

**MEMORANDUM TO:** David M. Spooner  
Assistant Secretary  
for Import Administration

**FROM:** Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

**SUBJECT:** Issues and Decision Memorandum for the 2006 – 2007  
Administrative Review of Chlorinated Isocyanurates from the  
People’s Republic of China

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**SUMMARY:**

We have analyzed the case and rebuttal briefs of interested parties in the antidumping duty administrative review of chlorinated isocyanurates from the People’s Republic of China. The period of review is June 1, 2006 through May 31, 2007. As a result of our analysis, we have made changes, including corrections of certain inadvertent programming and clerical errors, in the margin calculations. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues for which we received comments and rebuttal comments by the parties:

**Surrogate Values**

- Comment 1: Surrogate Value for Urea
- Comment 2: Surrogate Value for Sodium Chloride (Salt)
- Comment 3: Surrogate Value for Electricity
- Comment 4: Surrogate Value for Steam Coal
- Comment 5: Financial Ratios
  - A. Rates and Taxes
  - B. Other Income Related to Prior Year Adjustment
  - C. Income Items within Miscellaneous Receipts
  - D. Cost of Traded Goods and Increase in Stocks

**Company Specific Issues**

**Hebei Jiheng Chemical Company, Ltd. (“Jiheng”)**

- Comment 6: By-Product Offsets
  - A. Ammonia Gas
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- Comment 7: Clerical Errors
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- B. Rail Freight
- C. Free of Charge Packaging Materials
- D. Reimbursed Materials

**Nanning Chemical Industry Co., Ltd. (“Nanning”)**

Comment 8: Cyanuric Acid

**LIST OF ABBREVIATIONS AND ACRONYMS**

The Act	Tariff Act of 1930, as amended
AUV	Average Unit Value
CAFC	Court of Appeals for the Federal Circuit
CEA	Central Electricity Authority of India
CIL	Coal India Limited
CIT	Court of International Trade
FOB	Free on Board
FOP	Factors of Production
IEA	International Energy Agency, Key World Energy Statistics (2003 edition)
ITC	International Trade Commission
Kanoria	Kanoria Chemicals and Industries Limited
MSFTI	Monthly Statistics of Foreign Trade of India
NME	Non-market Economy
POR	Period of Review
PRC	People’s Republic of China
SG&A	Selling, General and Administrative Expenses
TCCA	Trichloroisocyanuric acid
TERI Data	Tata Energy Research Institute’s Energy Data Directory & Yearbook (2003/2004 edition)
UHV	Useful Heat Value
VAT	Value Added Tax
WTA	World Trade Atlas® Online (Indian import statistics)

**CASES AND LITIGATION CITES**

(Alphabetical by Short Cite)

*Notice of Final Determination of Sales at Less Than Fair Value: Barium Carbonate From the People’s Republic of China*, 68 FR 46577 (August 6, 2003), and accompanying Issues and Decision Memorandum (“*Barium Carbonate from the PRC – 08/06/2003*”)

*Brake Rotors from the People’s Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of the 2005-2006 Administrative Review*, 72 FR 42386 (August 2, 2007), and accompanying Issues and Decision Memorandum (“*Brake Rotors from the PRC – 08/02/2007*”)

*Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin from the People's Republic of China*, 65 FR 33805 (May 25, 2000), and accompanying Issues and Decision Memorandum (“*Bulk Aspirin from the PRC – 05/25/2000*”)

*Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007), and accompanying Issues and Decision Memorandum (“*CFSP from the PRC – 10/25/2007*”)

*Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 26589 (May 10, 2007), and accompanying Issues and Decision Memorandum (“*CVP23 from the PRC – 05/10/2007*”)

*Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 159 (January 2, 2008), and accompanying Issues and Decision Memorandum (“*Chlorinated Isos from the PRC – 01/02/2008*”)

*Final Determination of Sales at Less Than Fair Value: Coumarin from the People's Republic of China*, 59 FR 66895 (December 28, 1994) (“*Coumarin from the PRC – 12/28/1994*”)

*Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order Pursuant to Court Decision: Lawn and Garden Steel Fence Posts from the People's Republic of China*, 72 FR 32835 (June 14, 2007), and accompanying Issues and Decision Memorandum (“*Fence Posts from the PRC – 06/14/2007*”)

*Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the Eleventh Administrative Review and New Shipper Reviews*, 72 FR 34438 (June 22, 2007), and accompanying Issues and Decision Memorandum (“*Garlic from the PRC – 06/22/2007*”)

*Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 16758 (April 6, 1998) (“*Hand Tools from the PRC – 04/06/1998*”)

*Helical Spring Lock Washers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 4175 (January 24, 2008), and accompanying Issues and Decision Memorandum (“*Lock Washers from the PRC – 01/24/2008*”)

*Honey from the People's Republic of China: Final Results and Rescission, In Part, of Aligned Antidumping Duty Administrative Review and New Shipper Review*, 73 FR 42324 (July 21, 2008), and accompanying Issues and Decision Memorandum (“*Honey from the PRC – 07/21/2008*”)

*Certain Hot-Rolled Carbon Steel Flat Products from Romania: Final Results of Antidumping Duty Administrative Review*, 70 FR 34448 (June 14, 2005), and accompanying Issues and Decision Memorandum (“*Hot-Rolled Steel from Romania – 06/14/2005*”)

*Synthetic Indigo from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 68 FR 53711 (September 12, 2003), and accompanying Issues and Decision Memorandum (“*Indigo from the PRC – 09/12/2003*”)

*Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China*, 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum (“*Lined Paper from the PRC – 09/08/2006*”)

*Malleable Iron Pipe Fittings From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 37051 (June 29, 2006), and accompanying Issues and Decision Memorandum (“*MIPFs from the PRC - 06/29/2006*”)

*Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum (“*Mushrooms from the PRC – 07/17/2006*”)

*Polyethylene Retail Carrier Bags from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Review*, 73 FR 14216 (March 17, 2008), and accompanying Issues and Decision Memorandum (“*PRCBs from the PRC – 03/17/2008*”)

*Chlorinated Isocyanurates from People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 24943 (May 6, 2008) (“*Preliminary Results*”)

*Saccharin from the People’s Republic of China: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 51800 (September 11, 2007), and accompanying Issues and Decision Memorandum (“*Saccharin from the PRC – 09/11/2007*”)

*Notice of Final Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from the Russian Federation*, 68 FR 9977 (March 3, 2003), and accompanying Issues and Decision Memorandum (“*UANS from the Russian Federation – 03/03/2003*”)

*Wooden Bedroom Furniture from the People’s Republic of China: Final Results of the 2004-2005 Semi-Annual New Shipper Reviews*, 71 FR 70739 (December 6, 2006), and accompanying Issues and Decision Memorandum (“*WBF from the PRC – 12/06/2006*”)

*Amended Final Results of Antidumping Duty Administrative Review and New Shipper Reviews: Wooden Bedroom Furniture from the People’s Republic of China*, 72 FR 46957 (August 22, 2007), and accompanying Issues and Decision Memorandum (“*WBF from the PRC – 08/22/2007*”)

## **Court Cites**

*China Processed Food Imp. & Exp. Co. v. United States*, 536 F. Supp. 2d 1347 (CIT 2008) (“*China Processed Food*”)

*Tianjin Mach. Imp. & Exp. Corp. v. United States*, 806 F. Supp. 1008 (CIT 1992) (“*Tianjin*”)

## **BACKGROUND**

On May 6, 2008, the Department of Commerce (“the Department”) published its preliminary results of review. *See Preliminary Results*. On June 12, 2008, Clearon Corporation and Occidental Chemical Corporation (“Petitioners”),<sup>1</sup> Jiheng,<sup>2</sup> a respondent, and Nanning,<sup>3</sup> a respondent, filed case briefs. On June 17, 2008, Petitioners<sup>4</sup> and Jiheng<sup>5</sup> filed rebuttal briefs. On July 22, 2008, the Department held a public hearing.

## **DISCUSSION OF THE ISSUES:**

### **I. Surrogate Values**

#### **Comment 1: Surrogate Value for Urea**

Petitioners argue that the Department should use domestic price data from the Philippines to value urea in the final results. Petitioners contend that the Indian *MSFTI* data used in the *Preliminary Results* are not the “best available information” to value urea because the Government of India has preempted the operation of “market forces” in India with respect to urea. Petitioners maintain that the Government of India controls all imports of urea into India, sets the price at which urea may be sold in India, and exercises control over the movement of urea within India. Petitioners state that the largest single source of urea imports into India is from a government-controlled joint venture producer in Oman that sells urea only to the Government of India pursuant to a long-term, declining fixed-price contract that is insulated from any changes in international prices for urea.

Petitioners argue that, by contrast, the Philippines has an open market for urea, and extensive and detailed domestic pricing data for urea are regularly collected and published by a specialist government agency. Petitioners contend that the Philippine price data are also specific to solid urea sold in 50-kilogram bags, whereas *MSFTI* data do not distinguish between solid urea and aqueous urea solutions, and also include substantial quantities of non-urea imports.

Petitioners suggest that, if the Department continues to use Indian *MSFTI* data to value urea, imports of urea from Oman should be excluded from the calculation. Petitioners allege the

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<sup>1</sup> *See* Chlorinated Isocyanurates from The People’s Republic of China (Second Administrative Review): Case Brief of Petitioners Clearon Corporation and Occidental Corporation, submitted on June 12, 2008 (“Petitioners’ Case Brief”).

<sup>2</sup> *See* Chlorinated Isocyanurates from the People’s Republic of China; Case Brief of Hebei Jiheng Chemical Company, Ltd., submitted on June 12, 2008 (“Jiheng’s Case Brief”).

<sup>3</sup> *See* Chlorinated Isocyanurates from China; Submission of Case Brief, submitted on June 12, 2008 (“Nanning’s Case Brief”).

<sup>4</sup> *See* Chlorinated Isocyanurates from The People’s Republic of China (Second Administrative Review): Rebuttal Brief of Petitioners Clearon Corporation and Occidental Chemical Corporation, submitted on June 17, 2008 (“Petitioners’ Rebuttal Brief”).

<sup>5</sup> *See* Chlorinated Isocyanurates from the People’s Republic of China: Second Administrative Review (A-570-898): Rebuttal Brief of Hebei Jiheng Chemical Company, Ltd., submitted on June 17, 2008 (“Jiheng’s Rebuttal Brief”).

Government of India openly acknowledges that the imports from Oman are cheaper than and not comparable to international prices for urea.<sup>6</sup> Petitioners conclude that these imports do not involve prices determined by market forces, but rather are the result of a long-term exclusive contract under which all of the urea produced in Oman is sold exclusively to the Government of India at declining fixed prices.

Jiheng contends that contrary to Petitioners' arguments, the Department correctly valued urea using *MSFTI*, after concluding that the Indian import value was the best available information. Jiheng argues that the Department found *MSFTI* data comparable to the values for urea from the other potential surrogate countries identified by the Department (Indonesia, Sri Lanka, and the Philippines). Jiheng maintains that the Department prefers to derive its values from a single surrogate country if the data are reliable and non-aberrational. Jiheng contends, in this case, the Indian import data for urea meet those requirements, are well within the range of imports from other market-economy countries, and provide the best available information to value urea in accordance with well-settled Department practice and preference.

Department's Position: The Department does not have the information necessary to evaluate each import into India to determine whether there is government control over the price. Furthermore, even if such an analysis were possible, it is at odds with the Department's established practice for determining the reliability and appropriateness of surrogate values under consideration.<sup>7</sup> It is the Department's stated practice to choose a surrogate value that represents period-wide price averages, prices specific to the input, prices that are net of taxes and import duties, prices that are contemporaneous with the period of review, and publicly available non-aberrational data from a single surrogate market economy country.<sup>8</sup> If a surrogate value meets these criteria, the Department finds that it represents a reliable and appropriate price for valuing an individual input.

In line with the above-referenced criteria, we find that the WTA Indian import value, including imports from Oman, represents a reliable appropriate surrogate value. As shown in the *Preliminary Results Surrogate Value Memorandum*, dated May 6, 2008 ("Prelim Surrogate Value Memo"), the comparison of the Indian import value including imports from Oman with the import values of urea in the other potential surrogate countries, shows that Indian import prices for urea are comparable to and in line with these values.<sup>9</sup> In the Prelim Surrogate Value Memo, the Department compared the aggregate Indian import AUV of urea (\$0.23 per kg) with that of other potential surrogate countries (Indonesia (\$0.14 per kg), Sri Lanka (\$0.29 per kg), and the Philippines (\$0.22 per kg)) and found that the Indian import value is within the range of values for those countries. As India's import values for urea fall squarely within the range of prices for urea on the record of this review, we find no evidence that such prices are aberrational or otherwise unsuitable for use as a surrogate value.

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<sup>6</sup> See Petitioners' Nov. 13 Surrogate Values Submission at Exhibits 5 and 7.

<sup>7</sup> See NME Surrogate Selection Policy Bulletin (<http://ia.ita.doc.gov/policy/index.html>) at page 4 of the website version, 19 CFR 351.408(c)(2), and *Hot-Rolled Steel from Romania – 06/14/2005* at Comment 2 for a complete discussion of this practice.

<sup>8</sup> See *Hot-Rolled Steel from Romania – 06/14/2005* at Comment 2.

<sup>9</sup> There are no available data for Egypt.

In *Hot-Rolled Steel from Romania - 6/14/2005* at Comment 2, the Department addressed the issue of testing surrogate values alleged to be aberrational. In so doing, the Department acknowledged inconsistencies in its past practice, and articulated a hierarchy for testing surrogate values alleged to be aberrational: “To test the reliability of the surrogate values alleged to be aberrational, we compared the selected surrogate value for each FOP to the AUVs calculated for the same period using data from the other surrogate countries the Department designated for this review, to the extent that such data are available.”<sup>10</sup> Consistent with the practice articulated in *Hot-Rolled Steel from Romania - 6/14/2005* (at Comment 2), and further emphasized in *Lined Paper from the PRC - 09/08/2006* at Comment 5,<sup>11</sup> applying this same methodology in the *Preliminary Results* of the instant review, we compared the aggregate Indian import value of urea with that of other potential surrogate countries (Indonesia, Sri Lanka and the Philippines). This also comports with the Department’s stated practice that it is “preferable to benchmark selected surrogate values against AUVs derived from the same data source.”<sup>12</sup> In other words, as shown above, we compared WTA import values for all of the potential surrogate countries and found the Indian values to be within the range of the AUVs from the other potential surrogate countries.

Because the Indian import prices for urea are from a market economy country and are not aberrational, Petitioners have not demonstrated that the Indian prices for urea are unsuitable for use as a surrogate value. Petitioners’ cite to *Tianjin* as a basis for stating that, in NME reviews, it is the Department’s responsibility to calculate a producer’s costs as if they were determined by market forces. Because the Indian import prices for urea are from a market economy country and are not aberrational, there is no reason to find that a market-economy producer’s costs are not accurately represented in using this surrogate value. Therefore, Petitioners’ citation of *Tianjin* is inapposite. Petitioners’ citation of *Fresh Garlic from the PRC – 06/22/2007* at Comment 8 is also inappropriate. In that case, the value for water was zero, clearly a value that was not comparable to other market-based prices. In *UANS from the Russian Federation – 03/03/2003* at Comment 1, the Department had evidence that a portion of the gas value suggested by the respondent was obtained at a zero price and consequently found that a surrogate value inclusive of zero price transactions was inappropriate for selection as a surrogate value.

The Department first attempts to find publicly available, contemporaneous and non-aberrational surrogate values for all FOPs from the primary surrogate country, in keeping with the Department’s aim of valuing all factors in a single surrogate country.<sup>13</sup> In this case, we selected India as our primary surrogate country. Thus, the Department’s first preference in selecting surrogate value data for the instant review is publicly available Indian data from the POR, where there is no evidence to show the data are aberrational. With respect to Petitioners’ contention that we should exclude Indian imports from Oman, we compared the AUV for imports from Oman with the AUVs of imports from other market-economy countries.<sup>14</sup> Contrary to

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<sup>10</sup> See *Hot-Rolled Steel from Romania – 06/14/2005* at Comment 2.

<sup>11</sup> See *Lined Paper from the PRC - 9/8/2006* at Comment 5, explaining that the Department’s current practice is “to benchmark surrogate values against imports from the list of potential surrogate countries for a given case.”

<sup>12</sup> *Id.*

<sup>13</sup> See 19 CFR 351.408(c)(2).

<sup>14</sup> The Department found that the AUV for Indian imports of urea from Oman (\$0.18 per kg) are higher than the Indonesian import AUV (\$0.14 per kg) and the AUV for several countries in the Philippine import data (\$0.13 per kg to \$0.16 per kg). See Prelim Surrogate Value Memo.

Petitioners' assertion that the price for imports from Oman is substantially lower than all other sources of urea imports into India, we find the AUV for imports from Oman to be within the range of market-based import prices available on the record.<sup>15</sup> Moreover, continuing to value urea using the Indian value is in accordance with 19 CFR 351.408(c)(2), which states that the Department normally will value all factors in a single surrogate country.

In choosing a surrogate value, the Department seeks the best available information. The Department seeks first the best available information from the primary surrogate country, India, that (1) represents an average non-export value, (2) is representative of a range of prices within the POR if submitted by an interested party, or most contemporaneous with the POR, (3) is product specific, and (4) is tax exclusive.<sup>16</sup> The import value of urea in India is in line with prices available from the potential surrogate countries (as shown above), an average non-export value, contemporaneous with the POR, product specific, and tax exclusive. Therefore, it is the best available information on the record of this review. We find the domestic Philippine prices for urea not to be the best available information on the record of this review because these prices are for urea used as fertilizer and sold in 50-kg bags which are not product specific to the urea used by the respondents in this review. Therefore, for these final results, we continue to find the WTA Indian import value for urea the best available information to value the urea used in the production of the subject merchandise.

#### **Comment 2: Surrogate Value for Sodium Chloride (Salt)**

Petitioners argue that the Department should value the sea salt used by Jiheng using the domestic vacuum salt prices published in *Chemical Weekly*. According to Petitioners, neither *MSFTI* data nor *Chemical Weekly* data include prices for the exact salt input used by Jiheng. However, Petitioners maintain the *Chemical Weekly* data are superior to *MSFTI* data because *Chemical Weekly* prices are domestic Indian prices and are specific to salt used in the chemical industry.

Jiheng contends that Petitioners' argument regarding vacuum salt is without merit. Jiheng argues that the Department examined this issue in detail during the first administrative review and found, based on all the evidence before it, that vacuum salt was not comparable to the industrial sea salt that Jiheng Chemical uses, whereas rock salt was. Jiheng submits that Petitioners proffer no new evidence to cause the Department to reevaluate that analysis. Moreover, contrary to Petitioners' claim, Jiheng argues that there is no absolute preference for domestic pricing. If the domestic prices available are not for a comparable product, then they are not an acceptable choice for surrogate value purposes.

Department's Position: In valuing the FOPs, section 773(c)(1) of the Act instructs the Department to use "the best available information" from the appropriate market-economy country. The Department considers several factors when choosing the most appropriate surrogate values, including the quality, specificity, and contemporaneity of the data. *See Lined Paper from the PRC - 09/08/2006* at Comment 3. As there is no hierarchy for applying the above-mentioned factors, the Department must weigh available information with respect to each

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<sup>15</sup> *See id.*

<sup>16</sup> *See Hand Tools from the PRC - 04/06/1998* at 16759.



input value and make a product-specific and case-specific decision as to what the “best” surrogate value is for each input. *See Mushrooms from the PRC - 8/3/2007* at Comment 1.

Petitioners’ arguments against selecting rock salt as the appropriate surrogate for valuing Jiheng’s sea salt are primarily based on allegations about reliability due to the import quantities of rock salt, rather than a definition of rock salt. However, Petitioners have not provided evidence that demonstrates that the *Chemical Weekly* prices for vacuum salt are somehow more reliable. We disagree with Petitioners that, because vacuum salt prices are published in *Chemical Weekly*, this demonstrates this type of salt is “always” used by the chemical industry for production. While Petitioners’ arguments against using rock salt import values focus on the quantity of rock salt imports into India, Petitioners do not provide any information indicating that the quantities imported resulted in aberrational values.

Significant research and discussion was given to determining what type of salt is the most similar to that used by the respondents in the production of the subject merchandise in the last administrative review.<sup>17</sup> In that review, we determined that rock salt, a type of salt requiring only a small amount of processing, was the most product specific to that used by the respondents. The salt value in *Chemical Weekly* as suggested by Petitioners is for vacuum salt, a highly processed form of salt as discussed in the last administrative review.<sup>18</sup> In the first administrative review we found that “because vacuum salt represents sea salt that has undergone further processing in order to be sold as food grade, we find that the *Chemical Weekly* value for vacuum salt proposed by Petitioners is not an appropriate surrogate value for the industrial grade salt used by Jiheng, whereas rock salt, being the same crystal size and purity as sea salt, is an appropriate surrogate value.”<sup>19</sup> Petitioners did not provide additional information in this segment of the proceeding on the similarity of vacuum salt to the respondents’ sea salt in order for us to conclude that vacuum salt is the most similar to the salt used to produce subject merchandise.

Therefore, because rock salt has been found to be more product specific than vacuum salt and Petitioners have not provided any information that demonstrates that the domestic vacuum salt prices are somehow more appropriate than the Indian import prices for rock salt or that the Indian import values are aberrational, we have continued to value respondents’ salt with the WTA Indian import value for rock salt for the final results.

### **Comment 3: Surrogate Value for Electricity**

Jiheng contends that the Department failed to use the best available information to value Jiheng’s electricity factor of production. Jiheng maintains that the Department used outdated *IEA* electricity data, which reflect an estimated rate for an undetermined period of time in the 2000-2001 period. Jiheng argues that the Department has no information on the basis for the estimate. Moreover, Jiheng asserts that the estimate revises Annual Plan data that are a “projection” of expected rates, rather than rates actually charged. In contrast, the Department has on the record country-wide, tax-exclusive, publicly available, contemporaneous rates from the Indian Government’s Central Electricity Authority that reflect the actual rates charged during the POR.

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<sup>17</sup> *See Chlorinated Isos from the PRC – 01/02/2008* at Comment 2.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

Therefore, Jiheng submits that the Department should apply its own criteria and revise the calculation for the final results of review to reflect the CEA data that reflect the best available information with which to value electricity.

Petitioners counter that the Department should continue to value electricity based on *IEA* data. According to Petitioners, the Department recently reviewed the same data advocated by Jiheng in *WBF from the PRC – 08/22/2007* at Comment 15 and determined that the *IEA* data remain the best source of surrogate values for electricity in India. Petitioners claim that Jiheng has provided no reason for the Department to decide differently in this review. As a result, Petitioners argue that the Department should reject the India Ministry of Power data and continue to use the *IEA* data for electricity.

Department’s Position: In *WBF from the PRC – 08/22/2007* at Comment 15, the Department examined the *CEA* data the respondents put on the record and declined to adopt the *CEA* data because the Department “could not determine how the *CEA* data were compiled” and the “estimated average rates chart did not demonstrate how usage rates were recorded.” As a result, in *WBF from the PRC – 08/22/2007* at Comment 15, we decided to use the *IEA* data over that from the *CEA*.

However, in this case, Jiheng has placed on the record of this review significantly more information from the *CEA*, including the whole report entitled *Electricity Tariff & Duty and Average Rates of Electricity Supply in India*, dated July 2006. In our review of this report, we were able to answer the questions that we had in *WBF from the PRC – 08/22/2007* at Comment 15, including how the data were compiled and information on the “estimation” of these rates. We found that although the worksheets within the report are listed as estimates, these rates are actual rates and estimation occurs only in order to get the usage amounts for different types of industries. In choosing the most appropriate surrogate value, the Department seeks to find, where all other characteristics are the same, the most contemporaneous value on the record.<sup>20</sup> Because we have found the *IEA* and *CEA* data for electricity to represent high quality data, but have found the *CEA* data to represent the most contemporaneous data for electricity on the record of this review, we have selected the *CEA* data to value electricity for the final results. We have used an average value for all industries for all regions as reported by the *CEA*.<sup>21</sup>

#### **Comment 4: Surrogate Value for Steam Coal**

Petitioners argue that the Department should value steam coal using *MSFTI* data rather than the Coal India price list included in the *TERI* data. Petitioners contend that the prices listed in the *TERI* data are not available to Indian purchasers except those in industries that have been designated as “core sectors” by the Government of India. Petitioners maintain that the chemical industry is not a “core sector” and purchasers must therefore pay substantially higher prices for coal, either through electronic auctions or by purchasing imported coal. Petitioners assert that it

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<sup>20</sup> NME Surrogate Selection Policy Bulletin (<http://ia.ita.doc.gov/policy/index.html>) at page 4 of the website version.

<sup>21</sup> See Memorandum to the File titled “Surrogate Value Memo,” dated concurrently with this memorandum (“Surrogate Value Memo”).

would not be reasonable for the Department to use a surrogate value for steam coal that is unavailable to the industry in question.

Jiheng argues that the Department correctly chose to use *TERI* data to value the steam coal used by Jiheng. As it has done in numerous recent reviews, the Department found that *TERI* data were the best available information with which to value steam coal because they represented product-specific prices, widely available throughout India. Jiheng notes that the CIT has approved the use of *TERI* data as well. Jiheng further argues that Petitioners' claim that the chemical industry would not have access to the prices used is not supported by evidence on the record and, therefore, must fail.

Department's Position: Section 773(c)(1) of the Act states that "the valuation of the factors of production shall be based on the best available information regarding the values of such factors. . . ." We continue to find that the *TERI* data are the more appropriate source with which to value the steam coal input for the final results because they are more specific to Jiheng's reported input. In the instant case, Jiheng has provided the Department with information on the specific types of coal it uses and their UHV.<sup>22</sup> *TERI* data are categorized by major types of coal and UHV value whereas WTA import data are listed under "steam coal" without further specificity. Furthermore, the Department has consistently found in recent cases that the *TERI* data are the most appropriate surrogate value for steam coal, notwithstanding concerns over the "monopolistic structure of the coal industry in India."<sup>23</sup> In each of the noted recent cases, the Department stated that, although the Department has expressed concerns regarding the monopolistic structure of the coal industry in India, it nevertheless found that *TERI* steam coal prices are appropriate because they are "representative of the coal industry throughout India."<sup>24</sup>

With respect to Petitioners' allegation that non-core industries are not able to buy at the prices listed in the *TERI* data, and that the industries classified as "core" coal consumers do not include the chemical industry, we find no conclusive record evidence identifying the chemical industry as a non-core industry. While the record evidence lists examples of "core" industries, this list is not exhaustive, and there is no listing positively identifying the chemical industry as a non-core industry. Therefore, because the *TERI* data represent the most product-specific prices, we find them to be the best available information for valuing steam coal on the record of this review. For all of the foregoing reasons, we continue to find that *TERI* data are the best available data with which to value steam coal for the final results.

## **Comment 5: Financial Ratios**

### **A. Rates and Taxes**

Petitioners contend that in the *Preliminary Results*, the Department's calculation of surrogate financial ratios based on the annual report of Kanoria excluded an amount for "Rates and Taxes."

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<sup>22</sup> See Chlorinated Isocyanurates from the People's Republic of China: 2nd Administrative Review: (A-570-898): Provision of Surrogate Values for Factors of Production, submitted by Jiheng on November 17, 2007.

<sup>23</sup> See *CFSP from the PRC - 10/25/2007* at Comment 19. See also *Saccharin from the PRC - 09/11/2007* at Comment 3, and *Fence Posts from the PRC - 6/14/2007*, where the Department explained that "the CIT sustained the Department's final results of redetermination in which the Department determined that Teri data was the best source of a surrogate value for coal because the data were complete, comprehensive (in that it covered all sales of all types of coal made by CIL and its subsidiaries), and exclusive of duties and taxes."

<sup>24</sup> See *CFSP from the PRC - 10/25/2007* at Comment 19.

Petitioners argue that “Rates and Taxes” are generally treated as an SG&A expense under the Department’s practice and should be included in the calculation.

Jiheng counters that the Department properly excluded “Rates and Taxes” from its calculation of SG&A expenses in keeping with its practice of calculating the financial ratios on a tax neutral basis. Jiheng maintains that Petitioners can point to no authority to demonstrate that the Department has changed its methodology or that the calculation in this case was contrary to normal Department practice or reasoning that would justify deviating from this practice.

Department’s Position: It is the Department’s practice to include rates and taxes in the surrogate financial ratio for SG&A unless the taxes are related to the income or VAT category.<sup>25</sup> In the preliminary results of this review, we excluded Sales/Turnover Tax because we determined that the expense was related to sales; however, upon re-examining the issue and the record evidence for the final results, we have concluded that the Sales/Turnover Tax was not clearly linked to income or a type of VAT. As such, we included “rates and taxes” in the SG&A category. This comports with our practice as explained in *PRCBs from the PRC – 03/17/2008* at Comment 2. This also comports with our stated practice in *CVP23 from the PRC – 05/10/2007* at Comment 2. In *CVP23 from the PRC*, we specifically stated that “we should have included rates and taxes in the SG&A total, as this expense category likely represents miscellaneous business taxes, rather than VAT, income, or excise taxes, that we would normally exclude.”<sup>26</sup>

We note that our practice to include rates and taxes in the SG&A category when not related to income or VAT differs from our decision in the investigation of this order. In the investigation, we stated that we were excluding “rates and taxes” from the financial ratio calculations because the Department performs its comparisons on a tax neutral basis. However, upon further examination, while we do select surrogate values on a tax neutral basis to create a tax neutral comparison, as stated above, we find that it is appropriate to include “rates and taxes” when not related to income, VAT, and excise taxes in the financial ratio calculations. Financial statements represent the overall operations of a company which can include tax liabilities in the normal course of operation and, therefore, inclusion of these taxes when not related to income, VAT, or excise taxes accurately reflects the financial experience of a surrogate company. Therefore, for purposes of these final results, we have included “rates and taxes” in the SG&A category.

## **B. Other Income Related to Prior Year Adjustment**

Petitioners argue that the Department’s ratio calculation included “other income” of Rs. 1.47 (in billions) relating to a prior year adjustment as a part of SG&A. Petitioners contend that because this income relates to activities in a prior year, *i.e.*, before the POR, it is more appropriately excluded from the ratio calculations altogether.

Jiheng counters that Petitioners provided no grounds for concluding that the Department should not have included the “other income” offsets that it included in calculating the SG&A ratio.

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<sup>25</sup> See *PRCBs from the PRC – 03/17/2008* at Comment 2.

<sup>26</sup> See *id.*

Department's Position: Because a portion of "other income" is related to a prior year adjustment, we have excluded this amount from the calculation of SG&A. While a company may recognize certain income or expense items for prior periods in the current period, there is no prior period expense also being recognized in the current period related to this other income. Therefore, it would be inappropriate to include such income without the related expense in the calculation of the SG&A ratio.

### **C. Income Items within Miscellaneous Receipts**

Jiheng argues that the Department failed to consider certain income items within miscellaneous receipts when calculating its income offset. Jiheng maintains that these income items relate to current income to be applied against current expenses. Jiheng contends that by not including these income items in the financial ratio calculations, the ratios are overstated.

Petitioners counter that including miscellaneous receipts in the financial ratio calculations is inconsistent with the Department's current practice and should be rejected. Petitioners assert that it is the Department's practice to exclude "miscellaneous income" amounts from the calculation of financial ratios unless examination of the financial statements clearly reveals the nature of the miscellaneous income and its relation to the company's principal activities. *See Brake Rotors from the PRC – 08/02/2007* at Comment 3. Petitioners contend that the Kanoria annual report does not provide sufficient information to determine whether the income items identified by Jiheng should be offset from SG&A expenses. Petitioners argue that "insurance and other claims" may relate to freight or other charges that are excluded from the Department's ratio calculations. Petitioners conclude that the Department should not offset SG&A expenses from Kanoria's financial statements with the miscellaneous income.

Department's Position: It is the Department's practice to include miscellaneous income if it clearly can be tied to a recognized expense.<sup>27</sup> Therefore, for the final results, we have included miscellaneous income for insurance revenue as there is an insurance expense also being recognized in Kanoria's financial statements. We have not included any of the other miscellaneous income items as we cannot tie these items to specific expenses.

### **D. Cost of Traded Goods and Increase in Stocks**

Jiheng argues that the Department should have included the cost of traded goods, *i.e.*, finished goods purchases, in calculating the SG&A and profit ratios. Jiheng also contends that the Department should have only included the increase in stocks of work-in-process instead of including the net increase in all stocks.

No other party commented on this issue.

Department's Position: We agree with Jiheng that we should have included the cost of traded goods in the calculation of the SG&A and profit ratios<sup>28</sup> and included the increase in stocks of

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<sup>27</sup> *See Brake Rotors from the PRC – 08/02/2007* at Comment 3.

<sup>28</sup> *See Lock Washers from the PRC – 01/24/2007* at Comment 6.

work-in-process instead of the net increase in all stocks as we did in the *Preliminary Results*.<sup>29</sup> Therefore, we have made the appropriate adjustments to the SG&A and profit ratios for the final results. See Surrogate Value Memo.

## II. Company Specific Issues

### Jiheng

#### Comment 6: By-Product Offsets

##### A. Ammonia Gas

Petitioners argue that the Department should not grant a by-product offset to Jiheng for ammonia gas. Petitioners claim that Jiheng has failed to supply the necessary documentation to establish “the actual amount of the by-products generated from production of the subject merchandise” and failed to provide any information on the purity level of the claimed ammonia gas by-product. Petitioners maintain that the ammonia gas by-product claim should also be rejected because there is no appropriate surrogate value for the waste ammonia gas on the record. Petitioners argue that the waste ammonia gas cannot be valued as “anhydrous ammonia” which is a much more highly processed and value-added material. Petitioners assert that anhydrous ammonia is always traded at a minimum purity of at least 99 percent or more and is transported in pressurized, liquefied form. Petitioners contend that the waste gas produced in Jiheng’s kiln is not anhydrous ammonia and could not be converted to anhydrous ammonia without substantial cost and processing. Petitioners argue that using the *MSFTI* data for anhydrous ammonia would grossly overstate the value of the by-product that Jiheng claims to produce.

Jiheng counters that it has adequately demonstrated the ammonia gas by-product it produced during the POR and the Department correctly chose the *MSFTI* data for anhydrous ammonia imports into India as the appropriate surrogate value for that ammonia gas. Jiheng argues that it has documented its production process and that it does not purchase ammonia for the purposes of producing ammonium sulfate. Jiheng contends that it calculated the minimum quantity of ammonia consumed in the production of ammonium sulfate during the POR. Jiheng maintains that because it uses ammonia gas generated in the production of cyanuric acid that is piped directly to the ammonium sulfate production line to produce the ammonium sulfate, it has claimed only that ammonia gas produced during the POR that was subsequently sold as ammonium sulfate. Jiheng argues that the ammonia gas produced by Jiheng is within the HTS definition of anhydrous ammonia and is at a similar purity level to the ammonia included within the HTS category. Therefore, Jiheng concludes that the Department correctly accepted the ammonia gas by-product offset and correctly valued it.

Department’s Position: It is the Department’s practice to grant by-product offsets where the respondent can demonstrate that the by-products are generated as a result of production of subject merchandise.<sup>30</sup> When a by-product is sold and income realized from it, that income is considered to offset the value of the cost of producing scope merchandise.<sup>31</sup> However, if the income for the by-product is not realized by the company then it cannot be considered an offset

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<sup>29</sup> See *WBF from the PRC – 12/06/2006* at Comment 4.

<sup>30</sup> See, e.g., *MIPFs from the PRC - 06/29/2006* at Comment 4.

<sup>31</sup> See *Lined Paper from the PRC – 09/08/2006* at Comment 11.

to the production costs.<sup>32</sup> Therefore, when the Department considers the appropriateness of a by-product offset, we look to see that the by-product quantity is clearly produced from the quantity of FOPs reported and that the income for the by-product was realized by the company during the POR. Based on the Department's requests, Jiheng provided evidence regarding the amount of ammonia gas it produced in the process of creating the subject merchandise and sales documentation related to its sales of ammonium sulfate during the POR.<sup>33</sup> These records demonstrate that the amount of ammonia gas Jiheng claimed as a by-product was both produced in the process of creating the subject merchandise as well as sold in the form of ammonium sulfate during the POR.<sup>34</sup> There was also no evidence on the record that Jiheng purchased ammonia gas in addition to the ammonia gas that Jiheng produced that could have entered into its production of ammonium sulfate. Additionally, Jiheng provided information that demonstrated that the quantity of ammonia requested as a by-product offset was limited to the amount created from its reported FOPs as well as entered into the amount of ammonium sulfate that was actually sold during the POR.<sup>35</sup> There is no evidence on the record to demonstrate that the ammonia gas used by Jiheng to produce ammonium sulfate was not obtained from the ammonia gas produced as a result of the production of its subject merchandise. Therefore, we do not have any evidence to revise our finding at the *Preliminary Results* to grant Jiheng a by-product offset for its ammonia gas production.

In the first administrative review of the order on chlorinated isocyanurates from the PRC, we did not grant any of Jiheng's requested by-product offsets because Jiheng failed to demonstrate that its by-products were attributable to its reported FOPs. The Department bases decisions and calculations on the facts and information set before it in each individual review.<sup>36</sup> In the current review of the order on chlorinated isocyanurates, the Department asked a series of detailed questions in several supplemental questionnaires to substantiate Jiheng's by-product offset claims. In these detailed questions to Jiheng, we obtained evidence that was not on the record of the last administrative review, such as information on the molecular weights of the chemicals to demonstrate Jiheng's production quantities. Based on these questions, Jiheng adjusted its original ammonia gas by-product claims to account for the quantities it both produced and sold during the POR to meet the Department's standards for granting a by-product offset during this process. Additionally, the Department met with counsel for Jiheng to review its claims and discuss its reporting methodology for its by-products. As such, Jiheng provided a substantial amount of information regarding its by-products that the Department did not have when making its determination in the first administrative review.

With respect to valuation of the by-product offset, for the final results, we have continued to value ammonia gas with the *MSFTI* data for anhydrous ammonia as it is the only surrogate value available on the record to value Jiheng's ammonia gas by-product. Additionally, the amount of ammonia gas reported by Jiheng is based on the pure ammonia element contained in the ammonium sulfate it produced and sold during the POR. Therefore, the quantity of ammonia

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<sup>32</sup> *See id.*

<sup>33</sup> *See* Jiheng's Section D at Exhibit D-11.6 and Jiheng's Third Supplemental Questionnaire at Exhibit TSD-3.5.

<sup>34</sup> *See id.*

<sup>35</sup> *See id.*

<sup>36</sup> *See Honey from the PRC – 07/21/2008* at Comment 2.

reported is based on a highly pure quantity and, therefore, not dissimilar to that reported within the *MSFTI* data.

## **B. Hydrogen**

Petitioners contend that the Department should value Jiheng's claimed hydrogen gas by-product using hydrogen sales reported in the annual reports of three Indian producers of chlorine and caustic soda. Petitioners argue that import data from India and the Philippines indicate that hydrogen is rarely traded internationally, and the quantities of hydrogen sales reported in the annual reports of the Indian producers are far greater than in the import statistics.

Jiheng counters that Petitioners have not presented any credible argument or evidence that the sales experience of three companies in India provide the best available information with which to value Jiheng's hydrogen gas by-product. Jiheng also asserts that Petitioners have not demonstrated that the Philippine imports are not in commercial quantities. Jiheng contends that these companies' combined sales of hydrogen being larger than the Philippine hydrogen imports are insufficient to demonstrate this. Jiheng asserts that Petitioners suggested data appear to be tax-inclusive and are company-specific values, both attributes disfavored by the Department. Jiheng maintains that Petitioners have not provided a sufficient basis to justify a departure from the Department's clear preference for country-wide data for purposes of surrogate valuation.

Department's Position: It is the Department's preference to select a surrogate value that is (1) an average non-export value, (2) representative of a range of prices within the POR if submitted by an interested party, or most contemporaneous with the POR, (3) product specific, and (4) tax exclusive.<sup>37</sup> We have a clear preference for country-wide data. Petitioners' submitted data for three producers in India do not represent such country-wide information. Additionally, Petitioners did not provide specific information to demonstrate that hydrogen is not traded internationally. Therefore, without specific information to invalidate the Philippine import data for hydrogen, the Department prefers these country-wide data over financial statements from three individual producers. While Petitioners submitted information from *Infodrive India* to demonstrate the types of imports entering into India under HTS 28041000, we did not use in the *Preliminary Results* nor are we using in the final results, a surrogate value from India as we determined that the surrogate value for hydrogen in India was aberrational. Thus, we selected a hydrogen value from one of the other potential surrogate countries.<sup>38</sup> Because we have selected Philippine import data to value hydrogen, data sourced from *Infodrive India* are irrelevant. Absent evidence that the Philippine import value for hydrogen is inappropriate, we continue to find this to be the best available information with which to value hydrogen for the final results.

## **Comment 7: Clerical Errors**

### **A. Supersacks**

Petitioners argue that in the preliminary margin program for Jiheng, the Department failed to include supersacks in the calculation of normal value for packing.

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<sup>37</sup> See *Hand Tools from the PRC – 04/06/1998* at 16759.

<sup>38</sup> See Prelim Surrogate Value Memo.



No other party commented on this issue.

Department's Position: We agree with Petitioners. In the *Preliminary Results*, we inadvertently omitted the value for supersacks in the calculation of normal values for packing. Therefore, for the final results, we have corrected our calculations to include supersacks as a packing material input in the normal value calculation. See Memorandum to the File titled "Analysis Memorandum for the Final Results: Hebei Jiheng Chemical Company, Ltd.," dated concurrently with this memorandum ("Jiheng's Final Calculation Memo").

### **B. Rail Freight**

Jiheng argues that the Department overstated the freight charge for rail freight of one of the FOPs: steam coal. Jiheng contends that although the value the Department selected was a rupees per metric ton rate, regardless of distance, the Department multiplied that rate by the distance between Jiheng's factory and its suppliers. Jiheng maintains that this error resulted in the overstatement of the value of the steam coal FOP and in the margin of dumping.

No other party commented on this issue.

Department's Position: We agree with Jiheng. In the *Preliminary Results*, we inadvertently multiplied the rupees per metric ton rate for the rail freight associated with steam coal by the distance, even though this rate represented the cost regardless of distance. Therefore, for the final results we have corrected this error by deleting the multiplying factor. See Jiheng's Final Calculation Memo.

### **C. Free of Charge Packaging Materials**

Jiheng contends that the Department erroneously added the value of packing/packaging materials provided free of charge to only one of the several CONNUMs that used free-of-charge materials. Jiheng argues that the Department's practice when the U.S. sales from an NME include materials that were provided to the producer free of charge is to add the value of those materials to the U.S. price as well as including those materials in the calculation of normal value. Jiheng asserts that, in this case, the Department included such materials in the calculation of normal value for all CONNUMs while limiting the adjustment to a single CONNUM on the U.S. price side. Jiheng contends that this should be corrected for the final results.

No other party commented on this issue.

Department's Position: We agree with Jiheng. When calculating U.S. price we inadvertently added the packaging materials provided free of charge to only one of the several CONNUMs that used free-of-charge materials. Therefore, for the final results, we have corrected this error by adding the value of the packaging materials provided free of charge to all of the appropriate CONNUMs when calculating U.S. price. See Jiheng's Final Calculation Memo.

#### **D. Reimbursed Materials**

Jiheng argues that the Department failed to include reimbursed materials in the calculation of entered value, although it did include the material when calculating net U.S. price. Jiheng contends that for certain materials included in some of the U.S. sales Jiheng receives reimbursement as a separate line item of the invoice. Jiheng claims that because this is reimbursement for material included in the U.S. sale it must be included in the U.S. price and in the value declared to U.S. Customs and Border Protection upon importation. Jiheng asserts that the Department made a similar error in the calculation of the final results of the first administrative review and corrected it in the clerical error correction subsequent to the publication of the final results. Jiheng concludes that the Department should similarly correct this error here, before the issuance of the final results of review.

No other party commented on this issue.

Department's Position: We agree with Jiheng. In the *Preliminary Results*, we inadvertently failed to include reimbursed materials in the calculation of entered value. Therefore, for the final results, we have included reimbursed materials in the calculation of entered value. See Jiheng's Final Calculation Memo.

#### **Nanning**

##### **Comment 8: Cyanuric Acid**

Nanning explains that during the POR, it both self-produced and purchased cyanuric acid for use in its production of TCCA granular. Nanning states that it specified that it used self-produced cyanuric acid, made from urea, sodium hydroxide, and chlorine gas, in the production of the TCCA granular exported to the United States, and used purchased cyanuric acid in the production of TCCA granular destined for markets other than the United States. Nanning argues that, because it only used self-produced cyanuric acid in the subject merchandise destined for the United States, it is appropriate that Nanning only reported its consumption of materials used to self-produce cyanuric acid. Nanning contends that since it did not incorporate purchased cyanuric acid into the TCCA granular destined for the United States, it did not report a consumption factor for its purchases of cyanuric acid.

Nanning states that, in the *Preliminary Results*, the Department used information provided by Nanning in its questionnaire responses to recalculate Nanning's reported consumption of inputs to account for both the self-produced and purchases cyanuric acid used in its production of TCCA granular during the POR. Nanning argues that under the circumstances of this case, where granular TCCA exported to the United States and subject to review was entirely produced by Nanning from self-produced cyanuric acid, the Department's failure to use only the FOPs that relate to the TCCA granular that Nanning exported to the United States was contrary to law and the Department's administrative precedent.

Petitioners counter that the Department should continue to value Nanning's purchased cyanuric acid in calculating normal value for Nanning's production of TCCA granular during the POR. Petitioners argue that the Department has a consistent practice of calculating normal value based

on total production of subject merchandise during the POR and rejects attempts to link production with specific sales. Petitioners contend that Nanning's citation of *Bulk Aspirin from the PRC – 05/25/2000* is unavailing because *Bulk Aspirin from the PRC – 05/25/2000* involved different FOPs used to produce subject and non-subject merchandise. Petitioners assert that, in this review, however, all of Nanning's TCCA granular production is subject merchandise.

Department's Position: It is the Department's practice to calculate normal value based on the total production of a particular product that is subject to review regardless of destination, producer, or production process employed.<sup>39</sup> If the Department only calculated normal value for a particular product subject to review based on destination, producer, or production process employed, the calculation could be subject to manipulation which is unrepresentative of the actual cost of producing all of the merchandise under review. This is made clear in the Department's questionnaire when we state that "the factors file should contain information relating to all of the merchandise produced in each facility that is of the same model or product type as the merchandise sold to the United States, including the portion of production of those models or product types not destined for the United States."<sup>40</sup> Additionally, we asked for this specific information in several supplemental questionnaires.<sup>41</sup> While Nanning did not provide the information in the format requested, we adjusted Nanning's reported FOPs to reflect its production of the product under review because we were able to do so without undue difficulty.

While Nanning cites section 773(c)(1) of the Act to support its assertion that the normal value of the subject merchandise shall be determined based on the value of FOPs utilized in producing the merchandise, our interpretation of the statute does not limit the calculation to only those materials used in the production of the merchandise destined for the United States, *i.e.*, the subject merchandise, but to the materials used in the production of all identical merchandise produced during the POR regardless of final destination. This interpretation reflects Department practice,<sup>42</sup> and the record supports the conclusion that Nanning was aware of this practice as all other inputs reported by Nanning include the total consumption amount for the product under review regardless of destination, in order to demonstrate average per-unit consumption for the POR. This same methodology should also be applied for Nanning's cyanuric acid input.

Nanning itself cited to several cases including *Indigo from the PRC – 09/12/2003* at Comment 2<sup>43</sup> and *Coumarin from the PRC – 12/28/1994* at 66896, where the Department blended self-produced factors and purchased factors for certain inputs to reflect the respondents' total production of in-scope merchandise. However, Nanning claims that this distinction is based on the fact that it was not established that the merchandise destined for the United States was manufactured solely from the self-produced inputs. This distinction was not made in these cases.

Additionally, we agree with Petitioners that Nanning's reliance on *Bulk Aspirin from the PRC – 05/25/2000* at Comment 11 is inappropriate because that case involved different factors to

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<sup>39</sup> See *Indigo from the PRC – 09/12/2003* at Comment 2 and *Coumarin from the PRC – 12/28/1994* at 66986.

<sup>40</sup> See *Original Questionnaire Section D.* at D-5.

<sup>41</sup> See Nanning's Nov 28, 2007 supplemental at question 26, Nanning's Dec 21, 2007 supplemental questionnaire at section D, and Nanning's Feb 12, 2008 supplemental questionnaire at section D.

<sup>42</sup> See, *e.g.*, *Indigo from the PRC – 09/12/2003* at Comment 2 and *China Processed Food* at 1349.

<sup>43</sup> Nanning cited *Certain Preserved Mushrooms from China*, 68 FR 53711 (September 12, 2003); however, that cite is actually a reference to *Indigo from the PRC – 09/12/2003*.

produce different products. Finally, Nanning's reliance on *Saccharin from the PRC – 09/11/2007* is misplaced as this issue was not addressed in that review. Therefore, for the final results, we have continued to include Nanning's purchases of cyanuric acid in the normal value calculation of its production of chlorinated isocyanurates.

## RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this review and the final weighted-average dumping margins in the *Federal Register*.

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Agree

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Disagree

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David M. Spooner  
Assistant Secretary  
for Import Administration

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Date