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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 June 2008 through November 2008 Semi-Annual New Shipper Review****AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On January 30, 2009, the Department ("Department") initiated a new shipper review ("NSR") 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 NSR is June 1, 2008, through November 30, 2008. This NSR covers one producer/exporter of the subject merchandise, Juancheng Kangtai Chemical Company, Ltd. ("Kangtai"). We preliminarily determine that Kangtai did not make 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 liquidate entries of merchandise exported by Kangtai, during the POR without regard to antidumping duties. We invite interested parties to comment on these preliminary results.

**EFFECTIVE DATE:** July 27, 2009.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatryan 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) 482-6412 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 December 22, 2008, Kangtai, a foreign producer/exporter of subject merchandise, requested that the Department conduct an NSR of sales of its subject merchandise during the POR. On

January 30, 2009, the Department initiated an NSR of Kangtai.<sup>2</sup>

On February 2, 2009, the Department issued its antidumping duty questionnaire to Kangtai. On February 11, 2009, the Department requested that the Office of Policy provide a list of surrogate countries for this NSR.<sup>3</sup> On February 12, 2009, the Office of Policy issued its list of surrogate countries.<sup>4</sup>

On April 24, 2009, the Department issued a letter to interested parties seeking comments on surrogate country selection and surrogate values. On May 15, 2009, Kangtai submitted comments regarding the selection of a surrogate country.

On February 20, 2009, Kangtai submitted its section A questionnaire response ("AQR"). On March 11, 2009, Kangtai submitted its sections C and D questionnaire responses ("CQR and DQR"). On March 27, 2009, the Department issued a supplemental questionnaire to Kangtai. On April 14, 2009, Kangtai submitted its supplemental questionnaire response. On May 29, 2009, the Department issued a supplemental questionnaire to Kangtai. On June 12, 2009, Kangtai submitted its supplemental questionnaire response. On June 9, 2009, the Department issued a supplemental questionnaire to Kangtai. On June 22, 2009, Kangtai submitted its supplemental questionnaire response. On June 26, 2009, the Department issued a supplemental questionnaire to Kangtai. On July 6, 2009, Kangtai submitted its supplemental questionnaire response.

**Scope of the Order**

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

and tableted forms. The order covers all chlorinated isos. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 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 compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

**Non-Market Economy Country**

The Department has treated the PRC as a non-market economy ("NME") country in all past antidumping duty investigations and administrative reviews and continues to do so in this case.<sup>5</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 Tariff Act of 1930, as amended ("Act").

**Surrogate Country**

When the Department is reviewing 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 factors of production ("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

<sup>2</sup> See *Chlorinated Isocyanurates From the People's Republic of China: Initiation of New Shipper Review*, 74 FR 5639 (January 30, 2009).

<sup>3</sup> See Memorandum regarding "Request for Surrogate Country Selection: 06/2008 - 11/2008 New Shipper Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China" (February 11, 2009).

<sup>4</sup> See the Memorandum regarding "Request for a List of Surrogate Countries for a New Shipper Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China" (February 12, 2009) ("Surrogate Country List").

<sup>5</sup> See, e.g., *Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 27104, 27105 (June 8, 2009) (unchanged in the final results); and *Folding Metal Tables and Chairs from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 32118, 32120 (July 7, 2009) (unchanged in the final results).

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

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>6</sup>

In examining which country to select as its primary surrogate for this proceeding, the Department first determined that India, the Philippines, Indonesia, Colombia, Thailand, and Peru are countries comparable to the PRC in terms of economic development. See Surrogate Country List. On April 24, 2009, the Department issued a request for interested parties to submit comments on surrogate country selection. On May 15, 2009, Kangtai submitted comments regarding the selection of a surrogate country.

Kangtai argues that the Department should continue to use India as a surrogate country, as it has in all past administrative reviews for chlorinated isos. No other party submitted any comments regarding the selection of a surrogate country. The Department determined that India is the appropriate surrogate country for use in this NSR. 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.

Therefore, because India best represents the experience of producers of comparable merchandise operating in a surrogate country at a level of economic development comparable to the PRC, we have selected India as the surrogate country and, accordingly, have calculated NV using Indian prices to value the respondent's 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.<sup>7</sup>

<sup>6</sup> See Memorandum regarding "Preliminary Results of the 2007-2008 Administrative Review of Chlorinated Isocyanurates from the People's Republic of China: Surrogate Value Memorandum" (July 20, 2009) ("Surrogate Value Memorandum").

<sup>7</sup> In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information

## Affiliation

Section 771(33) of the Act states that the Department considers the following entities to be affiliated: (A) Members of a family, including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants; (B) Any officer or director of an organization and such organization; (C) Partners; (D) Employer and employee; (E) Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization; (F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (G) Any person who controls any other person and such other person.

For purposes of affiliation, section 771(33) of the Act states that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person. In order to find affiliation between companies, the Department must find that at least one of the criteria listed above is applicable to the respondents.

To the extent that the affiliation provisions in section 771(33) of the Act do not conflict with the Department's application of separate rates and the statutory NME provisions in section 773(c) of the Act, the Department will determine that exporters and/or producers are affiliated if the facts of the case support such a finding.<sup>8</sup>

Based on our examination of the evidence presented in Kangtai's submissions, we preliminarily determine that Kangtai and its supplier (Company A)<sup>9</sup> are affiliated parties within the meaning of section 771(33) of

submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission*, in Part, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>8</sup> See *Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Sixth New Shipper Review and Preliminary Results and Partial Rescission of Fourth Antidumping Duty Administrative Review*, 69 FR 10410, 10413 (March 5, 2004) (unchanged in the final results).

<sup>9</sup> Due to the proprietary treatment of the affiliated supplier's name, we are referring to the supplier as Company A.

the Act.<sup>10</sup> Based on our examination of the evidence presented in Kangtai's questionnaire responses, we have determined that the owners of Kangtai and its supplier of an intermediate product are members of a family (siblings) and these parties are affiliated under 771(33)(A) of the Act.

19 CFR 351.401(f) requires that affiliated producers of subject merchandise be treated as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and where there is a significant potential for the manipulation of price or production. Based on record evidence, we find that Kangtai's affiliated supplier has production facilities to produce similar merchandise without the need for substantial retooling of its facility. In addition, based on the record evidence, we find that there is a significant potential for manipulation of price and production as: 1) there are significant transactions between Kangtai and its affiliated supplier; and 2) the operations of both entities are closely intertwined. Therefore, we have treated these companies as a single entity and used the affiliated supplier's upstream FOPs to calculate Kangtai's dumping margin for the purposes of these preliminary results. Due to the proprietary nature of this issue, please see the Affiliation Memo for a detailed discussion of the facts and our findings.

## 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 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*

<sup>10</sup> See Memorandum to the File "Preliminary Results of the New Shipper Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Affiliation and Collapsing of Juancheng Kangtai Chemical Co., Ltd and its Supplier." (July 20, 2009) ("Affiliation Memo").

*Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, at Comment 1 (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, 22587 (May 2, 1994) (“*Silicon Carbide*”). See also Policy Bulletin 03.2: Combination Rates in New Shipper Reviews, available at <<http://ia.ita.doc.gov/policy/bull03-2.html>>, stating:

The bonding privilege in effect during a new shipper review, along with the prospective cash deposit rate established in that review for the new shipper, is applicable only with respect to merchandise produced/supplied and exported by the parties who have met all necessary certification requirements, who successfully participate in the review, and whose sales form the basis for the Department's analysis in the new shipper review. Where a party certifies that it is both the producer and exporter of subject merchandise pursuant to section 351.214(b)(2)(i) of the Department's regulations, the bonding option and post-final new shipper cash deposit rate will apply only with respect to subject merchandise produced and exported by this entity. Where a party is the exporter but not the producer of subject merchandise, the bonding option and post-final new shipper deposit rate will apply only with respect to subject merchandise exported by the entity requesting the review and produced or supplied<sup>(9)</sup> by those parties that provided the necessary certification under section 351.214(b)(2)(ii) and cooperated in responding to any information requests during the new shipper review.<sup>11</sup>

Kangtai is a wholly Chinese-owned company and is located in the PRC. Therefore, the Department must analyze whether it can demonstrate the absence

of both *de jure* and *de facto* government control over its export activities.

#### *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 Kangtai 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 companies. See Kangtai's AQR at Exhibit A3.1–A3.3.

#### *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).

With regard to *de facto* control, Kangtai reported that: (1) it independently set prices for sales to the United States through negotiations with customers and these prices are not subject to review by any government organization; (2) it did not coordinate with other exporters or producers to set the price or to determine to which market the companies will sell subject merchandise; (3) the PRC Chamber of Commerce did not coordinate the export activities of Kangtai; (4) its sales person has the authority to contractually bind it to sell subject merchandise; (5) its

general manager is selected by the shareholder meeting; (6) there is no restriction on its use of export revenues; and (7) its shareholders ultimately determine the disposition of respective profits. Furthermore, our analysis of Kangtai's questionnaire responses reveals no information indicating government control of its export activities. Therefore, based on the information on the record, we preliminarily determine that there is an absence of *de facto* government control with respect to Kangtai's export functions and that Kangtai has met the criteria for the application of a separate rate. 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. See Kangtai's AQR at pages A–7 through A–9.

The evidence placed on the record of this administrative review by Kangtai demonstrates an absence of *de facto* government control with respect to Kangtai's exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*.

#### **Date of Sale**

19 CFR 351.401(i) 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.

Kangtai reported the invoice date as the date of sale because it claims that all sales terms are fixed, *i.e.*, the exact quantity of the container load and the exact value calculated, when the invoice is issued. We have preliminarily determined that the invoice date is the most appropriate date to use as Kangtai'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>12</sup>

<sup>12</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;

<sup>11</sup> On August 17, 2006, the Pension Protection Act of 2006, Public Law 109-280, (“H.R. 4”), was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct CBP to collect a bond or other security in lieu of a cash deposit in new shipper reviews during the period April 1, 2006, through June 30, 2009. While this provision is temporary, it was lifted only for reviews initiated on or after July 1, 2009. Therefore, the posting of a bond or other security under section 751(a)(2)(B)(iii) of the Act in lieu of a cash deposit is not available in this case. Importers of chlorinated isocyanurates exported and produced by Kangtai must continue to post a cash deposit of estimated antidumping duties on each entry of subject merchandise at the PRC-wide rate of 285.63 percent.

### Fair Value Comparisons

To determine whether sales of chlorinated isos to the United States by Kangtai were made at less than NV, the Department 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

Kangtai sold the subject merchandise directly 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 as reported by Kangtai.

To value truck freight, we used the freight rates published by <[www.infobanc.com](http://www.infobanc.com)>, "The Great Indian Bazaar, Gateway to Overseas Markets." The logistics section of the website contains inland freight truck rates between many large Indian cities. The truck freight rates are for the period August 2008 through September 2008. See Surrogate Value Memorandum.

The Department valued brokerage and handling using a simple average of the brokerage and handling costs that were reported in public submissions that were filed in three antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Navneet Publications (India) Ltd. in the 2007–2008 administrative review of certain lined paper products from India, Essar Steel Limited in the 2006–2007 antidumping duty administrative review of hot-rolled carbon steel flat products from India, and Himalaya International Ltd. in the 2005–2006 administrative review of certain preserved mushrooms from India. The Department adjusted the average brokerage and handling rate for inflation. See Surrogate Value Memorandum.

### 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 respondent for materials, energy, labor, 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>13</sup> Kangtai reported that it did not purchase any inputs from market economy suppliers for the production of the subject merchandise. See Kangtai's DQR at page 5.

With regard to the Indian import-based surrogate values, we have disregarded prices that we have reason to believe or suspect may be subsidized, such as those from 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>14</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 Kangtai for the POR. To calculate NV, we multiplied the reported per-unit factor consumption quantities by publicly available Indian surrogate values. 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 Kangtai, 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 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 <[www.infobanc.com](http://www.infobanc.com)>, "The Great Indian Bazaar, Gateway to Overseas Markets," to value truck freight. See the Surrogate Value Memorandum. For a complete description of the factor values we used, see the Surrogate Value Memorandum.

We valued calcium chloride and sodium hydroxide using *Chemical Weekly*. For a detailed discussion of these selections, see the Surrogate Value Memorandum. We adjusted these values for taxes and to account for freight costs

<sup>13</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).

<sup>14</sup> See e.g., *Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results*, 74 FR 21317, 21327 (May 7, 2009) (unchanged in the final results); and *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334, 1338–1339 (CIT 2003), affirmed 104 Fed. Appx. 183 (Fed. Cir. 2004).

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.

incurred between the supplier and the respondent.

To value electricity, we used 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 rates charged to industries in India. As the rates listed in this source became effective on a variety of different dates, we are not adjusting the average value for inflation. *See* Surrogate Value Memorandum.

To value water, we used the revised Maharashtra Industrial Development Corporation water rates available at <<http://www.midcindia.com/water-supply>> and adjusted for deflation. *See* Surrogate Value Memorandum.

To value coal, we used data obtained for categories B and C for coal reported in the 2007 Indian Bureau of Mines' Minerals Yearbook adjusted for

inflation. *See* Surrogate Value Memorandum.

For 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>15</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 the 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 Kangtai's plants. *See* Surrogate Value Memorandum.

None of the interested parties in this review provided financial statements for use in calculating a surrogate value for factory overhead, selling, general, and administrative expenses ("SG&A"), and profit for the preliminary results. Therefore, for factory overhead, SG&A, and profit values, we used information from Kanoria Chemicals and Industries

Limited for the year ending March 31, 2007, which we obtained from the 2007–2008 administrative review of chlorinated isos and placed on the record of this review. 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 margin exists:

Exporter	Producer	Weighted-Average Margin
Juancheng Kangtai Chemical Company, Ltd., or Company A .....	Juancheng Kangtai Chemical Company, Ltd., or Company A	0.00%*

\**de minimis*

### 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 five 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. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held 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 intends to issue the final results of this NSR, which will include the results of its analysis of issues raised in any such comments, within 90 days of publication of these preliminary results, in accordance with 19 CFR 351.214(i)(1), unless the time limit is extended. *See* 19 CFR 351.214(i)(1).

### 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 publication date of the final results of this review.

In accordance with 19 CFR 351.212(b)(1), we calculated exporter/producer/importer (or customer)-specific assessment rates for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). *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

<sup>15</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 2005*, ILO, (Geneva: 2005), Chapter 5B: Wages in Manufacturing. The

years of the reported wage rates range from 2003 to 2004.

(or customer)-specific *ad valorem* ratios based on the estimated entered value.

Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importers'/customers' entries during the POR. See 19 CFR 351.212(b)(1). 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 NSR 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 the exporter/producer chain identified above, the cash deposit rate will be the chain-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: July 20, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E9-17869 Filed 7-24-09; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

(C-570-942)

#### **Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination**

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

**SUMMARY:** The Department of Commerce (the "Department") has determined that countervailable subsidies are being provided to producers and exporters of kitchen shelving and racks from the People's Republic of China ("PRC"). For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

**EFFECTIVE DATE:** July 27, 2009.

**FOR FURTHER INFORMATION CONTACT:** Shane Subler or Scott Holland, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0189 or (202) 482-1279, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Petitioner**

Petitioners in this investigation are Nashville Wire Products, Inc., SSW Holding Company, Inc., United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union, and the International Association of Machinists and Aerospace Workers, District Lodge 6 (Clinton, IA) (collectively, "Petitioners").

##### **Period of Investigation**

The period for which we are measuring subsidies, or period of investigation, is January 1, 2007, through December 31, 2007.

##### **Case History**

The following events have occurred since the announcement of the preliminary determination published in the **Federal Register** on January 7, 2009. See *Certain Kitchen Appliance Shelving*

*and Racks From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 74 FR 683 (January 7, 2009) ("Preliminary Determination").

The Department issued the third and fourth supplemental questionnaires to respondent Guangdong Wire King Housewares and Hardware Co., Ltd. ("Wire King") on December 29, 2008 and March 17, 2009, respectively. We received responses from Wire King to the third supplemental questionnaire on January 22, 2009, and to the fourth supplemental questionnaire on April 3, 2009. The Department also issued second, third, and fourth supplemental questionnaires to the Government of the PRC ("GOC") on February 11, 2009, March 19, 2009, and March 25, 2009, respectively. We received responses from GOC to the second supplemental questionnaire on March 11, 2009, and to the third and fourth supplemental questionnaires on April 9, 2009.

The GOC, Wire King, Petitioners, and interested parties also submitted factual information, comments, and arguments at numerous instances prior to the final determination based on various deadlines for submissions of factual information and/or arguments established by the Department subsequent to the *Preliminary Determination*.

From May 5, 2009 to May 28, 2009, we conducted verification of the questionnaire responses submitted by GOC and Wire King. See Memorandum from Shane Subler and Scott Holland, International Trade Compliance Analysts, to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled "Verification Report: Guangdong Wireking Housewares and Hardware Co., Ltd." (June 19, 2009); and Memorandum from The Verification Team to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, entitled "Verification Report of the Foshan Municipal Government, Shunde District Government and the Guangdong Provincial Government of the People's Republic of China" (June 19, 2009) ("Verification Report").

On May 8, 2009, we issued our post-preliminary analysis regarding the provision of electricity for less than adequate remuneration ("LTAR"). We addressed our preliminary findings in a May 8, 2009, memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, entitled "Preliminary Findings Regarding Electricity Pricing in China: Kitchen Appliance Shelving and Racks from the