competitiveness of the nation's MBEs, as defined in Executive Order 11625, as amended, and 15 CFR 1400.1. NACMBE will provide advice and recommendations on a broad range of policy issues that affect minority businesses and their ability to successfully access the domestic and global marketplace. These policy issues may include, but are not limited to:

- Methods for increasing jobs in the health care, manufacturing, technology, and "green" industries;
- Global and domestic barriers and impediments;
- Global and domestic business opportunities;
- MBE capacity building;
- Institutionalizing global business curriculums at colleges and universities and facilitating the entry of MBEs into such programs;
- Identifying and leveraging pools of capital for MBEs;
- Methods for creating high value loan pools geared toward MBEs with size, scale and capacity;
- Strategies for collaboration amongst minority chambers, trade associations and nongovernmental organizations;
- Accuracy, availability and frequency of economic data concerning minority businesses;
- Methods for increasing global transactions with entities such as but not limited to the Export-Import Bank, OPIC and the IMF; and
- Requirements for a uniform and reciprocal MBE certification program.

The advice and recommendations provided by NACMBE may take the form of one or more written reports. NACMBE will also serve as a vehicle for an ongoing dialogue with the MBE community and with other stakeholders.

The Secretary has determined that the establishment of NACMBE is necessary and in the public interest in connection with MBDA's duties and responsibilities in advancing the growth and competitiveness of MBEs pursuant to Executive Order 11625, as amended.

Membership: NACMBE shall be composed of not more than 25 members. The NACMBE members shall be distinguished individuals from the nonfederal sector appointed by the Secretary. The members shall be recognized leaders in their respective fields of endeavor and shall possess the necessary knowledge and experience to provide advice and recommendations on a broad range of policy issues that impact the ability of MBEs to successfully participate in the domestic and global marketplace. NACMBE shall have a balanced membership reflecting a diversity of industries, ethnic backgrounds and geographical regions, and to the extent practicable, gender and persons with disabilities.

NACMBE members shall be appointed as Special Government Employees for a two-year term and shall serve at the pleasure of the Secretary. Members may be re-appointed to additional two-year terms, without limitation. The Secretary may designate a member or members to serve as the Chairperson or Vice-Chairperson(s) of NACMBE. The Chairperson or Vice-Chairperson(s) shall serve at the pleasure of the Secretary.

NACMBE members will serve without compensation, but will be allowed reimbursement for reasonable travel expenses, including a per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, as amended, for persons serving intermittently in federal government service. NACMBE members will serve in a solely advisory capacity.

Eligibility. In addition to the above criterion, eligibility for NACMBE membership is limited to U.S. citizens who are not full-time employees of the Federal Government, are not registered with the U.S. Department of Justice under the Foreign Agents Registration Act and are not a federally-registered lobbyists pursuant to the Lobbying Disclosure Act of 1995, as amended, at the time of appointment to the NACMBE.

Nomination Procedures and Selection of Members: The Department of Commerce is accepting nominations for NACMBE membership for the upcoming 2-year charter term beginning in April 2010. Members shall serve until the NACMBE charter expires in April 2012, although members may be re-appointed by the Secretary without limitation. Nominees will be evaluated consistent with the factors specified in this notice and their ability to successfully carryout the goals of the NACMBE.

For consideration, a nominee must submit the following materials: (1) Resume, (2) personal statement of interest, including a summary of how the nominee's experience and expertise would support the NACMBE objectives; (3) an affirmative statement that the nominee is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended, and (4) an affirmative statement that: (a) The nominee is not currently a federally-registered lobbyist and will not be a federally-registered lobbyist at the time of appointment and during his/her tenure as a NACMBE member, or (b) if the nominee is currently a federally-registered lobbyist, that the nominee will no longer be a federally-registered lobbyist at the time of appointment to the NACMBE and during his/her tenure as a NACMBE member. All nomination information should be provided in a single, complete package by the deadline specified in this notice. Nominations packages should be submitted by either mail or electronically, but not by both methods. Self-nominations will be accepted.

NACMBE Members will be selected in accordance with applicable Department of Commerce guidelines and in a manner that ensures that NACMBE has a balanced membership. In this respect, the Secretary seeks to appoint members who represent a diversity of industries, ethnic backgrounds and geographical regions, and to the extent practicable, gender and persons with disabilities.

All appointments shall be made without discrimination on the basis of age, ethnicity, gender, disability, sexual orientation, or cultural, religious, or socioeconomic status. All appointments shall also be made without regard to political affiliations.

Dated: May 10, 2010.

David A. Hinson,

National Director, Minority Business Development Agency.

[FR Doc. 2010–11596 Filed 5–13–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–898]

Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results and Partial Rescission 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, 2008, through May 31, 2009. Because the Department is rescinding the review of Zhucheng Taisheng Chemical Co., Ltd. ("Zhucheng"), this administrative review only 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.

DATES: *Effective Date:* May 14, 2010.

FOR FURTHER INFORMATION CONTACT: Brandon Petelin 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) 482–8173 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 1, 2009, the Department published in the **Federal Register** 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, 2008, through May 31, 2009.[2] On June 29, 2009, in accordance with 19 CFR 351.213(b)(2), Zhucheng, a foreign producer/exporter of subject merchandise, requested that the Department review its sales of subject merchandise. On June 30, 2009, in accordance 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 July 29, 2009, the Department initiated the administrative review of the antidumping duty order on chlorinated isos from the PRC covering the period June 1, 2008, through May 31, 2009.[3] On August 4, 2009, the Department issued its antidumping duty questionnaire to both Jiheng and Zhucheng. However, on October 7, 2009, because the Department determined that Zhucheng did not have standing to request an administrative review, the Department issued a **Federal Register** Notice stating that it intended to rescind the administrative review with respect to Zhucheng.[4] On August 17, 2009, Clearon Corporation and Occidental Chemical Corporation, domestic producers of chlorinated isos (collectively "Petitioners"), submitted an entry of appearance in the underlying administrative review.

On September 8, 2009, Jiheng submitted its section A questionnaire response ("AQR"). On September 23, 2009, Jiheng submitted its sections C and D questionnaire responses ("CQR and DQR", respectively). On December 16, 2009, the Department issued a supplemental questionnaire to Jiheng. On January 7, 2010, Jiheng submitted its supplemental questionnaire response ("1st SQR"). On March 16, 2010, the Department issued a second supplemental questionnaire to Jiheng. On March 26, 2010, Jiheng submitted its second supplemental questionnaire response ("2nd SQR").

On January 5, 2010, the Department requested that the Office of Policy provide a list of surrogate countries for this review, which it did on January 25, 2010.[5] On January 26, 2010, the Department issued a letter to interested parties seeking comments on surrogate country selection and surrogate values. On February 12, 2010, in the memorandum regarding "Tolling of Administrative Deadlines as a Result of the Government Closure During the Recent Snowstorm" from the Deputy Assistant Secretary for Import Administration, dated February 12, 2010, the Department exercised its discretion to toll deadlines for the duration of the partial shutdown of the Federal Government from February 5 through February 11, 2010.[6] Thus, all deadlines in this segment of the proceeding were extended by 7 days.

On February 12, 2010, Jiheng submitted comments regarding the selection of a surrogate country. On February 16, 2010, Jiheng submitted publicly available information in order to value Jiheng's factors of production ("FOPs"). Also, on February 16, 2010, Arch Chemicals, Inc. ("Arch"), a United States importer of subject merchandise from Jiheng, submitted surrogate value information from *Chemical Weekly* for certain chemicals used in Jiheng's production of the subject merchandise. On February 23, 2010, Petitioners submitted publicly available information to value certain FOPs. On March 1, 2010, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until May 10, 2010.[7]

Scope of the Order

The products covered by this order are chlorinated isos, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) Trichloroisocyanuric acid ($Cl_3(NCO)_3$), (2) sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3(2H_2O)$), and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). Chlorinated isos are available in powder, granular, and tableted forms. 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.

On April 9, 2008, the Department issued a final scope ruling stating that Chinese-origin chlorinated isos imported into Canada from the PRC by Capo Industries, Ltd., which are then processed and exported by Capo to the United States, are within the scope of the antidumping duty order covering chlorinated isos from the PRC. The Department found that Capo's processing in Canada is essentially a repackaging operation with respect to Chinese-origin product and does not substantially transform the chlorinated isos imported from the PRC by Capo.

[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 to Request Administrative Review,* 74 FR 26202 (June 1, 2009).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review* 74 FR 37690 (July 29, 2009) ("*Initiation Notice*").

[4] *See Chlorinated Isocyanurates from the People's Republic of China, Notice of Intent to Partially Rescind Administrative Review,* 74 FR 51557 (October 7, 2009).

[5] *See* Memorandum regarding: Request for Surrogate-Country Selection: 2008–2009 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China, dated January 5, 2010; *see also* Memorandum regarding: Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China, dated January 25, 2010 ("Surrogate Country List").

[6] *See* Memorandum regarding: Tolling of Administrative Deadlines as a Result of the Government Closure During the Recent Snow Storm, dated February 12, 2010.

[7] *See Chlorinated Isocyanurates From the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administration Review,* 75 FR 9160 (March 1, 2010).

On March 23, 2009, the Department issued a final scope ruling stating that chlorinated isos produced and exported from Vietnam by Tian Hua (Vietnam) SPC Industries Ltd. are not within the scope of the antidumping duty order covering chlorinated isos from the PRC because Tian Hua demonstrated on the record of the scope inquiry that it produces chlorinated isos in its production facilities in Vietnam.

Partial Rescission of Review

The Department is hereby rescinding the administrative review with respect to Zhucheng, covering the period of June 1, 2008, through May 31, 2009. The Department's regulations at 19 CFR 351.213(b)(2) state that an exporter or producer covered by an antidumping order may request that the Department conduct an administrative review of only that party during the anniversary month of the publication of an antidumping order. On June 29, 2009, pursuant to 19 CFR 351.213(b)(2), Zhucheng submitted a timely request for an administrative review of the antidumping duty order on chlorinated isos from the PRC purporting to be a producer and exporter of subject merchandise. In a letter dated August 24, 2009, however, Zhucheng explained that, in the process of preparing its section A questionnaire response for this review, it discovered that the actual producer and exporter of the subject merchandise was Zhucheng Taisheng Angmu Chemical Co., Ltd., with whom Zhucheng claims to be affiliated.[8] Therefore, because Zhucheng requested a review as a producer/exporter but was neither a producer nor an exporter of the subject merchandise during the POR, Zhucheng is not entitled to request an administrative review pursuant to 19 CFR 351.213(b)(2).

Because Zhucheng did not have standing to request an administrative review, the Department previously issued a **Federal Register** Notice of its intent to partially rescind the review with respect to Zhucheng, as the Department had initiated a review of Zhucheng in error.[9] Thus, the Department hereby rescinds the administrative review with respect to Zhucheng for the period June 1, 2008, through May 31, 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 review.[10] 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"). Accordingly, we calculated normal value ("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 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 Commerce Department building.[11]

In examining which country to select as its primary surrogate for this proceeding, the Department determined that India, Indonesia, the Philippines, Ukraine, Thailand, and Peru are countries comparable to the PRC in terms of economic development. *See* Surrogate Country List. On January 26, 2010, the Department issued a request for interested parties to submit comments on surrogate country selection. On February 12, 2010, Jiheng submitted comments regarding the selection of a surrogate country. On February 23, 2010, Petitioners submitted FOP surrogate value information that included several values obtained from India.

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

After evaluating interested parties' comments, the Department determined that India is the appropriate surrogate country for 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 reliable, 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, all of the data submitted by both Jiheng and the Petitioners for our consideration as potential surrogate values are 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.[12]

[8] *See* Letter from Zhucheng Taisheng, "Chlorinated Isocyanurates from China; Inquiry Regarding Status of Administrative Review" (August 24, 2009) ("Inquiry Regarding Status of Administrative Review").

[9] *See Clorinated Isos/PRC* 10/7/2009.

[10] *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); *see also 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).

[11] *See* Memorandum regarding: 2008–2009 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Surrogate Value Memorandum for the Preliminary Results, dated May 10, 2010 ("Surrogate Value Memorandum").

[12] 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* 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 through Exhibit A5.

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–12 through A–18.

Date of Sale

19 CFR 351.401(i) 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.[13] Evidence on the record demonstrates that, with respect to Jiheng's sales to the United States, sometimes the shipment date occurs prior to the invoice date,[14] 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.[15] Though not a dispositive factor for this POR, we note that we used the shipment date as the sale date in the prior POR.[16]

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 first unaffiliated purchasers reported by Jiheng. To this price, we added amounts for components that were supplied free of charge or reimbursed by the customer, where applicable, pursuant to section 772(c)(1)(A) of the Act.[17]

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.

[13] *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.

[14] *See* Jiheng's CQR at page C–15.

[15] *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.

[16] *See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review,* 74 FR 27104 (June 8, 2009) (unchanged in *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 66087 (December 14, 2009)).

[17] *See* Memorandum regarding: Analysis for the Preliminary Results of the 2008–2009 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Company Ltd. (May 10,

Continued

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,[18] we added to the U.S. price paid by 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).[19]

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 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 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.[20] 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.[21] 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 (1988), at 590. 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 these countries in calculating the Indian import-based surrogate values. Additionally, we disregarded prices from NME countries. 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 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 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 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 *http://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 May 2009 and, therefore, are contemporaneous with the POR. *See* Surrogate Value Memorandum.

The Department valued brokerage and handling using a simple average of the brokerage and handling costs that were reported in public submissions that were filed in three antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Navneet Publications (India) Ltd. in the 2007–2008 administrative review of certain lined paper products from India, Essar Steel Limited in the 2006–2007 antidumping duty administrative review of hot-rolled carbon steel flat products from India, and Himalaya International Ltd. in the 2005–2006 administrative review of certain preserved mushrooms from India. The Department adjusted the average brokerage and handling rate for inflation. *See* Surrogate Value Memorandum.

2010) ("Jiheng's Preliminary Analysis Memorandum").

[18] 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 page D–8.

[19] *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.

[20] *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).

[21] *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).

To value calcium chloride, barium chloride, zinc sulfate, and sulfuric acid, we used *Chemical Weekly* data. 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 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.[22] 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 March 2008. 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 Maharashtra Industrial Development Corporation ("MIDC") water rates available at *http://www.midcindia.com/water-supply. See* Surrogate Value Memorandum.

To value steam coal, we used data obtained for grades B and C coal reported in the December 2007 Coal India Limited Circular. *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 find in this administrative review 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 gas with POR data obtained from the financial statements of Bihar Caustic & Chemicals, Kanoria Chemicals & Industries Limited, DCM Shriram Consolidated Ltd., all of which are Indian producers and sellers of chlorine gas. We valued hydrogen gas with POR data obtained from the financial statements of Bihar Caustic & Chemicals and DCM Shriram Consolidated Ltd., both of which are Indian producers and sellers of 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.[23] 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 Jiheng. *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.

To calculate surrogate values for factory overhead, selling, general, and administrative expenses ("SG&A"), and profit for the preliminary results, we used financial information from both Kanoria Chemicals and Industries Limited ("Kanoria") and Aditya Birla Chemicals (India) Limited ("Aditya") for the year ending March 31, 2009. From this information, we were able to determine average factory overhead as a percentage of the total raw materials, labor, and energy ("ML&E") costs, 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. *See* Surrogate Value Memorandum for a full discussion of the calculation of these ratios.

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 weighted-average dumping margin exists:

Manufacturer/exporter	Margin (percent)
Hebei Jiheng Chemical Co., Ltd	11.65

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

[22] *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.

[23] *See* Expected Wages of Selected NME Countries (December 9, 2009), *available at http://ia.ita.doc.gov/wages; see also, 2009 Calculation of Expected Non-Market Economy Wages,* 74 FR 65092 (December 9, 2009). The source of these wage rate data on the Import Administration's web site is the *Yearbook of Labour Statistics,* ILO, (Geneva), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 2006 to 2007.

after the publication date of the final results of this review. In accordance with 19 CFR 351.212(b)(1), we will calculate 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 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 exporter(s) 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.

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

Dated: May 10, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–11605 Filed 5–13–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–914]

Light-Walled Rectangular Pipe and Tube From the People's Republic of China: Preliminary Results of the 2008–2009 Antidumping Duty Administrative Review

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

SUMMARY: In response to a timely request from one importer, FitMAX Inc. ("FitMAX"), the Department of Commerce (the "Department") is conducting the 2008–2009 administrative review of the antidumping duty order on light-walled rectangular pipe and tube ("LWR") from the People's Republic of China ("PRC"). We have preliminarily determined that sales have been made below normal value ("NV") by the exporter participating in the instant administrative review. 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 period of review ("POR") for which the importer-specific assessment rate is above *de minimis.*

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* May 14, 2010.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge or Howard Smith, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3518 and (202) 482–5193, respectively.

Background

On June 24, 2008, the Department published its final determination of sales at less-than-fair-value in the antidumping duty investigation of LWR from the PRC. *See Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China,* 73 FR 35652 (June 24, 2008). On August 5, 2008, the Department published its antidumping duty order on LWR from the PRC. *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 45403 (August 5, 2008). On August 3, 2009, the Department published a notice of opportunity to request an administrative review of the above-referenced order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 74 FR 38397 (August 3, 2009). Based on a timely request from FitMAX for an administrative review, the Department initiated an administrative review of the antidumping duty order on LWR from the PRC with respect to the Sun Group Inc. (the "Sun Group"), a producer/exporter of subject merchandise imported by FitMAX. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 74 FR 48224 (September 22, 2009) ("*Initiation Notice*").

On September 25, 2009, the Department issued an antidumping duty questionnaire to the Sun Group. The Sun Group submitted responses to the Department's questionnaire from October through December 2009. We