

Dated: July 11, 2007.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-898

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

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

**SUMMARY:** The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on chlorinated isocyanurates ("chlorinated isos") from the People's Republic of China ("PRC") covering the period December 16, 2004, through May 31, 2006. We have preliminarily determined that sales have been made below normal value ("NV") by Hebei Jiheng Chemical Company Ltd. ("Jiheng Chemical"). If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the period of review ("POR").

Interested parties are invited to comment on these preliminary results. We intend to issue the 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").

**EFFECTIVE DATE:** July 17, 2007.

#### **FOR FURTHER INFORMATION CONTACT:**

Katharine Huang or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1271 or (202) 482-0650, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On June 24, 2005, the Department published the antidumping duty order on chlorinated isos from the PRC.<sup>1</sup> On June 2, 2006, the Department published a notice of opportunity to request an

administrative review of this order.<sup>2</sup> On June 30, 2006, in accordance with 19 CFR 351.213(b)(1), the following requests were made: Clearon Corporation ("Clearon") and Occidental Chemical Corporation ("OxyChem"), petitioners in the underlying investigation, and BioLab, Inc. ("BioLab"), a domestic producer of the like product, requested that the Department conduct an administrative review of Jiheng Chemical's sales and entries during the POR; On the same date, in accordance with 19 CFR 351.213(b)(2), Jiheng Chemical, a foreign producer/exporter of subject merchandise, requested that the Department review its sales of subject merchandise.

On July 27, 2006, the Department initiated this administrative review with respect to Jiheng Chemical.<sup>3</sup> The Department issued an antidumping duty questionnaire to Jiheng Chemical on August 15, 2006.

On August 16, 2006, the Department requested that the Office of Policy provide a list of surrogate countries for this review.<sup>4</sup> On August 23, 2006, the Office of Policy issued its list of surrogate countries.<sup>5</sup>

On August 24, 2006, the Department requested that interested parties submit surrogate value information. On September 12, 2006, the Department requested that interested parties provide surrogate country selection comments. On September 15, 2006, Clearon and OxyChem ("Petitioners") and BioLab requested an extension of time for all interested parties to submit surrogate value information, provide surrogate country selection comments, and submit factual information. On September 19, 2006, the Department granted the Petitioners' and BioLab's extension requests. On October 25, 2006, BioLab requested a further extension of time to submit surrogate value information and provide surrogate country selection

comments. On October 31, 2006, the Department granted the requested extension to all parties.

On November 17, 2006, Petitioners, BioLab and Jiheng Chemical provided comments on publicly available information to value the factors of production ("FOP") and the selection of a surrogate country. All interested parties recommended India as the surrogate country. On November 27, 2006, Jiheng Chemical submitted rebuttal comments on Petitioners' November 17, 2006 surrogate value submission. On November 27, 2006, Petitioners and BioLab requested an extension of time for all parties to submit rebuttal information concerning surrogate values. On November 28, 2006, the Department granted Petitioners' and BioLab's extension requests. On November 30, 2006, BioLab requested an extension of time for all parties to submit factual information. On December 4, 2006, the Department granted BioLab's extension request. On December 6, 2006, Petitioners and BioLab submitted rebuttal comments on Jiheng Chemical's November 17, 2006 surrogate value submission. On December 15, 2006, Jiheng Chemical submitted rebuttal information on Petitioners' and BioLab's December 6, 2006 submissions.

On December 15, 2006, Petitioners and BioLab submitted factual information on surrogate value selection. On December 26, 2006, Petitioners submitted comments on Jiheng Chemical's December 15, 2006 rebuttal information. On January 5, 2007, Jiheng Chemical submitted rebuttal information on Petitioners' December 26, 2006 comments. On January 16, 2007, Petitioners submitted rebuttal information on Jiheng Chemical's January 5, 2007 comments.

On October 11, 2006, Jiheng Chemical submitted its sections A, C, and D questionnaire responses ("AQR, CQR and DQR", respectively). On November 6, 2006, the Department issued a section A supplemental questionnaire to Jiheng Chemical. On November 17, 2006, BioLab submitted comments on Jiheng Chemical's AQR, CQR and DQR. Petitioners submitted comments on Jiheng Chemical's AQR, CQR and DQR on November 20, 2006. On November 28, 2006, Jiheng Chemical submitted rebuttal comments on Petitioners' November 20, 2006, and BioLab's November 17, 2006, comments on its AQR, CQR and DQR. On December 5, 2006, Jiheng Chemical submitted its section A supplemental questionnaire response ("1st SQR"). On January 19, 2007, BioLab submitted comments on Jiheng Chemical's 1st SQR.

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 32032 (June 2, 2006).

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 42626 (July 17, 2006).

<sup>4</sup> See Memorandum to Ron Lorentzen, Director, Office of Policy, from Wendy Frankel, Director, AD/CVD Operations, Office 8, "Surrogate-Country Selection: 2004-2006 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China" (August 16, 2006).

<sup>5</sup> See the Memorandum from Ron Lorentzen, Director, Office of Policy, to Wendy Frankel, Director, AD/CVD Operations, Office 8, "Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Request for a List of Surrogate Countries" (August 23, 2006) ("Surrogate Country Memorandum").

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

On March 6, 2007, the Department issued a second supplemental questionnaire to Jiheng Chemical. On April 5, 2007, Jiheng Chemical submitted its second supplemental questionnaire response ("2<sup>nd</sup> SQR"). On April 20, 2007, the Department issued a supplemental questionnaire requesting that Jiheng Chemical provide more information on the desiccant it uses. On April 24 and 25, 2007, respectively, Petitioners and BioLab submitted comments on Jiheng Chemical's 2<sup>nd</sup> SQR, and requested that the Department conduct verification of Jiheng Chemical.

On April 30, 2007, Jiheng Chemical submitted its supplemental questionnaire response on desiccant. Jiheng Chemical submitted rebuttal comments on May 1, 2007, addressing Petitioners' April 24, 2007 and BioLab's April 25, 2007 comments on its 2<sup>nd</sup> SQR. On May 8, 2007, the Department issued a third supplemental questionnaire, and on May 17, 2007, the Department issued a fourth supplemental questionnaire. On May 21, 2007, Jiheng Chemical submitted its response to the Department's third supplemental questionnaire ("3<sup>rd</sup> SQR"), and on June 7, 2007, Jiheng Chemical submitted its response to the Department's fourth supplemental questionnaire ("4<sup>th</sup> SQR").

On March 5, 2007, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until May 1, 2007.<sup>6</sup> On May 2, 2007, the Department published a notice in the **Federal Register** further extending the time limit for the preliminary results of review until July 2, 2007.<sup>7</sup>

### Scope of the Order

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

Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid ( $\text{Cl}_3(\text{NCO})_3$ ), (2) sodium dichloroisocyanurate (dihydrate) ( $\text{NaCl}_2(\text{NCO})_3 \cdot 2\text{H}_2\text{O}$ ), and (3) sodium dichloroisocyanurate (anhydrous) ( $\text{NaCl}_2(\text{NCO})_3$ ). Chlorinated isocyanurates are available in powder,

granular, and tableted forms. This order covers all chlorinated isocyanurates.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

### Non-Market Economy Country Status

Jiheng Chemical did not contest the Department's treatment of the PRC as a non-market economy ("NME"), and the Department has treated the PRC as an NME country in all past antidumping duty investigations and administrative reviews and continues to do so in this case.<sup>8</sup> No interested party in this case has argued that we should do otherwise. Designation as an NME country remains in effect until it is revoked by the Department. See Section 771(18)(C)(i) of the Act.

### Surrogate Country

Section 773(c)(1) of the Act directs the Department to base NV on the NME producer's FOPs, valued in a surrogate market-economy 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 use, to the extent possible, the prices or costs of the FOPs in one or more market-economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the "Normal Value" section below and in the Surrogate Value Memorandum.<sup>9</sup>

<sup>8</sup> See, e.g., *Certain Cased Pencils from the Peoples Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 27074 (May 14, 2007); and *Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 26589 (May 10, 2007).

<sup>9</sup> See Memorandum from Katharine Huang, International Trade Compliance Analyst, through Charles Riggie, Program Manager, to Wendy Frankel, Director, AD/CVD Operations, Office 8, "Preliminary Results of the 2004-2006

The Department has previously determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. See Surrogate Country Memorandum. Customarily, we select an appropriate surrogate country from the Surrogate Country Memorandum based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise.<sup>10</sup>

The Department used India as the primary surrogate country and accordingly, has calculated NV using Indian prices to value the PRC producers' FOPs, when available and appropriate. See Surrogate Country Selection Memorandum and Surrogate Value Memorandum. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review, interested parties may submit publicly available information to value factors of production within 20 days after the date of publication of the preliminary results of review.

### Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control, and thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of subject merchandise subject to review in an NME country a single rate unless an exporter can demonstrate that it is sufficiently independent of government control to be entitled to a separate rate.<sup>11</sup> We have considered

Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Surrogate Value Memorandum" (July 2, 2007) ("Surrogate Value Memorandum").

<sup>10</sup> See Memorandum from Katharine Huang, International Trade Compliance Analyst, through Charles Riggie, Program Manager, to Wendy Frankel, Director, AD/CVD Operations, Office 8, "Antidumping Administrative Review of Chlorinated Isocyanurates: Selection of a Surrogate Country," (July 2, 2007) ("Surrogate Country Selection Memorandum").

<sup>11</sup> See, e.g., *Certain Cased Pencils from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 70949, 71 FR 70952 (December 7, 2006) (unchanged in the final results); *Carbazole Violet Pigment 23 From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission in Part*, 71 FR 65073, 65074 (November 7, 2006) (unchanged in the final results).

<sup>6</sup> See *Chlorinated Isocyanurates from the People's Republic of China: Extension of Time limit for Preliminary Results of Antidumping Duty Administration Review*, 72 FR 9729 (March 5, 2007).

<sup>7</sup> See *Chlorinated Isocyanurates from the People's Republic of China: Extension of Time limit for Preliminary Results of Antidumping Duty Administration Review*, 72 FR 24272 (May 2, 2007).

whether the reviewed company based in the PRC is eligible for a separate rate.

The Department's separate-rate test to determine whether the exporters are independent from government control does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level.<sup>12</sup>

To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of select criteria, discussed below.<sup>13</sup> Under this test, exporters in NME countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control over exports, both in law ("*de jure*") and in fact ("*de facto*").

Jiheng Chemical provided company-specific separate-rate information. Jiheng Chemical reported that it is owned by all the people of the PRC. See Jiheng Chemical's AQR at A-4. Therefore, a separate-rates analysis is necessary to determine whether its export activities are independent from government control.

#### A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR 20588 at Comment 1.

Jiheng Chemical has placed documents on the record to demonstrate the absence of *de jure* control, including its list of shareholders, business license, and the Company Law of the People's Republic of China, as revised October 27, 2005 ("Company Law"). Other than

limiting Jiheng Chemical to activities referenced in the business license, we found no restrictive stipulations associated with the license. In addition, in previous cases, the Department has analyzed the Company Law and found that it establishes an absence of *de jure* control.<sup>14</sup> We have no information in this segment of the proceeding that would cause us to reconsider this determination. Therefore, based on the foregoing, we have preliminarily found an absence of *de jure* control for Jiheng Chemical.

#### B. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC.<sup>15</sup> Therefore, the Department has preliminarily determined that an analysis of *de facto* control is critical in determining whether Jiheng Chemical is, in fact, subject to a degree of government control that would preclude the Department from assigning separate rates. The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.<sup>16</sup>

With regard to *de facto* control, Jiheng Chemical reported that: (1) it independently set prices to the United States through direct arm's-length negotiations with its customers and these prices are not subject to review by any government organization; (2) Jiheng Chemical did not coordinate with other exporters or producers to set the price or to determine to which market the

companies will sell subject merchandise; (3) Jiheng Chemical is a member of the China Chamber of Commerce of Metals Minerals & Chemicals Importers & Exporters, which is a non-governmental association, and does not interfere with the export activities of Jiheng Chemical; (4) Jiheng Chemical's authorized sales representatives have the authority to contractually bind it to sell subject merchandise; (5) in accordance with the Article of Association, its board of directors designated the general manager; (6) there is no restriction on its use of export revenues; (7) its shareholders ultimately determine the disposition of respective profits, and Jiheng Chemical has not had a loss in the last two years. Our analysis of Jiheng Chemical's questionnaire responses reveals no other information indicating government control of its export activities. Therefore, based on the information on the record, we preliminarily determine that there is an absence of *de facto* government control with respect to Jiheng Chemical's export functions and that Jiheng Chemical has met the criteria for the application of a separate rate.

#### Date of Sale

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

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

Jiheng Chemical reported the shipment date as the date of sale because it claims that, for its U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the shipment date and its shipment date was on or before the invoice date. We have preliminarily determined that the shipment date is the most appropriate date to use as Jiheng Chemical's date of sale in accordance with our long-standing practice of determining as the date of sale the date on which the final terms of sale are established.<sup>17</sup>

<sup>17</sup> Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and

<sup>12</sup> See *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less Than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

<sup>13</sup> See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20585, 22587 (May 6, 1991) ("*Sparklers*"); and *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).

<sup>14</sup> See, e.g., *Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China: Final Results, Partial Recision and Termination of a Partial Deferral of the 2002-2003 Administrative Review*, 69 FR 65148, 65150 (November 10, 2004).

<sup>15</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72257 (December 31, 1998).

<sup>16</sup> See, e.g., *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).

## Normal Value Comparisons

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

## Export Price

Petitioners and BioLab requested that the Department determine that Jiheng Chemical is affiliated with one of its U.S. customers and, accordingly, base U.S. price on constructed-export-price ("CEP") rather than EP. Our analysis of Jiheng Chemical's questionnaire responses reveals no information to support a finding that Jiheng Chemical is affiliated with its U.S. customer.<sup>18</sup> Because Jiheng Chemical sold the subject merchandise to unaffiliated purchasers in the United States prior to importation into the United States and the use of the CEP methodology is not otherwise indicated, we have used EP in accordance with section 772(a) of the Act.

We calculated EP based on the delivered price to unaffiliated purchasers for Jiheng Chemical. From this price, we deducted amounts for foreign inland freight, brokerage and handling and marine insurance, where applicable, pursuant to section 772(c)(2)(A) of the Act.<sup>19</sup>

The Department used two sources to calculate a surrogate value for domestic brokerage expenses. The Department averaged the December 2003–November 2004 data contained in Essar Steel's February 28, 2005 public version response submitted in the antidumping duty administrative review of hot-rolled carbon steel flat products from India.<sup>20</sup>

<sup>18</sup> *Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; and *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>19</sup> See the Memorandum from Katharine Huang, International Trade Compliance Analyst, through Charles Riggie, Program Manager, to Wendy Frankel, Director, AD/CVD Operations, Office 8, "Preliminary Results of the 2004–2006 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Memorandum on Affiliation Issue between Jiheng Chemical and its US Customer" (July 2, 2007).

<sup>20</sup> See Memorandum to the File from Katharine Huang, International Trade Compliance Analyst, through Charles Riggie, Program Manager, AD/CVD Operations, Office 8, "Analysis for the Preliminary Results of the 2004–2006 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Company Ltd. (July 2, 2007).

<sup>21</sup> See *Certain Hot-Rolled Carbon Steel Flat Products From India: Notice of Preliminary Results*

of Antidumping Duty Administrative Review, 71 FR 2018 (January 12, 2006).  
<sup>22</sup> See *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005); and *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19704 (April 17, 2006) (which utilized these same data and was unchanged for the final determination).

<sup>23</sup> Jiheng Chemical stated that its customer sourced materials from both market-economy and non-market-economy suppliers. Jiheng Chemical further stated that it does not know the names of the market-economy suppliers. See Jiheng Chemical's October 11, 2006 section D response at D-6 - D-7.

<sup>24</sup> See e.g., *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006), and the accompanying Issues and Decision Memorandum at Comment 17.

## Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the

information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

The Department will base NV on FOP because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Therefore, we calculated NV based on FOP in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used the FOPs reported by respondents for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value the FOPs, but when a producer sources an input from a market-economy country and pays for it in market-economy currency, the Department may value the factor using the actual price paid for the input.<sup>24</sup> Jiheng Chemical reported that it did not purchase any inputs from market economy suppliers for the production of the subject merchandise. See Jiheng Chemical's DQR at D-8.

With regard to both the Indian import-based surrogate values and the market-economy input values, we have disregarded prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from India, Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.<sup>25</sup> We are also guided by the statute's legislative history that explains that it is not

<sup>24</sup> See 19 CFR 351.408(c)(1); see also, *Lasko Metal Products 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).

<sup>25</sup> See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 54007, 54011 (September 13, 2005) (unchanged in the final results); *Automotive Replacement Glass Windshields From the People's Republic of China: Final Results of Administrative Review*, 69 FR 61790 (October 21, 2004) and accompanying Issues and Decision Memorandum at Comment 5; and *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004).

necessary to conduct a formal investigation to ensure that such prices are not subsidized. *See* H.R. Rep. 100–576 at 590 (1988). Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. Therefore, we have not used prices from these countries in calculating the Indian import–based surrogate values.

#### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Jiheng Chemical for the POR. To calculate NV, we multiplied the reported per–unit factor quantities by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to render them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all surrogate values used for Jiheng Chemical, see the Surrogate Value Memorandum.

Except as noted below, we valued raw material inputs using the weighted–average unit import values derived from the Monthly Statistics of the Foreign Trade of India, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India in the World Trade Atlas, available at <http://www.gtis.com/wta.htm> (“WTA”). Where we could not obtain publicly available information contemporaneous with the POR with which to value FOPs, we adjusted the SVs using, where appropriate, the Indian Wholesale Price Index (“WPI”) as published in the International Financial Statistics of the International Monetary Fund. *See* Surrogate Value Memorandum at 2 and Attachments II and III. We further adjusted these prices to account for freight costs incurred between the supplier and respondent. We used the freight rates published by Indian Freight Exchange available at <http://www.infreight.com>, to value truck freight. *See* the Surrogate Value Memorandum at 9 and Attachment XX. The truck and rail freight rates are contemporaneous with the POR.

Therefore, we made no adjustments for inflation. For a complete description of the factor values we used, see the Surrogate Value Memorandum.

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

Jiheng Chemical reported that its U.S. customer(s) provided certain raw materials and packing materials free of charge. For Jiheng Chemical’s products that included raw materials and packing materials provided free of charge by its customer, consistent with the Department’s practice, we used the built–up cost (*i.e.*, the surrogate value for these raw materials and packing materials multiplied by the reported FOPs for these items) in the NV calculation.<sup>26</sup> Where applicable, we also adjusted these values to account for freight costs incurred between the port of exit and Jiheng Chemical’s plants. *See* Surrogate Value Memorandum at 9, and Jiheng Chemical Preliminary Analysis Memorandum.

To value electricity, we used the 2000 electricity price data from International Energy Agency, Energy Prices and Taxes – Quarterly Statistics (First Quarter 2003), adjusted for inflation. *See* Surrogate Value Memorandum at 7 and Attachment XVI.

To value water, we used the revised Maharashtra Industrial Development Corporation (“MIDC”) water rates for June 1, 2003 for the Mumbai region, available at <http://www.midcindia.com/> water–supply, adjusted for inflation. *See* Surrogate Value Memorandum at 4 – 5 and Attachment XI.

For direct labor, indirect labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression–based wage rate as reported on Import Administration’s web site.<sup>27</sup> Because this regression–based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to

all skill levels and types of labor reported by each respondent. *See* Surrogate Value Memorandum at 8.

For factory overhead, selling, general, and administrative expenses (“SG&A”), and profit values, we used information from Kanoria Chemicals and Industries Limited, and DCM Sriram Consolidated Ltd. for the year ending March 31, 2006. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy (“ML&E”) costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. *See* Surrogate Value Memorandum at 8–9 and Attachment XIX for a full discussion of the calculation of these ratios.

For packing materials, we used the per–kilogram values obtained from the WTA and made adjustments to account for freight costs incurred between the PRC supplier and Jiheng Chemical’s plant. *See* Surrogate Value Memorandum at Attachment VI.

#### Currency Conversion

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

#### Preliminary Results of Review

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

Manufacturer/Exporter	Margin (Percent)
Jiheng Chemical .....	6.75

#### Disclosure

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(ii). Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 42 days after the date of publication of this notice. *See* 19 CFR 351.310(d). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. *See* 19 CFR 351.309(d). The Department requests that parties

<sup>26</sup> *See e.g.*, Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People’s Republic of China, 71 FR 53079 (September 8, 2006), and the accompanying Issues and Decision Memorandum at Comment 17.

<sup>27</sup> *See* Expected Wages of Selected NME Countries (revised November 2005) (available at <http://ia.ita.doc.gov/wages>). The source of these wage rate data on the Import Administration’s web site is the *Yearbook of Labour Statistics 2003*, ILO, (Geneva: 2003), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 1998 to 2003.

submitting written comments also provide the Department with an additional copy of those comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this administrative review. If these preliminary results are adopted in our final results of review, we will direct CBP to assess the resulting per-unit value or *ad valorem* rate against the entered customs value for the subject merchandise on each importer's/customer's entries during the POR.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for Jiheng Chemical, which has a separate rate, the cash deposit rate will be the company-specific rate established in the final results of review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 285.63 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding

the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: July 2, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E7-13801 Filed 7-16-07; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-805]

#### Notice of Rescission of Antidumping Duty New Shipper Review: Certain Circular Welded Non-Alloy Steel Pipe from Mexico

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

**SUMMARY:** On April 20, 2007, the Department of Commerce ("the Department") published the preliminary intent to rescind the antidumping duty new shipper review of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico. *See Certain Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Preliminary Intent to Rescind Antidumping Duty New Shipper Review*, 72 FR 19880 (April 20, 2007) (*Intent to Rescind*). This new shipper review covers Conduit S.A. de C.V. ("Conduit"), a manufacturer and exporter of the subject merchandise. The period of review ("POR") is November 1, 2005, through April 30, 2006. We did not receive any comments from parties, and are rescinding this new shipper review.

**EFFECTIVE DATE:** July 17, 2007.

**FOR FURTHER INFORMATION CONTACT:** John Drury or Patrick Edwards, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone (202) 482-0195 or (202) 482-8029, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

On November 2, 1992, the Department published the antidumping duty order on circular welded non-alloy steel pipe from Mexico. *See Notice of Antidumping Duty Order: Certain Circular Welded non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea*, 57 FR 49453 (November 2, 1992). On May 26, 2006, we received a request for a new shipper review from Conduit for the period November 1, 2005, through April 30, 2006. We initiated the review on July 10, 2006. *See Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Initiation of New Shipper Antidumping Duty Review*, 71 FR 38851 (July 10, 2006).

On April 20, 2007, the Department published in the **Federal Register** its preliminary intent to rescind the antidumping duty new shipper review of certain circular welded non-alloy steel pipe from Mexico for the period November 1, 2005, through April 30, 2006. *See Intent to Rescind*. No party commented on our preliminary intent to rescind the new shipper review for Conduit.

## Scope of the Order

The merchandise under review is circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low-pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A-53 specifications. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of these orders, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for