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May 16, 2014

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of
Antidumping Duty Administrative Review: Certain Activated
Carbon from the People's Republic of China

SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China ("PRC") for the period of review ("POR") from April 1, 2012, through March 31, 2013. The Department preliminarily determines that sales of the subject merchandise in the United States were 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 all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act").

Background

On June 3, 2013, the Department published the notice of initiation of the sixth administrative review of certain activated carbon from the PRC for the period, April 1, 2012, to March 31,



2013.¹ The Department initiated an administrative review of 185 exporters of subject merchandise.² On July 26, 2013, Calgon³ withdrew its request for an administrative review of Calgon Tianjin.⁴ On August 28, 2013, Petitioners⁵ withdrew their request for review with respect to 169 companies, including Calgon Tianjin.⁶ On December 23, 2013, the Department rescinded the review with respect to Shanxi Industry Technology Trading Co., Ltd., Shanxi Xuanzhong Chemical Industry Co., Ltd., Xi'an Shuntong International Trade & Industrials Co., Ltd., and Tianjin Maijin Industries Co., Ltd., because Petitioners' request for review of these companies was withdrawn and they were not part of the PRC-wide entity. The Department stated it would address the disposition of the remaining withdrawn companies that do not have a separate rate from a prior segment in this proceeding in the preliminary results of this review.⁷ Petitioners did not withdraw their request for review with respect to 16 companies.⁸

On November 13, 2013, the Department extended the time period for issuing the preliminary results by 120 days.⁹ As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.¹⁰ Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the preliminary results of this review is now May 16, 2014.

On June 7, 2013, Calgon challenged Albemarle Corporation ("Albemarle")'s standing as a domestic interested party in this proceeding.¹¹ On June 20, 2013, the Department sought information from Albemarle regarding its standing as a domestic interested party. On July 5,

¹ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 78 FR 33052 (June 3, 2013) ("Initiation Notice").

² See id.

³ Calgon Carbon (Tianjin) Co., Ltd. ("Calgon Tianjin") and Calgon Carbon Corporation (collectively, "Calgon").

⁴ See Letter from Calgon to the Department, "Withdrawal of Request for Review of Calgon Carbon (Tianjin) Co., Ltd.," dated July 26, 2013.

⁵ Norit Americas Inc. and Calgon Carbon Corporation (collectively, "Petitioners").

⁶ See Letter from Petitioners to the Department, "Petitioners' Withdrawal of Certain Requests for Administrative Review," dated August 28, 2013.

⁷ See Certain Activated Carbon From the People's Republic of China; 2012-2013; Partial Rescission of the Sixth Antidumping Duty Administrative Review, 78 FR 77419 (December 23, 2013) ("Partial Rescission").

⁸ These companies are: Beijing Pacific Activated Carbon Products Co., Ltd.; Calgon Carbon (Tianjin) Co., Ltd.; Cherishmet Incorporated; Datong Juqiang Activated Carbon Co., Ltd.; Datong Municipal Yunguang Activated Carbon Co., Ltd.; Jacobi Carbons AB; Jilin Bright Future Chemicals Company, Ltd.; Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.; Ningxia Huahui Activated Carbon Co., Ltd.; Ningxia Mineral & Chemical Limited; Shanxi DMD Corporation; Shanxi Sincere Industrial Co., Ltd.; Sinocarbon International Trading Co., Ltd.; Tangshan Solid Carbon Co., Ltd.; Tianjin Channel Filters Co., Ltd.; and Tianjin Jacobi International Trading Co., Ltd.

⁹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Bob Palmer, International Trade Compliance Analyst, Office V, re: "Certain Activated Carbon from the People's Republic of China: Extension of Deadline for the Preliminary Results of the Sixth Antidumping Duty Administrative Review," dated November 13, 2013.

¹⁰ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

¹¹ See Calgon's letter to the Department, dated June 7, 2013.

2013, Albemarle responded to the Department's request for information.¹² On July 22, 2013, Calgon provided comments regarding Albemarle's submission.¹³

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter or producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted average dumping margin determinations because of the large number of exporters or producers involved in the review.

On June 3, 2013, the Department placed CBP data for the Harmonized Tariff Schedule of the United States ("HTSUS") numbers listed in the scope of the order on the record of the review and requested comments on the data for use in respondent selection.¹⁴ On June 14, 2013, and June 17, 2013, we received comments from Jacobi¹⁵ and Petitioners, respectively.

On June 26, 2013, the Department issued the respondent selection memorandum, in which it explained that, because of the large numbers of exporters or producers involved in the review (185 companies at the time of initiation), it would not be practicable to individually examine all companies.¹⁶ Rather, the Department determined that it could only reasonably examine two exporters in this review.¹⁷ Pursuant to section 777A(c)(2)(B) of the Act, the Department selected

¹² See Albemarle's letter to the Department, dated July 5, 2013.

¹³ See Calgon's letter to the Department, dated July 22, 2013.

¹⁴ See Letter to All Interested Parties, re: "Administrative Review of the Antidumping Duty Order of Certain Activated Carbon from the People's Republic of China: CBP Data for Respondent Selection," dated June 3, 2013.

¹⁵ In the third administrative review, the Department found Jacobi Carbons AB, Tianjin Jacobi International Trading Co. Ltd., and Jacobi Carbons Industry (Tianjin) are a single entity and, because there were no changes to the facts which supported that decision, we continued to find these companies part of a single entity in the fourth and fifth administrative reviews. Because there have been no changes to the facts which supported that decision in the present review, we are continuing to treat the companies as a single entity in this review. See Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Third Antidumping Duty Administrative Review, 76 FR 67142 (October 31, 2011); Certain Activated Carbon From the People's Republic of China: 2010-2011; Final Results of Antidumping Duty Administrative Review, 77 FR 67337 (November 9, 2012); Certain Activated Carbon From the People's Republic of China: 2011-2012; Final Results of Antidumping Duty Administrative Review, 78 FR 70533, 70535 (November 26, 2013).

¹⁶ See Memorandum to James Doyle, Director, Office 9, AD/CVD Operations, from Bob Palmer, Senior Analyst, Office 9, "6th Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Selection of Respondents for Individual Review," dated June 26, 2013 ("Respondent Selection Memo"), at 3.

¹⁷ See *id.*, at 4.

Jacobi and Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. (“Cherishmet”)¹⁸ for individual examination because they were the two largest exporters/producers of the subject merchandise, by volume, during the POR.¹⁹

Questionnaires

On June 26, 2013, the Department issued its non-market economy (“NME”) antidumping questionnaire to Cherishmet and Jacobi. Between July 24, 2013, and March 4, 2014, the Department issued supplemental questionnaires and received responses from both Cherishmet and Jacobi.

Scope of the Order

The merchandise subject to the order is certain activated carbon. Certain activated carbon is a powdered, granular, or pelletized carbon product obtained by “activating” with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite, and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (“CO₂”) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO₂ gas) activated process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.

The scope of the order covers all forms of activated carbon that are activated by steam or CO₂, regardless of the raw material, grade, mixture, additives, further washing or post-activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of the order covers all physical forms of certain activated carbon, including powdered activated carbon (“PAC”), granular activated carbon (“GAC”), and pelletized activated carbon.

Excluded from the scope of the order are chemically activated carbons. The carbon-based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc chloride, sulfuric acid or potassium hydroxide that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by

¹⁸ In the first administrative review, the Department found Beijing Pacific Activated Carbon Products Co., Ltd., Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd., and Ningxia Guanghua Activated Carbon Co., Ltd. are a single entity and, because there were no changes to the facts which supported that decision, we continued to find these companies to be part of a single entity in subsequent reviews. Because there have been no changes to the facts which supported that decision in the present review, we are continuing to treat the companies as a single entity in this review. See Certain Activated Carbon From the People’s Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results, 74 FR 21317 (May 7, 2009), unchanged in First Administrative Review of Certain Activated Carbon from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 57995 (November 10, 2009); and Certain Activated Carbon From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 2011-2012, 78 FR 70533 (November 26, 2013) at footnote 33.

¹⁹ See *id.*

chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO₂ gas) activated carbons are within the scope, and those containing more than 50 percent chemically activated carbons are outside the scope. This exclusion language regarding blended material applies only to mixtures of steam and chemically activated carbons.

Also excluded from the scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals.

Also excluded from the scope is activated carbon cloth. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from the scope is included within the scope. The products subject to the order are currently classifiable under the HTSUS subheading 3802.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Domestic Interested Party Status

On April 30, 2013, Albemarle Corporation (“Albemarle”) requested an administrative review of Calgon Tianjin as a wholesaler of the domestic like product and therefore as a domestic interested party pursuant to section 771(9)(C) of the Act.²⁰ On June 7, 2013, Calgon challenged Albemarle’s standing as a wholesaler and domestic interested party and requested that the Department obtain further information from Albemarle regarding its wholesale activities.²¹ On June 20, 2013, the Department issued a questionnaire to Albemarle requesting further information regarding its activities as a wholesaler.²² On July 5, 2013, Albemarle responded to the Department’s request for information.²³ On July 22, 2013, Calgon submitted comments regarding Albemarle’s July 5, 2013, response.²⁴

Calgon argues the Department should reject Albemarle’s claim to standing as a domestic interested party because the information provided by Albemarle demonstrates that it is not a bona

²⁰ See Letter from Albemarle, dated April 30, 2014.

²¹ See Letter from Calgon, dated June 7, 2013.

²² See Letter to Albemarle, dated June 20, 2013.

²³ See Letter from Albemarle, dated July 5, 2013 (“Albemarle Response”).

²⁴ See Letter from Calgon, dated July 22, 2013 (“Calgon Comments”).

bona fide wholesaler of the domestic like product no matter if the Department defines “wholesaler” using Black’s Law Dictionary or the United States Census Bureau’s 2007 North American Industry Classification System (“NAICS”) definition. Further, Calgon argues that the Department should require a party claiming wholesaler status to demonstrate that it is engaged in such activities on a regular and sustained basis.²⁵

As in previous administrative reviews, we preliminarily determine to continue our practice of referring to the NAICS definition of “wholesale trade” because we find it provides a highly specific, administrable definition of the undefined term “wholesaler” in section 771(9)(C) of the Act.²⁶ The NAICS definition of “wholesale trade” describes the wholesaling process as “an intermediate step in the distribution of merchandise. Wholesalers are organized to sell or arrange the purchase or sale of (a) goods for resale (i.e., goods sold to other wholesalers or retailers), (b) capital or durable nonconsumer goods, and (c) raw and intermediate materials and supplies used in production.”²⁷ Furthermore, the fundamental characteristic of a wholesaler, based on the NAICS definition, is that it is not set up to attract walk-in business, but operates out of warehouses and sales offices that are distinct from retail store locations.²⁸ In addition, the NAICS definition further clarifies: “Establishments arranging for the purchase or sale of goods owned by others or purchasing goods, generally on a commission basis are known as business to business electronic markets... These establishments operate from offices and generally do not own or handle the goods they sell.”²⁹ Moreover, according to this clarification, “For NAICS, it is how merchandise is sold not what is sold or how it is used.... Both wholesalers and retailers sell merchandise as their primary activity. Between these two sectors, the chief distinction for NAICS is on whether the facilities are open to the general public or not.”³⁰ Using this definition, we find that Albemarle’s commercial activities are consistent with those of a wholesaler because it is not set up to attract walk-in business, and arranges for the sale of raw and intermediate materials and supplies used in production.³¹ Accordingly, based on the evidence on the record of this review, we find no reason to depart from our findings in the AR 5 PRC Carbon Final that Albemarle satisfies the definition of wholesaler.

We agree with Albemarle that it is a wholesaler of the domestic like product. In the AR5 PRC Carbon Final, we determined that section 771(9)(C) of the Act does not impose a minimum requirement of domestic activity for purposes of standing to request an administrative review of a foreign producer or exporter.³² Further, the Department has not set a threshold amount of domestic activity to be considered a domestic interested party or set forth stringent bona fide

²⁵ See Calgon Comments at 2-3

²⁶ See Certain Activated Carbon from the People’s Republic of China: Final Results and Partial Rescission of Third Antidumping Duty Administrative Review, 76 FR 67142 (October 31, 2011) (“AR3 Carbon”); see also Certain Activated Carbon From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 2011-2012, 78 FR 70533 (November 26, 2013), and accompanying Issues and Decision Memorandum at Comment 1 (“AR5 PRC Carbon Final”).

²⁷ See Albemarle Response at Exhibit 6.

²⁸ See id.

²⁹ See id.

³⁰ See id.

³¹ See Albemarle Response.

³² See AR5 PRC Carbon Final.

requirements for a party claiming to be a domestic interested party.³³ The evidence on the record demonstrates that Albemarle made purchases and sales of the domestic like product during the POR.³⁴ Because we find that the record demonstrates that Albemarle is a wholesaler of the domestic like product and, therefore, a domestic interested party pursuant to section 771(9)(C) of the Act, Albemarle may request an administrative review of Calgon Tianjin under 19 CFR 351.213(b). Accordingly, Calgon Tianjin remains under review as a non-individually examined, separate rate respondent.

Duty Absorption

On July 3, 2013, Petitioners requested that the Department determine whether antidumping duties had been absorbed for U.S. sales of certain activated carbon made during the POR by the respondents selected for review.³⁵ Section 751(a)(4) of the Act directs the Department to determine whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer and if a duty absorption inquiry is requested during an administrative review initiated two or four years after publication of the order. The antidumping duty order underlying this review was issued in 2007, and this review was initiated in 2013. As a result, the request for the Department to conduct a duty absorption inquiry was not proper because the request was made six years after the order was published.³⁶ Therefore, we are not conducting a duty absorption inquiry for this segment of the proceeding.

Preliminary Determination of No Shipments

On July 31, 2013, Sinocarbon International Trading Co., Ltd. (“Sinocarbon”) filed a no shipment certification indicating that it did not export subject merchandise to the United States during the POR.³⁷ In order to examine this claim, we sent an inquiry to CBP requesting that any CBP office alert the Department if it had any information contrary to the no shipments claims. We received no such response from CBP with respect to Sinocarbon.

³³ See id.

³⁴ See Albemarle Response at 1 and Exhibit 3.

³⁵ See Petitioners’ July 3, 2013, submission regarding “Sixth Administrative Review of the Antidumping Duty Order on Certain Activated Carbon From the People’s Republic of China – Petitioners’ Request for Absorption Inquiry.”

³⁶ See *FAG Italia S.p.A. v. United States*, 291 F.3d 806, 815 n.13 (Fed. Cir. 2002) (rejecting the claim that Commerce has the authority to conduct duty absorption inquiries every second and fourth year after each successive sunset review because “neither the statute nor its legislative history suggests that Commerce may conduct duty absorption inquiries beyond the initial sunset review, and the plain language of the statute provides that duty absorption inquiries be conducted ‘2 years or 4 years after the publication of an antidumping duty order’”; see also *Polyethylene Retail Carrier Bags From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 28192 (May 14, 2013), and accompanying Preliminary Decision Memorandum at “Discussion of the Methodology” (declining to conduct a duty absorption inquiry in the eighth administrative review because “the statute only authorizes the Department to conduct duty absorption inquiries in the second and fourth administrative reviews after publication of an antidumping duty order”), unchanged in *Polyethylene Retail Carrier Bags From Thailand: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 50376 (August 19, 2013).

³⁷ See Sinocarbon’s July 31, 2013, submission regarding “Activated Carbon from the People’s Republic of China: No Shipment Certification.”

Based on the certifications submitted by Sinocarbon and our analysis of the CBP information, we preliminarily determine that Sinocarbon did not have any reviewable shipments during the POR. In addition, the Department finds that, consistent with its recently announced refinement to its assessment practice in NME cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect Sinocarbon.³⁸

Withdrawal of Requests for Review

As stated above, on August 28, 2013, Petitioners withdrew their request for review with respect to 169 companies. Pursuant to this request, on December 23, 2013, the Department rescinded the reviews of four of those companies named by Petitioners that had separate rates. The Department then stated that it would address in the preliminary results of this review the disposition of the remaining 165 companies that do not have a separate rate from a prior segment of this proceeding.³⁹

We note that the deadline to file a separate-rate application, a separate-rate certification, or a notification of no sales, exports or entries, is 60 days after the date of publication of the initiation of the administrative review.⁴⁰ Therefore, as of August 2, 2013, these remaining companies had not demonstrated eligibility for a separate rate and, thus, are considered part of the PRC-wide entity.⁴¹ In addition, certain companies for which review requests have not been withdrawn also did not submit either a separate-rate application or certification, and thus are considered part of the PRC-wide entity. Accordingly, while the requests for review of companies not qualifying for separate rates were withdrawn by Petitioners on August 28, 2013, those companies remain under review as part of the PRC-wide entity and the Department will make a determination with respect to the PRC-wide entity in these preliminary results and the final results.⁴²

Non-Market Economy Country

The Department considers the PRC to be an NME country.⁴³ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

³⁸ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694-65695 (October 24, 2011).

³⁹ See Partial Rescission, 78 FR 77419.

⁴⁰ See Initiation Notice, 78 FR at 33053-333054.

⁴¹ See Appendix.

⁴² See, e.g., Honey From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 56860 (September 16, 2013).

⁴³ See, e.g., Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 2011-2012, 78 FR 26748 (May 8, 2013) and accompanying Decision Memorandum at 6, unchanged in AR5 PRC Carbon Final 78 FR 70533.

Separate Rates

There is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.⁴⁴ In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in NME proceedings.⁴⁵ It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers,⁴⁶ as amplified by Silicon Carbide.⁴⁷ However, if the Department determines that a company is wholly foreign-owned, then a separate rate analysis is not necessary to determine whether it is independent from government control.⁴⁸

The Department received completed responses to the Section A portion of the NME questionnaire from the mandatory respondents, Cherishmet and Jacobi, which contained information pertaining to the companies' eligibility for a separate rate. In addition, the Department received separate-rate applications or certifications from the following eight companies ("Separate-Rate Applicants"):

1. Calgon Carbon (Tianjin) Co., Ltd.
2. Datong Juqiang Activated Carbon Co., Ltd.
3. Datong Municipal Yunguang Activated Carbon Co., Ltd.
4. Jilin Bright Future Chemical Company, Ltd.
5. Ningxia Huahui Activated Carbon Co., Ltd.
6. Ningxia Mineral & Chemical Limited
7. Shanxi Sincere Industrial Co., Ltd.
8. Tianjin Channel Filters Co., Ltd.⁴⁹

⁴⁴ See 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, 53082 (September 8, 2006); Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China, 71 FR 29303, 29307 (May 22, 2006).

⁴⁵ See Initiation Notice, 78 FR at 33053-333054.

⁴⁶ See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) ("Sparklers")

⁴⁷ See 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").

⁴⁸ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews, 79 FR 4327 (January 27, 2014), and Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007).

⁴⁹ We note the Department's separate rate application requires companies to provide evidence of a sale to the United States during the POR as a qualification for a separate rate. Tianjin Channel Filters Co., Ltd. provided such evidence. See Tianjin Channel Filters Co., Ltd. Separate Rate Application, dated July 31, 2013 at 11 and Exhibit 1.

a. Wholly Foreign Owned

Jacobi reported that it is wholly-owned by a company located in a market-economy (“ME”) country, Sweden.⁵⁰ Calgon Tianjin and Ningxia Mineral & Chemical Limited demonstrated in their separate-rate certifications that they are 100 percent ME foreign owned.⁵¹ Therefore, as there is no PRC ownership of these four companies, and because the Department has no evidence indicating that these companies are under the control of the PRC government, further separate-rate analyses are not necessary to determine whether they are independent from government control of their export activities.⁵² Therefore, we preliminarily determine that Calgon Tianjin, Jacobi, and Ningxia Mineral & Chemical Limited have met the criteria for separate rates.

b. 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) any other formal measures by the government decentralizing control of companies.⁵³ The evidence provided by Cherishmet and the six remaining Separate-Rate Applicants⁵⁴ supports a preliminary finding of de jure absence of government control of export activities based on the following: (1) there is 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.⁵⁵

c. 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 (“EPs”) 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

⁵⁰ See Jacobi’s Section A Questionnaire Response, dated July 24, 2013, at 2.

⁵¹ See Calgon Tianjin’s separate rate certification dated July 26, 2013, at 2; see also Ningxia Mineral & Chemical Limited’s Separate Rate Certification dated August 1, 2013, at Attachment 1.

⁵² See Brake Rotors From the People’s Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review, 66 FR 1303, 1306 (January 8, 2001), unchanged in Brake Rotors From the People’s Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review, 66 FR 27063 (May 16, 2001); Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People’s Republic of China, 64 FR 71104 (December 20, 1999).

⁵³ See Sparklers, 56 FR at 20589.

⁵⁴ See Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd., dated July 31, 2014, at 2 and Exhibit A-4a; Shanxi Sincere Industrial Co., Ltd. Separate Rate Certification, dated June 5, 2013, at 7 and Exhibit 1; Tianjin Channel Filters Co., Ltd. Separate Rate Application, dated July 31, 2013 at 11 and Exhibit 1; Datong Municipal Yunguang Activated Carbon Co., Ltd. Separate Rate Application, dated August 2, 2013; Datong Juqiang Activated Carbon Co., Ltd. Separate Rate Application, dated August 2, 2013; Jilin Bright Future Chemicals Co., Ltd., dated August 1, 2013; Ningxia Huahui Activated Carbon Co., Ltd., dated July 31, 2013 (collectively, “Separate Rate Applicants”).

⁵⁵ See id.

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.⁵⁶ The Department 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.⁵⁷ The evidence provided by Cherishmet and the six remaining Separate-Rate Applicants supports a preliminary finding of de facto absence of government control based on the following: (1) the companies set their own EPs independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.⁵⁸ Therefore, the Department preliminarily finds that Cherishmet and the remaining Separate-Rate Applicants have established that they qualify for a separate rate under the criteria established by Silicon Carbide and Sparklers.

Separate Rate Calculation

As stated above in the "Respondent Selection" section, the Department employed a limited examination methodology in this review, as it did not have the resources to examine all companies for which a review request was made, and selected the two largest exporters by volume as mandatory respondents in this review, Cherishmet and Jacobi. Cherishmet and Jacobi are mandatory respondents in this review. Eight additional companies (listed in the "Separate Rates" section above) remain subject to review as separate rate respondents.

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, we look to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents not selected for individual examination in an administrative review. Section 735(c)(5)(A) of the Act instructs that we do not calculate an all-others rate using any zero or de minimis weighted-average dumping margins or any weighted-average dumping margins based entirely on facts available. Accordingly, the Department's usual practice has been to average the rates for the selected companies excluding rates that are zero, de minimis or based entirely on facts available.⁵⁹ Section 735(c)(5)(B) of the Act also provides that, where all rates are zero, de minimis or based entirely on facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents.⁶⁰ One method that section 735(c)(5)(B) of the Act contemplates as a

⁵⁶ 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).

⁵⁷ See id.

⁵⁸ See Separate Rate Applicants.

⁵⁹ See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Review in Part, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

⁶⁰ See id.

possible method is “averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.”

In these preliminary results, the two mandatory respondents, Cherishmet and Jacobi, have weighted-average dumping margins which are not zero, de minimis, or based entirely on facts available. Additionally, because using the weighted-average margin based on the calculated net U.S. sales quantities for Cherishmet and Jacobi would allow these two respondents to deduce each other’s business-proprietary information and thus cause an unwarranted release of such information, we cannot assign to the separate rate companies the weighted-average margin based on the calculated net U.S. sales values from these two respondents.⁶¹

For these preliminary results, and consistent with our practice,⁶² we determine that using the ranged total sales quantities reported by Cherishmet and Jacobi from the public versions of their submissions to calculate a weighted-average margin is more appropriate than calculating a simple average margin.⁶³ These publicly available figures provide the basis upon which we can calculate a margin which is the best proxy for the weighted-average margin based on the calculated net U.S. sales values of Cherishmet and Jacobi without the possibility of disclosing any business proprietary information. We find that this approach is more consistent with the intent of section 735(c)(5)(A) of the Act and our use of that statutory provision as guidance when we establish the rate for respondents not examined individually in an administrative review.⁶⁴

Because the calculated net U.S. sales values for Cherishmet and Jacobi are business proprietary, we find that 3.13 U.S. dollars/kilogram (“USD/kg”), which we calculated using the publicly available figures of U.S. sales quantities for these two firms, is the best reasonable proxy for the weighted-average margin based on the calculated U.S. sales quantities of Cherishmet and Jacobi.⁶⁵ The Separate-Rate Applicants receiving this rate are identified by name in the “Preliminary Results of the Review” section of the Federal Register notice.

PRC-Wide Entity

Upon initiation of the administrative review, we provided the opportunity for all companies upon which the review was initiated to complete either the separate-rates application or certification.⁶⁶ We preliminarily determine that three companies for which the review requests were not

⁶¹ See, e.g., AR5 PRC Carbon Final, 78 FR at 70534-35.

⁶² See id.

⁶³ See Jacobi’s public version of its supplemental Section A questionnaire response, dated August 21, 2013, at Exhibit 1; see also Cherishmet’s Public Version of Exhibit A-1 for the Section A Response, dated August 30, 2013.

⁶⁴ See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 56158, 56160 (September 12, 2011); see also Galvanized Steel Wire From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 76 FR 68407, 68415 (November 4, 2011) unchanged in the final determination, see Galvanized Steel Wire From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 17430 (March 26, 2012).

⁶⁵ For further discussion regarding this issue, see the “Memorandum to the File from Bob Palmer, International Trade Specialist, Office V Re: Calculation of Separate Rate,” dated concurrently with this notice.

⁶⁶ The separate-rate application and certification are available at: <http://enforcement.trade.gov/nme/nme-sep-rate.html>.

withdrawn did not demonstrate their eligibility for a separate rate and are properly considered part of the PRC-wide entity. In NME proceedings, “‘rates’ may consist of a single dumping margin applicable to all exporters and producers.”⁶⁷ As explained above in the “Separate Rates” section, all companies within the PRC are considered to be subject to government control unless they are able to demonstrate an absence of government control with respect to their export activities. Such companies are assigned a single antidumping duty rate distinct from the separate rate(s) determined for companies that are found to be independent of government control with respect to their export activities. We consider the influence that the government has been found to have over the economy to warrant determining a rate for the entity that is distinct from the rates found for companies that provided sufficient evidence to establish that they operate freely with respect to their export activities.⁶⁸ In this regard, we note that no party submitted evidence to demonstrate that such government influence is no longer present or that our treatment of the NME entity is otherwise incorrect. Therefore, we are assigning the PRC-wide entity a rate of 2.42 USD/kg, the only rate ever determined for the PRC-wide entity in this proceeding.⁶⁹

Surrogate Country and Surrogate Value Data

On August 2, 2013, the Department sent interested parties a letter inviting comments on surrogate country selection and surrogate value (“SV”) data.⁷⁰ Between August 28, 2013 and November 4, 2013, the Department extended the deadline for surrogate country and SV comments on multiple occasions.⁷¹ On October 23, 2013, Petitioners, Cherishmet and Jacobi submitted surrogate country comments.⁷² On November 20, 2013, Petitioners, Cherishmet and Jacobi submitted SV comments.⁷³ On November 27, 2012, the Department extended the

⁶⁷ See 19 CFR 351.107(d).

⁶⁸ See Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 68 FR 37116 (June 23, 2003), and accompanying Issues and Decision Memorandum at Comment 9.

⁶⁹ See Certain Activated Carbon From the People’s Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review, 75 FR 70208, 70209 (November 17, 2010).

⁷⁰ See Department’s Letter to All Interested Parties, Re: “Sixth Administrative Review of Certain Activated Carbon from the People’s Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments,” dated August 2, 2013 (“Surrogate Country Memo”).

⁷¹ See Memorandum to the File, from Bob Palmer, International Trade Compliance Analyst, Office 9, Import Administration, “Extension of Deadline for Submission of Surrogate Country Comments and Pre-Prelim Surrogate Value Information,” dated August 28, 2013; Memorandum to the File, from Katie Marksberry, International Trade Compliance Analyst, Office 9, Import Administration, “Second Extension of Deadline for Submission of Surrogate Country Comments,” dated September 27, 2013; Memorandum to the File, from Katie Marksberry, International Trade Compliance Analyst, Office V, Enforcement and Compliance, “Second Extension of Deadline for Submission of Surrogate Value Comments,” dated November 4, 2013.

⁷² See Petitioners’ Surrogate Country Selection Comments, dated October 23, 2013 (“Petitioners’ SC Comments”); Cherishmet’s Surrogate Country Selection Comments, dated October 23, 2013 (“Cherishmet’s SC Comments”); and Jacobi’s Surrogate Country Selection Comments, dated October 23, 2013 (“Jacobi’s SC Comments”).

⁷³ See Petitioners’ SV Comments, dated November 20, 2013; Cherishmet’s SV Comments, dated November 20, 2013; and Jacobi’s SV Comments, dated November 20, 2013.

deadline for rebuttal SV comments to December 17, 2013.⁷⁴ On December 17, 2013, Cherishmet submitted rebuttal SV comments.⁷⁵

Surrogate Country

When the Department investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.⁷⁶ The Department determined that Colombia, Costa Rica, Indonesia, the Philippines, Thailand, and South Africa are countries that are at a level of economic development comparable to the PRC in terms of per capita gross national income ("GNI").⁷⁷ The sources of the SVs are discussed under the "Normal Value" section below and in the Surrogate Values Memo.⁷⁸

Petitioners, Cherishmet and Jacobi all agree that the Philippines should be selected as the primary surrogate country because the Philippines is economically comparable to the PRC and a significant producer of activated carbon, and SV data are available for all material inputs used by the respondents in this review.⁷⁹ Additionally, Petitioners state that Indonesia should be selected as the secondary surrogate country to provide SV data for material inputs that cannot be valued based on available data from the Philippines. However, because we have available data from the Philippines to value all respondents' FOPs, we determine not to rely on Indonesian import statistics.

Economic Comparability

As explained in the Surrogate Country Memo, the Department considers Colombia, Costa Rica, Indonesia, the Philippines, Thailand, and South Africa to be at the same level of economic development comparable to the PRC. The Department treats each of these countries as equally

⁷⁴ See Memorandum to the File, from Bob Palmer, International Trade Compliance Analyst, Office 9, Enforcement and Compliance, "Extension of Deadline for Submission of Rebuttal Surrogate Value Comments," dated November 27, 2013.

⁷⁵ See Cherishmet's December 17, 2013, submission Re: "Cherishmet's Surrogate Value Rebuttal Submission: Sixth Administrative Review of the Antidumping Duty Order on Certain Activated Carbon from the People's Republic of China."

⁷⁶ See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process, (March 1, 2004) ("Policy Bulletin 04.1").

⁷⁷ See Surrogate Country Memo.

⁷⁸ See Memorandum to the File through Catherine Bertrand, Program Manager, Office V, from Emeka Chukwudebe, Case Analyst, "Sixth Administrative Review of Certain Activated Carbon from the People's Republic of China: Surrogate Factor Valuations for the Preliminary Results," dated concurrently with this notice ("Surrogate Values Memo").

⁷⁹ See Petitioner's SC Comments, Cherishmet's SC Comments, and Jacobi's SC Comments.

comparable.⁸⁰ Therefore, we consider all six countries identified in the Surrogate Country Memo as having met this prong of the surrogate country selection criteria. Unless we find that all of these countries are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data, or are unsuitable for use for other reasons, or we find that another equally comparable country is an appropriate surrogate, we will rely on data from one of these countries.⁸¹

Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as Policy Bulletin 04.1 for guidance on defining comparable merchandise. Policy Bulletin 04.1 states that "the terms 'comparable level of economic development,' 'comparable merchandise,' and 'significant producer' are not defined in the statute."⁸² Policy Bulletin 04.1 further states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."⁸³ Conversely, if the country does not produce identical merchandise, then a country producing comparable merchandise is sufficient in selecting a surrogate country.⁸⁴ Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.⁸⁵ "In cases where the identical merchandise is not produced, the team must determine if other merchandise that is comparable is produced. How the team does this depends on the subject merchandise."⁸⁶ In this regard, the Department recognizes that it must do an analysis of comparable merchandise on a case-by-case basis:

⁸⁰ See, e.g., Certain Steel Wheels From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination, 76 FR 67703, 67708 (November 2, 2011), unchanged in Certain Steel Wheels From the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value and Partial Affirmative Final Determination of Critical Circumstances, 77 FR 17021 (March 23, 2012).

⁸¹ See *id.*; see also, e.g., Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 36168 (June 17, 2013), and accompanying Issues and Decision Memorandum at Comment 5; and Silica Bricks and Shapes From the People's Republic of China: Preliminary Determination of Antidumping Duty Investigation and Postponement of Final Determination, 78 FR 37203 (June 20, 2013), unchanged in Final Determination of Sales at Less Than Fair Value: Silica Bricks and Shapes From the People's Republic of China, 78 FR 70918 (November 27, 2013).

⁸² See Policy Bulletin 04.1.

⁸³ See *id.*

⁸⁴ Policy Bulletin 04.1 also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise. See *id.*, at note 6.

⁸⁵ See Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 65674 (December 15, 1997), and accompanying Issues and Decision Memorandum at Comment 1 (to impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute).

⁸⁶ See Policy Bulletin 04.1, at 2.

In other cases, however, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.⁸⁷

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.⁸⁸ Moreover, while the legislative history provides that the term “significant producer” includes any country that is a significant “net exporter,”⁸⁹ it does not preclude reliance on additional or alternative metrics. In this case, we examined export data published by the Global Trade Atlas (“GTA”) to determine which countries included on the Surrogate Country List were producers of comparable merchandise. GTA export data indicate that Colombia, Indonesia, the Philippines, Thailand, and South Africa had significant exports during the POR of the primary HTS number included in the scope, *i.e.*, exports of HTS number 3802.10. Because multiple potential surrogate countries have been identified as appropriate surrogate countries through the above analysis, the Department looks to the availability of SV data to determine the most appropriate surrogate country.

Data Availability

When evaluating SV data, the Department considers several factors including whether the SV is publicly available, contemporaneous with the POR, representative of a broad-market average, from an approved surrogate country, tax- and duty-exclusive, and specific to the input.⁹⁰ There is no hierarchy among these criteria. It is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.⁹¹

Petitioners, Cherishmet, and Jacobi placed SV data on the record for the Philippines, including financial statements from several Philippine processors of subject merchandise. In addition to the SV data placed on the record by interested parties, we conducted an extensive search for SVs from other countries included in the Surrogate Country Memo; however, the Department has not located usable financial statements for any country identified in the Surrogate Country Memo other than the Philippines.

The Department finds the Philippines to be an appropriate surrogate country because the Philippines is at a comparable level of economic development pursuant to section 773(c)(4) of the Act, is a significant producer of identical and comparable merchandise, and has publicly available and reliable data for all direct materials, energy, financial ratios and packing. Given

⁸⁷ See *id.*, at 3.

⁸⁸ See section 773(c)(1) of the Act; *Nation Ford Chem. Co. v. United States*, 166 F.3d 1373, 1377 (Fed. Cir. 1990).

⁸⁹ See *Conference Report to the 1988 Omnibus Trade & Competitiveness Act*, H.R. Rep. No. 100-576, at 590 (1988) (“OTCA 1988”).

⁹⁰ See, *e.g.*, *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2010-2011*, 78 FR 17350 (March 21, 2013), and accompanying Issues and Decision Memorandum at Comment I(C).

⁹¹ See Policy Bulletin 04.1.

the above facts, the Department selects the Philippines as the primary surrogate country for this review.⁹² A detailed explanation of the SVs is provided below in the “Normal Value” section of this notice.

Facts Available for NV

Sections 776(a)(1) and 776(a)(2) of the Act provide that, if necessary information is not available on the record, or if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified as provided in section 782(d); then the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party “promptly after receiving a request from {the Department} for information..., notifies {the Department}... that such party is unable to submit the information in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information,” the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed “deficient” under section 782(d) if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party demonstrates that it acted to the best of its ability in providing the information and meeting the requirements established by the Department; and (5) the information can be used without undue difficulties.

However, section 776(b) of the Act states that if the Department “finds that an interested party fails to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission . . . , in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise

⁹² See Surrogate Country Memo; see also Surrogate Values Memo.

available.”⁹³ Adverse inferences are appropriate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁹⁴ An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.⁹⁵

Jacobi’s Excluded Producers

On July 24, 2013, Jacobi sent a letter to the Department requesting to be excused from reporting FOP data for certain PRC producers.⁹⁶ On July 26, 2013, the Department notified Jacobi that due to the large number of producers that supplied Jacobi during the POR, Jacobi is excused from reporting certain FOP data.⁹⁷ Specifically, the Department did not require Jacobi to report FOP data for its smallest producers.⁹⁸

In accordance with section 776(a)(1) of the Act, the Department is applying facts available to determine the NV for the sales corresponding to the FOP data that Jacobi was excused from reporting. As facts available, the Department is applying the calculated average NV of Jacobi’s reported sales to the sales of merchandise produced by their excluded producers, respectively.⁹⁹ The Department addressed these issues in separate company-specific memoranda which include a detailed explanation of the facts available calculation.¹⁰⁰

Date of Sale

Jacobi and Cherishmet reported the invoice date as the date of sale because they claim that for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established based on the invoice date. In accordance with 19 CFR 351.401(i) and the Department’s long-standing practice of determining the date of sale,¹⁰¹ and in the absence of any information to the contrary, the Department preliminarily determines that the invoice date is the most appropriate date to use as Jacobi’s and Cherishmet’s date of sale.

⁹³ See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316, Vol. 1, at 870 (1994), reprinted in 1994 U.S.C.C.A.N. 4040, 4198-99.

⁹⁴ See id.

⁹⁵ See id.; see also section 775(b)(1)-(4) of the Act.

⁹⁶ See Jacobi’s Request for Exclusions, dated July 24, 2013.

⁹⁷ See the Department’s Letter to Jacobi, dated July 26, 2013.

⁹⁸ See id.

⁹⁹ See AR5 Carbon Final.

¹⁰⁰ See Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office V, from Frances Veith, Senior International Trade Analyst, AD/CVD Operations, Office V: Preliminary Results Analysis Memorandum for Jacobi Carbons AB in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People’s Republic of China, dated concurrently with this notice (“Jacobi’s Prelim Analysis Memo”).

¹⁰¹ See, e.g., Certain Polyester Staple Fiber From the People’s Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review, and Intent To Revoke Order in Part, 76 FR 40329 (July 8, 2011) unchanged in Certain Polyester Staple Fiber From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, and Revocation of an Order in Part, 76 FR 69702 (November 9, 2011); see also Steel Wire Garment Hangers From the People’s Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review, 75 FR 68758 (November 9, 2010) unchanged in First Administrative Review of Steel Wire Garment Hangers From the People’s Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 76 FR 27994, 27996 (May 13, 2011).

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Cherishmet's and Jacobi's sales of the subject merchandise to the United States were made at less than NV, the Department compared the EP (or CEP) to the NV as described in the "Export Price," "Constructed Export Price" and "Normal Value" sections of this memorandum.

A. *Determination of Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (the average-to-average ("A-A") method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping duty investigations, the Department examines whether to compare weighted-average NVs to the EPs or CEPs of individual transactions (the average-to-transaction ("A-T") method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping duty investigations.¹⁰²

In recent investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.¹⁰³ The Department finds that the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.¹⁰⁴

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here

¹⁰² See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011, 77 FR 73415 (December 10, 2012).

¹⁰³ See, e.g., Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013). Differential pricing was also used in the recent antidumping duty administrative review of certain activated carbon from the People's Republic of China: Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 26748 (May 8, 2013), unchanged in Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 70533 (November 26, 2013) and accompanying Issues and Decisions Memorandum at Comments 2-4.

¹⁰⁴ See *id.*

evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer code. Regions are defined using the reported destination code (e.g., zip codes or cities) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. The Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region, or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales are considered to have passed the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (i.e., the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the

Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted average dumping margin as compared to that resulting from the use of the A-A method only. If the difference between the two calculations is meaningful, this demonstrates that the A-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if (1) there is a 25 percent relative change in the weighted average dumping margin between the A-A method and the appropriate alternative method where both rates are above the de minimis threshold or (2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

For Jacobi, based on the results of the differential pricing analysis, the Department finds that 52.6 percent of Jacobi's export sales confirm the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions or time periods.¹⁰⁵ Further, the Department determines that the A-A method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margin when calculated using the A-A method and the alternative method.¹⁰⁶ For Cherishmet, the Department finds that none of Cherishmet's export sales confirm the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions or time periods.¹⁰⁷ Accordingly, the Department determines to use the A-A method in making comparisons of EP or CEP and NV for Jacobi and Cherishmet.¹⁰⁸

U.S. Price

Constructed Export Price

For all of Cherishmet's and Jacobi's sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act because sales of subject merchandise were made in the United States on behalf of the companies located in the PRC by their respective U.S. affiliates to

¹⁰⁵ See Jacobi's Prelim Analysis Memo.

¹⁰⁶ See *id.*

¹⁰⁷ See Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office V, from Bob Palmer, International Trade Analyst, AD/CVD Operations, Office V: "Preliminary Results Analysis Memorandum for Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China," dated concurrently with this notice ("Cherishmet Prelim Analysis Memo").

¹⁰⁸ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average export prices with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

unaffiliated purchasers in the United States.¹⁰⁹ For these sales, the Department based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, the Department made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and appropriate selling adjustments, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, the Department also deducted those selling expenses associated with economic activities occurring in the United States. The Department deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty expenses, and indirect selling expenses. For those expenses that were provided by an ME provider and paid for in an ME currency, the Department used the reported expense. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for each company, see Jacobi's Prelim Analysis Memo and Cherishmet's Prelim Analysis Memo.¹¹⁰

Further Manufactured Sales

In its original Section A Questionnaire response, Jacobi stated that it conducted some additional processing of the subject merchandise in the United States.¹¹¹ On August 27, 2013, we notified Jacobi that its subject merchandised further manufactured in the United States did not meet the reporting exemption under section 772(e) of the Act, as informed by 19 CFR 351.402(c)(2)¹¹² and requested that Jacobi submit a complete response to Section E,¹¹³ Cost of Further Manufacturing Performed in the United States, of the Department's questionnaire.¹¹⁴ On September 18, 2013, Jacobi provided its Section E response.¹¹⁵

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

¹⁰⁹ See, e.g., Section A Response of Jacobi, dated July 24, 2013, at 6 and Exhibit A1. Section C Response of Jacobi, dated August 23, 2012, at 10; see also Section A Response of Cherishmet, July 31, 2013, at 1 and Exhibit A1. Section C Response of Cherishmet, dated September 3, 2013, at 15.

¹¹⁰ See Cherishmet Prelim Analysis Memo.

¹¹¹ See Jacobi's Section A Questionnaire Response, submitted July 24, 2013, at 19 and 20.

¹¹² See 19 CFR 351.402(c)(2) special rule for merchandise with value added after importation ("Special Rule").

¹¹³ See the Department's letter to Jacobi regarding, "Sixth Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Non-market Economy Questionnaire," (June 26, 2013).

¹¹⁴ See the Department's letter to Jacobi dated August 27, 2013.

¹¹⁵ See Jacobi's Response to the Department's Section E Questionnaire, submitted on September 18, 2013.

Factor Valuation Methodology

In accordance with 19 CFR 351.408(c)(1),¹¹⁶ the Department will normally use publicly available information to value the FOPs, but when a producer sources an input from an ME country and pays for it in an ME currency, the Department may value the factor using the actual price paid for the input.¹¹⁷ During the POR, Jacobi reported that it purchased certain inputs from an ME supplier and paid for the inputs in an ME currency.¹¹⁸ The Department has a rebuttable presumption that ME input prices are the best available information for valuing an input when the total volume of the input purchased from all ME sources during the period of investigation or review exceeds or is equal to 33 percent of the total volume of the input purchased from all sources during the period.¹¹⁹ In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted-average ME purchase price to value the entire input.¹²⁰ Alternatively, when the volume of an NME firm's purchases of an input from ME suppliers during the period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the ME purchase price with an appropriate surrogate value according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.¹²¹ When a firm has made ME input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 33-percent threshold.¹²²

Accordingly, we valued certain of Jacobi's inputs using the ME prices paid for in ME currencies for the inputs where the total volume of the input purchased from all ME sources during the POR exceeded or was equal to 33 percent of the total volume of the input purchased from all sources during the period. Where the quantity of the reported input purchased from ME suppliers was below 33 percent of the total volume of the input purchased from all sources during the POR, and were otherwise valid, we weight-averaged the ME input's purchase price with the appropriate surrogate value for the input according to their respective shares of the reported total volume of purchases.¹²³ Where appropriate, we added freight to the ME prices of inputs. For a detailed description of the actual values used for the ME inputs reported, see Jacobi's analysis memoranda, dated concurrently with this notice.

¹¹⁶ We note the Department's revised methodology requiring 85 percent or more of ME purchases is applicable to all proceedings or segments of proceedings (e.g., investigations and administrative reviews) initiated on or after September 3, 2013, see Use of Market Economy Input Prices in Nonmarket Economy Proceedings, 78 FR 46799 (August 2, 2013.)

¹¹⁷ See Lasko Metal Products, Inc. v. United States, 43 F.3d 1442, 1445-1446 (Fed. Cir. 1994) (affirming the Department's use of market-based prices to value certain FOPs).

¹¹⁸ See Jacobi's Response to the Department's Section D Questionnaire of Jacobi Tianjin's Packing Factors of Production, dated September 19, 2012, at D-9, and Exhibit JCT-2.

¹¹⁹ See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61717-18 (October 19, 2006).

¹²⁰ See id.

¹²¹ See id.

¹²² See id.

¹²³ See Antidumping Methodologies: Market Economy Inputs, 71 FR at 61718.

The Department used GTA Philippines import statistics to value the raw material and packing material inputs that Cherishmet and Jacobi used to produce the subject merchandise under review during the POR, except where otherwise stated below. In accordance with the legislative history of the OTCA 1988,¹²⁴ the Department continues to apply its long-standing practice of disregarding certain prices as SVs if it has a reason to believe or suspect that these prices may have been dumped or subsidized.¹²⁵ In this regard, the Department previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we determined that these countries maintain broadly available, non-industry specific export subsidies.¹²⁶ Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from these countries in calculating the Philippine import-based SVs. Additionally, the Department disregarded prices from NME countries.¹²⁷ Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, as the Department could not be certain that they were not from either an NME country or a country with general export subsidies.¹²⁸

In accordance with section 773(c) of the Act, for subject merchandise produced by Cherishmet and Jacobi, the Department calculated NV based on the FOPs reported by Cherishmet and Jacobi for the POR. The Department used data from GTA Philippine Import Statistics and other publicly available Philippine sources in order to calculate SVs for Cherishmet’s and Jacobi’s FOPs (direct materials, energy, and packing materials) and certain movement expenses.¹²⁹ To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly available Philippine SVs (except as noted below). The Department’s practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are

¹²⁴ See Omnibus Trade and Competitiveness Act of 1988 (“OTCA 1988”), Conference Report to Accompany H.R. 3, Report No. 100-576 at 590-91 (1988) (A House Conference Report).

¹²⁵ See OTCA 1988, reprinted in 1988 U.S.C.C.A.N. 1547, 1623-24.

¹²⁶ See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23; Certain Hot-Rolled Carbon Steel Flat Products From India, Indonesia, and Thailand, 78 FR 16525 (March 14, 2013), and accompanying Issues and Decision Memorandum at 5-7.

¹²⁷ See PET Film, and accompanying Issues and Decision Memorandum at Comment 1.

¹²⁸ See id.

¹²⁹ See Surrogate Values Memo.

product-specific, representative of a broad-market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.¹³⁰

As appropriate, the Department adjusted input prices by including freight costs to render the prices delivered prices.¹³¹ Specifically, the Department added to the Philippine import SVs 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 Federal Circuit in Sigma Corp. v. United States.¹³² For a detailed description of all SVs used for Cherishmet and Jacobi, see the Surrogate Values Memo.

Where the Department could not obtain publicly available information contemporaneous to the POR with which to value factors, the Department adjusted the SVs using, where appropriate, the Philippine Producer Price Index as published in the International Financial Statistics of the International Monetary Fund.¹³³ Where necessary, the Department adjusted SVs for inflation, exchange rates, and taxes, and the Department converted all applicable items to a per-metric ton basis.

We valued water using Philippine data based on two water utility companies providing service to the Manila metropolitan area: Manila Water Company Inc. and Maynilad Water Services, Inc.; and also data based on a water utility company covering all of the Philippines outside of Manila: the Local Water Utilities Administration (“LWUA”). We averaged all data from each of these sources and based the surrogate value on an average of the three figures.¹³⁴

We valued electricity using Philippine data based on two electric utility companies: (1) Camarines Sur, a utility that provides service to industrial users in Naga City; and (2) National Power Corporation, a utility that provides service to industrial users in three provinces (Luzon, Mindanao, and Visayas).¹³⁵ We averaged all data from each of these sources and based the surrogate value on an average of the two figures.

We used Philippine transport information in order to value the freight-in cost of the raw materials.¹³⁶ We used a simple average of the truck rates from the Confederation of Truckers Association of the Philippines, Inc. (“CTAP”) for 32 destinations within the Philippines, and the

¹³⁰ See, e.g., Fuwei Films (Shandong) Co. v. United States, 837 F. Supp. 2d 1347, 1350-51 (CIT 2012) (citing Certain Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum at Comment 10); Electrolytic Manganese Dioxide From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 48195 (August 18, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

¹³¹ See section 772(c)(1)(A) of the Act.

¹³² See Sigma Corp. v. United States, 117 F.3d 1401, 1408 (Fed. Cir. 1997).

¹³³ See Surrogate Value Memo.

¹³⁴ See, e.g., Wooden Bedroom Furniture From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part, 75 FR 5952, 5962-63 (February 5, 2010); unchanged in Wooden Bedroom Furniture From the People’s Republic of China: Final Results and Final Rescission in Part, 75 FR 50992 (August 18, 2010); see also Preliminary Factor Valuation Memorandum

¹³⁵ See Surrogate Values Memo.

¹³⁶ See id.

driving distances to these 32 destinations. We find these rates to be a broad market average of actual truck freight rates charged in the Philippines, specific to the input being valued, publicly available and contemporaneous with the POR. In addition, the CTAP truck data contains more data points and represents truck rates from a larger representation of the Philippines than the Doing Business Legazpi single truck rate. Additionally, the Department relied on CTAP data in other proceedings before the Department.¹³⁷ Although this source states that the published rates are effective as of 2011, there is no information to indicate that these rates are not still in effect. Therefore, we have not inflated this value for these preliminary results.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in the Philippines.¹³⁸ The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in the Philippines that is published in Doing Business in Philippines, published by the World Bank.¹³⁹

To value factory overhead, selling, general, and administrative expenses, and profit, the Department used contemporaneous, audited financial statements of the following six Philippine companies:¹⁴⁰ (1) BF Industries, Inc.; (2) Philippine Japan Activate Carbon Corp.; (3) Philips Carbon, Inc.; (4) Premium AC Corporation; (5) Davao Central Chemical Corporation; and (6) Mapecon Green Charcoal Philippines, Inc.¹⁴¹ All of these companies produce identical merchandise.¹⁴² The Department may consider other publicly available financial statements for the final results, as appropriate.

In Labor Methodologies,¹⁴³ the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (“Yearbook”).

For these preliminary results, the Department calculated the labor input using the wage method described in Labor Methodologies. To value the respondents’ labor input, the Department relied

¹³⁷ See, e.g., 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 Decisions Memorandum at Comment 18; Steel Wire Garment Hangers From the People’s Republic of China: Antidumping Duty Administrative Review, 2010-2011, 77 FR 66952 (November 8, 2012); unchanged in Steel Wire Garment Hangers From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 2010-2011, 78 FR 28803 (May 16, 2013).

¹³⁸ See Surrogate Values Memo.

¹³⁹ See *id.*

¹⁴⁰ For further details on how the Department treated certain line items in the surrogate financial ratios, see Surrogate Values Memo.

¹⁴¹ See, e.g., Petitioners November 20, 2013, SV Submission, at Exhibit 6; Cherishmet’s November 20, 2013, SV Submission, at Exhibits 9; and Jacobi’s November 20, 2013, SV Submission, at Exhibit 7.

¹⁴² See *id.*

¹⁴³ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (“Labor Methodologies”).

on data reported by the Philippines to the ILO in Chapter 6A of the Yearbook.¹⁴⁴ Although the Department further finds the two-digit description Sub-Classification 24 under ISIC-Revision 3 (“Manufacture of Chemicals and Chemical Products”) to be the best available information on the record because it is specific to the industry being examined, and is, therefore, derived from industries that produce comparable merchandise, the Philippines has not reported data specific to the two-digit description since 2000. However, the Philippines did report total manufacturing labor data in 2008. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using total 2008 manufacturing labor data reported by Philippines to the ILO, in accordance with section 773(c)(4) of the Act. A more detailed description of the wage rate calculation methodology is in the Surrogate Values Memo.

As stated above, the Department used Philippine ILO data reported under Chapter 6A of Yearbook, which reflects all costs related to labor, including wages, benefits, housing, training, etc.¹⁴⁵ Because the financial statements used to calculate the surrogate financial ratios include itemized details of manufacturing labor costs, the Department made adjustments to the surrogate financial ratios where appropriate.¹⁴⁶

Currency Conversion

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

Conclusion

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree

Ronald K Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

May 16, 2014

(Date)

¹⁴⁴ See Surrogate Values Memo.

¹⁴⁵ See Labor Methodologies, 76 FR at 36093.

¹⁴⁶ See Surrogate Values Memo.

Appendix
Companies Part of the PRC-Wide Entity

AmeriAsia Advanced Activated Carbon Products Co., Ltd.
Anhui Handfull International Trading (Group) Co., Ltd.
Anhui Hengyuan Trade Co. Ltd.
Anyang Sino-Shon International Trading Co., Ltd.
Baoding Activated Carbon Factory
Beijing Broad Activated Carbon Co., Ltd.
Beijing Haijian Jiechang Environmental Protection Chemicals
Beijing Hibridge Trading Co., Ltd.
Bengbu Jiutong Trade Co. Ltd.
Changji Hongke Activated Carbon Co., Ltd.
Chengde Jiayu Activated Carbon Factory
China National Building Materials and Equipment Import and Export Corp.
China National Nuclear General Company Ningxia Activated Carbon Factory
China Nuclear Ningxia Activated Carbon Plant
Da Neng Zheng Da Activated Carbon Co., Ltd.
Datong Changtai Activated Carbon Co., Ltd.
Datong City Zuoyun County Activated Carbon Co., Ltd.
Datong Fenghua Activated Carbon
Datong Forward Activated Carbon Co., Ltd.
Datong Fuping Activated Carbon Co. Ltd.
Datong Guanghua Activated Co., Ltd.
Datong Hongtai Activated Carbon Co., Ltd.
Datong Huanqing Activated Carbon Co., Ltd.
Datong Huaxin Activated Carbon
Datong Huibao Active Carbon Co., Ltd.
Datong Huibao Activated Carbon Co., Ltd.
Datong Huiyuan Cooperative Activated Carbon Plant
Datong Kaneng Carbon Co. Ltd.
Datong Locomotive Coal & Chemicals Co., Ltd.
Datong Tianzhao Activated Carbon Co., Ltd.
DaTong Tri-Star & Power Carbon Plant
Datong Weidu Activated Carbon Co., Ltd.
Datong Xuanyang Activated Carbon Co., Ltd.
Datong Zuoyun Biyun Activated Carbon Co., Ltd.
Datong Zuoyun Fu Ping Activated Carbon Co., Ltd.
Dezhou Jiayu Activated Carbon Factory
Dongguan Baofu Activated Carbon
Dongguan SYS Hitek Co., Ltd.
Dushanzi Chemical Factory
Fu Yuan Activated Carbon Co., Ltd.
Fujian Jianyang Carbon Plant
Fujian Nanping Yuanli Activated Carbon Co., Ltd.
Fujian Yuanli Active Carbon Co., Ltd.

Fuzhou Taking Chemical
Fuzhou Yihuan Carbon
Great Bright Industrial
Hangzhou Hengxing Activated Carbon
Hangzhou Hengxing Activated Carbon Co., Ltd.
Hangzhou Linan Tianbo Material (HSLATB)
Hangzhou Nature Technology
Hebei Foreign Trade and Advertising Corporation
Hebei Shenglun Import & Export Group Company
Hegongye Ninxia Activated Carbon Factory
Heilongjiang Provincial Hechang Import & Export Co., Ltd.
Hongke Activated Carbon Co., Ltd.
Huaibei Environment Protection Material Plant
Huairan Huanyu Purification Material Co., Ltd.
Huairan Jinbei Chemical Co., Ltd.
Huaiyushan Activated Carbon Group
Huatai Activated Carbon
Huzhou Zhonglin Activated Carbon
Inner Mongolia Taixi Coal Chemical Industry Limited Company
Itigi Corp. Ltd.
J&D Activated Carbon Filter Co. Ltd.
Jiangle County Xinhua Activated Carbon Co., Ltd.
Jiangsu Taixing Yixin Activated Carbon Technology Co., Ltd.
Jiangxi Hanson Import Export Co.
Jiangxi Huaiyushan Activated Carbon
Jiangxi Huaiyushan Activated Carbon Group Co.
Jiangxi Huaiyushan Suntar Active Carbon Co., Ltd.
Jiangxi Jinma Carbon
Jianou Zhixing Activated Carbon
Jiaocheng Xinxin Purification Material Co., Ltd.
Jilin Province Bright Future Industry and Commerce Co., Ltd.
Jing Mao (Dongguan) Activated Carbon Co., Ltd.
Kaihua Xingda Chemical Co., Ltd.
Kemflo (Nanjing) Environmental Tech
Keyun Shipping (Tianjin) Agency Co., Ltd.
Kunshan Actview Carbon Technology Co., Ltd.
Langfang Winfield Filtration Co.
Link Shipping Limited
Longyan Wanan Activated Carbon
Mindong Lianyi Group
Nanjing Mulinsen Charcoal
Nantong Ameriasia Advanced Activated Carbon Product Co., Ltd.
Ningxia Baota Activated Carbon Co., Ltd.
Ningxia Baota Active Carbon Plant
Ningxia Blue-White-Black Activated Carbon (BWB)
Ningxia Fengyuan Activated Carbon Co., Ltd.

Ningxia Guanghua Activated Carbon Co., Ltd.
Ningxia Guanghua Chemical Activated Carbon Co., Ltd.
Ningxia Haoqing Activated Carbon Co., Ltd.
Ningxia Henghui Activated Carbon
Ningxia Honghua Carbon Industrial Corporation
Ningxia Huinong Xingsheng Activated Carbon Co., Ltd.
Ningxia Jirui Activated Carbon
Ningxia Lingzhou Foreign Trade Co., Ltd.
Ningxia Luyuangheng Activated Carbon Co., Ltd.
Ningxia Pingluo County Yaofu Activated Carbon Plant
Ningxia Pingluo Xuanzhong Activated Carbon Co., Ltd.
Ningxia Pingluo Yaofu Activated Carbon Factory
Ningxia Taixi Activated Carbon
Ningxia Tianfu Activated Carbon Co., Ltd.
Ninxia Tongfu Coking Co., Ltd.
Ningxia Weining Active Carbon Co., Ltd.
Ningxia Xingsheng Coal and Active Carbon Co., Ltd.
Ningxia Xingsheng Coke & Activated Carbon Co., Ltd.
Ningxia Yinchuan Lanqiya Activated Carbon Co., Ltd.
Ningxia Yirong Alloy Iron Co., Ltd.
Ningxia Zhengyuan Activated
Nuclear Ningxia Activated Carbon Co., Ltd.
OEC Logistic Qingdao Co., Ltd.
Panshan Import and Export Corporation
Pingluo Xuanzhong Activated Carbon Co., Ltd.
Pingluo Yu Yang Activated Carbon Co., Ltd.
Shanghai Activated Carbon Co., Ltd.
Shanghai Coking and Chemical Corporation
Shanghai Goldenbridge International
Shanghai Jiayu International Trading (Dezhou Jiayu and Chengde Jiayu)
Shanghai Jinhu Activated Carbon (Xingan Shenxin and Jiangle Xinhua)
Shanghai Light Industry and Textile Import & Export Co., Ltd.
Shanghai Mebao Activated Carbon
Shanghai Xingchang Activated Carbon
Shanxi Blue Sky Purification Material Co., Ltd.
Shanxi Carbon Industry Co., Ltd.
Shanxi Dapu International Trade Co., Ltd.
Shanxi DMD Corporation
Shanxi Newtime Co., Ltd.
Shanxi Qixian Foreign Trade Corporation
Shanxi Qixian Hongkai Active Carbon Goods
Shanxi Supply and Marketing Cooperative
Shanxi Tianli Ruihai Enterprise Co.
Shanxi Xiaoyi Huanyu Chemicals Co., Ltd.
Shanxi Xinhua Activated Carbon Co., Ltd.
Shanxi Xinhua Chemical Co., Ltd. (formerly Shanxi Xinhua Chemical Factory)

Shanxi Xinhua Protective Equipment
Shanxi Xinshidai Import Export Co., Ltd.
Shanxi Zuoyun Yunpeng Coal Chemistry
Shenzhen Sihaiweilong Technology Co.
Sincere Carbon Industrial Co. Ltd.
Taining Jinhu Carbon
Tangshan Solid Carbon Co., Ltd.
Tianchang (Tianjin) Activated Carbon
Tianjin Century Promote International Trade Co., Ltd.
Taiyuan Hengxinda Trade Co., Ltd.
Tonghua Bright Future Activated Carbon Plant
Tonghua Xinpeng Activated Carbon Factory
Triple Eagle Container Line
Unuclear New-Material Co., Ltd.
United Manufacturing International (Beijing) Ltd.
Valqua Seal Products (Shanghai) Co.
VitaPac (HK) Industrial Ltd.
Wellink Chemical Industry
Xi Li Activated Carbon Co., Ltd.
Xiamen All Carbon Corporation
Xingan County Shenxin Activated Carbon Factory
Xinhua Chemical Company Ltd.
Xuanzhong Chemical Industry
Yangyuan Hengchang Active Carbon
Yicheng Logistics
Yinchuan Lanqiya Activated Carbon Co., Ltd.
Zhejiang Quizhou Zhongsen Carbon
Zhejiang Xingda Activated Carbon Co., Ltd.
Zhejiang Yun He Tang Co., Ltd.
Zhuxi Activated Carbon
Zuoyun Bright Future Activated Carbon Plant