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Administrative Review
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October 19, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the 2018-2019 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) made sales in the United States at prices below normal value (NV) and Juancheng Kangtai Chemical Co. Ltd. (Kangtai) made no shipments of subject merchandise during the period of review (POR). The detail of this finding is 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 July 29, 2019, Commerce initiated the administrative review of the antidumping duty (AD) order on chlorinated isocyanurates (chlorinated isos) from China covering the period June 1, 2018 through May 31, 2019.[1] This review covers two producers/exporters; Heze Huayi and Kangtai. On August 28, 2019, Heze Huayi submitted a separate rate certification.[2] On August 28, 2019, counsel for Kangtai filed a certification letter to Commerce stating that Kangtai did not

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[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 36572 (July 29, 2019).
[2] *See* Letter Heze Huayi's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Separate Rate Certification," dated August 28, 2019 (Heze Huayi SRC).

sell or export subject merchandise to the United States for consumption during the POR.[3] Commerce requested CBP data for Kangtai's entries of chlorinated isos from China, that were subject to antidumping duties during the POR. Based on our review of CBP's database, we preliminarily determine that Kangtai had no entries of chlorinated isos originating from China, that were subject to antidumping duties, during the POR.[4]

On October 11, 2019, Commerce issued its AD questionnaire to Heze Huayi and it responded in a timely manner. We issued the double-remedy questionnaire to Heze Huayi on March 4, 2020, and received a timely response. On May 11 and 19, 2020, Commerce issued supplemental questionnaires to Heze Huayi, to which it responded in a timely manner.

On September 30, 2019, Commerce placed the Surrogate Country List on the record and solicited interested party comments regarding the selection of the surrogate country and the opportunity to provide surrogate value (SV) data.[5] Bio-Lab, Inc.; Clearon Corporation; and Occidental Chemical Corporation (collectively, the petitioners) and Heze Huayi placed information on the record and provided argument regarding the selection of the surrogate country and SVs between December 16, 2019, and July 27, 2020.

On December 9, 2019, the petitioners submitted comments regarding Heze Huayi's section A questionnaire response.[6] The petitioners submitted additional comments on the sections C and D questionnaire responses from Heze Huayi on January 23, 2020.[7] Pre-preliminary determination comments were submitted by the petitioners on July 17, 2020[8] and by Heze Huayi on October 1, 2020.[9]

On February 21, 2020, Commerce extended the deadline for the preliminary determination of this administrative review.[10] On April 24, 2020, Commerce tolled all deadlines in administrative

[3] *See* Kangtai 's Letter, "Chlorinated Isocyanurates from the People's Republic of China: No Sales Certification," dated August 28, 2019, as corrected by "Chlorinated Isocyanurates from the People's Republic of China: Clarification of Letter Regarding No Sales Certification," dated September 6, 2019.
[4] *See* Memorandum, "U.S. Customs and Border Protection (CBP) Data for Juancheng Kangtai Chemical Co., Ltd.," dated October 11, 2019.
[5] *See* 2018-2019 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 30, 2019 (Request for Surrogate Country and Value Comments), and Attachment I, Memorandum from the Office of Policy: List of Surrogate Countries for the 2018-2019 Administrative Review of Chlorinated Isocyanurates from China (Surrogate Country List).
[6] *See* Petitioners' Letter, "Chlorinated Isocyanurates from the People's Republic of China (2018-2019 Review): Comments on Section A Response of Heze Huayi," dated December 9, 2019.
[7] *See* Petitioners' Letter, "Chlorinated Isocyanurates from the People's Republic of China (14th Antidumping Administrative Review): Comments on Sections C & D Responses of Heze Huayi," dated January 23, 2020.
[8] *See* Petitioners' Letter, "Chlorinated Isocyanurates from the People's Republic of China (2018-2019 Review): Comments Concerning the Preliminary Determination," dated July 17, 2020 (Petitioners' Pre-Preliminary Comments).
[9] *See* Heze Huayi 's Letter, "Certain Chlorinated Isocyanurates from the People's Republic of China Pre-Preliminary Comments," dated October 1, 2020 (Heze Huayi Pre-Preliminary Comments).
[10] *See* Memorandum, "Chlorinated Isocyanurates from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated February 21, 2020.

reviews by 50 days.[11] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.[12] The deadline for the preliminary results of this review is now October 19, 2020.

III. SCOPE OF THE ORDER

The products covered by the order are chlorinated isos, which are derivatives of cyanuric acid, described as chlorinated striazine 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) ($NaCl_2(NCO)_3$). 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.[13] 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 Normal Value (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

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[11] *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

[12] *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

[13] *See, e.g.*, *Fresh Garlic from the People's Republic of China: Preliminary Results of the 2009–2010 Antidumping Duty Administrative Review*, 76 FR 76375 (December 7, 2011), unchanged in *Fresh Garlic from the People's Republic of China: Final Results of the 2009–2010 Administrative Review of the Antidumping Duty Order*, 77 FR 34346 (June 11, 2012).

AD rate.[14] 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 test established in *Sparklers*[15] and further clarified in *Silicon Carbide*.[16] 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.[17] 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.[18] Companies that submit a separate rate application or separate rate certification which are subsequently selected as mandatory respondents must respond to all parts of Commerce's questionnaire in order to be eligible for separate rate status.[19]

In this review, Heze Huayi submitted a separate rate certification[20] and has previously demonstrated its eligibility for a separate rate.[21] In its separate rate certification, Heze Huayi reported that they are a wholly Chinese-owned company.[22]

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

[14] *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).
[15] *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*).
[16] *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*).
[17] *See Initiation Notice*, 80 FR at 45948.
[18] *Id.*
[19] *Id.*
[20] *See* Heze Huayi SRC.
[21] *See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 42891 (August 19, 2019) (*2017-2018 Prelim Results*), and accompanying Preliminary Decision Memorandum (PDM) at 4-6, unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 10411 (February 24, 2020) (*2017-2018 Chlorinated Isos Review*), and accompanying Issues and Decision Memorandum (IDM).
[22] *See* Heze Huayi SRC at 1.

decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[23]

The evidence Heze Huayi provided in its separate rate certification, as in prior proceedings, 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 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.[24]

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.[25] Therefore, Commerce has determined that an analysis of *de facto* control is critical in determining whether Heze Huayi is, 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.[26]

The evidence Heze Huayi provided in its separate rate certification,[27] as in past proceeding(s), 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 maintains autonomy from the government in making decisions regarding the selection of management; and (4) a showing that Heze Huayi retains the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

The evidence placed on the record of this administrative review by Heze Huayi 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 a separate rate.

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[23] *See Sparklers*.
[24] *See* Heze Huayi SRC at 4-5.
[25] *See, e.g.*, *Silicon Carbide*, 59 FR at 22586-87.
[26] *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).
[27] *See* Heze Huayi SRC at 5-6.

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 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 to select an appropriate surrogate country based on the availability and reliability of data from the countries.[28]

On September 30, 2019, Commerce invited parties to comment on surrogate country selection and provide information regarding FOP valuation in the instant review.[29] These comments are summarized below.

On December 2, 2019, the 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 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.[30] The petitioners also noted that in *2016-2017 Chlorinated Isos Review*, *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.[31] On December 16, 2019, the petitioners

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[28] *See* Commerce *Policy Bulletin No. 04.1*: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (*Policy Bulletin 4.1*).
[29] *See* Request for Surrogate Country and Value Comments.
[30] *See* Petitioners' Letter, "Chlorinated Isocyanurates from the People's Republic of China (2018-2019 Review): Petitioners' Comments on Primary Surrogate Country Selection," dated December 2, 2019 (Petitioners' SC Comments) at 2-5 and Exhibits 1-4.
[31] *See* Petitioners' SC Comments at 2-5; *Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 31953 (July 10, 2018) (*2016-2017 Prelim Results*), and accompanying PDM at 6 and 10-14, unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 5053 (February 20, 2019) (*2016-2017 Chlorinated Isos Review*), and accompanying IDM; *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 PDM 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 IDM; *Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty*

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.[32]

Heze Huayi submitted its surrogate country selection comments on December 2, 2019, providing Malaysian Comtrade export data that demonstrates Malaysia is a significant producer of comparable merchandise and is therefore a suitable surrogate country, noting that Commerce has used Malaysia in multiple proceedings.[33] On December 16, 2019, Heze Huayi submitted SV information for Malaysia using Malaysian import statistics for all the material and packing inputs from TD Monitor Malaysia, and other Malaysian data sources.[34] This also included information on two possible chlorinated isos producers in Malaysia, Leesonic Chemical (Leesonic) and Setia Maju Chemie Industry (Setia Maju).[35]

Additional SV information was submitted by Heze Huayi on July 20, 2020, that included alternative Mexican labor data from ILO Data Explorer and data from the Monthly Survey of the Manufacturing Industry (EMIM); Mexican natural gas SV information published in the National Reference Index of Wholesale Natural Gas Prices (IPGN); multiple Mexican SVs for ocean freight; and, the financial statements of Mexican chemical producer, Mexichem, S.A.B. de C.V. (Mexichem).[36] Heze Huayi also submitted information that included four Malaysian financial statements from Mey Chern Chemicals SDN. BHD. (Mey Chern); Malay-Sino Chemical Industries (Malay-Sino); Accot Technologies Sdn. Bhd; (Accot), and CCM Chemicals Sdn. Bhd (CCM).[37] Finally, GTA Malaysian import data was provided for the material and packing inputs reported by Heze Huayi.[38]

The petitioners provided rebuttal comments on December 30, 2019, arguing that Malaysia has no demonstrated production of chlorinated isos, whereas ample evidence has been submitted in the last several review periods where Commerce found that Mexico had significant production of identical subject merchandise.[39] Moreover, only the Mexican tariff schedule specifically identifies a separate category for chlorinated isos, adding that the Malaysian tariff schedule is a basket category that cannot definitively show whether subject merchandise was exported from

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Administrative Review; 2014-2015, 81 FR 45128 (July 12, 2016) (*2014-2015 Prelim Results*), and accompanying PDM 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 IDM); and *2017-2018 Prelim Results* PDM at 7-8.

[32] *See* Petitioners' Letter, ""Chlorinated Isocyanurates from the People's Republic of China (2018-2019 Review): Initial Surrogate Value Data," dated December 16, 2019 (Petitioners' SV Comments).

[33] *See* Heze Huayi's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Comments on Surrogate Countries," (Heze Huayi's SC Comments), dated December 2, 2019 at 2.

[34] *See* Heze Huayi's Letter, "Certain Chlorinated Isocyanurates from the People's Republic of China: Surrogate Values for the Preliminary Results," dated February 19, 2019 (Heze Huayi's SV Comments) at SV-1 and SV-2, and SV-4 to SV-8.

[35] *Id.* at Exhibit SV-3.

[36] *See* Heze Huayi's Letter, "Certain Chlorinated Isocyanurates from the People's Republic of China: Final Surrogate Value Submission," dated July 20, 2020 (Heze Huayi's Final SV Comments) at Exhibits SV2-1 to SV2-7.

[37] *Id.* at SV2-8 to SV2-11.

[38] *Id.* at SV2-12 and SV2-13.

[39] *See* Petitioners' Letter, "Chlorinated Isocyanurates from the People's Republic of China (2018-2019 Review): Petitioners' Rebuttal Comments on Surrogate Value Submission," dated December 30, 2020 (Petitioners' SV Rebuttal Comments) at 2.

Malaysia. In addition, the petitioners argue that at best the information submitted by Heze Huayi only demonstrates that some of the Malaysian companies sell chlorinated isos, but such information provides no evidence of significant production of subject merchandise or even comparable merchandise in Malaysia.[40]

The petitioners contend that Heze Huayi's information regarding Leesonic and its specialty chemicals division does not demonstrate any actual production in Malaysia.[41] Further, the petitioners state that the product pages of Leesonic's website and the links that lead to separate pages, do not contain any useful information such as product descriptions, material safety datasheets, or chemical compositions that could verify the products being sold, and in some cases, lead to dead pages.[42]

The information provided by Heze Huayi includes no explanation or reasoning as to how the documentation demonstrates that Setia Maju is even a Malaysian producer, according to the petitioners. Rather, this is near identical information provided in the prior review where Commerce found that Setia Maju may be a producer of subject merchandise while also noting that no production information was provided to determine if this company was a significant producer of subject merchandise.[43] The petitioners note that none of the four websites provided by Heze Huayi, relating to Setia Maju, demonstrate that it is a producer of the chlorinated isos that is allegedly being sold. Rather, most merely provide a listing of the products being sold. The petitioners also contend that the location of this company as it appears on Google Earth suggests that it can only house a small reseller/exporter operation and not production facilities.[44] Finally, the petitioners state that the Datamyne information provided by Heze Huayi only references four shipments made by Setia Maju to the United States which are identified by their tariff codes as not being subject merchandise, and does not provide any further detail. The petitioners provided a PIERS report for all of 2018 and most of 2019 that overlapped the period of the Datamyne report. The report found Setia Maju made only six shipments of xantham gum, a completely other product, during this period demonstrating that it is not shipping identical subject or comparable merchandise.[45]

The petitioners noted that even if Commerce were to consider the Malaysian SV data, the labor, electricity, and water rates are not as reliable as the Mexican SV ones. Specifically, the Malaysian labor costs from the Malaysian Department of Statistics are reflective of the general manufacturing industry and not specific to the chemical industry.[46] In addition, the Malaysian electricity rates from the Malaysian Investment Development Authority website does not specify whether these industrial consumer rates sourced from the three electricity generators in Malaysia are free of any taxes or levies.[47] Finally, the petitioners contend that it is not clear that the Malaysian water rates are contemporaneous with the POR, and whether the water rates include all relevant costs such as water, sewage, and sanitation costs.

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[40] *Id.* at 3.
[41] *Id.* at 4.
[42] *Id.*
[43] *Id.* at 5 (citing *2017-2018 Prelim Results* PDM at 13).
[44] *Id.* at 7 and Exhibit 4.
[45] *Id.* at 8 and Exhibit 5.
[46] *Id.* at 9.
[47] *Id.*

On July 27, 2020, the petitioners rebutted Heze Huayi's July 20, 2020 SV information, arguing that the record of this review establishes Mexico as the only country on the Surrogate Country list that has significant production of identical merchandise, and that only the Mexican tariff schedule has a separate tariff category for identifying subject merchandise, whereas the Malaysian tariff schedule used by Heze Huayi can only identify a basket of products which includes comparable merchandise. Therefore, as set forth in *Policy Bulletin 04.1*, once Commerce identifies a country producing identical merchandise it need not consider other countries.[48] The petitioners add that Commerce determinations over the last several review periods found that chlorinated isos was only produced in Mexico among the countries included on the Surrogate Country list.[49]

The petitioners rebut Heze Huayi's argument that two Malaysian companies produce and sell comparable merchandise. Specifically, they note that CCM's and Accot's financial statements are unclear whether either of these companies actually produce the comparable merchandise, calcium hypochlorite.[50] Moreover, the petitioners argue that if even there was production, there is no evidence or corroborating information to show that CCM or Accot are even significant producers of comparable merchandise, and no indication that they produce subject merchandise chlorinated isos.[51] The petitioners add that CCM's financial statements cannot be used for calculating financial ratios because they reflect third-country subsidiary activities.[52] Finally, the petitioners note that May Chern's financial statements are not reliable because they are not contemporaneous with the POR; the company is not profitable; and, there is no information indicating Mey Chern is a producer of any chlor-alkali products.[53]

The petitioners' SV rebuttal comments also noted concerns regarding the use of two Mexican SVs for labor submitted by Heze Huayi. Specifically, its 2018 ILO labor data, while more contemporaneous than the petitioners' labor data, identifies only generic labor costs not associated with any industry, whereas the petitioners' data is specific to the chemical manufacturing industry.[54] The other source of labor information provided by Heze Huayi, EMIM, was issued by the Mexican Institute for Statistics, Geography and Information (INEGI), and the source link no longer exists, according to the petitioners.

The petitioners provided a number of rebuttal arguments concerning different sources of Mexican ocean freight information placed on the record by Heze Huayi. First, the petitioners argue against using Heze Huayi's Dataweb information because it is reflective of a combined average of ocean freight, truck freight and rail freight rates.[55] Second, two of the Descartes

[48] *See* Petitioners' Letter, "Chlorinated Isocyanurates from the People's Republic of China (2018-2019 Review): Petitioners' Rebuttal Comments on Final Surrogate Value Submission," dated July 27, 2020 (Petitioners' Final SV Rebuttal Comments) at 2-3.
[49] *Id.* at 3.
[50] *Id.* at 4.
[51] *Id.*
[52] *Id.*
[53] *Id.* at 5.
[54] *Id.* at 6.
[55] *Id.* at 7 (citing Exhibit 3 and a 2013 report from the U.S. Bureau of Transportation Statistics showing that all US-bound trade from Mexico is 79.2 percent comprised of truck and rail modes of transport).

ocean freight rates are for transport from Europe to the United States, and therefore, not relevant. The petitioners add that the Descartes rates in general should not be used because Descartes is a logistics software platform and not an actual freight forwarder or carrier.[56] According to the petitioners, the Maersk rates that they submitted are more reflective of the true costs of ocean freight because Maersk is a known international carrier. Further, the petitioners note that the Maersk rate provided by Heze Huayi is for the shipping of "organic chemicals" rather than the more appropriate "inorganic chemicals" rates submitted by the petitioners.[57]

Finally, the petitioners argue that Mexichem's consolidated financial statements submitted by Heze Huayi, should not be used in calculating the surrogate financial ratios. The petitioners argue that this company has a global presence and operates in 41 countries, with a number of its subsidiaries involved in disparate industries.[58] According to the petitioners, Mexichem's financial statements are not comparable to the production experience of Heze Huayi or even that of CYDSA, the Mexican company used by the petitioners to calculate its financial ratios, because CYDSA only operates and produces in Mexico.[59]

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 19 CFR 351.408(b), has been to identify those countries which are at a level of economic development similar to China in terms of per capita GNI data available in the World Development Report provided by the World Bank.[60]

Furthermore, providing parties with a range of countries with varying gross national incomes (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 which 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."[61]

Pursuant to section 773(c)(4) of the Act, Commerce listed Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey as countries that are comparable to China in terms of economic development based on 2018 per capita GNI data available in the World Development Report provided by the

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[56] *Id.* (citing Exhibit 4).
[57] *Id.* at 8.
[58] *Id.* at 9.
[59] *Id.*
[60] *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 IDM at Comment 4.
[61] *See Jiaxing Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

World Bank; Commerce provided parties an opportunity to comment on this list.[62] 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."[63] 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. Thus, we disagree with Heze Huayi's argument that the statute *only* directs Commerce to rely upon a significant producer of comparable merchandise.[64]

Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[65] Further, when selecting a surrogate country, the statute requires Commerce to consider the comparability of the merchandise, not the comparability of the industry.[66] "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."[67] 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,

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[62] *See* Request for Surrogate Country and Value Comments at Attachment I, Surrogate Country List.
[63] *See Policy Bulletin 4.1* at 2.
[64] *See* Heze Huayi's Pre-Preliminary Comments at 9-10.
[65] The *Policy Bulletin 4.1* 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.
[66] *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.").
[67] *See Policy Bulletin 4.1* at 2.

> comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.[68]

Further, the statute grants Commerce discretion to examine various data sources for determining the best available information.[69] Moreover, while the legislative history provides that the term "significant producer" includes any country that is a significant "net exporter,"[70] 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.[71] The respondents have placed evidence on the record which shows that Malaysia has exports in commercial quantities of comparable merchandise based on UN Comtrade and GTA data.[72] The petitioners have placed evidence on the record which shows that all of the countries on the Surrogate Country List have exports in commercial quantities of comparable merchandise based on GTA data.[73]

Commerce finds that the petitioners provided sufficient evidence demonstrating Mexican production of chlorinated isos by AquaClor S.A. de C.V. (Aqua Chlor) based on its company registration with the National Association of the Chemical Industry in Mexico; 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, showing that 97.9 percent of these exports were of subject merchandise manufactured by AquaClor and shipped to Haviland Pool and Spa Products in the United States.[74]

The respondents provided information in the form of four Malaysian financial statements and select webpages from producers and/or suppliers of chlorinated isos in Malaysia.[75] As an initial observation, all of these financial statements including the related websites, were submitted as additional surrogate value information and did not address the merits of their use in selecting the primary surrogate country. However, in the previous administrative review, Commerce analyzed three of the four companies' financial statements with respect to their use in showing production of comparable merchandise in Malaysia, the exception being Malay-Sino.[76] In the instant review, we continue to find that Mey Chern's financial statements do not identify the

[68] *Id.* at 3.
[69] *See* section 773(c) of the Act; *see also Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir.1990).
[70] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100-576 (1988) at 590.
[71] *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 IDM at Comment 2.
[72] *See* Heze Huayi's SC Comments at Exhibit 1; *see also* Heze Huayi's Final SV Comments at Exhibits SV2-12 and SV2-13.
[73] *See* Petitioners' SC Comments at Exhibit 7.
[74] *Id.* at 8 and Exhibits 1-4.
[75] *See* Heze Huayi's Final SV Comments at Exhibits SV2-8 to SV2-11.
[76] *See 2017-2018 Prelim Results* PDM at 12.

merchandise involved in its trading and/or manufacturing activities.[77] However, the attached website information does show it as a "toll manufacturer" and a "trader of chlor-alkali products," including the comparable merchandise sodium hypochlorite, but does not identify any of its products as the identical subject merchandise.[78]

The financial statements of the second company, Accot, only identifies its principal activity as industrial chemicals.[79] The website information on Accot does identify one comparable product, calcium hypochlorite.[80] The third Malaysian company's financial statements and related website information identifies CCM as a chlor-alkali manufacturer which produces comparable merchandise, sodium hypochlorite and calcium hypochlorite.[81] Finally, the financial statements of the fourth Malaysian company, Malay-Sino, identifies it as involved in the "manufacturing and trading of caustic soda, hydrochloric acid, liquid chlorine and its by-products and other chemical products."[82] The related website information identifies Malay-Sino as a chlor-alkali manufacturer which produces the comparable merchandise, sodium hypochlorite.[83]

Based on the information noted above concerning these four Malaysian companies, we preliminarily find CCM and Malay-Sino to be the only Malaysian companies that have sufficient information on the record showing them to be a producer of comparable merchandise. However, the respondents have not provided any corroborating information to show that either company is a significant producer of comparable merchandise. Unlike Mexico which has an eight-digit level HTS number that applies to subject merchandise,[84] the Malaysia HTS number is a basket category that does not separately break out chlorinated isos within the basket of products included in HTS classification 2933.69.

The respondents also provided only website information for two additional Malaysian producers, Leesonic and Setia Maju. Leesonic is described as a privately held specialty chemicals producer that serves the following major markets: aviation, surface finishing, oil exploration and production, adhesives, sheet molded compounds, catalyst, personal care, glass and fiberglass.[85] The respondents have not explained how any of these markets would encompass comparable or subject merchandise.

In the case of Setia Maju, there is information from three third-party websites that suggests this company which specializes in swimming pool chemicals, may be a producer of subject merchandise.[86] Although the petitioners question the lack of detail related to the information behind the hyperlinks of these websites, given that most of the information is limited to product listings, these websites do reflect subject merchandise as being one of the main products sold by Setia Maju. Because of this limited information, we can only reasonably determine that Setia

[77] *See* Heze Huayi's Final SV Comments at Exhibit SV2-11.
[78] *Id.* at SV2-11(referencing website www.meychern.com.my/about/).
[79] *Id.* at SV2-10, Note 1 of Accot's financial statements.
[80] *Id.* at SV2-10 (referencing website www.accot.biz/background.html).
[81] *Id.* at Exhibit SV2-8.
[82] *Id.* at Exhibit SV2-9, Note 1 of Malay-Sino's financial statements.
[83] *Id.* at SV2-9 (referencing website www.malay-sino.com.my/corporate-profile/).
[84] *See* Petitioners' SV Rebuttal Comments at 3.
[85] *See* Heze Huayi's SV Comments at Exhibit SV-3.
[86] *Id.* at Exhibit SV-3.

Maju may be a producer of identical merchandise in Malaysia. However, unlike the Mexican data, no production information was provided by the respondents to show that this producer or Malaysia in general, to be a significant producer of identical merchandise. In the case of Mexico, we found significant production because the GTA export data was specific to subject merchandise and can be corroborated with extensive PIERS cross-border trade data for shipments of subject merchandise. In the case of Malaysia, we have no such shipment information on subject merchandise and even if such information were available, it cannot be corroborated with the six-digit Malaysian HTS number which is a basket category of products.

Based on the findings above, Commerce finds that each of the countries on the Surrogate Country List are significant producers of comparable merchandise (calcium hypochlorite or sodium hypochlorite), but only Mexico is a significant producer of identical merchandise.[87] 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 four prior administrative reviews.[88]

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.[89] 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.[90]

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. There is no SV data on the record for Brazil, Bulgaria, Russia, and Turkey, nor any surrogate financial statements. With these countries disqualified, Commerce is left with Malaysia and Mexico as options for potential primary surrogate country.

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[87] *See* Petitioners' SC Comments at 5-6.

[88] *See 2017-2018 Prelim Results* PDM at 11-14, unchanged in *2017-2018 Chlorinated Isos Review* IDM at Comment 2; *see also 2016-2017 Prelim Results* PDM at 10-12, unchanged in *2016-2017 Chlorinated Isos Review* IDM at Comment 1; *2015-2016 Prelim Results* PDM at 12-15, unchanged in *2015-2016 Chlorinated Isos Review*; and *2014-2015 Chlorinated Isos Review* IDM at Comment 1.

[89] *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 IDM at Comment 1.

[90] *See Policy Bulletin 4.1*.

Commerce has available to it on the record of this administrative review SV data for the respondent's FOPs for Malaysia and Mexico. We preliminarily find that both countries have useable SVs for all Heze Huayi's FOPs, including surrogate financial statements. The petitioners argue that the Malaysian labor and electricity SVs are inferior to Mexican ones.[91] We disagree and find the Malaysian labor data[92] to be equal to the Mexican labor data because the Malaysian data is more contemporaneous than the Mexican data, [93] even though it is less specific because it applies only to general manufacturing rather than chemical manufacturers. In addition, we find the Malaysian electricity rates[94] reliable as evidenced by Commerce's use in recent investigations.[95]

The petitioners also argue that the Malaysian water SVs are inferior to Mexican ones[96] because it is unclear whether the Malaysian water rates[97] are contemporaneous with the POR and include all relevant costs such as water, sewage, and sanitation costs. Our review of the source documentation for these water rates shows that the Malaysian Investment Development Authority updated all of the noted utility rates on its website on February 18, 2019, [98] which is contemporaneous with the POR. However, we agree with the petitioners that it is unclear whether these rates are inclusive of all relevant costs since only base water rates are identified and none of the narrative description addresses whether these water rates are inclusive of sewage and sanitation costs. Since the Mexican water rates[99] separately identifies these costs, we agree with the petitioners that the Mexican water rates are preferable to Malaysian rates.

Finally, as discussed above in the "Significant Producers of Comparable Merchandise" section, we preliminarily find the Malaysian financial statements for CCM and Malay-Sino to be usable because the record evidence demonstrates that they are to be producers of comparable merchandise. 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.[100] Both the petitioners and the respondents have placed evidence on the record for economically comparable countries based on exports in commercial quantities of either calcium hypochlorite and/or sodium hypochlorite, the comparable merchandise.[101] No party has identified any other product as comparable to subject merchandise. In conclusion, we preliminarily determine that we have usable Malaysian

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[91] *See* Petitioners' SV Rebuttal Comments at 9.
[92] *See* Heze Huayi's SV Comments at Exhibit SV-4.
[93] *See* Petitioners' SV Comments at Exhibit 4.
[94] *See* Heze Huayi's SV Comments at Exhibit SV-5.
[95] *See Steel Propane Cylinders from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination Measure*, 83 FR 66675 (December 27, 2018), and accompanying PDM at 26, unchanged in *Steel Propane Cylinders from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 84 FR 29161 (June 21, 2019).
[96] *See* Petitioners' SV Rebuttal Comments at 10.
[97] *See* Heze Huayi's SV Comments at Exhibit SV-6.
[98] *Id.* at SV-6.
[99] *See* Petitioners' SV Comments at Exhibit 6.
[100] *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 IDM at Comment 2.
[101] *See* Heze Huayi's SC Comments at Exhibit 1.
[101] *See* Petitioners' SC Comments at Exhibit 5; *see also* Heze Huayi's SC Comments at Exhibit 1.

SVs for all inputs, and the use of CMM's and Malay-Sino's financial statements for calculating the SV financial ratios.

In weighing the quality of data of Mexico as compared to Malaysia, we preliminarily find Mexico to have slightly better data than Malaysia even though both have usable SVs for all inputs. Specifically, we find the Mexican water rates are slightly better in quality because these rates are more comprehensive than the Malaysian rates, as explained above. The remaining SV information from both countries is of equal quality, as discussed above. However, given Commerce's policy which indicates a preference to select a surrogate country that produces identical merchandise over one that only produces comparable merchandise,[102] the record evidence shows that Mexico is best choice for the primary surrogate country because it is the only surrogate country with significant production of identical merchandise, chlorinated isos. A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice and in the Preliminary SV Memorandum.[103]

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 reported that the date of sale should be the invoice date because the material terms of the sale are fixed at invoice date.[104] In this case, as Commerce has found no evidence contrary to Heze Huayi's claim 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).[105]

Normal Value Comparisons

In accordance with section 773(a) of the Act, Commerce compared the Export Price (EP) or Constructed Export Price (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 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

[102] *See Policy Bulletin 4.1* at 2, note 6.
[103] *See* Memorandum, "2018-2019 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).
[104] *See* Heze Huayi's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Sections C&D Questionnaire Responses," dated December 2, 2019 (Heze Huayi Section C&D Response) at C-9.
[105] *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 IDM at Comment 10.

purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)."

During the POR, Heze Huayi reported all of its U.S. sales as EP sales.[106] The record evidence shows no evidence of affiliation between Heze Huayi and its two U.S. customers.[107] Therefore, because the merchandise was sold prior to importation by Heze Huayi outside the United States to the first unaffiliated purchaser in the United States, the reported U.S. customer/reseller, we have based the U.S. price on EP. We 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 to Heze Huayi, [108] where applicable, pursuant to section 772(c)(1)(A) of the Act and consistent with our treatment of sales in prior reviews.[109] For free packing 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 customer. Commerce finds, as in prior reviews, that the respondents have fully addressed our questions regarding the use and reporting of free-of-charge packing materials, including the name and address of all suppliers of these packing materials, the materials that were provided, and the name of the U.S. customer providing these materials.[110]

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.[111] For the expenses that were either provided by an NME vendor or paid for using an NME currency, we used SVs, as appropriate.[112]

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.[113] 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

[106] *See* Heze Huayi Section C&D Response at C-9
[107] *See* Heze Huayi's Letter, "Chlorinated Isocyanurates from the People's Republic of China: First Supplemental Questionnaire Response," dated May 22, 2020 (Heze Huayi First Supplemental Response) at 2.
[108] *See* Heze Huayi's Letter, "Chlorinated Isocyanurates from the People's Republic of China: Heze Huayi Second Supplemental Questionnaire Response," dated June 3, 2020 (Heze Huayi Second Supplemental Response) at 3-4.
[109] *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 PDM at 13, unchanged in *2012-2013 Review*.
[110] *See* Heze Huayi Second Supplemental Response at 3-4; *see also 2016-2017 Chlorinated Isos Review* IDM at Comment 4; and *2015-2016 Chlorinated Isos Review* IDM at Comment 4.
[111] *See* Memorandum, "Analysis for the Preliminary Results of the 2018-2019 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).
[112] *See* the "Factor Valuations" section below for details regarding the SVs for movement expenses.
[113] *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*).

amount of the tax, duty or charge paid, but not rebated.[114] 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.[115] 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 respondent report net un-refunded VAT for the subject merchandise. Heze Huayi reported that the official VAT rate for exports of subject merchandise was 16 percent until March 31, 2019, and 13 percent for the remainder of the POR, under the applicable Chinese regulations.[116] The VAT rebate rate for subject merchandise was nine percent until October 31, 2018, and ten percent for the remainder of the POR.[117] Thus, they incurred an effective VAT rate of between three and seven percent for the un-refunded VAT during the POR. Because they pay VAT associated with subject merchandise and it is not refunded at these effective VAT rates, Commerce adjusted Heze Huayi'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.[118]

3. 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 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

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[114] *Id.; see also 2011-2012 Chlorinated Isos Review* and accompanying IDM at Comment 5.A.
[115] *Id.*
[116] *See* Heze Huayi Section C&D Response at C-30.
[117] *Id.*
[118] *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 PDM 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).

Heze Huayi for the POR. 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.[119] 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 SVs used to calculate weighted-average dumping margin for Heze Huayi is 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 Heze Huayi's 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.[120] The record shows that the 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.[121] 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,[122] 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.[123] 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

[119] *See Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997).
[120] *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).
[121] *See* Preliminary Results Surrogate Value Memorandum, dated concurrently with this memorandum (Preliminary SV Memorandum).
[122] *See* Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.
[123] *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).

that all exporters from India, Indonesia, Korea, and Thailand may have benefitted from these subsidies.[124]

Additionally, Commerce disregarded data from NME countries when calculating Mexican import-based per-unit SVs.[125] Commerce also excluded from the calculation of Mexican import-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.[126]

As noted above, Commerce used Mexican import statistics from GTA to value raw materials, by-products, packing materials, and certain energy inputs, except as listed below. Although Heze Huayi argued that we should use its reported domestic price for natural gas because it is Commerce's preference to use domestic prices over import data, we preliminarily find that the National Reference Index of Wholesale Natural Gas Prices (IPGN) is not the best information available as it is based on a monthly averaged invoiced price that we cannot determine is tax – and duty-free, and this wholesale price may or may not be reflective of commercial prices paid by an industrial customer.[127]

We adjusted the Mexican GTA import values from an FOB to a CIF basis, consistent with our practice.[128]

Free of Charge Raw Materials

As noted above, Heze Huayi reported that certain U.S. customers provided certain packing materials free of charge.[129] Packing 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 products that included packing 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

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[124] *See, e.g.*, *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying IDM at 7-19; *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 IDM 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 IDM at Comment 1, 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 IDM at Comment 1.
[125] *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).
[126] *Id.*
[127] *See* Heze Huayi's Final SV Comments at Exhibit SV2-2.
[128] *See* Commerce *Policy Bulletin No. 10.2* Inclusion of International Freight Costs When Import Prices Constitute Normal Value, (November 1, 2010) (*Policy Bulletin 10.2*) (stating "in situations where the surrogate country import statistics do not include international freight costs, the Department will add international freight and foreign brokerage and handling charges to the import value"); *see also 2017-2018 Chlorinated Isos Review* IDM at Comment 4.
[129] *See* Heze Huayi Second Supplemental Response at 3-4.

for these packing materials multiplied by the reported FOPs for these items) in the NV calculation.[130] 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.[131]

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 published by CONAGUA, Mexico's water utility authority. The rates are for water for industrial users in select cities in Mexico and are contemporaneous with the POR.[132]

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.[133] Commerce recently 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."[134] Heze Huayi claimed an offset for ammonium sulfate, sodium chloride, and calcium chloride during the POR.[135] The factual pattern in the instant review for ammonium sulfate 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, [136] 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.[137]

Heze Huayi also reported two additional by-products, sodium chloride and calcium chloride, that are generated in the production of subject merchandise TCCA and SDIC, after the waste-water treatment process. Heze Huayi derived industrial grade sodium chloride from the evaporated waste water discharged from TCCA production.[138] Similarly, industrial grade calcium chloride

[130] *See, e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006) and accompanying IDM at Comment 17.
[131] *See* Preliminary SV Memorandum.
[132] *Id.*
[133] *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 IDM at Issue 10.
[134] *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 IDM at Comment 18.
[135] *See* Heze Huayi Section C&D Response at 17-18, Exhibit D-3, and Exhibits D-7 and D-8.
[136] *See 2015-2016 Chlorinated Isos Review* IDM at Comment 3.
[137] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 1167 (January 11, 2016), and accompanying IDM at Comment 5.
[138] *See* Heze Huayi Section C&D Response at 18, Exhibits D-4 and D-8.

was derived from the evaporated waste water discharged from SDIC production.[139] Heze Huayi reported the additional electricity and labor costs for the production of both sodium chloride and calcium chloride.[140] In addition, the domestic sale of these products by Heze Huayi demonstrated that both have commercial value.[141] Therefore, we are preliminarily granting a by-product offset for sodium chloride and calcium chloride limited to the total POR production quantity as was done in the prior administrative review.[142] We subtracted the further electricity and labor costs used to make these two by-products, from the industrial grade sodium chloride and calcium chloride GTA SVs.

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 2018 and the first quarter of 2019.[143] 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 2020: 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.[144] Moreover, because the value was denominated in 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.[145] Because this is a POR value, no inflation was necessary. Moreover, because the value was denominated in USD, no currency conversion was required.

Heze Huayi also submitted alternative Mexican ocean freight rates based on price quotes from Descartes and Maersk.[146] The Descartes price quotes were based on the cost of transporting products in 40-foot containers from Los Angeles to Shanghai and Hamburg to Savannah, and transporting products in 20-foot containers from Rotterdam to Newark. We preliminarily find that all of the source documentation tied to the Descartes price quotes only provides a base rate and includes no additional detail to confirm that all associated charges related shipping are

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[139] *Id.* at 18, and Exhibits D-5 and D-9.
[140] *Id.* at D-9.
[141] *See* Heze Huayi Verification Report at 23 and VE-23.
[142] *See 2017-2018 Prelim Results* PDM at 24-25.
[143] *See* Preliminary SV Memorandum.
[144] *Id.*
[145] *Id.*
[146] *See* Heze Huayi's Final SV Comments at Exhibits SV2-3 and SV2-4.

captured (*e.g.*, terminal handling charges, documentation fees, surcharge rate, and bunker adjustment factor, are also captured). This detail is provided in the Maersk quotes provided by both the petitioners and the respondent.[147]

In addition, the Descartes price quotes related to shipping from Hamburg to Savannah and Rotterdam to Newark, by themselves, are not appropriate to use because they do not reflect the actual cost of shipping between China and the United States. Section 772(c)(2) of the Act specifies that a respondent's U.S. price is to be reduced by the costs, charges, expenses or duties of bringing the subject merchandise from its factory to the United States. One such movement expense is ocean freight.[148]

Finally, we agree the petitioners that the Maersk rate provided by Heze Huayi is not as specific as the Maersk rates submitted by the petitioners because it is for the shipping of "organic chemicals" rather than "inorganic chemicals" which is the classification that subject merchandise would fall under.[149] Therefore, for purposes of these preliminary results, we will rely on the more accurate Maersk rates for "inorganic chemicals" submitted by the petitioners.[150] This was also used to adjust the Mexican GTA import values from an FOB to a CIF basis, consistent with our practice.[151]

Marine Insurance

We valued marine insurance using a July, 2010, price quote from RJG Consultants, a market-economy provider of marine insurance.[152] We inflated the rates to calculate a contemporaneous rate that was used to adjust the Mexican GTA import values from an FOB to a CIF basis, consistent with our practice.[153]

Labor

On June 21, 2011, Commerce revised its methodology for valuing the labor input in NME AD proceedings.[154] 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).[155] 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 2008 labor rate to calculate a contemporaneous value.

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[147] *Id.* at SV2-4; *see also* Petitioners' SV Comments at Exhibit 8.
[148] *See* Antidumping Manual, Chapter 7 (2009).
[149] *Id.* at SV2-4.
[150] *See* Petitioners' SV Comments at Exhibit 8.
[151] *See Policy Bulletin 10.2* at 1-2; *see also 2017-2018 Chlorinated Isos Review* at Comment 4.
[152] *See* Preliminary SV Memorandum.
[153] *See Policy Bulletin 10.2* at 1-2; *see also 2017-2018 Chlorinated Isos Review* at Comment 4.
[154] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).
[155] *See* Preliminary SV Memorandum.

Heze Huayi provided two alternative contemporaneous Mexican SV wage rates, one published by INEGI from the EMIM, and the other contemporaneous ILO data. First, the EMIM labor data is the same data that Commerce found in the previous two administrative reviews to be not broad enough to capture all labor costs.[156] Second, the 2018 ILOSTAT labor data submitted by the respondent is not an industry-specific labor rate[157] whereas the 2008 ILO data is specific to the chemical industry.[158] 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.[159] 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.[160] 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.[161]

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.[162] CYDSA's 2018 annual financial statements are contemporaneous, publicly available, and contain evidence of production of comparable merchandise. From 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.[163]

Heze Huayi submitted alternative financial information which both the respondent and the petitioners refer to as Mexichem. The actual entity is identified as "Orbia Advance Corporation, S.A.B de C.V. (formerly Mexichem, S.A.B. de C.V.) and Subsidiaries (Subsidiary of Kaluz, S.A.

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[156] *See 2017-2018 Prelim Results* PDM at 26, unchanged in *2017-2018 Chlorinated Isos Review*; *see also 2015-2016 Chlorinated Isos Review* IDM at Comment 5.C.
[157] *See* Heze Huayi's Final SV Comments at Exhibit SV2-1.
[158] *See* Petitioners' SV Comments at Exhibit 4.
[159] *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 IDM at Comment 3.
[160] *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 IDM at Comment 2; *see also* 19 CFR 351.408(c)(4); and section 773(c)(4) of the Act.
[161] *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 IDM at Comment 1.
[162] *See* Petitioners' SV Comments at Exhibit 10.
[163] *See e.g.*, *2017-2018 Prelim Results* PDM at 26-27, unchanged in *2017-2018 Chlorinated Isos Review*; *see also 2015-2016 Chlorinated Isos Review* IDM at Comment 5.A.

de C.V.).[164] The financial statements refer to this entity as Orbia. Although these financial statements are contemporaneous and publicly available, we preliminarily agree with the petitioners that this company's global presence, with subsidiaries operating in several industries and multiple countries, [165] is not representative of a chloro-alkali producer such as Heze Huayi. Furthermore, the consolidated financial statements of this company describe it as "{. . .} an entity that holds the shares of a group of companies located in the American and European continents, some Asian countries and Africa."[166] Based on this information, Orbia is representative of a holding company rather than an individual producer or manufacturer. Therefore, we preliminarily do not find Orbia's financial statements to be the best information available for calculating surrogate financial ratios of a chloro-alkali producer because Orbia is a holding company composed of 64 subsidiaries operating in multiple industries with numerous product lines in multiple countries, including some of its foreign entities operating in hyperinflationary economies.[167]

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 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.[168] 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.[169] 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

[164] *See* Heze Huayi's Final SV Comments at Exhibit SV2-5.
[165] *Id.* at SV2-5 at 14, Note 1of Orbia's financial statements.
[166] *Id.*
[167] *Id.* at SV2-5 at 24-29, Note 4 c.-e. of Orbia's financial statements.
[168] *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).
[169] *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 IDM 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 IDM at Comment 3.

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 periods.[170] 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. Regions are defined using the reported destination codes (*i.e.*, zip codes) for Heze Huayi, 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

[170]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 PDM.

percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly, such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, 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 Heze Huayi's U.S. sales passing the Cohen's *d* test at 60.4 percent is such that we should consider as an alternative comparison method, applying the average-to-transaction method to a portion of U.S. sales.[171] However, Commerce determines that the A-A method can appropriately account for such differences because there is no meaningful difference between Heze Huayi's respective weighted-average dumping margins which are unchanged when calculated using the A-A method and the alternative comparison method.[172] Accordingly, Commerce has determined to use the A-A method to calculate the weighted-average dumping margin for Heze Huayi.[173]

[171] *See* Heze Huayi Preliminary Analysis Memorandum.
[172] *Id.*
[173] In these preliminary results for Heze Huayi, 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.

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.[174] 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.[175] In this case, Heze Huayi has not established eligibility for the adjustment. Therefore, for 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 made an adjustment for one countervailable export subsidy used by Heze Huayi that was based on the subsidy rate for the Export Buyer's Credit Program from the most recent countervailing duty (CVD) review.[176] For the China-wide entity, since the entity is not currently under review, its rate is not subject to change.[177]

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.

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[174] *See* section 777A(f)(1)(A)(C) of the Act.
[175] *See* section 777A(f)(1)(2) of the Act.
[176] *See Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2016*, 84 FR 37627 (August 1, 2019) (*Chlorinated Isos CVD Review*), and accompanying IDM at 6; *see also* Heze Huayi Preliminary Analysis Memorandum.
[177] *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).

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒	☐
Agree	Disagree

10/19/2020

X

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance