

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

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

#### Cash Deposit Requirements

Further, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for Jiheng, the cash deposit rate will be the company-specific rate established in the final results of review (except, if the rate is zero or *de minimis*, a zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 285.63 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties

occurred and the subsequent assessment of double antidumping duties.

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

Dated: June 1, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-848]

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

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

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

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

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

**EFFECTIVE DATE:** June 8, 2009.

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

#### Background

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

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

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

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

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

#### Scope of the Order

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

and HTSUS numbers 0306.19.00.10 and 0306.29.00.00, which are reserved for fish and crustaceans in general. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

#### Intent to Rescind Review in Part

Record evidence indicates that Shanghai Now Again and Hi-King did not have any exports of subject merchandise during the POR. See the November 19, 2008, submissions of Shanghai Now Again and Hi-King. Moreover, we have reviewed the CBP entry data for the POR and found no evidence of exports from these two entities. See Memorandum to File entitled "Placement of Certain Import Data from the U.S. Customs and Border Protection Automated Commercial System on the Record of the Administrative Review," dated April 6, 2009. Additionally, on April 8, 2009, we made a no-shipments inquiry to CBP, requesting that, if any CBP import office has contrary information, appraising officers should report this information within 10 days of receipt of the message. To date, we have not received any evidence that these two entities had any shipments to the United States of subject merchandise during the POR. Therefore, pursuant to 19 CFR 351.213(d)(3), the Department intends to rescind this review in part with respect to Shanghai Now Again and Hi-King.

#### Non-Market-Economy Country Status

The Department considers the PRC to be a non-market-economy (NME) country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. See *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding has contested NME treatment for the PRC. Therefore, for these preliminary results of review we have treated the PRC as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

In antidumping proceedings involving NME countries, pursuant to section 773(c)(1) of the Act, the Department generally bases normal value on the value of the NME producer's factors of production (FOP). In accordance with section 773(c)(4) of the Act, in valuing the FOP the Department uses, to the

extent possible, the prices or costs of the FOP in one or more market-economy countries that are at a level of economic development comparable to that of the NME country which are significant producers of merchandise comparable to the subject merchandise. The Department has determined that India, Indonesia, the Philippines, Peru, Colombia, and Thailand are countries that are at a level of economic development comparable to that of the PRC.<sup>1</sup> While none of these countries is a significant producer of freshwater crawfish tail meat,<sup>2</sup> India has a seafood-processing industry that is comparable to the crawfish industry with respect to factory overhead, selling, general, and administrative (SG&A) expenses, and profit. Therefore, we have selected India as the primary surrogate country in which to value all inputs with the exception of live crawfish, the primary input, and the by-product, crawfish-shell scrap.

Because India does not have a fresh-crawfish industry (although it has a sea-crawfish industry) and we have determined that other forms of seafood are not sufficiently comparable to crawfish to serve as surrogates for live crawfish, we have valued live crawfish using the data submitted by the petitioner, which was obtained from the same source that was used to value live crawfish in several previous segments of this proceeding.<sup>3</sup> The petitioner

submitted data on imports of live crawfish from Portugal into Spain as reported by *Agencia Tributaria*, the Spanish government agency responsible for trade statistics. Spain is a significant producer of comparable merchandise, *i.e.*, whole processed crawfish,<sup>4</sup> and there are publicly available import statistics for Spain that are contemporaneous with the POR.

We have selected Indonesia as a secondary surrogate country for purposes of valuing the crawfish shell by-product because there are no appropriate Indian surrogate values for crawfish shell by-product on the record of this review. We find that Indonesia is at a level of economic development comparable to the PRC, it produced wet crab and shrimp shells, merchandise comparable to the shell by-product, and has publicly available data, *i.e.*, a public price quote from an Indonesian company that has been used in prior segments of this proceeding.<sup>5</sup> No other parties commented on the selection of surrogate values.

#### Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to a proceeding involving an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The Department assigns separate rates in NME proceedings only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities under a test developed by the Department and described in *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (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) (*Silicon Carbide*).

The Department's separate-rate test is used to determine whether an exporter

*Administrative Review and Rescission of Review in Part*, 74 FR 6571 (February 10, 2009).

<sup>4</sup> See Surrogate-Country Memorandum.

<sup>5</sup> See Memorandum to Barbara E. Tillman from Christian Hughes and Adina Teodorescu through Maureen Flannery re: Surrogate Valuation of Shell Scrap: Freshwater Crawfish Tail Meat from the People's Republic of China. Administrative Review 9/1/00-8/31/01 and New Shipper Reviews 9/1/00-8/31/01 and 9/1/00-10/15/01 (August 5, 2002), which was placed on the record of this review.

<sup>1</sup> See Memorandum from Kelly Parkhill, Acting Director, Office of Policy, to Laurie Parkhill, Office Director, AD/CVD Enforcement 5, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat ('*FCM*') from the People's Republic of China ('*PRC*')" (January 15, 2009).

<sup>2</sup> See Memorandum to Laurie Parkhill, Office Director, AD/CVD Enforcement 5, entitled "Freshwater Crawfish Tail Meat from the People's Republic of China: Selection of a Surrogate Country," dated June 1, 2009 (Surrogate-Country Memorandum).

<sup>3</sup> See the March 10, 2009, submission by the petitioner entitled "Freshwater Crawfish Tail Meat from the People's Republic of China: Surrogate Value Data." See also *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Preliminary Intent to Rescind 2005-2006 New Shipper Reviews*, 72 FR 57288 (October 9, 2007) (unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Rescission of 2005-2006 New Shipper Reviews*, 73 FR 20249 (April 15, 2008)). For an example of a previous segment of the proceeding where this source was used, see *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Review in Part*, 73 FR 58115 (October 6, 2008) (unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty*

and/or producer is independent from government control and 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. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998) (*Mushrooms*). The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Mushrooms*, 63 FR at 72256 (citing *Notice of Final Determination of Sales at Less than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61758 (November 19, 1997), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Administrative Review*, 62 FR 61276, 61279 (November 17, 1997)).

#### *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; (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

Xiping Opeck demonstrated that it is an independent legal entity and provided copies of its business license (wherein it is stated that the operational scope of the company allows it to engage in the exportation of freshwater crawfish tail meat) and its foreign-trade operator registration. See Xiping Opeck's November 19, 2008, submission at pages 1-4 and Exhibit SR-1, and December 24, 2008, submission at pages A-1 through A-8 and Exhibit A-3. Xiping Opeck also reported that no export quotas apply to crawfish and that no export license is required to export freshwater crawfish tail meat to the United States. See Xiping Opeck's December 24, 2008, submission at page A-5. Prior verifications have confirmed that there are no commodity-specific export licenses required and no quotas for the seafood category "Other," which includes crawfish, in *China's Tariff and Non-Tariff Handbook* for 1996. See *Freshwater Crawfish Tail Meat From The People's Republic of China; Preliminary Results of New Shipper Review*, 64 FR 8543 (February 22, 1999)

(unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China; Final Results of New Shipper Review*, 64 FR 27961 (May 24, 1999)).

In addition, we have confirmed previously that freshwater crawfish tail meat is not on the list of commodities with planned quotas in the 1992 PRC Ministry of Foreign Trade and Economic Cooperation document entitled *Temporary Provisions for Administration of Export Commodities*. See *Freshwater Crawfish Tail Meat From The People's Republic of China; Preliminary Results of New Shipper Review*, 64 FR at 8544 (unchanged in *Freshwater Crawfish Tail Meat From the People's Republic of China; Final Results of New Shipper Review*). We found no evidence of *de jure* governmental control over Xiping Opeck's exportation of freshwater crawfish tail meat.

In Exhibit A-2 of its December 24, 2008, submission Xiping Opeck provided the *Company Law of the People's Republic of China*. The Department has found previously that the *Company Law of the People's Republic of China*, made effective on July 1, 1994, with the amended version promulgated on August 28, 2004, states that a company is an enterprise legal person, that shareholders shall assume liability towards the company to the extent of their shareholdings, and that the company shall be liable for its debts to the extent of all its assets. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Preliminary Intent to Rescind 2005-2006 New Shipper Reviews* (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Rescission of the 2005-2006 New Shipper Reviews*).

Additionally, the *Foreign Trade Law of the People's Republic of China* which Xiping Opeck placed on the record of this review also indicates a lack of *de jure* government control. Specifically, this document identifies the rights and responsibilities of organizations engaged in foreign trade, grants autonomy to foreign-trade operators in management decisions, and establishes the foreign-trade operator's accountability for profits and losses. See Xiping Opeck's December 24, 2008, submission at Exhibit A-2. Based on the foregoing, the Department has preliminarily determined that there is an absence of *de jure* governmental control over the export activities of Xiping Opeck.

#### *Absence of De Facto Control*

Typically the Department considers the following four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or are subject to the approval of, a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department considers an analysis of *de facto* control to be critical in determining whether a respondent is, in fact, subject to a degree of governmental control that would preclude the Department from assigning the respondent a separate rate.

Xiping Opeck has asserted the following: (1) it establishes its own export prices through direct negotiations with its customers; (2) it negotiates contracts not subject to review or guidance from any governmental entities or organizations; (3) its shareholders elect managers and make personnel decisions independent of the PRC government's approval or review; (4) it is not required to sell any portion of the foreign currency it earns to the government, it retains the proceeds of its export sales, and uses profits according to its business needs. See Xiping Opeck's December 24, 2008, submission at pages A-6 through A-8. Based upon the record information, the Department has preliminarily determined that there is an absence of *de facto* governmental control over the export activities of Xiping Opeck. Given that the Department has found that Xiping Opeck operates free of *de jure* and *de facto* governmental control, it has preliminarily determined that Xiping Opeck has satisfied the criteria for a separate rate.

#### **U.S. Price**

In accordance with section 772(a) of the Act, we based Xiping Opeck's U.S. price on export price (EP) because the first sales to unaffiliated purchasers were made prior to importation and constructed export price was not otherwise warranted by the facts on the record. We calculated EP based on the

free-on-board packed price to the first unaffiliated purchaser in the United States. In accordance with section 772(c) of the Act, we calculated net EP by deducting, where applicable, foreign inland-freight expenses, foreign brokerage and handling expenses, ocean-freight expenses, and credit expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States. We based all movement expenses on surrogate values because a PRC company provided the movement services (see the "Normal Value" section of this notice for further details).

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine normal value using an FOP methodology if the merchandise is exported from an NME country and the available information does not permit the calculation of normal value using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department uses an FOP methodology because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under its normal methodologies. See *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744, 39754 (July 11, 2005) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003-2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006)).

We calculated normal value by adding together the value of the FOP, general expenses, profit, and packing costs.<sup>6</sup> Specifically, we valued material, labor, energy, and packing by multiplying the amount of the factor consumed in producing the subject merchandise by the average unit surrogate value of the factor. In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise,

as appropriate. This adjustment is in accordance with the decision by the United States Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-1408 (Fed. Cir. 1997). We increased the calculated costs of the FOP for surrogate general expenses and profit. See Memorandum to the File entitled "Fresh Crawfish Tail Meat from the People's Republic of China: Surrogate-Value Memorandum," dated June 1, 2009 (Surrogate-Value Memo).

#### Surrogate Values

In selecting surrogate values, to the extent practicable we followed our practice of choosing publicly available values which are non-export averages, representative of a range of prices in effect during the POR or over a period as close as possible in time to the POR, product-specific, and tax-exclusive. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004) (unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004)). We also considered the quality of the source of surrogate information in selecting surrogate values. See *Manganese Metal From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12440 (March 13, 1998). Where we could only obtain surrogate values that were not contemporaneous with the POR, we inflated the surrogate values using, where appropriate, the Indian Wholesale Price Index (Indian WPI) and the Indonesian Wholesale Price Index (Indonesian WPI) as published in the *International Financial Statistics* of the International Monetary Fund. See Surrogate-Value Memo.

In calculating surrogate values from import statistics and in accordance with our practice, we disregarded statistics for imports from NME countries and countries deemed to maintain broadly available, non-industry-specific subsidies which may benefit all exporters to all export markets (i.e., Indonesia, the Republic of Korea, and Thailand). See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002), and accompanying

Issues and Decision Memorandum at Comment 1. See also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 68 FR 66800, 66808 (November 28, 2003) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004)). Additionally, we excluded from our calculations imports that were labeled as originating from an unspecified country because we could not determine whether they were from an NME country.

We used the following surrogate values in our margin calculations for these preliminary results of review. We valued coal and packing materials using September 2007–August 2008 weighted-average Indian import values derived from the *World Trade Atlas* online (WTA). The Indian import statistics that we obtained from the WTA were published by the Directorate General of Commercial Intelligence & Statistics, Ministry of Commerce of India, and are contemporaneous with the POR. We valued whole live crawfish using the publicly available data for Spanish imports of whole live crawfish from Portugal during the POR submitted by the petitioner. We valued the crawfish shell by-product using a 2001 price quote from Indonesia for wet crab and shrimp shells and inflated this value using the Indonesian WPI to make it contemporaneous with the POR.

We valued water using data from the Maharashtra Industrial Development Corporation ([www.midcindia.org](http://www.midcindia.org)) because this source includes a wide range of industrial water tariffs. Specifically, this source provides 386 industrial water rates within the Maharashtra province for June 2003 (193 for the "inside industrial areas" usage category and 193 for the "outside industrial areas" usage category). We inflated the surrogate value for water using the Indian WPI to make it contemporaneous with the POR. We valued electricity using price data for small, medium, and large industries as published by the Central Electricity Authority of the Government of India in its publication entitled *Electricity Tariff & Duty and Average Rates of Electricity Supply in India*, dated July 2006. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity

<sup>6</sup> We based the values of the FOPs on surrogate values (see "Surrogate Values" section below).

rates charged to industries in India. Because the electricity rates are not contemporaneous with the POR, we inflated the values using the Indian WPI to make it contemporaneous with the POR.

We valued non-refrigerated truck-freight expenses using a per-unit average rate for September 2008, which we calculated from data at [www.infobanc.com/logistics/logtruck.htm](http://www.infobanc.com/logistics/logtruck.htm). The logistics section of this website contains rates for inland-freight trucking between many large Indian cities. We deflated the per-unit average truck-freight rate using the Indian WPI to make it contemporaneous with the POR. We valued refrigerated-truck freight expenses based on price quotations for April 2004 from CTC Freight Carriers of Delhi, India, placed on the record of the antidumping investigation of certain frozen warmwater shrimp from the PRC. We inflated this surrogate value using the Indian WPI.

To value brokerage and handling, we used the average of the publicly summarized versions of values for brokerage and handling expenses reported in the following sources: Navneet Publications (India) Ltd.'s March 20, 2009, Section C submission (taken from the 2007–2008 administrative review of the antidumping duty order on certain lined paper products from India); Essar Steel Limited's (Essar's) October 15, 2008, Section C submission (taken from the 2006–2007 administrative review of the antidumping duty order on hot-rolled carbon steel flat products from India); Himalaya International Ltd.'s (Himalaya's) May 26, 2006, Section C submission (taken from 2005–2006 administrative review of the antidumping duty order on certain preserved mushrooms from India). Because data reported by Essar and Himalaya were not contemporaneous with the POR, we inflated the surrogate values for domestic brokerage and handling expenses for these companies using the Indian WPI. See Surrogate-Value Memo for further details on the surrogate values we used for these preliminary results.

We valued ocean-freight expenses using publicly available data we collected from Maersk Line's website at <http://www.maerskline.com>. We obtained a price quote in effect during the month of the POR in which Xiping Opeck made shipments of frozen freshwater crawfish tail meat to the United States. This price quote is for a reefer-high cube 40-foot container for the points of origin and destination

reported by Xiping Opeck. See Surrogate-Value Memo.

The Department's regulations require the use of a regression-based wage rate. See 19 CFR 351.408(c)(3). Therefore, to value labor, we used the regression-based wage rate for the PRC published on the Import Administration (IA) website. See the IA website at <http://ia.ita.doc.gov/wages/05wages/05wages-041608.html>. See also *Corrected 2007 Calculation of Expected Non-Market Economy Wages*, 73 FR 27795 (May 14, 2008). We applied the same wage rate to all skill levels and types of labor (*i.e.*, direct production, indirect, packing) reported by Xiping Opeck because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor.

We valued SG&A expenses, factory-overhead costs, and profit using the 2002–2003 financial statements of Nekkanti Sea Foods Ltd., an Indian seafood processor. See Surrogate-Value Memo.

#### 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. These exchange rates are available on the IA web site at <http://ia.ita.doc.gov/exchange/index.html>.

#### Preliminary Results of the Review

As a result of our review, we preliminarily determine that the weighted-average dumping margin for merchandise exported by Xiping Opeck is 0.00 percent for the period September 1, 2007, through August 31, 2008.

#### Comments

We will disclose the calculations used in our analysis to interested parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit publicly available information to value factors no later than 20 days after the date of publication of these preliminary results of review. See 19 CFR 351.301(c)(3)(ii). Any interested party may request a hearing within 30 days of the date of publication of this notice. See 19 CFR 351.310. Interested parties who wish to request a hearing or to participate in a hearing if one is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain the following: (1) the party's name, address, and telephone number; (2) the number of participants; (3) a list of

issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the case briefs. See 19 CFR 351.310(c). Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal briefs from interested parties, limited to the issues raised in the case briefs, may be submitted not later than five days after the time limit for filing the case briefs or comments. See 19 CFR 351.309(d)(1). If requested, any hearing will be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of statutes, regulations, and cases cited. See 19 CFR 351.309(c)(2).

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised by parties in their comments, within 120 days after the date of publication of this notice. See 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 assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in our final results of review, because we calculated a margin of zero percent for Xiping Opeck, we will instruct CBP to liquidate the entries of merchandise exported by Xiping Opeck without regard to antidumping duties.

#### Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Xiping Opeck, the cash-deposit rate will be that established in the final results of review; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise which

have not been found to be entitled to a separate rate, the cash-deposit rate will be PRC-wide rate of 223.01 percent; (4) for all non-PRC exporters of subject merchandise the cash-deposit rate will be the rate applicable to the PRC entity that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 1, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E9-13345 Filed 6-5-09; 8:45 am]

BILLING CODE 3510-DS-S

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket ID DOD-2009-OS-0075]

#### Privacy Act of 1974; System of Records

**AGENCY:** National Security Agency/Central Security Service, DoD.

**ACTION:** Notice to Alter a System of Records.

**SUMMARY:** The National Security Agency/Central Security Service is proposing to alter an exempt system of records to its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action would be effective without further notice on July 8, 2009 unless comments are received which result in a contrary determination.

**ADDRESSES:** Send comments to the National Security Agency/Central Security Service, Office of Policy, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755-6248.

**FOR FURTHER INFORMATION CONTACT:** Ms. Anne Hill at (301) 688-6527.

**SUPPLEMENTARY INFORMATION:** The National Security Agency's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 1, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 1, 2009.

**Morgan E. Frazier,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

#### GNSA 08

##### SYSTEM NAME:

NSA/CSS Payroll and Claims (June 7, 1995, 60 FR 30074).

##### CHANGES:

\* \* \* \* \*

##### SYSTEM NAME:

Delete entry and replace with "NSA/CSS Payroll Processing Records".

##### SYSTEM LOCATION:

Delete entry and replace with "Primary location: National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

##### DECENTRALIZED SEGMENTS:

Defense Intelligence Agency (DIA) Headquarters and DIA field elements, DoD activities supported by DIA, and NSA field elements as authorized and appropriate. For official mailing addresses for any of the decentralized system locations, write to the National Security Agency/Central Security Service, 9800 Savage Road, Ft. George G. Meade, MD 20755-6000".

##### CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

Delete entry and replace with "NSA/CSS and DIA Civilian employees, reemployed annuitants, personnel under contract and other DoD activities supported by DIA".

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "File may consist of timesheets; work schedule changes; locator cards and

other correspondence or revisions related to actions concerning time and attendance, absence, annual leave, sick leave, leave without pay, advanced leave, administrative leave, exemplary use of leave, unauthorized leave and absence and other related matters; payroll deductions, allotments and allowances; pay adjustment authorizations (DD Form 139); direct deposit; taxes; government life insurance; health insurance; savings bonds; retirement records; flexible spending account; long term care; thrift savings plan; dental/vision; electronic fund transfer; combined Federal campaign; and W2 record. Records may consist of name, Social Security Number (SSN), home address and phone number, emergency point of contact name and phone number and financial information".

##### AUTHORITY FOR MAINTENANCE OF SYSTEM:

Delete entry and replace with "The National Security Agency Act of 1959, Public Law No. 86-36 (50 U.S.C. 402note); Title 5, Part III, of the United States Code (Employees); Title 31, Chapter 35, of the United States Code (Accounting and Collection); Title 5, Chapter 1, of the United States Code of Federal Regulations (Office of Personnel Management) and E.O. 9397 (SSN)".

##### PURPOSE(S):

Delete entry and replace with "To provide a means of accounting for all time and attendance of the NSA/CSS civilian employees, DIA civilian employees, and certain contract employees; to maintain effective control and accountability for all relevant appropriated funds; to provide accounting data to support budget requests and control the execution of budgets; to provide financial information required by the Office of Management and Budget; and for agency management and payroll activities".

##### ROUTINE USE OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To contractor employees to assist government personnel in processing the payroll.

To other government entities in connection with Social Security deductions, unemployment compensation claims, job-related injury