

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-570-898]

**Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on chlorinated isocyanurates (chlorinated isos) from the People's Republic of China (PRC). The period of review (POR) for this administrative review is June 1, 2010, through May 31, 2011. This administrative review covers four producers/exporters of the subject merchandise: Hebei Jiheng Chemical Co., Ltd. (Hebei Jiheng) and Hebei Jiheng Baikang Chemical Industry Co., Ltd. (Baikang) (collectively, Jiheng); Juancheng Kangtai Chemical Co., Ltd. (Juancheng Kangtai) and Juancheng Ouya Chemical Co., Ltd. (Ouya) (collectively, Kangtai); Nanning Chemical Industry Co., Ltd. (Nanning); and Zhucheng Taisheng Chemical Co., Ltd. (Zhucheng). Jiheng and Kangtai are the two producers/exporters being individually examined as mandatory respondents. We preliminarily determine that Jiheng made sales in the United States at prices below normal value (NV) and that Kangtai did not make sales in the United States at prices below NV. With respect to the two remaining respondents in this administrative review, we preliminarily determine that Nanning and Zhucheng have demonstrated that they are eligible for a separate rate, and the rate assigned to these companies is discussed below, in the "Margin for Separate-Rate Companies" section. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*. We invite interested parties to comment on these preliminary results.

**DATES:** *Effective Date:* July 16, 2012.

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**SUPPLEMENTARY INFORMATION:****Background**

On July 28, 2011, the Department initiated the administrative review of the antidumping duty order on chlorinated isos from the PRC covering the period June 1, 2010, through May 31, 2011.<sup>1</sup> Between September 26 and October 3, 2011, Jiheng, Kangtai, Nanning, and Zhucheng each submitted either a separate rate application or certification, as appropriate. Due to the large number of requests received, the Department limited the number of mandatory respondents selected for this review to the two largest exporters/producers, based on export volume as reported to CBP, for which a review was requested—Jiheng and Kangtai.<sup>2</sup>

On October 6, 2011, the Department issued its AD questionnaire to the two mandatory respondents, Jiheng and Kangtai, to which both respondents responded in a timely manner. On November 3, 2011, Clearon Corporation and Occidental Chemical Corporation (Petitioners) requested that the Department conduct a verification of Jiheng and Kangtai. On December 16, 2011, Petitioners submitted deficiency comments regarding Kangtai's section A questionnaire response, and on January 9, 2012, submitted deficiency comments regarding Kangtai's section C and D questionnaire responses and Jiheng's section A, C and D questionnaire responses.

On February 1, 2012, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review from March 1, 2012, until June 29, 2012.<sup>3</sup> The Department issued supplemental questionnaires to Jiheng and Kangtai on February 24, 2012, and February 28, 2012, respectively, and both respondents submitted responses in a timely manner. On May 3, 2012, and May 11, 2012, the Department issued an additional supplemental questionnaire

to Jiheng and Kangtai, respectively, to which both companies responded in a timely manner.

**Scope of the Order**

The products covered by the order are chlorinated isocyanurates, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) Trichloroisocyanuric acid (Cl<sub>3</sub>(NCO)<sub>3</sub>), (2) sodium dichloroisocyanurate (dihydrate) (NaCl<sub>2</sub>(NCO)<sub>3</sub>(2H<sub>2</sub>O)), and (3) sodium dichloroisocyanurate (anhydrous) (NaCl<sub>2</sub>(NCO)<sub>3</sub>). 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.

**Respondent Selection**

In accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act), the Department selected the two largest exporters (by quantity) of chlorinated isos from the PRC (*i.e.*, Jiheng and Kangtai) based on the CBP data for entries of subject merchandise during the POR as the mandatory respondents in this review.<sup>4</sup>

**Affiliation and Single Entity Treatment**

The Department is preliminarily determining that Hebei Jiheng and Baikang are affiliated parties, and Juancheng Kangtai and Ouya are affiliated parties within the meaning of section 771(33) of the Act. The evidence placed on the record of this review by Jiheng demonstrates that Hebei Jiheng owns five percent or more of the voting shares in Baikang, and that these parties are therefore affiliated under section 771(33)(E) of the Act.<sup>5</sup> The Department

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocations in Part and Deferral of Administrative Reviews*, 76 FR 45227 (July 28, 2011) (*Initiation Notice*).

<sup>2</sup> See Memorandum titled "Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Respondent Selection," dated October 6, 2011 (Respondent Selection Memorandum).

<sup>3</sup> See *Chlorinated Isocyanurates From the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 77 FR 4992 (February 1, 2012).

<sup>4</sup> See Respondent Selection Memorandum.

<sup>5</sup> See Memorandum titled "2010-2011 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Affiliation of Hebei Jiheng Chemical Company, Ltd. (Jiheng) and Hebei

has previously determined that Juancheng Kangtai and Ouya are affiliated because their owners are members of a family (siblings) and are affiliated under section 771(33)(A) of the Act.<sup>6</sup> Based on our examination of the evidence presented in Kangtai's questionnaire responses in this instant review, we have determined that the underlying facts of this case have not changed since the Department last reviewed Kangtai.

The Department preliminarily determines that Hebei Jiheng and Baikang should be treated as a single entity (*i.e.*, Jiheng) for purposes of calculating an AD margin pursuant to 19 CFR 351.401(f).<sup>7</sup> Hebei Jiheng and Baikang produce identical merchandise and have similar production facilities used to produce the subject merchandise.<sup>8</sup> Additionally, the level of affiliation between Hebei Jiheng and Baikang (*i.e.*, Baikang is wholly-owned by Hebei Jiheng) demonstrates that there is a significant potential for manipulation of price or production.<sup>9</sup> During the POR, all of the subject merchandise under review produced by Baikang was sold to Hebei Jiheng for re-sale in the home market, U.S. market and third country markets.

The Department previously determined that Juancheng Kangtai and Ouya should be treated as a single entity.<sup>10</sup> After examining the evidence placed on the record of this review by Kangtai, the Department determines that this instant review has the same fact pattern as the record of Kangtai's previous review. Specifically, the Department continues to find that both companies produce subject merchandise and therefore have similar production facilities that would not require substantial retooling in order to restructure manufacturing priorities.<sup>11</sup> Additionally, as noted above, all owners

of Juancheng Kangtai and Ouya continue to be affiliated, and, as owners and holders of managerial positions of both companies, have complete control and are in a position to exercise restraint or direction over Juancheng Kangtai and Ouya.<sup>12</sup> Therefore, the Department preliminarily determines that Juancheng Kangtai and Ouya should be treated as a single entity (*i.e.*, Kangtai) for purposes of calculating an AD margin pursuant to 19 CFR 351.401(f).

### Non-Market Economy Country

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (NME) country.<sup>13</sup> Moreover, the Department's most recent examination of the PRC's NME status determined that such status should continue.<sup>14</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. The Department has not revoked the PRC's status as an NME country, and thus we have treated the PRC as an NME in these preliminary results and calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it, in most instances, to base NV on the NME producer's factors of production (FOPs). The Act further instructs that valuation of the FOPs shall be based on the best available information in the surrogate market economy (ME) country or countries considered to be appropriate by the Department.<sup>15</sup> When valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) At a level of economic development comparable to that of the

NME country; and (2) significant producers of comparable merchandise.<sup>16</sup> The sources of the surrogate factor values are discussed under the "Normal Value" section, below, and in the Preliminary Surrogate Value Memorandum,<sup>17</sup> which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit, main Commerce Building, Room 7046.

In examining which country to select as its primary surrogate for this proceeding, the Department determined that Colombia, Indonesia, the Philippines, South Africa, Thailand and Ukraine are countries comparable to the PRC in terms of economic development.<sup>18</sup> Once we have identified the countries that are economically comparable to the PRC, we select an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether the data for valuing FOPs are both available and reliable.

Petitioners, in their December 19, 2011 comments on surrogate country selection, recommended that the Department select South Africa as the primary surrogate country, as South Africa is economically comparable to the PRC, is a significant producer of calcium hypochlorite, a comparable product identified in previous segments, and is likely to have reliable surrogate value data for most or all of the key FOPs. Petitioners also noted that Thailand may be a significant producer of other hypochlorites. Arch Chemicals, Inc., an interested party in this review, in its December 19, 2011 comments on surrogate country selection, states the Department should expand its definition of comparable merchandise to include sodium hypochlorite as there are financial statements for a sodium hypochlorite producer in the Philippines, and there are likely to be financial statements from sodium hypochlorite producers in Thailand as well. Also on December 19, 2011, Kangtai suggested using either the

Jiheng Baikang Chemical Industry Co., Ltd. (Baikang)," dated June 29, 2012 (Jiheng Affiliation Memorandum).

<sup>6</sup> See *Chlorinated Isocyanurates From the People's Republic of China: Final Results of June 2008 Through November 2008 Semi-Annual New Shipper Review*, 74 FR 68575 (December 28, 2009) (Kangtai Final Results).

<sup>7</sup> See Memorandum titled "2010–2011 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Affiliation of Hebei Jiheng Chemical Company, Ltd. (Jiheng) and Hebei Jiheng Baikang Chemical Industry Co., Ltd. (Baikang)" dated June 29, 2012.

<sup>8</sup> See Jiheng's November 29, 2011 section D response at D–6.

<sup>9</sup> See Jiheng's May 11, 2012 supplemental questionnaire response; see also Jiheng Affiliation Memorandum.

<sup>10</sup> See *Kangtai Final Results* and accompanying Issues and Decision Memorandum at Comment 3.

<sup>11</sup> See Kangtai's November 10, 2011 section A submission at 11.

<sup>12</sup> See Kangtai's November 10, 2011 section A submission at exhibit A–6.

<sup>13</sup> See, e.g., *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 9591, 9593 (March 5, 2009), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009).

<sup>14</sup> See Memorandum titled "Antidumping Duty Investigation of Certain Lined Paper Products from the People's Republic of China (China): China's Status as a Non-Market Economy ("NME")," dated August 30, 2006 (on file in the Department's Central Records Unit on the record of case number A–570–901).

<sup>15</sup> See section 773(c)(1) of the Act.

<sup>16</sup> See section 773(c)(4) of the Act.

<sup>17</sup> See Memorandum titled "2010–2011 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results Surrogate Value Memorandum," dated June 29, 2012 (Preliminary Surrogate Value Memorandum).

<sup>18</sup> See Memorandum titled "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates ("CLI") from the People's Republic of China ("China")," dated September 9, 2011 (Surrogate Country Memorandum).

Philippines or Thailand as a surrogate country, since chloro alkali industries appear to be active in either country. Additionally, Petitioners, Jiheng and Kangtai each put data on the record of this proceeding to value FOPs from South Africa, the Philippines and Thailand on January 9, 2012, and provided rebuttal surrogate country comments on January 17, 2012.

#### *Economic Comparability*

As explained in the Surrogate Country Memorandum, the Department considers Colombia, Indonesia, the Philippines, South Africa, Thailand and Ukraine equally comparable to the PRC in terms of economic development. Therefore, we consider all six countries as having satisfied this prong of the surrogate country selection criteria. Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data or are unsuitable for other reasons, we rely on data from one of these countries.

#### *Significant Producers of Identical or Comparable Merchandise*

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as Policy Bulletin 04.1 for guidance on defining comparable merchandise.<sup>19</sup> Policy Bulletin 04.1 states that "the terms 'comparable level of economic development,' 'comparable merchandise,' and 'significant producer' are not defined in the statute."<sup>20</sup> Policy Bulletin 04.1 further states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."<sup>21</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>22</sup> Further, when

selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.<sup>23</sup> "In cases where the identical merchandise is not produced, the Department must determine if other merchandise that is comparable is produced."<sup>24</sup>

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.<sup>25</sup> The legislative history also states that "the term 'significant producer' includes any country that is a significant net exporter and, if appropriate, Commerce may use a significant, net exporting country in valuing factors,"<sup>26</sup> and it does not preclude reliance on additional or alternative metrics. The record developed to date for these preliminary results of review does not contain information with respect to production volumes of identical or comparable merchandise in the potential surrogate countries. Therefore, in evaluating which countries on the list may be significant producers of identical or comparable merchandise, the Department examined data for the POR from the Global Trade Atlas (GTA) for HTSUS 2933.69, the primary HTSUS number included in the scope of the order. An evaluation of the GTA data indicates that none of the countries listed in the Surrogate Country Memorandum were likely producers of identical merchandise.<sup>27</sup> Next, the Department examined whether the surrogate countries on the list were significant producers of comparable merchandise as provided by section 773(c)(4)(B) of the Act. In the investigation of chlorinated isos, the Department found that calcium hypochlorite was comparable to the subject merchandise because it has "similar physical characteristics, end

leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." *Id.* at note 6.

<sup>23</sup> See *Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 65674 (December 15, 1997) and accompanying Issues and Decision Memorandum at Comment 1 (to 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).

<sup>24</sup> See Policy Bulletin 04.1, at 2.

<sup>25</sup> See section 773(c) of the Act and *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

<sup>26</sup> See Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Conf. Rep. No. 576, 100 Cong., 2d Sess. (1988), reprinted in Cong. Rec. H2032 (Daily Ed. April 20, 1988).

<sup>27</sup> See Preliminary Surrogate Value Memorandum.

uses, and production processes."<sup>28</sup> Because, as mentioned above, the record contains no production data for calcium hypochlorite in any of the possible surrogate countries, the Department turned to the GTA export data under HTS 2828.10, for calcium hypochlorite. South Africa was, by far, the largest exporter of calcium hypochlorite among the countries listed in the Surrogate Country Memorandum. The remaining countries on the list have less than 200,000 kilograms and most have less than 100,000 kilograms while South Africa has 3.8 million kilograms. Therefore, the Department is selecting South Africa as the primary surrogate country. The Department will continue to evaluate any additional evidence timely placed on the record that other countries on the surrogate country list produce identical or comparable merchandise, and whether there are other types of merchandise produced in the surrogate countries on the list that could be considered comparable to chlorinated isos.

#### *Data Availability*

When evaluating surrogate value data, the Department considers several factors including whether the surrogate value is publicly available, contemporaneous with the POR, from an approved surrogate country, tax and duty-exclusive, and specific to the input, and represents a broad market average. There is no hierarchy among these criteria; it is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.<sup>29</sup> The record of this review does contain data for South Africa and Thailand, as well as some data for the Philippines. As noted above, because South Africa is a significant producer of comparable merchandise, and because there is data on the record from South Africa to value FOPs, we have preliminarily determined for purposes of these preliminary results that South Africa is the most appropriate surrogate country to use in this review, and, accordingly, have calculated NV using South African prices to value the respondents' FOPs, when available and appropriate (see discussion below regarding why certain data from South Africa would likely provide inaccurate surrogate values for some FOPs).<sup>30</sup> We

<sup>28</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>29</sup> See Policy Bulletin 04.1.

<sup>30</sup> See Preliminary Surrogate Value Memorandum.

<sup>19</sup> See the Department's Policy Bulletin No. 04.1, "Non-Market Economy Surrogate Country Selection Process," (March 1, 2004) (Policy Bulletin 04.1), available on the Department's Web site at <http://ia.ita.doc.gov/policy/bull04-1.html>.

<sup>20</sup> See Policy Bulletin 04.1.

<sup>21</sup> *Id.*

<sup>22</sup> Policy Bulletin 04.1 also states that "if considering a producer of identical merchandise

have obtained and relied upon publicly available information wherever possible.

The Surrogate Country Memorandum further explains that the list of countries it provides is a “non-exhaustive” list of potential surrogate countries. Furthermore, it states that

You may also consider other countries on the case record if the record provides you adequate information to evaluate them. You may be unable to obtain the necessary factor price information in a suitable surrogate country. If that is the case, you will have to rely on the price of comparable merchandise that is produced in a surrogate country and sold in other countries, including the United States.

Since acceptable data sources for certain inputs have not been placed on the record from any of the countries provided in the Surrogate Country Memorandum, for a limited number of FOPs, the Department must rely on alternative countries as sources of surrogate data.<sup>31</sup> In this review, the only alternative data on the record for these FOPs is from India. These data were placed on the record by interested parties or were obtained from the record of the previous review in these proceedings. Even though India is not on the list of possible surrogate countries provided in the Surrogate Country Memorandum, India is a significant producer of comparable merchandise that has the data needed to calculate certain surrogate values.<sup>32</sup> Accordingly, where data from South Africa was not available, Indian data was used.

Indian data was used in the following circumstances. First, there are no acceptable financial statements from any of the potential surrogate countries on the record of this review for identical or comparable merchandise. Petitioner submitted a contemporaneous financial statement from an Indian company that the Department has previously used to calculate financial ratios. Therefore, based on the record of this review and the guidance provided in the Surrogate Country Memorandum,<sup>33</sup> the Department is using financial statements from an Indian company to

calculate the financial ratios. There are also several chemical inputs that are valued using specific concentration levels that cannot be obtained from GTA data for South Africa.<sup>34</sup> Petitioners did place on the record data by concentration level for one input, sulfuric acid, from a South African chemical producer on the record, but because no information has been placed on the record of this review to value the remaining inputs using specific concentration levels, the Department is selecting data from the Indian publication, *Chemical Weekly*, used in the previous review of this order.<sup>35</sup> The Department has previously determined that several inputs are not frequently traded internationally and face special concerns both in transporting and in packaging, such that GTA data cannot be used.<sup>36</sup> The Department is therefore using data from Indian financial statements placed on the record of the previous review to value these specific inputs, as no data was placed on the record from any country listed in the Surrogate Country Memorandum. Finally, South Africa does not have labor rates from Chapter 6A: Labor Cost in Manufacturing, of the International Labor Organization (ILO) Yearbook of Labor Statistics (Yearbook), which the Department has determined to be the best source of data when valuing the labor input. India does have labor rates from Chapter 6A, so we are using Indian data to value labor as well. As explained below under “Factor Valuations,” the Department has inflated non-contemporaneous data to the POR.

In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly available information to value FOPs until 20 days after the date of publication of these preliminary results.<sup>37</sup>

<sup>34</sup> See Memorandum titled “Preliminary Results of the 2009–2010 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People’s Republic of China: Surrogate Value Memorandum,” dated June 30, 2011 (2009–2010 Surrogate Value Memorandum).

<sup>35</sup> See Preliminary Surrogate Value Memorandum. See also 2009–2010 Surrogate Value Memorandum.

<sup>36</sup> See 2009–2010 Surrogate Value Memorandum.

<sup>37</sup> In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See, e.g., *Glycine from the People’s Republic of China*:

## Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single AD rate. It is the Department’s policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the *Initiation Notice*, the Department notified parties of the process by which exporters and producers may obtain separate rate status. This process requires exporters and producers wishing to qualify for separate rate status in this administrative review to complete, as appropriate, either a separate rate application or certification.<sup>38</sup> In particular, companies for which a review was requested, and which were assigned a separate rate in the most recent segment of the same proceeding in which they participated, need to certify that they continue to meet the criteria for obtaining a separate rate.<sup>39</sup> For companies that have not previously been assigned a separate rate, the companies must submit a separate rate application demonstrating eligibility for a separate rate.

Kangtai and Nanning were assigned a separate rate in the most recent segment of this proceeding in which they participated,<sup>40</sup> and they timely certified in this administrative review that they continue to meet the criteria for obtaining a separate rate. In addition, Jiheng and Zhucheng timely filed separate rate applications.<sup>41</sup>

In order to establish independence from the NME entity, exporters must demonstrate the absence of both *de jure* and *de facto* government control over export activities. The Department

*Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>38</sup> See *Initiation Notice*, 75 FR at 44224.

<sup>39</sup> See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People’s Republic of China: Final Results of 2005–2006 Administrative Review and Partial Rescission of Review*, 72 FR 56724 and accompanying Issues and Decision Memorandum at Comment 2; upheld by *Peer Bearing Company—Changshan v. United States*, 587 F. Supp. 2d 1319, 1324–25 (CIT 2008).

<sup>40</sup> See *Kangtai Final Results and 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).

<sup>41</sup> See Jiheng’s September 26, 2011 submission, Nanning’s September 26, 2011 submission, Zhucheng’s September 6, 2011 and October 3, 2011 submission, and Kangtai’s October 3, 2011 submission.

<sup>31</sup> Section 773(c)(4)(A) of the Act states that the Department shall value FOPs using prices in a country economically comparable to the NME country “to the extent possible.” As stated in the Department’s Policy Bulletin 04.1, “Non-Market Economy Surrogate Country Selection Process,” “Limited data availability sometimes is the reason why the team will “go off” the OP list in search of a viable primary surrogate country.”

<sup>32</sup> See Preliminary Surrogate Value Memorandum.

<sup>33</sup> See Policy Bulletin 04.1, which states that the Department “may also consider other countries on the case record if the record provides you adequate information to evaluate them.”

analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as further developed in *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*). However, if the Department determines that a company is wholly foreign-owned or located in an ME country, then a separate rate analysis is not necessary to determine whether it is independent from government control.

#### Separate Rate Analysis

Jiheng, Kangtai, Nanning and Zhucheng stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies. Thus, the Department has analyzed whether each of these companies has demonstrated the absence of *de jure* and *de facto* governmental control over their respective export activities.

##### a. Absence of *de Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.<sup>42</sup>

The evidence Jiheng, Kangtai, Nanning and Zhucheng provided in their separate rate certifications and separate rate applications 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 PRC companies.

##### b. Absence of *de Facto* Control

Typically, the Department 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.<sup>43</sup> The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The evidence Kangtai and Nanning provided in their separate rate certifications, and the evidence Jiheng and Zhucheng provided in their separate rate applications, 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 Jiheng, Kangtai, Nanning and Zhucheng maintain autonomy from the government in making decisions regarding the selection of management; and (4) a showing that Jiheng, Kangtai, Nanning and Zhucheng retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

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

#### Margin for Separate-Rate Companies

As discussed above, the Department received timely and complete separate rate applications or certifications from Jiheng, Kangtai, Nanning and Zhucheng, all of which were exporters of chlorinated isos from the PRC during the POR. Nanning and Zhucheng were not selected to be individually examined respondents in this review. Through the evidence in their respective separate rate applications or certifications, these companies have demonstrated their eligibility for a separate rate. The statute and the Department's regulations do not address

the establishment of a rate to be applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not examine in an administrative review. For the exporters subject to a review that were determined to be eligible for separate rate status, but were not selected as mandatory respondents, the Department generally weight-averages the rates calculated for the mandatory respondents, excluding any rates that are zero, *de minimis*, or based entirely on facts available.<sup>44</sup> For one of the mandatory respondents, Kangtai, we have calculated a rate of zero for these preliminary results of review. Therefore, the Department is assigning to the separate rate companies the only rate calculated in this review that is not zero, *de minimis*, or based entirely on facts available. Accordingly, we are assigning to the separate rate companies the rate calculated for Jiheng.<sup>45</sup>

#### Date of Sale

We preliminarily determine that the invoice date is the most appropriate date to use as the date of sale for both respondents in accordance with 19 CFR 351.401(i). In this regard, no interested parties provided evidence indicating that the material terms of sale were established on another date. Instead, according to the respondents' questionnaire responses, the material terms of the sale are fixed at invoice date. Thus, the Department finds that the invoice date is the date of sale. Evidence on the record also demonstrates that, with respect to Jiheng's sales to the United States, for some sales the shipment date occurs prior to the invoice date.<sup>46</sup> In such

<sup>44</sup> See, e.g., *Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review*, 73 FR 8273, 8279 (February 13, 2008) (unchanged in *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 73 FR 49162 (August 20, 2008)).

<sup>45</sup> See Memorandum titled "Preliminary Results Surrogate Value Memorandum," dated June 29, 2012. See also *Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011).

<sup>46</sup> See Jiheng's November 29, 2011 questionnaire response at 13.

<sup>42</sup> See *Sparklers*, 56 FR at 20589.

<sup>43</sup> See *Silicon Carbide*, 59 FR at 22586–87; see also *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).

cases, we limit the date of sale to no later than shipment date.<sup>47</sup>

### Fair Value Comparisons

To determine whether sales of chlorinated isos to the United States by Jiheng and Kangtai were made at less than NV, we compared export price (EP) to NV, as described in the “Export Price” and “Normal Value” sections of this notice, pursuant to section 771(35) of the Act.<sup>48</sup>

### Export Price

Jiheng and Kangtai sold the subject merchandise directly to unaffiliated purchasers in the United States prior to importation into the United States. Therefore, we have used EP in accordance with section 772(a) of the Act because the use of the constructed export price methodology is not otherwise indicated. We calculated EP based on the price, including the appropriate shipping terms, to the first unaffiliated purchasers reported by Jiheng and Kangtai. To this price, we added amounts for components that were supplied free of charge (Jiheng and Kangtai) or for which the respondent was separately reimbursed by the customer (Jiheng), where applicable, pursuant to section 772(c)(1)(A) of the Act and consistent with our treatment of Jiheng’s sales in prior reviews.<sup>49</sup> For free raw materials and packing materials, we added the surrogate values for these materials, multiplied by the reported FOPs for these items, to the U.S. price paid by Jiheng’s or Kangtai’s customer.<sup>50</sup>

<sup>47</sup> See, e.g., *Narrow Woven Ribbons with Woven Selvage from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 7244, 7251 (February 18, 2010), unchanged in *Narrow Woven Ribbons With Woven Selvage From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 41808 (July 19, 2010).

<sup>48</sup> In these preliminary results, the Department 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 Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*). In particular, the Department compared monthly weighted-average export prices with monthly weighted-average normal values and granted offsets for non-dumped comparisons in the calculation of the weighted average dumping margin.

<sup>49</sup> See Memoranda titled “Analysis for the Preliminary Results of the 2010–2011 Administrative Review of Chlorinated Isocyanurates from the People’s Republic of China: Hebei Jiheng Chemical Company Ltd.,” and “Analysis for the Preliminary Results of the 2010–2011 Administrative Review of Chlorinated Isocyanurates from the People’s Republic of China: Juancheng Kangtai Chemical Co., Ltd.” (Kangtai Preliminary Analysis Memorandum) dated June 29, 2012.

<sup>50</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical*

The reimbursed raw materials were always listed separately on sales invoices, and were not included in the U.S. prices reported by Jiheng.<sup>51</sup> Since these reimbursed items were raw materials, we added the amount paid by the U.S. customer for these materials to the U.S. price.

### Normal Value

Section 773(c)(1) of the Act provides that, in an NME proceeding, the Department 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.

The Department 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 the Department’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). The FOPs include: (1) Hours of labor required; (2) quantities of raw materials consumed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used the FOPs reported by the respondent for materials, energy, labor, by-products, and packing. These reported FOPs included FOPs for various materials provided free of charge or reimbursed by the customer as discussed in the “Export Price” section, above.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value the FOPs, but when a producer sources an input from an ME country and pays for this input in an ME currency, the Department may value the factor using the actual price paid for this input.<sup>52</sup> Jiheng and Kangtai both reported that they did not purchase any inputs from ME suppliers for the production of the subject merchandise.<sup>53</sup>

*Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China*, 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum at Comment 17.

<sup>51</sup> See Jiheng’s November 29, 2011 questionnaire response at 20.

<sup>52</sup> See 19 CFR 351.408(c)(1); see also *Shakeproof Assembly Components, Div. of Illinois Tool Works, Inc. v. United States*, 268 F.3d 1376, 1382–1383 (Fed. Cir. 2001) (affirming the Department’s use of market-based prices to value certain FOPs).

<sup>53</sup> See Jiheng’s November 29, 2011 Section D response at D–12 and Kangtai’s November 28, 2011 Section D response at 7.

With regard to the South African import-based surrogate values, we have disregarded prices that we have reason to believe or suspect may be subsidized, such as those imports from India, Indonesia, South Korea, and Thailand. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.<sup>54</sup> We are also guided by the statute’s legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized.<sup>55</sup> Rather, the Department bases its decision on information that is available to it at the time it is making its determination. Therefore, we have not used prices from these countries in calculating the South African import-based surrogate values. Additionally, we disregarded prices from NME countries.<sup>56</sup> Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.

### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Jiheng and Kangtai for the POR. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available South African surrogate values (except as noted below). In selecting the surrogate values, 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 surrogate values a

<sup>54</sup> See, e.g., *Frontseating Service Valves from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, and Postponement of Final Determination*, 73 FR 62952, 62957 (October 22, 2008), unchanged in *Frontseating Service Valves From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 74 FR 10886 (March 13, 2009); and *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334, 1339 (CIT 2003), affirmed 104 Fed. Appx. 183 (Fed. Cir. 2004).

<sup>55</sup> See H.R. Rep. No. 100–576 (1988), at 590.

<sup>56</sup> The list of excluded NME countries includes: Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, the PRC, Tajikistan, Turkmenistan, Uzbekistan, and Vietnam.

surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997).<sup>57</sup>

Except as noted below, we valued raw material inputs using the weighted-average unit import values as reported by the South African Revenue Service in GTA.<sup>58</sup> Where we could not obtain publicly available information contemporaneous with the POR with which to value FOPs, we adjusted the surrogate values using, where appropriate, the South African Consumer Price Index as published in the *International Financial Statistics* of the International Monetary Fund,<sup>59</sup> or the Indian Wholesale Price Indexes as published by the Office of the Economic Advisor to the Government of India.<sup>60</sup> We further adjusted these prices to account for freight expenses incurred between the input supplier and respondent.

To value calcium chloride, barium chloride, zinc sulfate, we used *Chemical Weekly* data because South African import data by concentration level was unavailable in the GTA. We adjusted these values for taxes and to account for freight expenses incurred between the supplier and the respondent. We inflated the data to make it contemporaneous with the POR.<sup>61</sup>

To value sulfuric acid, the Department used a price list placed on the record by Petitioners for a South African chemical company called Norceline Chemicals Suppliers. The prices for sulfuric acid are for one specific concentration level, packaged two different ways. The Department took an average of the price, and, because the data is contemporaneous with the POR, we did not inflate the value.

As noted above, Jiheng and Kangtai reported that a U.S. customer provided certain raw materials and packing materials free of charge. Raw materials and 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 Jiheng's and Kangtai's products that included raw materials and packing materials provided free of charge, consistent with the Department's practice and section 773(c)(1)(B) of the Act, we used the built-up cost (*i.e.*, the surrogate value for these raw materials and packing materials multiplied by the reported FOPs for these items) in the NV calculation.<sup>62</sup> We also added the built-up costs for the raw materials for which Jiheng was reimbursed by a U.S. customer to NV. Where applicable, we also adjusted these values to account for freight expenses incurred between the nearest port of entry and Jiheng's plants.<sup>63</sup>

Because water was used by the respondents in the production of chlorinated isos, the Department considers water to be a direct material input rather than part of overhead. We valued water using data from the city of Johannesburg's "Amendment of Tariff Charges for Water for Water Services," Annexure "A", with tariffs effective July 1, 2010. We did not inflate this rate since it is contemporaneous with the POR.<sup>64</sup>

For packing materials, we used the per-kilogram values obtained from the GTA and made adjustments to account for freight expense incurred between the PRC supplier and the respondents' plants.<sup>65</sup>

Jiheng reported chlorine, hydrogen gas, ammonia gas, and sulfuric acid as by-products in the production of subject merchandise. We find in this administrative review that Jiheng has appropriately explained how by-products are produced during the manufacture of chlorinated isos and has appropriately supported its claim that a by-product offset to NV should be granted. We valued ammonia gas and sulfuric acid using GTA and Norceline Chemicals Suppliers price list data, respectively. The Department determined in the previous review that chlorine and hydrogen are rarely traded via ocean transport on an international basis, and used Indian financial statements to provide more representative values for chlorine and

hydrogen gas.<sup>66</sup> In the instant review, the Department is using data from financial statements placed on the record of the last review to value chlorine and hydrogen. Since this data is not contemporaneous with the POR, we inflated it using the wholesale price index from India.<sup>67</sup>

Kangtai reported ammonium sulfate as a by-product in the production of subject merchandise. However, the Department has found that ammonium sulfate is not a by-product of the chlorinated isos production process.<sup>68</sup> The production process does yield ammonia gas and sulfuric acid as by-products, which can be further produced to make ammonium sulfate. The Department adjusted Kangtai's reported ammonium sulfate by-product to calculate an ammonia gas and sulfuric acid by-product.<sup>69</sup> We valued the by-products using GTA and Norceline Chemicals Suppliers price list data.

For electricity, we used data from a South African electric public utility, Eskom. We used an average of the tariff rates for a "Megaflex" consumer, which is for time of use electricity for an urban consumer, able to shift load, with a maximum demand of greater than one megawatt ampere, which appears to be the tariff category that most closely matches the category our respondents would be classified in. These electricity rates represent publicly-available information on tax-exclusive electricity rates charged to industries in South Africa.<sup>70</sup>

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME AD proceedings.<sup>71</sup> In *Labor Methodologies*, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A of the Yearbook.

The Department valued labor in this review using the methodology described

<sup>66</sup> See *Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 40690 (July 11, 2011).

<sup>67</sup> See Preliminary Surrogate Value Memorandum.

<sup>68</sup> See *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 52645 (September 10, 2008) and accompanying Issues and Decision Memorandum at Comment 6.

<sup>69</sup> See Kangtai Preliminary Analysis Memorandum for details on these calculations.

<sup>70</sup> *Id.*

<sup>71</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (*Labor Methodologies*).

<sup>57</sup> For a detailed description of all surrogate values used for Jiheng and Kangtai, see Preliminary Surrogate Value Memorandum.

<sup>58</sup> Available at <http://www.gtis.com/gta/>.

<sup>59</sup> A wholesale price index was not available for Thailand.

<sup>60</sup> See Preliminary Surrogate Value Memorandum.

<sup>61</sup> *Id.*

<sup>62</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, and accompanying Issues and Decision Memorandum at Comment 17.

<sup>63</sup> See Preliminary Surrogate Value Memorandum.

<sup>64</sup> Available at: [http://www.boi.go.th/index.php?page=utility\\_costs](http://www.boi.go.th/index.php?page=utility_costs); see also Preliminary Surrogate Value Memorandum.

<sup>65</sup> See Preliminary Surrogate Value Memorandum.



in *Labor Methodologies*. Specifically, to value the respondents' labor, because South Africa does not report labor rates in Chapter 6A of the Yearbook, the Department relied on data reported by India to the ILO in Chapter 6A of the Yearbook. The Department further finds the two-digit description under ISIC-Revision 3 (Manufacture of Chemicals and Chemical Products) to be the best available information on the record because it is specific to the industry being examined, and is therefore derived from industries that produce comparable merchandise. This is the same classification used in the prior review of this case. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using labor data reported by India to the ILO under Sub-Classification 24 of the ISIC-Revision 3 standard, in accordance with section 773(c)(4) of the Act. Because these rates were in effect before the POR, we are adjusting the average value for inflation.<sup>72</sup>

As stated above, the Department used India ILO data reported under Chapter 6A of the Yearbook, which reflects all costs related to labor, including wages, benefits, housing, training, *etc.* Since the financial statements used to calculate the surrogate financial ratios include itemized detail of indirect labor costs, the Department made adjustments to the surrogate financial ratios.<sup>73</sup>

We valued truck freight using an average of truck freight costs as reported in a July 2008 working paper titled "Transport Prices and Costs in Africa: A Review of the Main International Corridors," published by the International Bank for Reconstruction and Development/World Bank and a short-haul freight contract for transportation services in South Africa from October 2011. Since both sources were dated outside the POR, we inflated or deflated them to reach a rate contemporaneous with the POR.<sup>74</sup>

### Financial Ratios

As discussed above, there are no financial statements from South Africa on the record of this review, and the Department could not find any financial statements from South African companies producing identical or comparable merchandise.<sup>75</sup> To calculate surrogate values for factory overhead, selling, general, and administrative

expenses (SG&A), and profit for these preliminary results, we used financial information from Kanoria Chemicals & Industries Limited (an Indian producer of comparable merchandise—stable bleaching powder) for the fiscal year ending March 31, 2011.<sup>76</sup> From this information, we were able to 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.<sup>77</sup>

### Currency Conversion

Where the factor valuations were reported in a currency other than U.S. dollars, in accordance with section 773A(a) of the Act, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

### Preliminary Results

We preliminarily determine that the following dumping margins exist:

Exporter	Weight-average margin percentage
Hebei Jiheng Chemical Co., Ltd. ....	82.29
Juancheng Kangtai Chemical Co., Ltd. ....	0.00
Nanning Chemical Industry Co., Ltd. ....	82.29
Zhucheng Taisheng Chemical Co., Ltd. ....	82.29

### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. If a respondent's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer specific (or customer-specific, if the importer is unknown) assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the importer's examined sales and the total entered value for those sales in accordance with 19 CFR 351.212(b)(1).<sup>78</sup>

Where an importer-specific (or customer-specific) *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.<sup>79</sup> For the companies receiving a separate rate that were not selected for individual review, we will assign an assessment rate based on the average of the weighted-average dumping margins we calculated for the mandatory respondents whose rate were not *de minimis*, as discussed above. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporter's listed above, the cash deposit rate will be the rate established in the final results of this review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be eligible for a separate rate, the cash deposit rate will be the PRC-wide rate of 285.63 percent;<sup>80</sup> and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### Disclosure and Public Comment

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice, in accordance with 19 CFR 351.224(b).

adopted in *Final Modification for Reviews*, *i.e.*, on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.

<sup>79</sup> See 19 CFR 351.106(c)(2).

<sup>80</sup> For an explanation on the derivation of the PRC-wide rate, see *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR at 24505.

<sup>72</sup> See Preliminary Surrogate Value Memorandum.

<sup>73</sup> See *Labor Methodologies* and Preliminary Surrogate Value Memorandum for details of adjustments.

<sup>74</sup> See Preliminary Surrogate Value Memorandum.

<sup>75</sup> See *id.*

<sup>76</sup> See Preliminary Surrogate Value Memorandum for a discussion on the selection of financial statements to value financial ratios.

<sup>77</sup> See Preliminary Surrogate Value Memorandum.

<sup>78</sup> In these preliminary results, the Department applied the assessment rate calculation method



Interested parties are invited to comment on the preliminary results. The schedule for filing case briefs will be provided to parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the time limit for filing the case briefs, as specified by 19 CFR 351.309(d). The Department requests that parties submitting case or rebuttal briefs provide an executive summary and a table of authorities as well as an electronic copy.

Any interested party may request a hearing within 30 days of publication of this notice, as provided by 19 CFR 351.310(c). Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

The Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act, unless otherwise extended.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 29, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2012-17314 Filed 7-13-12; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-983]

#### Drawn Stainless Steel Sinks From the People's Republic of China: Postponement of Preliminary Determination of Antidumping Duty Investigation

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* July 16, 2012.

**FOR FURTHER INFORMATION CONTACT:** Frances Veith or Eve Wang, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-4295 or (202) 482-6231, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Postponement of Preliminary Determination

On March 27, 2012, the Department of Commerce ("the Department") initiated an antidumping duty investigation on drawn stainless steel sinks from the People's Republic of China.<sup>1</sup> The notice of initiation stated that, unless postponed, the Department would issue its preliminary determination no later than 140 days after the date of issuance of the initiation, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended ("the Act"). The preliminary determination is currently due no later than August 8, 2012.

On June 29, 2012, Petitioner, Elkay Manufacturing Company, made a timely request, pursuant to 19 CFR 351.205(b)(2) and (e), for a 50-day postponement of the preliminary determination, in order to allow additional time for the Department to review respondents' sections C and D questionnaire submissions.<sup>2</sup> Because there are no compelling reasons to deny the request, in accordance with section 733(c)(1)(A) of the Act, the Department is postponing the deadline for the preliminary determination by 50 days.

An extension of 50 days from the current deadline of August 8, 2012, would result in a new deadline of

<sup>1</sup> See *Drawn Stainless Steel Sinks From the People's Republic of China: Initiation of Antidumping Duty Investigation*, 77 FR 18207 (March 27, 2012).

<sup>2</sup> See Petitioner's letter regarding, "Drawn Stainless Steel Sinks From The People's Republic of China: Request For Extension Of The Preliminary Determination And The Deadline To Submit Surrogate Country Comments And Surrogate Value Data," dated June 29, 2012.

September 27, 2012. The deadline for the final determination will continue to be 75 days after the date of the preliminary determination, unless extended.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: July 10, 2012.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 2012-17286 Filed 7-13-12; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XC073

#### Fishing Capacity Reduction Program for the Southeast Alaska Purse Seine Salmon Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of industry fee collection system effective date.

**SUMMARY:** NMFS issues this notice to establish the effective date of fees to repay the \$13,133,030 reduction loan to finance a fishing capacity reduction program in the Southeast Alaska purse seine salmon fishery. NMFS conducted a referendum to approve the reduction loan repayment fees of \$13,133,030 to remove 64 permits, which post-reduction harvesters will repay over a 40-year period. NMFS has tendered reduction payments to the selected bidders.

**DATES:** Fee payment collection will begin on July 22, 2012.

**ADDRESSES:** Send comments about this notice to Paul Marx, Chief, Financial Services Division, NMFS, Attn: SE Alaska Purse Seine Salmon Buyback, 1315 East-West Highway, Silver Spring, MD 20910 (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Michael A. Sturtevant at (301) 427-8799, fax (301) 713-1306, or [Michael.A.Sturtevant@noaa.gov](mailto:Michael.A.Sturtevant@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Southeast Alaska purse seine salmon fishery is a commercial fishery in Alaska State waters and adjacent Federal waters. It encompasses the commercial taking of salmon with purse