Antidumping Duty Administrative Review, 73 FR 77610, 77612 (December 19, 2008). In addition, the Department finds that it is more consistent with the May 2003 clarification not to rescind the review in these circumstances but, rather, to complete the review with respect to Marsan and issue appropriate instructions to CBP based on the final results of the review. *See Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989, 56989–56990 (September 17, 2010). *See also* the *Assessment Rates* section of this notice below.

Disclosure

The Department will disclose 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).

Comments

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)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument. Parties are requested to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. *See* 19 CFR 351.309(c)(2). Additionally, parties are requested to provide their case brief and rebuttal briefs in electronic format (*e.g.,* Microsoft Word, pdf, etc.). Interested parties, who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. The Department will issue the final results of this review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Assessment Rates

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the publication of the final results of this review.

Normally, the Department instructs CBP to liquidate any entries from the no-shipment producer at the deposit rate in effect on the date of entry. However, in this case, because there was only a request for review of the reseller and not the producer, we intend to liquidate entries at the producer's rate. However, because Birlik does not have its own rate, we intend to instruct CBP to liquidate entries at the "all others" rate from the investigation of 51.49 percent, in accordance with the reseller policy.

Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain pasta from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act for Marsan, and for previously reviewed or investigated companies, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (2) if the exporter is not a firm covered in these reviews, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV conducted by the Department, the cash deposit rate will be 51.49 percent, the all-others rate established in the LTFV. *See Amended Final Determination.* These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 and countervailing 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 and countervailing duties occurred and the subsequent assessment of double antidumping and countervailing duties.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: April 22, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–10434 Filed 4–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Certain Activated Carbon From the People's Republic of China: Preliminary Results of the Third Antidumping Duty Administrative Review, and Preliminary Rescission in Part

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

SUMMARY: The Department of Commerce ("Department") is conducting the third administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China ("PRC") for the period April 1, 2009, through March 31, 2010. The Department has preliminarily determined that sales have been made below normal value ("NV") by the respondents examined in this administrative review. If these preliminary results are adopted in our final results of this review, the Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the period of review.

DATES: *Effective Date:* April 29, 2011.

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Katie Marksberry, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–9068 or (202) 482–7906, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department received timely requests from Petitioners [1] and certain PRC and other companies, in accordance with 19 CFR 351.213(b), during the anniversary month of April, to conduct a review of certain activated carbon exporters from the PRC. On May 28, 2010, and June 30, 2010, the

[1] Collectively, Norit Americas Inc. ("Norit") and Calgon Carbon Corporation.

Department initiated this review with respect to all requested companies with the exception of ten companies for which Petitioners did not demonstrate that they had made a reasonable attempt to serve the request for review as required by the Department in 19 CFR 351.303(f)(3)(ii), nor did they explain satisfactorily why they desired a review of these ten companies, as required by 19 CFR 351.213(b)(1).[2]

On June 15, 2010, Petitioners withdrew the request for review with respect to 157 of the 192 companies under review. On August 11, 2010, the Department published a notice of rescission in the **Federal Register** for those 157 companies for which the request for review was withdrawn.[3] On July 8, 2010, Petitioners withdrew the request for review with respect to an additional 17 companies. On August 23, 2010, the Department published a second notice of rescission in the **Federal Register** for those 17 companies.[4] Eighteen companies remain subject to this review.[5] On July 27, 2010, Ningxia Lingzhou Foreign Trade Co., Ltd. ("Lingzhou") submitted a letter certifying it had no shipments during the period of review ("POR").[6] On October 6, 2010, the Department published a notice[7] extending the time period for issuing the preliminary results by 120 days to April 30, 2011.[8]

Albemarle's Status as an Interested Party

On April 30, 2010, Albemarle Corporation ("Albemarle") requested a review of Calgon Carbon (Tianjin) Co., Ltd. ("CCT"). On May 27, 2010, Petitioners submitted comments disputing Albemarle's status as a domestic interested party. On June 2, 2010, the Department issued a questionnaire to Albemarle requesting further information regarding its status as a wholesaler of the domestic like product. Albemarle submitted its response to the Department's questionnaire on June 18, 2010. Petitioners submitted additional comments regarding Albemarle's response on June 28, 2010. On August 11, 2010, the Department sent an additional questionnaire to Albemarle requesting further information regarding its status as a wholesaler of the domestic like product. Albemarle submitted its response on August 18, 2010. On August 26, 2010, CCT submitted comments in response to Albemarle's additional questionnaire response, and on August 27, 2010, Norit submitted comments as well.

The Department considered Petitioners' comments, CCT's comments, and Albemarle's submissions and determined that Albemarle is a "wholesaler in the United States of a domestic like product." Therefore, under section 771(9)(C) of the Tariff Act of 1930, as amended ("the Act"), the Department found that Albemarle is a domestic interested party, and its request for a review of CCT is proper pursuant to 19 CFR 351.213(b).[9] We have not received additional comments regarding Albemarle's status as an interested party; therefore, we continue to find that Albemarle's request for a review of CCT was proper.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter or producer of the subject merchandise.[10] However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters or producers, if it is not practicable to examine all exporters or producers for which the review is initiated.

On May 28, 2010, the Department released CBP data for entries of the subject merchandise during the POR under administrative protective order ("APO") to all interested parties having access to materials released under APO inviting comments regarding the CBP data and respondent selection. On June 4, 2010, the Department extended the deadline for comments regarding the CBP data. The Department received comments and rebuttal comments between June 7, 2010, and June 14, 2010.

On July 21, 2010, the Department issued its respondent selection memorandum after assessing its resources, considering the number of individual exporters of certain activated carbon for which a review had been requested, and determining that it could reasonably examine two of the exporters subject to this review.[11] Pursuant to section 777A(c)(2)(B) of the Act, the Department selected Jacobi Carbons AB ("Jacobi") as a mandatory respondent. On September 29, 2010, based on the determination that Albemarle Corporation is an interested party in this review, the Department issued an additional respondent selection memorandum selecting CCT as a mandatory respondent.[12]

Petitioners' Allegations of Third-Country Sales Made by Jacobi

On October 12, 2010, and November 1, 2010, Petitioners submitted comments requesting that the Department require Jacobi to revise its Section C database to include sales of subject merchandise that Petitioners allege were sold through Jacobi's affiliate in Sri Lanka. On November 9, 2010, the Department issued a letter to Petitioners acknowledging that the Department has the authority to address allegations of transshipment based on section 781(b) of the Act, which allows for the prevention of circumvention of

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 75 FR 29976 (May 28, 2010); *see also Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 75 FR 37759 (June 30, 2010) (collectively, "*Initiation Notices*").

[3] *See Certain Activated Carbon From the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review,* 75 FR 48644 (August 11, 2010).

[4] *See Certain Activated Carbon from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review,* 75 FR 51754 (August 23, 2010).

[5] These companies are: Beijing Pacific Activated Carbon Products Co., Ltd., Calgon Carbon (Tianjin) Co., Ltd., Datong Juqiang Activated Carbon Co., Ltd., Datong Municipal Yungang Activated Caron Co., Ltd., Datong Yunguang Chemicals Plant, Hebei Foreign Trade and Advertising Corporation, Jacobi Carbons AB, Ningxia Guanghua Cherishment Activated Carbon Co., Ltd., Ningxia Huahui Activated Carbon Co., Ltd., Ningxia Lingzhou Foreign Trade Company, Shanxi DMD Corporation, Shanxi Newtime Co., Ltd., Shanxi Sincere Industrial Co., Ltd., Shanxi Industry Technology Trading Co., Ltd., Tangshan Solid Carbon Co., Ltd., Tianjin Jacobi International Trading Co. Ltd., Tianjin Maijin Industries Co., Ltd., and United Manufacturing International (Beijing) Ltd.

[6] Companies have the opportunity to submit statements certifying that they did not ship the subject merchandise to the United States during the POR.

[7] *See Certain Activated Carbon From the People's Republic of China: Extension of Time Limits for Preliminary Results of the Third Antidumping Duty Administrative Review,* 75 FR 61697 (October 6, 2010).

[8] Because April 30, 2011, is a Saturday, the actual deadline for issuing the preliminary results falls on May 2, 2011, the next business day.

[9] For further discussion of Albemarle's status as a domestic interested party, *see* Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, through Catherine Bertrand, Program Manager, AD/CVD Operation Office 9, from Katie Marksberry, International Trade Specialist, AD/CVD Operations, Office 9; Re: Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Selection of Additional Mandatory Respondent, dated September 29, 2010 ("Additional Respondent Selection Memo").

[10] *See also* 19 CFR 351.204(c) regarding respondent selection, in general.

[11] *See* Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, from Kabir Archuletta and Jamie Blair-Walker, International Trade Compliance Analysts, Office 9; Antidumping Duty Administrative Review of Certain Activated Carbon from the PRC: Selection of Respondents for Individual Review, dated July 21, 2010.

[12] *See* Additional Respondent Selection Memo.

antidumping duty orders for merchandise completed or assembled in other foreign countries, and 19 CFR 351.225(h), which states how the Department handles scope inquiries related to "products completed or assembled in other foreign countries," in accordance with section 781(b) of the Act. However, the Department concluded that it would not request Jacobi to revise its Section C database to include sales of subject merchandise allegedly sold through Jacobi's Sri Lankan affiliate. As upheld by the Court of International Trade ("CIT") in *Globe Metallurgical* [13] affirming the Department's remand from *Silicon Metal,* [14] where a party has placed evidence on the record of an administrative review to support allegations of transshipment involving third-country processing, it is the Department's practice to consider such allegations through a scope or anti-circumvention inquiry rather than within the context of an administrative review.[15]

On November 16, 2010, Petitioners filed additional comments asking the Department to reconsider its decision. Petitioners argued that this case differs from *Globe Metallurgical* in a number of ways. Specifically, Petitioners noted that in this case, unlike in *Globe Metallurgical:* (1) The Department has a substantial database of sales by Jacobi that are subject to review; (2) the third-country supplier is affiliated with Jacobi and the Department has the ability to require it to participate; (3) the Department has sufficient time and resources to examine the additional sales and circumstances; (4) there are suspended entries upon which the Department can assess antidumping duties; (5) the question of Jacobi's potential transshipment is best explored within the context of an administrative review; and (6) the Department should exercise the authority to examine Jacobi's third-country sales to ensure that companies do not transship their highest margin sales to manipulate margins in administrative reviews.

At this time, the Department continues to find that although the Department does have the authority to investigate allegations of transshipment within the context of an administrative review, we have determined that an administrative review is not the best context for addressing the type of allegations that Petitioners have brought to the Department. Specifically, we continue to find, as we did in the *Globe Metallurgical* remand, that evaluating and verifying additional information relating to a circumvention allegation creates an overwhelming burden in an administrative review. Therefore, as previously stated, it is the Department's practice that where a party has placed evidence on the record of an administrative review to support allegations of transshipment involving third-country processing, a scope or anti-circumvention inquiry is the proper venue and we will not consider it within the context of an administrative review. Furthermore, where the allegation concerns transshipment that does not involve third-country processing, such an allegation should be directed to CBP, which is the proper authority to investigate claims of mislabeling country-of-origin. Therefore, although the Department intends to seek additional information from Jacobi in order to ensure that its Section C database includes the full universe of its POR sales of subject merchandise, we are not requiring Jacobi to revise its Section C questionnaire responses or databases to include sales of merchandise from Sri Lanka for these preliminary results.[16]

Questionnaires

On July 21, 2010, the Department issued its initial non-market economy ("NME") antidumping duty questionnaire to the mandatory respondent Jacobi. On September 30, 2010, the Department issued its initial NME antidumping duty questionnaire to the mandatory respondent CCT. CCT and Jacobi timely responded to the Department's initial and subsequent supplemental questionnaires between August 2010 and February 2011.

Period of Review

The POR is April 1, 2009, through March 31, 2010.

Scope of the Order

The merchandise subject to the order is certain activated carbon. Certain activated carbon is a powdered, granular, or pelletized carbon product obtained by "activating" with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite, and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO_2) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO_2 gas) activated process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.

The scope of the order covers all forms of activated carbon that are activated by steam or CO_2, regardless of the raw material, grade, mixture, additives, further washing or post-activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of the order covers all physical forms of certain activated carbon, including powdered activated carbon ("PAC"), granular activated carbon ("GAC"), and pelletized activated carbon.

Excluded from the scope of the order are chemically activated carbons. The carbon-based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc chloride, sulfuric acid or potassium hydroxide, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO_2 gas) activated carbons are within the scope, and those containing more than 50 percent chemically activated carbons are outside the scope. This exclusion language regarding blended material applies only to mixtures of steam and chemically activated carbons.

Also excluded from the scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals.

Also excluded from the scope is activated carbon cloth. Activated carbon

[13] *See Globe Metallurgical Inc.* v. *United States,* 722 F. Supp. 2d 1372 (Ct. Int'l Trade Sept. 1, 2010).

[14] *See* Silicon Metal from the People's Republic of China, April 8, 2010, remanded from *Globe Metallurgical, Inc.* v. *United States,* Court No. 08–00290 (December 18, 2009).

[15] *See* letter to Calgon Carbon Corporation and Norit Americas Inc., from James C. Doyle, Director, Office 9, re: Third Administrative Review of Certain Activated Carbon from the People's Republic of China, dated November 9, 2010.

[16] However, we will refer Petitioners' transshipment allegations to CBP.

cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from the scope is included within the scope. The products subject to the order are currently classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 3802.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Preliminary Partial Rescission

As discussed in the "Background" section above, Lingzhou filed a no shipment certification indicating that it did not export subject merchandise to the United States during the POR. In order to examine this claim, we reviewed the CBP data used for respondent selection and found no discrepancies with the statement made by Lingzhou. Additionally, we sent an inquiry to CBP asking if any CBP office had any information contrary to the no shipments claim and requesting CBP alert the Department of any such information within ten days of receiving our inquiry. CBP received our inquiry on October 6, 2010. We have not received a response from CBP with regard to our inquiry which indicates that CBP did not have information that was contrary to the claim of Lingzhou. Therefore, because the record indicates that Lingzhou did not export subject merchandise to the United States during the POR, we are preliminarily rescinding this administrative review with respect to this company.[17]

Non-Market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority.[18] None of the parties to this proceeding has contested such treatment. Accordingly, the Department continues to treat the PRC as an NME and calculated NV in accordance with section 773(c) of the Act, which applies to NME countries. When the Department investigates imports from an NME country and available information does not permit the Department to determine NV, pursuant to section 773(a) of the Act, then, pursuant to section 773(c)(1), the Department determines NV on the basis of the factors of production ("FOP") utilized in producing the merchandise.

Surrogate Country

Section 773(c)(4) of the Act, directs the Department to value an NME producer's FOPs, to the extent possible, in one or more market-economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. Pursuant to this statutory directive, the Department determined that India, Indonesia, the Philippines, Colombia, Thailand, and Peru are countries comparable to the PRC in terms of economic development.[19]

On September 28, 2010, the Department sent interested parties a letter inviting comments on surrogate country selection and information regarding valuing FOPs.[20] On January 14, 2011, the Department received information to value FOPs from CCT, Jacobi, and Petitioners. The Department did not receive any rebuttal surrogate value comments. All of the surrogate values placed on the record were obtained from sources in India. No parties provided comments with respect to selection of a surrogate country.

Based on publicly available information placed on the record (*e.g.,* production data), the Department determines India to be a reliable source for surrogate values because India is at a comparable level of economic development to the PRC pursuant to section 773(c)(4) of the Act, is a significant producer of subject merchandise, and has publicly available and reliable data for which to value the respondents' FOPs. Accordingly, the Department has selected India as the surrogate country for purposes of valuing the FOPs because it meets the Department's criteria for surrogate country selection.

Facts Available

Sections 776(a)(1) and 776(a)(2) of the Act provide that, if necessary information is not available on the record, or if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party "promptly after receiving a request from [the Department] for information, notifies [the Department] that such party is unable to submit the information in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information," the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed "deficient" under section 782(d) if: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in

[17] *See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Third Antidumping Duty Administrative Review,* 72 FR 53527, 53530 (September 19, 2007), unchanged in *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission,* 73 FR 15479, 15480 (March 24, 2008).

[18] *See Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review,* 71 FR 66304 (November 14, 2006).

[19] *See* Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, Import Administration, from Carole Showers, Director, Office of Policy, Import Administration re: Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Certain Activated Carbon ("Carbon") from the People's Republic of China ("PRC"), dated September 21, 2010.

[20] *See* the Department's Letter to All Interested Parties; Third Administrative Review of Certain Activated Carbon from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments, dated September 28, 2010.

providing the information and meeting the requirements established by the Department; and (5) the information can be used without undue difficulties.

However, section 776(b) of the Act states that if the Department "finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission * * *, in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available."[21] Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *Id.* An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act.

Jacobi's Excluded Producers

On August 2, 2010, Jacobi requested to be excused from reporting FOP data for certain Chinese producers. On August 9, 2010, Petitioners submitted comments on Jacobi's request. On August 13, 2010, the Department notified Jacobi that due to the large number of producers that supplied Jacobi during the POR, Jacobi would be excused from reporting certain FOP data.[22] Specifically, the Department did not require Jacobi to report FOP data for its five smallest producers. Additionally, the Department notified Jacobi that it was not required to report FOP data for products that were purchased and not produced by Jacobi's suppliers, as indicated in Jacobi's August 2, 2010 letter. Thus, the Department determined that upon Jacobi's acceptance of the exclusion terms, the Department would determine the appropriate facts available to apply, in lieu of the actual FOP data, to the corresponding U.S. sales of subject merchandise.

CCT's Excluded Producers

On October 14, 2010, CCT requested to be excused from reporting FOP data for certain Chinese producers as well as FOP data for products that were produced prior to the POR, but were sold during the POR. On October 29, 2010, the Department notified CCT that due to the large number of producers that supplied CCT during the POR, CCT would be excused from reporting certain FOP data.[23] Specifically, the Department did not require CCT to report FOP data for its eight smallest producers. Additionally, the Department notified CCT that it was not required to report FOP data for products that were purchased and not produced by CCT's suppliers, as indicated in CCT's October 14, 2010 letter. Furthermore, the Department notified CCT that it would not be required to report FOP data for products that were produced prior to the POR, except for those products blended by CCT during the current POR. Thus, the Department determined that upon CCT's acceptance of the exclusion terms, the Department would determine the appropriate facts available to apply, in lieu of the actual FOP data, to the corresponding U.S. sales of subject merchandise.

In accordance with section 776(a)(1) of the Act, the Department is applying facts available to determine the NV for the sales corresponding to the FOP data that Jacobi and CCT were excused from reporting. As facts available, the Department is applying the calculated average normal value of Jacobi and CCT's reported sales to the sales produced by the excluded producers. These issues are addressed in separate company-specific memoranda where a detailed explanation of the facts available calculation is provided.[24]

Separate Rates

A designation of a country as an NME remains in effect until it is revoked by the Department.[25] In proceedings involving NME countries, it is the Department's practice to begin with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate.[26]

In the *Initiation Notices,* the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME reviews.[27] It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can affirmatively demonstrate that it is sufficiently independent so as to be entitled to a separate rate.[28] Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities.[29] The Department analyzes each entity exporting the subject merchandise under a test arising from 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 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 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME"), then a separate rate analysis is not necessary to determine whether it is independent from government control.[30]

Excluding the companies selected for individual review, the Department received separate rate applications or certifications from the following companies: Beijing Pacific Activated Carbon Products Co., Ltd.; Datong Municipal Yunguang Activated Carbon Co., Ltd.; Ningxia Guanghua Cherishment Activated Carbon Co., Ltd.; Ningxia Huahui Activated Carbon Co., Ltd. ("Huahui"); Shanxi DMD Corporation; Shanxi Sincere Industrial Co., Ltd.; Shanxi Industry Technology Trading Co., Ltd.; Tangshan Solid Carbon Co., Ltd.; and Tianjin Maijin Industries Co., Ltd.

Additionally, the Department received completed responses to the

[21] *See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act,* H.R. Rep. No. 103–316, Vol. 1, at 870 (1994) ("*SAA*"), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–99.

[22] *See* the Department's Letter to Jacobi dated August 13, 2010.

[23] *See* the Department's letter to CCT dated October 29, 2010.

[24] *See* Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Katie Marksberry, Case Analyst, AD/CVD Operations, Office 9: Preliminary Results Analysis Memorandum for Jacobi Carbons AB in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated concurrently with this notice ("Jacobi Prelim Analysis Memo"); *see also* Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Bob Palmer, Case Analyst, AD/CVD Operations, Office 9: Preliminary Results Analysis Memorandum for Calgon Carbon (Tianjin) Co. in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated concurrently with this notice ("CCT Prelim Analysis Memo").

[25] *See* section 771(18)(c)(i) of the Act.

[26] *See 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, 53080 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China,* 71 FR 29303, 29307 (May 22, 2006).

[27] *See Initiation Notices.*

[28] *See id.*

[29] *See id.*

[30] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China,* 72 FR 52355, 52356 (September 13, 2007).

Section A portion of the NME questionnaire from CCT and Jacobi, which contained information pertaining to the companies' eligibility for a separate rate. However, Datong Juqiang Activated Carbon Co., Ltd.; Datong Yunguang Chemicals Plant; Hebei Foreign Trade and Advertising Corporation; Shanxi Newtime Co., Ltd.; and United Manufacturing International (Beijing) Ltd.; companies upon which the Department initiated administrative reviews that have not been rescinded, did not submit either a separate-rate application or certification. Therefore, because Datong Juqiang Activated Carbon Co., Ltd.; Datong Yunguang Chemicals Plant; Hebei Foreign Trade and Advertising Corporation; Shanxi Newtime Co., Ltd.; and United Manufacturing International (Beijing) Ltd. did not demonstrate their eligibility for separate rate status in a timely manner, we have determined it is appropriate to consider these companies as part of the PRC-wide entity.

Ningxia Huahui Activated Carbon Co., Ltd.'s Status as a Separate Rate Company

On December 23, 2010, Huahui submitted its separate rate application to the Department.[31] On January 3, 2011, Petitioners submitted comments on Huahui's application.[32] On January 21, 2011, the Department issued a supplemental questionnaire to Huahui regarding its separate rate application, and on February 22, 2011, Huahui submitted its response to the Department.[33] On March 3, 2011, Petitioners submitted additional comments to the Department regarding Huahui's application for a separate rate.[34] On March 11, 2011, the Department issued a second supplemental questionnaire to Huahui regarding its separate rate application, and on March 23, 2011, Huahui submitted a response to the Department.[35] On April 5, 2011, Petitioners submitted additional comments on Huahui's second supplemental questionnaire.

The Department has analyzed Huahui's separate rate application and supplemental responses and, for these preliminarily results, we find that Huahui has demonstrated both *de jure* and *de facto* independence from the PRC government with respect to its export activities. Consistent with the Department's requirements on exporters requesting a separate rate, Huahui placed numerous documents on the record that have been examined for these preliminary results. Specifically, Huahui demonstrated an absence of *de jure* government control by the absence of restrictive stipulations associated with its business license and export certificate of approval, and through submission of pertinent legislative enactments that protect the operational and legal independence of companies incorporated in the PRC.[36] With respect to *de facto* government control, Huahui: (1) Certified that its export prices are neither set by or subject to the approval of a government agency; [37] (2) placed on the record documents that demonstrate an absence of government control over the negotiation and signing of contracts including documents related to price negotiation for U.S. sales, and complete sales and export documentation; [38] (3) certified that it retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits and financing of losses and provided financial statements with record evidence from its Articles of Association demonstrating the independent distribution of profit; [39] and (4) certified that it has autonomy from all levels of government and government entities in making decisions regarding the selection of management and placed on the record its Articles of Association, a number of board resolutions and an internal management selection proposal, which demonstrate the independent selection of management by the Board of Directors.[40]

Although Petitioners have argued that Huahui should be denied a separate rate because it does not fulfill the criteria for establishing autonomy from *de facto* government control of its selection of management and disposition of profits, the evidence on the record of this review demonstrates that Huahui does have the ability, and has exercised its ability, to appoint its managers and control the disposition of its profits through its Board of Directors. With respect to the selection of management, the Department has previously found that management selected and appointed by an independent board of directors is sufficiently removed from government-controlled shareholders for the purpose of demonstrating the absence of *de facto* government control.[41] Furthermore, the Articles of Association submitted by Huahui clearly state that its shareholders have the right to approve profit distributions by voting according to the number of shares owned.[42] In this case, Petitioners have provided information that addresses speculative and potential control by government entities over Huahui, which the Department has found is not sufficient evidence to support denying a separate rate.[43] There is no evidence on the record of actual government control of individual export decisions of Huahui during the POR, or evidence demonstrating that government owned or controlled shareholders actually controlled the selection of Huahui's management in greater proportion to their proportion of the voting shares. Furthermore, the Department has previously determined that government ownership alone does not warrant denying a company a separate rate.[44] Therefore, based on an analysis of all of the information placed on the record of this review by Huahui and Petitioners, we preliminarily find that Huahui is eligible for a separate rate, and we are granting Huahui separate rate status for these preliminary results.

[31] *See* Separate Rate Application of Ningxia Huahui Activated Carbon Co., Ltd., dated December 23, 2010, ("Huahui Separate Rate Application").

[32] *See* Letter from Petitioners to the Department re: Third Administrative Review of the Antidumping Duty Order on Certain Activated Carbon from the People's Republic of China: Petitioners' Initial Comments on Ningxia Huahui's Separate Rate Application, dated January 3, 2011.

[33] *See* Huahui's Supplemental Questionnaire Regarding the December 23, 2010 Separate Rate Application of Ningxia Huahui Activated Carbon Co., Ltd., dated February 22, 2011.

[34] *See* Letter from Petitioners to the Department re: Third Administrative Review of the Antidumping Duty Order on Certain Activated Carbon from the People's Republic of China: Petitioners' Pre-Preliminary Comments on Ningxia Huahui's Separate Rate Application, dated March 3, 2011.

[35] *See* Huahui's Second Supplemental Questionnaire Regarding the December 23, 2010 Separate Rate Application of Ningxia Huahui Activated Carbon Co., Ltd., dated March 23, 2011 ("Huahui Second Separate Rate Supplemental").

[36] *See* Huahui Separate Rate Application at 8–11 and Exhibits 5 and 6.

[37] *See id*. at 17.

[38] *See id*. at Exhibits 2 and 3.

[39] *See id*. at 20 and Exhibits 9 and 11.

[40] *See id*. at 13 and Exhibit 13; *see also* Huahui Second Separate Rate Supplemental at 2–3 and Exhibits 1 and 2.

[41] *See Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 25.

[42] *See* Huahui Second Separate Rate Supplemental at 9; *see also* Huahui Separate Rate Application at Exhibit 9.

[43] *See Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 14514 (March 31, 2009), and accompanying Issues and Decision Memorandum at Comment 11.

[44] *See e.g.* Lightweight Thermal Paper From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 57329 (October 2, 2008) and accompanying Issues and Decision Memorandum at Comment 7.

Separate Rate Recipients

1. Wholly Foreign-Owned

Jacobi reported that it is wholly owned by a company located in an ME country, Sweden.[45] Additionally, CCT reported that it is wholly owned by a company located in the United States.[46] Therefore, there is no PRC ownership of Jacobi or CCT and, because the Department has no evidence indicating that Jacobi or CCT are under the control of the PRC, a separate rates analysis is not necessary to determine whether they are independent from government control.[47] Additionally, one of the exporters under review not selected for individual review, Tangshan Solid Carbon Co., Ltd., demonstrated in its separate-rate certification that it is 100 percent market-economy foreign owned.[48] Accordingly, the Department has preliminarily granted separate rate status to Jacobi, CCT, and Tangshan Solid Carbon Co. Ltd.

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

Eight [49] of the separate rate applicants in this administrative review stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies. In accordance with its practice, the Department has analyzed whether the separate-rate applicants have demonstrated the absence of *de jure* and *de facto* governmental control over their respective 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) any other formal measures by the government decentralizing control of companies.[50] The evidence provided by the eight separate rate applicants 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.[51]

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.[52] 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 provided by the eight separate rate applicants supports a preliminary finding of *de facto* absence of government control based on the following: (1) The companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.[53]

Rate for Non-Selected Companies

As stated previously, this review covers eighteen companies. Of those, the Department selected two exporters, CCT and Jacobi, as mandatory respondents. As stated above, five companies, Datong Juqiang Activated Carbon Co., Ltd.; Datong Yunguang Chemicals Plant; Hebei Foreign Trade and Advertising Corporation; Shanxi Newtime Co., Ltd.; and United Manufacturing International (Beijing) Ltd. are part of the PRC–Wide entity and, thus, are not entitled to a separate rate. Additionally, we are preliminarily rescinding the review with respect to Ningxia Lingzhou Foreign Trade Co., Ltd. because we determined that it had no shipments of subject merchandise to the United States during the POR. The remaining eight companies submitted timely information as requested by the Department and remain subject to this review as cooperative separate rate respondents.

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not examine in an administrative review. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Accordingly, the Department's practice in this regard, in reviews involving limited respondent selection based on exporters accounting for the largest volume of trade, has been to average the rates for the selected companies, excluding zero and *de minimis* rates and rates based entirely on facts available.[54] Section 735(c)(5)(B)

[45] *See* Jacobi's Section A Questionnaire Response dated August 11, 2010, at 3.

[46] *See* CCT's Section A Questionnaire Response dated October 27, 2010 at A–2.

[47] *See Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review,* 66 FR 1303, 1306 (January 8, 2001), unchanged in *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review,* 66 FR 27063 (May 16, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China,* 64 FR 71104 (December 20, 1999).

[48] *See* Tangshan Solid Carbon Co. Ltd.'s Separate Rate Certification dated July 27, 2010, at Attachment 1.

[49] These companies are: Beijing Pacific Activated Carbon Products Co., Ltd.; Datong Municipal Yunguang Activated Carbon Co., Ltd.; Ningxia Guanghua Cherishment Activated Carbon Co., Ltd.; Ningxia Huahui Activated Carbon Co., Ltd.; Shanxi DMD Corporation; Shanxi Sincere Industrial Co., Ltd.; Shanxi Industry Technology Trading Co., Ltd.; and Tianjin Maijin Industries Co., Ltd.

[50] *See Sparklers,* 56 FR at 20589.

[51] *See, e.g.,* Shanxi Industry Technology Trading Co., Ltd.'s Separate Rate Certification dated July 21, 2010, at 8; and Shanxi DMD Corporation's Separate Rate Certification dated July 21, 2010, at 8.

[52] *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).

[53] *See, e.g.,* Shanxi Industry Technology Trading Co., Ltd.'s Separate Rate Certification dated July 21, 2010, at 8–9; and Shanxi DMD Corporation's Separate Rate Certification dated July 21, 2010, at 8–9. Therefore, the Department preliminarily finds that Huahui and nine separate-rate applicants have established that they qualify for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers.*

[54] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 52273, 52275

of the Act also provides that, where all margins are zero, *de minimis,* or based entirely on facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents, including "averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated." In this instance, consistent with our practice, we have preliminarily established a margin for the separate rate respondents based on the rate we calculated for the mandatory respondent whose rate was not *de minimis.*[55] For the PRC-wide entity, we have assigned the entity's current rate and only rate ever determined for the entity in this proceeding.

Date of Sale

CCT and Jacobi reported the invoice date as the date of sale because they claim that for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the invoice date. In accordance with 19 CFR 351.401(i) and the Department's long-standing practice of determining the date of sale,[56] the Department preliminarily determines that the invoice date is the most appropriate date to use as CCT's and Jacobi's date of sale.

Fair Value Comparisons

To determine whether sales of certain activated carbon to the United States by CCT and Jacobi were made at less than normal value, the Department compared constructed export price ("CEP") to NV, as described in the "U.S. Price," and "Normal Value" sections below.

U.S. Price

Constructed Export Price

For all of CCT and Jacobi's sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act, because sales of Chinese-origin merchandise were made on behalf of the companies located in the PRC by a U.S. affiliate to unaffiliated purchasers in the United States. For these sales, the Department based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, the Department made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and appropriate selling adjustments, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, the Department also deducted those selling expenses associated with economic activities occurring in the United States. The Department deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty expenses, and indirect selling expenses. For those expenses that were provided by an ME provider and paid for in an ME currency, the Department used the reported expense. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for each company, *see* the company specific analysis memoranda, dated concurrently with this notice.

CCT also requested that the Department apply the "special rule" for merchandise with value added after importation and excuse CCT from reporting U.S. re-sales of subject merchandise further processed by Calgon Carbon Corporation ("CCC"), CCT's U.S. parent company, in the United States and the U.S. further-processing cost information associated with those re-sales. CCT made this request with respect to all categories of U.S. sales with further manufacturing and provided further-processing cost data.[57]

The Department preliminarily determines to apply the "special rule" under section 772(e) of the Act for merchandise with value added after importation to the sales made by CCC in the United States. Section 772(e) of the Act provides that, when the subject merchandise is imported by an affiliated person and the value-added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, the Department shall determine the CEP for such merchandise using the price to an unaffiliated party of identical or other subject merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison, and the Department determines that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if the Department determines that using the price to an unaffiliated party of identical or other subject merchandise is not appropriate, the Department may use any other reasonable basis to determine the CEP.

To determine whether the value-added is likely to exceed substantially the value of the subject merchandise, the Department estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated purchaser, CCC. Based on the information provided by CCT and the Department's analysis of this information, the Department determined that the estimated value added in the United States by CCC accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States.[58] Therefore, the Department preliminarily determines that the value added is likely to exceed substantially the value of the subject merchandise.

For CCT, the Department preliminarily determines that the remaining quantity of sales of identical or other subject merchandise to unaffiliated persons are sufficient to provide a reasonable basis for comparison and that the use of these sales is appropriate as a basis for calculating margins of dumping on the further processed merchandise.[59]

Accordingly, the Department has determined to apply the "special rule" to CCT's sales of subject merchandise that were further processed by CCC in the United States. Furthermore, the Department has excused CCT from reporting these U.S. sales and the U.S. further-processing cost information associated with the sales. In the Special Rule Memo, the Department stated that it would apply the weight-averaged margin from CCT's non-further manufactured U.S. sales to the quantity

(September 9, 2008) and accompanying Issues and Decision Memorandum at Comment 6.

[55] *See, e.g., Forth Administrative Review of Certain Frozen Warrnwater Shrimp From the People's Republic of China: Preliminary Results, Preliminary Partial Rescission of Antidumping Duty Administrative Review and Intent Not To Revoke, In Part,* 75 FR 11855 (March 12, 2010).

[56] *See, e.g., 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.

[57] *See* CCT's Section A Questionnaire Response dated October 27, 2010, at Exhibit 11; *see also* CCT's Supplemental Section A Questionnaire Response dated December 6, 2010 at Exhibit A–14.

[58] *See* 19 CFR 351.402(c); *see also Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Revocation of Orders in Part,* 66 FR 36551, 36555 (July 12, 2001) and accompanying Issues and Decision Memorandum at Comment 28 ("*AFBs*").

[59] *See* section 772(e) of the Act; *see also AFBs;* Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, through Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Bob Palmer, Case Analyst, Office 9: Special Rule for Merchandise with Value Added after Importation for the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated January 5, 2011 ("Special Rule Memo").

of CCC's U.S. further manufactured sales.[60] However, the Department intended to explain that it would apply the weight-averaged margin calculated based upon CCT's U.S. sales to the first unaffiliated customer as the surrogate margin to the transactions to which the "special rule" applied. The latter methodology was applied in *Activated Carbon AR 1,* when we last granted CCT this "special rule" exemption.[61] Therefore, for these preliminary results, we are applying the weight-averaged margin as was intended.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the 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 bases NV on the FOPs because the presence of government controls on various aspects of non-market economies renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

FOP Reporting Exclusions

As stated above, the Department granted exclusions for certain nominal producers to be excused from providing FOP data for CCT and Jacobi. As the corresponding U.S. sales of the subject merchandise supplied by the excused producers were reported in the U.S. sales listing, the Department has applied the calculated average normal value of the subject merchandise produced by CCT and Jacobi, respectively, as facts available, to those sales observations associated with the excluded producers.[62]

CCT's Control Number ("CONNUM") Reporting Methodology

CCT has reported that neither it nor its individual producers can provide FOP data based on all 15 product characteristics which comprise the CONNUM.[63] Rather, CCT and its individual producers have reported FOP consumption data based on 11 of the 15 CONNUM product characteristics which CCT tracks through its product codes and is the basis on which CCT reported its weighted-average calculation of its producers' FOP consumption.[64] However, CCT states that it and its producers, in the ordinary course of business, need not, and do not, track data during the production process for the remaining four product characteristics, but test for these four characteristics prior to shipment.[65] CCT has provided detailed and potentially verifiable information on the standards used in the ordinary course of business by CCT and its producers.[66] In addition, CCT has provided samples of FOP consumption data, reconciliation worksheets, and FOP source documentation used in the ordinary course of business by its producers.[67] CCT has explained that each of its producers maintains records on the consumption of all raw materials. Further, CCT states that there is no way to link all 15 product characteristics of the finished products to the material inputs throughout the production process because each of its producers sets out to produce a particular product based on its own specific product definition. Production inputs, consumption quantities and other relevant data are only tracked on this basis. CCT notes that its producers do not track data during the production process for four product characteristics: apparent density, hardness, abrasion, and ash content.[68] CCT further explains that these four product characteristics are not relevant to the production of each producer's products and none of the producers tracks production inputs, consumption quantities or other relevant data on the basis of these four characteristics.[69] Moreover, CCT states the four product characteristics above are testing specifications which are expressed in terms of minimum and maximum values, which correspond to a range of potential actual characteristics for any particular product produced; it is therefore sufficient to ensure that each of the four characteristics is within the established characteristic-specific range. As such, during the production process none of the companies tracks the specific value for each of these four characteristics.[70] However, CCT states that it has provided its FOP data based on as much detail as the accounting books and records of itself and its producers' would allow.[71] Therefore, the Department preliminarily determines that CCT's FOP reporting methodology is sufficient to preliminarily calculate an accurate dumping margin.

Petitioner Norit argues that in *Activated Carbon AR1,* the Department has previously notified CCT that it must provide CONNUM-specific FOP data in subsequent reviews, but it has continued to report FOP data on its product codes.[72] While we note that that in *Activated Carbon AR1,* we placed CCT on notice that it should begin to track all records generated in the normal course of business that would allow CCT and its producers to report FOP consumption in future segments of this proceeding taking into account as many CONNUM characteristics as possible, we further note that because our final results of *Activated Carbon AR1* occurred eight months into the current POR, it is unreasonable to expect CCT and its producers to adjust the manner in which they maintain their records in order to report FOPs on a CONNUM-specific basis for the remaining four months of the current POR.[73] However, we are providing a second and final notice that CCT and other respondents must maintain their records in a manner that they can report FOPs on a

[60] *See* Special Rule Memo at 5.

[61] *See 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 AR1*") and accompanying Issues and Decisions Memorandum at Comment 7; *see also* CCT Prelim Analysis Memo.

[62] *See* Jacobi Prelim Analysis Memo; *see also* CCT Prelim Analysis Memo.

[63] *See* CCT's Supplemental Section D Questionnaire Response dated January 14, 2011, at 3.

[64] Those 11 product characteristics are: (1) Physical material; (2) form; (3) oversize mesh; (4) undersize mesh; (5) PAC mesh; (6) particle size; (7) pellet diameter; (8) carbon tetrachloride ("CTC"); (9) iodine; (10) wash type; and (11) impregnation. *See* CCT's Supplemental Section D Questionnaire Response dated January 14, 2011, at 3.

[65] *See* CCT's Supplemental Section D Questionnaire Response dated January 14, 2011, at 4.

[66] *See e.g.,* CCT's Supplemental Section D Questionnaire Responses dated January 6 and 14, 2011.

[67] *See e.g.,* CCT's Supplemental Section D Questionnaire Response dated January 6, 2010, at HQ–12 and Exhibit HQ–26, HQ–31, HQ–34 and JB–20; *see also e.g.,* CCT's Supplemental Section D Questionnaire Response dated January 14, 2010, at 7 and Exhibit DCC–17, DCC–18, DCC–21 and NC–23.

[68] We note that apparent density, abrasion and ash content are three product characteristics are components of the 15 product characteristic CONNUM. Additionally, one product characteristic CTC test (CTESTU) indicates where CTC test or another test was used.

[69] *See* CCT's Supplemental Section D Questionnaire Response dated January 14, 2011 at 3–6.

[70] *See id.*

[71] *See id.*

[72] *See* Letter from Petitioners to the Department re: Third Administrative Review of the Antidumping Duty Order on Certain Activated Carbon from the People's Republic of China: Norit America's Comments on CCT's Questionnaire Response, dated December 10, 2010.

[73] *See Activated Carbon AR1* and accompanying Issues and Decisions Memorandum at Comment 4; *see also Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 74 FR 14514 (March 31, 2009) and accompanying Issues and Decision Memorandum at Comment 1.

CONNUM-specific basis for future reviews.[74]

Factor Valuations

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 an ME country and pays for it in an ME currency, the Department may value the factor using the actual price paid for the input.[75] During the POR, Jacobi reported that it purchased certain inputs from an ME supplier and paid for the inputs in an ME currency.[76] The Department has a rebuttable presumption that ME input prices are the best available information for valuing an input when the total volume of the input purchased from all ME sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources during the period.[77] In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted average ME purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from ME suppliers during the period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the ME purchase price with an appropriate surrogate value according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.[78] When a firm has made ME input purchases that may have been dumped or subsidized, are not *bona fide,* or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 33-percent threshold.[79]

The Department used the Indian Import Statistics to value the raw material and packing material inputs that CCT and Jacobi used to produce the subject merchandise under review during the POR, except where listed below. With regard to both the Indian import-based surrogate values and the ME input values, the Department has disregarded prices that the Department has reason to believe or suspect may be subsidized. The Department has reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. The Department has 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.[80] The Department is 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.[81] Rather, the Department bases its decision on information that is available to it at the time it makes its determination.[82] Therefore, the Department has not used prices from these countries in calculating the Indian import-based surrogate values. Additionally, the Department disregarded prices from NME countries. Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, as the Department could not be certain that they were not from either an NME country or a country with general export subsidies.[83]

In accordance with section 773(c) of the Act, for subject merchandise produced by CCT and Jacobi, the Department calculated NV based on the FOPs reported by CCT and Jacobi for the POR. The Department used data from the Indian Import Statistics and other publicly available Indian sources in order to calculate surrogate values for CCT's and Jacobi's FOPs (direct materials, energy, and packing materials) and certain movement expenses. To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly available Indian surrogate values (except as noted below). The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, surrogate values which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR and exclusive of taxes and duties.[84]

As appropriate, the Department adjusted input prices by including freight costs to render the prices delivered prices. Specifically, the Department added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all surrogate values used for CCT and Jacobi, *see* Memorandum to the File through Catherine Bertrand, Program Manager, Office 9, from Katie Marksberry, Case Analyst; Re: Third Administrative Review of Certain Activated Carbon from the People's Republic of China: Surrogate Values for the Preliminary Results, dated concurrently with this notice ("Prelim Surrogate Value Memo").

In those instances where the Department could not obtain publicly available information contemporaneous to the POR with which to value factors, the Department adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index as published in the International Financial Statistics of the International Monetary Fund, a printout of which is attached to

[74] *See Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review,* 73 FR 58113 (October 6, 2008) and accompanying Issues and Decision Memorandum at Comment 2.

[75] *See Lasko Metal Products, Inc. v. United States,* 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department's use of market-based prices to value certain FOPs).

[76] *See* Jacobi's Section D Questionnaire Response dated September 17, 2010, at Exhibit C, page D–9.

[77] *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716, 61717–18 (October 19, 2006) ("*Antidumping Methodologies*").

[78] *See Antidumping Methodologies.*

[79] *See id.*

[80] *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: 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); *China Nat'l Machinery Import & Export Corp.* v. *United States,* 293 F. Supp. 2d 1334 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004).

[81] *See* Omnibus Trade and Competitiveness Act of 1988, Conference Report to accompany H.R. Rep. 100–576 at 590 (1988) reprinted in 1988 U.S.C.C.A.N. 1547, 1623–24; *see also Preliminary Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30763 n.6 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007).

[82] *See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 55039 (September 24, 2008).

[83] *See id.*

[84] *See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 48195 (August 18, 2008) and accompanying Issues and Decision Memorandum at Comment 2.

the Prelim Surrogate Value Memo at Exhibit 2. Where necessary, the Department adjusted surrogate values for inflation, exchange rates, and taxes, and the Department converted all applicable items to a per-kilogram or per-metric ton basis.

For bituminous coal used as a feedstock in the production of the subject merchandise, the Department used Indian import prices for coking coal, because the respondents reported using low-ash content bituminous coal as a feedstock in the production of the subject merchandise and Coal India Limited ("CIL") data do not provide price data for low-ash content bituminous coal. *See* Prelim Surrogate Value Memo. The Department used CIL data to value steam coal and bituminous coal used as an energy source, where the manufacturers provided useful heat values ("UHV") and ash contents of their bituminous energy coal and steam coal. The Department finds that CIL data have specific grades of non-coking energy coal, measured in UHV, which correspond to the types of steam and bituminous coal used by the respondents as energy coals. Therefore, CIL is more specific to the reported input. The Department used CIL's prices dated from December 12, 2007, effective throughout the majority of the POR. For further details regarding the Department's use of CIL data, *see* Prelim Surrogate Value Memo.

The Department valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication titled "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. We did not inflate this value because utility rates represent current rates, as indicated by the effective dates listed for each of the rates provided.[85]

Because water is essential to the production process of the subject merchandise, the Department is considering water to be a direct material input, and not as overhead, and valued water with a surrogate value according to our practice.[86] The Department valued water using data from the Maharashtra Industrial Development Corporation (*http://www.midcindia.org*) as it includes a wide range of industrial water tariffs. This source provides 386 industrial water rates within the Maharashtra province from April 2009 through June 2009, of which 193 for the "inside industrial areas" usage category and 193 for the "outside industrial areas" usage category.[87]

Consistent with our practice in previous reviews, the Department calculated the surrogate value for purchased steam based upon the April 2008 through March 2009 financial statement of Hindalco Industries Limited.[88]

The Department valued truck freight expenses using a per-unit average rate calculated from data on the Infobanc Web site: *http://www.infobanc.com/logistics/logtruck.htm.* The logistics section of this website contains inland freight truck rates between many large Indian cities.[89]

To value brokerage and handling, the Department used a price list of export procedures necessary to export a standardized cargo of goods in India. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in India that is published in *Doing Business 2010: India,* published by the World Bank.[90]

To value factory overhead, selling, general, and administrative ("SG&A") expenses, and profit, the Department used the average of the audited financial statements of two Indian activated carbon producing companies: Kalpalka Chemicals Ltd. for FY 2007–2008 ("Kalpalka") and Quantum Active Carbon Pvt. Ltd. ("Quantum") for 2007–2008.[91]

Jacobi submitted the 2009–2010 financial statements of Adsorbent Carbons Pvt. Ltd. ("Adsorbent") for the Department's use in calculating surrogate financial ratios. We have determined not to rely on the 2009–2010 financial statement of Adsorbent because it indicates that it received a "Capital Subsidy".[92] The Department has found India's Capital Subsidy to be a countervailable subsidy.[93] Consistent with the Department's practice, we prefer not to use financial statements of a company we have reason to believe or suspect may have received subsidies, because financial ratios derived from that company's financial statements may not constitute the best available information with which to value financial ratios.[94] Therefore, pursuant to 19 CFR 351.408(c), the Department preliminarily determines that the 2007–2008 financial statements of Quantum and the 2007–2008 financial statements of Kalpalka provide the best available information with which to calculate surrogate financial ratios, because they are complete and publicly available. Additionally, both of these companies produce comparable merchandise and use an integrated carbonization production process which closely mirrors that of both respondents. We prefer to use more than one financial statement where possible to replicate the experience of producers of certain activated carbon in the surrogate country.[95] While the Department recognizes Quantum's and Kalpalka's financial statements both pre-date the POR, we find that neither company's financial statements pre-date the POR so significantly as not to be useful.[96] Therefore, the Department has used these financial statements to value factory overhead, SG&A, and profit, for these preliminary results.

On May 14, 2010, the Court of Appeals for the Federal Circuit ("CAFC") in *Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372 (CAFC 2010), found that the "[regression-based] method for calculating wage rates [as stipulated by 19 CFR 351.408(c)(3)] uses data not permitted by [the statutory requirements laid out in section 773 of the Act (*i.e.,* 19 U.S.C. 1677b(c))]." The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. However, for these preliminary results, we have calculated an hourly wage rate to use in valuing the respondents' reported labor

[85] *See* Prelim Surrogate Value Memo.

[86] *See Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People's Republic of China,* 68 FR 61395 (October 28, 2003) and accompanying Issues and Decision Memorandum at Comment 11.

[87] *See* Prelim Surrogate Value Memo at 8–9.

[88] *See* Jacobi's Surrogate Value Comments: Certain Activated Carbon form China, dated January 14, 2011, at Exhibit SV–7.

[89] *See* Prelim Surrogate Value Memo at Attachment 8.

[90] *See id.* at Attachment 9.

[91] Both the FY 07–08 financial statements for Quantum and the FY 07–08 financial statements for Kalpalka Chemicals Ltd. were placed on the record by Petitioners. *See Prelim Surrogate Value Memo.*

[92] *See* Annual Report Adsorbent Carbons Private Limited 2009–2010, contained in Jacobi's February 7, 2011 Resubmission of Surrogate Financial Ratios.

[93] *See Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India,* 71 FR 7534 (February 13, 2006).

[94] *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative Review and New Shipper Reviews,* 72 FR 19174 (April 17, 2007) and accompanying Issues and Decision Memorandum at Comment 1.

[95] *See 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) and accompanying Issues and Decision Memorandum at Comment 1.

[96] *See Hebei Metals & Minerals* v. *United States,* 366 F. Supp. 2d 1264, 1275 (Ct. Int'l Trade 2005).

input by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.

For the preliminary results of this administrative review, the Department is valuing labor using a simple average industry-specific wage rate using earnings or wage data reported under Chapter 5B by the International Labor Organization ("ILO"). To achieve an industry-specific labor value, we relied on industry-specific labor data from the countries we determined to be both economically comparable to the PRC, and significant producers of comparable merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the Prelim Surrogate Value Memo. The Department calculated a simple average industry-specific wage rate of $2.06 for these preliminary results. Specifically, for this review, the Department has calculated the wage rate using a simple average of the data provided to the ILO under Sub-Classification 24 of the ISIC–Revision 3 standard by countries determined to be both economically comparable to the PRC and significant producers of comparable merchandise. The Department finds the two-digit description under ISIC–Revision 3 ("Manufacture of Chemicals and Chemical Products") to be the best available wage rate surrogate value on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. Consequently, we averaged the ILO industry-specific wage rate data or earnings data available from the following countries found to be economically comparable to the PRC and significant producers of comparable merchandise: Ecuador, Egypt, Indonesia, Jordan, Peru, the Philippines, Thailand and Ukraine.[97] For further information on the calculation of the wage rate, *see* Prelim Surrogate Values Memo.

Treatment of Jacobi's Water Factors

For these preliminary results, we are applying partial adverse facts available to Jacobi's supplier Ningxia Guanghua Activated Carbon Co., Ltd. ("NXGH"). The Department asked Jacobi to report the full amount of water used in the production of subject merchandise, which it was able to do for its other suppliers. In a supplemental questionnaire dated November 3, 2010, NXGH stated that the "water for acid wash can't be predicted or measured," and that the water reported in its FOP database is water used for the boiler room and does not include all of the water used in the production of subject merchandise.[98]

On December 10, 2010, Petitioners submitted comments to the Department regarding Jacobi's supplemental questionnaire responses. In their comments, Petitioners argued that NXGH has a responsibility to maintain detailed records of every stage of its production process, and as it has participated in multiple prior segments of this proceeding, it is aware of this requirement.[99] Additionally, the Department notes that NXGH has participated in prior segments of this case as one of Jacobi's suppliers and stated that it was able to report the full amount of water used in the production of subject merchandise.[100] In this review, Jacobi reported that it was not able to report the full amount of water used in production of subject merchandise, and did not provide even an estimate when the Department gave it an opportunity to correct its reported water usage for NXGH.[101] Therefore, because Jacobi has failed to cooperate to the best of its ability in reporting the total amount of water used in the production of subject merchandise, as requested by the Department, as partial adverse facts available, for these preliminary results the Department is applying the highest single, per-unit consumption of water reported by any of Jacobi's suppliers as the water used by NXGH in the acid washing stage.[102]

Additionally, in their December 10, 2010, comments, Petitioners argued that Jacobi's packing affiliate, Jacobi Tianjin International Trading Co., Ltd. ("Jacobi Tianjin"), improperly accounted for the water used in its administrative offices and laboratory as overhead. Therefore, Petitioners argue that the Department should include the water reported by Jacobi Tianjin, as required by the Department in a supplemental questionnaire, in determining Jacobi Tianjin's total cost of manufacture. However, as Jacobi Tianjin reported that it only uses water in its laboratory, and for these preliminary results, we find that it is properly accounted for as overhead.

Treatment of CCT's Reported By-Products

For these preliminary results, the Department has found that non-activated by-products, such as pressroom powder and non-activated fines, which were reported by CCT as by-products produced during the production of subject merchandise by its unaffiliated producers, are eligible for a byproduct offset. However, one of CCT's unaffiliated producers, Inner Mongolia Taixi Coal Chemical Industry Limited Company ("TX"), has reported that it produces its own anthracite coal, which is then used as an input in the production of subject merchandise. Although it is our general policy to value all of the FOPs used to produce subject merchandise, there are certain exceptions. One such exception is attempting to value the factors used in a production process yielding an intermediate product. This would lead to an inaccurate result because a significant element of cost would not be adequately accounted for in the overall factors buildup. For example, the Department addressed whether to value the respondent's factors used in extracting iron ore, an input to its wire rod factory, in *Steel Wire Rod from Ukraine*.[103] The Department determined that, if it were to use those factors, it would not sufficiently account for the capital costs associated with the iron ore mining operation given that the surrogate used for valuing production overhead did not have mining operations. Therefore, because ignoring this important cost element would distort the calculation, the Department declined to value the inputs used in mining iron ore and valued the iron ore instead. Similarly, in this case, we did not find it appropriate to obtain the factors relevant to the process of mining anthracite coal, and are not valuing

[97] Although India is used as the primary surrogate country for the other FOPs, India is not included in the list of countries used to calculate the industry-specific wage rate because there were no earnings or wage data available from the ILO for the applicable period.

[98] *See* Jacobi's Response to the Supplemental Section D Questionnaire for NXGH and Huahui, dated November 3, 2010, at 11–12.

[99] *See* Letter to the Department from Petitioners; Re: Third Administrative Review of the Antidumping Duty Order on Certain Activated Carbon from the People's Republic of China: Petitioners' Comments on Jacobi Carbons' Recent Supplemental Responses, dated December 10, 2010.

[100] *See Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review,* 75 FR 70208 (November 17, 2010) and accompanying Issues and Decision Memorandum at Comment 5a.

[101] *See* Jacobi's Response to the Supplemental Section D Questionnaire for NXGH and Huahui, dated November 3, 2010, at 11–12.

[102] For further details, *see* Jacobi Prelim Analysis Memo.

[103] *See Drill Pipe From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances,* 76 FR 1966 (January 3, 2011) and accompanying Issues and Decision Memorandum at Comment 12; *see also Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Ukraine,* 67 FR 55785 (August 30, 2002) ("*Steel Wire Rod from Ukraine*").

those factors or including them in the cost build-up of subject merchandise.

Additionally, in CCT's questionnaire response for TX, it claimed that there are four products (coal slurry, foam, middlings, and tailings), which are by-products of the production process of anthracite coal. However, it is the Department's practice to only grant by-product credits for by-products that are produced directly as a result of the production process of the subject merchandise.[104] Therefore, for these preliminary results, we are not granting CCT a by-product offset for the four products produced by TX in the production of anthracite coal.[105]

Currency Conversion

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

Preliminary Results of Review

TheDepartment preliminarily determines that the following weighted-average dumping margins exist:

Exporter	Margin (dollars per kilogram)[106]
Jacobi Carbons AB[107]	* 0.00
Calgon Carbon (Tianjin) Co., Ltd	0.05
Beijing Pacific Activated Carbon Products Co., Ltd	0.05
Datong Municipal Yunguang Activated Carbon Co., Ltd	0.05
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.[108]	0.05
Ningxia Huahui Activated Carbon Co., Ltd.	0.05
Shanxi DMD Corporation	0.05
Shanxi Sincere Industrial Co., Ltd	0.05
Shanxi Industry Technology Trading Co., Ltd	0.05
Tangshan Solid Carbon Co., Ltd	0.05
Tianjin Maijin Industries Co., Ltd	0.05
PRC-Wide Rate[109]	2.42

* (*de minimis*).

Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.[110] 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.[111] 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 deadline for filing case briefs.[112] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[113]

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of this administrative review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results. Interested parties must provide the Department with supporting documentation for the publicly available information to value each FOP. Additionally, pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room 1117, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, 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 covered by this review. 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/importer (or customer)-specific assessment rates for the merchandise subject to this review. In this and future reviews, we will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.,* per-kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. For the companies receiving a separate rate that were not selected for individual review, we will assign an assessment rate based on rates calculated in previous reviews as discussed above.

For those companies for which this review has been preliminarily rescinded, the Department intends to assess antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2), if the review is rescinded for these companies. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be established in the final results of this review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5

[104] *See e.g. id* and accompanying Issues and Decision Memorandum at Comment 5; *see also Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China,* 62 FR 61964 (November 20, 1997) and accompanying Issues and Decision Memorandum at Comment 44.

[105] For more detail, *see* CCT Prelim Analysis Memo.

[106] In the second administrative review of this order the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review,* 75 FR 70208 (November 17, 2010).

[107] The Department is assigning this rate to Jacobi Carbons AB and Tianjin Jacobi International Trading Co. Ltd.

[108] In *Activated Carbon AR1,* the Department found Beijing Pacific Activated Carbon Products Co., Ltd., Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. and Ningxia Guanghua Activated Carbon Co., Ltd. are a single entity and, because there were no changes from the previous review, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See 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 (May 7, 2009), unchanged 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).

[109] The PRC–Wide entity includes Datong Juqiang Activated Carbon Co., Ltd.; Datong Yunguang Chemicals Plant; Hebei Foreign Trade and Advertising Corporation; Shanxi Newtime Co., Ltd.; and United Manufacturing International (Beijing) Ltd.

[110] *See* 19 CFR 351.224(b).

[111] *See* 19 CFR 351.309(c)(ii).

[112] *See* 19 CFR 351.309(d).

[113] *See* 19 CFR 351.309(c) and (d).

percent, no cash deposit will be required for that company); (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 which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of $2.42 per kilogram; 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 and 19 CFR 351.221(b)(4).

Dated: April 22, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–10429 Filed 4–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Subsidy Programs Provided by Countries Exporting Softwood Lumber and Softwood Lumber Products to the United States; Request for Comment

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

SUMMARY: The Department of Commerce (Department) seeks public comment on any subsidies, including stumpage subsidies, provided by certain countries exporting softwood lumber or softwood lumber products to the United States during the period July 1 through December 31, 2010.

DATES: Comments must be submitted within thirty days after publication of this notice.

ADDRESSES: Written comments (original and six copies) should be sent to the Secretary of Commerce, Attn: James Terpstra, Import Administration, APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Ave., NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: James Terpstra, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3965.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 2008, section 805 of Title VIII of the Tariff Act of 1930 (the Softwood Lumber Act of 2008) was enacted into law. Under this provision, the Secretary of Commerce is mandated to submit to the appropriate Congressional committees a report every 180 days on any subsidy provided by countries exporting softwood lumber or softwood lumber products to the United States, including stumpage subsidies.

The Department submitted its last subsidy report on December 15, 2010. As part of its newest report, the Department intends to include a list of subsidy programs identified with sufficient clarity by the public in response to this notice.

Request for Comments

Given the large number of countries that export softwood lumber and softwood lumber products to the United States, we are soliciting public comment only on subsidies provided by countries whose exports accounted for at least one percent of total U.S. imports of softwood lumber by quantity, as classified under Harmonized Tariff Schedule code 4407.1001 (which accounts for the vast majority of imports), during the period July 1 through December 31, 2010. Official U.S. import data published by the United States International Trade Commission Tariff and Trade DataWeb indicate that exports of softwood lumber from Canada and Chile each account for at least one percent of U.S. imports of softwood lumber products during that time period. We intend to rely on similar previous six-month periods to identify the countries subject to future reports on softwood lumber subsidies. For example, we will rely on U.S. imports of softwood lumber and softwood lumber products during the period January 1 through June 30, 2011, to select the countries subject to the next report.

Under U.S. trade law, a subsidy exists where a government authority: (i) Provides a financial contribution; (ii) provides any form of income or price support within the meaning of Article XVI of the GATT 1994; or (iii) makes a payment to a funding mechanism to provide a financial contribution to a person, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments, and a benefit is thereby conferred. *See* section 771(5)(B) of the Tariff Act of 1930, as amended.

Parties should include in their comments: (1) The country which provided the subsidy; (2) the name of the subsidy program; (3) a brief (3–4 sentence) description of the subsidy program; and (4) the government body or authority that provided the subsidy.

Submission of Comment

Persons wishing to comment should file a signed original and six copies of each set of comments by the date specified above. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially due to business proprietary concerns or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not include them in its report on softwood lumber subsidies. The Department also requests submission of comments in electronic form to accompany the required paper copies. Comments filed in electronic form should be submitted on CD–ROM with the paper copies or by e-mail to the Webmaster below.

Comments received in electronic form will be made available to the public in Portable Document Format (PDF) on the Import Administration Web site at the following address: *http://ia.ita.doc.gov*. Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482–0866, e-mail address: *webmaster-support@ita.doc.gov.*

All comments and submissions should be mailed to James Terpstra, Import Administration; Subject: Softwood Lumber Subsidies Bi-Annual Report: Request for Comment; Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, by no later