

expense ratio changed.⁴ As a result of the change to Kejriwal's G&A expense ratio, Kejriwal's calculated margin for the the POI has changed from 3.91 percent in the *CLPP Final Determination* to 3.06 percent in the redetermination issued on March 16, 2009. Accordingly, absent an appeal or, if appealed, upon a final and conclusive court decision in this action, we will amend our final determination of this investigation to reflect the recalculation of the margin for Kejriwal.

Suspension of Liquidation

The United States Court of Appeals for Federal Circuit ("CAFC") held that the Department must publish notice of a decision of the CIT or the CAFC which is not in harmony with the Department's determination. *See The Timken Company v. United States*, 893 F.2d 337, 341 (CAFC 1990). Publication of this notice fulfills that obligation. The CAFC also held that, in such a case, the Department must suspend liquidation until there is a "conclusive" decision in the action. *Id.* Therefore, the Department must suspend liquidation pending the expiration of the period to appeal the CIT's December 10, 2009, decision or, if appealed, pending a final and conclusive court decision. Because entries of certain lined paper products from India produced and exported to the United States by Kejriwal Paper Limited are currently being suspended pursuant to the court's injunction order in effect, the Department does not need to order U.S. Customs and Border Protection ("CBP") to suspend liquidation of affected entries. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

This notice is issued and published in accordance with section 516A(c)(1) of the Tariff Act of 1930, as amended.

Dated: December 22, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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BILLING CODE 3510-DS-S

⁴ Due to the proprietary nature of Kejriwal's G&A expenses, see the Department's proprietary calculation memorandum, titled "Remand for the Antidumping Investigation of Certain Lined Paper Products from India," dated March 13, 2009, for further discussion.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-892]

Carbazole Violet Pigment 23 From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is currently conducting an administrative review of the antidumping duty order on carbazole violet pigment 23 (CVP 23) from the People's Republic of China (PRC). The period of review (POR) is December 1, 2007 through November 30, 2008. We have preliminarily determined that Trust Chem Co., Ltd. (Trust Chem) made sales of subject merchandise to the United States below normal value (NV). The preliminary results are listed below in the section entitled "Preliminary Results of the Review." If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties against the entered value of each entry of the subject merchandise made during the POR, where applicable.

Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* December 29, 2009.

FOR FURTHER INFORMATION CONTACT:

Deborah Scott or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-2657 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 2004, the Department published in the **Federal Register** an antidumping duty order on CVP 23 from the PRC. *See Antidumping Duty Order: Carbazole Violet Pigment 23 From the People's Republic of China*, 69 FR 77987 (December 29, 2004). On December 1, 2008, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on CVP 23 from the PRC for the POR December 1, 2007 through November 30, 2008. *See*

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 73 FR 72764 (December 1, 2008). On December 30, 2008, in accordance with 19 CFR 351.213(b), Trust Chem requested that the Department conduct an administrative review of its sales of subject merchandise. In response to this request, the Department initiated an administrative review of Trust Chem on February 2, 2009. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 5821 (February 2, 2009).

On February 5, 2009, the Department issued its standard non-market economy (NME) antidumping duty questionnaire, including the separate rates section of that questionnaire, to Trust Chem. On March 17, 2009, Trust Chem submitted its questionnaire response for sections A, C, and D, as well as its sales and cost reconciliations. On July 2, 2009, the Department issued a supplemental questionnaire to Trust Chem, to which Trust Chem responded on July 31, 2009. The Department issued additional supplemental questionnaires to Trust Chem on September 9, 2009, October 15, 2009, and November 18, 2009¹; Trust Chem filed its responses to these supplemental questionnaires on September 25, 2009, October 30, 2009, and December 1, 2009, respectively.

On August 7, 2009, the Department extended the deadline for the preliminary results to December 22, 2009. *See Carbazole Violet Pigment 23 from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 39622 (August 7, 2009).

Period of Review

The POR covers December 1, 2007 through November 30, 2008.

Scope of the Order

The merchandise covered by this order is carbazole violet pigment 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358-30-1, with the chemical name of diindolo [3,2-b:3',2'-m] triphenodioxazine, 8,18-dichloro-5, 15-diethyl-5,15-dihydro-, and molecular formula of C₃₄H₂₂Cl₂N₄O₂.² The subject merchandise includes the crude pigment in any form (e.g., dry

¹ The Department issued an addendum to its November 18, 2009 supplemental questionnaire on November 20, 2009.

² The bracketed section of the product description, [3,2-b:3',2'-m], is not business proprietary information, but is part of the chemical nomenclature.

powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (e.g., pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of this order. The merchandise subject to this order is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Non-Market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 3987 (January 22, 2009). In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (the Act), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. See, e.g., *Glycine from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 15930, 15932 (April 8, 2009) (*Glycine Preliminary Results*), unchanged in *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 41121 (August 14, 2009) (*Glycine Final Results*). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOPs), valued in a surrogate market economy (ME) country or countries considered by the Department to be appropriate. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of the FOPs in one or more ME countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.

On July 29, 2009, the Department issued a memorandum listing India, the Philippines, Indonesia, Colombia, Thailand, and Peru as economically-

comparable surrogate countries for this review. See Memorandum from Kelly Parkhill, Acting Director, Office of Policy, to Richard Weible, Director, Office 7, AD/CVD Operations, Import Administration, dated July 29, 2009 (Surrogate Country Memorandum). On August 4, 2009, we issued a letter to interested parties inviting them to comment on the Department's surrogate country selection and to submit publicly-available information to value the FOPs, and attached the Surrogate Country Memorandum to the letter. On September 8, 2009, Nation Ford Chemical Company and Sun Chemical Corporation (collectively, petitioners) and Trust Chem submitted information for the Department to consider in valuing the FOPs. All proposed surrogate value data submitted by both parties were from Indian sources. In addition, petitioners specifically stated that India was the best choice for the surrogate country based on the reasons outlined in the original investigation of CVP 23 from the PRC.

In this case, we find that India is the most appropriate surrogate country for purposes of valuing the FOPs for the merchandise under consideration. India meets the requirements for surrogate country selection provided under section 773(c)(4) of the Act. First, the Department has already determined that India is at a level of economic development comparable to that of the PRC in terms of per capita gross national income. See the Surrogate Country Memorandum. Second, in light of the companion antidumping duty order on CVP 23 from India and concurrent administrative review, we know that India is a significant producer of the subject merchandise. Furthermore, the Department selected India as the surrogate country in past segments of this case, and both Trust Chem and petitioners submitted surrogate values based solely on Indian data.

Given that (1) India meets the criteria listed in sections 773(c)(4)(A) and (B) of the Act, (2) we have used India as the surrogate country in past reviews of CVP 23 from China, and (3) interested parties placed only Indian surrogate value information on the record of this review, we have selected India as the surrogate country for purposes of these preliminary results. The sources of the surrogate factor values are discussed under the "Normal Value" section below and in the Memorandum to the File through Robert James, Program Manager, AD/CVD Operations, Office 7, from Deborah Scott, International Trade Compliance Analyst, AD/CVD Operations, Office 7, "2007–2008 Administrative Review of Carbazole

Violet Pigment 23 from the People's Republic of China: Surrogate Values for the Preliminary Results," dated December 22, 2009 (Surrogate Values Memorandum).

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of an antidumping administrative review, interested parties may submit publicly available information to value the FOPs within 20 days after the date of publication of the preliminary results. The Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information previously 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.

Separate Rate

A designation of a country as an NME remains in effect until it is revoked by the Department. See section 771(18)(C)(i) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *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 amplified by the *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). 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.

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

In this review, Trust Chem submitted a complete response to the separate rates section of the Department's NME questionnaire. See Trust Chem's March 17, 2009 section A questionnaire response (AQR). The evidence Trust Chem submitted in the instant review includes PRC government laws and regulations on corporate ownership and control (*i.e.*, the Company Law of the People's Republic of China and the Foreign Trade Law of the People's Republic of China), its business license, and narrative information regarding the company's operations and selection of management. See Trust Chem's AQR at 2–6 and Appendices A–1 and A–2. The information provided by Trust Chem supports a finding of a *de jure* absence of governmental control over its export activities for the following reasons. First, other than limiting Trust Chem to activities referenced in its business license, we found no restrictive stipulations associated with Trust Chem's business license. Second, there are no controls on exports of subject merchandise, such as quotas applied to, or licenses required for, exports of the subject merchandise to the United States. Third, the PRC laws placed on the record of this review demonstrate the government of the PRC has passed legislation decentralizing control of companies. No party submitted information to the contrary. Accordingly, we preliminarily find an absence of *de jure* control.

B. Absence of De Facto Control

The absence of *de facto* governmental control over exports generally is based on whether the respondent: (1) Sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. See *Silicon Carbide*, 59 FR at 22587; *Sparklers*, 56 FR at 20589; and *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).

In the instant review, Trust Chem submitted evidence indicating an absence of *de facto* governmental control over its export activities. Specifically, this evidence indicates: (1) Trust Chem independently set prices for sales to the United States and these prices are not subject to review by any government organization; (2) there is no restriction on the company's use of export revenues; (3) Trust Chem's shareholders decide how the company's profits are used; (4) the company has a general manager with the authority to bind the company contractually to sell subject merchandise and set the price; (5) the general manager is selected by Trust Chem's shareholders, and the general manager appoints the department managers; and (6) Trust Chem did not coordinate with other exporters or producers to set prices or to determine the markets to which the companies will sell subject merchandise. See Trust Chem's AQR at 6–8 and Appendix A–3.

Therefore, in the absence of either *de jure* or *de facto* government control over Trust Chem's export activities, the Department preliminarily finds that Trust Chem has established *prima facie* evidence that it qualifies for a separate rate under the criteria established in *Silicon Carbide* and *Sparklers*.

Fair Value Comparisons

To determine whether Trust Chem's sales of the subject merchandise to the United States were made at a price below NV, we compared its U.S. prices to NV, as described in the "United States Price" and "Normal Value" sections of this notice below.

United States Price

In accordance with section 772(a) of the Act, we based U.S. prices on the export price (EP) of Trust Chem's sales to the United States because the first sale to an unaffiliated party was made before the date of importation and the use of constructed export price was not otherwise warranted. We calculated EP based on free-on-board (FOB) Shanghai prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions for movement expenses, which consisted of foreign inland freight from the plant to the port of exportation. Foreign inland freight was provided by an NME vendor and, thus, we based the deduction for this movement expense on values from a surrogate country. To value truck freight

expenses, we used a per-unit average rate calculated from data obtained from the Web site <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. Since the truck rate value is based on an annual per-unit rate which includes four months of transactions falling in the POR, we are treating the derived average rate as contemporaneous. See Surrogate Values Memorandum at Exhibit 12.

Normal Value

A. Methodology

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

B. Factor Valuations

In accordance with section 773(c)(1) of the Act, we calculated NV based on FOPs reported by Trust Chem for the POR. To calculate NV, we multiplied the reported per-unit factor consumption rates 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 make 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 production factory or the distance from the nearest seaport to the production factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). Where we did not use Indian import data, we calculated freight based on the reported distance from the supplier to the factory.

With regard to surrogate values from import statistics, we disregard prices that we have reason to believe or suspect may be subsidized, such as the prices of inputs 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. *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7 (*CTVs from the PRC*). The legislative history provides guidance that in making its determination as to whether input values may be subsidized, the Department is not required to conduct a formal investigation. *See* H.R. Rep. 100–576 at 590–91 (1988), reprinted in 1988 U.S.C.A.N. 1547, 1623. Instead, the Department is to base its decision on information that is available to it at the time it makes its determination. Therefore, based on the information currently available, we have not used prices from these countries in calculating the surrogate values based on Indian import data. We have also disregarded Indian import data from countries that the Department has previously determined to be NME countries, as well as imports from unspecified countries. *See CTVs from the PRC*.

It is the Department's practice to calculate price index adjusters to inflate or deflate, as appropriate, surrogate values that are not contemporaneous with the POR using the wholesale price index (WPI) for the subject country. *See, e.g., Glycine Preliminary Results*, 74 FR 15936, unchanged in *Glycine Final Results*. Therefore, where we could not obtain publicly-available information contemporaneous with the POR with which to calculate surrogate values, we adjusted the surrogate values using the WPI for India. Surrogate values denominated in foreign currencies were converted into U.S. dollars (USD) using the applicable average exchange rate based on exchange-rate data from the Department's Web site. *See* Surrogate Values Memorandum.

Except where discussed below, the Department valued the raw material and packing inputs with which Trust Chem produced the merchandise under review during the POR using weighted-average unit import values for the period December 1, 2007 through November 30, 2008 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 and compiled by the World Trade Atlas

(WTA), available at <http://www.gtis.com/wta.htm>. For a detailed description of all the surrogate values used for Trust Chem, *see* Surrogate Values Memorandum.

Raw Materials

Trust Chem reported that it sourced one raw material input, carbazole, from a supplier in a ME country and paid for this input in a ME currency. Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from a ME supplier in meaningful quantities (*i.e.*, not insignificant quantities), we use the actual price paid by the respondent for those inputs, except when prices may have been distorted by findings of dumping and/or subsidies by the PRC. Trust Chem's reported information demonstrates that the company purchased a significant quantity (*i.e.*, 33 percent or more) of carbazole from ME suppliers. Thus, in accordance with the policy outlined in *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61717–19 (October 19, 2006), we have used the actual ME purchases of this input to value carbazole for these preliminary results. We added an amount for freight based on Indian surrogate values to account for delivery from the Chinese port to the production factory. For information regarding the ME price used to value carbazole, *see* Surrogate Values Memorandum.

To value hydrochloric acid for these preliminary results, the Department used prices from the Indian periodical *Chemical Weekly* based on the reasoning laid out in *First Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 57995 (November 10, 2009) (*Activated Carbon*) and accompanying Issues and Decision Memorandum at Comment 3d. In the instant case, as in *Activated Carbon*, the respondent reported the specific concentration levels (*i.e.*, 15 and 30 percent) of the hydrochloric acid used to produce CVP 23. Furthermore, the WTA data do not include information about the purity level of hydrochloric acid, while we know the prices reported in *Chemical Weekly* for hydrochloric acid in liquid form reflect a 30 to 33 percent purity level. *See Activated Carbon* and accompanying Issues and Decision Memorandum at Comment 3d; *see also Certain Helical Spring Lock Washers From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative*

Review, 74 FR 57653, 57656 (November 9, 2009) (*Helical Spring Lock Washers Preliminary Results*) (stating the Department was recently "informed by representatives of Chemical Weekly that the reported price for hydrochloric acid in liquid form reflects a 30–33 percent purity level.") For hydrochloric acid 15 percent, we made an adjustment to account for the difference between Trust Chem's reported concentration level and the known concentration level reflected in the *Chemical Weekly* data. It was not necessary to make an adjustment for hydrochloric acid 30 percent because the reported purity level is equivalent to that represented in the *Chemical Weekly* data.

Similarly, the Department used *Chemical Weekly* prices to value calcium chloride for these preliminary results. We have determined *Chemical Weekly* represents the best data source to value calcium chloride because *Chemical Weekly* specifies the concentration level of this chemical input, Trust Chem reported the purity level of this input, and the WTA data do not include information about its purity level. We made an adjustment to account for the difference between the concentration level the respondent reported for calcium chloride and the concentration level reflected in the *Chemical Weekly* data.

Finally, for these preliminary results, we used *Chemical Weekly* to value polyethylene glycol and dimethylformamide because we have determined the HTS numbers for these inputs are basket categories, and product-specific prices were available from *Chemical Weekly*. Although Trust Chem reported the purity levels of these two inputs, we have not made an adjustment to account for differences in concentration levels because the Department has recently determined that where *Chemical Weekly* does not specify the purity level for a particular chemical, the purity level is unknown. *See Helical Spring Lock Washers Preliminary Results*, 74 FR at 57656 (stating that based on recent statements by representatives of *Chemical Weekly*, "unless the price quotes from Chemical Weekly indicate the purity level, the Department will treat the purity level of chemicals sold in either liquid or solid form as unknown.").

For each input valued using *Chemical Weekly* data, we made an adjustment to remove taxes, in accordance with the Department's practice. *See Activated Carbon* and accompanying Issues and Decision Memorandum at Comment 3d. For more information regarding the surrogate values used for hydrochloric acid, calcium chloride, polyethylene

glycol, and dimethylformamide, *see* Surrogate Values Memorandum at Exhibits 3 through 6.

Energy

Trust Chem reported the consumption of water, electricity, steam coal, and steam as energy inputs consumed in the production of CVP 23. 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 (CEA) in its publication entitled "Electricity Tariff & Duty and Average Rates of Electricity Supply in India," dated March 2008. These electricity rates represent actual country-wide, publicly-available information on tax-exclusive electricity rates charged to industries in India. As the CEA publication is contemporaneous with the POR, we are not adjusting for inflation. *See* Surrogate Values Memorandum at Exhibit 8.

To value water, the Department used the revised Maharashtra Industrial Development Corporation water rates, which are available at <http://www.midcindia.com/MIDC> Web site. The Department found this source to be the best available information since it includes a wide range of industrial water rates. Since the water rates were for a period that occurred after the POR, the Department deflated the surrogate value for water to be contemporaneous with the POR. *See* Surrogate Values Memorandum at Exhibit 9.

To value steam coal, we used data from Coal India Limited (CIL), available at <http://www.coalindia.nic.in>. The Department has recently determined that CIL data are superior values for steam coal as compared to Indian import statistics (*i.e.*, WTA data). *See Glycine Final Results* and accompanying Issues and Decision Memorandum at Comment 5. Because the average coal price was for December 2007, which is the first month of the POR, we treated the value for steam coal as contemporaneous with the POR. *See* Surrogate Values Memorandum at Exhibit 10.

We calculated the surrogate value for steam based upon the April 2007–March 2008 financial statement of Hindalco Industries Limited. *See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Final Determination of Sales at Less than Fair Value*, 74 FR 10545 (March 11, 2009), and accompanying Issues and Decision Memorandum at Comment 4. Since the value for steam is based on an annual period which overlaps with four months of the POR, we are treating the steam rate as

contemporaneous. *See* Surrogate Values Memorandum at Exhibit 11.

Financial Ratios

To value the surrogate financial ratios for factory overhead, selling, general and administrative expenses, and profit, the Department relied on publicly-available information contained in the financial statements for Pidilite Industries Limited (Pidilite), an Indian producer of CVP 23. Petitioners submitted Pidilite's annual reports for fiscal years 2007–2008 and 2008–2009 in Exhibit 1 of their September 8, 2009 surrogate value submission. Trust Chem proposed the Department use financial ratios based on Pidilite's 2007–2008 annual report and provided this annual report in its September 8, 2009 surrogate value submission. The 2008–2009 annual report is for the period April 1, 2008 to March 31, 2009, which covers 8 of the 12 months of the POR. *See* Surrogate Values Memorandum at Exhibit 13. Pidilite's financial statements reference certain "export incentives." In addition, there is a countervailing duty cash deposit rate in effect for Pidilite. *See Carbazole Violet Pigment 23 from India: Notice of Countervailing Duty Order*, 69 FR 77995 (December 29, 2004). The Department prefers to base its financial ratio calculations on contemporaneous, publicly available, and subsidy-free financial statements of companies producing comparable merchandise from the surrogate country. For these preliminary results, however, we are using Pidilite's 2008–2009 financial statements as the basis for the financial ratios employed in our analysis because they are the only financial statements provided on the record. For the final results, we invite interested parties to submit additional financial statements to the record for consideration. We will then examine again whether it is appropriate to use Pidilite's financial statements to calculate the surrogate financial ratios.

Wage Rate

Section 773(c)(1) of the Act provides that where the subject merchandise is exported from an NME country, "the valuation of factors of production shall be based on the best available information regarding the values of such factors in a ME country or countries considered to be appropriate by the administering authority." While the Act does not define "best available information," it provides that the Department, "in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one

or more market economy countries that are (A) at a level of economic development comparable to that of the nonmarket economy country, and (B) significant producers of comparable merchandise." *See* section 773(c)(4) of the Act. In accordance with the guidance provided, and discretion afforded pursuant to section 773(c) of the Act, the Department calculates the labor wage rate using a regression analysis. This is in contrast to the Department's valuation of other FOPs primarily because wage rates are less a function of economic comparability, and more a function of other social and political factors. 19 CFR 351.408(c)(3) provides that the Department will use regression-based wage rates reflective of the observed relationship between wages and national income in ME countries. In addition, 19 CFR 351.408(c)(3) provides that the calculated wage rate will be applied in NME proceedings each year, will be based on current data, and will be made available to the public. Therefore, consistent with our practice, we have used our regression-based methodology to calculate the surrogate value for labor in the preliminary results of this review. *See, e.g., Activated Carbon* and accompanying Issues and Decision Memorandum at Comment 3a. For these preliminary results, we used the PRC's regression-based wage rate published on Import Administration's Web site. *See* "Expected Wages of Selected Non-Market Economy Countries" (available at <http://ia.ita.doc.gov/wages/07wages/2009-2007-wages.html>). Consistent with our practice, we have not adjusted the wage rate for inflation. Since 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. *See also* Surrogate Values Memorandum.

Movement Expenses

To value truck freight, we used a per-unit average rate calculated from data on the following Web site: <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. Since the truck rate value represents an annual per-unit rate which includes four months of transactions falling in the POR, we are treating the derived average rate as contemporaneous. *See* Surrogate Values Memorandum at Exhibit 12.

Currency Conversion

We made currency conversions into USD, in accordance with section

773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Preliminary Results of the Review

The Department has determined that the following preliminary dumping

margin exists for the period December 1, 2007 through November 30, 2008:

| Manufacturer/Exporter | Weighted-Average Margin (Percent) |
|---------------------------|-----------------------------------|
| Trust Chem Co., Ltd. | 29.57 |

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(1)(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).

Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. *See* 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). 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 we receive a request for a hearing, we intend to hold the hearing seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The Department intends to 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

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the

final results of this review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer-specific) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping duties calculated for the examined sales to the total entered value of those same sales, where appropriate. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*. The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of the final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of the administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Trust Chem, the cash deposit rate will be that established in the final results of this review; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate the cash deposit rate will be the PRC-wide rate of 241.32 percent; and (4) for all non-PRC exporters of subject merchandise, the cash deposit rate will be the rate applicable to the PRC exporter 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 administrative review and this notice are in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: December 22, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 60-2009]

Proposed Foreign-Trade Zone – Western Maricopa County, Arizona

Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Maricopa FTZ, Inc., to establish a general-purpose foreign-trade zone at four sites in Western Maricopa County, within the Phoenix CBP port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on December 18, 2009. The applicant is authorized to make the proposal under Arizona Statute 44-6501.

The proposed zone would be the third general-purpose zone in the Phoenix CBP port of entry. The existing zones are as follows: FTZ 75, Phoenix, Arizona (Grantee: City of Phoenix, Board Order 185, 3/25/82); and, FTZ 221, Mesa, Arizona (Grantee: City of Mesa, Board Order 883, 4/25/97).

The proposed zone would consist of 4 sites covering 918 acres in Western Maricopa County, Arizona: Proposed Site 1 (230 acres) – within the 416-acre Airport Gateway at Goodyear industrial complex, adjacent to the Phoenix