

Rescission of Review

Section 351.213(d)(1) of the Department's regulations provide that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws its request at a later date if the Department determines that it is reasonable to extend the time limit for withdrawing the request. Fiskars properly withdrew its request before the 90-day deadline. Therefore, we are rescinding this review of the antidumping duty order on HFHTs, with or without handles from the PRC covering the period February 1, 2008 through January 31, 2009.

Assessment

The Department intends to issue assessment instructions to the U.S. Customs and Border Protection ("CBP") 15 days after publication of this rescission notice. The Department will instruct CBP to assess antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

Notification to Parties

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 1, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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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 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, 2007, through May 31, 2008. This administrative review covers one producer/exporter of the subject merchandise, *i.e.*, Hebei Jiheng Chemical Co., Ltd. ("Jiheng").

We preliminarily determine that Jiheng made sales in the United States at prices below normal value ("NV"). 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.

EFFECTIVE DATE: June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats or Charles Riggle, 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) 482-5047 or (202) 482-0650, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On June 24, 2005, the Department published in the **Federal Register** the antidumping duty order on chlorinated isos from the PRC.¹ On June 9, 2008, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on chlorinated isos from the PRC for the period June 1, 2007, through May 31, 2008.² On June 30, 2008, in accordance

¹ See *Notice of Antidumping Duty Order: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 36561 (June 24, 2005).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity*

with 19 CFR 351.213(b)(2), Jiheng, a foreign producer/exporter of subject merchandise, requested that the Department review its sales of subject merchandise. On June 30, 2008, Clearon Corporation ("Clearon") and Occidental Chemical Corporation ("OxyChem"), Petitioners in the underlying investigation, requested that the Department conduct an administrative review of Jiheng's sales and entries during the POR.

On July 30, 2008, the Department initiated the administrative review of the antidumping duty order on chlorinated isos from the PRC covering the period June 1, 2007 through May 31, 2008.³ On September 5, 2008, the Department issued its antidumping duty questionnaire to Jiheng. On October 31, 2008, the Department requested that the Office of Policy provide a list of surrogate countries for this review which it did on November 3, 2008.⁴

On November 6, 2008, the Department issued a letter to interested parties seeking comments on surrogate country selection and surrogate values. On November 21, 2008, Jiheng submitted comments regarding the selection of a surrogate country. On December 1, 2008, Petitioners submitted publicly available information in order to value Jiheng's factors of production ("FOP"). On December 5, 2008, Jiheng submitted comments on Petitioners' December 1, 2008, surrogate value information. On May 5, 2009, Jiheng submitted additional surrogate value information from *Chemical Weekly* for certain chemicals used in its production of the subject merchandise.

On October 8, 2008, Jiheng submitted its section A questionnaire response ("AQR"). On October 23, 2008, Jiheng submitted its sections C and D questionnaire responses ("CQR and DQR", respectively). On October 29, 2008, Jiheng submitted its cost reconciliation. On November 5, 2008, Petitioners submitted comments on Jiheng's AQR, CQR, and DQR. On December 16, 2008, the Department issued a supplemental questionnaire to

to Request Administrative Review, 73 FR 32557 (June 9, 2008).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review* 73 FR 44220 (July 30, 2008) ("*Initiation Notice*").

⁴ See Memorandum regarding "Request for Surrogate-Country Selection: 2007-2008 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China" (October 31, 2008); see also Memorandum regarding "Antidumping Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Request for a List of Surrogate Countries" (November 3, 2008) ("*Surrogate Country List*").

Jiheng. On January 8, 2009, Jiheng submitted its supplemental questionnaire response (“1st SQR”).

On February 10, 2009, Petitioners submitted comments on Jiheng’s 1st SQR. On February 24, 2009, the Department issued a second supplemental questionnaire to Jiheng. On March 4, 2009, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until June 1, 2009.⁵ On March 18, 2009, Jiheng submitted its second supplemental questionnaire response (“2nd SQR”).

The Department verified the accuracy of Jiheng’s submissions in Hengshui, China from March 30, 2009, through April 3, 2009. On May 5, 2009, the Department requested that Jiheng submit a corrected U.S. sales database to include changes that Jiheng had reported as minor corrections prior to verification. On May 8, 2009, Jiheng submitted its revised U.S. sales database.

Scope of the Order

The products covered by this order are chlorinated isos, as described below:

Chlorinated isos are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) trichloroisocyanuric acid (Cl₃(NCO)₃), (2) sodium dichloroisocyanurate (dihydrate) (NaCl₂(NCO)₃(2H₂O), and (3) sodium dichloroisocyanurate (anhydrous) (NaCl₂(NCO)₃). Chlorinated isos are available in powder, granular, and tableted forms. This 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 this order is dispositive.

⁵ See *Chlorinated Isocyanurates from the People’s Republic of China: Extension of Time limit for Preliminary Results of Antidumping Duty Administration Review*, 74 FR 9385 (March 4, 2009).

Non-Market Economy Country

The Department has treated the PRC as a non-market economy (“NME”) country in all past antidumping duty investigations and administrative reviews and continues to do so in this case.⁶ No interested party in this case has argued that we should do otherwise. Designation as an NME country remains in effect until it is revoked by the Department. See section 771(18)(C)(i) of the Tariff Act of 1930, as amended (the “Act”).

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 FOPs. The Act further instructs that valuation of the FOPs shall be based on the best available information in the surrogate market economy country or countries considered to be appropriate by the Department. See section 773(c)(1) of the Act. When valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. See section 773(c)(4) of the Act. Further, the Department normally values all FOPs in a single surrogate country. See 19 CFR 351.408(c)(2). The sources of the surrogate factor values are discussed under the “Normal Value” section below and in the Surrogate Value Memorandum, which is on file in the Central Records Unit (“CRU”), Room 1117 of the main Department building.⁷

In examining which country to select as its primary surrogate for this proceeding, the Department first determined that India, Indonesia, the Philippines, Colombia and Thailand are countries comparable to the PRC in terms of economic development. See Surrogate Country List. On November 6, 2008, the Department issued a request for interested parties to submit comments on surrogate country selection. On November 21, 2008, Jiheng submitted comments regarding the

⁶ See, e.g., *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 52645 (September 10, 2008); and *Folding Metal Tables and Chairs from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 3560 (January 21, 2009).

⁷ See Memorandum regarding “Preliminary Results of the 2007-2008 Administrative Review of Chlorinated Isocyanurates from the People’s Republic of China: Surrogate Value Memorandum” (June 1, 2009) (“Surrogate Value Memorandum”).

selection of a surrogate country. On December 1, 2008, Petitioners submitted FOP surrogate value information that included several values obtained from India.

Jiheng argues that the Department should continue to use India as a surrogate country for this segment of the proceeding, as it has in previous segments, because India produces comparable merchandise and there are publicly available data with which to value the reported FOP information in this case. All parties which submitted surrogate value data submitted Indian sourced data for the majority of their data.

After evaluating interested parties’ comments, the Department determined that India is the appropriate surrogate country for use in this review. The Department based its decision on the following facts: (1) India is at a level of economic development comparable to that of the PRC; (2) India is a significant producer of comparable merchandise, i.e., calcium hypochlorite; and (3) India provides the best opportunity to use quality, publicly available data to value the FOPs. On the record of this review, we have usable surrogate financial data from India, but no such surrogate financial data from any other potential surrogate country. Additionally, a vast majority of the data submitted by both Jiheng and the Petitioners for our consideration as potential surrogate values is sourced from India.

Therefore, because India best represents the experience of producers of comparable merchandise operating in a surrogate country, we have selected India as the surrogate country and, accordingly, have calculated NV using Indian prices to value the respondents’ FOPs, when available and appropriate. See Surrogate Value Memorandum. We have obtained and relied upon publicly available information wherever possible.

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 the preliminary results.⁸

⁸ 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

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 antidumping duty 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. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of 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 a market economy country, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

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. See *Sparklers*, 56 FR at 20589.

The evidence provided by Jiheng supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies. See Jiheng's AQR at Exhibit A3.1–A3.3.

information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: 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.

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. 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). 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 placed on the record of this administrative review by Jiheng demonstrates an absence of *de facto* government control with respect to Jiheng's exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. See Jiheng's AQR at pages A–13 through A–19 and Jiheng's Verification Report dated May 11, 2009, at pages 7–8.

Date of Sale

Section 351.401(i) of the Department's regulations states that:

In identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.

Jiheng reported the shipment date as the date of sale because it claims that, for its U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the shipment date, and for many of its sales the shipment date occurs on or before the invoice date. Jiheng also stated that

selecting the shipment date as the date of sale insures a consistent methodology for selecting the date of sale with previous segments in which Jiheng has participated. We have preliminarily determined that the shipment date is the most appropriate date to use as Jiheng's date of sale in accordance with our long-standing practice of determining the date of sale as the date on which the final terms of sale are established.⁹ Evidence on the record demonstrates that sometimes the shipment date occurs prior to the invoice date¹⁰ and it is the Department's practice to use shipment date as the date of sale when the shipment date occurs prior to the invoice date.¹¹ Finally, we applied the shipment date as the sale date in the prior POR.¹²

Fair Value Comparisons

To determine whether sales of chlorinated isos to the United States by Jiheng 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.

Export Price

Jiheng 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 unaffiliated purchasers reported by Jiheng. To this price, we added amounts for components that were supplied free of charge or reimbursed by the

⁹ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; and *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

¹⁰ See Jiheng's CQR at page C-13.

¹¹ See, e.g., *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 68 FR 52741 (September 5, 2003), and accompanying Issues and Decision Memorandum at Comment 3.

¹² See *Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 24943 (May 6, 2008) (unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 52645 (September 10, 2008)).

customer, where applicable, pursuant to section 772(c)(1)(A) of the Act.¹³

Jiheng reported that its U.S. customer(s) provided it with certain raw materials and packing materials free of charge. For Jiheng's products that contained inputs provided free of charge by a customer,¹⁴ consistent with the Department's practice, we added to the U.S. price paid by the Jiheng's customer the built-up cost (*i.e.*, the surrogate value for these raw materials and packing materials multiplied by the reported FOPs for these items).¹⁵

Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, 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 will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our 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 employed; (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 various FOPs provided free of charge by a 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 a market-economy country and pays for it in market-economy currency, the

Department may value the factor using the actual price paid for the input.¹⁶ Jiheng reported that it did not purchase any inputs from market economy suppliers for the production of the subject merchandise. *See* Jiheng's DQR at page D-9.

With regard to the Indian import-based surrogate values, we have disregarded prices that we have reason to believe or suspect may be subsidized, such as those from 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.¹⁷ 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. *See* H.R. Rep. No. 100-576, at 590 (1988). Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. Therefore, we have not used prices from Indonesia, South Korea, and Thailand in calculating the Indian import-based surrogate values.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Jiheng for the POR. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to render them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the

factory. This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all surrogate values used for Jiheng, *see* the Surrogate Value Memorandum.

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the *Monthly Statistics of the Foreign Trade of India*, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India in the World Trade Atlas, available at <http://www.gtis.com/wta.htm> ("WTA"). 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 Indian Wholesale Price Index ("WPI") as published in the *International Financial Statistics* of the International Monetary Fund. *See* Surrogate Value Memorandum. We further adjusted these prices to account for freight costs incurred between the supplier and respondent.

To value truck freight, we used the freight rates published by www.infobanc.com, "The Great Indian Bazaar, Gateway to Overseas Markets." The logistics section of the website contains inland freight truck rates between many large Indian cities. The truck freight rates are for the period August 2008 through September 2008. Since these dates are not contemporaneous with the POR, we deflated the rates using Indian WPI. *See* Surrogate Value Memorandum.

We used the rail freight rates as used in the preceding administrative review published by www.indianrailways.com to value rail freight. Since the rail freight rates are not contemporaneous with the POR, we inflated the rail freight rates using Indian WPI. *See* the Surrogate Value Memorandum.

We valued calcium chloride, hydrochloric acid, barium chloride and sulfuric acid using *Chemical Weekly* because we did not have reliable Indian import statistics from the WTA for these factors. We adjusted these values for taxes and to account for freight costs incurred between the supplier and the respondent.

Jiheng reported that its U.S. customer(s) provided certain raw materials and packing materials free of charge. For Jiheng's products that included raw materials and packing materials provided free of charge by its customer, consistent with the Department's practice and section

¹³ *See* Memorandum regarding "Analysis for the Preliminary Results of the 2007-2008 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Company Ltd. (June 1, 2009).

¹⁴ Jiheng stated that its customer sourced materials from both market-economy and NME suppliers. Jiheng further stated that it does not know the names of the market-economy suppliers. *See* Jiheng's DQR at D-8.

¹⁵ *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum at Comment 17.

¹⁶ *See* 19 CFR 351.408(c)(1); *see also* *Shakeproof Assembly Components Div. of Ill 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).

¹⁷ *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 (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 (CIT 2003), affirmed 104 Fed. Appx. 183 (Fed. Cir. 2004).

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.¹⁸ Where applicable, we also adjusted these values to account for freight costs incurred between the port of exit and Jiheng's plants. *See* Surrogate Value Memorandum, and Jiheng's Preliminary Analysis Memorandum.

To value electricity, we used price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication entitled "Electricity Tariff & Duty and Average Rates of Electricity Supply in India," dated July 2006. These electricity rates represent actual country-wide, publicly-available information on tax-exclusive electricity rates charged to industries in India. *See* Surrogate Value Memorandum.

To value water, we used the revised Maharashtra Industrial Development Corporation ("MIDC") water rates available at <http://www.midcindia.com/water-supply>, which we deflated using Indian WPI. *See* Surrogate Value Memorandum.

To value steam coal, we used data obtained for categories B and C for coal reported in the 2007 Indian Bureau of Mines' Minerals Yearbook adjusted for inflation. *See* Surrogate Value Memorandum.

To value steam, we used data obtained from the Indian financial statements of Hindalco Industries Limited. *See* Surrogate Value Memorandum.

Jiheng reported chlorine, hydrogen gas, ammonia gas, and sulfuric acid as by-products in the production of subject merchandise. We found in this administrative review, as confirmed at verification, that Jiheng has appropriately reported its by-products and, therefore, we have granted Jiheng a by-product offset for the quantities of these reported by-products. We valued chlorine and hydrogen gas with data obtained from Indian financial statements for companies that produce and sell both chlorine and hydrogen gas. *See* Surrogate Value Memorandum.

For direct labor, indirect labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported

on Import Administration's web site.¹⁹ Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by each respondent. *See* Surrogate Value Memorandum.

For packing materials, we used the per-kilogram values obtained from the WTA and made adjustments to account for freight costs incurred between the PRC supplier and Jiheng's plants. *See* Surrogate Value Memorandum.

None of the interested parties in this review provided financial statements for use in calculating a surrogate value for factory overhead, selling, general, and administrative expenses ("SG&A"), and profit for the preliminary results. Therefore, for factory overhead, SG&A, and profit values, we used information from Kanoria Chemicals and Industries Limited for the year ending March 31, 2007, which was used in the preceding administrative review and which we placed on the record of this administrative review. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy ("ML&E") costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. *See* Surrogate Value Memorandum for a full discussion of the calculation of these ratios.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Preliminary Results

We preliminarily determine that the following weighted-average dumping margin exists:

| Manufacturer/Exporter | Margin (Percent) |
|---------------------------------|------------------|
| Hebei Jiheng Chemical Co., Ltd. | 3.05 |

Disclosure

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19

CFR 351.224(b). Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than five days after the time limit for filing the case briefs. *See* 19 CFR 351.309(d). The Department requests that parties submitting written comments provide an executive summary and a table of authorities as well as an additional copy of those comments electronically.

Any interested party may request a hearing within 30 days of publication of this notice. *See* 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 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. *See* 19 CFR 351.310(d).

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 such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

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. In accordance with 19 CFR 351.212(b)(1), we calculated exporter/importer (or customer)-specific assessment rates for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). *See* 19 CFR 351.212(b)(1). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importers'/customers' entries

¹⁸ *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006), and accompanying Issues and Decision Memorandum at Comment 17.

¹⁹ *See* Expected Wages of Selected NME Countries (May 14, 2008) (available at <http://ia.ita.doc.gov/wages>). The source of these wage rate data on the Import Administration's web site is the *Yearbook of Labour Statistics 2005*, ILO, (Geneva: 2005), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 2004 to 2005.

during the POR. See 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). See 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. See 19 CFR 351.106(c)(2).

Cash Deposit Requirements

Further, 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 Jiheng, the cash deposit rate will be the company-specific rate established in the final results of review (except, if the rate is zero or *de minimis*, a zero cash deposit will be required); (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 entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 285.63 percent; 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 exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

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 Secretary's presumption that reimbursement of antidumping duties

occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 1, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Review in Part

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

SUMMARY: In response to timely requests, the Department of Commerce (Department) is conducting an administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The period of review (POR) is September 1, 2007, through August 31, 2008.

We have preliminarily determined that sales have not been made below normal value by the exporter covered by the administrative review. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate entries of merchandise exported by Xiping Opeck Food Co., Ltd., during the POR without regard to antidumping duties.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0665 and (202) 482-1690, respectively.

Background

On September 15, 1997, the Department published an amended final

determination and antidumping duty order on freshwater crawfish tail meat from the PRC. See *Notice of Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat From the People's Republic of China*, 62 FR 48218 (September 15, 1997). On September 2, 2008, the Department published a notice of opportunity to request an administrative review of the order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 73 FR 51272 (September 2, 2008).

On September 17, 2008, Xiping Opeck Food Co., Ltd. (Xiping Opeck), a producer and exporter of crawfish tail meat from the PRC, requested an administrative review. On September 30, 2008, the petitioner, the Crawfish Processors Alliance, requested an administrative review of Shanghai Now Again International Trading Co., Ltd. (Shanghai Now Again), Xiping Opeck, and Yancheng Hi-King Agriculture Developing Co., Ltd. (Hi-King).

On October 29, 2008, based on timely requests for an administrative review, the Department published a notice of initiation of an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review*, 73 FR 64305 (October 29, 2008). The review was initiated with respect to Xiping Opeck, Shanghai Now Again, and Hi-King.

The POR is September 1, 2007, through August 31, 2008. We are conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by the antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by CBP in 2000,