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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**:** Wendy J. Frankel
Director, U.S. Customs and Border Protection Liaison Unit
Antidumping and Countervailing Duty Operations
Enforcement and Compliance

SUBJECT: Decision Memorandum for the Preliminary Results of the 2016-2017 Antidumping Duty Administrative Review: Chlorinated Isocyanurates from the People's Republic of China

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I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that Heze Huayi Chemical Co. Ltd. (Heze Huayi) and Juancheng Kangtai Chemical Co. Ltd. (Kangtai) made sales in the United States at prices below normal value (NV). Because Hebei Jiheng Chemical Co. Ltd.(Jiheng) failed to submit a separate rate application or certification and to respond to the questionnaire, we preliminarily determine that Jiheng is part of the People's Republic of China (China) -wide entity. The details of these findings are explained in the "Discussion of the Methodology" section, below. The estimated weighted-average dumping margins are shown in the Preliminary Determination section of the accompanying Federal Register notice.

Interested parties are invited to comment on these preliminary results. We intend to issue final results, no later than 120 days from the date of publication of this notice, unless extended, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

On August 1, 2017, Commerce initiated the administrative review of the antidumping duty (AD) order on chlorinated isocyanurates (chlorinated isos) from China covering the period June 1, 2016, through May 31, 2017.[1] This review covers three producers/exporters: Heze Huayi,

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[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 35749 (August 1, 2017) (*Initiation Notice*).

Jiheng, and Kangtai. On August 31, 2017, Heze Huayi and Kangtai each submitted a separate rate certification.[2] As noted above, Jiheng did not submit a separate rate application or certification.

On September 22, 2017, Commerce issued its AD questionnaire to Heze Huayi, Jiheng, and Kangtai, to which only Heze Huayi and Kangtai responded in a timely manner. Jiheng did not respond to Commerce's questionnaire. We issued the double remedy questionnaire to Heze Huayi and Kangtai on December 4, 2017, and received timely responses from both respondents. On March 26 and March 28, 2018, Commerce issued supplemental questionnaires to Heze Huayi and Kangtai, respectively, to which both companies responded in a timely manner.

Bio-Lab, Inc., Clearon Corporation, and Occidental Chemical Corporation (the petitioners) submitted factual information containing Heze Huayi's and Kangtai's factors of production (FOPs) data from prior reviews. On January 9, 2018, the petitioners submitted comments regarding Heze Huayi's and Kangtai's sections A, C, and D questionnaire responses. The petitioners submitted additional pre-preliminary determination comments on February 20, 2018 and June 4, 2018.[3]

On September 6, 2017, Commerce placed the Surrogate Country List on the record[4] and on September 11, 2017, solicited interested party comments regarding the selection of the surrogate country and offered an opportunity to provide surrogate value (SV) data.[5] The petitioners, Heze Huayi, and Kangtai placed information on the record and provided argument regarding the selection of the surrogate country and SVs between December 4, 2017 and June 4, 2018.

Commerce extended the time limit for the preliminary results on March 1, 2018, to fully extend the deadline from March 5, 2018, until July 3, 2018.[6]

III. SCOPE OF THE ORDER

The products covered by the order are chlorinated isocyanurates (chlorinated 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)

[2] *See* Letter from Heze Huayi, "Chlorinated Isocyanurates from the People's Republic of China: Separate Rate Certification," dated August 31, 2017 (Heze Huayi SRC); Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China: Separate Rate Certification," dated August 31, 2017 (Kangtai SRC) (collectively, Separate Rate Certifications).

[3] *See* Letter from the petitioners, "Chlorinated Isocyanurates from the People's Republic of China (12th Antidumping Administrative Review): Comments Concerning the Preliminary Determination," dated February 20, 2018 (petitioners' February comments); *see also* Letter from the petitioners, "Chlorinated Isocyanurates from the People's Republic of China (12th Antidumping Administrative Review): Comments Concerning the Preliminary Determination," dated June 4, 2018 (petitioners' June comments).

[4] *See* Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Order on Chlorinated Isocyanurates from the People's Republic of China, dated September 6, 2017 (Surrogate Country List).

[5] *See* 2016-2017 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information, dated September 11, 2017 (Request for Surrogate Country and Value Comments).

[6] *See* Memorandum, "Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated March 1, 2018.

sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3(2H_2O)$), and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isos are available in powder, granular, and tableted forms. The order covers all chlorinated isos. Chlorinated 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 chlorinated isos and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country Status

In every AD case conducted by Commerce involving China, China has been treated as a non-market economy (NME) country.[7] In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. No party has argued to change, or submitted evidence on the record calling into question, this determination. Therefore, Commerce continues to treat China as an NME country for purposes of these preliminary results. Accordingly, Commerce calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates

In proceedings involving NME countries, Commerce has a rebuttable presumption that all companies within China are subject to government control and, thus, should be assessed a single AD rate.[8] It is Commerce's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its exports. To establish whether a company is sufficiently independent to be eligible for a separate, company-specific rate, Commerce analyzes each exporting entity in an NME country under the

[7] *See, e.g., Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum to Gary Taverman, "China's Status as a Non-Market Economy," dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).
[8] *See, e.g., Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 24892, 24899 (May 6, 2010), unchanged in *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 59217 (September 27, 2010).

test established in *Sparklers*[9] and further clarified in *Silicon Carbide*.[10] However, if Commerce determines that a company is wholly foreign-owned or located in a market economy (ME) country, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

In order to demonstrate separate rate status eligibility, Commerce normally requires entities, for whom a review was requested, and who were assigned a separate rate in a previous segment of this proceeding, to submit a separate-rate certification stating that they continue to meet the criteria for obtaining a separate rate.[11] For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility, Commerce requires a separate-rate application.[12] Companies that submit separate-rate certifications or applications and are subsequently selected as mandatory respondents must respond to all parts of Commerce's questionnaire in order to be eligible for separate rate status.[13]

In this review, Jiheng failed to submit a separate rate response.[14] As a result, we preliminarily find that Jiheng did not demonstrate its eligibility for a separate rate in this review. Consequently, we preliminarily find that Jiheng is part of the China-wide entity.

Heze Huayi and Kangtai have previously demonstrated their eligibility for a separate rate.[15] In this review, Heze Huayi and Kangtai each submitted a separate rate certification. In their respective separate rate certifications, each company reported that they are wholly Chinese-owned companies.[16]

1. Absence of *De Jure* Control

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[17]

The evidence Heze Huayi and Kangtai provided in their separate rate certifications, as in prior proceeding(s), supports a preliminary finding of absence of *de jure* government control based on the following factors: (1) an absence of restrictive stipulations associated with the individual

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[9] *See Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*).
[10] *See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).
[11] *See Initiation Notice*, 80 FR at 45948.
[12] *Id.*
[13] *Id.*
[14] *See* Separate Rate Certifications.
[15] *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) (*2015-2016 Prelim Results*), and accompanying Decision Memorandum at 3-5.
[16] *See* Heze Huayi SRC at 1; *see also* Kangtai SRC at 1.
[17] *See Sparklers*.

exporter's business and export licenses; (2) applicable legislative enactments decentralizing control of the companies; and (3) formal measures by the government decentralizing control of Chinese companies.[18]

2. Absence of *De Facto* Control

As stated in previous cases, there is evidence that certain enactments of the Chinese central government have not been implemented uniformly among different sectors and/or jurisdictions in China.[19] Therefore, Commerce has determined that an analysis of *de facto* control is critical in determining whether Heze Huayi and Kangtai are, in fact, subject to a degree of government control over export activities which would preclude Commerce from assigning separate rates. Commerce considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[20]

The evidence Heze Huayi and Kangtai provided in their separate rate certifications supports a preliminary finding of absence of *de facto* government control based on the following factors: (1) an absence of restrictive government control on export prices; (2) a showing of authority to negotiate and sign contracts and other agreements; (3) a showing that Heze Huayi and Kangtai maintain autonomy from the government in making decisions regarding the selection of management; and (4) a showing that Heze Huayi and Kangtai retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.[21]

The evidence placed on the record of this administrative review by Heze Huayi and Kangtai demonstrates an absence of *de jure* and *de facto* government control, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, Commerce has preliminarily granted Heze Huayi and Kangtai a separate rate.

Surrogate Country

When Commerce is investigating imports from an NME country, section 773(c)(1) of the Act directs it to determine NV, in most circumstances, on the NME producer's factors of production (FOP) based on the best available information regarding the values of such factors in a surrogate ME country, or countries, considered to be appropriate by Commerce. In accordance with section 773(c)(4) of the Act, in valuing FOPs, Commerce shall utilize, to the extent possible, the

[18] *See* Separate Rate Certifications.
[19] *See, e.g., Silicon Carbide*, 59 FR at 22586-87.
[20] *Id.; see also Sparklers*, 56 FR at 20589; *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).
[21] *See* Separate Rate Certifications.

prices or costs of FOPs in one or more ME countries that are (a) at a level of economic development comparable to that of the NME country and (b) significant producers of comparable merchandise. Moreover, Commerce's practice is to select an appropriate surrogate country based on the availability and reliability of data from the countries.[22]

On September 11, 2017, Commerce invited parties to comment on surrogate country selection and provide information regarding FOP valuation in the instant review.[23] These comments are summarized below.

On December 4, 2017, petitioners stated in their surrogate country comments that comparable merchandise is produced in each of the six economically comparable countries on the Surrogate Country List, but that Mexico is the only country on the Surrogate Country List which exports and produces significant quantities of chlorinated isos. This latter assertion was based on a reconciliation of the Mexican export data from the PIERS Cross-Border report to the Global Trade Atlas (GTA) export data for subject merchandise from Mexico, showing the Mexican firm Aqua Chlor to be a producer and major exporter of chlorinated isos during the period of review (POR); product registrations filed by Aqua Chlor with the U.S. Environmental Protection Agency (EPA) for subject merchandise marketed in the United States; GTA exports figures that demonstrate Mexico exported significant quantities of chlorinated isos during the POR.[24] Petitioners also noted that in *2015-2016 Chlorinated Isos Review* and *2014-2015 Chlorinated Isos Review*, Commerce relied on the same information in selecting Mexico as the primary surrogate country because it was the only economically comparable country that was a significant producer of both comparable and identical merchandise, and had the highest quality SVs.[25] On December 19, 2017, petitioners submitted SV data from Mexico based on Mexican import data published by the GTA for all the material and packing inputs reported by the respondents, and other Mexican data sources for the remaining SVs.[26]

The respondents submitted their surrogate country selection comments on December 4, 2017, noting that all six economically comparable countries on the Surrogate Country List export comparable merchandise, adding that the quality of data in each country will become more

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[22] *See* Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (*Policy Bulletin*).
[23] *See* Request for Surrogate Country and Value Comments.
[24] *See* Letter from petitioners, "Comments on Primary Surrogate Country Selection," dated December 4, 2017 (Petitioners' SC Comments), at 4-7 and Exhibits 1-3.
[25] *See 2015-2016 Prelim Results*, and accompanying Decision Memorandum at 6 and 13, unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 5243 (February 6, 2018) (*2015-2016 Chlorinated Isos Review*), and accompanying Issues and Decision Memorandum; *also Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 45128 (July 12, 2016) (*2014-2015 Prelim Results*), and accompanying Decision Memorandum at 7 and 11, unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 4852 (January 17, 2017) (*2014-2015 Chlorinated Isos Review*), and accompanying Issues and Decision Memorandum.
[26] *See* Letter from petitioners, "Initial Surrogate Value Data," dated December 19, 2017 (Petitioners' SV Submission).

evident as the record develops.[27] On December 19, 2017, the respondents submitted SV information for Brazil and Bulgaria, arguing that one of these countries should be selected as the primary surrogate country.[28] Rebuttal SV information was submitted by the respondents on December 29, 2017, which included additional import information on sodium hydroxide from all six economically comparable countries, and information to rebut the International Labor Organization (ILO) Mexican labor value based on a contemporaneous Mexican labor rate published by the Mexican National Institute of Statistics and Geography (INEGI), using labor data from the Monthly Survey of the Manufacturing Industry (EMIM).[29] In addition, the respondents included additional information on the products manufactured by the Mexican company CYDSA SAB de CV (CYDSA), the surrogate company used by the petitioners to calculate financial ratios.[30]

On December 29, 2017, the petitioners rebutted respondents' argument that Brazil or Bulgaria be selected as the primary surrogate country, arguing that Mexico is the only economically comparable country that produces identical merchandise and also provides complete coverage to value all respondents' factors of production.[31] The petitioners noted that over the last three administrative reviews, no party has demonstrated that there is any other economically comparable country other than Mexico that produces identical merchandise.[32] Furthermore, the petitioners argued that Commerce's preference is to select a primary surrogate country which produces identical merchandise, absent any significant issues regarding the quality or reliability of the Mexican SV data, as reflected in Commerce's *Policy Bulletin* 04.1.[33] The petitioners argued that Brazil and Bulgaria have no significant production of chlorinated isos given that the export statistics for both Brazil and Bulgaria are based on a six-digit HTS classification of a basket of products, whereas the Mexican export statistics include an eight-digit level that specifically applies to subject merchandise.[34]

The petitioners contend respondents' United Nations International Trade Statistics (UN COMTRADE) import data for Brazil cannot be relied upon because it was not reconciled with the official imports statistics reported by GTA. According to the petitioners, this is consistent with Commerce's practice to not use third-party data which does not capture all the imports reported by the official import statistics.[35] The petitioners further note that the respondents failed

[27] *See* Letter from respondents, "Comments on Surrogate Countries," (Respondents' SC Comments), dated December 4, 2017, at 2-3.
[28] *See* Letter from respondents, "Surrogate Values for the Preliminary Results," dated December 19, 2017 (Respondents' SV Comments).
[29] *See* Letter from respondents, "Rebuttal Surrogate Values for the Preliminary Results," dated December 29, 2017 (Respondents' SV Rebuttal), at 1 and Exhibits 1-3.
[30] *Id.* at 1 and Exhibit 4.
[31] *See* Letter from petitioners, "Rebuttal Comments Regarding Surrogate Value Information Submitted by Huayi and Kangtai," dated December 29, 2017 (Petitioners' SV Rebuttal Comments), at 2.
[32] *Id.* at 2-3.
[33] *Id*. at 2 citing to *Policy Bulletin* at note 3.
[34] *Id.* at 2-3.
[35] *Id.* at 3-4, citing to *Multilayered Wood Flooring from the People's Republic of China*, 79 FR 26712 (May 9, 2014) and accompanying Issues and Decision Memorandum, at Comment 6.

to remove from the UN COMTRADE import data for Brazil, imports from NME countries, unspecified countries, or from countries that maintain non-specific export subsidies.[36]

The petitioners contend that the respondents' Brazilian electricity rates published by the Ministry of Mines and Energy, is not superior to the Mexican data because it reflects data for only a single month of the POR; provides no explanation of the methodology used to calculate the rate; does not indicate whether it is exclusive of VAT or other taxes; and, information suggests that the Brazilian government capped its electricity rates due to an economic recession.[37] In contrast, the petitioners noted that that Mexican electricity rates published by the International Energy Agency (IEA) cover the entire POR and are exclusive of taxes.[38]

The petitioners argued that the Brazilian water rate from Sabesp submitted by the respondents, is not representative of a national water rate for industry because it is only applicable to the State of Sao Paulo, whereas the petitioners' Comision Nacional del Agua (CONAQUA) water rate covers every state in Mexico.[39] In addition, the petitioners noted that the Brazilian water rate is not contemporaneous with the POR because it was not in any effect until November 10, 2017, and it is unclear whether it includes both water and sewage.[40] The Mexican water rate available from CONAGUA, the petitioners stated, includes water, sewage, and treatment for every state in Mexico.[41]

The last deficiency noted by the petitioners regarding respondents' submission of Brazilian SVs related to labor, which the petitioners argue is a wage rate and not representative of the cost of labor in Brazil.[42] The petitioners also state that these Brazilian wage rates are also not specific to the chemical manufacturing industry but rather, to the general manufacturing industry.

The petitioners' SV rebuttal comments also noted concerns regarding the use of certain Bulgarian SVs for electricity, labor, and water. Specifically, the petitioners stated that the one set of biannual Eurostat electricity rates specific to industrial customers in Bulgaria covers only 2016, and therefore includes five months of data prior to the POR.[43] With regard to the Bulgarian labor data, the petitioners note that although it is representative of labor costs, it is based on the general manufacturing industry rather than the more specific labor costs related to the chemical industry.[44] Finally, the petitioners state that similar to the Brazilian water rate, the Bulgarian water rate is not representative of a national water rate because it is only applicable to the Bulgarian capital city of Sofia.[45]

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[36] *Id.* at 4.
[37] *Id.* at 4-5 and Exhibits 2-3.
[38] *See* Petitioners' SV Submission at Exhibit 5.
[39] *See* Petitioners' SV Rebuttal Comments at 5.
[40] *Id.* at 6; *also* Respondents' SV Submission at Exhibit SV-7.
[41] *See* Petitioners' SV Submission at Exhibit 6.
[42] *See* Petitioners' SV Rebuttal Comments at 6.
[43] *Id.* at 7.
[44] *Id.* at 8.
[45] *Id.*

On February 20, 2018, and again on June 5, 2018, the petitioners submitted the same surrogate country and SV comments for Commerce's consideration for the preliminary results. First, the petitioners reiterate that Mexico is the only potential surrogate country that is both economically comparable and a producer of subject merchandise. The petitioners stated that in the two prior reviews, in selecting Mexico as the primary surrogate country, Commerce stated its preference to select a surrogate country that produces identical merchandise over one that only produces comparable merchandise.[46] Moreover, the petitioners argued that the record demonstrates that Mexico has the highest quality of data to value all the factors of production.[47] The petitioners noted that the respondents had not provided publicly available financial statements to calculate the surrogate financial ratios for Brazil and Bulgaria.[48] The petitioners reiterated their arguments contained in their SV rebuttal comments concerning the use of UN COMTRADE data; the deficiencies in the Brazilian SV data related to electricity, water, and labor[49]; and, the deficiencies in the Bulgarian SV data related to electricity, water, and labor.[50]

Finally, the respondents submitted additional SV information on June 4, 2018, that included product information and financial statements for two Brazilian producers[51] and one Bulgarian producer[52] of comparable merchandise. This additional SV information also included the relevant financial ratios calculations for each.[53] In addition, respondents provided information on chlorinated isos in Brazil in the form of product data safety sheets.[54]

1. Economic Comparability

Section 773(c)(4)(A) of the Act is silent with respect to how Commerce may determine that a country is economically comparable to the NME country. As such, Commerce's longstanding practice, in accordance with its regulation in 19 CFR 351.408(b), has been to identify those countries that are at a level of economic development similar to China in terms of per capita gross national income (GNI) data available in the World Development Report provided by the World Bank.[55]

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[46] *See* Letter from petitioners, "Comments Concerning the Preliminary Determination, dated February 20, 2018 (Petitioners' First Prelim Comments), at 3-7, *citing 2015-2016 Prelim Results*, and accompanying Decision Memorandum at 12-13; and, *2014-2015 Chlorinated Isos Review* at Comment 1; *also* Letter from petitioners, "Comments Concerning the Preliminary Determination, dated June 4, 2018 (Petitioners' Second Prelim Comments), at 2-7.
[47] *See* Petitioners' First Prelim Comments at 7-8; *also* Petitioners' Second Prelim Comments at 8.
[48] *See* Petitioners' First Prelim Comments at 8; *also* Petitioners' Second Prelim Comments at 8-9.
[49] *See* Petitioners' First Prelim Comments at 9-10; *also* Petitioners' Second Prelim Comments at 9-10.
[50] *See* Petitioners' First Prelim Comments at 11-12; *also* Petitioners' Second Prelim Comments at 10-11.
[51] *See* Letter from respondents, "Final Surrogate Value Submission," dated June 4, 2018, (Respondents' Final SVs) at Exhibits SV2-2 to SV2-4.
[52] *Id.* at SV2-6 to SV2-7.
[53] *Id.* at SV2-1 and SV2-5, respectively.
[54] *Id.* at SV2-8.
[55] *See, e.g., Pure Magnesium from the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 75 FR 80791 (December 23, 2010) and accompanying Issues and Decision Memorandum at Comment 4.

Furthermore, providing parties with a range of countries with varying GNIs is reasonable given that any alternative would require a complicated analysis of factors affecting the relative GNI differences between China and other countries, which is not required by the statute. In contrast, by identifying countries that are economically comparable to China based on GNI, Commerce provides parties with a predictable practice that is reasonable and consistent with the statutory requirements. We note that identifying potential surrogate countries based on GNI data has been affirmed by the U.S. Court of International Trade (CIT), which found the use of per capita GNI to be a "consistent, transparent, and objective metric to identify and compare a country's level of economic development" and "a reasonable interpretation of the statute."[56]

Pursuant to section 773(c)(4) of the Act, Commerce listed Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand as countries that are comparable to China in terms of economic development based on 2016 per capita GNI data available in the World Development Report provided by the World Bank; Commerce provided parties an opportunity to comment on this list.[57] No party challenged Commerce's list of economically comparable countries.

Commerce is satisfied that the countries on the Surrogate Country List are equally comparable in terms of economic development and serve as an adequate group to consider when gathering SV data. As Commerce's policy is to consider all countries on the Surrogate Country List to be equally comparable economically to China, we did not use GNI alone as the rationale for selecting among these six countries. Instead, as further discussed below, we evaluated which of these countries is a significant producer of identical and/or comparable merchandise and also has reliable data.

2. Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor Commerce's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, Commerce looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[58] Therefore, if the record contains a producer of identical merchandise, the requirement of comparable merchandise under Section 773(c)(4) of the Act is satisfied. There is no need to look further at countries with only comparable merchandise.

Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[59] Further, when selecting a surrogate

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[56] *See Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).
[57] *See* Surrogate Country List.
[58] *See Policy Bulletin* at 2.
[59] The *Policy Bulletin* also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.* at note 6.

country, the statute requires Commerce to consider the comparability of the merchandise, not the comparability of the industry.[60] "In cases where the identical merchandise is not produced, Commerce must determine if other merchandise that is comparable is produced. How Commerce does this depends on the subject merchandise."[61] In this regard, Commerce recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

> In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.[62]

Further, the statute grants Commerce discretion to examine various data sources for determining the best available information.[63] Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[64] it does not preclude reliance on additional or alternative metrics.

In this case, Commerce finds that calcium hypochlorite and sodium hypochlorite are comparable to subject merchandise because, as previously determined in prior segments of this proceeding, it has similar physical characteristics and end uses, and a similar production process, as the subject merchandise.[65] The petitioners and the respondents have both placed evidence on the record that shows that all six economically comparable countries have exports in commercial quantities of comparable merchandise.[66] In addition, Commerce finds that the petitioners provided sufficient evidence which includes an affidavit and attached joint venture agreement demonstrating Mexican production of chlorinated isos by Aqua Chlor; product registrations filed with the EPA for specific brand names of subject merchandise; and, information that corroborates the extensive PIERS cross-border trade data for shipments of subject merchandise with the GTA export data for identical merchandise.[67] The respondents provided information in the form of product safety data sheets and select webpages from three producers and/or suppliers of chlorinated isos in Brazil.[68] However, no Brazilian production information was placed on the record to confirm if any of these companies are significant producers of identical merchandise.

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[60] *See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").
[61] *See* Policy Bulletin at 2.
[62] Id. at 3.
[63] *See* section 773(c) of the Act; *see also Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir.1990).
[64] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576 (1988), at 590.
[65] *See e.g.*, *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 Review*), and accompanying Issues and Decision Memorandum at Comment 2.
[66] *See* Petitioners' SC Comments, at Exhibit 5; *also* Respondents' SC Comments at Exhibit 1.
[67] *See* Petitioners' SC Comments, at 4-7 and Exhibits 1-3.
[68] *See* Respondents' Final SVs at Exhibit SV2-8.

Thus, Commerce finds that each of the countries on the Surrogate Country List (Brazil, Bulgaria, Mexico, Romania, South Africa, and Thailand) are significant producers of comparable merchandise (calcium hypochlorite or sodium hypochlorite), but that only Mexico is a significant producer of identical merchandise. Accordingly, the record supports the selection of Mexico as the primary surrogate country based on Commerce's preference to select a surrogate country that produces identical merchandise over one that only produces comparable merchandise. This is consistent with our selection of Mexico as the primary surrogate country in the two prior administrative reviews.[69]

3. Data Availability

In accordance with 19 CFR 351.408(c)(1) and its practice, when evaluating SV data, Commerce considers several factors including whether the SVs are publicly available, contemporaneous with the POR, represent a broad-market average, from an approved surrogate country, tax and duty-exclusive, and specific to the inputs.[70] There is no hierarchy among these criteria. Commerce will often rely on the SV data derived from GTA data, as published by the Global Trade Information Services. Furthermore, in accordance with 19 CFR 351.408(c)(4), Commerce will normally use non-proprietary information from producers of identical or comparable merchandise in the surrogate country as the basis for calculation of the surrogate ratios. It is Commerce's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[71]

In this case, Commerce has identified a number of FOPs for which we require SV data, with chlorine and caustic soda considered among the most significant inputs used in the production of chlorinated isos. Commerce also requires useable financial statements from a producer of identical or comparable merchandise surrogate country. Other than the comparison import data for sodium hydroxide[72] submitted by the respondents, there is no data on the record for any other FOP for Romania, South Africa, and Thailand, nor any surrogate financial statements. With these countries disqualified, Commerce is left with Brazil, Bulgaria, and Mexico as options for potential primary surrogate country.

Commerce has available to it on the record of this administrative review SV data for the respondent's FOPs for Brazil, Bulgaria, and Mexico. Of these, only Mexico has useable SVs for all the respondents' FOPs, including surrogate financial statements. In the case of Brazil, Commerce preliminarily finds that the only two Brazilian financial statements on the record, for

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[69] *See 2015-2016 Prelim Results*, and accompanying Decision Memorandum at 12-15, unchanged in *2015-2016 Chlorinated Isos Review*; *also 2014-2015 Chlorinated Isos Review*, and accompanying Issues and Decision Memorandum at Comment 1.

[70] *See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006) and accompanying Issues and Decision Memorandum at Comment 1.

[71] *See* Policy Bulletin.

[72] *See* Respondents' SV Rebuttal at Exhibit 1.

Cristal Pigmentos do Brasil S.A. (Cristal Pigmentos) [73] and Braskem S.A. (Braskem),[74] are unusable because they include information that indicates these two companies had received countervailable subsidies. In addition, we find that the reported Brazilian SV for labor is not reflective of total labor costs, but rather is based only on wages,[75] and the Brazilian SV for water is not contemporaneous with the POR based on the effective date of November 10, 2017, noted in the press release from the Basic Sanitation Company of the State of Sao Paulo (SABESP).[76] In conclusion, we preliminarily determine that we do not have usable financial statements, labor costs, and water rates within the Brazilian SV data.

Our preliminary review of the Bulgarian SV data shows that the one financial statement placed on the record is not usable because the respondents have not identified any of Neochim AD's products as identical or comparable merchandise. As noted in the "Significant Producers of Comparable Merchandise" section above, Commerce has previously found calcium hypochlorite and sodium hypochlorite to be comparable to subject merchandise because they have similar physical characteristics and end uses, and a similar production process, as the subject merchandise.[77] As such, both the petitioners and the respondents placed evidence on the record showing that all six economically comparable countries have exports in commercial quantities of either calcium hypochlorite and/or sodium hypochlorite, the comparable merchandise.[78] No party has identified any other product as comparable to subject merchandise. We reviewed the detailed financial statements of Neochim AD, which identified specific products in its finished goods inventories and sales revenues information; none of these products included identical merchandise or products that either the petitioners or the respondents have considered to be comparable merchandise.[79] Moreover, none of Neochim AD's products appear to be chloro alkali products, the broader product category that includes identical and comparable merchandise.

We preliminarily find that the Bulgarian SV for water is less comprehensive than the Mexican SV for water. Specifically, the Bulgarian SV for water provided by Sofiyska Voda only covers

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[73] *See* Respondents' Final SVs at Exhibit SV2-2, at Note 11 indicating Cristal Pigmentos' use of the Desenvolve tax incentive program that Commerce found countervailble in *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from Brazil: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 2168 (January 15, 2016), and accompanying Decision Memorandum (*Hot-Rolled Prelim from Brazil*) at 31; unchanged in *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from Brazil: Final Affirmative Determination, and Final Determination of Critical Circumstances, in Part*, 81 FR 53416, (August 12, 2016), and accompanying Issues and Decision Memorandum (*Hot-Rolled Final from Brazil*) at Comments 19.

[74] *See* Respondents' Final SVs at Exhibit SV2-4, at Note 11(c) indicating Braskem's use of the Reintegra program that rebates federal taxes on exports which Commerce found countervailable in *Hot-Rolled Prelim from Brazil*, and accompanying Decision Memorandum at 28; unchanged in *Hot-Rolled Final from Brazil*, and accompanying Issues and Decision Memorandum at Comments 12-13.

[75] *See* Respondents' SV Comments at Exhibit SV-5, "Brazil Labour" table at "Wages In Manufacturing."

[76] *Id.* at Exhibit SV-7,

[77] *See e.g.*, *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 Review*), and accompanying Issues and Decision Memorandum at Comment 2.

[78] *See* Petitioners' SC Comments, at Exhibit 5; *also* Respondents' SC Comments at Exhibit 1.

[79] *See* Respondents' Final SVs at Exhibit SV2-6, Neochim AD's financial statements, Note 3 Revenue "Sales by product-domestic market" and "Sales by product-export;" and, Note 16 Inventories "Finished products."

the capital city of Sofia,[80] whereas the Mexican SV covers over twenty cities.[81] Similarly, the Bulgarian SV for labor,[82] while more contemporaneous than the Mexican SV, is less specific because it applies to all manufacturing industries. The Mexican SV for labor is specific to the manufacture of chemical products.[83]

In weighing the quality of data of Mexico as compared to Brazil and Bulgaria, we preliminarily find Mexico to have better SV data because it has usable SVs for all inputs. As explained above, both the Brazilian and Bulgarian data lacks usable financial statements to calculate surrogate financial ratios. In contrast, CYDSA's financial statement contains no evidence of receipt of countervailable subsidies, and is contemporaneous and indicative of a producer that sells comparable merchandise.[84] We also preliminarily find unusable the Brazilian SVs for labor and water, as the former is based on wages and not labor costs and the latter is a water rate that does not become effective until after the POR. Finally, the Mexican SV data for electricity and labor is more comprehensive and specific, respectively, than the Bulgarian SV data for electricity and labor.

Based on examination of all record evidence, as discussed above, we find Mexico to have the highest quality SV data on the record, and to be the most appropriate choice for the primary surrogate country. A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice and in the Preliminary SV Memorandum.[85]

Date of Sale

Pursuant to 19 CFR 351.401(i), Commerce starts with a presumption that invoice date is the correct date of sale unless record evidence indicates that the material terms of sale such as price and quantity are established on another date. Heze Huayi and Kangtai reported that the date of sale should be the invoice date because the material terms of the sale are fixed at invoice date.[86] In this case, as Commerce has found no evidence contrary to Heze Huayi's and Kangtai's claims that the invoice date was the appropriate date of sale, we have used invoice date as the date of sale for these preliminary results in accordance with 19 CFR 351.401(i).[87]

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[80] *See* Respondents' SV Comments at SV-14, Sofiyska Voda Water Tariff.
[81] *See* Petitioners' SV Comments at Exhibit 6, CONAGUA Report.
[82] *See* Respondents' SC Comments at SV-13, Bulgaria's National Statistical Institute's "Average Monthly Wages and Salaries of the Employees under Labour Contract in 2016."
[83] *See* Petitioners' SV Comments at Exhibit 4, ILO Mexican Data.
[84] *Id.* at Exhibit 10, CYDSA financial statements, at 4.
[85] *See* Memorandum, "2016-2017 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results SV Memorandum," dated concurrently with this memorandum (Preliminary SV Memorandum).
[86] *See* Letter from Heze Huayi, "Section C Questionnaire Response," dated November 14, 2017 (Heze Huayi Section C Response) at 10; *also* Letter from Kangtai, "Section C Questionnaire Response," dated November 14, 2017 (Kangtai Section C Response) at 9.
[87] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

Normal Value Comparisons

In accordance with section 773(a) of the Act, Commerce compared the EP or CEP of the U.S. sales of the merchandise under consideration, to the weighted-average NV to determine whether the individually-examined respondents sold merchandise under consideration to the United States at less than normal value (NV) during the POR.

1. Export Price

In accordance with section 772(a) of the Act, "the term 'export price' means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." Commerce defined the U.S. price of merchandise under consideration based on the export price (EP) for all sales reported by Heze Huayi and Kangtai.

Commerce calculated the EP based on the prices at which merchandise under consideration was sold to unaffiliated purchasers in the United States. To this price, we added amounts for components that were supplied free of charge (Heze Huayi[88] and Kangtai[89]), where applicable, pursuant to section 772(c)(1)(A) of the Act and consistent with our treatment of sales in prior reviews.[90] For free packaging materials, we added the SVs for these materials, multiplied by the reported FOPs for these items, to the U.S. price paid by Heze Huayi's or Kangtai's customer. Although the petitioners again argue that the statute does not permit such an adjustment unless it is based on an actual cost rather than a SV,[91] we continue to find as in the prior review, 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.[92]

In accordance with section 772(c) of the Act, where appropriate, we deducted from the starting prices to the unaffiliated purchasers, the expenses for: foreign inland freight; international freight; brokerage and handling; marine insurance; and U.S. customs duties.[93] For the expenses

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[88] *See* Letter from Heze Huayi, "Supplemental Questionnaire Response," dated April 20, 2018 (Heze Huayi Supplemental Response), at 7-8.
[89] *See* Letter from Kangtai, "Supplemental Questionnaire Response," dated April 24, 2018 (Kangtai Supplemental Response), at 7-8.
[90] *See e.g., Chlorinated Isocyanurates from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 43391 (July 25, 2014) (*2012-2013 Preliminary Results*) and accompanying Decision Memorandum, at 13, unchanged in *2012-2013 Review*.
[91] *See* Petitioners' Second Prelim Comments at 12-15.
[92] *See 2015-2016 Chlorinated Isos Review*, and accompanying Issues and Decision Memorandum at Comment 4.
[93] *See* Memorandum, "Analysis for the Preliminary Results of the 2016-2017 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Heze Huayi Chemical Co. Ltd.," dated concurrently with this memorandum (Heze Huayi Preliminary Analysis Memorandum); *also* Memorandum, "Analysis for the Preliminary Results of the 2016-2017 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Juancheng Kangtai Chemical Co., Ltd.," dated concurrently with this memorandum (Kangtai Preliminary Analysis Memorandum).

that were either provided by an NME vendor or paid for using an NME currency, we used SVs, as appropriate.[94]

2. Value-Added Tax

Commerce's practice in NME cases is to adjust EP or CEP for the amount of any un-refunded value-added tax (VAT), in accordance with section 772(c)(2)(B) of the Act.[95] Commerce explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, Commerce will reduce the respondent's EP and CEP prices accordingly by the amount of the tax, duty or charge paid, but not rebated.[96] Where the irrecoverable VAT is a fixed percentage of CEP or EP, Commerce explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. CEP or EP downward by this same percentage.[97] Commerce's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determining the irrecoverable VAT tax on subject merchandise, and (2) reducing U.S. price by the amount determined in step one.

Commerce requested that the respondents report net un-refunded VAT for the subject merchandise. Heze Huayi and Kangtai both reported that the official VAT rate for exports of subject merchandise is 17 percent and the refund rate is nine percent, under the applicable Chinese regulations.[98] Thus, they incurred an effective VAT rate of eight percent on exports of domestically produced chlorinated isos. Because they pay VAT associated with subject merchandise and it is not refunded at a rate of eight percent, Commerce adjusted each company's net price for the un-refunded VAT to calculate EP net of VAT. We note that this is consistent with Commerce's policy and the intent of the statute, that dumping comparisons be tax-neutral.[99]

4. Normal Value

Section 773(c)(1) of the Act provides that, in an NME proceeding, Commerce shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Commerce bases NV on FOPs in NMEs because the presence of government controls on various aspects of these economies renders price

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[94] *See* the "Factor Valuations" section below for details regarding the SVs for movement expenses.
[95] *See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481, 36483-84 (June 19, 2012) (*Methodological Change*).
[96] *Id.; see also 2011-2012 Chlorinated Isos Review* and accompanying Issues and Decision Memorandum at Comment 5.A.
[97] *Id.*
[98] *See* Heze Huayi Section C Response at 29-30 and Exhibit C-2; *also* Kangtai Section C Response at 29-30 and Exhibit C-2.
[99] *See Methodological Change* (citing *Antidumping Duties; Countervailing Duties*, 62 FR27296, 27369 (May 19, 1997) and SAA at 827); *see also Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2011-2012*, 78 FR 78333 (December 26, 2013) and accompanying Preliminary Decision Memorandum at Issue 9, unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 37715 (July 2, 2014).

comparisons and the calculation of production costs invalid under Commerce's normal methodologies. Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). Under section 773(c)(3) of the Act, FOPs include: (1) hours of labor required; (2) quantities of raw materials consumed; (3) amounts of energy and other utilities consumed; (4) representative capital costs; and (5) transportation costs. We used the FOPs reported by the respondent for materials, energy, labor, by-products, packing and freight. These reported FOPs included FOPs for various materials provided free of charge by the customer as discussed in the "Export Price" section, above.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Heze Huayi and Kangtai for the POR. The petitioners argue that Commerce should adjust respondents' reported usage rates for certain FOPs due to inconsistencies in these rates over the last three review periods.[100] In the prior review, the petitioners raised this concern regarding only Heze Huayi's usage rates, where we found no discrepancy with the information that Heze Huayi provided in its questionnaire responses, and noted that the petitioners did not submit any deficiency comments that identified any such discrepancies.[101] Similarly in this review, both respondents have provided voluminous amounts of information pertaining to several months of inventory movement schedules for key material inputs; sample purchase invoices and accounting ledgers; ending inventory balances that reconcile to the respective balance sheets; and sample electricity bills and payroll sheets, with the associated ledgers.[102] The petitioners have not identified any specific deficiency with regard to respondents' documentation, supporting ledgers, and worksheets placed on the record of this administrative review. Moreover, Commerce has not previously found any of these records to be unreliable in prior reviews, including those administrative reviews where we have verified Heze Huayi's and Kangtai's submitted information. Accordingly, we will continue to rely on respondents' reported FOPs in the instant review, but will closely scrutinize these usages rates and any additional reported production upgrades and their correlation with respondents' usage rates in future reviews.

To calculate NV, we multiplied the reported per-unit factor quantities by publicly available Mexican SVs. In selecting the SVs, we selected, where possible, publicly available data, which represent an average non-export value and are contemporaneous with the POR, product-specific, and tax-exclusive. As appropriate, we adjusted input prices by including freight costs to render them delivered prices. Specifically, we added to the import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997). Additionally, where necessary, Commerce adjusted SVs for exchange rates and converted all applicable FOPs data to a per-kilogram basis.

A detailed description of all SVs used to calculate the weighted-average dumping margins for the mandatory respondents can be found in the Preliminary SV Memorandum. An overview of the

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[100] *See* Petitioners' Second Prelim Comments at 15-19.
[101] *See 2015-2016 Chlorinated Isos Review*, and accompanying Issues and Decision Memorandum at Comment 2.
[102] *See* Heze Huayi Supplemental Response at 12-19; *also* Kangtai Supplemental Response at 13-22.

SVs used to calculate weighted-average dumping margins for Heze Huayi and Kangtai are below.

Surrogate Values

For the preliminary determination, Commerce used Mexican import data, as published by GTA, and other publicly available sources from Mexico to calculate SVs for respondents' FOPs. In accordance with section 773(c)(1) of the Act, Commerce applied the best available information for valuing FOPs by selecting, to the extent practicable, SVs which are (1) non-export average values, (2) contemporaneous with or closest in time to the POR, (3) product-specific, and (4) tax-exclusive.[103] The record shows that Mexico import data obtained through GTA, as well as data from other Mexican sources, are broad market averages, product-specific, tax-exclusive, and contemporaneous with the POR, the only exception being the Mexican ILO labor data from 2008.[104] In this instance, the ILO labor data was adjusted using, where appropriate, Mexico's producer price index, as published in the International Monetary Fund's (IMF's) International Financial Statistics.

We preliminarily find that we can use all the material and packing inputs included in the GTA import data for Mexico. In accordance with the legislative history of the Omnibus Trade and Competitiveness Act of 1988,[105] Commerce continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may include subsidies.[106] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, Commerce finds it is reasonable to infer that all exporters from India, Indonesia, Korea, and Thailand may have benefitted from these subsidies.[107]

Additionally, Commerce disregarded data from NME countries when calculating Mexican import-based per-unit SVs.[108] Commerce also excluded from the calculation of Mexican import-

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

[104] *See* Preliminary SV Memorandum.

[105] *See* Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

[106] *See China Nat'l Mach. Import & Export Corp. v. United States*, CIT 01-1114, 293 F. Supp. 2d at 1334 (CIT 2003), aff'd 104 Fed. Appx. 183 (Fed. Cir. 2004).

[107] *See, e.g., Expedited Sunset Review of the Countervailing Duty Order on Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at page 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at Comment 1, pages 17, 19-20; and *Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Countervailing Duty Determination*, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at Comment 1.

[108] *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *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).

based per-unit SVs imports labeled as originating from an "unidentified" country because Commerce could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.[109]

Commerce used Mexican import statistics from GTA to value raw materials, by-products, packing materials, and certain energy inputs, except as listed below.

Free of Charge Raw Materials

As noted above, Heze Huayi and Kangtai reported that certain U.S. customers provided certain packaging materials free of charge.[110] Packaging materials that are provided free of charge to a respondent by its customer and materials for which a respondent is separately reimbursed by its customer are part of the cost of manufacturing, and must be included when calculating NV. Thus, for Heze Huayi's and Kangtai's products that included packaging materials provided free of charge, consistent with Commerce's practice and section 773(c)(1)(B) of the Act, we used the built-up cost (*i.e.,* the SV for these packing materials multiplied by the reported FOPs for these items) in the NV calculation.[111] Where applicable, we also adjusted these values to account for freight expenses incurred between the nearest port of entry and each company's respective plants.[112]

Water

Because water was used by the respondents in the production of chlorinated isos, Commerce considers water to be a direct material input rather than part of overhead. We valued water using data from Mexico's National Commission for Water published in Water Statistics in Mexico 2016. The rates are for water for industrial users in select cities in Mexico.[113]

By-products

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.[114] Commerce has 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."[115] Heze Huayi and Kangtai claimed an offset for ammonium sulfate

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[109] *Id.*
[110] *See* Heze Huayi Supplemental Response at 7-8; *also* Kangtai Supplemental Response at 7-8.
[111] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, and accompanying Issues and Decision Memorandum at Comment 17.
[112] *See* Preliminary SV Memorandum.
[113] *Id.*
[114] *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.
[115] *See Frontseating Service Valves from the People's Republic of China: Final Results of the 2008-2010*

during the POR.[116] The factual pattern in the instant review remains the same as in previous reviews. Commerce is unable to determine the value of the specific by-products generated at the split-off point (*i.e.*, ammonia gas and the discharged sulfuric acid solution) using SVs in accordance with Commerce's normal practice. Therefore, consistent with our methodology in the 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 SV.[117]

Electricity

For electricity, we used data from the website of the International Energy Agency, which contains pricing data contemporaneous with the POR for electricity rates in Mexico. We used the published electricity usage rate identified as "Electricity for industry" in the last two quarters of 2016 and the first two quarters of 2017.[118] These electricity rates represent publicly available, broad-market averages.

Truck Freight and Brokerage and Handling

We valued truck freight expenses using data from the World Bank's "Doing Business 2018: Mexico" publication. We also valued brokerage and handling expenses using this data source, which provided a price list of export procedures necessary to export a standardized cargo of goods in Mexico. We did not inflate these prices because they are contemporaneous with the POR.[119] Moreover, because the value was denominated in U.S. Dollars (USD), no currency conversion was required.

Ocean Freight

We valued ocean freight charges using two price quotes from Maersk that are based on the cost of transporting products in 40-foot containers from Shanghai to Long Beach, California and Shanghai to Houston, Texas.[120] Because this is a POR value, no inflation was necessary. Moreover, because the value was denominated in USD, no currency conversion was required.

Antidumping Duty Administrative Review of the Antidumping Duty Order, 76 FR 70706 (November 15, 2011), and accompanying Issues and Decision Memorandum at Comment 18.

[116] *See* Letter from Heze Huayi, "Section D Questionnaire Response," dated November 14, 2017 (Heze Huayi Section D), at 15-17 and Exhibits D-3 and D-7; *also* Letter from Kangtai, "Section D Questionnaire Response," dated November 14, 2017 (Kangtai Section D), at 15-18 and Exhibits D-3 and D-6.

[117] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81FR 1167 (January 11, 2016), and accompanying Issues and Decision Memorandum at Comment 5.

[118] *See* Preliminary SV Memo.

[119] *Id.*

[120] *Id.*

Labor

On June 21, 2011, Commerce revised its methodology for valuing the labor input in NME AD proceedings. [121] In *Labor Methodologies*, Commerce determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, Commerce determined that the best data source for industry-specific labor rates is Chapter 6A of the Yearbook of Labor Statistics (Yearbook).[122] We have used this source in prior administrative reviews and continue to find this to be the best available information to value labor. We inflated the labor rate to calculate a contemporaneous value.

The respondents provided an alternative contemporaneous Mexican SV wage rate published by Instituto Nacional de Estadistica y Geografia from the Encuesta Mensual de la Industria Manufacturera. This is the same data that Commerce found in the previous administrative review to be not broad enough to capture all labor costs.[123] Accordingly, we continue to find the 2008 ILO data to be the best available information on the record to use as the SV for industry-specific labor rates.

Financial Ratios

Commerce's criteria for choosing surrogate financial statements from which we derive the financial ratios are the availability of contemporaneous financial statements, comparability to the respondent's experience, and publicly available information.[124] Moreover, for valuing factory overhead, selling, general and administrative expenses (SG&A), and profit, Commerce normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country.[125] In addition, the CIT has held that in the selection of surrogate producers, Commerce may consider how closely the surrogate producers approximate the NME producer's experience.[126]

To calculate SVs for factory overhead, SG&A, and profit for these preliminary results, we used financial information from Mexican producer CYDSA, which was submitted by the petitioners.[127] CYDSA's 2016 annual financial statements are contemporaneous, publicly available, and the only Mexican financial statement on the record. This is also the only financial statement on the record that contains evidence of production of comparable merchandise. From

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[121] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).
[122] *See* Preliminary SV Memo.
[123] *See 2015-2016 Chlorinated Isos Review*, and accompanying Issues and Decision Memorandum at Comment 5.C.
[124] *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.
[125] *See, e.g., Diamond Sawblades and Parts Thereof from the People's Republic of China, Final Determination in the Antidumping Duty Investigation*, 71 FR 29303 (May 22, 2006) and accompanying Issues and Decision Memorandum at Comment 2; *see also* 19 CFR 351.408(c)(4); section 773(c)(4) of the Act.
[126] *See Rhodia, Inc. v. United States*, 240 F. Supp. 2d 1247, 1253-1254 (CIT 2002); *see also Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 70 FR 6836 (February 9, 2005) and accompanying Issues and Decision Memorandum at Comment 1.
[127] *See* Petitioners' SV Submission at Exhibit 10.

this information, we can determine average factory overhead as a percentage of the total raw materials, labor, and energy (ML&E), average SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture), and an average profit rate as a percentage of the cost of manufacture plus SG&A. Therefore, as in previous reviews, we continue to find CYDSA's financial statements to be the best source to calculate surrogate financial ratios.[128]

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Heze Huayi's and Kangtai's sales of the subject merchandise to the United States were made at less than NV, Commerce compared the EP to the NV as described above in the "Export Price" and "Normal Value" sections of this memorandum.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(l), Commerce calculates individual dumping margins by comparing weighted-average NVs to weighted-average EP (the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, Commerce examines whether to compare weighted-average NVs to the EPs of individual transactions (the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(l)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.[129] In previous investigations, Commerce applied a "differential pricing" analysis for determining whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(l) and consistent with section 777A(d)(1)(B) of the Act.[130] Commerce finds the differential pricing analysis used in those investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs for comparable merchandise that differs significantly among purchasers, regions, or time

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[128] *See 2015-2016 Chlorinated Isos Review*, and accompanying Issues and Decision Memorandum at Comment 5.A.
[129] *See Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012).
[130] *See Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013), and the accompanying Issues and Decision Memorandum at Comment 3; and *Hardwood and Decorative Plywood from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and the accompanying Issues and Decision Memorandum at Comment 3.

periods.[131] If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes for Heze Huayi and Kangtai. Regions are defined using the reported destination codes (*i.e.*, zip codes) for Heze Huayi and Kangtai, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP and NV for the individual dumping margins.

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

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

[131] As noted above, differential pricing was used in recent investigations. We also have used it in AD administrative reviews. *See, e.g., Polyester Staple Fiber from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) and accompanying Decision Memorandum.

test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

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

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

2. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, Commerce finds that the value of Kangtai's U.S. sales passing the Cohen's *d* test (Kangtai at 72.9 percent) is such that we should consider as an alternative comparison method applying the A-T method to a portion of U.S. sales.[132] However, Commerce determines that the A-A method can appropriately account for such differences for this company because there is no meaningful difference between its weighted-average dumping margins which are unchanged when calculated using the A-A method and the alternative comparison method.[133] Accordingly, Commerce has determined to use the A-A method to calculate the weighted-average dumping margin for this company.[134]

For Heze Huayi, the differential pricing analysis results show that only 4.35 of Heze Huayi's U.S. sales pass the Cohen's *d* test. Since the value of U.S. sales passing the Cohen's *d* test is not substantial, the value does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the A-to-A method. Accordingly, Commerce

[132] *See* Heze Huayi Preliminary Analysis Memorandum and Kangtai Preliminary Analysis Memorandum.
[133] *Id.*
[134] In these preliminary results for Heze Huayi and Kangtai, Commerce applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*). In particular, Commerce compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

preliminarily determines to apply the A-to-A method for all U.S. sales to calculate the weighted-average dumping margin for Heze Huayi.

Adjustments for Countervailable Subsidies

In determining whether to make an adjustment under section 777A(f) of the Act, Commerce considers (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise; (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period; and (3) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted average dumping margin for the class or kind of merchandise.[135] For a subsidy meeting these criteria, the statute requires Commerce to reduce the antidumping duty by the estimated amount of the increase in the weighted average dumping margin subject to a specified cap.[136] In this case, none of the mandatory respondents established eligibility for the adjustment related to their use of the Provision of Electricity for Less Than Adequate Remuneration since both respondents reported no change in the price of electricity during the POR.[137] This is consistent with our findings in the prior review.[138] Therefore, for each respondent in these preliminary results, Commerce did not make an adjustment pursuant to section 777A(f) of the Act for countervailable domestic subsidies.

Pursuant to section 772(c)(1)(C) of the Act, Commerce normally makes adjustments for countervailable export subsidies. Commerce is making no adjustments to any of the AD cash deposit rates in this review because Commerce has made no findings in the most recently completed companion countervailing duty (CVD) review that any of the programs are export-contingent.[139] For the China-wide entity, since the entity is not currently under review, its rate is not subject to change.[140]

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[135] *See* section 777A(f)(1)(A)(C) of the Act.
[136] *See* section 777A(f)(1)(2) of the Act.
[137] *See* Letter from Heze Huayi, "Double Remedies Questionnaire Response," dated December 27, 2017, at 4-5; *also* Letter from Kangtai, "Double Remedies Questionnaire Response," dated December 27, 2017, at 4-5.
[138] *See See 2015-2016 Prelim Results*, and accompanying Decision Memorandum at 26, unchanged in *2015-2016 Chlorinated Isos Review*.
[139] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review,* 83 FR 26954 (June 11, 2018) (*Chlorinated Isos CVD Review*), and accompanying Decision Memorandum. We note that although the CVD review included a program entitled "Export Buyer's Credit Program," *id.* at Comment 1, this program was determined to be specific based on adverse facts available under section 776 of the Act, and therefore not contingent on exports. *See also Certain Tool Chests and Cabinets from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 15365 (April 13, 2018), and accompanying Decision Memorandum at 5 ("In relying on facts available with adverse inferences, Commerce did not determine that the subsidies in question were export subsidies. As such, Commerce finds that, without a determination in the companion countervailing duty investigation that a program is an export subsidy, it is not appropriate to make an offset to the cash deposit rates in this AD investigation pursuant to section 772(c)(1)(C) of the Act.")
[140] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65969-70 (November 4, 2013).

Currency Conversion

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

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

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_________ _________
Agree Disagree

7/3/2018

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Signed by: GARY TAVERMAN

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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