 21, 2016 (Petitioners' Factual Information), at Exhibits 2 and 5.

In our supplemental questionnaire, we asked Heze Huayi to detail the monthly direct and indirect labor hours and costs it incurred during the POR to produce its various products, and to tie its December payroll records and documents to this information as well as to its overall cost reconciliation.[25] Heze Huayi complied with our requests by providing to us its direct and indirect labor schedule for the POR which identified the number of workers and working days for each of its production plants; a labor cost calculation worksheet for the POR that is tied to its salary payable ledger, including copies of this ledger for December 2015 and March 2016; and, its complete payroll sheet for December 2015.[26]

The petitioners' reliance on *Fresh Garlic* for its argument that we have rejected similar information that contained discrepancies is misplaced. In *Fresh Garlic* the information provided by the respondent contained discrepancies that included confusing and conflicting statements, and therefore Commerce rejected it.[27] Distinguishable from *Fresh Garlic*, in this review, we found no discrepancies with the information that Heze Huayi provided in response to the original and supplemental questionnaires, nor did the petitioners submit any deficiency comments that identified any such discrepancies.

Comment 3: By-Product Offset for Ammonium Sulfate

Petitioners' Case Brief

- Generally accepted accounting principles (GAAP) logically suggest that the costs of purchasing sulfuric acid, electricity, and labor be assigned to the higher-valued cyanuric acid (CYA), not deducted from the by product. The volume-based allocation erroneously assumes that the primary product (CYA) is equal in value to ammonium sulfate. Commerce, however, recognized in *2013-2014 Final Results* that CYA has a far greater value than the by-product, ammonium sulfate.[28]
- Production volume is not a reasonable allocation basis where the by-product revenues are based on sales.[29] Respondents do not limit the ammonium sulfate by-product offset to by-product revenues that are tied to the volume sold. Rather, respondents allocate electricity and indirect labor based on the volume of ammonium sulfate produced.
- It is not reasonable to assume that electricity or indirect labor is consumed in proportion to the production volume of CYA and ammonium sulfate. Because respondents have not identified all the actual inputs used "only" for ammonium sulfate, Commerce should deny this offset as it did in the 2012-13 review for Kangtai because it could not identify the amount of additional sulfuric acid purchases used to produce ammonium sulfate.[30]
- Alternatively, Commerce should assign the costs of all sulfuric acid, electricity, and labor to CYA production as recorded in Kangtai's accounting records, and the by-product offset should only be based on the surrogate sales value of ammonium sulfate.

[25] *See* Letter from Commerce, "2015-2016 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China," dated March 3, 2017, Section D at 5.
[26] *See* Heze Huayi's "Supplemental Section A, C, and D Questionnaire Response," dated March 20, 2017 (Heze Huayi SQR) at 12 and Exhibits SQ1-24 and SQ1-25
[27] *See Fresh Garlic* at 59.
[28] *See 2013-2014 Final Results,* and accompanying Issues and Decision Memorandum, at Comment 5.
[29] *See* Petitioners' Case Brief at 15.
[30] *See* Petitioners' Case Brief at 14 (citing *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 4539 (January 28, 2015), and accompanying Issues and Decision Memorandum (*2012-2013 Final Results*), at 19).

- Further, Commerce normally allocates co-product production costs based upon how the exporter or producer records such costs in their books and records when they are consistent with GAAP.[31]

Respondents' Rebuttal Brief

- Commerce should continue to follow its past practice used in this proceeding for calculating the by-product offset because Commerce does not limit the use of by-product offsets to cases where a company can trace those costs specifically to the production of the by-production.[32]
- Heze Huayi and Kangtai both track the actual costs of direct labor and sulfuric acid, where both account for the majority of all the costs to produce ammonium sulfate. Commerce found it reasonable and acceptable for respondents to allocate the remaining costs for electricity and indirect labor based on the production volumes of CYA and ammonium sulfate.
- Commerce granted this offset not because of a change in the by-product offset requirements, but because respondents had adjusted their reporting and acted to the best of their ability to comply with Commerce's reporting requirements and practice.

Commerce's Position: For these final results, Commerce is continuing to grant Heze Huayi and Kangtai a downstream by-product offset for ammonium sulfate. The factual pattern in the instant review remains the same as in the past two reviews. Kangtai is claiming an offset for ammonium sulfate which is not a direct by-product; it is produced by further processing two direct waste items: ammonia gas and waste sulfuric acid using additional inputs.[33] These direct wastes are produced when CYA, an intermediate product for the merchandise under consideration, is produced. The petitioners disagree with Commerce's standard practice of accounting for by-product credit. Instead of deducting the value of inputs used for producing ammonia sulfate from the value of ammonia sulfate, the petitioners argue that Commerce should place all costs into the production of CYA. We find however, that this approach ignores the fact that these inputs were used after the production of CYA. The petitioners then disagree with the allocation of sulfuric acid, electricity, and labor between the production of CYA and ammonia sulfate. We have addressed this issue in past reviews in finding that the allocation method used by respondents for electricity and indirect labor based on the production quantity of CYA and ammonium sulfate is reasonable because it is based on their production experience and accounting records.[34] Commerce's practice is to grant respondents an offset to the reported FOPs for by-products generated during the production of the merchandise under consideration if evidence is provided that such by-product was produced during the POR and has commercial value.[35] Commerce explained its practice as follows: "the by-product offset is limited to the total production quantity of the by-product … produced during the POR, so long as it is shown that the by-product has commercial value."[36]

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[31] *See* Petitioners' Case Brief at 15 (citing *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 47538 (August 11, 2003), and accompanying Issues and Decision Memorandum, at 19).

[32] *See e.g., 2013-2014 Final Results*, and accompanying Issues and Decision Memorandum, at 12.

[33] *See* Kangtai's December 12, 2016 Section D response at Exhibit D-1.

[34] *Id.*

[35] *See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 35245 (June 12, 2013) and accompanying Issues and Decision Memorandum, at Issue 10.

[36] *See Frontseating Service Valves from the People's Republic of China: Final Results of the 2008-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 76 FR 70706 (November 15, 2011), and accompanying Issues and Decision Memorandum, at Comment 18.

Finally, the petitioners argue that the costs of all sulfuric acid, electricity, and labor should be allocated to only CYA production because this is how the costs are recorded in Kangtai's accounting records. We find that this approach is illogical given that these inputs are used in the production of ammonia sulfate and they must be accounted for in calculating a net by-product value. In addition, we are not required to allocate these costs based upon how they are recorded in the accounting records, if making such an allocation is unreasonable and the evidence points to a more proper allocation, pursuant to section 773(f)(1)(A) of the Act:

> "Costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise. The administering authority shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer on a timely basis, if such allocations have been historically used by the exporter or producer, in particular for establishing appropriate amortization and depreciation periods, and allowances for capital expenditures and other development costs."

As we have stated in prior reviews, Commerce is unable to determine the value of the direct by-products generated at the split-off point (*i.e.*, ammonia gas and the discharged sulfuric acid solution) using surrogate values in accordance with Commerce's normal practice. Therefore, consistent with our methodology in previous reviews, we valued waste ammonia gas and waste sulfuric acid by subtracting the further manufacturing costs and expenses used to make ammonium sulfate from these two by-products from the ammonium sulfate GTA surrogate value.[37]

Comment 4: Adjustment to Export Price for Free-of-Charge Packing Materials

Petitioners' Case Brief

- There is no evidence on the record to support the inference that packing charges were excluded from Kangtai's U.S. prices, or to confirm whether the packing charges were included on the invoice or the entered value of the subject merchandise.
- Even assuming the packaging costs were not included on the invoice, Section 772(c)(1) of the Act does not permit the export price to be increased by the surrogate value of packing supplied by U.S. customers. Rather, this section references "actual" costs and not surrogate values. Accordingly, there is no authority pursuant to Section 772(c)(1) to add surrogate values for packing to the export value.
- Section 773(c)(1) of the Act requires the constructed value to include the surrogate value cost for packing in calculating normal value independent of whether any packing cost is added to the export value.

Respondents' Rebuttal Brief

- Commerce has a consistent practice of accounting for these free-of-charge packaging material costs in the U.S. export price because it uses these same costs in the normal value build-up. If

[37] *See 2013-2014 Final Results* and accompanying Issues and Decision Memorandum, at Comment 5.

Commerce determines not to add these costs to the U.S. price, it must also exclude these costs in the normal value calculation.

- In supplemental questionnaires, Commerce directly asked and respondents confirmed that these packing costs are not reflected in the reported U.S. price. Following Commerce's past reporting practice in this proceeding, each respondent provided information on each customer that provided free-of-charge packing materials, identifying each material, supplier, and distance.
- The U.S. invoices logically do not cost out packing separately because the respondents did not incur packing costs since they were provided free of charge. Respondents have provided the same information and language, reflected on the invoices and contracts, as in past reviews.

Commerce's Position: For these final results, we continue to make an adjustment to both the export price and normal value to account for the free of charge packaging materials. Sections 773(c)(1)(B) and (3)(B) of the Act require Commerce to value all inputs used to produce the merchandise under review. For purposes of constructing normal value (NV), Commerce does not distinguish between purchased inputs and free-of-charge inputs. Accordingly, Commerce will normally value the free-of-charge inputs by using a surrogate value for purposes of constructing NV. However, if a respondent sufficiently documents its claim that a free-of-charge input was received from its U.S. customer, Commerce will make an offsetting adjustment to the respondent's reported U.S. price to include the value of the free-of-charge input. In such cases, we adjust the U.S. price by adding the same per-unit value as calculated in the normal value build-up for the customer-provided factors at issue:

> "This is done to ensure: first, that we followed the statute by including this FOP in the normal value; second, that we properly accounted for the U.S. price's non-inclusion of the customer-provided inputs; and third, that we added the same amount to both the normal value and U.S. price.[38]

Commerce has consistently followed this practice of making an offsetting adjustment to the respondent's reported U.S. price to include the value of the free-of-charge packing material in all prior proceedings and administrative reviews of this order when such material has been provided by the respondent's U.S. customer.[39] Contrary to the petitioners' argument, we find that this practice does not conflict with section 772(c)(1) of the Act, which provides that export price shall be increased by, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the subject merchandise in condition packed ready for shipment to the United States. This provision applies to the cost of materials incident to placing the subject merchandise in condition packed ready for shipment to the United States. Here, costs at issue do not fall under the category of "packing costs," but rather, are considered "packaging" materials which are materials used in the production of subject merchandise.[40]

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[38] *See Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 71509 (December 11, 2006), and accompanying Issues and Decision Memorandum, at Comment 6 (citing *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review*, 70 FR 54361 (September 14, 2005), and accompanying Issues and Decision Memorandum, at Comment 13).

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

[40] *See Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty*

Finally, we find that the respondents have fully addressed our questions regarding the use and reporting of free-of-charge packaging materials, including the name and address of all suppliers of these packaging materials, the materials that were provided, and the name of the U.S. customer providing these materials.[41] Nothing on this record warrants changing our practice and thus we continue to make an adjustment to the export price to account for the free to charge packaging materials.

Comment 5: Alternative Mexican Surrogate Values

A. Alternative Mexican Financial Statements

Respondents' Case Brief

- Commerce failed to properly consider the critical issue with the CYDA statement related to the building of massive energy plants that distorts CYDSA's selling, general, and administrative (SG&A) expenses financial ratio because it is unusually high when compared to the other Mexican or even Thai financial statements on the record.
- CYDSA should not be used because it is a highly integrated company with its own energy division providing most of its internal energy needs. This greatly impacts the company's production costs and creates distortions due to its energy division and construction costs, making it very different from the other Mexican statements on the record.
- Commerce should either reject CYDSA's financial statement entirely or average it with one or more of the three other Mexican financial statements on record to normalize the distortions in CYDSA's financial ratios. Commerce consistently finds that multiple statements are superior to a sole statement.[42]
- In all prior administrative reviews before Commerce's use of CYDSA's financial statement in the last review, the financial ratios were significantly lower and in line with the ratios of the other statements on this record. There is no reasonable explanation or expectation that the respondents' SG&A would have at least doubled from one segment to the next.
- Commerce addresses the issue of matching surrogate financial level of integration in applying its intermediate input methodology, which ignores the respondent's greater level of integration by co-generation because the company whose financial statements are being used purchases, instead of produces, a large portion of energy inputs.[43]
- Commerce should consider the use of the other three Mexican financial statements on record even though they may be slightly less comparable with regard to their product range.
- Mexichem has significant sales from its chlor-alkali division and these products are not restricted only to internal consumption as noted by Commerce. Even though Mexichem has an energy division, it has very little expenses and very few assets or liabilities because it is not currently

Administrative Review, 72 FR 52055 (September 12, 2007), and accompanying Issues and Decision Memorandum, Comment 6 at 21.

[41] *See* Heze Huayi SQR at 3; *see also* Kangtai SQR at 4.

42 *See* Respondents' Case Brief at 7 (citing *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2010-2011*, 78 FR 28803 (May 16, 2013), and accompanying Issues and Decision Memorandum, at Comment 1D).

[43] *See, e.g.*, *Xanthan Gum from the People's Republic of China: Final Results of 2013 Antidumping Duty New Shipper Review*, 80 FR.29615 (May 22, 2015) and accompanying Issues and Decision Memorandum, at 10-11.

constructing an energy division. If the company expands its energy operations in 2018 as expected, then this may impact the comparability of Mexichem in the future.

- Alpek produces purified terephthalic acid (PTA) which while not as similar to chlor-alkali products, it is a major industrial chemical with very comparable production costs. The third company, Pochteca, while less comparable than the other two, does have similar raw materials as a purchaser of chemicals even though Commerce notes that it only trades in chemicals and does not produce them.

Petitioners' Rebuttal Brief

- Unlike CYDSA, the three alternative Mexican surrogate companies Pochteca, Alpek, and Mexichem do not produce comparable merchandise. Pochteca is a distributor of raw materials to the chemical industry and not a manufacturer of chemical products. Alpek produces petrochemicals and not chlor-alkali chemicals, of which 73 percent of its sales are made in its polyester business segment. Although Mexichem produces chlor-alkali products, it does not produce identical or comparable merchandise, sodium hypochlorite or calcium hypochlorite.
- Mexichem's scope and size of its business operations are not comparable or analogous to the production experience of the respondents. Mexichem is a global corporation that operates in over 30 countries and has a presence in over 90 countries, exceeding 18,000 employees and over 120 production facilities. In contrast, CYDSA and its operating subsidiaries are all Mexican companies.
- Commerce is not required duplicate the exact production experience of the Chinese manufacturers, nor to undertake an item-by-item analysis in calculating factory overhead.[44]
- Because CYDSA is the only Mexican producer of comparable merchandise for which financial data are available, Commerce need not consider whether capital spending on cogeneration had any impact on CYDSA's income statement.
- Commerce rejected respondents' co-generation argument in the last review in finding that CYDSA was not energy independent but still relied on outside purchases for electricity.[45] The petitioners note that CYDSA continues to purchase electricity.
- Although CYDSA's SG&A expenses increased 12.7 percent over the 2014 period, the ratio of SG&A expenses to nets sales changed only by two percent.
- Commerce is not required to match the production experience of the respondent and that of the surrogate producer in order to use a surrogate financial statement. Even in the cases where Commerce found a mismatch between the level of integration of the Chinese producers and the surrogate company, it did not reject the surrogate company financial ratios. Instead, Commerce used intermediate inputs to value the factors of production.

Commerce's Position: Each antidumping investigation and review is a separate proceeding covering merchandise entering the United States during a specific time period, and the facts of each review are considered separately, based on information submitted for that review. Commerce's criteria for choosing financial statements for the calculation of surrogate financial ratios is based on the availability

[44] *See* Petitioners' Rebuttal Brief (citing *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum, at 26).

[45] *See* Petitioners' Case Brief at 10 (citing *2014-2015 Final Results*, at Comment 2A).

of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.[46] Moreover, for valuing overhead, SG&A expenses, and profit, Commerce uses non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.[47] In identifying the comparability of merchandise, the Department examines, where appropriate, the physical characteristics, end uses, and production process.[48] Additionally, the Department examines how similar a proposed surrogate producer's production experience is to the NME producer's production experience;[49] however, this analysis is not dependent upon matching the exact production experience of the respondents.[50] Further, the courts have recognized Commerce's discretion when choosing appropriate companies' financial statements to calculate surrogate financial ratios.[51]

In the previous review, we found that CYDSA's financial statements satisfied our surrogate financial ratio criteria and contained ample information to determine that its major chloro product (sodium hypochlorite) is a significant or primary product of the company.[52] The record of this review supports the same finding, *i.e.*, CYDSA's financial statements are contemporaneous, comparable to the respondents' experience, and publicly available. Specifically, Commerce continues to find that calcium hypochlorite and sodium hypochlorite are comparable to subject merchandise because, as determined in prior segments of this proceeding and on this record, it has similar physical characteristics and end uses, and a similar production process, as the subject merchandise.[53] All parties relied on this comparable product finding to place evidence on the record showing that all six economically comparable countries have exports in commercial quantities of comparable merchandise (*i.e.*, calcium hypochlorite and sodium hypochlorite).[54]

The respondents have not provided information on the record demonstrating that another product qualifies as a comparable product based on similar physical characteristics and end uses and a similar production process as the subject merchandise. Rather, the respondents' argument relates to a product group rather than a specific product, noting Mexichem's chlor-alkali division and chlor-alkali products, generally.[55] In the case of Alpek, the respondents concede that Alpek does not produce chlor-alkali products but contend that as a producer of major industrial chemicals, its production and operating costs

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[46] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China,* 70 FR 24502 (May 10, 2005), and accompanying Issues and Decision Memorandum, at Comment 3.
[47] *See* 19 CFR 351.408(c)(4).
[48] *See Certain Woven Electric Blankets from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 38459 (July 2, 2010), and accompanying IDM at Comment 2; *Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 48612 (July 25, 2002), and accompanying Issues and Decision Memorandum at Comment 5.
[49] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010) and accompanying Issues and Decision Memorandum at Comment 13.
[50] *See Nation Ford Chem. V. United States*, 166 F.3d 1373, 1377 (CAFC 1999).
[51] *See, e.g., FMC Corp.* v. *United States,* 27 CIT 240, 251 (2003) (finding that Commerce "has wide discretion in choosing among various surrogate sources"), *aff'd FMC Corp.* v. *United States,* 87 Fed. Appx. 753 (CAFC 2004).
[52] *See 2014-2015 Final Results*, and accompanying Issues and Decision Memorandum, at Comment 2A.
[53] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 4539 (January 28, 2015) (*2012-2013 Final Results*), and accompanying Issues and Decision Memorandum, at Comment 2.
[54] *See* Respondents' SC Comments, at Exhibit 1.
[55] There are a wide range of chlor-alkali products that can be used in diverse applications, including aluminum processing, pulp and paper manufacture, water purification and even the production of hydrogenated fats.

would still be comparable. Accordingly, we find that the respondents have not demonstrated that either of these two companies produce a significant or primary product that is comparable to subject merchandise, or an analysis of the revenue these companies generate from each of its products lines that would allow us to determine the significance of its production of any specific comparable product.[56] Finally, as we noted in *Preliminary Results*, Pochteca is a distributor and not a producer of any chloro-alkali products, and therefore not appropriate to use for calculating surrogate financial ratios.[57]

In the last review, we addressed the same argument raised by respondents concerning CYDSA and the potentially distortive production costs due to its level of integration and having its own energy division. Our finding remains unchanged in the instant review based on the same information contained in CYDSA's financial statement showing that this company is not energy independent but still relies on outside purchases of electricity to support its production processes, and that these costs can reasonably be considered substantial given its reported vulnerability to "price risk."[58] As noted above, the information in CYDSA's financial statements shows that one of its primary products is sodium hypochlorite, a comparable product to subject merchandise. This also shows that CYDSA's level of integration is not notably different from the respondents to the degree that we should be applying an intermediate input methodology as suggested by the respondents. Finally, Commerce has relied on CYDSA's financial statements in recent investigations to calculate surrogate financial ratios.[59]

B. Mexican Surrogate Value for Sodium Hydroxide (Caustic Soda)

Respondents' Case Brief

- The Mexican surrogate value for caustic soda used by Commerce is aberrantly high compared to the import price into all other listed potential surrogate countries. The Mexican average unit value (AUV) is 71 percent higher than the average import prices using UN COMTRADE import data that Commerce has found equally reliable to the GTA data.
- Commerce should follow its practice and rely on the import price into the largest importer of the input, Brazil.[60]
- Alternatively, Commerce could rely on one of the other listed surrogate country import values.
- Commerce inaccurately characterizes the record by claiming that the respondents' comparison method is flawed because it compared UN COMTRADE data to GTA data when both are equally reliable government sources of import data.

Petitioners' Rebuttal Brief

- UN COMTRADE import data understates the volume of imports reflected in the GTA data and therefore, are not a reliable indicator of average import prices.

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[56] *See 2014-2015 Final Results*, at Comment 2.A.
[57] *See Preliminary Results*, and accompanying Preliminary Decision Memorandum, at 22-23.
[58] *See 2014-2015 Final Results*, at Comment 2.A.
[59] *See 1,1,1,2 Tetrafluoroethane (R-134a) From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part*, 82 FR 12192 (March 1, 2017), and accompanying Issues and Decision Memorandum, at Comment 6; *also 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 30.
[60] *See* Respondents' Case Brief (citing *2013-2014 Review*, at Comment 1).

- The GTA data submitted by respondents for caustic soda did not include all six of the economically comparable countries.
- There is no basis to reject the GTA Mexican import statistics and replace them with a lower based Brazilian value.
- Commerce prefers not to use third-party import data where those data do not account for all imports reported in the official import statistics.
- Even assuming the UN COMTRADE is meaningful, the GTA AUV for Mexican imports of caustic soda is part of a similar spectrum of values and therefore, not aberrational. In addition, the difference in the AUVs is within the range of values that can be attributed to the importation of caustic soda in different concentrations, as noted in the prior review.[61]

Commerce's Position: Pursuant to section 773(c)(1) of the Act, we continue to find that the value derived from the GTA import data represents the best available information for valuing caustic soda. These data represent information that is product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and free of taxes and duties. Furthermore, the GTA data for caustic soda imports demonstrates that it is being traded in significant quantities (*i.e.*, quantities indicative of commercial transactions). While Commerce has used COMTRADE data as an alternative source for surrogate values, we do not find it to be better than the GTA data on the record especially given the meaningfully lower import volumes in the COMTRADE data for Mexico and South Africa when compared to the GTA data.[62] Specifically, the record evidence supports using the GTA data, as it captures 6.9 percent more imports by volume than the COMTRADE data for Mexican caustic soda.

We also do not find the Mexican GTA import value to be aberrational based on its AUV. The GTA import data shows that Mexico had the second largest volume of imports of caustic soda among five of the six economically comparable countries, absent the Brazil GTA import data that was not on the record.[63] While the Mexican GTA data may be the highest value from among the data on the record from economically comparable countries, this comparison does not render them necessarily aberrational, especially in light of the large volume of imports. Indeed, because an average is necessarily calculated from higher and lower values within a range of numbers, it cannot be the case that a value is aberrant simply because it is lower or higher than the average. Simply showing that a price is high is not enough.[64] Therefore, we do not find the Mexican GTA import data for caustic soda to be aberrational. Rather, it represents the best available information on the record from an economically-comparable country.

Finally, Commerce found the GTA import data for caustic soda reliable in the last review even though the GTA unit value was higher than the GTA unit value in the instant review.[65] We note that the respondents did not question the validity of this Mexican GTA value for caustic soda in the last review, and that the per unit value in this review is consistent with the value in the prior review.[66]

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[61] *See 2014-2015 Final Results*, and accompanying Issues and Decision Memorandum at Comment 2.B. at 13.
[62] *See* Petitioners' Letter, "Rebuttal Comments regarding Surrogate Value Information Submitted by Kangtai and Huayi," dated March 27, 2017 (Petitioners' Rebuttal SV Comments), at Exhibits 8-9; *see also* Respondents' Letter, "Second Submission of Surrogate Values for the Preliminary Results," dated March 16, 2017, at Exhibit SV3-9.
[63] *See* Petitioners' Rebuttal SV Comments, at Exhibit 9.
[64] *See Jacobi Carbons AB v. United States*, 38 CIT 992 F. Supp. 2d 1360,1375-76 (2014).
[65] *See 2014-2015 Final Results*, and accompanying Issues and Decision Memorandum at Comment 2.B. at 14.
[66] *See* Petitioners' Final SV Rebuttal Comments, at 4.

C. Whether to Use INEGI's EMIM Mexican Labor Data Instead of ILO Labor Rate

Respondents' Case Brief

- Commerce should rely on the EMIM labor data because it is contemporaneous with the POR and is more specific to the manufacturing industry because it lists several different chemical manufacturing classifications. The EMIM classification for "manufacturing of other chemical products" is more specific because it excludes the dissimilar chemical industry manufacturing (such as pharmaceuticals, pesticides, and toiletries) that are included in the 2008 ILO data for all chemical manufacturing.
- The EMIM data is the monthly industrial survey provided by the official Mexican government organization INEGI, which is the same source that provides data to the ILO.
- The EMIM labor rate shows that the data covers a broad range of benefits and contributions such that Commerce would not be undervaluing labor. Further, Commerce can leave in the numerator any labor costs it believes are somehow not included in the EMIM labor rate.
- The 2008 ILO labor rate comes from a time when China was not economically comparable to Mexico. Using these older labor rates do not properly account for changes over many years since labor rates change at rates different than inflation.

Petitioners' Rebuttal Brief

- The INEGI labor data do not include the full costs of wages, salaries, and benefits. The INEGI publishes different datasets that report the cost of labor, not the wage rate.
- Whether or not the INEGI data submitted by respondents identify a more specific subset of the manufacturing sector, the data submitted by respondents do not represent full labor costs.
- Commerce should continue to use the ILO Chapter 6A labor cost for the final results given two different labor costs available from the INEGI and no clear identification of the different methodologies behind them; the fact that they do not tie to the ILO data; and, the fact that both ILO and INEGI report a distinct category for the manufacture of "other" chemicals.

Commerce's Position: In the *Preliminary Results*, we noted that both the petitioners and the respondents provided two different sets of Mexican National Institute of Statistics and Geography (INEGI) data for the labor wage rate calculation. We reviewed both sets of INEGI data and the petitioners' analysis comparing these different sets but found that neither party adequately demonstrated that the INEGI labor data from either source can be linked to the ILO labor costs.[67] Because neither party has sufficiently explained the discrepancies of their data sets since the *Preliminary Results*, we continue to find the 2008 ILO data to be the best available information on the record to use as the surrogate value for industry-specific labor rates.

We are not persuaded by the respondents' argument that because we are comparing the INEGI's Monthly Survey of the Manufacturing Industry (EMIM) "other chemical products" manufacturing rate in 2008 to the ILO more general chemical manufacturing rate, the differences can be accounted to the fact that the ILO rate includes labor costs for more expensive chemical manufacturing such as pharmaceuticals, pesticide, and toiletries that are excluded from the EMIM "manufacturing of other chemical products." However, a number of inexpensive chemical manufacturing classifications such as basic chemicals, resins, synthetics, and fibers are also being excluded from the EMIM "manufacturing

[67] *See Preliminary Results*, and accompanying Decision Memorandum, at 22.

of other chemical products" labor rate. As such, there is no basis to conclude that the EMIM "manufacturing of other chemical products" labor rate should be lower when both expensive and inexpensive chemical products are also being excluded.

As noted by the petitioners, the INEGI publishes different datasets that report the cost of labor, not the wage rate, and the difference between the two data sets demonstrates that the average U.S. dollar per hour labor cost in the Mexican chemical industry is US$7.70/hour, whereas the INEGI wage rate submitted by the respondents is only US$4.10/hour.[68] In this regard, we agree with the petitioners that this provides reasonable evidence that the data submitted by respondents do not represent full labor costs as both sources of data are published by the INEGI. Absent any explanation to account for this difference, this shows that the EMIM labor rate data is not broad enough to capture all labor costs.

Finally, we find respondents' argument regarding the older Mexican labor value to be less reliable, to be unsupported by the record evidence. The respondents contend that inflation alone does not properly account for the trends in labor prices over time because the labor rates change at rates different than inflation. As we have previously found, there is no basis to conclude that Commerce's normal method of adjusting the surrogate values using the Consumer Price Index rate for Mexico, as published by the International Monetary Fund, fails to properly account for inflation or changes in the labor rate over this time period. In addition, there is no evidence of any significant changes or events that occurred in Mexico which would have affected the labor rate since 2008, which is the year for which the Mexican labor rate is based.[69] For these reasons, the record does not support respondents' argument that the Mexican labor values should not be used as a surrogate value.

Comment 6: Assigning the China-Wide Rate to Jiheng

Petitioners' Case Brief

- Since the outset of this proceeding, Jiheng has failed to cooperate by not responding to Commerce's questionnaires. Commerce should continue to apply Sections 776(a) and (b) of the Act by assigning the China-wide rate to Jiheng as was done in the preliminary findings of this review.

No other party commented on this issue.

Commerce's Position: Although Jiheng submitted a separate rate certification, Jiheng failed to respond to Commerce's questionnaires. Absent the additional information required in these questionnaires, the select data in Jiheng's separate rate certification is insufficient to calculate a margin. Therefore, we cannot analyze fully or verify Jiheng's claim for a separate rate. As a result, we determine that Jiheng did not demonstrate its eligibility for a separate rate in this review. Consequently, we continue to find for these final results that Jiheng is part of the China-wide entity.

[68] *See* Petitioners' Rebuttal Brief, at 21-22.
[69] *See 2015-2015 Final Results*, and accompanying Issues and Decision Memorandum at Comment 2.B. at 13.

RECOMMENDATION

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

☒	☐
Agree	Disagree

1/29/2018

X 

Signed by: CHRISTIAN MARSH
Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance