

cited. Further, we request that parties submitting written comments provide the Department with a diskette containing an electronic copy of the public version of such comments. See, generally, 19 CFR 351.309(c) and (d).

This rescission in part and intent to rescind the administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 30, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import 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:** In response to requests from interested parties, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on chlorinated isocyanurates ("chlorinated isos") from the People's Republic of China ("PRC"). The period of review ("POR") for this administrative review is June 1, 2006, through May 31, 2007. This administrative review covers two producers/exporters of the subject merchandise.

We preliminarily determine that both respondents in this administrative review made sales in the United States at prices below normal value ("NV"). If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument a statement of the issue and a brief summary of the argument. We intend to issue the final results of this review 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:** May 6, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Jennifer Moats 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) 482-5047 or (202) 482-0650, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 24, 2005, the Department published in the **Federal Register** the antidumping duty order on chlorinated isos from the PRC.<sup>1</sup> On June 1, 2007, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on chlorinated isos from the PRC for the period June 1, 2006, through May 31, 2007.<sup>2</sup> On June 28, 2007, in accordance with 19 CFR 351.213(b)(2), Nanning Chemical Industry Co. Ltd. ("Nanning"), a foreign producer/exporter of subject merchandise, requested that the Department review its sale(s) of subject merchandise. On June 29, 2007, in accordance with 19 CFR 351.213(b)(2), Hebei Jiheng Chemical Company Ltd. ("Jiheng"), a foreign producer/exporter of subject merchandise, requested that the Department review its sales of subject merchandise. On July 2, 2007, 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's sales and entries during the POR.

On July 26, 2007, the Department initiated the second administrative review of the antidumping duty order on chlorinated isos from the PRC.<sup>3</sup> On August 10, 2007, the Department issued its antidumping duty questionnaire to Jiheng and Nanning. On September 7, 2007, the Department requested that the Office of Policy provide a list of surrogate countries for this review.<sup>4</sup> On

September 17, 2007, the Office of Policy issued its list of surrogate countries.<sup>5</sup>

On September 25, 2007, the Department issued a letter to interested parties seeking comments on surrogate country selection and surrogate values. On October 10, 2007, Jiheng submitted comments regarding the selection of a surrogate country. On October 22, 2007, Clearon and OxyChem ("Petitioners") submitted rebuttal comments regarding surrogate country selection. On November 2, 2007, Jiheng and Nanning submitted publicly available information to value the factors of production ("FOP"). On November 13, 2007, Petitioners submitted rebuttal surrogate value comments. On February 13, 2008, Jiheng submitted rebuttal comments to Petitioners' surrogate value comments. On April 9, 2008, Jiheng submitted additional surrogate value information on electricity.

On September 7, 2007, Nanning submitted its section A questionnaire response ("Nanning AQR"). On September 10, 2007, Jiheng submitted its section A questionnaire response ("Jiheng AQR"). On October 2, 2007, Jiheng submitted its sections C and D questionnaire responses ("Jiheng CQR and Jiheng DQR", respectively). On October 4, 2007, Nanning submitted its sections C and D questionnaire responses ("Nanning CQR and Nanning DQR", respectively). On November 8, 2007, Petitioners submitted comments on Nanning's AQR, CQR, and DQR. On November 28, 2007, the Department issued supplemental questionnaires to Jiheng and Nanning. On December 20, 2007, Jiheng and Nanning submitted their supplemental questionnaire responses ("Jiheng 1<sup>st</sup> SQR and Nanning 1<sup>st</sup> SQR", respectively).

On January 9, 2008, Department met with counsel for Jiheng to explain some concerns regarding Jiheng's FOP reporting methodology and claimed by products and to introduce questions that would be included in a second supplemental questionnaire issued to Jiheng. See January 17, 2008 Memorandum to The File regarding Meeting with Counsel of Hebei Jiheng Chemical Company, Ltd. On January 15, 2008, the Department issued a second supplemental questionnaire to Jiheng. On January 24, 2008, Petitioners submitted comments on Nanning's 1<sup>st</sup> SQR. On February 12, 2008, the Department issued a second supplemental questionnaire to Nanning. On February 20, 2008, Jiheng submitted

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

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 30542 (June 1, 2007).

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 41057 (July 26, 2007) ("Initiation Notice").

<sup>4</sup> See Memorandum regarding "Request for Surrogate-Country Selection: 2006-2007 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China" (September 7, 2007).

<sup>5</sup> See the Memorandum regarding "Antidumping Duty Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Request for a List of Surrogate Countries" (September 17, 2007) ("Surrogate Country List").

its second supplemental questionnaire response (“Jiheng 2<sup>nd</sup> SQR”). On February 25, 2008, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until April 30, 2008.<sup>6</sup>

On March 5, 2008, Nanning submitted its second supplemental questionnaire response (“Nanning 2<sup>nd</sup> SQR”). On March 17, 2008, Petitioners submitted comments on Nanning 2<sup>nd</sup> SQR. On March 21, 2008, the Department issued a third supplemental questionnaire to Nanning. On April 1, 2008, Nanning submitted its third supplemental questionnaire response (“Nanning 3<sup>rd</sup> SQR”). On April 2, 2008, Department officials again met with counsel to Jiheng to introduce questions that would be included in a third supplemental questionnaire to Jiheng regarding Jiheng’s reported FOPs and claimed by products. See April 4, 2008 Memorandum to The File regarding Meeting with Counsel of Hebei Jiheng Chemical Company, Ltd. On April 3, 2008, Petitioners submitted comments on Nanning’s 3<sup>rd</sup> SQR. On April 4, 2008, the Department issued a third supplemental questionnaire to Jiheng. On April 16, 2008, Jiheng submitted its third supplemental questionnaire response (“Jiheng 3<sup>rd</sup> SQR”).

#### Scope of the Order

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

Chlorinated isos are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) trichloroisocyanuric acid (Cl<sub>3</sub>(NCO)<sub>3</sub>), (2) sodium dichloroisocyanurate (dihydrate) (NaCl<sub>2</sub>(NCO)<sub>3</sub>(2H<sub>2</sub>O), and (3) sodium dichloroisocyanurate (anhydrous) (NaCl<sub>2</sub>(NCO)<sub>3</sub>). Chlorinated isos are available in powder, granular, and tableted forms. This order covers all chlorinated isos. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isos and other

<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*, 73 FR 9990 (February 25, 2008).

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

Jiheng and Nanning 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>7</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

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it, in most instances, to base NV on the NME producer’s FOPs. The Act further instructs that valuation of the FOPs shall be based on the best available information in the surrogate market economy country or countries considered to be appropriate by the Department. See section 773(c)(1) of the Act. When valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. See section 773(c)(4) of the Act. Further, the Department normally values all FOPs in a single surrogate country. See 19 CFR 351.408(c)(2). The sources of the surrogate factor values are discussed under the “Normal Value” section below and in the Surrogate Value Memorandum, which is on file in the Central Records Unit (“CRU”), Room 1117 of the main Department building.<sup>8</sup>

In examining which country to select as its primary surrogate for this proceeding, the Department first determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in

<sup>7</sup> See, e.g., *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 159 (January 2, 2008); and *Folding Metal Tables and Chairs from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 71355 (December 17, 2007).

<sup>8</sup> See Memorandum regarding “Preliminary Results of the 2006-2007 Administrative Review of Chlorinated Isocyanurates from the People’s Republic of China: Surrogate Value Memorandum” (April 29, 2008) (“Surrogate Value Memorandum”).

terms of economic development. See Surrogate Country List, which is on file in the CRU. On September 25, 2007, the Department issued a request for interested parties to submit comments on surrogate country selection. On October 10, 2007, Jiheng submitted comments regarding the selection of a surrogate country. On October 22, 2007, Petitioners submitted rebuttal comments regarding surrogate country selection.

Jiheng argues that the Department should continue to use India as a surrogate country for this proceeding of chlorinated isos, as it has in previous proceedings, because India produces comparable merchandise and there are publicly available data with which to value the reported FOP information in this case. Petitioners argue that another surrogate country other than India should be considered because chlorinated isos is not manufactured in India and the level of production of the most comparable product, calcium hypochlorite, should be considered. Nanning did not provide any comments on the Department’s selection of a surrogate country. All parties which submitted surrogate value data submitted Indian sourced data for the majority of their data.

After evaluating interested parties’ comments, the Department determined that India is the appropriate surrogate country for use in this review. The Department based its decision on the following facts: (1) India is at a level of economic development comparable to that of the PRC; (2) India is a significant producer of comparable merchandise, *i.e.*, calcium hypochlorite; and (3) India provides the best opportunity to use quality, publicly available data to value the FOPs. On the record of this review, we have usable surrogate financial data from India, but no such surrogate financial data from any other potential surrogate country. Additionally, a vast majority of the data submitted by both the respondents and Petitioners for our consideration as potential surrogate values are sourced from India.

Therefore, because India best represents the experience of producers of comparable merchandise operating in a surrogate country, we have selected India as the surrogate country and, accordingly, have calculated NV using Indian prices to value the respondents’ FOPs, when available and appropriate. See Surrogate Value Memorandum. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly available information to

value FOPs until 20 days after the date of publication of the preliminary results.

### Separate Rates

The Department has implemented an application process by which exporters and producers may obtain separate-rate status in NME administrative reviews. The process requires exporters and producers to submit a separate-rate status application. *See also Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, (April 5, 2005) (“*Policy Bulletin 05.1*”), available at <http://ia.ita.doc.gov>.<sup>9</sup> However, the standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* government control over its export activities) has not changed.

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department’s policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588 (May 6, 1991) (“*Sparklers*”), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585

<sup>9</sup> *Policy Bulletin 05.1* states: “While continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ‘combination rates’ because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.” *See Policy Bulletin 05.1* at 6 (*emphasis in original*).

(May 2, 1994) (“*Silicon Carbide*”). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

### Separate Rate Recipients<sup>10</sup>

#### 1. Wholly Foreign-Owned

No companies reported that they are wholly owned by individuals or companies located in a market economy in their separate-rate applications. Therefore, we are not addressing wholly-foreign owned companies in our analysis.

#### 2. Located in a Market Economy with No PRC Ownership

No companies in this administrative review are located outside the PRC. Therefore, we are not addressing this ownership structure in these preliminary results of review.

#### 3. Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

Jiheng and Nanning stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies (collectively “PRC SR Applicants”). Therefore, the Department must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

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

The evidence provided by Jiheng and Nanning supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter’s business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of

<sup>10</sup> All separate rate applicants receiving a separate rate are hereby referred to collectively as the “SR Recipients”, which include the mandatory respondents as well.

companies. *See* Jiheng’s September 10, 2007, submission at Exhibit A–6; and Nanning’s September 7, 2007, submission at Exhibit A–1.

##### b. Absence of De Facto Control

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

The evidence placed on the record of this administrative review by the PRC SR Recipients demonstrates an absence of *de jure* and *de facto* government control with respect to each of the respondent’s exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. *See* “Preliminary Results” section below for companies marked with “\*” designating these companies as joint ventures between Chinese and foreign companies or wholly Chinese-owned companies that have demonstrated their eligibility for a separate rate.

### B. Companies Not Receiving a Separate Rate

The Department has determined that all parties applying for a separate rate in this segment of the proceeding have demonstrated an absence of government control both in law and in fact (see discussion above), and is, therefore, not denying separate-rate status to any applicants.

### 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

Jiheng reported the shipment date as the date of sale because it claims that, for its U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the shipment date and 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's date of sale in accordance with our long-standing practice of determining the date of sale as the date on which the final terms of sale are established.<sup>11</sup> Evidence on the record demonstrates that the shipment date usually occurs prior to the invoice date. See Jiheng's CQR. It is the Department's practice to use shipment date as the date of sale when the shipment date occurs prior to the invoice date.<sup>12</sup> Moreover, the shipment date was considered the sale date in the prior POR.<sup>13</sup>

#### Nanning

Nanning's sale took place during the previous POR. However, because the sale entered the United States during the current POR, any antidumping duty liability can only be determined and assessed in the context of the current POR. Therefore, Nanning reported the entry date which coincides with the current administrative review period as

its date of sale. We have preliminarily determined that the entry date is the most appropriate date to use as Nanning's date of sale in this circumstance. It is the Department's practice to include sales that are sold prior to the POR if the respondent can demonstrate the sale entered the United States during the POR.<sup>14</sup>

#### Fair Value Comparisons

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

#### Export Price

Jiheng and Nanning sold the subject merchandise to unaffiliated purchasers in the United States prior to importation into the United States. Therefore, we have used EP in accordance with section 772(a) of the Act because the use of the constructed export price methodology is not otherwise indicated. We calculated EP based on the price including the appropriate shipping terms to the unaffiliated purchasers reported by Jiheng and Nanning. From this price, we deducted amounts for foreign inland freight, brokerage and handling, international freight, and marine insurance, and added amounts for components that were supplied free of charge or reimbursed by the customer where applicable, pursuant to section 772(c)(2)(A) of the Act.<sup>15</sup>

The Department used two sources to calculate a surrogate value for domestic brokerage expenses. The Department averaged the February 2004–January 2005 data contained in Agro Dutch Industries Limited's ("Agro Dutch") May 24, 2005, public version response submitted in the administrative review of the antidumping duty order on certain preserved mushrooms from India.<sup>16</sup> These data were averaged with

the July 2004–June 2005 data contained in Kejriwal Paper Ltd.'s ("Kejriwal") January 9, 2006, public version response submitted in the administrative review of the antidumping duty order on lined paper products from India.<sup>17</sup> The brokerage–expense data reported by Agro Dutch and Kejriwal in the public versions of their respective responses are ranged data. The Department first derived an average per–unit amount from each data source. We then separately adjusted each average rate for inflation. Finally, we averaged the two per–unit amounts to derive an overall average rate for the POR. See Surrogate Value Memorandum.

To value truck freight, we used the freight rates published by Indian Freight Exchange, available at <http://www.infreight.com>. The truck freight rates are for the period April 2005 through October 2005. Since these dates are not contemporaneous with the POR, we made an adjustment for inflation. See Surrogate Value Memorandum.

Respondents who incurred international freight expenses on the subject merchandise reported that they used a market–economy international freight carrier and paid for the international freight expense in a market–economy currency. Therefore, we used the reported international freight expenses by the respondents, where necessary.

To value marine insurance, we used an April 2005 rate quote for marine insurance from <http://www.rjgconsultants.com>. Since this date is not contemporaneous with the POR, we made an adjustment for inflation. See Surrogate Value Memorandum.

Jiheng reported that its U.S. customer(s) provided it with certain raw materials and packing materials free of charge. For Jiheng's products that contained inputs provided free of charge by its customer,<sup>18</sup> consistent with the Department's practice, we added to the U.S. price paid by the Jiheng's customer

<sup>11</sup> Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; and Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>12</sup> See, e.g., Notice of Final Determinations of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat from Canada, 68 FR 52741 (September 5, 2003), and accompanying Issues and Decision Memorandum at Comment 3.

<sup>13</sup> See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 72 FR 39053 (July 17, 2007) (unchanged in Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 159 (January 2, 2008)).

<sup>14</sup> See, e.g., Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review, 72 FR 17834 (April 10, 2007), and accompanying Issues and Decision Memorandum at Comment 3.

<sup>15</sup> See Memorandum regarding "Analysis for the Preliminary Results of the 2006–2007 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Company Ltd. (April 29, 2008); see also Memorandum regarding "Analysis for the Preliminary Results of the 2006–2007 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Nanning Chemical Industry Co., Ltd. (April 29, 2008).

<sup>16</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) unchanged in 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).

<sup>17</sup> See Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India, 71 FR 45012 (August 8, 2006).

<sup>18</sup> Jiheng stated that its customer sourced materials from both market–economy and NME suppliers. Jiheng further stated that it does not know the names of the market–economy suppliers. See Jiheng's DQR at D–6–D–7.

the built-up cost (*i.e.*, the surrogate value for these raw materials and packing materials multiplied by the reported FOPs for these items).<sup>19</sup>

### Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

The Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used the FOPs reported by 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>20</sup> Jiheng reported that it did not purchase any inputs from market economy suppliers for the production of the subject merchandise. See Jiheng's DQR at D-8. However, Nanning reported that it purchased all of the sodium chloride it consumed in the production of the subject merchandise from market economy suppliers and paid for its purchases in a market-economy currency. See Nanning's DQR at D-4.

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,

<sup>19</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 accompanying Issues and Decision Memorandum at Comment 17.

<sup>20</sup> See 19 CFR 351.408(c)(1); see also, *Shakeproof Assembly Components Div. of Ill v. United States*, 268 F.3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

such as those from India, Indonesia, South Korea, and Thailand. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.<sup>21</sup> We are also guided by the statute's legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. No. 100-576, 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 and Nanning for the POR. With respect to Nanning, we adjusted its reported FOP for urea and calculated an FOP for purchased cyanuric acid consumed during the POR. Specifically, Nanning's reported FOP for urea incorrectly calculated an estimate of the up-stream urea factor for its consumption of purchased cyanuric acid. While the Department will value the inputs into self-produced materials, the Department does not value inputs into purchased materials.<sup>22</sup> Therefore, in this limited circumstance because we were easily able to do so based on the record information provided by Nanning, we made an adjustment to Nanning's reported FOP for urea, so that it accounts only for Nanning's reported consumption in its production of self-produced cyanuric acid. We also calculated an FOP for Nanning's consumption of purchased cyanuric acid based on its reported consumption amounts of this factor. To calculate NV,

<sup>21</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 *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the First Administrative Review*, 71 FR 14170 (March 21, 2006); and *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), affirmed 104 Fed. Appx. 183 (Fed. Cir. 2004).

<sup>22</sup> See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007), and accompanying Issues and Decision Memorandum at Comment 21; see also *Certain Cased Pencils from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 38366 (July 6, 2006), and accompanying Issues and Decision Memorandum at Comment 2.

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 U.S. Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all surrogate values used for Jiheng and Nanning, see the Surrogate Value Memorandum.

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the *Monthly Statistics of the Foreign Trade of India*, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India in the World Trade Atlas, available at <http://www.gtis.com/wta.htm> ("WTA"). Where we could not obtain publicly available information contemporaneous with the POR with which to value FOPs, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index ("WPI") as published in the *International Financial Statistics* of the International Monetary Fund. See Surrogate Value Memorandum. We further adjusted these prices to account for freight costs incurred between the supplier and respondent. 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. We adjusted the truck and rail freight rates for inflation, where necessary. For a complete description of the factor values we used, see the Surrogate Value Memorandum.

We valued calcium chloride, 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 the respondent.

Jiheng reported that its U.S. customer(s) provided certain raw materials and packing materials free of charge. For Jiheng's products that included raw materials and packing materials provided free of charge by its

customer, consistent with the Department's practice, 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>23</sup> Where applicable, we also adjusted these values to account for freight costs incurred between the port of exit and Jiheng's plants. *See* Surrogate Value Memorandum, and Jiheng's Preliminary Analysis Memorandum.

To value electricity, we used 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. On April 9, 2008, Arch Chemicals submitted additional information for selection as a surrogate value for electricity. We were unable to consider this information in the selection of a surrogate value for electricity for the preliminary results. However, we will review this information and any discussion of the electricity value included in parties' case briefs for the final results of review.

To value water, we used the revised Maharashtra Industrial Development Corporation ("MIDC") water rates for June 1, 2003, available at <http://www.midcindia.com/water-supply>, adjusted for inflation. *See* Surrogate Value Memorandum.

To value steam coal, we used data obtained for categories B and C for coal reported in Tata Energy Research Institute's Energy Data Directory & Yearbook adjusted for inflation. *See* Surrogate Value Memorandum.

Jiheng reported chlorine, hydrogen gas, ammonia gas, and sulfuric acid as by products in the production of subject merchandise. We found in this administrative review that Jiheng has appropriately reported its by products and, therefore, granted Jiheng a by-product offset for the quantities of these reported by products. We valued chlorine and hydrogen gas with Philippine import data obtained from WTA because it represented better information than the Indian import data for these factors. *See* Surrogate Value Memorandum.

For direct labor, indirect labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported

on Import Administration's web site.<sup>24</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.

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 the respondents' plants. *See* Surrogate Value Memorandum.

For factory overhead, selling, general, and administrative expenses ("SG&A"), and profit values, we used information from Kanoria Chemicals and Industries Limited for the year ending March 31, 2007. 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 for a full discussion of the calculation of these ratios.

#### 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

We preliminarily determine that the following weighted-average dumping margins exist:

Manufacturer/Exporter	Margin (Percent)
Jiheng* .....	23.28
Nanning* .....	66.89

#### Disclosure

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(ii). Rebuttal

briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 5 days after the time limit for filing the case briefs. *See* 19 CFR 351.309(d). The Department requests that parties submitting written comments provide an executive summary and a table of authorities as well as an additional copy of those comments electronically.

Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. Any hearing, if requested, will be held seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20230. *See* 19 CFR 351.310(d).

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, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) *ad valorem* duty assessment rates based on the ratio of the total amount of dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific rate calculated in the final results of this review is above *de minimis*.

#### 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

<sup>23</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 accompanying Issues and Decision Memorandum at Comment 17.

<sup>24</sup> *See* Expected Wages of Selected NME Countries (revised January 2007) (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 2004*, ILO, (Geneva: 2004), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 2003 to 2004.

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 and Nanning, which have separate rates, 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: April 29, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-9990 Filed 5-5-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-791-815)

#### Ferrovandium from South Africa: Notice of Rescission of Antidumping Duty Administrative Review

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

**EFFECTIVE DATE:** May 6, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Brian Smith or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1766 or (202) 482-3773, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 2, 2008, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the antidumping duty order on ferrovandium from South Africa. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 73 FR 158 (January 2, 2008). On January 31, 2008, Mittal Steel Lazaro Cardenas (an exporter of subject merchandise) requested that the Department conduct an administrative review on its behalf. On February 27, 2008, the Department published a notice of initiation of the antidumping duty administrative review of ferrovandium from South Africa for the period January 1, 2007, through December 31, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 73 FR 10422 (February 27, 2008).

##### Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. On April 22, 2008, Mittal Steel Lazaro Cardenas withdrew its request for an administrative review within 90 days of publication of the notice of initiation of this review. Therefore, in accordance with 19 CFR 351.213(d)(1), the Department hereby rescinds the administrative review of ferrovandium from South Africa for the period January 1, 2007, through December 31, 2007. The Department intends to issue assessment instructions to U.S. Customs and Border Protection 15 days after the date of publication of this notice of rescission of administrative review.

This notice is issued and published in accordance with section 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: April 30, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E8-9988 Filed 5-5-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Advisory Committee on Earthquake Hazards Reduction Meeting

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Earthquake Hazards Reduction (ACEHR or Committee), will hold a meeting on Wednesday, May 21, 2008 from 1 p.m. to 4 p.m. Eastern Standard Time (EST). The primary purpose of this meeting is to review the Committee's draft report to the NIST Director. The draft report will be posted on the NEHRP Web site at <http://nehrrp.gov/>. Interested members of the public will be able to participate in the meeting from remote locations by calling into a central phone number.

**DATES:** The ACEHR will hold a meeting on Wednesday, May 21, 2008, from 1 p.m. until 4 p.m. Eastern Standard Time (EST). The meeting will be open to the public. Interested parties may participate in the meeting from their remote location.

**ADDRESSES:** Questions regarding the meeting should be sent to National Earthquake Hazards Reduction Program Director, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8630, Gaithersburg, Maryland 20899-8630. For instructions on how to participate in the meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jack Hayes, National Earthquake Hazards Reduction Program Director, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8630, Gaithersburg, Maryland 20899-8630. Dr. Hayes' e-mail address is [jack.hayes@nist.gov](mailto:jack.hayes@nist.gov) and his phone number is (301) 975-5640.

**SUPPLEMENTARY INFORMATION:** The Committee was established in accordance with the requirements of Section 103 of the NEHRP Reauthorization Act of 2004 (Pub. L. 108-360). The Committee is composed of 15 members appointed by the Director of NIST, who were selected for their technical expertise and experience,