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January 14, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh *CM*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the
2010-2011 Administrative Review of Chlorinated Isocyanurates
from the People's Republic of China

SUMMARY:

We have analyzed the case and rebuttal briefs of interested parties in the antidumping duty administrative review of chlorinated isocyanurates (chlorinated isos) from the People's Republic of China (PRC). The period of review (POR) is June 1, 2010, through May 31, 2011. As a result of our analysis, we have made changes in the margin calculation. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues for which we received comments and rebuttal comments by the parties.

Selection of Primary Surrogate Country

- Comment 1: Whether Sodium Hypochlorite is Comparable Merchandise
- Comment 2: Surrogate Country Selection
- Comment 3: Surrogate Values if the Philippines is Not Selected as the Surrogate Country

Surrogate Value Selection Comments

- Comment 4: Sodium Chloride
- Comment 5: Urea
- Comment 6: Water
- Comment 7: Chlorine
- Comment 8: Hydrogen
- Comment 9: Steam Coal
- Comment 10: Electricity
- Comment 11: Steam
- Comment 12: Labor
- Comment 13: Financial Ratios
- Comment 14: Whether the Ammonia Gas and Sulfuric Acid Surrogate Values are Reasonable



Jiheng-Specific Comments

Comment 15: Whether Jiheng's Ammonia Gas "Absorption Rate" Adjustment is Warranted

Comment 16: Whether Jiheng's Normal Value was Correctly Adjusted for Transportation Costs

Kangtai-Specific Comments

Comment 17: Whether Kangtai's Ammonia Gas By-product Was Calculated Using the Correct Concentration Level

Comment 18: Whether Kangtai's Sodium Hydroxide Surrogate Value Should be Adjusted

BACKGROUND:

On July 16, 2012, the Department of Commerce (Department) published its preliminary results of review of the antidumping duty order on chlorinated isos from the PRC.¹ The Department conducted verification of Hebei Jiheng Chemical Company Ltd. (Jiheng) from October 15 through 19, 2012, and released the verification report on November 21, 2012.² On December 3, 2012, the Department received case briefs from Jiheng, Juancheng Kangtai Chemical Co., Ltd. (Kangtai), Zhucheng Taisheng Chemical Co., Ltd. (Zhucheng), and Clearon Corporation and Occidental Chemical Corporation (Petitioners). On December 10, 2012, the Department received rebuttal briefs from Jiheng, Kangtai, and Petitioners. On December 21, 2012, the Department conducted a public hearing with interested parties.

SCOPE OF THE ORDER:

The products covered by the order are chlorinated isocyanurates (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 ($\text{Cl}_3(\text{NCO})_3$), (2) sodium dichloroisocyanurate (dihydrate) ($\text{NaCl}_2(\text{NCO})_3(2\text{H}_2\text{O})$), and (3) sodium dichloroisocyanurate (anhydrous) ($\text{NaCl}_2(\text{NCO})_3$). Chlorinated isos are available in powder, granular, and tableted forms. The order covers all chlorinated isos.

Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isos and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

¹ See Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 77 FR 41746 (July 16, 2012) (Preliminary Results).

² See Memorandum titled "Verification of the Sales and Factors Response of Hebei Jiheng Chemical Company Ltd. in the Antidumping Review of Chlorinated Isocyanurates from the People's Republic of China," November 20, 2012 (Verification Report).

DISCUSSION OF THE ISSUES:

Comment 1: Whether Sodium Hypochlorite is Comparable Merchandise

Petitioners' Arguments

- Sodium hypochlorite should be considered comparable merchandise because it has similar physical characteristics and has similar end-uses as chlorinated isos. It is a bleaching agent that results from the reaction of chlorine and caustic soda. Sodium hypochlorite has an available chlorine percentage that is consistent with other products previously determined to be comparable merchandise (i.e., stable bleaching powder). Furthermore, sodium hypochlorite has uses similar to subject merchandise as a disinfectant.

Jiheng's Arguments

- Sodium hypochlorite, like calcium hypochlorite and stable bleaching powder, is a product comparable to chlorinated isos.
- Sodium hypochlorite is derived from two of the three main inputs used in the production of chlorinated isos, and uses salt as a significant input, similar to chlorinated isos. Additionally, its chlorine content is at the same level as the other comparable products.
- Sodium hypochlorite involves a similar level of complexity in the production process as chlorinated isos.
- Similar to chlorinated isos, sodium hypochlorite is used as a bleaching agent or disinfectant.

Zhucheng's Arguments

- By not expanding the definition of comparable merchandise, i.e., considering sodium hypochlorite to be comparable merchandise, the Department faced a number of difficulties when using the South African data relied upon in the Preliminary Results.
- Since sodium hypochlorite has similar physical characteristics, end uses, and production process as subject merchandise, the Department should treat it as a comparable product.

Department's Position: The Department finds that sodium hypochlorite is comparable to the subject merchandise because it has similar physical characteristics and end uses, and a similar production process, as the subject merchandise. These criteria are the same criteria the Department considered in previously determining that calcium hypochlorite and stable bleaching powder are products comparable to subject merchandise.³

Regarding physical characteristics, the subject merchandise contains three major intermediate inputs: cyanuric acid, caustic soda, and chlorine gas. According to Kirk-Othmer's Encyclopedia of Chemical Technology (Kirk-Othmer Encyclopedia), sodium hypochlorite is prepared using

³ See Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China, 70 FR 24502 (May 10, 2005) (Isos Final Determination), and accompanying Issues and Decision Memorandum at 18-21 (Investigation IDM).

chlorine gas and caustic soda.⁴ Salt, a main input into subject merchandise, is also a main input used to form sodium hypochlorite.⁵ One difference in the physical characteristics between chlorinated isos and sodium hypochlorite is that the latter is a liquid. One report did note, however, that solid sodium hypochlorite is available, although not used commercially.⁶ Despite this difference, several toxicology reports and chemical fact sheets, while noting this difference, handle their analysis of sodium hypochlorite and calcium hypochlorite in the same manner.⁷ The chlorine content in finished sodium hypochlorite ranges from five to six percent (for household purposes) and ten to fifteen percent (for pool and industrial uses).⁸ Subject merchandise has chlorine content in the range of fifty-six to ninety percent, but stable bleaching powder, a product the Department has previously deemed comparable merchandise, has chlorine content at a level comparable to sodium hypochlorite.⁹ Therefore, we determine that sodium hypochlorite and the subject merchandise have similar physical characteristics.

According to the Agency for Toxic Substances and Disease Registry, “Sodium and calcium hypochlorite are used primarily as bleaching agents or disinfectants. They are components of commercial bleaches, cleaning solutions, and disinfectants for drinking water and waste water purification systems and swimming pools.”¹⁰ The Soap and Detergent Association’s report on sodium hypochlorite indicates that “Sodium hypochlorite is one of the most effective disinfectant and bleaching agents known.”¹¹ Finally, the Kirk-Othmer Encyclopedia notes that sodium hypochlorite is used in “sewage and wastewater treatment and in commercial laundries, large swimming pools, and aboard ships.”¹² These listed end uses are the same or similar to the end uses of subject or comparable merchandise.

We also examined the production process of sodium hypochlorite and determined that, based on record evidence, it has a production process similar to chlorinated isos and other products, such as calcium hypochlorite, that the Department has previously determined constitute comparable merchandise. As the Department has stated, “with respect to production processes, the subject merchandise is produced in three different steps with the first step making intermediate inputs (cyanuric acid, caustic soda, and chlorine gas), the second step combining these intermediate inputs, and the third step shaping the finished products.”¹³ Based on the description of Kirk-Othmer’s Encyclopedia, we find that the production processes of sodium hypochlorite and calcium hypochlorite are similar, if not identical, in nature, and are therefore similar to the production process of subject merchandise. Record evidence indicates that, like calcium hypochlorite, sodium hypochlorite is primarily made by reacting chlorine with a solution of

⁴ See Letter from Arch Chemicals, Inc. (Arch), “Chlorinated Isocyanurates from China (Sixth Administrative Review) – Comments on Surrogate Country Selection,” December 19, 2011(Arch Surrogate Country Submission), at Exhibit 1.

⁵ See *id.*

⁶ See Letter from Arch, “Chlorinated Isocyanurates from China (Sixth Administrative Review) - Arch Chemicals, Inc. Resubmission of Surrogate Value Information for Factors of Production,” September 5, 2012(Arch Surrogate Value Submission), at Attachment 3.

⁷ See *id.*

⁸ See *id.*

⁹ See Investigation IDM at 19.

¹⁰ See Arch Surrogate Value Submission at Attachment 3.

¹¹ See *id.* at Attachment 2.

¹² See Arch Surrogate Country Submission at Exhibit 1.

¹³ See Investigation IDM at 19.

caustic soda. The Kirk-Othmer's Encyclopedia states that the manufacture of calcium hypochlorite is "only slightly different than that of sodium hypochlorite, and the heat liberated per mol of chlorine is approximately the same."¹⁴ The similarities in the chemical composition of sodium hypochlorite and calcium hypochlorite strongly suggest that the general manufacturing processes used to produce both products are similar, if not identical, in nature. The record includes additional information detailing the sodium hypochlorite manufacturing process, and describes the materials needed for its manufacture.¹⁵ This information confirms that sodium hypochlorite has a chemical complexity similar to calcium hypochlorite, that the production processes for the two products are of similar duration, and that both chemicals use similar types of production equipment.¹⁶ Therefore, the Department determines that the production process of sodium hypochlorite is similar to that of calcium hypochlorite and of the subject merchandise.

Based on the foregoing, the Department finds that sodium hypochlorite is comparable to the subject merchandise.

Comment 2: Surrogate Country Selection

Petitioners' Arguments

- The Philippines is economically comparable to the PRC.
- The record developed since the Preliminary Results includes evidence demonstrating that sodium hypochlorite is comparable to subject merchandise and that a significant amount of sodium hypochlorite is produced in the Philippines. Thus, the Philippines should be considered a significant producer of comparable merchandise.
- The Philippines has superior data on the record compared to South Africa, allowing the Department to value nearly all inputs using a single country.

Jiheng's Arguments

- South Africa is a poor choice for use as a surrogate country. Due to a lack of data availability, the Department had to use data from a secondary surrogate country for several significant inputs (i.e., labor and financial ratios) in the Preliminary Results. Evidence on the record indicates that the South African Global Trade Atlas (GTA) data do not include import statistics from members of the South African Customs Union (SACU).
- The Philippines is economically comparable to the PRC.
- In previous reviews, the Department has used or considered using data from the Philippines, implying that the Philippines satisfies the Department's requirement of being a significant producer of the identical or comparable merchandise.
- The Department now has Philippine production data on the record (the only production data outside of India that is on the record), which clearly demonstrate it is a significant producer of comparable merchandise.
- Contrary to South African data, the quantity and quality of data on the record for the Philippines are reliable and available for most factors.

¹⁴ See Arch Surrogate Country Submission at Exhibit 1.

¹⁵ See Arch Surrogate Value Submission at Attachment 1.

¹⁶ See Arch Surrogate Country Submission at Exhibit 1.

- The Department should use India as a surrogate country if it determines that the Philippines is not a significant producer of identical or comparable merchandise.

Zhucheng's Arguments

- The Philippines is a significant producer of sodium hypochlorite, which is a product the Department should treat as comparable merchandise. As such, the Philippines should be used as the surrogate country in this review.

Kangtai's Rebuttal Arguments

- The quality of data from India is superior. The Department's list of economically comparable surrogate countries is non-exhaustive and based on a crude gross national income (GNI) benchmark.
- If the Department does not select India as the surrogate country, the Department should rely on South Africa as the primary surrogate country because it is a significant producer of comparable merchandise and has data that is superior to any other data proposed by parties.

Petitioners' Rebuttal Arguments

- The Department should only use Indian sources for factors where there is no usable surrogate value data on the record from any of the economically comparable countries.

Department's Position: For these final results, the Department is selecting the Philippines as the primary surrogate country. In the Preliminary Results, the Department stated that, for the purpose of selecting a surrogate country, Colombia, Indonesia, the Philippines, South Africa, Thailand and Ukraine were equally comparable to the PRC in terms of economic development.¹⁷ The list is comprised of countries that are proximate to the PRC in terms of GNI, and the Department considers all countries on the list to be equal in terms of economic comparability for purposes of evaluating their suitability for use as a surrogate country. The list did not include India because India's per capita GNI did not fall within the range of countries proximate to the PRC.¹⁸ The Department finds that the selection of the range of economically comparable countries based on GNI, included in the Surrogate Country Memorandum, is reasonable and consistent with the Tariff Act of 1930, as amended (the Act). Despite Kangtai's arguments, it is also consistent with the Department's long-standing and predictable practice of selecting economically comparable countries on the basis of absolute GNI.¹⁹ Further, when selecting a primary surrogate country, the Department will normally look first to the list of countries included in the Surrogate Country Memorandum, as these countries have been determined to be equally comparable to the PRC for this purpose. The Department may find it is appropriate to rely on data from other countries, if it is determined that none of the countries in the Surrogate Country Memorandum are viable options because they either are not significant producers of

¹⁷ See Preliminary Results, 77 FR at 41748.

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

¹⁹ See, e.g., Magnesium Metal From the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order, 75 FR 65450 (October 25, 2010), and accompanying Issues and Decision Memorandum at Comment 4.

comparable merchandise, do not provide sufficient reliable sources of publicly available surrogate value data, or are otherwise unsuitable. However, as discussed below, those facts are not present in these final results. The record evidence continues to support the conclusion that the Philippines is economically comparable to the PRC.

When selecting a surrogate country, the Department next reviews whether any of the economically comparable countries are significant producers of identical or comparable merchandise. In the Preliminary Results, the Department relied on GTA export data to determine which countries were significant producers of identical or comparable merchandise.²⁰ Because of its exports of calcium hypochlorite, we determined that South Africa was the largest exporter of identical or comparable merchandise and selected it as the surrogate country. Since the Preliminary Results, however, parties have placed production data on the record for sodium hypochlorite from the Philippines. According to a Philippines Securities and Exchange Commission Management Report, Mabuhay Vinyl Corporation (MVC), a Philippine producer of sodium hypochlorite, “has a production capacity {for sodium hypochlorite} of about 2,500 metric tons per month or 30,000 MTPY,” and has a 55 percent market share of the Philippines sodium hypochlorite market.²¹ As discussed in Comment One, above, the Department now finds that sodium hypochlorite is comparable merchandise. Additionally, Policy Bulletin 04.1 states that “a country producing comparable merchandise is sufficient in selecting a surrogate country.”²² Thus, the Department now has production data on the record demonstrating that the Philippines is a significant producer of comparable merchandise.

The Department next looks at data availability for the potential surrogate countries. In the Preliminary Results, the data available from South Africa did not include values for a number of key factors, including labor, financial ratios, and several chemical inputs. The Department preliminarily selected Indian sources to value these inputs where a South African source did not exist, as India was the only alternative on the record at that time. However, as noted, India did not qualify as one of the economically comparable countries identified in this review. As such, the Department considers India to be less economically comparable to the PRC than the countries included in the Surrogate Country Memorandum, and will only resort to using Indian data sources when no other data from these economically comparable countries are available.²³ In addition, the Department “normally will value all factors in a single surrogate country” and “normally will use publicly available information to value factors.”²⁴ Except for one factor, the Department can value all factors, including labor and financial ratios, using data from the Philippines placed on the record by interested parties.²⁵ Therefore, for these final results, the

²⁰ See Preliminary Results, 77 FR at 41748.

²¹ See Letter from Jiheng, “Chlorinated Isocyanurates from China (Sixth Administrative Review) – Hebei Jiheng Chemical Company, Ltd. Resubmission of Surrogate Value Information for Factors of Production,” September 5, 2012, at Attachment 1 (Jiheng Surrogate Value Submission).

²² See the Department’s Policy Bulletin No. 04.1, “Non-Market Economy Surrogate Country Selection Process,” (March 1, 2004) (Policy Bulletin 04.1), available on the Department’s Web site at <http://ia.ita.doc.gov/policy/bull04-1.html> at note 6.

²³ See Surrogate Country Memorandum.

²⁴ See 19 CFR 351.408(c)(1)-(2).

²⁵ The single exception is for steam. See Memorandum to the File, “2010-2011 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People’s Republic of China: Final Results Surrogate Value Memorandum,” January 14, 2013 (Final Surrogate Value Memorandum).

Department is selecting the Philippines as the surrogate country given its superior data availability.

Comment 3: Surrogate Values if the Philippines is Not Selected as the Surrogate Country

Petitioners' Arguments

- If the Department continues to use South Africa as a surrogate country, it should use the following surrogate values.
 - Labor should be valued using the Quarterly Employment Statistics as published by Statistics South Africa.
 - Chemical Weekly, an Indian publication, should not be used to value any factors. With the exception of hydrogen gas, surrogate value information is available for all factors from economically comparable countries.
 - Hydrogen gas should be valued using Indian financial statements.
 - Chlorine should be valued using Philippine GTA data.
- If the Department continues to use Indian financial statements, it should include Aditya Birla's statements in its calculation of financial ratios.

Jiheng's Rebuttal Arguments

- The labor data from South Africa proposed by Petitioners should not be used because it is unclear what is included in the rates.
- The Department should continue to exclude Aditya Birla's financial statements since there are other usable financial statements on the record that do not indicate a receipt of countervailable subsidies.

Kangtai's Rebuttal Arguments

- The Department should continue to value labor using Indian International Labour Organization (ILO) data as the Department has determined that this is the best data source for industry specific labor rates.²⁶ The South African data – a non-ILO source – has less specific industry categories, and it is unclear whether the statistics include both direct and indirect labor costs.
- The Department should use labor data from the same surrogate country from which the financial statements are taken to ensure the comparability of the values the Department uses for labor costs and the labor costs deducted from the financial statements.
- The Department should not rely on the financial statements of Aditya Birla if it continues to rely on Indian financial statements. Courts have stated that any evidence of the past receipt of countervailable subsidies is sufficient to justify excluding surrogate financial statements from consideration.

Department's Position: As discussed above, the Department has selected the Philippines as the surrogate country. Since the Department has usable information from the Philippines on the record to value all inputs, except for steam, the issues raised above are moot.²⁷

²⁶ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (Labor Methodologies).

²⁷ See Final Surrogate Value Memorandum.

Comment 4: Sodium Chloride

Jiheng's Arguments

- The Department should not use GTA data from South Africa to value sodium chloride (i.e., salt) because it is unreliable (record evidence indicates a majority of salt imports are not captured by the GTA data) and because the Harmonized Tariff Schedule (HTS) subheading for salt is an overly broad basket category.
- Other data on the record indicates that the South African GTA data reflect aberrationally high prices and very small import quantities.
- The Department should use domestic pricing data on the record, which is publicly available, contemporaneous and published country-wide, to value salt in South Africa.

Zhucheng's Arguments

- The Department should use the Government of South Africa's Department of Minerals report to value salt because it is specific to the product used by the respondents and contemporaneous with the POR, thereby representing the best available data on the record.

Petitioners' Rebuttal Arguments

- If the Department selects South Africa as the primary surrogate country, the Department should continue using South African GTA data to value salt.
- South Africa considers trade with SACU members as internal domestic trade. The GTA data is complete in that it shows all of South Africa's external trade with all countries outside the SACU.
- The Department should not use the data placed on the record by Zhucheng because the report does not detail the methodology used to collect the data, nor does it state whether the values include taxes. Additionally, the data indicates that it is preliminary and could therefore change.

Department's Position: As discussed above, the Department has selected the Philippines as the surrogate country. Also as discussed above, the Department prefers to rely on a single surrogate country to value all factors when possible.²⁸ Since the Department has reliable, contemporaneous and product-specific data to value salt in the Philippines, the primary surrogate country, the issue of which South African data to use is moot.

Comment 5: Urea

Petitioners' Arguments

- The Department should use domestic price data as published by the Philippine Bureau of Agricultural Statistics (BAS) to value urea.
- The BAS data is superior to GTA data because it includes specific information regarding the concentration of urea sold and reflects domestic prices, which the Department has a preference for using.

²⁸ See 19 CFR 351.408(c)(2).

Jiheng's Rebuttal Arguments

- The Department's preference is for a surrogate value to be the price of the domestic product, not the domestic price of imported product. Since the record indicates that all urea consumed in the Philippines is imported, there can be no domestic price for domestic products, and the Department must use import prices to value urea.

Kangtai's Rebuttal Arguments

- The Department should continue to use an import value for urea since evidence on the record indicates that the BAS data is not for domestic production, and would therefore have a price that includes import duties, taxes, retail markups and repackaging costs.

Department's Position: For these final results, the Department has valued urea using Philippine GTA data (i.e., import data). The record of this review contains the Philippine BAS data, which allegedly reflects domestic prices of domestically produced urea in the Philippines and the Philippine GTA data which contains imports of urea into the Philippines. Both sources of data are from the Philippines, publicly available, contemporaneous with the POR, and appear to be free of taxes. However, there is record evidence that urea is not produced in the Philippines.²⁹ As a result, the BAS data, which purportedly reflects Philippine domestic production, may not be for domestically produced urea. Given the conflicting record evidence concerning the Philippine domestic production of urea and the BAS data, we are unsure what the BAS data values actually represent. Therefore, we are selecting the Philippine GTA data as the best available information to value urea.

Comment 6: Water

Petitioners' Arguments

- The Department should use the Doing Business in Camarines Sur (Camarines Sur) publication to value water, using the highest usage amount for each city.

Jiheng's Rebuttal Arguments

- Jiheng agrees that the water value should be obtained from the Camarines Sur publication, and provided the factor for converting a cubic meter of water (as reported in the publication) to a metric ton (the unit used by the respondents).

Department's Position: The Department agrees with both parties and, for these final results, we have valued water using an average of the prices paid in the highest usage rate category in each city.³⁰ The Department has used the Camarines Sur publication in recent cases, and noted that it was "a publicly available and easily accessible document, published for the purpose of giving the international community information, including the costs of doing business in the province of Camarines Sur, Philippines."³¹ The Department continues to find that this publication is publicly available, and representative of the costs a company would pay for water over the POR. The

²⁹ See Jiheng Surrogate Value Submission at Attachment 2.

³⁰ See Final Surrogate Value Memorandum.

³¹ See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 73 FR 49162 (August 20, 2008) (Wooden Bedroom Furniture) and accompanying Issues and Decision Memorandum at 23.

Department converted the surrogate value units to the reported value units using a one-to-one conversion ratio, as done in previous cases.³²

Comment 7: Chlorine

Petitioners' Arguments

- The record in this review indicates that chlorine is traded in substantial quantities in the Philippines.
- Since India is not listed as an economically comparable country in this review, consistent with the Department's recent determination,³³ the Department should rely on GTA data under HTS subheading 2801.10 to value chlorine.

Kangtai's Rebuttal Arguments

- The Department should continue to rely on domestic prices from India to value chlorine. The Department prefers to use domestic prices to value inputs.
- The Department has found that import data for chlorine is aberrational, and average unit prices vary dramatically in this review, in part due to the small quantity of imports and because chlorine is not frequently traded internationally.
- The Philippines does not contain the best available information on the record because evidence indicates that the domestic market for chlorine is miniscule when compared with the Indian market.
- Chlorine is a by-product of producing caustic soda (*i.e.*, sodium hydroxide) from sodium chloride. Petitioners suggested Philippine surrogate value for chlorine is higher than the surrogate value for either sodium chloride or caustic soda. It is unreasonable for a by-product to be priced higher than the material used to produce it (sodium chloride) or the main product produced (caustic soda).

Department's Position: To value chlorine, the Department has relied on GTA import data from the Philippines for these final results. The Department's practice when selecting the best available information for valuing factors of production (FOPs), in accordance with section 773(c)(1) of the Act, is to select surrogate values which are product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and free of taxes and duties.³⁴ The Department undertakes its analysis of valuing the FOPs on a case-by-case basis, carefully considering available record evidence regarding the particular facts of each industry.³⁵ Although there is no hierarchy for applying the surrogate value selection criteria, "the Department must weigh available information with respect to each input value and make a

³² See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China, 69 FR 75294, 75301 (December 16, 2004), unchanged in Isos Final Determination.

³³ See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 64100 (October 18, 2012) (Glycine).

³⁴ See, e.g., First Administrative Review of Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 75 FR 1336 (January 11, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

³⁵ See Glycine from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review, 70 FR 47176 (August 12, 2005), and accompanying Issues and Decision Memorandum at Comment 1.

product-specific and case-specific decision as to what the ‘best’ surrogate value is for each input.”³⁶

Pursuant to section 773(c)(1) of the Act, we find that the value derived from the GTA data for Philippine imports represents “the best information available” for valuing liquid chlorine. This data represents information that is product-specific, is representative of a broad-market average, is publicly available, is contemporaneous with the period of review, and is free of taxes and duties. With respect to specificity, the Department continues to view imports of “Chlorine”, under the HTS subheading 2801.10, as the most specific available data for this raw-material input from the Philippines. We note that the GTA value was the only value for liquid chlorine from a Philippine source suggested by parties and placed on the record.³⁷

Kangtai has argued that the Philippine value for liquid chlorine is aberrational when compared to Indian values selected as the surrogate value for liquid chlorine in previous administrative reviews. The Department does not find these Indian values to be a proper comparison in deciding whether the Philippine value is aberrational. Rather, in determining whether a surrogate value derived from GTA data is aberrational, it is the Department’s practice to compare it with the GTA data for the input at issue from the other countries found by the Department to be equally economically comparable to the PRC.³⁸ As noted in the Preliminary Results, the Department identified, for the purpose of selecting a surrogate country, Colombia, Indonesia, the Philippines, South Africa, Thailand, and Ukraine as the countries equally comparable to the PRC in terms of economic development for purposes of this review.³⁹ Parties have placed data on the record to value chlorine from the Philippines and South Africa (both using GTA data). A review of this data show that the Philippines has imports over 1,000 metric tons, while South Africa has much smaller imports. Because the volume of imports for the Philippines exceeded 1,000 metric tons, we find liquid chlorine was imported into the Philippines in commercial quantities during the POR. We further find that record evidence does not support a finding that the average unit value from any of the other countries, when compared with that of the Philippines, either is more specific to the input or demonstrates that the value from the Philippines is aberrational. Therefore, we can find no basis to consider the Philippines GTA value for liquid chlorine to be unreliable and find no reason to consider information from a non-Philippine source.

Kangtai has stated that the Department should continue to use India to value chlorine because the Department could have selected GTA data from South Africa or the Philippines for the Preliminary Results, but instead chose Indian domestic prices. According to Kangtai, no new facts have been placed on the record since the Preliminary Results that would justify the Department changing its position and valuing chlorine outside of India. Contrary to Kangtai’s assertion, the record in this instant review has been significantly developed since the Preliminary Results. The Department did not have Philippine production data on the record, and could not

³⁶ See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039 (September 24, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

³⁷ See Letter from Jiheng, “Chlorinated Isocyanurates from China (Sixth Administrative Review) – PrePreliminary Surrogate Value Information,” January 9, 2012 (Jiheng January 9 Surrogate Value Submission), at Tab 2.

³⁸ See Trust Chem Co., Ltd. v. United States, 791 F. Supp. 2d 1257, 1264 (CIT 2011) (Trust Chem).

³⁹ See Surrogate Country Memorandum.

determine at the time of the Preliminary Results whether it was a significant producer, and therefore whether data from it could be used for surrogate values. The Department selected South Africa as the primary surrogate country, and India as a secondary surrogate country, based on the information available to the Department at that time. Since then, based on the evidence placed on the record since the Preliminary Results, the Department has now been able to determine that the Philippines is a significant producer of comparable merchandise, and selected it as the primary surrogate country in this review. The Department has a regulatory preference to value all factors in a single country where possible.⁴⁰ Jiheng had placed Philippine GTA data on the record to value chlorine. We find that it is the burden of Kangtai to provide sufficient factual evidence in support of its argument that these import data are aberrational. Even assuming, arguendo, that these import data could be found aberrational, Kangtai did not provide the Department with alternative data from the Philippines or one of the five equally economically comparable countries to use as a comparison but simply reverted back to company data from India – a country not on the list of equally economically comparable countries to the PRC. As a result, we find that the record does not support a finding that the chlorine import data from the Philippines are aberrational.

Kangtai next raises concerns that, in previous reviews, the Department has found that due to the very nature of chlorine, it faces special concerns both in transporting and in packaging, which are exacerbated over longer distances, greatly adding to the cost of chlorine and leading to it being infrequently traded internationally.⁴¹ The Department reached this conclusion in the previous review of this case, where India was the primary surrogate country, and parties had provided Indian GTA data, GTA data from other potential surrogate countries, and data from individual Indian companies for the surrogate valuation of chlorine. The Department's decision to use the Indian company data to value chlorine was partly based on the wide range of import volumes reported in the Indian GTA data as compared to other potential surrogate countries, and partly attributed to the various means and costs associated with transporting chlorine over long distances. Because of these deficiencies, and because other viable source information from the primary surrogate country was on the record, the Department opted to disregard the Indian GTA data. For the Preliminary Results, the Department relied heavily on the decision made in the 2009-2010 administrative review, and opted to value chlorine from the previous review's data, adjusted for inflation, from Indian companies. For these final results, the Department analyzed the complete record available in the instant review. Similar to the 2009-2010 administrative review analysis, we first reviewed the surrogate value information from the primary surrogate country, which for these final results, is the Philippines. As stated above, the Department does not find the Philippines GTA import data, the only data available to value chlorine from the Philippines, to be aberrational. Additionally, the data on the record of this instant review led the Department to conclude that the Philippines does have imports of chlorine at commercial quantities. In the 2009-2010 administrative review, the Department was able to compare import prices and domestic prices in the primary surrogate country, and was able to conclude that, due to a discrepancy in the pricing between domestic prices and import prices, as well as the average unit prices ranges of the potential surrogate countries, chlorine was not frequently traded

⁴⁰ See 19 CFR 351.408(c)(2).

⁴¹ See Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 77 FR 40689 (July 11, 2011) (2009-2010 Preliminary Results), unchanged in Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 76 FR 70957 (November 16, 2011) (2009-2010 Final Results).

internationally. A recent case since the Preliminary Results determined that chlorine is traded internationally,⁴² and evidence on the record of this review does not support a claim that chlorine is not frequently traded.

Kangtai argues that the Philippine imports of chlorine are miniscule compared to the amount of chlorine produced by Indian companies, and are also much smaller than the Philippine domestic production of chlorine, which by itself is insignificant. Kangtai later argues that “during the POR, Kangtai alone consumed 10 times more chlorine than market imports of chlorine into the Philippines and more than all chlorine imported into the entire Philippines,” and that, because GTA import data does not represent Kangtai’s production experience, domestic Indian prices should be used.⁴³ Similar to an argument in the recent review of Glycine, we do not find this argument persuasive to demonstrate that the Philippine’s import volumes are not of commercial quantity. As stated above, it is our policy to compare the total import volumes of potential surrogate countries to one another, not to compare import volume to the purchases of respondent companies nor other companies in a country which the Department has determined is less economically comparable.⁴⁴ Because the import volume for the Philippines exceeded those of any other equally economically comparable countries’ imports on the record of this review, we are satisfied that this volume represents significant commercial quantities during the POR.

Kangtai’s next concern is that chlorine, a by-product formed through the electrolysis of sodium chloride to caustic soda, has a higher surrogate value than either the main input (sodium chloride) or the main product (caustic soda). As Kangtai argues, “In Paslode, the Department found it was clearly unreasonable to have a value of a by-product exceed the costs of its inputs.”⁴⁵ Kangtai did not accurately reflect the Department’s position, which stated that “{i}t is clear that our steel scrap value selection produced an unreasonable result.”⁴⁶ In that situation, the Department was discussing the fact that the value of steel scrap should not be valued higher than the input the scrap came from. However, chlorine is a by-product, and not scrap, therefore Kangtai’s reference to this case is misguided. Furthermore, Jiheng submitted its production process diagrams, which the Department reviewed during verification, where we noted that during the electrolysis stage, several other inputs are used resulting in caustic soda, chlorine and hydrogen gas.⁴⁷ Kangtai has not provided any evidence that the cost of all the inputs resulting in a chlorine by-product are less than the surrogate value used for chlorine. Moreover, whether the value of a by-product is more or less than the value of the inputs is a meaningless comparison. The value of the by-product is the value it can obtain in the market. The Department is therefore not adjusting the chlorine by-product offset.

⁴² See Glycine, and accompanying Issues and Decision Memorandum at Comment 1.

⁴³ See Letter from Kangtai, “Certain Chlorinated Isocyanurates from the People’s Republic of China Rebuttal Brief by Juancheng Kangtai,” December 10, 2012 (Kangtai Rebuttal Brief), at 24.

⁴⁴ See Glycine, and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁵ See Kangtai Rebuttal Brief, at 21.

⁴⁶ See id.

⁴⁷ See Verification Report at 10.

Comment 8: Hydrogen

Petitioners' Arguments

- Imports of hydrogen gas into the Philippines are extremely small. The Department should rely on the 2010-2011 annual reports of four Indian producers of chlorine and caustic soda to value hydrogen gas.

Jiheng's Rebuttal Arguments

- Even if the hydrogen import volume is small, Petitioners have not provided any information indicating that the import data is aberrational, compared to data from other economically comparable countries. Courts have stated that there must be data supporting a party's claim that import values are aberrational; a small import volume alone is not enough.⁴⁸ India is no longer considered an economically comparable country. Its hydrogen values are therefore irrelevant to this analysis.
- Petitioners have not provided any alternative surrogate value from an economically comparable country.

Department's Position: The Department has valued hydrogen using GTA data from the Philippines for these final results. Based on the evidence on the record of this review, the Department had the option of valuing hydrogen with either 1) sales data from several Indian companies, or 2) GTA data from the Philippines. Petitioners argue that the amount of hydrogen imports into the Philippines are extremely small. As Jiheng correctly states, "[I]n determining whether a surrogate value derived from GTA data is aberrational, it is the Department's practice to compare it with GTA data for the input at issue of the other five countries found by the Department to be equally economically comparable to the PRC."⁴⁹ Petitioners did not provide any data from any of the other equally economically comparable countries to show that the Philippine GTA data are aberrational. As noted in Glycine, in our discussion of a similar allegation concerning chlorine imports into Indonesia:

{Respondent} bases this assertion on a comparison of this import data to the surrogate values in the previous reviews and the average unit value of sales by two Indian companies. We find that it is the burden of {Respondent} to provide sufficient factual evidence in support of its argument that this import data is aberrational. Even assuming, arguendo, that this import data could be found aberrational, {Respondent} did not provide the Department with alternative data from Indonesia or one of the five countries to use as a comparison but simply reverted back to company data from India – a country not on the list of economically-comparable countries to the PRC. As a result, we find that {Respondent} failed to provide sufficient factual evidence in support of its claims that the import data from all six countries is aberrational.⁵⁰

The Court of International Trade has stated much the same: even if import volumes are small, parties must submit information illustrating that the data is aberrational, such as import values from other economically comparable countries.⁵¹ There is no evidence on the record

⁴⁸ See Trust Chem., 791 F. Supp. 2d at 1264.

⁴⁹ See Glycine, and accompanying Issues and Decision Memorandum at Comment 1.

⁵⁰ See id.

⁵¹ See Trust Chem., 791 F. Supp. 2d at 1264.

demonstrating that the GTA data for hydrogen, while small in volume, is aberrational. Moreover, there is no evidence on the record to value hydrogen using a source from one of the other equally economically comparable countries. While we have previously found that problems with transporting hydrogen internationally results in unreliable GTA data, in this review there is no better alternative on the record. The only other option is data from India, which is no longer on the list of equally economically comparable countries. As discussed previously, the Department has a regulatory preference to value all factors in a single country where possible.⁵²

Therefore, we determine that the best available data to value hydrogen are GTA import data from the Philippines.

Comment 9: Steam Coal

Kangtai's Arguments

- The Department should use a domestic price from India, as done in several reviews, to value steam coal in this review, as it represents the best available information.
- If the Department declines to use India, it should value steam coal using Indonesian coal prices, which are more specific to the grade of steam coal used by Kangtai and which are tied to the international market.

Petitioners' Rebuttal Arguments

- Whether the Department selects the Philippines or South Africa as the surrogate country, it should use data from the primary surrogate country, e.g., GTA import data from the respective country, to value steam coal.
- Kangtai makes no claims that the GTA data are aberrational or unreliable and even submitted GTA data from the Philippines to use as a surrogate value.
- Because reliable and usable data exist in the primary surrogate country, and because Kangtai has not submitted any evidence to suggest that the GTA data are different in any meaningful way from the steam coal it consumes, the Department has no need to consider surrogate data from outside the primary surrogate country.

Department's Position: We find that the best available information to value steam coal in this review is the GTA import data from the Philippines. As an initial matter, the GTA Philippine import data for steam coal is the only steam coal value from the primary surrogate country on the record. As discussed above, for the Department to consider data from outside the primary surrogate country, in this case the Philippines, parties must 1) demonstrate that the GTA import data in the primary surrogate country are aberrational when compared to the GTA import data in other equally economically comparable countries, and 2) the record must contain alternative sources, preferably in an equally economically comparable country, to value the input.⁵³ Kangtai has provided data to value steam coal from Indonesia, which the Department considers to be an equally economically comparable country. Kangtai, however, has not presented any evidence to satisfy the first prong of the Department's requirements. The Department's regulatory preference is to value all factors from a single surrogate country when we have usable and

⁵² See 19 CFR 351.408(c)(2).

⁵³ See Comment 8, above, and Glycine, and accompanying Issues and Decision Memorandum Comment 1.

reliable data.⁵⁴ To that end, Kangtai itself submitted Philippines GTA import data to value steam coal. While Kangtai specifies the type of coal it uses, Kangtai has not submitted any information documenting that the GTA import data cover steam coal that is meaningfully different from the steam coal it consumes. Kangtai's only attempt to show that the GTA data are not specific to the type of coal it consumes is to claim that "no party has put the definition of South African HTS number 2701.19.00 on the record," which, after reviewing the record, the Department concludes is simply not the case. Petitioners did put such definitions on the record (although they are no longer directly relevant, given the Department's determination to rely on the Philippines).⁵⁵

Furthermore, the Indonesian data placed on the record itself has serious flaws. The Department continues to find that "the ESDM {the Ministry of Energy and Mineral Resources of the Republic of Indonesia source} contains information from international benchmark steam coal indexes and certain brand name prices, rather than actual transactions involving parties in Indonesia."⁵⁶ We next note that the values Kangtai suggests to use appear to be company brands or otherwise sub-national level indicators. These values therefore are more similar to company-specific values rather than a broad, country-wide average, which the Department prefers, and which is available using GTA data. Kangtai also has not provided a clear step-by-step explanation as to how it utilized the data from ESDM's various indexes and prices to calculate the POR-specific values it would like the Department to use, and it unclear to the Department how to calculate the values based on the record evidence. For these concerns, the GTA import data from the Philippines represents the best available information on the record.

As Petitioners note, the other cases Kangtai refers to have markedly different fact patterns than the ones in the instant review. First, Kangtai has not demonstrated that the GTA import data cover a product that is dissimilar to its input.⁵⁷ Second, the Department is not considering domestic prices versus import prices, nor are we faced with import data covering a basket category of goods.⁵⁸ Kangtai is concerned that the GTA data are not product specific, but provided no evidence demonstrating that the data, which it put on the record itself, are not specific. To the contrary, the evidence on the record demonstrates that the GTA data are specific to steam coal because the HTS category is the best match to steam coal.⁵⁹ The Department reviewed the HTS categories for coal (HTS number 2701), and reviewed the sub-heading options to see which sub-heading best matched steam coal. The sub-heading descriptions themselves

⁵⁴ See 19 CFR 351.408(c)(2) and (3); see also Glycine, and accompanying Issues and Decision Memorandum Comment 1.

⁵⁵ Petitioners placed excerpts from the South African Harmonized Customs and Excise Tariff schedule, including the description for HTS 2701.19, on the record. See Letter from Petitioners, "Chlorinated Isocyanurates from the People's Republic of China (6th Antidumping Administrative Review): Petitioners' Submission of Information Regarding Surrogate Values for Factors of Production," January 9, 2012, at Exhibit 1.

⁵⁶ See Certain Polyester Staple Fiber from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 2236 (January 11, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

⁵⁷ Contrary to the situation faced in Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part, 77 FR 63791 (October 17, 2012) and accompanying Issues and Decision Memorandum at 43.

⁵⁸ Contrary to the circumstances in Taian Ziyang Food Company, Ltd. v. United States, 783 F. Supp. 2d 1292 (CIT 2011).

⁵⁹ See, e.g., Glycine, and accompanying Issues and Decision Memorandum at Comment 1.

made evident that HTS number 2701.19 was the best option for steam coal as the other available sub-headings were for other specific types of coal, i.e., anthracite or bituminous coal. Because Kangtai has not met the threshold required for the Department to consider values outside the primary surrogate country, shown that that data outside the surrogate country is usable, or provided evidence demonstrating that the GTA data are not specific, we find that the GTA Philippine import data is the best available source to value coal.

Comment 10: Electricity

Petitioners' Arguments

- The Department should use industrial end-user rates listed in the Camarines Sur publication, relied upon in other reviews, to value electricity.⁶⁰ It is a publicly available source and specific to industrial end-users, thereby representing the best available data.
- Electricity rates from MERALCO should not be used because the charges to industrial users list significant components in kilowatts rather than kilowatt hours. By only including the kilowatt components, the rate would be significantly understated.
- The MERALCO data on the record exists only for December 2010, and includes a footnote indicating that the components of the electricity charge change every month. The Department cannot conclude that the December 2010 rates are reflective of the entire POR.

Jiheng's Rebuttal Arguments

- The data from MERALCO is superior to the Camarines Sur data. While both data sets are publicly available, the MERALCO data is contemporaneous with the POR, specifically excludes taxes, covers a broader geographic range, and is more specific.
- The MERALCO rate schedule is broken down into its components, and the Department is able to calculate all such components using kilowatt hours.

Department's Position: Jiheng argues that by any measure, save public availability, MERALCO data is superior to Camarines Sur data. A careful review of the evidence shows that this is not the case.

The MERALCO and Camarines Sur data represent electricity rates from different areas of the Philippines. The MERALCO data Jiheng submitted on the record of this review is only for December 2010. While that month falls within the POR, the one-month of MERALCO data expressly notes that several of the components of the rate fluctuate on a monthly basis.⁶¹ While the difference components are identified, it is not clear what is included in these components. Moreover, the MERALCO data is a rate per kilowatts and we need a rate per kilowatt hour for surrogate values. While Jiheng has provided a suggested method for converting kilowatts to kilowatt hours, its methodology makes certain assumptions, e.g., with regard to transmission charges, which are not supported by the record. We simply do not have the information to make a conversion of kilowatts to kilowatt hour. Furthermore, based on the identified monthly

⁶⁰ See Wooden Bedroom Furniture.

⁶¹ See Jiheng January 9 Surrogate Value Submission at Tab 5.

variability of the certain parts of the MERALCO data, the Department cannot evaluate whether the rates charged in December 2010 are similar to the rates that would have been effective during other months of the POR, as only one month of data was put on the record.

While as Jiheng argues, the Camarines Sur publication is from 2009 and is therefore not contemporaneous with the POR, there is no record indication that it suffers from the same monthly variability problems as the MERALCO data. When examining electricity rates in other reviews, the Department has determined that utility rates represent a current rate as indicated by the effective date listed for each of the rates provided.⁶² Therefore, in the Department's estimation, the rates from the publication likely were, absent evidence to the contrary, effective beginning in 2009, and thus continued to represent the current rate during the POR. Moreover, the Camarines Sur data is in kilowatt hours, the unit we need to value the kilowatt hour factor reported by the respondent.

Jiheng argues that it is unclear whether the Camarines Sur data include taxes and duties. While the MERALCO data specifically do not include taxes or duties, there is no evidence on the record that the Camarines Sur data include taxes and duties either. Jiheng also notes that the MERALCO data cover a broader range, but neither data source is nation-wide, and Camarines Sur does cover rates available in two cities in the Philippines.⁶³ With regard to product specificity, both sources include rates for different users. While the MERALCO data are broken down further, Camarines Sur includes rates for industrial users, the category to which the respondents belong.⁶⁴

Because, the Camarines Sur electricity rate matches the factor rate in kilowatt hours for industrial users, is publicly available from the primary surrogate country, represents electricity rates from two cities in the Philippines, does not appear to include taxes or duties, and does not suffer from the unknown variability factors of the MERALCO rate, we have selected the Camarines Sur electricity rate as the best available information with which to value the electricity factor.

Comment 11: Steam

Petitioners' Arguments

- Since no party has submitted data from the Philippines to value steam, the Department should continue to use South African GTA import data for natural gas to value steam, like it did in the Preliminary Results.
- The Department could value steam using an Indian source on the record, but its first priority is to use data from economically comparable counties, i.e., South Africa.

Jiheng's Rebuttal Arguments

- The Department should not use import statistics from South Africa because, as Jiheng demonstrated, the statistics exclude imports from other SACU members.

⁶² See 2009-2010 Preliminary Results, unchanged in 2009-2010 Final Results.

⁶³ See Letter from Kangtai, "Chlorinated Isocyanurates from the People's Republic of China Surrogate Values for Preliminary Determination," January 9, 2012, at Exhibit SV-16b.

⁶⁴ See id.

- The Department can value steam using Indian data or natural gas imports into the Philippines.

Kangtai's Rebuttal Arguments

- The best information to use to value steam is the financial statements of Hindalco Industries Limited, which represent an Indian domestic price and are reflective of the commercial reality.

Department's Position: The Department prefers to value all inputs in one primary surrogate country. However, there are no data from the Philippines with which to value this input as no party placed this information on the record. Therefore, the Department must go outside of its primary surrogate country to select a surrogate value. The Department has two choices on the record to value steam: 1) financial statements from an Indian company, or 2) GTA import data for natural gas from South Africa. Of these two options, only one data source is from an equally economically comparable country. While data from an Indian company may represent a product-specific domestic price, India is considered less economically comparable to the PRC, and there are other data on the record from an equally economically comparable country for the Department to select.⁶⁵ No party has raised any concerns about valuing steam using GTA import data for natural gas (*i.e.*, no party has argued that the GTA data is for a basket category, or unrepresentative of the factor, *etc.*), or concerns that the Department uses GTA import data for natural gas to value steam.⁶⁶

Kangtai argues that the use of GTA data to value steam leads to a value that does not reflect commercial reality because there is no international shipping of steam. The Department disagrees. Kangtai has not stated that the use of GTA data is inconsistent with past precedents, nor does it provide any support that the GTA data are aberrational, or unreflective of the real world beyond mere assertions. Therefore, the Department is using GTA import data from South Africa, an economically comparable country to the PRC, to value steam rather than the data from India which is less economically comparable to the PRC than South Africa.

Comment 12: Labor

Kangtai's Arguments

- If the Department selects the Philippines as the primary surrogate country, it should value labor using the most contemporaneous data on the record.

Department's Position: Using ILO 6A sub-classification 24, "Manufacture of Chemicals and Chemical Products," Kangtai submitted two labor values, one from 2002 and one from 2008. The Department reviewed the ILO data and, besides the time frame, the other difference between the two values is that one from 2002 represents "labour cost," while the other from 2008 represents "compensation of employees." While the Department normally will "use labor cost

⁶⁵ See Comment 2 above for further discussion.

⁶⁶ See Preliminary Results, 77 FR at 41752; see also Memorandum to the File, "2010-2011 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results Surrogate Value Memorandum," June 29, 2012 (where the Department valued steam using natural gas). Natural gas and steam have the same British Thermal Unit content and the parties did not contest the equivalency of steam and natural gas.

data if available and compensation of employees where labor cost data are not available,”⁶⁷ the “labor cost” data is quite old and the Department must balance contemporaneity with accuracy. Here, we believe the age of the data weighs against relying on it as the best available information. Since the compensation data is from before the POR, we have inflated the compensation data to obtain a rate contemporaneous with the POR.

Comment 13: Financial Ratios

Petitioners’ Arguments

- The 2010 annual report of Mabuhay Vinyl Corporation (MVC), a Philippine producer of sodium hypochlorite, should be used to value the financial ratios as it is contemporaneous, publicly available, and is comparable to the experience of the respondents.
- The production of subject merchandise is an energy intensive process; thus MVC’s electricity costs are likely captured in its direct manufacturing costs (i.e., raw materials used) and not as part of its overhead. Therefore, the Department should include electricity as part of raw materials in its cost build up in order to avoid understating normal value.

Jiheng’s Rebuttal Arguments

- Jiheng agrees with Petitioners that the financial statements from MVC should be used to calculate the financial ratios. However, Petitioners’ calculations of the ratios are inconsistent with the Department’s practice. The Department should ensure the following:
 - Employee Benefits/Retirement Benefits should be included in labor, not selling, general and administrative (SG&A) expenses.
 - Interest income (from “cash and equivalents”) should be included as an offset to SG&A expenses.
 - Long-term debt is not an SG&A expense.
 - “Rent, light and water” should be treated as part of raw materials or energy, and, to avoid double-counting, should not be treated as part of SG&A expenses.
 - “Repairs and maintenance” are normally categorized as part of overhead, not as part of SG&A expenses.

Department’s Position: The Department agrees with Petitioners and Jiheng that the 2010 annual report of MVC, a Philippine producer of sodium hypochlorite, should be used to value the financial ratios as it is contemporaneous, publicly available, and is comparable to the experience of the respondents. The Department agrees in part with several of Jiheng’s suggested categorizations of certain line items from the surrogate financial statements. It is the Department’s practice to treat interest income generated from short-term sources as an offset to interest expenses.⁶⁸ Here the notes to the financial statements indicate that the interest income

⁶⁷ See Labor Methodologies at Footnote 11.

⁶⁸ See Polyethylene Retail Carrier Bags From Thailand: Final Results of Antidumping Duty Administrative Review, 74 FR 65751 (December 11, 2009) and accompanying Issues and Decision Memorandum at Comment 5.

was earned from cash and cash equivalents.⁶⁹ Therefore, we are treating interest income on the financial statements as an offset to the interest expenses. With respect to the long-term debt referenced by Jiheng, the financial statements clearly provide information that the amount in question is associated with the current year's interest expense incurred on loans.⁷⁰ Therefore, for purposes of calculating the financial ratios we have included the interest expenses in question because it is the Departments practice to include the entire borrowing experience of a company as part of interest expenses.⁷¹

We disagree with Jiheng that the employee benefits and retirement benefits, repairs and maintenance, and rent, light and water expenses which are classified as period costs and not cost of goods sold on the income statement, should be included as labor, energy or overhead costs, respectively. Here the financial statements provide clear and separate classifications for manufacturing costs and general expenses (i.e., period costs). Manufacturing costs are those costs that, when incurred, are initially allocated and capitalized as inventory and are subsequently expensed in the form of "cost of goods sold" when the units in inventory are sold.⁷² These costs typically include direct materials, direct labor, and manufacturing or factory overhead costs.⁷³ It is expected that the manufacturing costs allocated to each product include all factory related repairs and maintenance and labor cost including benefits, because, in accordance with the matching principal of accounting, the product costs should be expensed only when the products are sold to ensure an accurate matching of costs to the sales revenue that occurs in any given period.⁷⁴ The manufacturing costs incurred to produce each product are tracked and assigned to that product as it enters into the inventory.⁷⁵ It is only when specific products are sold that they become expenses in the current period, as part of the cost of goods sold.⁷⁶

Period costs (classified here as operating expenses) are expensed in full in the period in which these costs are incurred.⁷⁷ Period costs do not relate to the production of any specific product and are not capitalized, nor do they go through inventory.⁷⁸ In this case, we consider it reasonable to assume that the employee and retirement benefits, repairs and maintenance and rent, light and water classified as period costs relate to the selling and administrative expenses of the company. This is precisely why these costs are recognized as incurred during the year,⁷⁹ and are not associated with the production of any specific products that were initially inventoried and subsequently sold. Likewise, it is reasonable to assume that the repairs and maintenance costs associated with manufacturing, inventory and the cost of goods sold (different from the repairs and maintenance reported in operating expenses and addressed above) reflect all costs associated with manufacturing overhead incurred to produce the products that were sold.

⁶⁹ See Jiheng January 9 Surrogate Value Submission at Tab 4.

⁷⁰ See *id.*

⁷¹ See *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes from Canada*, 67 FR 8781 (February 26, 2002) and accompanying Issues and Decision Memorandum at Comment 25.

⁷² See Charles T. Horngren, George Foster, and Srikant M. Datar, *Cost Accounting: A Managerial Emphasis* at Chapter 2 (Prentice Hall, Seventh Edition, 1991).

⁷³ See *id.*

⁷⁴ See *id.*

⁷⁵ See *id.*

⁷⁶ See *id.*

⁷⁷ See *id.*

⁷⁸ See *id.*

⁷⁹ See Jiheng January 9 Surrogate Value Submission at Tab 4, page 20.

While we agree with Petitioners that the production of subject merchandise is an energy intensive process and should be accounted for using the reported electricity factors in determining the normal value, MVC's financial statements do not separately identify electricity costs. However, MVC's financial statements do provide information in a detailed cost of goods sold line item, rental, light, janitorial, and security expenses, that are associated with electricity costs. While we acknowledge that this line item may include certain expenses that are not related to electricity, to avoid double counting of the electricity costs, and likewise ensure we account for the energy intensive nature of the production process by using the reported electricity FOPs, we are treating the line item rental, light, janitorial and security expenses as energy costs, and not as part of manufacturing overhead.

Comment 14: Whether the Ammonia Gas and Sulfuric Acid Surrogate Values are Reasonable

Petitioners' Arguments

- In the Preliminary Results, the ammonia gas and sulfuric acid by-products were assigned higher surrogate values than the inputs (e.g., urea) used to produce them. The surrogate values were also higher than the surrogate value for ammonium sulfate, the downstream product made from ammonia gas and sulfuric acid.
- Both results are unreasonable. A by-product is an attempt to limit costs by avoiding waste. Therefore, a by-product is not more valuable than the inputs from which it is derived. Likewise, it does not make sense to produce a downstream product (ammonium sulfate) if it is less valuable than the inputs used to produce it.
- The Department should either disregard the by-product offsets,⁸⁰ or limit the amount of the offset to the surrogate value for ammonium sulfate.

Jiheng's Rebuttal Arguments

- Petitioners' arguments are all based on precedents involving scrap valued at more than the original inputs generating the scrap.

Department's Position: For these final results, we are adjusting the manner in which we calculate the by-product offsets for both Jiheng and Kangtai to conform to the Department's recent practice. The Department considers this by-product methodology more reasonable than the by-product methodology employed for the Preliminary Results because it consistent with the information the Department requests in our questionnaire, which asks respondents: "{i}f the by-product for which you are claiming an offset is a downstream by-product, in addition to responding to the items above, please also: (i) Provide the per-unit usage rate of each input used to produce the downstream by-product."⁸¹

Consistent with this practice, the Department first starts with the value of the downstream product actually sold by the respondents, ammonium sulfate, produced during the POR.⁸² From this amount, the Department would normally deduct the costs associated with converting the by-

⁸⁰ See Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (October 18, 2011) and accompanying Issues and Decision Memorandum at 89.

⁸¹ See Letter to Jiheng, "2010-2011 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China," October 6, 2011, at D-10.

⁸² See id., at D-9.

products into the downstream product, such as labor and electricity.⁸³ Since this information is not on the record of this review, the Department is not able to deduct such costs for these final results. In the future, the Department will require such information in order to grant this offset. But in this instance, we are using the full value of the ammonium sulfate as the by-product offset. We calculated this amount by multiplying the quantities of ammonium sulfate produced and sold by respondents during the POR by the surrogate value (Philippine GTA data) for ammonium sulfate.

Comment 15: Whether Jiheng’s Ammonia Gas “Absorption Rate” Adjustment is Warranted

Petitioners’ Arguments

- Jiheng does not define or explain its “absorption rate” adjustment to its ammonia gas by-product calculation. The Department should eliminate this adjustment, which currently increases Jiheng’s claimed ammonia gas by-product by more than five percent.
- Jiheng is only entitled to a by-product offset claim for ammonia gas that is sold or reintroduced into production.

Jiheng’s Rebuttal Arguments

- Jiheng has used the same formula to calculate its ammonia gas by-product since the investigation, and the formula has been thoroughly verified three times.
- A by-product offset may be claimed for by-products produced during the POR that have commercial value, including the amount that is not absorbed into the finished non-subject merchandise.

Department’s Position: Jiheng is only entitled to an offset for the amount of ammonia gas generated and sold or reintroduced into the production process during the POR. A by-product offset reflects the reality that a producer’s POR costs can be lowered if it produces and sells a by-product during the POR. Jiheng’s costs are not lowered as the result of any other ammonia gas that is lost as waste during the production of ammonium sulfate. It does not matter that the loss of the ammonia gas may be an unavoidable fact of the ammonium sulfate production process. Because it is waste, it generates no revenue to offset production costs and it cannot be reintroduced as a substitute for purchased materials in the production process, thereby saving Jiheng the expense of purchasing new materials. Thus, the offset must be limited to the amount of ammonia gas incorporated into the ammonium sulfate sold. Such a limit is an automatic result of the revised by-product offset methodology described in response to the previous comment because the by-product offset is based on the value of the product produced and sold (or reintroduced) during the POR.

Comment 16: Whether Jiheng’s Normal Value was Correctly Adjusted for Transportation Costs

Jiheng’s Arguments

- Jiheng’s consolidated FOP database includes the intermediate inputs’ build-up costs, i.e., the costs of manufacturing the intermediate products were included in the FOP

⁸³ See id.

database. Jiheng's FOPs reflect all the consumption allocated to all production at the consolidated level.

- The Department should eliminate its adjustment to the FOPs for merchandise Baikang provided to Jiheng to avoid double-counting certain inputs.

Petitioners' Rebuttal Arguments

- The adjustment the Department made to Jiheng's normal value is appropriate because it adds the cost of transporting the products supplied from Baikang to Jiheng, not the cost of any material input. The record does not indicate that this transportation cost is already included in the FOPs.

Department's Position: The Department agrees with Petitioners that the adjustments done to normal value in the Preliminary Results were simply to capture the cost of transporting the semi-finished goods from one factory location to another. When the Department conducted verification, we carefully examined the costs reported for each input. The Department found that not only were the transportation costs for the semi-finished goods not included anywhere in Jiheng's FOP build-up, but also that the costs of transporting intermediate inputs from one factory location to another were absent from the FOP build-ups.⁸⁴ While Jiheng contends that these costs are part of overhead, it has not provided any record evidence to support this contention. Furthermore, the Department's practice is to calculate freight costs for inputs transported between factories and to include those costs as part of raw materials.⁸⁵ Since these transportation costs are not included in any of Jiheng's FOP build-ups, the Department is adding these costs to Jiheng's normal value calculation as a raw materials expense.⁸⁶

Comment 17: Whether Kangtai's Ammonia Gas By-product Was Calculated Using the Correct Concentration Level

Petitioners' Arguments

- Both respondents derived their reported amounts of ammonia gas by-product by calculating the amount of ammonia gas needed to produce the ammonium sulfate they produced and sold. To calculate the quantity of its ammonia gas by-product, Kangtai assumed the ammonium sulfate it produced has a 100 percent solution strength; *i.e.*, more ammonia gas is required to produce 100 percent ammonium sulfate than a lower concentrated ammonium sulfate.
- The Department should reduce Kangtai's ammonia gas by-product to reflect commercial purity levels for ammonium sulfate. The Department should apply Jiheng's reported concentration levels for ammonium sulfate to Kangtai's by-product calculation. This is the only data on the record for ammonium sulfate concentration levels.

⁸⁴ See Verification Report.

⁸⁵ See e.g., Utility Scale Wind Towers From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 77 FR 46034 (August 2, 2012), unchanged in Utility Scale Wind Towers From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 75992 (December 26, 2012).

⁸⁶ See Memorandum to the File, "Analysis for the Final Results of the 2010-2011 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Company Ltd.," January 14, 2013.

Kangtai's Rebuttal Arguments

- The Department should reject Petitioners' argument to decrease the reported amount of Kangtai's ammonia gas by-product. The Department never asked Kangtai about its ammonium sulfate concentration level in the several questionnaires issued to Kangtai.
- Relying on Jiheng's concentration level to adjust Kangtai's calculation would divulge Jiheng's business proprietary information to Kangtai.

Department's Position: There is no evidence on the record to indicate that the concentration level reported by Jiheng for ammonium sulfate applies to the product produced by Kangtai. There is no other evidence on the record indicating the concentration level for ammonium sulfate produced by Kangtai is other than what it used in its calculations (*i.e.*, a concentration level of 100 percent). Therefore, no adjustment to Kangtai's calculation is warranted.

Comment 18: Whether Kangtai's Sodium Hydroxide Surrogate Value Should be Adjusted

Kangtai's Arguments

- The Department should adjust the surrogate value for sodium hydroxide to account for the difference between the concentration level used by Kangtai (32 percent) and the concentration level of commercially sold sodium hydroxide (50 percent).⁸⁷ The GTA data used as a surrogate value likely reflect sodium hydroxide sold at this 50 percent concentration level.
- The Department should strike Petitioners' surrogate value rebuttal information concerning sodium hydroxide concentration levels. Leaving this new information on the record could legally compel the Department to use those values in these final results.

Petitioners' Rebuttal Arguments

- The Department should deny Kangtai's request to adjust the surrogate value of sodium hydroxide.
- In recent cases, the Department has refused to make concentration level adjustments to sodium hydroxide when surrogate value sources do not indicate levels of purity. In this case, the GTA data do not indicate a concentration level.⁸⁸

Department's Position: The Department agrees with Petitioners that an adjustment to sodium hydroxide would be arbitrary and we have not made this adjustment for these final results. While the information placed on the record from Kangtai indicates that sodium hydroxide is sold at 50 percent concentration levels commercially, there is also unambiguous evidence that it can be purchased at other concentration levels. Specifically, the product that Kangtai itself purchases is sold at a 32 percent concentration level. Moreover, regardless of what might be the typical

⁸⁷ See Synthetic Indigo From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 68 FR 53711 (September 12, 2003), and accompanying Issues and Decision Memorandum at Comment 5.

⁸⁸ See Final Determination of Sales at Less than Fair Value: Certain Activated Carbon from the People's Republic of China, 72 FR 9508 (March 2, 2007), and accompanying Issues and Decision Memorandum at 64; see also Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, 74 FR 16838 (April 13, 2009), and accompanying Issues and Decision Memorandum at 37.

concentration level for commercially traded sodium hydroxide, Kangtai provided no evidence demonstrating that the either the Philippine or South African GTA data reflects that typical concentration level. Consistent with our practice, the Department does not adjust respondents' FOPs when the concentration level in the data source is unknown.⁸⁹

The Department also finds that the evidence placed on the record by Petitioners was merely to rebut Kangtai's assertions regarding the concentration level of commercially traded sodium hydroxide. In other words, Petitioners did not place additional surrogate value options on the record in their rebuttal submission, which would have been untimely. Instead, in order to rebut Kangtai's claim that sodium hydroxide is sold exclusively or commonly at a 50 percent concentration level, Petitioners submitted information indicating that sodium hydroxide is, in fact, traded at various concentration levels. Since Petitioners did not place new surrogate value options on the record, but merely rebutted Kangtai's argument with contrary information concerning concentration levels, we have not stricken this information from the record.

RECOMMENDATION:

Based on our analysis of the comments received, we recommend adopting all of the above positions. If accepted, we will publish the final results of review and the final dumping margins in the Federal Register.

AGREE ✓ DISAGREE _____

 Paul Piquado
Paul Piquado
Assistant Secretary
for Import Administration

 14 JANUARY 2013
Date

⁸⁹ See Certain Helical Spring Lock Washers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 75 FR 29720 (May 27, 2010), and accompanying Issues and Decision Memorandum at Comment 5.